

# Terms and Conditions of Sale and Delivery Maacks ApS

Effective from 01.04.2025

## General

These general terms of sale and delivery (in the following called "Terms and Conditions") shall apply for all offers for sale and order confirmations, as well as all agreements regarding the sale and delivery of products from Maacks ApS (from now on referred to as "Maacks ApS") to any party (from now on referred to as "Customer").

These Terms and Conditions shall be the only terms applying to offers of sale and delivery of products from Maacks ApS (from now on referred to as "Products") and shall be mutually binding for Maacks ApS and the Customer. Maacks ApS shall not be bound by any terms submitted by the Customer, and such terms are explicitly rejected.

## Offer and accept

An offer from Maacks ApS is only valid, provided that written acceptance is Maacks ApS in hand within 15 days from the date stamp on Maacks ApS' offer, unless another time frame has been specified.

Maacks ApS reserves the right to intermediary sales.

If the order confirmation deviates from the Customer's order by addendum, limitation, or reservation, and the Customer does not want to accept these changes, this must be announced within 8 days to Maacks ApS. If not, then Maacks ApS' order confirmation is valid.

## Order confirmation

Any agreement between Maacks ApS and the Customer regarding the sale and delivery of Products from Maacks ApS to the Customer will only take effect when Maacks ApS in writing confirms the Customer's acceptance of a sales offer or a purchase order. This confirmation is required regardless of whether the purchase order is based on a sales offer.

## Prices and terms of payment

All prices are listed excluding VAT.

The purchase amount is due at the latest date, which the invoice specifies as the last timely payment day. Unless expressly stated otherwise in writing, payment must be made 8 days net. If a final timely payment day has not been specified, payment must be made upon delivery.

If the payment deadline is exceeded, interest will be charged on the balance due at a rate of 2% per month or part thereof from the latest due payment date until the amount has been paid.

The Customer cannot make offsets in the purchase sum via demands stemming from other legal matters, and the Customer cannot exercise the right of retention or deny payment based on delays, complaints, or offsets regarding the actual delivery.

## Information

Maacks ApS shall make reasonable efforts to ensure that the information provided on Maacks ApS' website, in e-mails or newsletters, catalogues, brochures, or other printed materials (in the following called "Sales Materials"), is true and correct and that the available Sales Materials that is made available is the latest updated version. Maacks ApS cannot be held responsible for eventual errors in the Sales Materials that are obvious and could have been discovered by the Customer with

reasonable care. Maacks ApS can also not be held responsible for any misinterpretation of the information by the Customer.

The technical information, guides, etc., product information, and information regarding technical data, for example, uptime, response time, and similar in product descriptions and brochures, on Maacks ApS' website, etc., are for guidance only. Information regarding the mentioned is only binding when a separate written guarantee is provided as part of the agreement. The Customer is solely responsible for selecting the service, ensuring that it meets their expected results and functionality, and that it can function in their existing or intended operating environment.

## Changes

Maacks ApS reserves the right to make changes in its Products without warning, provided that this happens without changing the functional specifications stated in the Sales Materials.

## IT security and information protection

Maacks ApS implements and maintains the suitable technical and organizational measures to ensure protection of confidentiality, integrity and availability of the Customer's data.

The security measures include, as a minimum, access control to systems and data, encryption of sensitive data, regular backups, malware protection, secure network communication, physical security of facilities and information security training for staff. This list is not exhaustive.

Access to Customer data is restricted to authorized persons with a documented need and controlled access rights are used.

Maacks ApS undertakes to treat all Customer information as confidential and shall not disclose such information to third parties without the Customer's prior written consent. The confidentiality obligation shall apply without a time limit, also after termination of the agreement.

To the extent Maacks ApS processes personal data on behalf of the Customer, the parties will enter into a separate processing agreement in accordance with applicable data protection legislation.

Maacks ApS shall without undue delay after discovery notify the Customer of any security incident that affects or may affect the Customer's information. The notification shall include a description of the nature of the security incident, categories and approximate number of data affected, measures taken or proposed to be taken to address the security incident.

Backup is handled in accordance with agreement with the Customer to ensure continuity and data integrity. Backup data is stored for a period defined with the Customer. Restoration of data from backup is only possible within the defined retention period and upon authorized request. Upon backup expiration, copies are permanently removed and cannot be restored.

Upon termination of the co-operation or at the Customer's written request, the Customer's data will be deleted.

Maacks ApS shall make documentation of its ISO 27001 certification available to the Customer upon request.

Maacks ApS may not use subcontractors to process the Customer's information without the Customer's prior written consent. If the Customer authorizes the use of subcontractors, Maacks ApS must ensure that the subcontractor is subject to the same obligations regarding information security as set out in this agreement. Maacks ApS is fully responsible for the acts and omissions of subcontractors.

Upon termination of the main agreement, Maacks ApS shall, at the Customer's choice, either delete or return all the Customer's information. Maacks ApS must confirm in writing that deletion has been completed and that no copies of the information are kept, unless storage is required by law.

Maacks ApS is certified according to the ISO 27001:2013 standard and undertakes to maintain this certification throughout the term of the agreement.

#### **Subscription**

Maacks ApS' Products are used by both professionals and private individuals. The Customer is responsible for the content on the data storage, and it must not be used for pornographic material, material with extreme political views, or other controversial material.

It is not allowed to place file archives containing programs, video files and, sound files (mp3, jpg, zip mv.) for free download.

Cancellation of subscription must happen via e-mail to Maacks ApS on: [info@maacks.com](mailto:info@maacks.com) and is only valid when Maacks ApS has confirmed its reception. If the cancellation is received on the weekend or a bank holiday, confirmation of its reception is sent on the next business day.

Maacks ApS reserves the right to determine in its sole discretion whether the material on the stored is of such a nature that Maacks ApS may terminate the subscription with immediate notice and shut down the service.

In case of such a termination, Maacks ApS is not liable for any eventual operating loss.

The customer is not allowed to use its subscription at Maacks ApS to send out spam, as defined in § 10 of the Danish Marketing Act of June 15, 2022. If Maacks ApS discovers that the customer has sent out spam, Maacks ApS has the right to immediately terminate the subscription and hold the customer accountable for any losses and legal action resulting from the spamming activity.

If the due payment is late, the subscription will be closed. A fee of DKK 500,- (five hundred) per user/account is charged for reopening the subscription.

#### **Specially for Hosted servers**

The Customer assumes full responsibility in all aspects for the operation of the server itself and the problems it may cause unless specifically agreed with Maacks ApS. The Customer agrees that no blame can ever be attributed to Maacks ApS or any of Maacks ApS' employees for the above. Similarly, the Customer also accepts full responsibility for software installed on the server. The Customer is also responsible for ensuring that the software is not pirated, but legal and registered. The Customer shall observe secrecy about matters whose non-disclosure is required by the nature of the matter or is prescribed by Maacks ApS. An example of this could be the setup of the server, eventual security issues, or the like.

The duty of confidentiality does not cease upon termination of subscription at Maacks ApS.

#### **Specially for Virtual Server (servers rented on shared hardware)**

The Virtual Server is set up on shared hardware, where an agreed-upon amount of resources are allocated (CPU/RAM (disc). Maacks ApS delivers the server installed with the desired operating system. If additional software is wished to be installed and set up, this is agreed separately with Maacks ApS.

In case of hardware problems, Maacks ApS is responsible for replacing the defective part.

Troubleshooting/debugging is commenced within 1 hour during normal business hours.

Troubleshooting/debugging is commenced within 5 hours outside normal business hours. Maacks ApS insures all hardware. The Customer should establish appropriate business interruption insurance if desired.

#### **Specially for Dedicated Server (server rented by Maacks ApS)**

Maacks ApS delivers the server installed with the desired operating system. If additional software is wished to be installed and set up, then this is agreed separately with Maacks ApS.

In case of hardware problems, Maacks ApS is responsible for replacing the defective part.

Troubleshooting/debugging is commenced within 1 hour during normal business hours.

Troubleshooting/debugging is commenced within 5 hours outside normal business hours. Maacks ApS insures all hardware. The customer should establish appropriate business interruption insurance if desired.

The Customer has no costs associated with replacing defective hardware rented by Maacks ApS. In cases, where the Customer has had a specially designed hardware solution – with, for example, especially large discs, special RAID controllers, etc. – Maacks ApS cannot guarantee that the above-mentioned response times can be met due to special hardware parts not being available in our own spare parts warehouse. Maacks ApS insures all hardware. The Customer should establish appropriate business interruption insurance if desired.

#### **Software**

For any delivery of software, the license terms specific to that software shall apply. These terms normally constitute a direct legal relationship between the Customer and the licensee.

Maacks ApS waives any responsibility for errors and shortcomings of the software and directs the Customer to make an inquiry to the licensee.

#### **Delivery**

Delivery of any Products shall be Ex Works Maacks ApS following the terms stipulated in the INCOTERMS 2020 by The International Chamber of Commerce in Paris unless explicitly agreed otherwise in writing between Maacks ApS and the Customer (from now on called "Delivery"). In cases, where Maacks ApS makes arrangements for transport on behalf of the Customer, the consignment shall not be insured, unless this is agreed upon in writing.

In the absence of special instructions, the Products shall be shipped using the means of transportation chosen by Maacks ApS, but at the Customer's expense. In case of a delay in Delivery that exceeds more than 15 weeks, the Customer shall be entitled to cancel the relevant

(part of the) purchase order and claim the compensation. The above are the only remedies for the Customer to exercise in the event of a delay in the Delivery, and these rights are conditional upon the Customer making a complaint within three working days (i) from Delivery or (ii) from the end of the 15-week mentioned above, depending on whichever comes first.

#### **Transition of risk**

The risk of the Products shall pass to the Customer upon Delivery. Maacks ApS shall not be held liable for damage or loss during the time of transport. Maacks ApS shall not take out transport insurance for the Products on behalf of the Customer unless separately agreed upon in each individual case.

#### **Force majeure**

Maacks ApS shall not be liable for delays in the Delivery due to circumstances beyond the control of Maacks ApS (force majeure), such as, but not limited to, strikes, lockouts, walkouts, transportation obstacles, actions taken by local governments, war, delayed or incomplete deliveries from suppliers, as well as import and export bans.

#### **Return of goods**

Goods can only be returned after prior written agreement, but not later than 14 (fourteen) days after the invoice date.

Returns must be in unbroken and undamaged original packaging with a reference to the invoice number. All shipping costs in connection with the return of goods shall be borne by the Customer.

#### **Claims and defects**

Immediately upon receipt of a delivery, the Customer is obliged to inspect the goods or services and examine them for any defects. If the Customer finds any defects, the Customer must immediately and no later than 3 days after reception complain in writing to Maacks ApS with specification of the defects that are claimed. If a complaint is not filed in time, the right to claim defects expires. As far as hidden faults and defects, the deadline is expanded to 3 (three) months after the time of delivery.

Any claim of defects, regardless of nature, must be made within 3 months after the time of delivery. If the Customer fails to do so, the Customer cannot subsequently invoke the defect. Maacks ApS' liability for defects and deficiencies is always and, in any situation, limited to, at Maacks ApS' choice, either replacing, remedying, or giving the Customer a proportionate reduction determined by the supplier. The Customer may not assert other rights for defects or deficiencies.

Maacks ApS can under no circumstances be liable for injuries caused by the Customer's failure to fulfill the obligations that are incumbent upon him/her. Maacks ApS does not guarantee that the delivered products will function flawlessly or without downtime or that all possible program errors are corrected.

#### **Product liability**

For product liability, Maacks ApS shall be liable in accordance with the provisions of the Product Liability Act that cannot be derogated from by agreement. Maacks ApS disclaims all responsibility for product damage on any other basis. The product liability cannot exceed the amount covered by Maacks ApS' product liability insurance, DKK 10.000.000,- (ten million). The Customer is obliged to notify Maacks ApS in writing without undue delay if the Customer becomes aware that damage caused by purchased goods has occurred, that a third party claims that such damage has occurred, or that there is a risk that such damage will occur. To the extent that Maacks ApS may be held liable to a third party,

the Customer is obliged to indemnify Maacks ApS to the same extent as Maacks ApS' liability is limited following this clause.

#### **Warranty, repair, and replacement**

Maacks ApS guarantees that the delivered Products are without defects and of good workmanship for a period of 18 (eighteen) months from the date of production (from now on called "Warranty Period").

If the Products turn out to have defects during the Warranty period, they shall be repaired or replaced by Maacks ApS free of charge, if it can be documented that the defect can be attributed to Maacks ApS. In this case, the Products shall be forwarded to the address of Maacks ApS at the Customer's expense, specifying the error or defect. Expenses for wages and other costs in connection with replacement/reassembly or repair on-site shall not be reimbursed.

The above remedies are the sole remedies that the Customer can exercise if Maacks ApS delivers a faulty or defective Product. The warranty provided does not apply if the fault or defect is due to incorrect installation or use.

Any eventual complaint regarding errors or defects must be made in writing by the Customer to Maacks ApS immediately after such error or defect is or, reasonably, should have been discovered.

#### **Liability**

Under no circumstances shall Maacks ApS be liable for any indirect, consequential, or incidental damages or losses, whether directly or indirectly connected to the delivered product. This includes but is not limited to, reasonably foreseeable losses, loss of sales, loss of profits, loss of revenue, loss of business, loss of goodwill, misrepresentation, loss of anticipated savings, and the like, resulting from an error or defect in and/or delayed delivery of the Products, or arising in connection with product liability, regardless of the cause of the error, defect, or delay, except for willful misconduct. Maacks ApS also disclaims any liability for loss of data or costs in connection with the restoration thereof.

Maacks ApS' liability for any loss or damage is limited to 25% of the amount paid by the Customer for the service (or lack thereof) on which the claim is based. Regardless of the size of the payment for the service, Maacks ApS' total liability is maximized to DKK 500.000,- (five hundred thousand).

#### **Termination of agreement**

The Customer may terminate this contract by giving 6 months' written notice to the 1<sup>st</sup> (first) of a month, but not earlier than 36 months after the takeover date, unless otherwise agreed between Maacks ApS and the Customer.

#### **Retention of ownership**

Maacks ApS retains the ownership of the Products until the full purchase price for the Products has been paid.

#### **Transport of rights and obligations**

Maacks ApS is entitled to assign all rights and obligations under the agreement to a third party.

#### **Intellectual Property rights**

Maacks ApS retains the full ownership of all intellectual property rights regarding the Products, including, but not limited to, design, patents, trademarks, and copyrights.

#### **Applicable law and disputes**

All agreements concerning the sale and delivery of Products as well as these Terms and Conditions shall be regulated and interpreted in

accordance with Danish law without regard to Danish legislation regulations on conflicts of law.

Any disputes between Maacks ApS and the Customer that cannot be solved amicably by the parties concerned shall be settled by arbitration in accordance with Danish law. In case of a dispute, the Court in Sønderborg, Denmark, shall be the venue and the arbitration shall be in Danish.

In the case of non-payment of invoices issued by Maacks ApS to the Customer, Maacks ApS is entitled to issue a payment claim in accordance with the European order for payment procedure as set out in the European Regulation (EF) nr. 1896/2006.

**Severability**

If one or more provisions included in these Terms and Conditions are determined to be invalid in whole or in part by a court of competent jurisdiction, this shall not affect the validity of the other provisions.