Makeshapes Data Processing Agreement

Last updated: 11 November 2026

1 AGREEMENT

1.1 Application: This DPA applies to the extent that Personal Data is Processed in the course of the performance of the Makeshapes Services. This DPA is incorporated into the Customer Agreement.

1.2 Controller and Processor: The Parties acknowledge and agree that with regard to such Processing of Personal Data, the Customer is the Data Controller and Makeshapes is a Data Processor. For the avoidance of doubt, this DPA does not apply where Makeshapes is the controller (as defined by Applicable Data Protection Laws).

1.3 Authority: If the Customer is using the Makeshapes Services on behalf of a business, the Customer represents to Makeshapes that it has authority to bind that business or entity to this DPA and that the business accepts this DPA.

1.4 Personal Data: An overview of the categories of Personal Data, the types of Data Subjects, and purposes for which the Personal Data are being processed is provided in Annex 1.

2 DATA PROCESSING

2.1 Data Controller's authority: The Data Controller will, in selecting the Makeshapes Services it purchases and considering the Personal Data used in relation to those services, determine the scope, purposes, and manner by which the Personal Data may be accessed or processed by the Data Processor.

2.2 Restrictions on processing: The Data Processor will only process the Personal Data:

a on documented instructions of the Data Controller. This DPA constitutes the instructions and each use of the Makeshapes Services then constitutes further instructions. Processing outside the scope of these instructions (if any) shall require prior written agreement between the parties; or

b to comply with a legal obligation to which the Data Processor is subject. In such a case, the Data Processor shall inform the Data Controller of

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that legal obligation before processing, unless that law explicitly prohibits the furnishing of such information to the Data Controller.

2.3 Customer Agreement and discretion: The Parties have entered into the Customer Agreement in order to benefit from the expertise of the Data Processor in processing the Personal Data for the purposes of the supply of the Makeshapes Services. The Data Processor may exercise its own discretion in the selection and use of such means as it considers necessary to pursue those purposes, subject to the requirements of this DPA.

2.4 Prohibited data: The Data Controller will not submit any sensitive or special category information to the Makeshapes Services and Makeshapes will have no liability whatsoever for such data, whether in connection with a security incident or otherwise. For the avoidance of doubt, this DPA will not apply to such data.

2.5 Data Controller warranty: Customer represents and warrants that (i) it has complied, and will continue to comply, with all applicable laws, including Applicable Data Protection Laws, in respect of its processing of Personal Data and any processing instructions it issues to Makeshapes; and (ii) it has provided, and will continue to provide, all notices and has obtained, and will continue to obtain, all consents and rights necessary under Applicable Data Protection Laws for Makeshapes to process Personal Data for the purposes described in the Agreement. Customer has sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which Customer acquired Personal Data.

2.6 Lawfulness of Customer's instructions: Customer will ensure that Makeshapes's processing of the Personal Data in accordance with Customer's instructions will not cause Makeshapes to violate any applicable law, regulation, or rule, including, without limitation, Applicable Data Protection Laws. Makeshapes shall promptly notify Customer in writing, unless prohibited from doing so under Applicable Protection Laws, if it becomes aware or believes that any data processing instruction from Customer violates Applicable Data Protection Laws.

2.7 Third-party controller: Where Customer acts as a processor on behalf of a third-party controller (or other intermediary to the ultimate controller), Customer warrants that its processing instructions as set out in the Customer Agreement and this DPA, including its authorizations to Makeshapes for the appointment of Subprocessors in accordance with this DPA, have been authorised by the relevant controller. Customer shall serve as the sole point of contact for Makeshapes and Makeshapes need not interact directly with (including to provide notifications to or seek authorization from) any third-party controller other than through regular provision of the Makeshapes Services to the extent required under the Customer Agreement. Customer shall be responsible for forwarding any notifications received under this DPA to the relevant controller, where appropriate.

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3 SECURITY

3.1 Technical and organisational measures: The Data Controller acknowledges that it is responsible for reviewing the Technical and Organisational Measures. The Data Processor shall implement and maintain such measures. Each party acknowledges that it considers the Technical and Organisational Measures to be appropriate, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing, taking account all the risks that are presented by processing, in particular from a Personal Data Breach.

3.2 Types of Personal Data: The Data Controller acknowledges that the Data Processor does not review the types of Personal Data collected in relation to the Makeshapes Services. If the Data Controller submits Personal Data to the Makeshapes Services that is not specified in Annex 1, the Data Controller agrees that it is responsible if the Technical and Organisational Measures do not meet the applicable standard of appropriateness.

3.3 Changes to measures: The Data Processor may change the Technical and Organisational Measures at any time without notice so long as it maintains a comparable or better level of security.

3.4 Customer responsibilities: The Customer agrees that except as provided by this DPA, Customer is responsible for its secure use of the Service, including securing its account authentication credentials, protecting the security of Personal Data when in transit to and from the Service, and taking any appropriate steps to securely encrypt or backup any Personal Data uploaded to the Makeshapes Services. If the Data Controller knows or suspects that its login information has or is likely to become used in an unauthorised way it shall immediately change its password or notify the Data Processor.

3.5 Directions: The Data Controller shall promptly comply with all reasonable directions issued by the Data Processor in relation to security or the Makeshapes Services.

4 AUDIT

4.1 Audit: Makeshapes shall make available to Customer all information reasonably necessary to demonstrate compliance with this DPA and allow for and contribute to audits, including inspections by Customer in order to assess compliance with this DPA. Customer acknowledges and agrees that it shall exercise its audit rights under this DPA and any audit rights granted by Applicable Data Protection Laws, by instructing Makeshapes to comply with the audit measures described in clauses 4.2 and 4.3 below.

4.2 Audit reports: Upon written request, Makeshapes shall supply (on a confidential basis) a summary copy of its most current audit report(s) (Audit Report) to Customer, so that Customer can verify Makeshapes’s compliance with the audit standards against which it has been assessed and this DPA.

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4.3 Security due diligence: In addition to the Audit Report, Makeshapes shall respond to all reasonable requests for information made by Customer to confirm Makeshapes's compliance with this DPA, including responses to information security, due diligence, and audit questionnaires, by making additional information available regarding its information security program upon Customer's written request, provided that Customer shall not exercise this right more than once per calendar year.

5 PERSONAL DATA BREACH

5.1 Notifications: Upon becoming aware of a Personal Data Breach affecting Personal Data, the Data Processor shall:

a notify the Data Controller without undue delay, and where feasible, in no later than 48 hours from becoming aware;

b provide timely information relating to the Personal Data Breach as it becomes known or as is reasonably requested by Customer; and

c promptly take reasonable steps to contain and investigate the Personal Data Breach.

Makeshapes's notification of or response to a Personal Data Breach under this clause 5.1 shall not be construed as an acknowledgment by Makeshapes of any fault or liability with respect to the Personal Data Breach.

6 CONTRACTING WITH SUB-PROCESSORS

6.1 Authorisation: The Data Processor may engage Subprocessors to Process Personal Data on the Customer's behalf. The Data Processor has appointed as Sub-Processors, at the date that this DPA is entered into, the parties listed in Annex 3 to this DPA.

6.2 Changes: Where the Data Processor removes, adds or replaces a Subprocessor, it will notify the Customer if the Data Controller opts in to receive such notifications via the link sent by the Data Processor to the Data Controller for that purpose. This provides the Data Controller with the opportunity to object to any such changes. If the Data Controller does so object, its sole remedy is to cancel or terminate its account or the Makeshapes Services.

6.3 Liability: The Data Processor will remain responsible for each Subprocessor's compliance with the obligations of this DPA and for any acts or omissions of such Subprocessor that cause the Data Processor to breach any of its obligations under this DPA.

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7 DATA TRANSFERS

7.1 Transfer: Subject to clause 7.2, the Data Processor may transfer information to multiple countries as part of providing the Makeshapes Services and in particular, Personal Data may be transferred to and Processed by the Data Processor in jurisdictions where the Data Processor and Sub-Processors have operations. The Data Controller authorises the transfer of Personal Data to such jurisdictions.

7.2 Data Protection Laws: The Data Processor will only transfer Personal Data in accordance with the Applicable Data Protection Law. To the extent that Makeshapes is a recipient of Personal Data protected by European/UK Data Protection Laws in a country outside of Europe/the UK that is not recognized as providing an adequate level of protection for personal data (as described in European/UK Data Protection Laws, it will first take such measures as are necessary to ensure the transfer is compliant. Such measures may include (without limitation) transferring such data to a recipient that is covered by a suitable framework or other legally adequate transfer mechanism recognized by the relevant authorities or courts as providing an adequate level of protection for Personal Data, to a recipient that has achieved binding corporate rules authorization in accordance with European/UK Data Protection Laws, or to a recipient that has executed appropriate standard contractual clauses in each case as adopted or approved in accordance with applicable European/UK Data Protection Laws.

8 AI PROCESSING

8.1 Where the Customer uses the AI Services, the Data Processor will transmit Personal Data (which may include audio, video, text and associated metadata) to Sub-processors engaged for the AI Services for the purpose of generating AI Output. This processing is described further in Annex 1.

8.2 The Data Processor will not, and will require each Sub-processor engaged for the AI Services not to, use Personal Data to train, fine-tune or otherwise improve any artificial-intelligence or machine-learning model.

8.3 The Sub-processors engaged for the AI Services are listed in Annex 3 and may process Personal Data in the United States. Such transfers are made in accordance with clause 7 and each Sub-processor's own transfer mechanisms (including standard contractual clauses where required).

8.4 The Data Processor may change the models used to deliver the AI Services. A change that introduces a new Sub-processor for the AI Services, changes the categories of Personal Data processed by the AI Services, or results in Personal Data being processed by the AI Services outside the Data Locations stated in Annex 3, is a change of Sub-processor for the purposes of clause 6.2. Current information about the models and the processing carried out by each Sub-processor for the AI Services is available on request.

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9 RETURNING OR DESTRUCTION OF PERSONAL DATA

9.1 Deletion or return: The Data Processor shall, after the end of the provision of the Makeshapes Services, at the Data Controller's election, delete or return to the Customer all the Personal Data in its possession or control, subject to clause 9.3.

9.2 Return: The Data Controller agrees that return of Personal Data shall be undertaken by the Data Controller exporting the applicable Personal Data from the Makeshapes Services prior to any the end of the Makeshapes Services.

9.3 Retained data: The Data Processor may retain Personal Data to the extent and for such period as required by applicable laws (for example, applicable New Zealand tax laws). The Data Processor shall ensure the confidentiality of all such retained Personal Data.

10 ASSISTANCE TO DATA CONTROLLER

10.1 Self-service features: As part of the Makeshapes Services, Makeshapes provides Customer with a number of self-service features, such as analytics dashboards, that Customer may use to retrieve Personal Data. This allows Customer to assist itself in connection with its obligations under Applicable Data Protection Laws with respect to responding to data subject requests for access. For assistance with other data subject requests, such as for correction, deletion, or restriction, Makeshapes shall provide assistance to the Customer as outlined in clause 10.2.

10.2 Assistance: The Data Processor shall provide the Data Controller with reasonable assistance to the extent possible to enable Customer to comply with the obligations of Applicable Data Protection Laws, taking into account the nature of processing and the information available to the Data Processor.

10.3 Data subject requests: In the event that any such request is made to Makeshapes directly, Makeshapes shall not respond to such communication directly except as appropriate (for example, to direct the data subject to contact Customer) or legally required, without Customer's prior authorization. If Makeshapes is required to respond to such a request, Makeshapes shall, where the Customer is identified or identifiable from the request, promptly notify Customer and provide Customer with a copy of the request unless Makeshapes is legally prohibited from doing so. For the avoidance of doubt, nothing in the Customer Agreement (including this DPA) shall restrict or prevent Makeshapes from responding to any data subject or data protection authority requests in relation to personal data for which Makeshapes is a controller.

10.4 Impact assessments: Makeshapes shall provide reasonable assistance to the Data Controller in relation to any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which the Data Controller reasonably considers to be required by the GDPR or equivalent provisions of any other data protection

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law, in each case solely in relation to Processing of Personal Data by the Data Processor, and taking into account the nature of the Processing and information available to the Data Processor. The Data Processor may charge for such assistance at its standard rates.

11 RECORDS

11.1 Each party is responsible for its compliance with its documentation requirements in particular maintaining records of processing where required under Applicable Data Protection Law. Each party shall reasonably assist the other party in its documentation requirements, including providing the information that the other party reasonably requests (such as through use of the Makeshapes Services), in order to enable the other party to comply with any obligations relating to maintaining records of processing.

12 LIABILITY

12.1 Party: Each party's and all of its Affiliates' liability taken together in the aggregate arising out of or related to this DPA (including the Standard Contractual Clauses) shall be subject to the exclusions and limitations of liability set out in the Customer Agreement. Any claims made against Makeshapes or its Affiliates under or in connection with this DPA (including, where applicable, the Standard Contractual Clauses s) shall be brought solely by the Customer entity that is a party to the Customer Agreement.

12.2 Data subjects: In no event shall any party limit its liability with respect to any individual's data protection rights under this DPA or otherwise.

13 DURATION AND TERMINATION

13.1 Term: This DPA applies for the period of time that Personal Data is Processed in connection with the Makeshapes Services. The Data Processor shall process Personal Data until the earlier of:

a the date of termination of the Customer Agreement;

b any date that the Data Controller instructs that Processing cease; or

c the return or destruction of all Personal Data in accordance with clause 9.

14 VARIATIONS

14.1 Changes due to Applicable Data Protection Law: Either Party may propose variations to this DPA if it reasonably considers it to be necessary to address the requirements of any Applicable Data Protection Law. If either Party gives such notice, the Parties shall promptly discuss the proposed variations and negotiate in good faith with a view to agreeing and implementing those or

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alternative variations designed to address the identified requirements as soon as is reasonably practicable.

14.2 Changes due to Controller instruction: Where an amendment to the Customer Agreement or this Data Protection Agreement is necessary in order to execute a Data Controller instruction to the Data Processor:

a the Parties shall promptly discuss the proposed instruction and negotiate in good faith as soon as is reasonably practicable with a view to agreeing and implementing instruction; and

b if the Parties are not able to reach agreement, the Data Controller's sole remedy is to sole remedy is to cancel or terminate its account or the Makeshapes Services.

15 MISCELLANEOUS

15.1 Contract details: Each Party will deliver all notices under this DPA to addresses specified in Annex 2.

15.2 Conflict in terms: In the event of any conflict between this DPA and the Customer Agreement, this DPA will take precedence.

15.3 Replace: This DPA shall replace any existing data processing agreement or similar document that the parties may have previously entered into in connection with the Service.

15.4 Customer Agreement: Except for any changes made by this DPA, the Customer Agreement remains unchanged and in full force and effect.

15.5 Right to enforce: No one other than a party to this DPA, its successors and permitted assignees shall have any right to enforce any of its terms.

15.6 Governing law: This DPA is governed by the laws of New Zealand, and each party irrevocably submits to the non-exclusive jurisdiction of the New Zealand courts.

16 INTERPRETATION AND DEFINITIONS

16.1 Interpretation: In these Terms, unless the context otherwise requires:

a the singular includes the plural and vice versa;

b a reference to materials means a reference to materials of any kind whether in the form of documentation, software or otherwise;

c a reference to either party includes reference to its respective successors in title and permitted assigns (and where the context so permits) its personnel and representatives;

d any agreement not to do a thing also constitutes an agreement not to suffer or permit or cause that thing to be done;

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e the words “includes” and “including” are to be read as being followed by the words “without limitation”; and

f a reference to any documentation includes as varied or substituted.

16.2 Defined terms:

a Terms such as Data Controller, Data Processor, Processing and Personal Data Breach have the meaning ascribed to them in the GDPR.

b Terms defined in the Customer Agreement have the meaning ascribed to them in the Customer Agreement.

c In addition:

AI Output means any output generated by the AI Services.

AI Services means the artificial-intelligence-powered features and functionality made available within the Makeshapes Platform from time to time, as further described in the Customer Agreement.

Applicable Data Protection Law means all data protection and privacy laws that apply, including: (a) GDPR; (b) the California Consumer Privacy Act; (c) the Canadian Personal Information Protection and Electronic Documents Act; (d) the Privacy Act 1988 (Cth) of Australia; and (e) New Zealand privacy law.

Customer means the entity identified as the customer in the Customer Agreement.

Customer Agreement means the agreement between Makeshapes and the Customer for the supply and use of the Makeshapes Services.

DPA means this Data Processing Agreement.

European/UK Data Protection Laws means data protection laws applicable in Europe and/or the UK, including GDPR.

GDPR means Regulation (EU) 2016/679 (General Data Protection Regulation) and/or the United Kingdom General Data Protection Regulation, as applicable.

Parties means the Customer and Makeshapes.

Personal Data means such personal data (as that term is defined in the Applicable Data Protection Law) as is provided by the Data Controller to the Data Processor for the purposes of the Data Processor providing the Makeshapes Services.

Standard Contractual Clauses means the Standard Contractual Clauses adopted by the European Commission in its Implementing Decision (EU) 2021/91 of 4 June 2021 or any replacement or substitution. Sub-processor means any processor engaged by Makeshapes to assist in

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fulfilling its obligations in providing the Makeshapes Services pursuant to the Customer Agreement or under this DPA.

Technical and Organisational Measures means the technical and organisational measures maintained by the Data Processor and made available to the Customer upon request.

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ANNEX 1: DETAILS OF PROCESSING OF PERSONAL DATA

Subject matter and duration of the Processing of Personal Data

The subject matter and duration of the Processing of the Personal Data are set out in the principal part of this DPA.

Categories of Data Subject to whom the Personal Data relates

Data Controller may submit Personal Data to the Makeshapes products, the extent of which is determined and controlled by the Data Controller in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Data Controller's users as authorised by Data Controller to use the Makeshapes Services.

Categories of data

Data Controller may submit Personal Data to the Makeshapes tools, the extent of which is determined and controlled by the Data Controller in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- Any Personal Data submitted by authorised users.

Special categories of data/data regarding minors or criminal history (if appropriate)

The Parties do not anticipate the transfer of special category data. Where the Customer uses the AI Services, audio and video content (which may include the voices and images of users and other individuals) may be processed.

Frequency of the transfer

Continuous

Processing operations

Personal Data will be Processed in accordance with the Customer Agreement (including this DPA) and may be subject to the following Processing activities:

- Storage and other Processing necessary to provide, maintain and improve the Makeshapes Services provided to you;
- Disclosure in accordance with the Customer Agreement (including this DPA) and/or as compelled by applicable laws; and
- Where the Customer uses the AI Services, transmission of Personal Data to Sub-processors engaged for the AI Services for the generation of AI Output.

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ANNEX 2: CONTACT DETAILS

Contact information for the Data Controller is set out in the Customer Agreement.

Contact information of the Privacy Officer of the Data Processor:

Name: Makeshapes Limited (New Zealand Registered Company number 8089716)
Address: 18 Riro Street, Auckland, 1022, New Zealand
Contact details: Privacy Officer
privacy@makeshapes.com

ANNEX 3: LIST OF SUB-PROCESSORS

Makeshapes is a data processor and engages certain onward subprocessors that may process personal data submitted to Makeshapes's services by the controller. These sub-processors are listed below, with a purpose of the service and the location where they are headquartered. This list may be updated by Makeshapes from time to time.

Third Party Entity	Service Provided	Data Location	HQ Location
Amazon Web Services, Inc.	Cloud services	Australia	United States
Mux, Inc.	Cloud services	United States	United States
Kinde Australia Pty Ltd	Cloud services	Australia	Australia
Google	Productivity services	United States	United States
Intercom R&D Unlimited Co.	Productivity services	United States	United States

Sub-processors for the AI Services (apply only where the Customer uses the AI Services):

Third Party Entity	Service Provided	Data Location	HQ Location
Amazon Web Services, Inc.	AI cloud services	Australia, United States	United States
ElevenLabs, Inc.	AI cloud services	United States	United States
Mux, Inc.	AI cloud services	United States	United States

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