

# Maker

# Terms of Service

**FOR THE MAKERS PTY LTD T/A**

**Making Things**

**ACN 623 639 690**

**2018**

## Making Things Platform: Maker Terms of Service

### About Us

For The Makers Pty Ltd (trading as Making Things) (“**Making Things**”) provides an online Platform to browse, view and license knitting and crochet patterns. These Terms of Service apply to the use of the Websites, located at [makingthingsapp.com](http://makingthingsapp.com); [patterns.makingthingsapp.com](http://patterns.makingthingsapp.com) and any other such domain owned and operated by Making Things.

### Agreement

- 1 You should read these Terms of Service carefully.
- 2 In these Terms of Service (the “**Terms**”), the words “**Making Things**”, “**we**”, and “**us**” refer to **For The Makers Pty Ltd (ACN 623 639 690)** trading as **Making Things** and includes its directors, employees and agents; and “**you**” or “**your**” means the User who accepts these Terms of Service. Acceptance of these Terms of Service will be indicated by your use of the Services and any associated software, networks, processes, including the interaction with or license of any goods or services through the Website.
- 3 These Terms of Service apply to you and your use of the Services and any associated software, networks and processes, including the interaction with any goods or services from the Making Things Platform.
- 4 By browsing the Website, or utilising Services offered in the Platform, you agree to these Terms. If you do not agree to these Terms you should immediately cease use of the Services and accessing the Website.

#### 1. Interpretation

- 1.1 In these Terms, these expressions shall have the following meanings, unless otherwise stated:

‘**Agreement**’ or ‘**Terms**’ means these Terms of Service, including all of the terms of any order placed by you through the Website (if applicable).

‘**View**’ has the meaning given to it in Clause 7.2.

**'Intellectual Property'** means all present and future intellectual and industrial property rights of whatever nature (whether or not registered or registrable), including, but not limited to, rights in respect of all technical information, know-how, copyright, trade marks, designs, patents, domain names, business names, logos, drawings, trade secrets, the right to have confidential information kept confidential or other proprietary rights, or any rights to registration of such rights.

**'Designer'** means any person who lists goods and / or services for sale on the Platform.

**'Material'** means any information or content (including, but not limited to, data or source codes) or images in any form (whether visible or not) stored on or used in conjunction with the Services.

**'Pattern'** means a digital design, blueprint or set of instructions for making knitted or crocheted products or any other such textiles or goods.

**'Platform'** means the online portal located on or via the Website through which certain goods and services can be negotiated and licensed to Makers.

**'Purchaser'** means any person who purchases goods and/or services listed by Designers for sale on the Platform.

**'Registration Data'** means information provided by you to us for the purposes of your registration to access certain sections of the Website including, but not limited to, your name, date of birth, gender and contact details.

**'Registered Maker'** means a person who signs up to become a member of the Website by providing us with Registration Data.

**'Services'** refers to the Platform and any associated services we provide pursuant to this Agreement.

**'Shilling'** refers to the fraudulent inflation of a Designer's reputation by use of an alternate account.

**'Use'** means when a Maker interacts with a Pattern such that it clicks "Start Making", as displayed on the Platform.

**'Maker'** refers to any person using the Services, whether they are a Designer, Purchaser or a person who browses, visits or otherwise uses the Website, the Platform or the Services.

**'Website'** means the website located at [makingthingsapp.com](https://makingthingsapp.com) or any other website nominated by us from time to time and includes the Making Things web application.

1.2 Any reference in this Agreement to the singular includes the plural, to any gender includes all genders, to any Act or statute includes any Act or statute which supersedes, replaces or modifies any earlier Act or statute, to persons includes all bodies and associations (including human, corporate and unincorporated), and vice versa. Paragraph headings are for reference and convenience purposes only, and all references to clauses are to clauses in this Agreement unless otherwise specified.

## **2. Overview of Services**

2.1 The Platform is a portal or conduit providing Makers with an online platform through which persons may list goods and/or services. The Platform allows Makers to easily browse or list Patterns. We do not supply or sell goods and/or services on, or via, the Website.

## **3. Using the Services**

3.1 In order to begin using the Services, a Maker must register for an account in accordance with Clause 4.

3.2 In order to have complete access to the Services and the Platform, you must pay the monthly subscription fee as displayed on the Website from time-to-time. Making Things will always notify you of any changes in pricing before such changes go live.

3.3 Registered Makers have access to the Services and are able to:

- (a) communicate with other Makers and/or Us;
- (b) preview Patterns; and
- (c) generally browse the Website.

3.4 Registered Makers may, on application to Making Things, become a Designer on the Platform, subject to the Designer Terms of Service located [makingthingsapp.com](https://makingthingsapp.com).

- 3.5 In addition to Clause 3.3, Registered Makers (subject to any free trial offered on the Website) who also pay a monthly subscription fee are able to:
- (a) license Patterns from Designers;
  - (b) read and interact with Patterns purchased on the Website;
  - (c) store Patterns purchased on the Website in an easily accessible database; and
  - (d) select, save and annotate favourite Patterns.
- 3.6 You agree that you have sole responsibility for any activity that occurs on your account. You must keep your Making Things account details and password secure, as you are responsible for any activity on your account (whether undertaken by you or anyone else). You agree to notify us immediately if you become aware of or suspect any security breach or unauthorised use of your Making Things password or account.
- 3.7 Where you preview any Patterns on the Website, you agree that you will only use that preview for the purpose of evaluating whether to pay a monthly subscription fee to access the Services and Platform.
- 3.8 You must take precautions to ensure that when accessing the Services you do not expose your telecommunications or computer systems to viruses, malware or other forms of interference that may damage your telecommunications or computer systems. We will not take responsibility for any such damage to your telecommunications or computer systems which may arise in connection with your access to the Website and use of the Services.
- 3.9 Any information on this Website or otherwise provided to Makers is supplied in good faith but we do not guarantee the accuracy or completeness of any information provided by us or any third party, including any Designer. You agree that it is your responsibility to make enquiries as to the accuracy or completeness of any information which we receive from you or third parties.
- 3.10 Making Things may discontinue or stop (temporarily or permanently) providing access to the Services (or any feature of the Services) to you, Makers, guests or members generally, at its absolute discretion and without prior notice to you.

- 3.11 Making Things may, at its absolute discretion, terminate or suspend your Making Things account or restrict your access to the Services for any reason including for security, technical, maintenance, legal or regulatory reasons, or due to any breach of these Terms. If we do this, you may be prevented from accessing all or parts of the Services, your account details or other content contained in your Making Things account. We will not be liable to you or any third party for doing so. We may impose limits or restrictions on your use of the Services. Further, for security, technical, maintenance, legal and / or regulatory reasons, or due to any breach of these Terms, we may withdraw the Services or change or remove functions of the Services at any time without notice to you.
- 3.12 The Services may contain links to other websites. Those links are provided for convenience only and may not be current. Any hyperlinks or banners advertising other websites on the Website or from websites that are external to the Website which advertise the Website are not subject to Making Things' control or privacy standards, policies and procedures. Making Things will not be responsible for the content or privacy practices associated with such linked websites and we recommend that you make your own enquiries as to the privacy and other policies of these third parties.
- 3.13 While using the Website and any associated Services, you must ensure that it does not in any way breach our Fair Use Policy in Clause 11 of these terms.
- 3.14 If you fail to comply with this Agreement, Making Things may, at its absolute discretion and without liability:
- (a) immediately temporarily or permanently withdraw your right to access and use the Services (including deletion of your account);
  - (b) immediately temporarily or permanently remove goods and / or services listed by you for sale on the Platform;
  - (c) refer or report any suspected fraudulent, abusive or illegal activity to relevant law enforcement authorities.

#### **4. Registration**

- 4.1 To access certain parts of the Services, you must register with Making Things as a member by providing us with Registration Data as requested. You may not use one email address to register for multiple accounts.
- 4.2 If you are under the age of 18 years, we may ask you to confirm that you have your parents' or guardians' permission and that they have agreed to these Terms on your behalf and, even if we do this, we will assume that you have their permission and will provide you access to the Website and your account on this basis.
- 4.3 If you are a parent or guardian who has permitted a person under the age of 18 (a "**Minor**") to create a Making Things account, you agree to:
- (a) exercise supervision over the Minor's use of our Services and their personal account with Making Things;
  - (b) assume all risks associated with the Minor's use of our Services and their Making Things account, including the transmission of content or information to and from third parties via the Internet;
  - (c) assume any and all liabilities resulting from the Minor's use of our Services and their Making Things account;
  - (d) ensure the accuracy and truthfulness of all information submitted to Making Things and the Website by the Minor; and
  - (e) provide the necessary consents contained in these Terms on behalf of the Minor.
- 4.4 Subject to Clause 4.3, in the event that you provide Registration Data to us, you represent and warrant to us that the Registration Data provided is true, complete, accurate and up to date, and you undertake to maintain the truthfulness, completeness and accuracy of your Registration Data as necessary and / or as required by us.
- 4.5 If you provide us with Registration Data you consent to the possibility that:
- (a) you may receive emails from us confirming the details of your registration and any purchases from the Services made through your account with Making Things, providing you with necessary information relating to your access and use

of the Services and any purchases from the Services made through your Making Things account; and

- (b) from time to time, we may email you regarding our Services or third-party products and services which we believe may be of interest to you, such as new products, features, special offers and updated information. The emails may contain code that enables our database to track your usage of the emails, including whether the email was opened and / or what links (if any) were clicked. We may combine that information with other information which we have about you and may use that information to improve your site experience and / or provide customised email communications to you.

4.6 For the avoidance of doubt, and at our absolute discretion, when you provide us with Registration Data, we may nonetheless refuse your application to become a Designer if you are a Minor.

4.7 You acknowledge that we may use your Registration Data and any other personal information provided to us in accordance with the Making Things Privacy Policy, which you can view at [makingthingsapp.com/privacy](https://makingthingsapp.com/privacy).

## **5. Legal Capacity**

5.1 Any goods and / or services licensed from a Designer on, or via, the Website is an acknowledgement by you that you meet the specified age requirement to transact with the Designer, accept these Terms and agree that these Terms are binding.

5.2 Making Things reserves the right to take legal action and seek compensation from a parent or guardian of a Minor for any loss or damage we may suffer as a result of, or in connection with, any transaction entered into on, or via, the Website by a Maker who is a Minor.

## **6. Pricing**

- 6.1 Once you become a Registered Maker, you have the option to pay a monthly subscription fee, that provides you with access to the Platform and to license the Designers' Patterns therein.
- 6.2 You can find more information regarding Maker monthly subscription fees here: [makingthingsapp.com/pricing](https://makingthingsapp.com/pricing).
- 6.3 Making Things uses Stripe to process any subscription fee payments. Payment processing services for Orders and/or Services are provided by Stripe and are subject to the [Stripe Connected Account Agreement](#), which includes the [Stripe Terms of Service](#) (collectively, the "Stripe Services Agreement"). By placing an order and using Stripe to process payments you agree to be bound by the Stripe Services Agreement, which may be modified by Stripe from time to time. As a condition of enabling payment processing services through Stripe, you agree to provide us with accurate and complete information about you and you authorize us to share it and transaction information related to your use of the payment processing services provided by Stripe.
- 6.4 Where applicable, all prices listed on the Website and Platform are in US Dollars unless otherwise specified by the Designer. Prices might otherwise be listed in British Pounds Sterling, Euros, Australian Dollars or any other nominated currency, as deemed necessary by Making Things from time to time.
- 6.5 All prices listed on the Website or Platform include goods and services tax, including but not limited to GST, United States Sales Tax or European VAT ("**Tax**") unless otherwise specified. If any Tax is payable and imposed, any fees charged to you will be increased by the amount of Tax payable. For the avoidance of doubt, all other taxes are included in prices on the Website, unless specifically stated otherwise.
- 6.6 Promotional discount codes may be provided to Makers at the sole discretion of Making Things and, where appropriate, Makers will be given written notice of the promotional discount codes at the time of the relevant offer.
- 6.7 Making Things reserves the right, at its absolute discretion, to prohibit any Maker from entering into a transaction via the Platform for any reason.

## **7. License to use Patterns**

- 7.1 Once you purchase a subscription to use the Platform in accordance with Clause 6, you will be entitled to access unlimited patterns each month, subject to our Fair Use Policy in Clause 11.
- 7.2 When you wish to use a Pattern, you may save that Pattern via the Platform as a pattern that you wish to Use (“**View**”).
- 7.3 When you View a Pattern, you are not purchasing that Pattern, you are acquiring the right to use that Pattern. This means that you will have a non-exclusive, personal, limited, revocable and non-sub-licensable license directly from a Designer to use a Pattern for as long as your subscription to the Platform remains active.
- 7.4 Once you have downloaded a Pattern, you will have the right to view, annotate and make comments on that Pattern, however you may not share or distribute that Pattern to another person, or make any copies of that Pattern. If you share a downloaded Pattern with another person, you will be in breach of the License given to you in relation to that Pattern.
- 7.5 You may modify a Pattern to help you create your final knitted or crocheted product. You will not own any modifications. All modifications to a Pattern automatically and irrevocably assigned to the Designer and are exclusively owned by that Designer.
- 7.6 The license given in this Clause 7 is between you and a Designer. Making Things is not a party to this license.

## **8. View Support**

- 8.1 We, at our absolute discretion, may offer you support in relation to a View from time-to-time. We will always use our best efforts to provide such support to you where it is reasonably practicable to do so. The most effective way to access this support is via the chat function in the Platform.
- 8.2 Alternatively, for any View, a Designer, at its absolute discretion, may decide whether they wish to offer you support. You may communicate with Designers via the chat button in the Designer’s profile in relation to any goods and / or Services. Before

contacting a Designer, you should endeavour to contact us directly to see if we can provide you the assistance.

- 8.3 For the avoidance of doubt, the provision of any Services pursuant to any agreement is between you and the Designer and this agreement is made to the exclusion of Making Things.
- 8.4 You may only receive support where you have paid subscription fees in a relevant month.

## **9. Purchases**

- 9.1 You acknowledge and agree that a listing on the Platform for the provision of goods and / or services by a Designer to you constitutes mere information and does not form part of any offer for goods and / or services that may be provided by a Designer.
- 9.2 Making Things operates an online platform that connects Designers and Makers. Making Things is not responsible for the verification or authenticity of a Designer and you accept that you are responsible for verifying the identity and authenticity of a Designer and its goods and / or services when you engage them for the provision of goods and / or services.
- 9.3 Making Things communicates primarily with Makers via email. By using our Services, you accept that communication with us will be mainly via electronic means. We will contact you by email or provide you with information by posting notices on the Website. It is your responsibility to ensure that correct contact details are registered, that Making Things is given written notice of any changes to your contact details, and that you check the nominated email address regularly for any correspondence.
- 9.4 We accept no responsibility for purchases between a Maker and a Designer, and you agree to indemnify and hold us harmless against any and losses, liabilities, expenses, damages, costs, proceedings, demands or claims arising out of, or in connection with, the provision of the Website and the use of the Services. We will not be liable for such losses in accordance with Clause 13.

## **10. Payment**

- 10.1 You may pay monthly subscription fees to use the Platform and Services, however the provision of any goods or services will only proceed once a Maker and Designer have entered into a separate, external agreement for the provision on the goods and/or services.
- 10.2 Despite Making Things using reasonable endeavours to verify the identity of Designers on the Platform, you acknowledge that, to the extent permitted by law, Making Things does not warrant the reliability, legitimacy, repute, or credibility of any Designer, nor the capacity, ability or willingness of the Designer to deliver goods and/or services or transact with you.
- 10.3 The Maker bears sole responsibility for verifying any terms and conditions imposed by the Designer in relation to the provision of goods and/or services.
- 10.4 To the maximum extent permitted by law, Making Things accepts no responsibility for any payment that occurs outside the Website and will not be held liable for any damages, liabilities, expenses, costs or losses suffered by Makers as a result of engagement with a Designer via the Website, in accordance with Clause 13 and Clause 21.

## **11. Fair Use Policy**

- 11.1 While using the Website, Platform and Services, you must not:
- (a) misuse any part of the Website by introducing viruses, trojans or other material that is malicious or technologically harmful;
  - (b) attempt to gain unauthorised access to any part of the Website, the server on which the Website is stored or any server, computer or database connected to the Website;
  - (c) engage in any activity that interferes with or disrupts the Services or the servers and networks which host the Services; or
  - (d) attempt to circumvent, disable or otherwise interfere with any security-related features of the Services or any features which prevent or restrict the use or

copying of any content or enforce limitations on the use of the Services or the content of the Website.

- (e) submit any offensive content, including but not limited to nudity or generally unacceptable, at the sole discretion of Making Things;
- (f) engage any abusive or derogatory behaviour or any form of harassment;
- (g) engage in any misleading or deceptive conduct, including impersonating others, creating fake profiles or using fake email addresses; or
- (h) advocate, support or practise discrimination based on race, religion, age, national origin, language, gender, sexual orientation or mental or physical handicap.

11.2 To maintain the integrity of the Website and the Platform, you must not engage in Shilling.

11.3 You must ensure that your access to or use of the Services is not illegal or otherwise prohibited by laws that apply in your jurisdiction.

11.4 As a Registered Maker who has paid a monthly subscription fee, we permit you to access an unlimited amount of Patterns each month. However, in order to protect the interest of Designers, we must ensure that the use of Designer Patterns is fair and reasonable. Making Things therefore monitors each Maker's activity in a given month. If you View more than 30 Patterns in any given month or breach any of the terms your account will be flagged as potentially breaching this Clause 11.

11.5 We have the right to monitor or restrict your use of the Platform and Services in order to determine any breach or potential breach in relation to this Clause 11 and we may, at our absolute discretion, may take any of the actions in Clause 3.14, including temporary suspension of your account.

11.6 You may report any suspected Fair Use Policy violations to [hello@makingthingsapp.com](mailto:hello@makingthingsapp.com).

## 12. Warranties

- 12.1 We will, within a reasonable period of time, investigate any alleged error or other issue regarding any of the Services, provided that you notify us in writing within seven (7) days of becoming aware of the error or other issue, giving us all necessary information to be able to investigate the error or other issue. Notwithstanding, you agree that our liability will be limited in any event to the right to attempt redelivery of the Services to you.
- 12.2 You agree to use your reasonable endeavours to ensure that the information that you supply us or any Designer is complete and accurate and notify us (and, if relevant, the Maker(s)) in writing if there is any change to the information supplied.
- 12.3 Except as provided in this Agreement, no further warranty, condition, undertaking or term, express or implied, statutory or otherwise as to the condition, quality, performance or fitness for purpose of the Services provided in accordance with this Agreement is given by us, other than as required by law. Nothing contained in this Agreement excludes, restricts or modifies the application of any condition, warranty or other obligation, the exercise of any right or remedy, or the imposition of any liability under the Competition and Consumer Act 2010 (Cth) or any other national, state or territory legislation where to do so is unlawful.
- 12.4 Except as set out in this Clause 12, we give no further warranties. All implied warranties are hereby excluded.
- 12.5 You acknowledge that, to the extent permitted by law, Making Things does not warrant that any information or content displayed or uploaded by Designers on the Website is accurate, complete, reliable, current, error-free, virus free or suitable for any particular purpose or use under any specific conditions, and that they are provided on an “as is” and “where is” basis;

### **13. Liability and Exclusions**

- 13.1 We will not be liable to you or any third party for any loss, expenses, liabilities, costs, or damage caused by viruses, system failures or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of any part of the Website or downloading of any

material or content posted on it, or on any website linked to it. We always recommend all Internet Makers ensure they have up-to-date virus checking software installed.

- 13.2 You acknowledge that Making Things provides a marketplace service for connecting Makers and Designers to use the Services, and is in no way involved in purchases or payments in relation to goods and / or services displayed on the Website. To the fullest extent permitted by law, Making Things is not responsible for dealing with, and not, liable for, any disputes or complaints made by you or any Maker in relation to the goods or services sold, or via, the Website (including any dispute or complaint regarding refunds, payment, goods or services). You should address such complaints directly with the Designer.
- 13.3 You agree that Making Things shall not be liable to you or any third party for any:
- (a) indirect, consequential, special or exemplary losses, expenses or liabilities; or
  - (b) loss of profits, loss of revenue, economic loss, loss of goodwill, loss, corruption or alteration of data, failure to realise anticipated savings, loss of opportunity, expectation loss or loss of production,
- 5 arising out of, or in connection with, the provision or use of the Services, the Platform, the Website or these Terms.
- 13.4 Notwithstanding, you agree that in any event, Making Things' maximum aggregate liability to you or a third party under these Terms will be no more than the total subscription fees you have paid in the 12 months prior to the complaint made by you.
- 13.5 The Maker acknowledges and agrees that the limitations of liability contained in this clause are a fair and reasonable allocation of the commercial risk between the parties. The provisions of this Clause 13 will continue to apply indefinitely after Termination of this Agreement.

## **14. Confidentiality**

- 14.1 The Maker and Making Things agree not to use or disclose Confidential Information, relating to or owned by the other, received or disclosed to it by the other party during the Term of this Agreement, save for use or disclosure required in order to perform

their respective obligations under this Agreement. Disclosure shall be limited to such of the receiving party's employees, officers, agents or contractors directly involved in performing the receiving party's obligations.

- 14.2 The parties agree that information is not to be regarded as confidential and that the receiving party will have no obligation regarding confidentiality where that information is already in the public domain or enters the public domain through no fault of the receiving party, or is received from a third party without any obligations of confidentiality, or is used or disclosed with the prior written consent of the owner of that information, or is disclosed in compliance with a legal requirement, or is independently developed by the receiving party.
- 14.3 Any Confidential Information will be returned or destroyed by the receiving party at the written request of the owner.
- 14.4 You allow us to refer to you in any publicity we engage in after we have provided you with the Services or, with your permission, during our provision to you of the Services.
- 14.5 In the event that the parties execute a separate confidentiality agreement, the terms of that agreement shall prevail over this Clause 14 only.

## **15. Termination**

- 15.1 We may terminate this Agreement (or, at our discretion, cease to supply you with the Services) at our sole discretion if:
- (a) it transpires that you have provided false or misleading information on the Website;
  - (b) you are found by us to be offensive or abusive to a Designer or other Makers; or
  - (c) you have breached the terms of this Agreement.
- 15.2 Either party may terminate this Agreement immediately by written notice if the other is in breach of this Agreement to a material extent and fails to remedy the breach within fourteen (14) days of being notified of the breach in writing (if it is capable of being remedied).
- 15.3 Either party may terminate this Agreement at any time upon four weeks' written notice the other party.

15.4 On the termination of this Agreement for whatever reason but pursuant to this Clause 15, we will be entitled to payment for all outstanding fees properly incurred by us up to the date of termination and any other fees specified in this Agreement. In the event this Agreement is terminated before the end of a calendar month in which you have paid the necessary fees, you will retain access to the Platform for the duration of that month.

## **16. Intellectual Property**

16.1 You acknowledge that all Intellectual Property in any Material is the property of Making Things (or its licensors) and your use and access to the Services and the Website does not give you any rights, title or interest in or to the Material. Unless expressly authorised either under this Agreement or otherwise by the licensors, you may not reproduce, adapt, modify, display, perform or distribute any Material or any part of any Material. Australian and international laws protect these intellectual property rights and nothing in this Agreement gives you any permission, right or licence to use any of the Intellectual Property.

16.2 Subject to the Copyright Act 1968 (Cth) and other relevant legislation, you may view the Services and its contents for personal and non-commercial use, however, you may not in any form or by any means reproduce, modify, distribute, store, transmit, publish or display within another website or create derivative works from any part of the Services or commercialise any information obtained from any part of the Services without the prior written consent of Making Things or, in the case of third party Material, from the owner of the copyright and / or other Intellectual Property in that Material.

16.3 You may not modify or copy the layout or appearance of the Services or any computer software or code contained in the Services, nor may you decompile or disassemble, reverse engineer or otherwise attempt to discover or access any source code related to the Services.

16.4 You warrant that you shall not copy any View, Material or Pattern.

- 16.5 By uploading, posting, transmitting or otherwise making available material via the Services, Platform or Website, or any Making Things owned social media accounts (including but not limited to Facebook, Instagram, Snapchat and Pinterest), you:
- (a) grant to us a non-exclusive, worldwide, royalty-free, perpetual, irrevocable licence to use, publish, reproduce and otherwise exploit the material in any form for any purpose and unconditionally waive any moral rights that you might have in respect of the material; and
  - (b) represent and warrant that you either own the intellectual property rights in that material or have the necessary permission to upload, post, transmit or otherwise make available that material via the Services, Platform, Website, or aforementioned social media accounts.

## 17. Unavoidable Events

We will not be liable to you (or anyone else) if Making Things is prevented from, or delayed in, performing its obligations under the Agreement or for failing to provide the Services by acts, events, omissions or accidents beyond its reasonable control (**‘Unavoidable Events’**). Where an Unavoidable Event occurs, we will attempt to recommence provision of the Services as soon as reasonably practicable. In such circumstances, there may be a delay (sometimes a substantial delay) before we can start or continue providing the Services to you.

## 18. Notices

- 18.1 Any notice required to be given pursuant to this Agreement shall, unless stated otherwise in this Agreement, be in English and in writing (including email communications), and be sent to the other party marked to such address as either party may from time to time notify to the other in writing in accordance with this clause (if no such address has been provided then in the case of Making Things, to [hello@makingthingsapp.com](mailto:hello@makingthingsapp.com), and in the case of a Maker, to that Maker’s last email address registered with their account.
- 18.2 A correctly addressed notice sent by correctly addressed emails shall be deemed to

have been received 24 hours after sending.

## 19. Dispute resolution

- 19.1 You agree that if you have a complaint about the performance of the Agreement or the Services provided that you will contact us at [hello@makingthingsapp.com](mailto:hello@makingthingsapp.com), in the first instance, and allow us reasonable time in which to consider your complaint, determine a possible solution and notify you of the solution.
- 19.2 If the complaint regards another Maker's conduct, we may attempt to resolve the issue by taking such actions as we deem necessary, Making Things' absolute discretion, which may include the removal of a Maker's access to the Website.
- 19.3 If the complaint regards our own performance of the Agreement, such as regarding a technical issue on the Website, we will use our reasonable endeavours to attempt to resolve the issue with you.
- 19.4 For any complaint regarding payment in relation to a Designer, you agree and acknowledge that such complaints should be made directly to that Designer, and that Making Things is indemnified from any losses, liabilities, damages, expenses or costs you or a third party may suffer in accordance with Clauses 13 and 21.
- 19.5 If, following paying the Maker subscription fees, you feel the goods and / or services:
- a) were not of acceptable quality;
  - b) were not fit for its purpose; or
  - c) did not match its description,
- 6 you may have rights under the Australian Consumer Law to have the goods and / or services replaced by the Designer, or have the price you paid for the goods and / or services refunded by the Designer.
- 19.6 Nothing in these Terms excludes, restricts or modifies the consumer guarantees provided for under the Competition and Consumer Act 2010 (Cth) ("**Australian Consumer Law**").

## **20. Linking to the Website**

- 20.1 You may link to the Website, provided that you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists.
- 20.2 You must not establish a link to the Website from any website that is not owned by you (except with the website owner's express permission).
- 20.3 The Website must not be framed on any other website.
- 20.4 Notwithstanding anything to the contrary, we reserve the right to withdraw our linking permission under this Clause 20 by updating these Terms on the Website.

## **21. Indemnity**

- 21.1 To the fullest extent permitted by law, you agree that you waive, release, discharge and relinquish any and all claims that you have now or may have against Making Things which are connected with, arise out of, relate to or are incidental to use of the Services.
- 21.2 You agree to indemnify and to keep Making Things indemnified and hold it harmless from and against any and all claims, loss, damage, taxes, liabilities and/or expenses that may be incurred by Making Things arising out of, or in connection with, the provision of the Website, your use of the Services, any breach by you or third party of this Agreement or the use of any part of the Website contrary to these Terms or any other warnings or instructions (including labels) on the Services, or as otherwise notified to you from time to time.

- 1.1 The Maker agrees and acknowledges that Making Things will not be liable or responsible for any loss or damage suffered by any Designer due to the actions of a Maker, and the Maker will indemnify Making Things from and against any and all claims by any Designer in relation to any and all content created by the Maker or any actions of the Maker.

## **22. Privacy**

- 22.1 We may gather personal information about our customers for the purposes of marketing, supplying or delivering our Services to you and expanding our business.
- 22.2 Making Things is committed to protecting your privacy and personal information because of our legal and ethical commitment to comply with relevant laws and, more importantly, because we know that you care how information about you may be used and shared.
- 22.3 Further details about our practices relating to the collection, use, disclosure and storage of your personal information are available here:  
[makingthingsapp.com/privacy](https://makingthingsapp.com/privacy).

## **23. General**

- 23.1 Making Things reserves the right to make changes to these Terms or the Services by giving you written notice, or by otherwise posting it on the Website. Accordingly, we recommend that you re-read these Terms periodically. The latest version of these Terms will be available here: [makingthingsapp.com/tos](https://makingthingsapp.com/tos). If you do not agree to these changes, you should immediately cease using the Services and otherwise accessing the Website. Your continued use of the Services or Website constitutes your acceptance of these changes.
- 23.2 Any provision of this Agreement that is found void or unenforceable will, to the extent that it is void or unenforceable, be severed from this Agreement without affecting the enforceability or validity of any other provisions.

- 23.3 A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right. The exercise of a power or right does not preclude its future exercise or the exercise of any other power or right.
- 23.4 This Agreement is governed by, and must be construed according to, the laws of the State of Victoria, Australia. The parties unconditionally submit to the exclusive jurisdiction of the courts in that State.