

# WEBSITE TERMS & CONDITIONS

MINKA CREATIVE STUDIO

Effective Date: 20<sup>th</sup> September 2022

Welcome to [www.minkacreative.com](http://www.minkacreative.com) (Site).

This Site is owned and operated by Minka Creative Studio (referred to in these terms as “Minka Creative Studio”, “Minka”, “we”, “us”, and “our”). Please take the time to read the terms of use that apply to your use and enjoyment of our Site and the content made available to you via our Site and our social media channels (“Terms”). These Terms, together with our Privacy Policy, apply to all Site visitors, subscribers, customers, and other users of the Site (“user”, “you” and “your”).

## CONSENT TO SITE TERMS

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By accessing and using our Site, our social media channels and any other materials made available to you or provided to you on our Site (whether available for purchase or not), you are taken to accept our Terms.

## NO MINORS

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By using the Site or accessing or purchasing any products or services, you warrant that you:

- are over 18 years of age and have the legal capacity to enter into a legally binding contract;
- have read and accepted these Terms; and
- will comply with these Terms.

## CHANGES TO THESE TERMS

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We reserve the right to change or modify these Terms at any time, consistent with applicable laws and principles, without notice to you. These changes will be effective as of the date we post the revised version on our Site. It is your responsibility to review these Terms prior to use and periodically throughout your use of our Site, products, services and content. If at any time you choose not to accept these Terms, you should not use our Site.

Your continued use of our Site is deemed acceptance of any modifications or amendment of these Terms. You may also accept these terms where you click “Agree” or “Accept” or “Buy” or “Book” where such an option is made available to you. If you are uncertain about the Terms or anything else on our Site, please don’t hesitate to contact us before proceeding with any purchase or booking.

## INTELLECTUAL PROPERTY

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Our Site, products and services contain intellectual property owned by us and/or by third parties that license the content to us (“Third-Party Licensed Intellectual Property”). This includes, without limitation, trade marks, copyrights, proprietary information, designs, patents and other intellectual property rights, as well as business names, logos, images, designs, text, videos, audio files, graphics, other files, and software (“Content”). Your access to and use of our Site, products (including digital products), services and Content does not grant or transfer any rights, title or interest to you in relation to any of the above.

*No Commercial Use*

You may not modify, publish, transmit, participate in the transfer or sale of, create derivative works from, distribute, display, reproduce or perform, or in any way exploit in any format whatsoever our Site, products, services, Content, Intellectual Property or Third-Party Licensed Intellectual Property in whole or in part without our prior written consent. We reserve the right to immediately remove your access to our Site, products, services, and Content, without refund, if you are found to be violating these Terms.

#### *Limited Licence*

Where you download or purchase our Digital Products (including checklists, guides, ebooks, workbooks, video or audio content), you are granted a non-exclusive, non-transferable, limited licence to access and use these for your own personal purposes. You may not assign or transfer these digital products to any other person without our express written consent. We reserve the right to refuse to provide any products and/or services to you at any time for any reason.

Except as otherwise provided, you acknowledge and agree that you have no right to modify, edit, copy, reproduce, create derivative works of, reverse engineer, alter, sell, create derivative works of, enhance or in any way exploit any of our products (including Digital Products) in any manner whatsoever except as authorised by us.

## **LINKS TO OTHER WEBSITES**

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Our Site and social media channels may have links to other sites operated by third parties. Unless we expressly tell you otherwise, we do not in any way endorse, control or approve of, nor are we responsible for, the content on those websites. It's up to you to decide if those websites and their content are suitable and appropriate for you.

## **PRIVACY**

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These Terms also include our Privacy Policy which sets out how we use your personal information, which can be accessed [here](#). By using our Site, you consent to the usage of your information as described in the Privacy Policy and warrant that all data provided by you is accurate.

## **CREATING AN ACCOUNT**

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To place orders and access some features of the Site, you may need to register an account. This means you will have to give us accurate information, including your name, your business name, address, a valid email address and telephone number, and you must be at least 18 years old. You warrant that any information you provide during the account setup process is correct at the time you provide the information and that you will update information should there be any changes. You will remain solely responsible for the activity that occurs on your account (including orders placed on your account), so keep your account password secure.

We reserve the right to suspend or cancel your account at any time, at our sole discretion, if you breach any provision of the Terms or applicable law or where your conduct impacts our reputation.

## **DIGITAL PRODUCTS**

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Where you download or purchase our Digital Products, you are granted a non-exclusive, non-transferable, limited licence to access and use the Digital Products for your own personal use. You may not assign or transfer the Digital Products to any other person without our express written consent. We reserve the right to refuse to provide the products to you at any time for any reason.

After payment for your Digital Product has been confirmed, you will have the option to download it and all responsibility for maintaining the downloaded copy is transferred to you. We will not be responsible for any issues with the Digital Product after it has been downloaded.

Except as otherwise expressly stated, you have no right to modify, edit, copy, reproduce, create derivative works of, reverse engineer, alter, sell, create derivative works of, enhance or in any way exploit any of the Digital Products in any manner whatsoever except as authorised by us.

## **REFUNDS FOR DIGITAL PRODUCTS**

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Due to the nature of Digital Products, any orders received and processed have a strict no refund policy. Where the incorrect Digital Product is sent to you, or where the link provided to download the Digital Product is not working, we will send the correct Digital Product or a revised download link at no extra cost.

## **PRICES AND PAYMENT**

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All prices are in Australian Dollars (AUD) and are inclusive of any Australian Goods and Services Tax (GST) (as applicable). The prices indicated on the Site may change at any time without advance notice to you. Purchases will be charged at the price in force at the time your order is validated.

We reserve the right at any time to modify or discontinue the product or service without notice at any time. We shall not be liable to you, or to a third party, for any modification, price change, suspension or discontinuance of the product or service.

We may from time to time provide discounted products and/or services. You may only use one discount code with each purchase. We reserve the right to reject or cancel any orders where you add more than one discount code. We allow you to use discount codes strictly on the terms and conditions upon which they were issued which, amongst other things, may include terms relating to your eligibility to use them and a maximum order value. Discount codes and/or vouchers cannot be used in conjunction with any other offer or promotion.

We offer the option to pay for our products and/or services by credit card or such other method of payment as indicated on our Site. You acknowledge and agree to make timely and full payments to us for the products and/or services purchased. Where you use a credit card, you warrant that you have the necessary rights and authority to use that credit card. You authorise us to automatically charge the credit card on file for any and all payment balances owed and agree to keep all billing information current at all times. Where you fail to make payment or payment is declined for any reason, we may revoke your access to our products or services.

## **CANCELLATIONS**

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We reserve the right to postpone or cancel the Services, or reschedule them at a mutually convenient time, for any reason. If the Services have been cancelled by us and not rescheduled, we will refund the fees paid for the cancelled portion of the Services.

Should you need to cancel any part of our services for any reason, or you wish to reschedule the services, but we are unavailable on the new date, you acknowledge that you will be liable for an additional fee.

When you cancel the Services, you must notify us via our nominated email address 14 days prior to Your scheduled appointment. If at least 14 days' written notice is not provided, you will not be entitled to a refund and may incur a cancellation fee. You may also be unable to reschedule the Services.

If you have cancelled the Services and provided the requisite notice, you can either suspend the Services for a maximum of 3 months; or obtain a refund on the Services that are yet to be used, which may incur a Cancellation Fee.

You acknowledge that we are not responsible for any breach of a third-party contract or any supplier contract to the services, including to the extent that this means the services may not proceed.

Where a Force Majeure event necessitates that any part of our services be cancelled or postponed, you acknowledge that we will not be responsible for any loss or damage incurred as a result.

## **REFUNDS FOR SERVICES**

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You will only be entitled to a refund at our sole discretion or where we determine that we are unable to perform the services for any reason. You acknowledge that you do not obtain the right to a refund where you have changed your mind, or you insist on our services being performed in a way that is against our advice.

Where you have paid a deposit for our services, you acknowledge that this payment is non-refundable and non-transferable regardless of whether the services go ahead.

Refunds in lieu of money (such as credit for other services) may be offered to you at our sole discretion.

## **ELECTRONIC COMMUNICATIONS AND ELECTRONIC SIGNATURES**

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You acknowledge and agree that you will be bound by any affirmation, acceptance or agreement that is transmitted through our Site, including but not limited to any consent you provide to receive communications from us. You further acknowledge and agree that when you click on or tick "I agree", "I consent", or other similarly worded click or tick options by electronic means, using an electronic device such as your mobile phone, tablet, desktop, laptop or any other device capable of allowing you to click or tick, your agreement and/or consent will be legally binding and enforceable and will be deemed to be as effective as if you had written your signature by hand.

## **INFORMATION AND ADVICE**

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Our Site contains content, including digital products, blog articles, and other information, that is of a general informational nature only. This information is not intended to constitute or replace professional advice for individual or specific situations. We do not purport to be legal or medical practitioners, financial advisors or any other type of licensed professional and cannot be held liable for any reliance on the information we provide, either on our Site or through our products and/or services.

Where our products, services, programs or courses incorporate [activities/treatments/procedures] that may affect your health, you warrant that you are fit to participate and have sought the advice of a medical practitioner accordingly, particularly if you have pre-existing health conditions.

We do not accept responsibility for determining whether our products and/or services are appropriate for you. We reserve the right to deny service and refund the cost of that product and/or service for any reason, including where we believe that the product and/or service would be dangerous or not appropriate for you, or we believe that further professional advice should be sought.

Any reference to other products or services, programs, courses, processes or other information appearing on our Site does not constitute or imply our endorsement, sponsorship or recommendation in any way.

## **SUBMITTING CONTENT TO SITE AND SOCIAL MEDIA**

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We always appreciate interaction on our social media channels and feedback about our Site, products and services, as it helps us to improve our Site and our products and services. Through the use of our Site, you may be invited to submit a review, and you can also comment on our blog or other parts of our Site or interact with us via our social media channels. We love to hear from you!

Where you do decide to submit such feedback or comments, you:

- warrant that you are the sole author and owner of the intellectual property and any other rights in any content provided (or have the right to use that content with appropriate consents and permissions);
- give us permission to post or otherwise use that feedback on our social media or other channels;
- waive any and all existing and future moral rights (as defined in the Copyright Act 1968 (Cth) in the content you provide us with;
- warrant that any content provided does not violate these Terms; and
- warrant that you are at least 18 years old.

We reserve the right to remove a review or comment if such review or comment contains:

- libellous or otherwise unlawful, abusive or obscene material;
- personal attacks on our employees or another contributor;
- material that discloses your personal information; or
- Information that is unrelated to the post or content that you have reviewed or commented on.

Our Site and social media channels may feature user reviews of our products and/or services. These reviews in no way represent our views or opinions, but are the sole product of their creator. We disclaim all liability with respect to any content submitted by any users.

## **COMPETITIONS**

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We may from time to time run competitions through our Site and/or through our social media channels. Your participation in those competitions is subject to these Terms and any terms and conditions that are specific to each competition.

## **TESTIMONIALS**

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On our Site, we present real-life examples of and insights into other customers' and/or clients' experiences with our products and/or services for illustration purposes only. Any results presented demonstrate to users what can be possible, but are not intended to represent or guarantee that any current or future users of our programs, courses, products and/or services will achieve the same or similar results.

Where you have provided testimonials (in any format), you acknowledge that we may use these along with reference to you on our Site and social media channels, or any other avenue, for promotional and other purposes at our discretion.

## **PROHIBITED USE**

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In addition to any other prohibitions, you must not, under any circumstances, use the Site or its content:

- for any unlawful purpose;
- to solicit others to perform or participate in any unlawful acts;
- to violate any international, federal, or state regulations, rules, laws, or local ordinances;
- to attempt to change, remove, deface, hack or otherwise interfere with our Site or any material or content displayed on the Site;
- to hack into any aspect of the Site, corrupt data, or cause annoyance to other users;

- to infringe upon any other person's proprietary rights;
- to send any unsolicited advertising or promotional material, commonly referred to as “spam”; or
- to attempt to affect the performance or functionality of any computer facilities of or accessed through our Site.

## **WARRANTIES AND DISCLAIMERS**

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This Site is provided on an “as is” and “as available” basis and to the fullest extent permitted by law we make no representations or warranties about our Site and/or our products or services including that:

- they are suitable, reliable, complete, secure, accurate or fit for any particular purpose;
- access will be free of any harmful components (including viruses) or other code that is harmful or may assist in causing harm; or
- there is no possibility of failure to store communications or other data.

## **LIMITATION OF LIABILITY**

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To the fullest extent permitted by applicable laws, in no event are we, any of our subsidiaries, or any of their shareholders, directors, officers, employees or licensors responsible for any losses and expenses, however arising, including without limitation, any direct, indirect and/or present, unascertained, future or contingent, loss of use, loss of data, loss caused by a virus, loss of income or profit or projected profit, loss or damage to property, claims of third parties, or other losses of any kind or character arising from or in connection with your use of our Site and/or our products or services, your inability to access our Site, interruption or outage of our Site or the fact that content on our Site or in our services is inaccurate, incomplete or out of date. Our liability for any breach of a condition or warranty under these Terms shall be limited to the extent provided for by the Australian Consumer Law (Schedule 2 of the Competition and Consumer Act 2010).

## **OUR RIGHT TO BE INDEMNIFIED BY YOU**

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To the fullest extent permitted by applicable laws, you agree to indemnify, and hold us and our related entities, affiliates, and our and their respective officers, agents and employees harmless from any loss, liability, claim, or demand, (including reasonable legal fees on a full indemnity basis), made by any third party due to or arising out of your use of our Site in violation of these Terms and/or arising from a breach of these Terms and/or any breach of your representations and warranties set out in these Terms or your breach of any law or the rights of a third party.

## **ADDITIONAL TERMS**

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Where you elect to enter into a one-on-one arrangement with us, we will issue you with a Services Agreement (Additional Terms) that incorporates terms and conditions separate to these Terms. These Additional Terms will form the basis of your arrangement with us and will operate in conjunction with these Terms. To the extent that the Terms are inconsistent with the Additional Terms, the Additional Terms will prevail.

## **BREACH AND TERMINATION**

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The agreement constituted between us by your use of the Site may be terminated:

- a. where you breach any provision of these Terms; or
- b. at any time by us, without notice, in which case all disclaimers and limitations of liability will survive termination, and you will no longer be authorised to access the Site.

## **SEVERABILITY**

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If any term or provision of these Terms is held by a court of competent jurisdiction to be contrary to law, such provision will be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law. The remaining provisions of these Terms will remain in full force and effect.

## **CEASING OUR WEBSITE**

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We have the right to discontinue our Site. If we decide to do this, it can be at any time and may be without notice to you. We may also exclude any person from using our Site, at any time and at our sole discretion. We will not be responsible for any liability you may suffer arising from or in connection with any such discontinuance or exclusion.

## **ASSIGNMENT**

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We are permitted to assign, transfer and subcontract our rights and/or obligations under these Terms without any notification or consent to you. However, you are not permitted to assign, transfer or subcontract your rights and/or obligations under these Terms.

## **ENTIRE AGREEMENT**

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These Terms (together with our Privacy Policy, Additional Terms and disclaimers) constitute the entire understanding and agreement between us and you in relation to your use of our Site and supersede all previous communications, negotiations, and agreements, whether oral, written, or electronic, with respect to our Site and your use of our Site.

## **GOVERNING LAW AND JURISDICTION**

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All Terms shall be construed in accordance with and governed in all respects by the laws of South Australia, Australia. In relation to any dispute, we ask that you contact us in the first instance so that both parties can, acting in good faith, resolve the dispute to our mutual satisfaction as quickly and cost-effectively as possible. Where a dispute cannot be resolved, you agree to submit to the exclusive jurisdiction of the courts of South Australia, Australia.