

GENERAL TERMS AND CONDITIONS MAKE MARKETING MAGIC B.V.

Version: 1.0

Article 1: Definitions

1. Make Marketing Magic: the private limited liability company Make Marketing Magic B.V., located in Amsterdam, the Netherlands, CoC no 50992872;
2. MMM: (legal) persons and companies affiliated to Make Marketing Magic that are party to the agreement to which these General Terms and Conditions apply;
3. Client: the natural or legal person who has entered into an agreement with Make Marketing Magic;
4. Service means the activity(s) that Make Marketing Magic will perform for Client, as specified in the Agreement, including managing social media site accounts, writing content and other forms of service;
5. Agreement: the agreement between Make Marketing Magic and Client, under which Make Marketing Magic will perform/deliver the Service and of which these General Terms and Conditions form an integral part;
6. Product: the good or goods that Make Marketing Magic provides to Client, as specified in the Agreement, including websites, documents, images, video and podcasts.
7. General Terms and Conditions: the present General Terms and Conditions of sale and delivery used by Make Marketing Magic;
8. Website: <https://www.makemarketingmagic.com>
9. Direct damage: property damage directly caused by the damaging event.

Article: 2. Applicability

1. These General Terms and Conditions apply to all offers, orders and agreements by/with Make Marketing Magic. In all cases, the latest version of the General Terms and Conditions supersedes all previous versions.
2. Terms or stipulations made by the Client that differ from, or do not appear in, these General Terms and Conditions are binding on Make Marketing Magic only if and insofar as they have been expressly accepted by Make Marketing Magic in writing.
3. The applicability of any purchase or other conditions of third parties is expressly rejected, unless otherwise agreed in writing.
4. If any provision of this Agreement or the General Terms and Conditions is found to be invalid or is voided, this will not affect the validity of the General Terms and Conditions of the Agreement as a whole. In that case the parties will lay down (a) new provision(s) by way of replacement, which will give shape to the intention of the original Agreement and General Terms and Conditions as much as is legally possible.
5. The provisions which are not valid or cannot be lawfully applied will be replaced by provisions which are as close as possible to the meaning of the provisions to be replaced.
6. The Client, with which an agreement has been concluded under these terms, is deemed to have tacitly agreed to the applicability of these terms to subsequent agreements concluded with Make Marketing Magic.
7. By signing an Agreement with Make Marketing Magic, the Client declares that it has received, is familiar with and agrees to the General Terms and Conditions.
8. The version in force at the time of the conclusion of the agreement will always apply.

Article 3: Offer and acceptance

1. For all quotations by Make Marketing Magic, the acceptance period is set at thirty days. After the expiry of this period, Make Marketing Magic is no longer required to accept Client's consent in the event of a consent by Client.
2. Make Marketing Magic will prepare a quote indicating what is included in the Service or Product, the amount due on acceptance, and how long the quote is valid. This quote will be sent to you by email, with attached General Terms and Conditions. If Client agrees to the quote, then the Agreement is concluded. Make Marketing Magic can also use the independent service PandaDoc. In that case, Client will receive an email containing a link to a secure web page of the PandaDoc service.
3. On this page, the quote is displayed and Client can digitally approve the quote after which the Agreement is established. Client agrees to the above method of operation.
4. If it appears that the information provided by Client is incorrect, Make Marketing Magic has the right to adjust the prices accordingly.
5. Make Marketing Magic is only required to commence performance of the Agreement after Client has accepted the Agreement and Make Marketing Magic has received such acceptance.
6. The content of the agreement does not extend beyond the work explicitly stated in the proposal and/or the order confirmation, such that the description in the confirmation takes precedence.
7. All prices are exclusive of sales tax (VAT) and other government levies.

8. Quotes do not automatically apply to follow-up orders.
9. Delivery times mentioned in quotations from Make Marketing Magic are indicative.
10. After acceptance, the agreement can only be amended by mutual consent.
11. In the event of conflict of provisions in the following documents, the following order of precedence will apply:
 - 1. the Agreement;
 - 2. any annexes;
 - 3. these General Terms and Conditions.

Article 4: Performance of the service

1. Make Marketing Magic will make every effort to perform the Service to the best of its ability and with due care and skill.
2. If and to the extent that a proper performance of the Service requires, Make Marketing Magic has the right to have certain activities performed by third parties. The costs of engaging these third parties, if agreed in the Agreement, will be borne by Client. Make Marketing Magic is not liable for damages resulting from an act or omission of third parties engaged by it. Client indemnifies Make Marketing Magic against all third party claims.
3. The Client is required to do and to refrain from doing everything that is reasonably necessary and desirable to make a timely and proper performance of the Service possible. In particular, Client will ensure that all data and facilities, which Make Marketing Magic indicates are necessary or which Client should reasonably understand are necessary for the performance of the Service, are made available to Make Marketing Magic in good time. For example, usernames and passwords for accessing websites and/or social media sites operated by Client and provided to Make Marketing Magic by Client or relevant information/content that will be used by Make Marketing Magic as a basis for performing the Service.
4. The applicability of Articles 7: 404 and 7: 407 paragraph 2 of the Civil Code is excluded.
5. Make Marketing Magic performs orders exclusively on behalf of Client, If two or more persons have jointly issued an order, they are each jointly and severally bound to fulfil the obligations under the Agreement with Make Marketing Magic.
6. The parties will always promptly notify each other of any changes in name, mailing address, email address, phone number and requested bank account number.

Article 5: Delivery

1. Based on the scheduling of the Agreement, Make Marketing Magic will provide the Product and/or Service to Client on an ongoing basis. The schedule included in the Agreement has been established by mutual agreement between Make Marketing Magic and Client and may be changed by mutual agreement.
2. The delivery times stated in the schedule are always indicative; there are never any deadlines.

Article 6: Social media

1. Client authorises Make Marketing Magic to create accounts with social media sites (including Twitter and Facebook, in particular) on Client's behalf. If such services are subject to costs, Make Marketing Magic is only entitled to do so after separate consent of Client.
2. Client authorises Make Marketing Magic to manage and configure the accounts listed in Section 5.1 on Client's behalf. This includes that Make Marketing Magic will respond on behalf of Client to users of the social media sites to be managed.
3. Client acknowledges and understands that Make Marketing Magic cannot guarantee the number of followers (on Twitter and/or LinkedIn), the number of fans (on Facebook) or the number of users on other Social Media. Make Marketing Magic will make every effort to influence the number of followers, fans and visitors for the benefit of Client.
4. Make Marketing Magic will promote Client in (digital) newsletters and the Social Media Accounts managed by Make Marketing Magic that are included in the offer, as described in Article 2 (2), at its discretion.

Article 7: Duration, termination and dissolution

1. The Agreement between Make Marketing Magic and Client is entered into for the duration indicated in the quote and from the moment the Agreement is accepted by Client by mail or electronically/digitally, unless parties have agreed on a different effective date. Without written notice by both Make Marketing Magic and Client, subject to a period of notice of at least one month by the end of the above period, the Agreement is always tacitly renewed for the same period. Unless otherwise agreed in writing, Client may terminate the Agreement early only by payment of a surrender charge. The amount of the surrender fee will be equal to the remaining fees that would be due if the Agreement had not been terminated early. In the event of early termination, the surrender charge is immediately due and payable by Make Marketing Magic to Client.
2. If the Other Party fails to comply with any obligation under the Agreement, Make Marketing Magic

has the right to suspend or terminate all Agreements concluded with the relevant Other Party, without any notice of default being required and without prejudice to the right of Make Marketing Magic to compensation for damage, lost profits and interest.

3. If Client removes Make Marketing Magic's access to the social media sites that were placed under Make Marketing Magic's control, Client's payment obligation to Make Marketing Magic will remain in place.

4. If Client is in a state of bankruptcy, requests a suspension of payments, is placed under administration, the WSNP becomes applicable to it, Client dies or Client's assets are seized, Make Marketing Magic has the right to terminate or suspend the performance of the Agreement or any not yet performed part thereof without notice of default or judicial intervention, without any right to compensation for damages for Client that may arise as a result.

Article 8: Rates

1. All prices are in euros and exclusive of sales tax (VAT) and other government levies.

2. All prices on the Website, brochures, price list(s) and/or other means of communication of Make Marketing Magic are subject to programming and typing errors.

3. Make Marketing Magic is entitled to change the rates charged at any time. In the event of such a change, Make Marketing Magic will provide Client with at least two months' notice of rate changes. In the event of a price increase, Client has the right to terminate the Agreement, this must be done by registered letter with due regard to a period of notice of one month.

4. Notwithstanding the provisions of the previous paragraph, Make Marketing Magic is entitled to increase the charged prices, if it concerns a long-term agreement, annually by up to the percentage of 3.5%, without the possibility for Client to terminate the Agreement.

Article 9: Terms of payment

1. Make Marketing Magic will send an invoice to Client for all amounts due from Client. Client will pay Make Marketing Magic monthly (or periodically) in advance the amount due for that term.

2. Payment to Make Marketing Magic must be received in Make Marketing Magic's bank account number within fourteen days of the invoice date.

3. After the expiry of fourteen days from the invoice date, Client who fails to pay on time will be in default by operation of law without notice of default being required. If a due amount has not been paid within the payment period, the statutory interest on the outstanding amount is due without further notice by Make Marketing Magic.

4. Client agrees to electronic billing by Make Marketing Magic.

5. Parties may agree that the Service(s) must be paid for by direct debit. Client issues an authorisation to Make Marketing Magic for this purpose.

6. If the direct debit fails, Client will be notified and reminded to continue payment.

7. In the event of late payment, in addition to the amount due and the interest thereon, Client will be required to pay in full both extrajudicial and judicial collection costs, including the costs of lawyers, bailiffs and collection agencies. In addition, the entire amount for the remaining contract term is immediately due and payable by Make Marketing Magic.

8. The claim for payment will be immediately due and payable in the event that Client:

- has been declared bankrupt;
- requests a moratorium;
- assets of Client are attached in their entirety;
- dies;
- goes into liquidation;
- is dissolved;
- has become permanently disabled;
- has been placed under administration, guardianship or management;
- has entered WSNP.

9. Make Marketing Magic is always entitled, before executing or continuing to execute the Agreement, to require that Client provides sufficient security that he can and will meet his payment obligations. Security may be provided by, but is not limited to, the establishment of a lien in favour of Make Marketing Magic.

10. Make Marketing Magic's invoices will be paid by Client without suspension, discount or set-off.

11. Payments made by Client will first be applied to reduce the costs, then to reduce the interest due and finally to reduce client and current interest.

12. Make Marketing Magic is at all times entitled, both at and after entering into an agreement with the Other Party, before (further) performance, to require an immediately payable advance and/or security, which advance and/or security (at the discretion of Make Marketing Magic) sufficiently covers all then existing and yet to arise obligations of the Other Party towards Make Marketing Magic.

13. Client will not be entitled to suspend or set off payment.

Article 10: Intellectual Property Rights

1. All intellectual property rights to all works developed or made available in the context of the Service, advice from Make Marketing Magic, texts, images and software are vested exclusively in Make Marketing Magic or its licensors, unless otherwise agreed by Agreement.
2. Client will only obtain the rights of use and powers that arise from the scope of the Agreement or that are granted in writing and in all other respects Client will not reproduce or disclose the works.

Article 11: Liability

1. The liability of Make Marketing Magic to Client and third parties for damages arising out of or related to the performance of an agreement is limited to the amount paid in the relevant case under the corporate liability insurance taken out by Make Marketing Magic, increased by the amount of the deductible that according to the policy conditions is not at the expense of the insurer(s).
2. If and insofar as for any reason no payment under the said insurance should occur, the total liability of Make Marketing Magic to a Client is limited to the fee charged by Make Marketing Magic in relation to the relevant order with a maximum of €10,000, and to third parties limited to €5,000.
2. The liability of Make Marketing Magic for direct damage suffered by Client as a result of an attributable failure by Make Marketing Magic to comply with its obligations under the Agreement, expressly including any failure to comply with a warranty obligation agreed with Client, or by a wrongful act of Make Marketing Magic, its employees or third parties engaged by it, is per event or a series of related events limited to an amount equal to the annual fees payable by Client under this Agreement to Make Marketing Magic excluding VAT.
3. Liability of Make Marketing Magic for indirect damages is excluded. This indirect damage includes in all cases: business damage, loss of profit, lost sales, reputational damage, (business) stagnation damage, research costs, damage as a result of claims by any third party against Client, damage as a result of a product recall, damage as a result of lost orders, missed savings, missed data, unrecovered investments and late deliveries.
4. The exclusions and limitations referred to in Article 10 paragraph 1 and paragraph 2 lapse if and insofar as the damage is the result of Make Marketing Magic's intentional or deliberate recklessness.
5. The liability of Make Marketing Magic for attributable failure in the performance of the Agreement only arises if Client immediately and properly gives Make Marketing Magic written notice of default, granting Make Marketing Magic a reasonable period to remedy the failure, and Make Marketing Magic also after that period remains attributable in default of its obligations. The notice of default must contain a complete and clear description of the shortcoming, so that Make Marketing Magic is able to respond adequately.
6. Make Marketing Magic is never liable for damage caused by force majeure.
7. The limitations of liability mentioned in Article 10 paragraphs 1 and 2 also apply if Make Marketing Magic, contrary to Article 4 paragraph 2, is liable for errors by third parties engaged by Make Marketing Magic or for the improper functioning of equipment, software, data files, documents or other items used by Make Marketing Magic in the performance of the agreement, none excepted.
8. Any liability for whatever reason of auxiliary persons engaged by Make Marketing Magic under Article 6: 76 Civil Code is expressly excluded.
9. Any claim for damages lapses one year after the start of the day following that on which client became aware of the damage and of Make Marketing Magic as the liable person. If Client designates a third party to pay the invoices, Client will remain jointly and severally liable therefor, in addition to such third party.
10. Make Marketing Magic takes all care that may reasonably be expected of it with respect to the security of the data of its Clients and third parties. However, Make Marketing Magic is not liable for any loss of data or unauthorised access to data that occurs despite the care taken by Make Marketing Magic. Make Marketing Magic is also not liable for any loss of data or unauthorised access that occurs when transmitting data over public networks or when using third-party networks and systems. Client agrees to the use by Make Marketing Magic of digital communication tools and services, including cloud services, for storage and transmission of data.
11. Client will indemnify Make Marketing Magic against all claims by third parties, including the costs of legal assistance, which are in any way related to the work performed for Client.
12. Make Marketing Magic will not be liable for any damages arising out of or in connection with the transmission of confidential or secret information over the Internet, the storage of such information in the cloud, or the misuse of such information by any third party.
13. Make Marketing Magic is not liable for damage to third parties caused by infringement of patents, copyrights and/or other industrial and intellectual property rights through the use of materials, information, software or components, or through the application of methods of operation, which by or on behalf of Client to Make Marketing Magic have been provided or prescribed.

Article 12: Force majeure

1. Make Marketing Magic is not required to fulfil any obligation towards Client if he is hindered to do

so as a result of a circumstance that is not attributable to fault, and not for its account under the law, a legal act or generally accepted practice.

2. Force majeure in these General Terms and Conditions, in addition to the provisions of the law and jurisprudence, also includes all external causes, foreseen or unforeseen, on which Make Marketing Magic has no influence, but which prevents Make Marketing Magic from fulfilling its obligations. In particular, force majeure will mean riots, network attack, Distributed Denial of Service attacks, mobilization, war, traffic congestion, strike, lockout, business interruption, supply stoppage, fire, flood, power failure, stagnation and/or delay in the supply of goods, disability of third parties or own personnel and import and export restrictions.

3. Make Marketing Magic is authorised to suspend the obligations under the Agreement during the period that the force majeure continues. If this period exceeds two months, either party will be entitled to terminate the Agreement without any obligation to pay the other party damages.

4. Insofar Make Marketing Magic at the time of the occurrence of force majeure has already partially fulfilled its obligations under the Agreement or will be able to fulfil them, and the fulfilled respectively to be fulfilled part has independent value, Make Marketing Magic is entitled to invoice the already fulfilled respectively to be fulfilled part separately.

Article 13: Retention of title

1. All Products delivered by Make Marketing Magic remain the property of Make Marketing Magic until the Other Party has fully complied with all obligations under all agreements concluded with Make Marketing Magic, at the discretion of Make Marketing Magic.

2. Client is not authorised to pledge or otherwise encumber the Products delivered under retention of title.

3. If third parties seize the Products delivered under retention of title or wish to establish or assert rights over them, Client is required to notify Make Marketing Magic as soon as reasonably may be expected.

4. Client undertakes to insure the Products delivered under retention of title and to keep them insured against fire, explosion and water damage as well as against theft and to make this insurance policy available for inspection on first demand.

5. Products delivered by Make Marketing Magic, which according to paragraph 1 of this Article fall under the reservation of title, may only be sold within the context of normal business operations and may never be used as payment instrument. In the event of resale, the buyer also undertakes to deliver under retention of title.

6. In case Make Marketing Magic wants to exercise its property rights as indicated in this Article, the Other Party gives unconditional and irrevocable permission to Make Marketing Magic or third parties to be appointed by it to enter all those places where the property of Make Marketing Magic is located and to take back the Products.

Article 14: Duty to complain

1. If, in Client's opinion, the Product or Service has not been delivered in accordance with the Agreement, Client must make a written complaint to Make Marketing Magic within thirty days of delivery of the Product or Service. Failure to do so will result in forfeiture of the right to delivery of a new Product or Service.

2. If Client disagrees with the content of an invoice from Make Marketing Magic, Client must make a written claim to Make Marketing Magic within thirty days of the date the invoice was sent. If Client fails to do so, it may not subsequently rely on the fact that the invoice contains inaccuracies.

Article 15: Change of the General Terms and Conditions

1. Make Marketing Magic reserves the right to modify or supplement these General Terms and Conditions.

2. Changes will also apply to agreements already entered into subject to a period of thirty days after the announcement of the amendment on the Website, by electronic message or in writing. Changes of minor importance may be made at any time.

3. If Client does not wish to accept an amendment to these General Terms and Conditions, he may terminate the Agreement by this date, unless Make Marketing Magic has indicated that the old terms will remain in effect for Client.

Article 16: Applicable law

1. This agreement is governed by Dutch law.

Article 17: Resolution of disputes

1. To the extent that the rules of mandatory law do not prescribe otherwise, all disputes that may arise in connection with this Agreement will be submitted to the competent Dutch court of the District Court of Amsterdam, in Amsterdam.