

MasterTube | Terms and conditions for educational institutions

Version 2.0 | December 2020

This document contains the terms and conditions of **MasterTube B.V.**, with its principal office located at Singel 92 C in 1015AD Amsterdam, the Netherlands and registered with the Dutch Chamber of Commerce under registration no. 77866282 (**'MasterTube'**).

These terms and conditions are applicable to any agreement for the provision of services by MasterTube (**'Agreement'**) entered into by MasterTube and the educational institution (**'Customer'**) that opens an account (**'Account'**) on one of the MasterTube websites: www.mastertube.com, www.mbatube.com, www.mbagradschools.com and/or www.mastergradschools.com (**'Websites'**).

MasterTube and Customer may collectively be referred to as **'Parties'** and individually as **'Party'**.

Article 1. Conclusion, scope and nature of Agreement

Conclusion

- 1.1. The Agreement is concluded with Customer's completion of the registration form for an Account on the Website(s), and subsequent receipt of a registration confirmation from MasterTube, automated or otherwise.

General

- 1.2. The Agreement governs the access to and use of the Website(s), video platform(s), products and/or services (**'Services'**) by Customer and the provision of the Services to Customer by MasterTube.
- 1.3. In addition to the Agreement specific terms and conditions may apply to certain Services (**'Additional Terms'**). Such Additional Terms will be made available to Customer with the relevant Services before use and will become an integral part of the Agreement if Customer uses those Services. To the extent that there is a conflict between the Agreement and any Additional Terms, the Additional Terms shall precede.

Amendments and modifications

- 1.4. MasterTube may, from time to time, amend the Agreement and Additional Terms. Customer will be notified in writing of any amendments of the Agreement at least one (1) week before they come into effect. Amendments of Additional Terms will be published with the relevant Services and will come into effect according to the Additional Terms' respective amendment provisions. If Customer does not agree to the modified terms, Customer should discontinue its use of the Services and close its Account, thus terminating the Agreement.
- 1.5. MasterTube may, from time to time, modify the Services. If MasterTube makes a material change to the Services MasterTube will inform Customer, provided that Customer has subscribed with MasterTube to be informed about such change.

- 1.6. In neither case, as mentioned in Article 1.4 and Article 1.5, will Customer be entitled to any refund of any sums previously paid to MasterTube (including outstanding credits) or will MasterTube be liable for any loss or damage, of any kind, direct or indirect, in connection with or arising from a modification of the Agreement or the Services.

MasterTube obligations

- 1.7. MasterTube, as part of the Services, will:
- a. provide a platform to Customer to distribute information on its organisation and master studies (**'Customer Content'**) to MasterTube's consumer end users (**'End Users'**), provided and to the extent that such distribution is supported by the functionality offered by the Services;
 - b. provide Customer with information on End Users using the Website(s) to search for or show interest in Customer's and other educational institutions' organisation and master studies (**'End User Data'**), provided and to the extent that such provision is part of the Services which Customer has subscribed to and paid for; and
 - c. provide all other Services to Customer, which MasterTube specifically committed itself to in any Additional Terms or in a separate written agreement.
- 1.8. All obligations to be carried out by MasterTube constitute obligations of effort. Only in case Parties have specifically agreed otherwise, by having stated so in a separate written agreement and in a specified manner, an obligation to be carried out by MasterTube will constitute an obligation of result. In the event of doubt as to the nature of one of MasterTube's obligations, such obligation shall be deemed to be a best effort obligation unless proven otherwise by Customer.

Customer obligations

- 1.9. Customer will:
- a. compensate MasterTube for the Services;
 - b. provide MasterTube with the co-operation, information, materials and data reasonably requested by MasterTube in order to ensure an adequate execution of this Agreement; and
 - c. comply with all other obligations of Customer as described in the Agreement.
- 1.10. Customer agrees not to, and not to allow third parties, to use the Services:
- a. for other purposes than promoting its own organisation and/or master studies to the End Users;
 - b. to violate, or encourage the violation of, the legal rights of others or any law;
 - c. for any unlawful, invasive, infringing, defamatory, or fraudulent purpose;
 - d. to intentionally distribute viruses, worms, Trojan horses, corrupted files, hoaxes, or other items of a destructive or deceptive nature;
 - e. to alter, modify, disrupt, disable, circumvent, impair or interfere, directly or indirectly, with any part of the Services;
 - f. to collect any personal data of any End User of the Services without prior written approval of MasterTube;
 - g. to collect, copy, reproduce, transmit, broadcast, display, sell, license or otherwise exploit or distribute any part of the Services, including but not limited to the text, comments, reviews, links, playlists, graphics, photos, sounds, videos and other materials and information Customer may view on or access through the Services, not being Customer Content (**'Other Content'**), without prior written approval from MasterTube or the licensors of the Content.

- 1.11. Customer may share the username and password of its Account with one or more of its employees. Customer is responsible for (i) its employees keeping the username and password combination confidential and (ii) ensuring that all activities that occur through the Account comply with the Agreement and, mutatis mutandis, the terms of use which cover the use of the Services by natural persons and which can be found at *mastertube.com/page/terms-of-use* (**'Terms of Use'**).
- 1.12. Customer may appoint a limited number of End Users to act as ambassadors on its behalf through the Services. Customer acknowledges that such ambassadors are in no way affiliated with MasterTube. Responsibility for any content or other information entered into and/or published through the Services by Customer and/or the ambassadors in relation to the ambassadorship rests with the Customer and/or ambassador respectively. MasterTube shall assume no liability in this regard. Customer will ensure that it has received all necessary consents, licenses and permissions in relation to the information (including personal data) entered into the Services in relation to the ambassadorship.
- 1.13. Customer will not (i) sell, resell, lease or the functional equivalent, the Services to a third party, (ii) attempt to reverse engineer the Services or (iii) attempt to create a substitute or similar service through use of, access to, the Services.

Article 2. Default

- 2.1. A Party is in default if it has failed to meet any material obligation due under this Agreement (i.e. a material breach) and, to the extent that remedy is possible, it has not remedied such non-performance within a reasonable term as granted to it by the other Party in a written notice of default (**'Default'**). Any notice or other written communication in which a Party clearly states that the other Party is not fulfilling its obligations, which obligations it is not fulfilling and requesting the remedy of such non-performance within a reasonable term, shall be considered as a notice of default.
- 2.2. For the purpose of this Agreement, breaches of any of Customer's obligations under this Agreement that individually do not constitute a material breach may collectively be deemed a material breach.
- 2.3. Repeated breaches or a series of breaches of the Agreement by Customer (whether or not remedied) of such frequency or nature that they have a material impact on the conduct of MasterTube's operations or business will in any event qualify as a material breach.

Article 3. Term and termination

Term

- 3.1. The Agreement is effective as of the date of the event described in Article 1.1 (**'Effective Date'**) and shall remain in full force and effect until the earlier of (i) Customer discontinues its use of the Services and closes the Account or (ii) the Agreement is terminated by either Party as described below.

Termination for breach

- 3.2. A Party may at its option terminate this Agreement in whole or in part with immediate effect by notifying the other Party in writing if the other Party is in Default.

Termination for cause

- 3.3. Without prejudice to any of its other rights and obligations, a Party may at its option terminate this Agreement with immediate effect by notifying the other Party in writing if any of the following events occurs:

- a. The other Party has ceased to exist or has been dissolved;
 - b. The other Party has been declared bankrupt, or it has been granted suspension of payments;
 - c. The other Party's business has been discontinued without providing a solvent and for the former Party acceptable successor continuing the other Party's obligations under this Agreement;
 - d. The other Party is unable to perform its obligations due to a force majeure event, provided that the force majeure event lasts more than 30 days and the Parties, after good faith negotiation, are unable to reach a temporary solution for the force majeure period.
- 3.4. MasterTube may (partially) terminate Customer's use of the Services and the Agreement at any time and with or without prior notice or explanation, if:
- a. MasterTube is required to do so by law;
 - b. Customer is subject to a change of control;
 - c. MasterTube decides to cease providing the Service; or
 - d. providing the Service is, in MasterTube's opinion, no longer commercially viable.
- 3.5. Only in case of each of Article 3.4.b and Article 3.4.d shall MasterTube, where possible, give reasonable notice of such termination.

Effects of termination

- 3.6. In deviation of Dutch law, termination or dissolution for breach as described above will not cause any obligations to undo.
- 3.7. Termination of the Agreement will:
- a. be without compensation by MasterTube and without liability or obligation from MasterTube to Customer;
 - b. not discharge Customer from any outstanding payment obligations towards MasterTube;
 - c. not entitle Customer to any refund of any sums previously paid to MasterTube (including outstanding credits); and
 - d. not discharge Customer from obligations, which, by their nature, are intended to continue in force thereafter. These obligations include in any event any indemnifications, warranties and limitations and the provisions on intellectual property rights, data protection, disputes and the applicable law.

Article 4. Suspension

- 4.1. MasterTube is entitled to suspend the provision of the Services if Customer fails to meet its obligations under the Agreement.
- 4.2. Notwithstanding Article 3, Customer is not entitled to suspend the fulfilment of its obligations, including but not limited to its payment obligations, should MasterTube fail to meet its obligations under the Agreement.

Article 5. Charges and payment

General

- 5.1. Services will not be rendered by MasterTube until MasterTube has been able to verify that the relevant payment due has actually been received by MasterTube.

Charges

- 5.2. The charges payable by Customer for the Services ('Charges') are specified on the relevant order page of the Website(s) ('Order Page') or invoice.

- 5.3. Prices are in Euro and exclusive of value added tax, unless otherwise indicated on the relevant Order Page or invoice.
- 5.4. Customer is responsible for any duties, customs fees or taxes associated with the sale of the Services, including any related penalties or interest ('**Taxes**'), and Customer will pay the Charges without any reduction for Taxes. If MasterTube is obligated to collect or pay Taxes, the Taxes will be invoiced to Customer, unless Customer provides MasterTube with a valid tax exemption certificate authorised by the appropriate taxing authority. If Customer is required by law to withhold any Taxes from its payments to MasterTube, Customer must provide MasterTube with an official tax receipt or other appropriate documentation to support such payments.

Payment

- 5.5. All payments are in Euro unless otherwise indicated on the relevant Order Page or invoice.
- 5.6. Payments can either be done by (i) online payment, e.g. credit card, debit card, PayPal, etcetera, (ii) prepaid credits and (iii) bank payment on the basis of an invoice. Any charges applying to these payment methods are for the account of Customer.
- 5.7. In case Charges are invoiced, the relevant invoice will mention the applicable payment term.
- 5.8. Interest shall accrue on overdue payments, calculated on a day-to-day basis (both before and after any judgement) from the due date for payment to the date of full payment at the rate of 2% above EURIBOR.

Article 6. Customer Content

- 6.1. Customer is entitled to submit Customer Content to the Website(s) and video platform(s) to the extent and in the form the functionality of the Services allow such.
- 6.2. Customer is and will at all times remain solely responsible for its Customer Content and the consequences of submitting it. MasterTube expressly disclaims any and all liability in connection with the Customer Content.
- 6.3. Customer may not submit Customer Content that is violating any law, the Agreement, the Terms of Use and/or any applicable Additional Terms.
- 6.4. MasterTube has the right, but not the obligation, to review Customer Content in order to determine whether such Customer Content is illegal or in violation of the Agreement, Terms of Use and/or any applicable Additional Terms. MasterTube may remove, edit or reject Customer Content, without notice to Customer and at its sole discretion, if MasterTube believes that such Customer Content is (potentially) in violation of any law, the Agreement, the Terms of Use or any applicable Additional Terms or (potentially) contrary to MasterTube's commercial interests.

Article 7. Intellectual property

Definitions

- 7.1. For the purpose of this Article 7 '**Intellectual Property Rights**' means patents, trademarks, copyright, typography rights, database rights (including rights of extraction), registered designs and unregistered design rights, trade secrets and the right to keep information confidential, and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world, whether or not any of them are registered and including applications for registration of any of them.
- 7.2. For the purpose of this Article 7 '**IPR Materials**' means any material or information (including but not limited to text, graphics, photo's, sounds, videos, (trade) names, logos, symbols, designs, domain names, software, documentation and data) of either

Party or its third party licensors which (i) is or forms part of the Services, (ii) is used by MasterTube or its subcontractors for the provision of the Services or (iii) is used by Customer, directly or indirectly, for or in relation to the receipt of the Services and:

- a. exists at the Effective Date; or
- b. is created, written or otherwise brought into existence after the Effective Date, but independently and not pursuant to the Agreement.

7.3. Customer Content is considered IPR Material of Customer.

Intellectual Property Rights

7.4. This Agreement does not affect the ownership of Intellectual Property Rights in IPR Materials. All Intellectual Property Rights in a Party's IPR Materials shall remain exclusively vested in that Party and its licensors.

7.5. All Intellectual Property Rights that can be exercised in relation to (the results of) the Service are vested in MasterTube or its licensors.

License

7.6. By submitting Customer Content Customer grants:

- a. to MasterTube, a worldwide, irrevocable, non-exclusive, royalty-free, transferable, perpetual and in all other ways unrestricted license to use, reproduce, distribute, prepare derivative works of, modify, perform, display, publish and otherwise exploit all or any portion of the Customer Content in connection with the Services and otherwise in connection with MasterTube's business, including without limitation for the promotion of the Services, for example by publishing the Customer Content on its social media platforms and by way of its newsletters. The license includes the right for MasterTube to grant sub-licenses others to the same extent;
- b. to other users of the Services, including End Users, a worldwide, irrevocable, non-exclusive, royalty-free, perpetual license to access the Customer Content through the Services and to use the Customer Content to the extent permitted by the functionality of the Services and under the Terms of Use and any applicable Additional Terms.

Article 8. Representations, warranties and disclaimers

Warranties

8.1. Each Party represents that it has full power and authority to enter into the Agreement. Each Party warrants that it will comply with all laws and regulations to its provision, or use, of the Services, as applicable.

8.2. Customer represents and warrants that it has all necessary rights, licenses, permissions and consents which are required to enable MasterTube to use the Customer Content for the purposes of providing the Services.

8.3. Customer represents and warrants that the Customer Content does not contain any material that is subject to Intellectual Property Rights of third parties, unless Customer has the right, license, permission or consent from the rightful owner to do so and to grant MasterTube and the other users of the Services the license described in Article 7.6.

Disclaimers

8.4. Customer acknowledges that the Services are provided 'as is'.

8.5. Customer acknowledges and agrees that, to the fullest extent permissible by law, MasterTube nor its partners (e.g. suppliers, licensors, distributors) make any warranty

or representation of any kind to Customer with respect to the Services. In particular MasterTube does not warrant or represent to Customer that:

- a. Customer's use of the Services will meet its requirements;
- b. the Services will be provided uninterrupted, timely, secure or free from errors; and
- c. defects in the operation of the Services or functionality offered by the Services will be corrected.

Article 9. Liability and indemnification

Exclusion

9.1. Neither Party will be liable (whether in contract, tort, (including negligence) or otherwise) for any indirect, incidental, punitive or consequential loss, damage, cost or expense of any kind whatsoever and howsoever caused, even if that Party has been advised of or should have been aware of their possibility.

Limitation

9.2. In respect of any liability which is not within the scope of Article 9.1, MasterTube's liability under or in connection with this Agreement shall not exceed the smaller of:

- a. the amount paid by Customer to MasterTube hereunder during the six months prior to the event giving rise to liability; or
- b. 10,000 Euro.

Exceptions

9.3. The exclusion and limitation of liability above do not apply for:

- a. death or personal injury to the extent it results from the negligence of a Party, its employees or subcontractors in the course of their engagement;
- b. wilful intent, fraud and gross negligence;
- c. breaches by Customer of Article 1.10.a;
- d. violation by Customer of Article 10;
- e. violation by Customer of MasterTube's or its licensors' Intellectual Property Rights; and
- f. indemnification obligations.

Indemnification

9.4. Customer indemnifies and holds MasterTube and its partners (e.g. suppliers, licensors, distributors) harmless from any and all claims, liabilities, losses, damages, costs and expenses in connection with or arising from (i) Customer's use of the Services, (ii) Customer's or its employees' failure to comply with the Agreement, the Terms of Use and the applicable Additional Terms, including but not limited to Customer breaching Article 10.5, or (iii) Customer Content.

Force majeure

9.5. MasterTube cannot be obliged to perform any obligation under the Agreement if the performance is prevented due to force majeure. MasterTube is not liable for any loss and/or damage due to force majeure.

9.6. Force majeure is considered to exist in any event in case of power outages, Internet failures, telecommunication infrastructure failures, network attacks (including D(DOS) attacks), attacks by malware or other harmful software, civil commotion, natural disaster, terror, mobilisation, war, import and export barriers, strikes, stagnation in

supplies, fire, floods and any circumstance whereby MasterTube is not enabled to perform or prevented from performing by its suppliers, irrespective of the reason..

Article 10. Confidentiality and data protection

Confidentiality

- 10.1. Each Party undertakes to the other that (unless the prior written consent of the other Party has first been obtained) it shall keep confidential and not by failure to exercise due care or otherwise by any act or omission disclose to any person whatever, or use or exploit commercially for its or their own purposes, any confidential information (**'Confidential Information'**) of the other Party. For the purpose of this Agreement, Confidential Information includes documents, specifications, (personal) data as well as other information, which is either designated as such or is to be regarded as confidential by its nature.
- 10.2. Confidential Information does not include information that (i) the recipient of the Confidential Information already knew, (ii) becomes public through no fault of the recipient, (iii) was independently developed by the recipient or (iv) was rightfully given to the recipient by a third party.

Exceptions

- 10.3. Each Party may disclose the other Party's Confidential Information when required by law but only after it, if legally permissible (i) uses commercially reasonable efforts to notify the other Party and (ii) gives the other Party the chance to challenge the disclosure.
- 10.4. Pursuant to Article 7.6.a Customer agrees that MasterTube may include Customer's name and logo in a list of MasterTube customers, online or in promotional materials and use Customer Content to that extent. Customer also agrees that MasterTube may verbally reference Customer as customer of MasterTube's Services.

Data protection

- 10.5. To execute the Agreement, MasterTube may process personal data on behalf of Customer through the Services it provides. In such case, the conditions as laid down in this article, are considered to be a data processing agreement in the sense of article 28 (3) of the General Data Protection Regulation (hereinafter: GDPR), in which Customer is a controller, and MasterTube is a processor.
- 10.6. The terms in this article that relate to the processing of personal data, have the meaning as defined by the GDPR, unless another definition is given here.
- 10.7. MasterTube processes personal data on behalf of Customer in accordance with the conditions and for the purposes laid down in this article. The processing will be executed exclusively within the framework of the Agreement, and for all such purposes as may be agreed to subsequently.
- 10.8. MasterTube will not take any independent decisions about the processing of personal data for other purposes, including but not limited to the provision of personal data to third parties and the retention periods of the data. The control over the personal data processed under this article and/or other agreements between the Parties rests with Customer.
- 10.9. Personal data MasterTube may process of school representatives, testimonies, students and ambassadors on behalf of Customer are: school name, name, payment details, e-mail address and secondary e-mail address, account details, ID, profile views, credits, premium account, last login, activity, job title, country, specializations, school URL, language of instruction, program type, study mode, tuition fee range, program duration, accreditation, school description, region, (selected) campus location(s), e-

- mail address for notifications, address details, invoice address, comments, video image, any information disclosed in videos, nationality, LinkedIn data, master's program, picture, any information disclosed as the content of a message.
- 10.10. MasterTube and Customer shall comply with the applicable laws and regulations governing the protection of personal data, under which the GDPR. Customer represents and warrants that any submission or uploading of (personal) data to MasterTube is lawful and that the processing of such data in accordance with the Agreement does not contravene any applicable privacy laws and regulations.
- 10.11. MasterTube shall furnish Customer promptly, on request, with details regarding the measures it has adopted to comply with its obligations under this article, and the applicable privacy laws and regulations. Besides that, MasterTube will assist Customer, where necessary, for fulfilment of its (legal) obligations based on the GDPR. MasterTube shall inform Customer if, in its opinion, an instruction by Customer constitutes an infringement with the applicable laws and regulations regarding the protection of personal data.
- 10.12. If there is any (legal) obligation or requirement for MasterTube to assist Customer based on the GDPR, MasterTube will assist Customer in informing the supervisory authority and/or the data subjects.
- 10.13. MasterTube may process the personal data in any country within the European Economic Area (EEA). Transmission of the personal data to countries outside the EEA is also allowed, provided that the legal requirements for doing so have been fulfilled.
- 10.14. Customer hereby grants MasterTube general authorization to engage third parties (subprocessors). Upon request of Customer, MasterTube shall inform Customer of the subprocessors engaged. On the basis of duly justified arguments, Customer has the right to object to new or to be changed subprocessors. In such case, the Parties shall consult each other to find a workable solution. MasterTube ensures that subprocessors will be obliged to agree in writing to the same duties as are agreed between Customer and MasterTube.
- 10.15. MasterTube shall take adequate technical and organizational measures against loss or any form of unlawful processing (such as unauthorized disclosure, deterioration, alteration or disclosure of personal data). MasterTube will provide Customer, upon request, insight in its security policy, insofar is relevant for the Services. MasterTube does not warrant that the security is effective under all circumstances. Customer shall only provide personal data to MasterTube if it has ensured that the required security measures have been taken.
- 10.16. In the event of a security breach in the sense of article 4 (12) of the GDPR, MasterTube shall, to the best of its ability, notify Customer thereof without undue delay after discovery of the security breach, after which Customer shall determine whether or not to inform the supervisory authority and/or the data subjects. The notification shall in any case include the fact that a security incident has occurred, as well as any other information known in this regard to MasterTube.
- 10.17. Where a data subject submits a request to MasterTube to exercise one of its legal rights based in Chapter III of the GDPR, MasterTube will forward this request to Customer. Customer will then deal with this request. MasterTube may notify the data subject hereof. In case it is necessary, MasterTube will support Customer in order to enable the data subject to exercise his/her legal rights.
- 10.18. Customer has the right to conduct an audit, by an independent third party who shall be bound by confidentiality, to control compliance of MasterTube with this article. Customer is allowed to perform an audit once per two years, or more frequently if Customer has a concrete suspicion of abuse of personal data by MasterTube. The audit shall take place no earlier than two weeks after notification by Customer to MasterTube

and without viewing confidential information. MasterTube will contribute to the audit, and will provide Customer as soon as possible with all reasonably relevant information, including but not limited to supporting data such as system logs and employees.

- 10.19. The findings in respect of the performed audit will be discussed and evaluated by the Parties and, where applicable, implemented by MasterTube. The costs of the audit shall be borne by the Party that incurs them.
- 10.20. In case Customer initiates a Data Protection Impact Assessment ('DPIA'), MasterTube shall assist Customer where possible in fulfilling the DPIA, by inter alia providing the required information to Customer that is available for MasterTube.
- 10.21. MasterTube may charge Customer reasonable costs for providing assistance with meeting data subject's rights, DPIA's, prior consultation and demonstrating compliance with the GDPR.
- 10.22. In the event that the Agreement is terminated, the amounts owed to MasterTube by Customer will become immediately due and payable (irrespective of the reason for the termination).
- 10.23. Upon termination of the Data Processing Agreement MasterTube shall, at the request, and at the expense, of Customer:
- return to Customer in original format all personal data available to it; or
 - destroy all personal data available to it.

Article 11. Miscellaneous

- 11.1. Unless specified otherwise herein, all notices must be in writing and addressed to the attention of the other party's legal department and primary point of contact.
- 11.2. Where the Agreement refers to "written" or "in writing", this also includes e-mail communication provided the identity of the sender and the integrity of the content can be adequately established.
- 11.3. Customer may not assign or transfer any of its rights and obligations under this Agreement to any third parties without the written consent of MasterTube.
- 11.4. No delay or failure by either Party to exercise any of its powers, rights or remedies under this Agreement will operate as a waiver of them, nor will any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing.
- 11.5. If any part of this Agreement is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable then such part will be severed from the remainder of this Agreement, which will continue to be valid and enforceable to the fullest extent permitted by law.
- 11.6. Parties are independent contractors and this Agreement does not create an agency, partnership or joint venture.
- 11.7. Nothing in this Agreement is intended to confer any benefit on any third party or any right to enforce a term contained in this Agreement.
- 11.8. The Agreement is governed by the laws of the Netherlands. Any legal matter about or in connection with the Agreement will be submitted to the exclusive jurisdiction of the courts of Amsterdam, the Netherlands.
- 11.9. Any amendments to the Agreement must be in writing and expressly state that it is amending this Agreement.