Makeshapes
Standard Terms of Service

Version: 11 November 2026

1 PARTIES

1.1 The parties to the Agreement are Makeshapes and the Customer.

2 PLATFORM

2.1 The Makeshapes Platform is a cloud-based digital training and collaboration platform. The Customer is purchasing a subscription which will allow it to create, manage and share digital training content on the Makeshapes Platform. The subscription is limited to the usage specified in the Service Order and to the Subscription Term.

3 AGREEMENT

3.1 These Terms, together with the Acceptable Use Policy and the Service Orders, create a contract that governs the delivery and use of the Makeshapes Platform and related Makeshapes Services.

3.2 The Customer's Affiliates may enter into Service Orders with Makeshapes under these Terms. Each Service Order executed by an affiliate constitutes a separate contract between Makeshapes and that Affiliate, governed by these Terms. The Customer remains responsible for ensuring its Affiliates comply with these Terms.

3.3 Where Makeshapes grants the Customer access to the Makeshapes Platform under a pilot, trial, evaluation, or free arrangement without an executed Service Order ("Free Access"), these Terms and the Acceptable Use Policy apply to that access. In that case:

a. references to the Service Order are read as references to Makeshapes' written confirmation of access (including by email), which sets out any usage limits, scope, and access period;

b. the Customer accepts these Terms by accessing or using the Makeshapes Platform;

c. no Fees are payable unless otherwise agreed in writing;

d. Makeshapes may suspend or end Free Access at any time on immediate notice.

e. Free Access is provided strictly "as is" and "as available". To the maximum extent permitted by law, Makeshapes excludes all warranties,

support obligations, and liability for any loss or damage arising out of the Customer's use of Free Access; and

f. Makeshapes has no obligation to retain, and may delete, any Customer Data entered during Free Access upon expiry or termination of that Free Access.

4 TERM

4.1 The term of the Agreement begins on the earlier of the date the first Service Order is executed by both parties or the date the Customer first accesses the Makeshapes Platform under a Free Access arrangement. It continues until all Service Orders and Free Access arrangements have expired or been terminated, unless ended earlier in accordance with clause 15.

5 MAKESHAPES RESPONSIBILITIES

5.1 Makeshapes will a. Provide access: make the Makeshapes Platform available to the Customer in accordance with the Agreement. b. Maintain the Makeshapes Platform: use reasonable skill, care, and industry-standard practices to operate, maintain, and supply the Makeshapes Platform. c. Services: provide the Makeshapes Services described in the Service Order. d. Availability: use reasonable efforts to keep the Makeshapes Platform available, subject to planned maintenance and downtime outside Makeshapes reasonable control. e. Data security: take reasonable steps to protect Customer Data against loss, unauthorised access, or disclosure. f. Compliance: provide the Makeshapes Platform and Makeshapes Services in accordance with applicable laws, including Applicable Privacy Laws (noting that the Customer is solely responsible for the Customer Data). g. Training and documentation: provide the onboarding information necessary for the Customer’s use of the Makeshapes Platform.

6 CUSTOMER OBLIGATIONS

6.1 The Customer will:

a. Compliance: use the Makeshapes Platform only in accordance with the Agreement and all applicable laws, including Applicable Privacy Laws.

b. Conduct: be responsible for the conduct of its Users, including their compliance with the Agreement, and for all use of the Makeshapes Platform through the Customer’s logins or access rights, whether authorised by the Customer or not.

c. Customer Data: be solely responsible for all Customer Data, including for ensuring that it does not infringe the rights of any third party.

d. Account security: maintain the confidentiality of its account credentials.

e. Technical requirements: ensure that its systems, devices, and network connections meet the technical requirements necessary to access and use the Makeshapes Platform.

f. User consent: obtain all necessary consents required under Applicable Privacy Laws in relation to any personal information of its users which it discloses to Makeshapes.

g. Prohibited use: not use the Makeshapes Platform in a way that interferes with or disrupts its operation, attempt to gain unauthorised access, or introduce any harmful code.

h. No third-party use: not make the Makeshapes Platform available to any third party or commercially exploit it in any way, including selling, sublicensing, or otherwise distributing it.

i. AI consents: where the Customer uses the AI Services, obtain and maintain all consents required under Applicable Privacy Laws for the processing of audio, video and other personal information of its Users and other individuals by the AI Services.

j. AI use: not (i) use AI Output as the sole basis for any decision producing legal or similarly significant effects for an individual, or for medical diagnosis or treatment decisions; or (ii) represent AI Output as created solely by a human where that would be misleading.

7 FEES, TAXES AND PAYMENT

7.1 The Customer must pay the Fees. Except as otherwise stated in the Service Order, payment obligations are non-cancellable, fees paid are non-refundable, and quantities cannot be reduced during the Subscription Term.

7.2 Fees are in the currency specified in the Service Order, or if no currency is specified, are in New Zealand dollars (NZD).

7.3 Fees are exclusive of any Sales Taxes, which the Customer must pay (if applicable).

7.4 The Customer must pay Fees within 14 days of receipt of the applicable invoice, unless otherwise agreed in writing. Payment must be made electronically in cleared funds without set-off or deduction. The Customer is responsible for any bank or transaction fees.

7.5 Makeshapes may update its fees at any time, but fee changes will only apply to new Service Orders and will not affect existing ones.

8 INTELLECTUAL PROPERTY

8.1 Makeshapes retains all ownership and rights, including all Intellectual Property Rights, in the Makeshapes Platform, the Makeshapes Services, and the Makeshapes Materials. Makeshapes grants the Customer a limited, non-

exclusive, non-transferable, non-sublicensable, royalty-free licence to access and use the Makeshapes Platform, Makeshapes Services, and Makeshapes Materials for its internal business purposes only and in accordance with this Agreement (including payment of the Fees), for the Subscription Term.

8.2 The Customer retains all ownership and rights, including all Intellectual Property Rights, in the Customer Data. The Customer grants Makeshapes a worldwide, royalty free licence to use the Customer Data solely to supply the Makeshapes Platform and the Makeshapes Services.

8.3 Each party consents to the other party's use (without charge) of its brand for the purpose of promoting the use of the Makeshapes Platform to other potential customers. Such use must be in accordance with any brand use guidelines notified from time to time by the brand owner.

8.4 The Makeshapes Platform may contain links to third-party products or services for the Customer's optional use. These third-party products or services are provided under their own terms, and Makeshapes is not responsible for them.

9 AI SERVICES

9.1 The Makeshapes Platform includes AI Services. Makeshapes will, at the Customer's request, disable the AI Services. Disabling the AI Services will not otherwise affect the Customer's access to or use of the Makeshapes Platform, apart from the loss of the AI Services themselves.

9.2 AI Output forms part of the Customer Data and, as between the parties, is owned by the Customer. For the avoidance of doubt, the prompts, instructions, text, files, recordings, audio, video, images, metadata and configurations submitted to the AI Services by or on behalf of the Customer or its Users, and the AI Output generated from them, are Customer Data.

9.3 The Customer acknowledges that AI Output is machine-generated and may be inaccurate, incomplete or biased, and must be reviewed by the Customer before it is relied on, published or distributed. Makeshapes gives no representation or warranty in respect of AI Output, and any warranties in the Agreement (including clause 12.2) and the re-supply remedy do not apply to AI Output. The AI Services do not carry out automated decision-making that produces legal effects concerning an individual or similarly significantly affects an individual.

9.4 Makeshapes will not, and will require each third-party AI provider engaged for the AI Services not to, use Customer Data to train, fine-tune or otherwise improve any artificial-intelligence or machine-learning model.

9.5 Makeshapes uses third-party AI providers to deliver the AI Services. These are engaged as sub-processors, are listed in the Makeshapes Data Processing Agreement, and may process Customer Data in the United States. Despite clause 10.3, clauses 7 and 8 and Annex 3 of the Makeshapes Data Processing Agreement apply to Personal Data processed by the AI Services.

9.6 Makeshapes is not liable for any claim that AI Output infringes a third party's rights (this is an exception to clause 13.5).

9.7 Makeshapes may change, add to, or withdraw any AI Service at any time; any such change is not a reduction of the main features of the Makeshapes Platform for the purposes of clause 16.1.

10 DATA

10.1 Makeshapes has implemented and will maintain appropriate administrative, organisational, and technical systems, policies and procedures consistent with industry security standards. Those safeguards include, but are not limited to, measures designed to prevent unauthorised access to or disclosure of Customer Data. Makeshapes will provide an outline of the safeguards on request.

10.2 The Customer may, at its expense, appoint an independent auditor to review Makeshapes compliance with this Agreement. Audits must be conducted with prior notice, without unreasonably disrupting Makeshapes' operations, and all information obtained shall be kept confidential and used only to verify compliance. Systems or services controlled by third parties and beyond Makeshapes control are excluded from any audit.

10.3 To the extent that a data processing agreement is required by Applicable Privacy Laws, the Makeshapes Data Processing Agreement will apply.

10.4 Makeshapes collects and retains anonymised data in connection with the Makeshapes Platform, including analytical information about how the platform is accessed and used. This data does not identify the Customer or any individual and may be used by Makeshapes to operate, maintain, and improve the Services.

11 CONFIDENTIALITY

11.1 Each party must:

a. keep the other party's Confidential Information strictly confidential;

b. effect and maintain adequate security measures to safeguard the other party's Confidential Information from unauthorised access, use, or disclosure;

c. only disclose the other party's Confidential Information to its personnel or professional advisors who have suitable confidentiality arrangements in place; and

d. give prior notice to the Disclosing Party of any disclosure compelled by law (to the extent legally permitted) and provide reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

12 REPRESENTATIONS AND WARRANTIES

12.1 Each party represents that it has the legal power to agree to the Agreement.

12.2 Makeshapes warrants that during the Subscription Term:

a. the Makeshapes Platform will perform materially in accordance with the description in the Service Order; and

b. the Makeshapes Services will be provided in a professional manner that conforms to relevant industry standards.

Your sole remedy for any breach of these warranties, and Makeshapes' sole liability for such breach, is re-supply of the defective services.

12.3 To the maximum extent allowed by law, the warranties in this Agreement are the only warranties that apply. All other conditions, guarantees, or warranties, whether implied by law or otherwise (including under the Contract and Commercial Law Act 2017 (NZ)), are excluded.

12.4 Free Access is provided "as is" and the warranties in clause 12.2 do not apply to Free Access.

13 LIABILITY

13.1 To the full extent possible under law, Makeshapes is not responsible or liable for any Customer Data (the Customer is solely responsible for all such data, including for moderating it) or for loss of profit, revenue, anticipated savings or goodwill or for any indirect or consequential losses.

13.2 Makeshapes maximum aggregate liability to the Customer in connection with the Makeshapes Platform, whether in contract, tort (including negligence), breach of statutory duty or otherwise, will not exceed:

a. for paying Customers, the total Fees paid by the Customer in the 12 months before the incident that caused the liability; or

b. for Customers on Free Access, the sum of one hundred New Zealand Dollars (NZD $100.00).

13.3 Each party must take reasonable steps to mitigate any loss or damage, cost or expense it may suffer or incur arising out of anything done or not done by the other party under or in connection with the Agreement.

13.4 The Customer will defend Makeshapes against any third party claims or proceedings arising from the Customer's or its Users' breach of the Agreement or from the Customer Data and will indemnify Makeshapes for all losses, including reasonable legal fees, damages, and settlement amounts. Makeshapes will promptly notify the Customer of any claim and allow the Customer to take full control of the defence, while cooperating reasonably.

13.5 Except for Free Access, Makeshapes will defend the Customer against third-party claims that using the Makeshapes Platform (as allowed under the Agreement) infringes a third party's intellectual property and will indemnify the Customer for reasonable legal fees, damages, and settlement. Makeshapes is not liable to the extent any claim relates to Customer Data. The Customer must promptly notify Makeshapes of any claim and cooperate reasonably. This is Makeshapes only liability and the Customer's sole remedy for such claims.

13.6 Makeshapes will, for the duration of the term of the Agreement and at its own cost, maintain cyber security, professional indemnity and general liability insurance, each with a minimum coverage of NZD $5,000,000. Makeshapes will provide the Customer with records of insurance on request.

14 CANCELLATION, TERMINATION, AND SUSPENSION

14.1 The Customer may cancel its subscription to the Makeshapes Platform or any Makeshapes Services at any time but Makeshapes will not be liable to refund any fees paid by the Customer for such cancellation, except under clause 15.2.

14.2 Either party may, by notice to the other party, immediately terminate the Agreement for cause if the other party breaches any material provision of the Agreement and the breach is not remedied within 30 days of the receipt of a notice requiring remedy, or the breach is not capable of being remedied, or the other party has become insolvent, liquidated or bankrupt, or becomes subject to any form of insolvency action or external administration, or ceases to continue business.

14.3 Without limiting any other right or remedy, Makeshapes may restrict the Customer's access to and use of the Makeshapes Platform if necessary to protect system security. Makeshapes will provide notice of any such restriction.

15 EFFECT OF TERMINATION OR EXPIRY

15.1 When the Subscription Term ends or the subscription or agreement between the parties is terminated:

a. Access: the Customer's right to access and use the Makeshapes Platform ends.

b. Data: Makeshapes will delete the Customer Data after 30 days, except for any data it is required by law to keep. Before deletion, Makeshapes will, on request, provide reasonable help for the Customer to extract their data. Makeshapes may retain and use anonymised data, which does not identify the Customer, for analytics and to improve its services.

c. Accrued rights: Any rights that have already accrued are not affected.

15.2 If the Agreement is terminated by Customer for "cause" in accordance with clause 14.2, then Makeshapes shall refund to Customer any prepaid fees

covering the remainder of the term of all Service Orders after the effective date of termination on a prorated basis.

15.3 Termination of the Agreement will not affect clauses 8, 9, 10, 11 or 13 or any provision of this Agreement which is expressly or by implication intended to come into force or continue on or after the termination.

16 CHANGES

16.1 From time to time, Makeshapes may update the Makeshapes Platform to enhance functionality, meet customer needs, or to address security issues. Makeshapes will ensure that such updates do not reduce the main features of the Makeshapes Platform or make it fail to match the Service Order description.

17 DISPUTE RESOLUTION

17.1 The parties will first try in good faith to resolve any disputes through direct negotiation. If a dispute cannot be resolved this way, either party may refer it to mediation under the Resolution Institute Standard Mediation Agreement (NZ version). The mediator and fees will be agreed by the parties. If the parties cannot agree on a mediator, the Chair of the Resolution Institute will appoint one.

18 GENERAL

18.1 Makeshapes will comply with all applicable export control, trade sanctions, and anti-bribery laws and regulations, including but not limited to those of New Zealand, the United States, and any other relevant jurisdictions, in connection with the provision, use, and access of the Makeshapes Services.

18.2 No party is liable to any other for any failure to perform its obligations under the Agreement to the extent caused by Force Majeure.

18.3 Only the Customer, the Customer's Affiliates if they enter into a contract under clause 3.2, and Makeshapes, have rights under the Agreement.

18.4 A right under the Agreement can only be waived in writing, signed by the party giving the waiver, and only to the extent stated in that waiver.

18.5 The Agreement does not create a relationship of employment, trust, agency or partnership between the parties.

18.6 Makeshapes may subcontract the performance of obligations under the Agreement but remains responsible to the Customer for carrying out those obligations.

18.7 All notices or communications under this Agreement must be in writing and delivered by personal delivery or email to the addresses listed in the Service

Order and marked for the attention of the relevant person.

18.8 The Agreement, and any dispute relating to it, are governed by New Zealand law. Each party submits to the exclusive jurisdiction of the New Zealand courts.

18.9 If any part or provision of the Agreement is illegal, unenforceable, or invalid, it will be modified where possible to fix the issue. If it cannot be fixed, that part will be treated as deleted and the rest of the Agreement will continue to apply.

18.10 Any variation to the Agreement must be in writing and signed by both parties.

18.11 The Agreement constitutes the entire agreement between the parties on the subject matter. It replaces all earlier agreements or arrangements and prevails over any terms in other communications, even if signed or acknowledged by the other party. If there is any conflict between the documents that make up the Agreement, these Terms will take precedence, except where a Service Order expressly overrides them.

18.12 Makeshapes may assign or transfer its rights or obligations under this Agreement, including in connection with a sale, merger, or transfer of its business. The Customer may assign, novate, subcontract, or transfer any rights or obligations under this Agreement with Makeshapes' prior written consent (not to be unreasonably withheld).

19 INTERPRETATION

19.1 Definitions: In this Agreement:

Acceptable Use Policy means the acceptable use policy attached to the Service Order, or if not attached, the version published on the Makeshapes website.

AI Output means any output generated by the AI Services, and forms part of the Customer Data.

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 Service Order or the Makeshapes Materials.

Affiliate means a related company of the Customer under applicable company law.

Agreement means these Terms, together with the Acceptable Use Policy and the applicable Service Order.

Applicable Privacy Law means the privacy and data protection laws, regulations, and codes that apply to the processing of Personal Data under this Agreement, including (as relevant) the Privacy Act 2020 (New Zealand), the Privacy Act 1988 (Cth) (Australia), the EU General Data

Protection Regulation (2016/679) and the UK General Data Protection Regulation.

Confidential Information means all information disclosed by one party (the Disclosing Party) to the other party (the Receiving Party), whether orally or in writing, that is designated as confidential or reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes business plans, financial information, Intellectual Property, and business and marketing plans. Confidential Information does not include information that is or becomes publicly available without breach of any obligation owed to the Disclosing Party, was lawfully known to the Receiving Party prior to disclosure by the Disclosing Party, is received from a third party without breach of any obligation owed to the Disclosing Party, or is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

Customer means the entity identified as the customer in the Service Order or, for Free Access, the entity to which Makeshapes grants access

Customer Data means all information that the Customer submits, creates or shares using the Makeshapes Platform. Customer Data does not include Makeshapes Materials.

Fees means the fees for the Makeshapes Platform and/or the Makeshapes Services, which are specified in the Service Order.

Force Majeure means an event that is beyond the reasonable control of a party, excluding an event to the extent that it could have been avoided by a party taking reasonable steps or reasonable care or a lack of funds for any reason.

Intellectual Property Rights means all existing and future industrial and intellectual property rights, both in New Zealand and throughout the world, and includes any copyright, moral right, patent, registered or unregistered trade mark, registered or unregistered design, trade secret, knowhow, trade or business or company name, or other proprietary right, or right of registration of such rights.

Makeshapes means the Makeshapes entity identified in the Service Order, being either Makeshapes Limited (a New Zealand company, NZBN 9429048545709) or Makeshapes Inc. (a Delaware corporation), as applicable.

Makeshapes Materials means documentation, resources and other materials provided or made available by Makeshapes in connection with the Makeshapes Platform or Makeshapes Services.

Makeshapes Services means the services supplied by Makeshapes to the Customer in relation to the Makeshapes Platform, including

onboarding and support, as specified in the Service Order.

Makeshapes Platform means the online training platform supplied by Makeshapes, including any updates, enhancements, modifications, or other developments.

Sales Taxes means any value-added, sales, goods and service tax, or similar taxes levied or assessed by any jurisdiction.

Service Order means the order document that sets out the Customer's subscription to the Makeshapes Platform and the Makeshapes Services to be supplied, the applicable Fees, and any related items, as executed by both parties.

Subscription Term means the period specified in the applicable Service Order during which the Customer is entitled to access and use the Makeshapes Platform, and any renewals agreed by the parties or, for Free Access, the access period stated in Makeshapes' written confirmation, or if none is stated, until ended under clause 3.3(d).

Terms means these Terms of Service.

User means any person accessing the Makeshapes Platform in relation to the Customer, including users invited by the Customer to take part in experiences.

19.2 Interpretation: 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;

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 and the Makeshapes website includes as varied or substituted.