

MIRAKL CONNECT (« MCO ») is a platform operated by Mirakl that brings together a global community of Operators, Sellers and Partners.

By clicking on the “I accept” button, User acknowledges to be bound by the MCO Terms of Services.

From time to time and subject to a reasonable written notice addressed to User, Mirakl may modify the MCO Terms of Services. By continuing using MCO after the entry into force of the updated version of the MCO Terms of Services, User confirms its acceptance of it.

In addition to the MCO Terms of Services, User agrees to comply with the latest version of the "Acceptable Use Policy" which can be found at <https://miraklconnect.com/acceptable-use-policy.pdf> and with any instructions or guidelines that may be provided by Mirakl on MCO, notably in the Documentation, and which may be updated from time to time.

ARTICLE 1. DEFINITIONS

"Affiliate": any corporation or entity that Mirakl directly or indirectly controls, is under common control with, or is controlled by Mirakl.

For the purpose of this section, “control” means the ownership of more than fifty percent (50%) of the voting equity in such entity or otherwise the ability to direct the management of such entity.

"Confidential Information": all information and documentation of a Party that is marked as “confidential” or which should reasonably be recognized as confidential, including but not limited to any technical, operational, or commercial information relating to MCO, notably the Documentation.

"Data Protection Law": any applicable regulation relating to data protection and in particular Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, ("GDPR").

"Documentation": the documents provided by Mirakl in the "documentation" tab of MCO including the technical documentation, and operations manual.

"MCO Terms of Services": these terms describing the conditions of access and use of MCO by Users.

"Mirakl": MIRAKL, a *société par actions simplifiée* incorporated in France (RCS Paris n° 530 897 990), with offices located at 10-12, rue de Lübeck, 75116 Paris, France.

"Mirakl API": an API made available by Mirakl to Users.

"Operator": a legal entity that is currently operating or will operate a marketplace using a SaaS solution provided by Mirakl.

"Partner": a legal entity that provides tailored services and technology solutions for Operators and/or Sellers. In addition to the MCO Terms of Services, Partner shall sign a Partner Access Form and agree to the Partner Additional Terms of Services.

"Party": in singular, Operator or Seller or Partner or Mirakl; in plural, Seller or Partner or Operator and Mirakl.

"Personal Data": information related to a data subject, as defined and protected under Data Protection Law.

"Seller": a natural person or legal entity offering goods or services for sale online, notably via Operators' platforms.

"User": a Seller or Operator or Partner which has access to MCO.

"User Data": means all data entered into and/or hosted on MCO and/or made accessible to Mirakl by User.

ARTICLE 2. PURPOSE

The MCO Terms of Services set forth the terms under which Mirakl provides access to MCO to User and User access and use MCO.

Access to and use of MCO is subject to User's full compliance with the MCO Terms of Services, the Acceptable Use Policy and the Documentation.

ARTICLE 3. MCO DESCRIPTION

MCO. MCO is a platform that facilitates discovery, connection, exchanges between Users of the marketplace ecosystem (Sellers, Operators, and Partners). In particular, MCO facilitates registration of Sellers with Operators and subscription of services with Partners and allows Partners to connect with Sellers and/or Operators to offer their services. User acknowledges and accepts that unavailability of MCO has no impact on (1) User's business and management of orders, (2) general operation of the Operator's marketplace, or (3) access by a Seller or Operator to the “Mirakl Marketplace Platform”.

Access to MCO. Access to MCO is protected (encrypted) through SSL protocol to ensure data privacy and integrity. User's identification requires the use of an ID with an associated password (or a User API key). User shall maintain its password strictly confidential and shall not disclose it to any third party. User shall take sole responsibility for any actions and activities made with a User's ID and password (or a User API key), and potential damages resulting therefrom, whether or not User authorized such actions and activities.

In case User suspects unauthorized use and/or activity of its ID, associated password or User API key, it shall immediately notify Mirakl which can decide, at its sole option, to take appropriate measures (suspension of the access to MCO, modification of the password or User's ID, etc.).

Support. Incidents can be reported / tracked by Seller and Partner through a specific form within the MCO interface, and by Operator through the support procedures for “Mirakl Marketplace Platform”. Mirakl's support service only covers reproducible incidents directly attributable to MCO. Mirakl does not warrant that the support service provided by Mirakl will solve all incidents raised by User, or that recurrence of such incidents or additional incidents will not occur.

ARTICLE 4. USER'S OBLIGATIONS

Account creation. User must create a User account by providing all required information. Mirakl may reject applications for an account for any reason whatsoever, in its sole discretion. Creating an account and using MCO is free of charge. User acknowledges that Mirakl will use the email address provided by User as the primary method for communication. User is responsible for keeping up to date complete and accurate information regarding its account. If an individual signs up for an account on behalf of its company, the company will be deemed to be User for the purpose of the MCO Terms of Services. The individual represents and warrants that he has the authority to bind its employer to the MCO Terms of Services.

Degree of care. In addition to, and without limiting the provisions of the MCO Terms of Services, User shall perform its obligations under the MCO Terms of Services in accordance with the highest applicable industry standards.

Provision of information. User shall take all reasonable measures to protect and backup databases, programs, documents and information of any nature which User may provide to Mirakl or other Users in the context of its use of MCO.

Use of MCO. User shall use MCO in compliance with the MCO Terms of Services, the Acceptable Use Policy and Documentation. User shall not use MCO for any purpose other than the development of a commercial relationship with other Users. Any other use is strictly prohibited.

Legal Compliance. User warrants that:

- User Data does not and shall not infringe any third party right, including any intellectual property right, such as those related to pictures, trademarks, logos, hyperlink, description etc., and
- User shall comply with any and all laws and regulations applicable to its use of MCO, and to User Data. In particular, this includes (i) any applicable Data Protection Law and (ii) all applicable laws, rules and regulations, including obtaining any licenses required in order for User to operate and to offer services toward other Users.

User shall indemnify, defend, and hold harmless Mirakl from and against any and all damages, liabilities, suits, claims, expenses (including reasonable attorney's fee) resulting from any claim or actions of any kind brought against Mirakl by any third party and related to any infringements or violation of such third party's rights, including any intellectual property right, as well as any claim or action related to the violation of any applicable laws and regulations in connection with (i) User's use of MCO and/or (ii) User Data.

ARTICLE 5. USER DATA

By subscribing to MCO, User expressly agrees that its User Data may be stored and used by Mirakl. MCO being a networking platform, User expressly agrees to share its User Data (including, but not limited to its profile, company registration information, sales, catalog, ratings by other Users) with Mirakl and, within MCO and when applicable, with other Users.

In order to provide User with the latest upgrades to MCO, Mirakl may use User Data notably to (a) improve its existing products and services (including product features and functionality, workflows, and user interfaces) and develop new products and services, (b) maximize resource and support allocation, (c) develop learning algorithms, and (d) identify industry trends and developments, indexing and anonymous benchmarking.

ARTICLE 6. TERM – SUSPENSION

Term. Access to MCO is effective from the date of acceptance by User of the MCO Terms of Services and will remain in effect until terminated by a Party under the conditions described below.

Suspension. Without giving rise to any claim for damages, Mirakl reserves the right, at its own discretion, to suspend in whole or in part access by User to MCO for any reason, and in particular in the event:

- User inappropriately uses MCO or fails to comply with the Acceptable Use Policy or the Documentation provided by Mirakl;
- Information provided by User is deemed to be false, incomplete or not up-to-date;
- User fails to comply with the MCO Terms of Services or any other contractual document;
- User is suspected of fraud or threatens the security of MCO;
- User does not match the level of quality required by Mirakl.

A Party may additionally decide to terminate the MCO Terms of Services as per the terms of the section below.

Termination. the MCO Terms of Services may be terminated by either Party at any time, provided a written notice of termination is sent to the other Party at least:

- one (1) month prior to the date of termination, if at Mirakl's initiative;
- one (1) week prior to the date of termination, if at User's initiative.

Termination for breach. Mirakl may cease to provide MCO to User if User commits a breach of any term of the MCO Terms of Services and fails to remedy that breach within thirty (30) days of User receiving written notice. During the aforementioned remediation period, Mirakl may, at its sole option, suspend in whole or in part the access to MCO until complete remediation of the breach by User. In the event of material or repeated breaches or in case of failure to comply with a legal or regulatory obligation, Mirakl may cease to provide User with MCO by giving written notice with immediate effect.

Post termination. Upon termination, Mirakl will cease to provide MCO to User, and User shall no longer have any right to access or use MCO. Any provisions of these MCO Terms of Services which by their nature are intended to survive termination as well as any section which expressly states it should survive termination shall survive any such termination.

ARTICLE 7. INTELLECTUAL PROPERTY

Upon registration on MCO:

- Mirakl expressly grants to User a worldwide, non-exclusive, and royalty-free right to use MCO pursuant to the MCO Terms of Services.
- User expressly grants to Mirakl a worldwide, non-exclusive, royalty-free, unlimited, transferable, and sub-licensable right to use, display and operate all User Data for the purpose of operating MCO.

All intellectual property rights in MCO and all associated Documentation shall be owned by and remain with Mirakl or its licensors.

Each Party warrants that it will not infringe the other Party's or its licensors' intellectual property rights in any way.

Notably, regarding MCO and the Documentation, User agrees not to:

- use in any way MCO and/or the Documentation for the purpose of designing, performing, providing or selling similar, equivalent or substitute products or services;
- license, sub-license, sell, resell, rent, lease, transfer, assign, distribute or make MCO available for access or use by any person other than itself;
- adapt, modify, transform or change MCO and/or the Documentation in any way, for any reason whatsoever, including to correct malfunctions;
- decompile, perform reverse engineering or disassemble all or any part of MCO;
- sell, transfer or rent, whether for payment or free of charge, all or part of MCO, the Documentation and/or the rights of use granted under the MCO Terms of Services;
- directly or indirectly transcribe or translate into another language MCO and/or the Documentation;
- alter, crack or circumvent any anti-piracy measures, including access codes or usernames; and
- release and/or market, whether for payment or free of charge, including under lease, MCO and/or the Documentation in any way, whether by way of a derivative work or otherwise.

If User provides any feedback to Mirakl concerning the functionality and performance of MCO (including identifying potential errors and improvements), hereinafter "Feedback", User hereby assigns to Mirakl all rights, title, and interest in and to the Feedback, and Mirakl is free to use, reproduce, disclose, and otherwise exploit the Feedback without attribution, payment or restriction, including to improve MCO, the Documentation or Mirakl API, and to create other products and services. Mirakl will treat any User Feedback as non-confidential and non-proprietary.

ARTICLE 8. LIABILITY - INSURANCE

Cooperation. Each Party shall use its best efforts to cooperate with the other Party in the provision of MCO and shall observe a duty of good faith.

DISCLAIMER. EXCEPT AS EXPRESSLY INDICATED IN THE MCO TERMS OF SERVICES AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MIRAKL PROVIDES MCO ON AN "AS-IS" BASIS. MIRAKL MAKES NO WARRANTIES HEREIN, AND MIRAKL, ITS AFFILIATES, AND ITS AND THEIR EMPLOYEES, DIRECTORS AND AGENTS EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF

MERCHANTABILITY, SATISFACTORY QUALITY, ACCURACY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, MIRAKL FURTHER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, THAT MCO WILL SATISFY ANY OR ALL OF USER'S REQUIREMENTS AND OR WILL BE UNINTERRUPTED, ERROR-FREE OR FREE FROM HARMFUL COMPONENTS. IN NO EVENT SHALL MIRAKL BE PART OF THE COMMERCIAL AND CONTRACTUAL RELATIONSHIPS BETWEEN USERS, SUCH RELATIONSHIPS BEING EXCLUSIVELY GOVERNED BY ANY CONTRACTUAL DOCUMENTS THAT THE CONCERNED USERS CONSIDER TO BE NECESSARY TO GOVERN THEIR RELATIONSHIP. REGARDING THE PARTNER-SELLER AND PARTNER-OPERATOR RELATIONSHIP, PARTNER AGREES THAT MIRAKL TAKES NO RESPONSIBILITY IN PARTNER'S EXPANSION OF ITS BUSINESS; AND SELLER AND OPERATORS AGREE THAT MIRAKL TAKES NO RESPONSIBILITY IN THE PROVISION OF PARTNER'S SERVICE OR FAILURE OF PARTNER TO PROVIDE IT ACCORDING TO THE TERMS OF THEIR AGREEMENT.

Obligation to mitigate. Each Party shall take all commercially reasonable steps to mitigate any losses or damages that may be incurred hereunder.

Limitation of liability. THE TOTAL LIABILITY OF MIRAKL (AND ITS AFFILIATES, AND ITS AND THEIR EMPLOYEES, OFFICERS, DIRECTORS, AGENTS AND SUBCONTRACTORS) FOR ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THESE MCO TERMS OF SERVICES SHALL BE LIMITED TO TEN THOUSAND (10 000) EUROS.

Excluded Damages. IN NO EVENT SHALL MIRAKL (AND ITS AFFILIATES, AND ITS AND THEIR EMPLOYEES, OFFICERS, DIRECTORS, AGENTS AND SUBCONTRACTORS) BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF OPPORTUNITY, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE USE OF OR INABILITY TO USE MCO, OR THE PERFORMANCE OF OR FAILURE TO PERFORM ITS OBLIGATIONS HEREUNDER, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF MIRAKL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. USER ACKNOWLEDGES THAT IN NO EVENT MIRAKL SHALL BE LIABLE IN CASE OF UNAVAILABILITY OF MCO;

MIRAKL SHALL NOT BE LIABLE FOR ANY DAMAGE RESULTING FROM THE USE OF MCO WITH ANY THIRD-PARTY HARDWARE OR SOFTWARE USED BY USER OR BY A DEFAULT OF USER'S TECHNICAL ENVIRONMENT.

Hosting. Mirakl acts as host of User Data and does not carry out any review prior to publication of a content on MCO. User is solely responsible and liable for its User Data. In accordance with applicable law, Mirakl is not subject to general and continuous monitoring of the content, information and data published by Users on MCO. Mirakl cannot be held responsible for any User Data except in the cases expressly provided for by applicable law and regulations. In this respect, Mirakl reserves the right to delete without notice any User Data which does not comply with the terms of the MCO Terms of services and/or with any applicable law, notably when notified by a third party or another User. Also, can be deleted content that Mirakl reasonably believes does not comply with good morals, the spirit of MCO, the desired image of Mirakl, or which would be likely to disturb or offend other Users.

Risk Allocation. THE PARTIES AGREE THAT THE TERMS AND CONDITIONS DESCRIBED HEREIN SETS OUT A FAIR ALLOCATION OF RISK BETWEEN USER AND MIRAKL.

Limitation of time to file claims. The Parties hereby expressly agree that any action by either Party under the MCO Terms of Services or in connection with MCO must be brought within one (1) year after the cause of action arose or such later time when a continuing or latent action ceases or is discovered (or should reasonably have been discovered), otherwise such cause of action or claim is permanently barred.

Insurance. Each Party declares to be the holder of a civil liability insurance policy covering (i) the financial consequences of its contractual liability as well as delict or quasi-delict in the context of its professional activity, and (ii) the financial consequences of the damages which each Party is likely to cause in the course of its professional activity on MCO.

Survival. It is expressly agreed between the Parties that in the event of termination for any reason whatsoever of the MCO Terms of Services, this article shall survive.

ARTICLE 9. CONFIDENTIALITY

The Party receiving Confidential Information agrees that, for the duration of the MCO Terms of Services and for a period of five (5) years after its termination for any reason, any Confidential Information provided by the disclosing Party shall:

- be protected and kept strictly confidential, and be handled by the receiving Party with the best level of care and protection;
- be disclosed only to the receiving Party's employees, contractors, subcontractors and/or agents who need to access such information and shall be used by them only for the purpose of implementing the MCO Terms of Services;
- not be used by the receiving Party, in whole or in part, for any purpose other than as set forth in this article without the prior written consent of the disclosing Party. In particular, Confidential Information shall not be sold, transferred, rented or commercially exploited;
- not be copied, reproduced, or duplicated, in whole or in part, except (i) for the purpose of performing its contractual obligations herein and/or (ii) if expressly approved in writing by the disclosing Party.

In case of disclosure to the receiving Party's contractor or subcontractor, such third party shall sign a confidentiality agreement incorporating terms at least as protective as those set out in this article, which shall be notified to the disclosing Party upon request.

The receiving Party shall ensure that its employees, contractors, subcontractors and/or agents comply with the obligations set out in this article as though they were a party to the MCO Terms of Services. Each Party will be liable for any disclosure made in breach of this article by its employees, subcontractors and/or agents. If Confidential Information is disclosed in breach of this article, the Party who has knowledge of it must notify the other Party without delay.

The confidentiality obligations defined in this article shall not apply to Confidential Information:

- which has entered the public domain, except where such entry is the result of a Party's breach of the provisions of this article;
- which, prior to disclosure hereunder, was already in the receiving Party's possession without restriction, as evidenced by the receiving Party's written records predating the date of disclosure;
- which, subsequent to disclosure hereunder, is obtained by the receiving Party on a non-confidential basis from a third party who has the right to disclose such information;
- which was developed independently by the receiving Party, as demonstrated by the receiving Party, without violating any confidentiality obligations toward the disclosing Party; or
- whose use or disclosure has been authorized in writing by the disclosing Party.

In addition, each Party may disclose, in strict confidence, the other Party's Confidential Information (a) to its lawyers, insurance brokers, auditors, (b) as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction, (c) where such disclosure is necessary to implement or prove the existence of rights under the MCO Terms of Services, and (d) for Mirakl, to its Affiliates.

ARTICLE 10. PERSONAL DATA

Mirakl will process the Personal Data of Users in compliance with Data Protection Law as described in the Mirakl Connect – Privacy Policy which can be found at <https://miraklconnect.com/privacy-policy.pdf>.

ARTICLE 11. MISCELLANEOUS

Relationship of the Parties. The Parties are independent contractors. There is no relationship of agency, partnership, joint venture, employment or franchise between the Parties. Neither Party nor its employees have the authority to bind or commit the other Party in any way or to incur any obligation on its behalf. The MCO Terms of Services are for the benefit of the Parties hereto and are not intended to confer upon any other person or entity any rights or remedies hereunder.

Assignment; Subcontractors. Mirakl may assign the MCO Terms of Services without User's consent. Mirakl may subcontract, in whole or in part, MCO without notice to or User's prior consent.

Retention of electronic records to satisfy legal requirements/evidence. The Parties agree that the records stored by Mirakl as well as the electronic communications between the Parties shall be admissible as evidence between the Parties in accordance with applicable law. For this purpose, it is expressly agreed that all technical information concerning User and any electronic communications of any nature whatsoever with User (including, but not limited to, email, internal messages from MCO, etc.) may be stored and archived by Mirakl for evidentiary purposes or to satisfy legal requirements.

Non-waiver. Any failure of either Party to insist upon or enforce performance by the other Party of any of the provisions of the MCO Terms of Services or to exercise any rights or remedies under the MCO Terms of Services will not be interpreted or construed as a waiver or relinquishment of such Party's right to assert or rely upon such provision, right or remedy in that or any other instance.

Severability. If any provision of the MCO Terms of Services is held to be unenforceable under applicable law or becomes null, void, or inapplicable, the validity, legality, or enforceability of the remaining provisions shall not be affected or impaired in any way, and the MCO Terms of Services shall be construed and interpreted without such provision.

Force Majeure. Neither Party will be liable for any delay in performance or failure to perform its obligations under the MCO Terms of Services due to any cause or event outside its reasonable control, including civil or military authority, acts of war, accidents, third-party communication or computer failures, natural disasters or catastrophes, strikes or other work stoppages.

Publicity. User authorizes Mirakl to use its company name and/or logo and/or trademarks on Mirakl's websites, on reference lists, through press releases issued by Mirakl, and in other promotional materials.

Entire Agreement. The MCO Terms of Services constitutes the entire agreement between the Parties for the access and use of MCO and may not be modified by custom and usage. The MCO Terms of Services replace and supersede any prior verbal or written understandings, communications, and representations between the Parties, with respect to MCO. Except in specific cases provided for in the MCO Terms of Services, no document that purports to modify or supplement the MCO Terms of Services thereto shall add to or vary the terms of this MCO Terms of Services, unless otherwise agreed to in a writing signed by an authorized representative of each Party.

Notices. Any notice under the MCO Terms of Services shall be made in writing and shall be delivered by hand or sent by pre-paid first-class post or by recorded delivery to the other Party at its address as set out in MCO or such other address as may have been notified by that Party for such purposes. A notice delivered by hand shall be deemed to have been received when delivered. A correctly addressed notice sent by pre-paid first-class post or by recorded delivery shall be deemed to have been received at the time of first presentation.

Governing Law and Jurisdiction. The MCO Terms of Services will be governed by the laws of France, without regard to its conflict of laws principle. The Parties expressly exclude the enforcement of the United Nations Convention on Contracts for the International Sale of Goods, all national laws aimed at implementing this Convention as well as the rules of conflict of law which may be enforceable. In the absence of mutual agreement between the Parties, the Paris Commercial Court shall have jurisdiction to rule on any dispute occurring between the Parties with regards to the MCO Terms of Services construction or performance, notwithstanding multiple defendants, or introduction of third parties, even for protective, summary or motion procedures.