

# Terms and Conditions of Malva.RE

These Terms govern

- the use of Malva.RE, and,
- any other related Agreement or legal relationship with the Owner

in a legally binding way. Capitalized words are defined in the relevant dedicated section of this document.

The User must read this document carefully.

Malva.RE is provided by:

**YNEOS S.A.S.**

221 Chemin de la Montagne  
73100 Gresy-Sur-Aix

**Owner contact email:** [contact@yneos.fr](mailto:contact@yneos.fr)

"Malva.RE" refers to

- this website, including its subdomains and any other website through which the Owner makes its Service available;
- applications for mobile, tablet and other smart device systems;
- the Application Program Interfaces (API);
- the Service;
- any applications, sample and content files, source code, scripts, instruction sets or software included as part of the Service, as well as any related documentation;

The following documents are incorporated by reference into these Terms:

## What the User should know at a glance

- Please note that some provisions in these Terms may only apply to certain categories of Users. In particular, certain provisions may only apply to Consumers or to those Users that do not qualify as Consumers. Such limitations are always explicitly mentioned within each affected clause. In the absence of any such mention, clauses apply to all Users.
- The right of withdrawal only applies to European Consumers.
- Malva.RE uses automatic renewal for Product subscriptions. Information about the a) renewal period, b) termination details and c) termination notice can be found in the relevant section of these Terms.
- Important: Consumers based in Germany have different rules applying to them as described in the relevant section of these Terms.

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## TERMS OF USE

Unless otherwise specified, the terms of use detailed in this section apply generally when using Malva.RE.

Single or additional conditions of use or access may apply in specific scenarios and in such cases are additionally indicated within this document.

By using Malva.RE, Users confirm to meet the following requirements:

- There are no restrictions for Users in terms of being Consumers or Business Users;

### Account registration

To use the Service Users must register or create a User account, providing all required data or information in a complete and truthful manner.

Failure to do so will cause unavailability of the Service.

Users are responsible for keeping their login credentials confidential and safe. For this reason, Users are also required to choose passwords that meet the highest standards of strength permitted by Malva.RE.

By registering, Users agree to be fully responsible for all activities that occur under their username and password. Users are required to immediately and unambiguously inform the Owner via the contact details indicated in this document, if they think their personal information, including but not limited to User accounts, access credentials or personal data, have been violated, unduly disclosed or stolen.

### **Conditions for account registration**

Registration of User accounts on Malva.RE is subject to the conditions outlined below. By registering, Users agree to meet such conditions.

- Accounts registered by bots or any other automated methods are not permitted.
- Unless otherwise specified, each User must register only one account.
- Unless explicitly permitted, a User account may not be shared with other persons.

### **Account termination**

Users can terminate their account and stop using the Service at any time by doing the following:

- By directly contacting the Owner at the contact details provided in this document.

However, termination of the account will not be possible until the subscription period paid for by the User has expired.

### **Account suspension and deletion**

The Owner reserves the right to suspend or terminate the User's account at any time and without notice, at the Owner's sole discretion, in these cases:

- User has violated these Terms; and/or
- User's access or use of Malva.RE may cause injury to the Owner, other Users or third parties; and/or
- the use of Malva.RE by the User may cause violation of law or regulations; and/or
- in case of an investigation by legal action or governmental involvement; and/or
- the account or its use is deemed to be, at the Owner's sole discretion inappropriate or offensive or in violation of these Terms.

The suspension or deletion of User accounts shall not entitle Users to any claims for compensation, damages or reimbursement. The suspension or deletion of accounts due to causes attributable to the User does not exempt the User from paying any applicable fees or prices.

### **Content on Malva.RE**

Unless where otherwise specified or clearly recognizable, all content available on Malva.RE is owned or provided by the Owner or its licensors.

The Owner undertakes its utmost effort to ensure that the content provided on Malva.RE infringes no applicable legal provisions or third-party rights. However, it may not always be possible to achieve such a result.

In such cases, without prejudice to any legal prerogatives of Users to enforce their rights, Users are kindly asked to preferably report related complaints using the contact details provided in this document.

### **Rights regarding content on Malva.RE - All rights reserved**

The Owner holds and reserves all intellectual property rights for any such content.

Users may not, therefore, use such content in any way that is not necessary or implicit in the proper use of the Service.

In particular, but without limitation, Users may not copy, download, share (beyond the limits set forth below), modify, translate, transform, publish, transmit, sell, sublicense, edit, transfer/assign to third parties or create derivative works from the content available on Malva.RE, nor allow any third party to do so through the User or their device, even without the User's knowledge.

Where explicitly stated on Malva.RE, the User may download, copy and/or share some content available through Malva.RE for its sole personal and non-commercial use and provided that the copyright attributions and all the other attributions requested by the Owner are correctly implemented.

Any applicable statutory limitation or exception to copyright shall stay unaffected.

## **Content provided by Users**

The Owner allows Users to upload, share or provide their own content to Malva.RE.

By providing content to Malva.RE, Users confirm that they are legally allowed to do so and that they are not infringing any statutory provisions and/or third-party rights.

## **Rights regarding content provided by Users**

Users acknowledge and accept that by providing their own content on Malva.RE they grant the Owner a non-exclusive, fully paid-up and royalty-free license to process such content solely for the operation and maintenance of Malva.RE as contractually required.

To the extent permitted by applicable law, Users waive any moral rights in connection with content they provide to Malva.RE.

## **Liability for provided content**

Users are solely liable for any content they upload, post, share, or provide through Malva.RE. Users acknowledge and accept that **the Owner does not filter or moderate such content.**

However, the Owner reserves the right to remove, delete or block such content at its own discretion and, without prior notice, to deny the uploading User access to Malva.RE:

- upon becoming aware of any (alleged) violation of these Terms, any third-party rights, or applicable law, based on such content;
- if a notice of infringement of intellectual property rights is received;
- if a notice of violation of a third party's privacy, including their intimate privacy, is received;
- upon order of a public authority; or
- where the Owner is made aware that the content, while being accessible via Malva.RE, may represent a risk for Users, third parties and/or the availability of the Service.

The removal, deletion or blocking of content shall not entitle Users that have provided such content or that are liable for it, to any claims for compensation, damages or reimbursement.

Users agree to hold the Owner harmless from and against any claim asserted and/or damage suffered due to content they provided to or provided through Malva.RE.

## **Access to external resources**

Through Malva.RE Users may have access to external resources provided by third parties. Users acknowledge and accept that the Owner has no control over such resources and is therefore not responsible for their content and availability.

Conditions applicable to any resources provided by third parties, including those applicable to any possible grant of rights in content, result from each such third parties' terms and conditions or, in the absence of those, applicable statutory law.

## **Acceptable use**

Malva.RE and the Service may only be used within the scope of what they are provided for, under these Terms and applicable law.

Users are solely responsible for making sure that their use of Malva.RE and/or the Service violates no applicable law, regulations or third-party rights.

Therefore, **the Owner reserves the right to take any appropriate measure to protect its legitimate interests including by denying Users access to Malva.RE or the Service, terminating contracts, reporting any misconduct performed through Malva.RE or the Service to the competent authorities – such as judicial or administrative authorities - whenever Users engage or are suspected to engage in any of the following activities:**

- violate laws, regulations and/or these Terms;
- infringe any third-party rights;
- considerably impair the Owner's legitimate interests;
- offend the Owner or any third party.

## **“Tell-a-friend”**

Malva.RE gives Users the opportunity to receive advantages if, as a result of their recommendation, any new User purchases a Product offered on Malva.RE.

In order to take advantage of this offer, Users may invite others to purchase the Products on Malva.RE by sending them a tell-a-friend code provided by the Owner. Such codes can only be redeemed once.

If upon purchase of the Products on Malva.RE any of the persons invited redeems a tell-a-friend code, the inviting User shall receive the advantage or benefit (such as: a price reduction, an additional service feature, an upgrade etc.) specified on Malva.RE. Tell-a-friend codes may be limited to specific Products among those offered on Malva.RE.

The Owner reserves the right to end the offer at any time at its own discretion.

While no general limitation applies to the number of persons that can be invited, the amount of advantage or benefit that each inviting User can receive, may be limited.

## **API usage terms**

Users may access their data relating to Malva.RE via the Application Program Interface (API). Any use of the API, including use of the API through a third-party product/service that accesses Malva.RE, is bound by these Terms and, in addition, by the following specific terms:

- the User expressly understands and agrees that the Owner bears no responsibility and shall not be held liable for any damages or losses resulting from the User’s use of the API or their use of any third-party products/services that access data through the API.

## **TERMS AND CONDITIONS OF SALE**

### **Provision of personal data**

To access or receive some of the Products provided via Malva.RE as part of the Service, Users may be required to provide their personal data as indicated on Malva.RE.

### **Paid Products**

Some of the Products provided on Malva.RE, as part of the Service, are provided on the basis of payment.

The fees, duration and conditions applicable to the purchase of such Products are described below and in the dedicated sections of Malva.RE.

To purchase Products, the User must register or log into Malva.RE.

### **Product description**

Prices, descriptions or availability of Products are outlined in the respective sections of Malva.RE and are subject to change without notice.

While Products on Malva.RE are presented with the greatest accuracy technically possible, representation on Malva.RE through any means (including, as the case may be, graphic material, images, colors, sounds) is for reference only and implies no warranty as to the characteristics of the purchased Product.

The characteristics of the chosen Product will be outlined during the purchasing process.

### **Purchasing process**

Any steps taken from choosing a Product to order submission form part of the purchasing process.

The purchasing process includes these steps:

- Users must choose the desired Product and verify their purchase selection.
- After having reviewed the information displayed in the purchase selection, Users may place the order by submitting it.

### **Order submission**

When the User submits an order, the following applies:

- The submission of an order determines contract conclusion and therefore creates for the User the obligation to pay the price, taxes and possible further fees and expenses, as specified on the order page.
- In case the purchased Product requires an action from the User, such as the provision of personal information or data, specifications or special wishes, the order submission creates an obligation for the User to cooperate accordingly.
- Upon submission of the order, Users will receive a receipt confirming that the order has been received.

All notifications related to the described purchasing process shall be sent to the email address provided by the User for such purposes.

## Prices

Users are informed during the purchasing process and before order submission, about any fees, taxes and costs (including, if any, delivery costs) that they will be charged.

Prices on Malva.RE are displayed:

- either exclusive or inclusive of any applicable fees, taxes and costs, depending on the section the User is browsing.

## Offers and discounts

The Owner may offer discounts or provide special offers for the purchase of Products. Any such offer or discount shall always be subject to the eligibility criteria and the terms and conditions set out in the corresponding section of Malva.RE.

Offers and discounts are always granted at the Owner's sole discretion.

Repeated or recurring offers or discounts create no claim/title or right that Users may enforce in the future.

Depending on the case, discounts or offers shall be valid for a limited time only or while stocks last. If an offer or discount is limited by time, the time indications refer to the time zone of the Owner, as indicated in the Owner's location details in this document, unless otherwise specified.

## Coupons

Offers or discounts can be based on Coupons.

If breach of the conditions applicable to Coupons occurs, the Owner can legitimately refuse to fulfill its contractual obligations and expressly reserves the right to take appropriate legal action to protect its rights and interests.

Notwithstanding the provisions below, any additional or diverging rules applicable to using the Coupon displayed in the corresponding information page or on the Coupon itself shall always prevail.

Unless otherwise stated, these rules apply to the use of Coupons:

- Each Coupon is only valid when used in the manner and within the timeframe specified on the website and/or the Coupon;
- A Coupon may only be applied, in its entirety, at the actual time of purchase – partial use is not permitted;
- Unless otherwise stated, single-use Coupons may only be used once per purchase and therefore may only be applied a single time even in cases involving installment-based purchases;
- A Coupon cannot be applied cumulatively;
- The Coupon must be redeemed exclusively within the time specified in the offer. After this period, the Coupon will automatically expire, precluding any possibility for the User to claim the relevant rights, including cash-out;
- The User is not entitled to any credit/refund/compensation if there is a difference between the value of the Coupon and the redeemed value;
- The Coupon is intended solely for non-commercial use. Any reproduction, counterfeiting and commercial trade of the Coupon is strictly forbidden, along with any illegal activity related to the purchase and/or use of the Coupon.

## Methods of payment

Information related to accepted payment methods is made available during the purchasing process.

Some payment methods may only be available subject to additional conditions or fees. In such cases related information can be found in the dedicated section of Malva.RE.

All payments are independently processed through third-party services. Therefore, Malva.RE does not collect any payment information – such as credit card details – but only receives a notification once the payment has been successfully completed.

If a payment through the available methods fails or is refused by the payment service provider, the Owner shall be under no obligation to fulfill the purchase order. If a payment fails or is refused, the Owner reserves the right to claim any related expenses or damages from the User.

## **Retention of usage rights**

Users do not acquire any rights to use the purchased Product until the total purchase price is received by the Owner.

## **Delivery**

### **Performance of services**

The purchased service shall be performed or made available within the timeframe specified on Malva.RE or as communicated before the order submission.

## **Contract duration**

### **Subscriptions**

Subscriptions allow Users to receive a Product continuously or regularly over time. Details regarding the type of subscription and termination are outlined below.

#### **Fixed-term subscriptions**

Paid fixed-term subscriptions start on the day the payment is received by the Owner and last for the subscription period chosen by the User or otherwise specified during the purchasing process.

Once the subscription period expires, the Product shall no longer be accessible.

#### **Automatic renewal of fixed-term subscriptions**

**Subscriptions are automatically renewed through the payment method that the User chose during purchase.**

**The renewed subscription will last for a period equal to the original term.**

The User shall receive a reminder of the upcoming renewal with reasonable advance, outlining the procedure to be followed in order to cancel the automatic renewal.

### **Termination**

**Subscriptions may be terminated by sending a clear and unambiguous termination notice to the Owner using the contact details provided in this document, or — if applicable — by using the corresponding controls inside Malva.RE.**

**If the notice of termination is received by the Owner no later than 30 days before the subscription renews, termination shall take effect as soon as the current period is completed.**

#### **Exception for Consumers based in Germany**

However, regardless of the above, if the User is based in Germany and qualifies as a Consumer, the following applies:

**At the end of the initial term, subscriptions are automatically extended for an unlimited period, unless the User terminates no later than 30 days before the end of such term.**

**The fee due upon extension will be charged on the payment method that the User chose during purchase.**

**After extension, the subscription will last for an indefinite period and may be terminated monthly.**

The User shall receive a reminder of the upcoming unlimited extension with reasonable advance, outlining the procedure to be followed in order to prevent the extension or terminate the subscription thereafter.

### **Termination**

**Extended subscriptions may be terminated at any time by sending a clear and unambiguous termination notice to the Owner using the contact details provided in this document, or — if applicable — by using the corresponding controls inside Malva.RE.**

**If the notice of termination is received by the Owner by the end of the current month, the subscription shall expire at the end of such month.**

#### **Terms and conditions applying to extra features**

Users that have an active subscription may purchase single extra add-ons or features, described in the relevant section of Malva.RE.

Prices, duration, terms of use and termination of such extras may differ from those of the main Product and, unless otherwise specified, do not influence the prices, duration, terms of use and termination of the latter.

## User rights

### Right of withdrawal

Unless exceptions apply, the User may be eligible to withdraw from the contract within the period specified below (generally 14 days), for any reason and without justification. Users can learn more about the withdrawal conditions within this section.

#### Who the right of withdrawal applies to

Unless any applicable exception is mentioned below, Users who are European Consumers are granted a statutory withdrawal right under EU rules, to withdraw from contracts entered into online (distance contracts) within the specified period applicable to their case, for any reason and without justification.

Users that do not fit this qualification, cannot benefit from the rights described in this section.

#### Exercising the right of withdrawal

To exercise their right of withdrawal, Users must send to the Owner an unequivocal statement of their intention to withdraw from the contract.

To this end, Users may use the model withdrawal form available from within the “definitions” section of this document. Users are, however, free to express their intention to withdraw from the contract by making an unequivocal statement in any other suitable way. In order to meet the deadline within which they can exercise such right, Users must send the withdrawal notice before the withdrawal period expires.

When does the withdrawal period expire?

- **Regarding the purchase of a service**, the withdrawal period expires 14 days after the day that the contract is entered into, unless the User has waived the withdrawal right.

#### Effects of withdrawal

Users who correctly withdraw from a contract will be reimbursed by the Owner for all payments made to the Owner, including, if any, those covering the costs of delivery.

However, any additional costs resulting from the choice of a particular delivery method other than the least expensive type of standard delivery offered by the Owner, will not be reimbursed.

Such reimbursement shall be made without undue delay and, in any event, no later than 14 days from the day on which the Owner is informed of the User’s decision to withdraw from the contract. Unless otherwise agreed with the User, reimbursements will be made using the same means of payment as used to process the initial transaction. In any event, the User shall not incur any costs or fees as a result of such reimbursement.

#### ...on the purchase of services

Where a User exercises the right of withdrawal after having requested that the service be performed before the withdrawal period expires, the User shall pay to the Owner an amount which is in proportion to the part of service provided.

Such payment shall be calculated based on the fee contractually agreed upon, and be proportional to the part of service provided until the time the User withdraws, compared with the full coverage of the contract.

#### Exceptions from the right of withdrawal

The right of withdrawal does not apply to contracts:

- for the provision of services, after the service has been fully performed, if the contract places the Consumer under an obligation to pay and performance has begun with the Consumer’s prior express consent after acknowledging that their right of withdrawal is lost once the service has been fully performed;
- for the provision of services, after the service has been fully performed, if the contract places the Consumer under no obligation to pay but rather to provide or undertake to provide personal data;

## **UK User rights**

### **Right to cancel**

Unless exceptions apply, Users who are Consumers in the United Kingdom have a legal right of cancellation under UK law and may be eligible to withdraw from contracts made online (distance contracts) within the period specified below (generally 14 days), for any reason and without justification.

Users that do not qualify as Consumers, cannot benefit from the rights described in this section. Users can learn more about the cancellation conditions within this section.

#### **Exercising the right to cancel**

To exercise their right to cancel, Users must send to the Owner an unequivocal statement of their intention to withdraw from the contract. To this end, Users may use the model withdrawal form available from within the “definitions” section of this document. Users are, however, free to express their intention to withdraw from the contract by making an unequivocal statement in any other suitable way. In order to meet the deadline within which they can exercise such right, Users must send the withdrawal notice before the cancellation period expires. When does the cancellation period expire?

- **Regarding the purchase of a service**, the cancellation period expires 14 days after the day that the contract is entered into, unless the User has waived the right to cancel.

#### **Effects of cancellation**

Users who correctly withdraw from a contract will be reimbursed by the Owner for all payments made to the Owner, including, if any, those covering the costs of delivery.

However, any additional costs resulting from the choice of a particular delivery method other than the least expensive type of standard delivery offered by the Owner, will not be reimbursed.

Such reimbursement shall be made without undue delay and, in any event, no later than 14 days from the day on which the Owner is informed of the User’s decision to withdraw from the contract. Unless otherwise agreed with the User, reimbursements will be made using the same means of payment as used to process the initial transaction. In any event, the User shall not incur any costs or fees as a result of such reimbursement.

#### **...on the purchase of services**

Where a User exercises the right to cancel after having requested that the service be performed before the cancellation period expires, the User shall pay to the Owner an amount which is in proportion to the part of service provided.

Such payment shall be calculated based on the fee contractually agreed upon, and be proportional to the part of service provided until the time the User withdraws, compared with the full coverage of the contract.

#### **Exceptions from the right to cancel**

The right to cancel does not apply to contracts:

- for the provision of services, after the service has been fully performed if the performance has begun with the consumer’s prior express request, and with their acknowledgement that their right to cancel is lost once the contract has been fully performed;

## **Brazilian User rights**

### **Right of regret**

Unless an applicable exception is stated below, Users who are Consumers in Brazil have a legal right of regret under Brazilian law. This means that the Consumer has the right to withdraw from contracts made online (distance contracts or any contract signed away from business premises) within seven (7) days of the date the contract was entered into or the receipt of the product or service, for any reason and without justification. Users that do not qualify as Consumers, cannot benefit from the rights described in this section. The right of regret may be exercised by the Consumer via contact channels listed at the beginning of this document and in accordance with the guidelines in this section.

#### **Exercising the right of regret**

To exercise their right of regret, Users must send to the Owner an unequivocal statement of their intention to withdraw from the contract. To this end, Users may use the model withdrawal form available from within the “definitions” section of this document.



Users are, however, free to express their intention to withdraw from the contract by making an unequivocal statement in any other suitable way. In order to meet the deadline within which they can exercise such right, Users must send the regret notice before the regret period expires. When does the regret period expire?

- **Regarding the purchase of a service**, the regret period expires seven (7) days after the day that the contract is entered into and only if the service has not yet been provided.

#### **Effects of regret**

Users who correctly withdraw from a contract will be reimbursed by the Owner for all payments made to the Owner, including, if any, those covering the costs of delivery.

However, any additional costs resulting from the choice of a particular delivery method other than the least expensive type of standard delivery offered by the Owner, will not be reimbursed.

Such reimbursement shall be made without undue delay and, in any event, no later than 14 days from the day on which the Owner is informed of the User's decision to withdraw from the contract or the actual return of the product, whichever occurs later. Unless otherwise agreed with the User, reimbursements will be made using the same means of payment as used to process the initial transaction. In any event, the User shall not incur any costs or fees as a result of such reimbursement.

#### **...on the purchase of services**

Where a User exercises the right of regret after having requested that the service be performed before the regret period expires, the User shall pay to the Owner an amount which is in proportion to the part of the service provided.

Such payment shall be calculated based on the fee contractually agreed upon, and be proportional to the part of service provided until the time the User withdraws.

#### **Exceptions from the right of regret**

The right of regret in the form and term provided for in these Terms shall not apply in the following cases:

- to the provision of services, after the service has been fully performed, if the performance has begun within seven (7) days of the date the contract was entered into with the express prior consent of the Consumer and with their acknowledgment that their right of regret will be forfeited once the contract has been fully performed;

## **Guarantees**

### **Legal guarantee of conformity for Digital Products under EU law**

Under EU law, for a minimum period of 2 years from delivery or, in case of Digital Products supplied continuously for more than 2 years for the entire supply period, traders guarantee conformity of the Digital Products they provide to Consumers.

Where Users qualify as European Consumers, the legal guarantee of conformity applies to the Digital Products available on Malva.RE in accordance with the laws of the country of their habitual residence.

National laws of such country may grant Users broader rights.

### **Legal guarantee of conformity for services for Consumers in Brazil**

The legal guarantee applicable to services sold by Malva.RE complies with the following terms, according to the Consumer Protection Code:

- non-durable services shall have a thirty-day (30 day) guarantee; and
- durable services shall have a ninety-day (90 day) guarantee.

The warranty period starts from the end of the performance of services.

The warranty is not applicable in cases of service misuse, natural events or if it has been subjected to any maintenance other than that provided by Malva.RE.

The warranty may be claimed through the contact channels provided by Malva.RE. If applicable, the Owner shall bear the costs of shipping any goods for technical assessment. The Owner, at its own discretion, may also offer a contractual warranty in addition to the legal warranty.

The regulations applicable to contractual warranties can be found in the specifications provided by Malva.RE. If no such information is provided, only the statutory provisions shall apply.

## **Money-back-guarantee for services**

Without prejudice to any applicable statutory rights, the Owner grants Users the right to cancel the purchase of a service they are unsatisfied with, and obtain a refund, within 15 days from the day on which the contract was entered into.

The Owner shall refund the price of the Product purchased using the same payment method as the original transaction. In order to make use of this right, Users must send an unambiguous notice to the Owner. While a motivation is not required, Users are kindly asked to specify the reason why they are claiming the money-back-guarantee.

Upon receipt of such notice, the Owner will verify that all conditions applicable to the money-back-guarantee are fulfilled and, if so, refund the purchase price. In this case, Users will no longer have access to the purchased service.

The above does not affect the Users' rights to seek remedy free of charge in the event of a lack of conformity of the Product under applicable law.

## **Liability and indemnification**

Unless otherwise explicitly stated or agreed with Users, the Owner's liability for damages in connection with the execution of the Agreement shall be excluded, limited and/or reduced to the maximum extent permitted by applicable law.

### **Indemnification**

The User agrees to indemnify and hold the Owner and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners and employees harmless from and against any claim or demand — including but not limited to lawyer's fees and costs — made by any third party due to or in relation with any culpable violation of these Terms, third-party rights or statutory provisions connected to the use of the Service by the User or its affiliates, officers, directors, agents, co-branders, partners and employees to the extent allowed by applicable law.

The above also applies to any claims exercised by third parties (including but not limited to the Owner's clients or customers) against the Owner related to Digital Products provided by the User such as, for instance, conformity claims.

### **Limitation of liability**

Unless otherwise explicitly stated and without prejudice to applicable law, Users shall have no right to claim damages against the Owner (or any natural or legal person acting on its behalf).

This does not apply to damages to life, health or physical integrity, damages resulting from the breach of material contractual obligations such as any obligation strictly necessary to achieve the purpose of the contract, and/or damages resulting from intent or gross negligence, as long as Malva.RE has been appropriately and correctly used by the User.

Unless damages have been caused by way of intent or gross negligence, or they affect life, health or physical integrity, the Owner shall only be liable to the extent of typical and foreseeable damages at the moment the contract was entered into.

## **Australian Users**

### **Limitation of liability**

Nothing in these Terms excludes, restricts or modifies any guarantee, condition, warranty, right or remedy which the User may have under the Competition and Consumer Act 2010 (Cth) or any similar State and Territory legislation and which cannot be excluded, restricted or modified (non-excludable right). To the fullest extent permitted by law, our liability to the User, including liability for a breach of a non-excludable right and liability which is not otherwise excluded under these Terms of Use, is limited, at the Owner's sole discretion, to the re-performance of the services or the payment of the cost of having the services supplied again.

## **US Users**

### **Disclaimer of Warranties**

**Malva.RE is provided strictly on an "as is" and "as available" basis. Use of the Service is at Users' own risk. To the maximum extent permitted by applicable law, the Owner expressly disclaims all conditions, representations, and warranties — whether express, implied, statutory or otherwise, including, but not limited to, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third-party rights. No advice or information, whether oral or written, obtained by the User from the Owner or through the Service will create any warranty not expressly stated herein.**

Without limiting the foregoing, the Owner, its subsidiaries, affiliates, licensors, officers, directors, agents, co-branders, partners, suppliers and employees do not warrant that the content is accurate, reliable or correct; that the Service will meet Users' requirements; that the Service will be available at any particular time or location, uninterrupted or secure; that any defects or errors will be corrected; or that the Service is free of viruses or other harmful components. Any content downloaded or otherwise obtained through the use of the Service is downloaded at Users' own risk and Users shall be solely responsible for any damage to Users' computer system or mobile device or loss of data that results from such download or Users' use of the Service.

The Owner does not warrant, endorse, guarantee, or assume responsibility for any product or service advertised or offered by a third party through the Service or any hyperlinked website or service, and the Owner shall not be a party to or in any way monitor any transaction between Users and third-party providers of products or services.

The Service may become inaccessible or it may not function properly with Users' web browser, mobile device, and/or operating system. The owner cannot be held liable for any perceived or actual damages arising from Service content, operation, or use of this Service.

Federal law, some states, and other jurisdictions, do not allow the exclusion and limitations of certain implied warranties. The above exclusions may not apply to Users. This Agreement gives Users specific legal rights, and Users may also have other rights which vary from state to state. The disclaimers and exclusions under this agreement shall not apply to the extent prohibited by applicable law.

#### **Limitations of liability**

To the maximum extent permitted by applicable law, in no event shall the Owner, and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners, suppliers and employees be liable for:

- any indirect, punitive, incidental, special, consequential or exemplary damages, including without limitation damages for loss of profits, goodwill, use, data or other intangible losses, arising out of or relating to the use of, or inability to use, the Service; and
- any damage, loss or injury resulting from hacking, tampering or other unauthorized access or use of the Service or User account or the information contained therein;
- any errors, mistakes, or inaccuracies of content;
- personal injury or property damage, of any nature whatsoever, resulting from User access to or use of the Service;
- any unauthorized access to or use of the Owner's secure servers and/or any and all personal information stored therein;
- any interruption or cessation of transmission to or from the Service;
- any bugs, viruses, trojan horses, or the like that may be transmitted to or through the Service;
- any errors or omissions in any content or for any loss or damage incurred as a result of the use of any content posted, emailed, transmitted, or otherwise made available through the Service; and/or
- the defamatory, offensive, or illegal conduct of any User or third party. In no event shall the Owner, and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners, suppliers and employees be liable for any claims, proceedings, liabilities, obligations, damages, losses or costs in an amount exceeding the amount paid by User to the Owner hereunder in the preceding 12 months, or the period of duration of this agreement between the Owner and User, whichever is shorter.

This limitation of liability section shall apply to the fullest extent permitted by law in the applicable jurisdiction whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if the User has been advised of the possibility of such damage.

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, therefore the above limitations or exclusions may not apply to the User. The terms give User specific legal rights, and User may also have other rights which vary from jurisdiction to jurisdiction. The disclaimers, exclusions, and limitations of liability under the terms shall not apply to the extent prohibited by applicable law.

#### **Indemnification**

The User agrees to defend, indemnify and hold the Owner and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners, suppliers and employees harmless from and against any and all claims or demands, damages, obligations, losses, liabilities, costs or debt, and expenses, including, but not limited to, legal fees and expenses, arising from

- User's use of and access to the Service, including any data or content transmitted or received by User;
- User's violation of these terms, including, but not limited to, User's breach of any of the representations and warranties set forth in these terms;
- User's violation of any third-party rights, including, but not limited to, any right of privacy or intellectual property rights;
- User's violation of any statutory law, rule, or regulation;

- **any content that is submitted from User's account, including third party access with User's unique username, password or other security measure, if applicable, including, but not limited to, misleading, false, or inaccurate information;**
- **User's wilful misconduct; or**
- **statutory provision by User or its affiliates, officers, directors, agents, co-branders, partners, suppliers and employees to the extent allowed by applicable law.**

## **Common provisions**

### **No Waiver**

The Owner's failure to assert any right or provision under these Terms shall not constitute a waiver of any such right or provision. No waiver shall be considered a further or continuing waiver of such term or any other term.

### **Service interruption**

To ensure the best possible service level, the Owner reserves the right to interrupt the Service for maintenance, system updates or any other changes, informing the Users appropriately.

Within the limits of law, the Owner may also decide to suspend or discontinue the Service altogether. If the Service is discontinued, the Owner will cooperate with Users to enable them to withdraw Personal Data or information and will respect Users' rights relating to continued product use and/or compensation, as provided for by applicable law.

Additionally, the Service might not be available due to reasons outside the Owner's reasonable control, such as "force majeure" events (infrastructural breakdowns or blackouts etc.).

### **Service reselling**

Users may not reproduce, duplicate, copy, sell, resell or exploit any portion of Malva.RE and of its Service without the Owner's express prior written permission, granted either directly or through a legitimate reselling programme.

### **Privacy policy**

To learn more about the use of their Personal Data, Users may refer to the privacy policy of Malva.RE.

### **Intellectual property rights**

Without prejudice to any more specific provision of these Terms, any intellectual property rights, such as copyrights, trademark rights, patent rights and design rights related to Malva.RE are the exclusive property of the Owner or its licensors and are subject to the protection granted by applicable laws or international treaties relating to intellectual property.

All trademarks — nominal or figurative — and all other marks, trade names, service marks, word marks, illustrations, images, or logos appearing in connection with Malva.RE are, and remain, the exclusive property of the Owner or its licensors and are subject to the protection granted by applicable laws or international treaties related to intellectual property.

### **Changes to these Terms**

The Owner reserves the right to amend or otherwise modify these Terms at any time. In such cases, the Owner will appropriately inform the User of these changes.

Such changes will only affect the relationship with the User from the date communicated to Users onwards.

**The continued use of the Service will signify the User's acceptance of the revised Terms.** If Users do not wish to be bound by the changes, they must stop using the Service and may terminate the Agreement.

The applicable previous version will govern the relationship prior to the User's acceptance. The User can obtain any previous version from the Owner.

If legally required, the Owner will notify Users in advance of when the modified Terms will take effect.

### **Assignment of contract**

The Owner reserves the right to transfer, assign, dispose of by novation, or subcontract any or all rights or obligations under these Terms, taking the User's legitimate interests into account. Provisions regarding changes of these Terms will apply accordingly.

Users may not assign or transfer their rights or obligations under these Terms in any way, without the written permission of the Owner.

## **Contacts**

All communications relating to the use of Malva.RE must be sent using the contact information stated in this document.

## **Severability**

Should any provision of these Terms be deemed or become invalid or unenforceable under applicable law, the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions, which shall remain in full force and effect.

## **EU Users**

Should any provision of these Terms be or be deemed void, invalid or unenforceable, the parties shall do their best to find, in an amicable way, an agreement on valid and enforceable provisions thereby substituting the void, invalid or unenforceable parts. In case of failure to do so, the void, invalid or unenforceable provisions shall be replaced by the applicable statutory provisions, if so permitted or stated under the applicable law.

Without prejudice to the above, the nullity, invalidity or impossibility to enforce a particular provision of these Terms shall not nullify the entire Agreement, unless the severed provisions are essential to the Agreement, or of such importance that the parties would not have entered into the contract if they had known that the provision would not be valid, or in cases where the remaining provisions would translate into an unacceptable hardship on any of the parties.

## **US Users**

Any such invalid or unenforceable provision will be interpreted, construed and reformed to the extent reasonably required to render it valid, enforceable and consistent with its original intent. These Terms constitute the entire Agreement between Users and the Owner with respect to the subject matter hereof, and supersede all other communications, including but not limited to all prior agreements, between the parties with respect to such subject matter. These Terms will be enforced to the fullest extent permitted by law.

## **Governing law**

These Terms are governed by the law of the place where the Owner is based, as disclosed in the relevant section of this document, without regard to conflict of laws principles.

## **Prevalence of national law**

However, regardless of the above, if the law of the country that the User is located in provides for higher applicable consumer protection standards, such higher standards shall prevail.

## **Exception for Consumers in Switzerland**

If the User qualifies as a Consumer in Switzerland, Swiss law will apply.

## **Exception for Consumers in Brazil**

If the User qualifies as a Consumer in Brazil and the product and/or service is commercialized in Brazil, Brazilian law will apply.

## **Venue of jurisdiction**

The exclusive competence to decide on any controversy resulting from or connected to these Terms lies with the courts of the place where the Owner is based, as displayed in the relevant section of this document.

## **Exception for Consumers in Europe**

The above does not apply to any Users that qualify as European Consumers, nor to Consumers based in the United Kingdom, Switzerland, Norway or Iceland.

## **Exception for Consumers in Brazil**

The above does not apply to Users in Brazil that qualify as Consumers.

# Dispute resolution

## Amicable dispute resolution

Users may bring any disputes to the Owner who will try to resolve them amicably.

While Users' right to take legal action shall always remain unaffected, in the event of any controversy regarding the use of Malva.RE or the Service, Users are kindly asked to contact the Owner at the contact details provided in this document.

The User may submit the complaint including a brief description and if applicable, the details of the related order, purchase, or account, to the Owner's email address specified in this document.

The Owner will process the complaint without undue delay and within 4 days of receiving it.

## Online dispute resolution for Consumers

The European Commission has established an online platform for alternative dispute resolutions that facilitates an out-of-court method for solving disputes related to and stemming from online sale and service contracts.

As a result, any European Consumer or Consumer based in Norway, Iceland, or Liechtenstein can use such platform for resolving disputes stemming from contracts which have been entered into online. The platform is [available at the following link](#).

### France: Mediation

Within one year of submitting a written complaint to the Owner regarding any dispute stemming from these Terms, Consumers have the right to initiate a mediation procedure before

- any mediation body approved by the French Government. The relevant list is available at the following link: <https://www.economie.gouv.fr/mediation-conso/mediateurs-references>.

# Definitions and legal references

## Malva.RE (or this Application)

The property that enables the provision of the Service.

## Agreement

Any legally binding or contractual relationship between the Owner and the User, governed by these Terms.

## Brazilian (or Brazil)

Applies where a User, regardless of nationality, is in Brazil.

## Business User

Any User that does not qualify as a Consumer.

## Coupon

Any code or voucher, in print or electronic form, which allows the User to purchase the Product at a discounted price.

## Digital Product

Is a Product that consists of:

- content produced and supplied in digital form; and/or
- a service that allows for the creation, processing, storing or accessing data in a digital form or the sharing or any other form of interaction with digital data uploaded or created by the User or any other user of Malva.RE.

## European (or Europe)

Applies where a User, regardless of nationality, is in the EU.

## Example withdrawal form

Addressed to:

**YNEOS S.A.S.** 221 Chemin de la Montagne 73100 Gresy-Sur-Aix  
contact@yneos.fr

I/We hereby give notice that I/we withdraw from my/our contract of sale of the following goods/for the provision of the following service:

\_\_\_\_\_ (insert a description of the goods/services that are subject to the respective withdrawal)

- Ordered on: \_\_\_\_\_ (insert the date)
- Received on: \_\_\_\_\_ (insert the date)
- Name of consumer(s): \_\_\_\_\_
- Address of consumer(s): \_\_\_\_\_
- Date: \_\_\_\_\_

(sign if this form is notified on paper)

### Owner (or We)

Indicates the natural person(s) or legal entity that provides Malva.RE and/or the Service to Users.

### Product

A good or service available through Malva.RE, such as e.g. physical goods, digital files, software, booking services etc., and any other types of products separately defined herein, such as Digital Products.

### Service

The service provided by Malva.RE as described in these Terms and on Malva.RE.

### Terms

All provisions applicable to the use of Malva.RE and/or the Service as described in this document, including any other related documents or agreements, and as updated from time to time.

### United Kingdom (or UK)

Applies where a User, regardless of nationality, is in the United Kingdom.

### User

Any user of the Service, whether a human being or legal entity.

### User (or You)

Indicates any natural person or legal entity using Malva.RE.

### Consumer

Consumer is any User qualifying as such under applicable law.

Latest update: February 05, 2024