

CleverCards Business Customer Terms and Conditions

Last Updated: 1 November 2023

These terms and conditions are issued by KPTRS Investments Ltd, a company duly incorporated in Ireland under company number 496147, having its registered office at CleverCards Suite 4, The Mall, Beacon Court, Sandyford, Dublin D18 TN80 (“CleverCards/Us/We”).

These terms and conditions govern the business to business supply of the Products by us to the client identified in the Order (“You/Client”). By creating or requesting an Order, You acknowledge and agree to these terms and conditions. If You have any questions about these terms and conditions or the Products please contact us [here](#).

Definitions

Defined terms are as set out in this Contract and as below:

Affiliate	means any entity that directly or indirectly controls, is controlled by, or is under common control with another entity. “Control” of an entity means: (a) where applicable, ownership directly of more than fifty percent (50%) of the voting power to elect directors thereof; or otherwise (b) the power to direct the management of such an entity.
Applicable Law	means all applicable laws, regulations, and codes of practice of any relevant jurisdiction applicable to these terms and conditions, as amended and in force from time to time.
Charges	shall mean the Product and associated delivery charges as defined in clause 2.1.
Client Materials	mean all information, materials (including but not limited to logos, branding, and trademarks) and data provided to CleverCards by the Client.
Confidential Information	means information in whatever form (including, without limitation, in written or oral, and wherever located) relating to the business, products, affairs and finances of the disclosing party and trade secrets including, without limitation, technical data and know-how relating to the business of the disclosing party or any of its suppliers, clients, customers, agents, or distributors, whether or not such information (if in anything other than oral form) is marked as confidential.
Contract	means a contract formed under clause 1.3 below for the supply of Products subject to these terms and conditions (as may be updated by CleverCards from time to time pursuant to clause 11.6), incorporating the Order.
Contract Duration	means in relation to each Order the period starting on the Effective Date and continuing until We have delivered the Products.

Data Protection Laws	mean the General Data Protection Regulation (EU) 2016/679 ("GDPR") (as amended and superseded from time to time), and/or all Applicable Law from time to time, in each case in each jurisdiction where the Services are delivered in relation to data privacy.
DPA	means the Data Processing Agreement found here .
Effective Date	means the date on which We email You the acceptance referred to in clause 1.3 (as applicable).
Intellectual Property Rights	mean all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
Member State	means a member state of the European Union.
CleverCards IPR	means any and all Intellectual Property Rights owned or applied for by CleverCards or any of its Affiliates including but not limited to the Technology System.
CleverCards Prepaid Card	means a prepaid digital Mastercard, distributed by CleverCards to a Product Recipient on behalf of an Electronic Money Institution, enabling them to access electronic money in an eMoney Account registered to an individual Product Recipient. Terms & Conditions applicable to CleverCards Prepaid Cards are here .
CleverCards Tokens	which are electronic virtual vouchers in the form of unique digital codes, entitling the consumer to obtain a CleverCards Prepaid Card of a value equal to the one indicated in the Token. A CleverCards Token is not a credit or debit card nor another payment instrument, and it is not linked to Your bank account. Terms & Conditions applicable to CleverCards Tokens are here .
Order	means our acceptance of Your offer to purchase the Products as set out in Your Order Confirmation.
Order Confirmation	means Your offer to purchase the Products via one of the mechanisms specified in clause 1.3.
Product(s)	means CleverCards Tokens.
Product Recipient	means Your employee or customer to whom You issued the Products.
Technology System	means the information technology system developed by CleverCards or any of CleverCards' Affiliate to deliver the Products or related services (including but not limited to its

technology platforms, database systems, software, applications, tools, processes and related source codes).

Token

represents a unique link or URL referring to the CleverCards Token and which can be delivered electronically to the Product Recipient to obtain a CleverCards Prepaid Card.

1. Products

1.1. Product description and specific obligations

1.1.1. You may order Products, being CleverCards Tokens online at <https://www.CleverCards.ie>, or by email or telephone in accordance with clause 1.3 (Contracting and Ordering) below. The Products are electronic virtual vouchers in the form of unique digital codes, entitling the Product Recipient to obtain a CleverCards Prepaid Card of a value equal to the one indicated in the Token.

1.1.2. The redemption of Products for CleverCards Prepaid Cards, being electronic money, is subject to separate CleverCards Prepaid Cards Terms & Conditions of use for the Product Recipient which can be found [here](#).

1.1.3. The terms referred to at clause 1.1.2 do not form part of this Contract.

1.1.4. We provide e-mail and live chat support for queries from You or the Product Recipients and We will display the contact details on <https://www.CleverCards.com>. Our support service will be operational from 9:00am to 5:00pm GMT each business day.

1.2. Payment terms

1.2.1. You will pay for all accepted Orders by bank transfer, debit or credit card before We electronically deliver the Products.

1.3. Contracting with us and ordering

1.3.1. You can place an Order by:

1.3.1.1. Contacting Us by email, live chat, phone, or directly by email or phone Your account manager, if You are a regular Client. You may also contact Us through our website [here](#). We shall respond to Your Order request by email and such email shall constitute Your Order Confirmation to purchase the Products and pay the associated Charges, for which our invoice shall be issued after electronic delivery of the Products to You.

1.3.1.2. If You choose to order Products through our website at <https://www.CleverCards.ie>, then You will be deemed to have signed an Order Confirmation agreeing to pay the Product and any associated Charges by going through the process to place an online Order and accepting our terms and conditions;

1.3.2. Your Order Confirmation, however made pursuant to clause 1.3.1, is a binding offer by You to buy the Products subject to these terms and conditions. Our acceptance of Your offer will take place when We send You an email agreeing to deliver the Products in Your Order Confirmation to the addresses provided by You, at which point the Order will be placed and Contract will come into existence between Us.

1.3.3. We shall be free to accept or decline to deliver the Products in any Order Confirmation to You at our absolute discretion.

1.3.4. If we are unable to agree to deliver the Products to You for any reason, We will inform You by email.

1.3.5. Orders are non-cancellable and no refunds are permitted.

1.4. Delivery

- 1.4.1. We shall use reasonable endeavours to procure that the Products are delivered within a reasonable time of Us receiving payment of the Charges relating to that Order. We will arrange for the Products to be delivered to the electronic delivery address(es) set out in either any Order upload form You submit with Your Order or set out in email correspondence forming Your Order.
- 1.4.2. You must notify us as soon as reasonably practicable but in any event within five (5) business days of delivery of any discrepancy between the quantity of Products ordered and the quantity delivered. Before contacting us please check Your computer settings and confirm that delivery has not been intercepted by SPAM filters.
- 1.4.3. Risk in the Product shall pass to You/the Product Recipient (depending on to whom it is sent) upon commencement of download or when We first make the Product available for download or directly accessible from an email, whichever is the earlier. Please note that We cannot be held liable if You have provided Us with an incorrect digital delivery address and the Product sent to that address is redeemed, although We will use our reasonable efforts to assist You to send a Product to a different digital address should You realise within a reasonable time that the original digital address provided by You was incorrect. Title to the Products shall remain with Us until We have received full payment of the Charges in cleared funds.

1.5. Due Diligence and Fraud Prevention

- 1.5.1. You will provide Us with all the information reasonably requested for the purpose of our due diligence checks (including but not limited to, information relating to Your owners and identification evidence of Your directors and any persons authorised by You to place orders with Us).
- 1.5.2. If You are required to provide further information pursuant to clause 1.5.1 but have failed to do so then We may, at our entire discretion, reject Your Order, refuse to electronic delivery the Products and/or terminate this Contract.
- 1.5.3. You will establish policies and maintain systems and processes, commensurate with industry standards, to secure Your systems and networks and prevent access to them by unauthorised third parties which shall include ensuring that staff ordering Product(s) on Your behalf have state of the art hacking detection mechanisms and appropriate firewalls and protections in place, including for staff working remotely, to detect and prevent account takeovers and/or unauthorised access. CleverCards shall bear no responsibility for any fraudulent activity, or any resulting losses, arising as a result of Your breach of Your responsibilities under this clause and/or a vulnerability in Your systems/network and whether or not caused by a third party or the actions or omissions of Your own staff. You shall be responsible (including the obligation to make payment for the same) for any Orders which are made whether or not the same arise out of the fraud, wilful default or negligence of Your employees, agents or subcontractors or an unauthorised third party accessing Your computer network database or systems.

Breach of this clause 1.5.3 shall constitute a material breach of this Contract that is incapable of remedy and shall entitle us to terminate the contract immediately under clause 9.1.1.

- 1.5.4. Each Party agrees upon having actual knowledge of any loss, theft, damage, unauthorised or fraudulent activity in relation to the ordering of the Products to notify the other Party and provide all relevant information in respect of the same.

2. Fees and payment

- 2.1. In consideration for the supply of the Products You agree to pay the Product charges detailed in the Order: (i) at the rates specified in the basket if You are ordering online; or (ii) at the rates specified on our invoice or proforma if ordering manually (“Charges”).
- 2.2. The Charges exclude duties and taxes. You will pay the applicable duties and taxes, at the prevailing rate specified by the Irish Revenue Commissioners which may be subject to change and be dependent on a number of factors, at the same time as You pay the Charges.
- 2.3. All payments shall be made in Euros and by the payment method stipulated in clause 1.2 above or in the Contract.
- 2.4. Without prejudice to any other right or remedy, We may set off any amount which is due and owing by us or any of our Affiliates to You or any of Your Affiliates either under this Contract or any other contract between Us or our Affiliates and You or any of Your Affiliates whether existing now or in the future.

3. Warranties, General Obligations and Indemnity

- 3.1. You warrant and represent on an ongoing basis that: a) You have full capacity and authority to enter into and perform Your obligations under this Contract; b) the Contract is executed by Your duly authorised representative; c) You will ensure that the data, including Personal Data, that You provide is accurate and up to date; and d) the intended use of the Products stated on the Order Confirmation(s) is complete, accurate and true.
- 3.2. You will a) cooperate with Us in all matters related to the Products and ensure the same of Your independent contractors; b) promptly supply Us with such materials and data as We may reasonably request; and c) comply with all Applicable Laws.
- 3.3. We will use reasonable endeavours to meet any performance dates agreed with You in writing, but any such dates are estimates only.

4. Term

- 4.1. Subject to the provisions for earlier termination, this Contract is deemed to have commenced on the Effective Date and shall continue in full force and effect for the Contract Duration.

5. Liability

- 5.1. This clause 5 sets out our entire financial liability (including any liability for the acts or omissions of our employees, agents and subcontractors) to You in respect of all matters arising out of this Contract.
- 5.2. Nothing in this Contract limits or excludes a party's liability (a) for death or personal injury resulting from its negligence; or (b) for any damage or liability arising from its fraud or fraudulent misrepresentation; or (c) for any other liability which cannot be limited or excluded by Applicable Law; or (d) under the indemnities at clause 7.4.
- 5.3. Subject to clause 5.2, We will not be liable to You for any of the following (where in each of clauses 5.3(b) to 5.3(j) inclusive of a direct or indirect nature): a) special, indirect or consequential loss; b) loss of profits; c) loss of business; d) depletion of goodwill and/or similar losses; e) loss of anticipated savings; f) loss of goods; g) loss of contract; h) loss of use; i) loss, damage or corruption of data or information; and j) any pure economic loss, costs, damages, charges or expenses.
- 5.4. Subject to clauses 5.2 and 5.3, our total liability to You in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection

with the performance or contemplated performance of this Contract shall not exceed fifty thousand euros (€50,000).

- 5.5. All warranties, conditions, undertakings or terms, express or implied, statutory or otherwise as to the condition, quality, performance or fitness for purpose of any goods or services provided by us pursuant to this Contract are excluded from this Contract save to the extent they are expressly provided herein.

6. Confidentiality

- 6.1. Each party agrees to keep confidential all Confidential Information and will only use the other party's Confidential Information for purposes of fulfilling its obligations under this Contract.
- 6.2. The receiving party shall treat the disclosing party's Confidential Information with at least the same degree of care that it treats in its own Confidential Information but in any event with no less than a reasonable degree of care.
- 6.3. The receiving party may disclose the disclosing party's Confidential Information to its employees, officers, representatives or advisers who need to know such Confidential Information for the purpose of carrying out the receiving party's obligations under this Contract.
- 6.4. For the purpose of this Contract, Confidential Information shall not include information which is: a) in the public domain or falls into the public domain otherwise than due to breach of this obligation by the receiving party; or b) lawfully in the receiving party's possession at the time of disclosure by the disclosing party; or c) lawfully acquired from an independent third party who did not itself obtain it under an obligation of confidentiality; or d) independently developed without access to any information disclosed by the disclosing party; or e) required to be disclosed by any court or governmental or administrative authority competent to require the same or by any Applicable Law.
- 6.5. You agree that We reserve the right to identify You as a customer of Us on the CleverCards website or other CleverCards marketing materials, provided no Confidential Information is disclosed.

7. Intellectual Property Rights

- 7.1. All pre-existing Intellectual Property Rights shall remain the sole property of the originating party and the other party shall acquire no rights therein. Each party hereto warrants to the other party that to the best of its knowledge, all material, logos, information or other data provided to the other party in any media does not infringe the Intellectual Property Rights of any third party.
- 7.2. You acknowledge that any and all of the Intellectual Property Rights subsisting in or used in connection with the CleverCards IPR and the Products shall remain the sole property of CleverCards or such other party as may be identified therein or thereon and You shall not at any time dispute such ownership.
- 7.3. You grant CleverCards and its Affiliates and service providers a fully paid-up, worldwide, non-exclusive, royalty-free, transferable licence to use, copy and modify the Client Materials for the purpose of this supply of Products.
- 7.4. You shall indemnify and keep indemnified CleverCards and its Affiliates and service providers from and against all costs, claims, demands, liabilities, expenses, damages or losses they suffer or incur as the result of any claim or proceedings brought by a third party as a result of any goods or services supplied either to Your design/specification or in accordance with or based upon any information or materials supplied by You or any Client Materials supplied to CleverCards.

8. Data Protection

- 8.1. Each party confirms that it holds, and during the term of this Contract will maintain, all registrations and notifications required in terms of the Data Protection Laws which are appropriate to its performance of its obligations under this Contract.
- 8.2. In the performance of this Contract, each party must ensure compliance with Data Protection Laws.
- 8.3. You warrant that You have (and, at all times during the period this Contract is in force, will have) the requisite rights, authority and consents to disclose any Personal Data to Us for the purpose of the performance of this Contract and that use by us of such Personal Data to supply the Products hereunder in accordance with the Contract and the instructions of You will not infringe the rights of any third party.
- 8.4. We, as well as our vendors, suppliers, and providers, may obtain, use, disclose and otherwise process Personal Data (as that term is defined in the DPA) in the performance of the Services, as set forth in the DPA which is incorporated herein by this reference and is located [here](#).
- 8.5. As further described in the DPA: (1) the address for assistance needed with Data Subject Requests is dpo@clevercards.com; and (2) notifications to CleverCards regarding a Personal Data Breach shall be sent via e-mail to dpo@clevercards.com.

9. Termination

- 9.1. Either party may terminate the Contract with immediate effect by giving the other written notice if:
 - 9.1.1. the other commits a material breach of any term of the Contract and, if such breach is remediable, fails to remedy that breach within thirty (30) days of being notified in writing to do so; or
 - 9.1.2. if any step or action in connection with the other entering into administration, provisional liquidation or any composition or arrangement with their creditors (other than in relation to solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or actions is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
 - 9.1.3. the other party suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business.
- 9.2. Without affecting any other right or remedy available to it, We may terminate this Contract with immediate effect by giving written notice to You if You fails to pay any amount due under this Contract by the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment.
- 9.3. Termination of the Contract shall not affect any rights or remedies that have accrued as at termination.
- 9.4. Any provision of the Contract that expressly or by implication is intended to come in force on or after termination shall remain in full force and effect.
- 9.5. Notwithstanding any provision or arrangement allowing payment terms, payment of all sums owing under the Contract shall become due and payable to Us immediately upon the termination of this Contract.

10. Force Majeure

- 10.1. Neither party will be liable for any loss or damage from any delay or failure to supply any Products due to any circumstances beyond its reasonable control ("Force Majeure Event"), provided that the affected party informs the other party as soon as practicable after first becoming aware of the Force Majeure Event.
- 10.2. If the Force Majeure Event in question continues for more than 60 days, either party may give notice in writing to the other of not less than 60 days to terminate this Contract.
- 10.3. To the extent that CleverCards continues to supply the Products during a Force Majeure Event, You shall pay the Charges to Us in accordance with the provisions of this Contract.

11. General

- 11.1. If there is an inconsistency between any of the provisions in these terms and conditions and the Order, the Order shall prevail.
- 11.2. You shall not assign this Contract without the prior written consent of Us. However, We may assign or subcontract or deal in any other manner with any or all of its rights and obligations under this Contract.
- 11.3. All notices given under this Contract shall be in writing and sent by email to the other at its address stated in the Order (or at such other address as the party has previously notified the other in writing as its address for services) and in relation to Us shall be marked for the attention of the General Counsel with a copy to the Chief Executive Officer at the address stated above. Any such notice will be deemed to have been served immediately, if delivered by email.
- 11.4. If any provision (or part of a provision) of this Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.
- 11.5. The parties to this Contract do not intend that any of its terms will bind or be enforceable by any person other than You and Us.
- 11.6. Any variation or amendment to this Contract will not be binding on the parties unless set out in writing, expressed to amend this Contract and signed by an authorised representative of each party save as set out in this clause 11.6. We reserve the right to update these terms and conditions and where such change is material will inform You before those changes take effect, either through the user interface, in an email message or through other reasonable means. If You object to an intended change, You may terminate this Contract by giving written notice to Us within 30 days of such change becoming effective. Your continued purchase of the Products after the change becomes effective will mean that You have agreed to the new terms and conditions.
- 11.7. These terms and conditions and the Order constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the subject matter of this Contract. They apply to the exclusion of any other terms that You seek to impose or incorporate by trade, custom, practice or course of dealings. For the avoidance of doubt, any terms in a purchase order issued by You shall not be legally binding and may not act as a form of offer, counteroffer or an addition to or modification of the Contract.

- 11.8. No delay, neglect or forbearance on the part of either party in enforcing any term or condition of this Contract shall either be or be deemed to be a waiver or in any way prejudicial to any right of such party under this Contract.
- 11.9. The formation, construction, performance, validity and all aspects whatsoever of this Contract and any differences or disputes (including non-contractual disputes) shall be governed by Irish law and each party irrevocably agrees to submit all dispute arising out of or in connection with it to the exclusive jurisdiction of the Irish Courts to settle any dispute or claim that arises out of or in connection with this Contract or its subject matter.