

Markforged Terms of Service

THESE TERMS OF SERVICE (THESE “**TERMS OF SERVICE**”) ARE ENTERED INTO BY AND BETWEEN YOU (“**YOU**”, “**YOUR**”) AND MARKFORGED, INC., A DELAWARE CORPORATION (“**MARKFORGED**”), AND GOVERN YOUR USE OF THE MARKFORGED TECHNOLOGY (AS DEFINED BELOW). BY CREATING AN ACCOUNT (AS DEFINED BELOW), USING THE CLOUD SERVICE (AS DEFINED BELOW) OR OTHERWISE INDICATING YOUR ACCEPTANCE OF THESE TERMS OF SERVICE (INCLUDING BY CHECKING A BOX INDICATING SUCH ACCEPTANCE OR SELECTING “I ACCEPT”) (THE EARLIEST OF WHICH IS REFERRED TO HEREIN AS THE “**ACCEPTANCE DATE**”), YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOU HAVE READ THESE TERMS OF SERVICE, ARE BOUND BY THESE TERMS OF SERVICE, AND HEREBY AGREE TO THE TERMS AND CONDITIONS SET FORTH HEREIN. IF YOU ARE AN INDIVIDUAL ENTERING INTO THESE TERMS OF SERVICE ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU HEREBY REPRESENT AND WARRANT TO MARKFORGED THAT YOU ARE AUTHORIZED TO ENTER INTO THESE TERMS OF SERVICE ON BEHALF OF SUCH ENTITY AND BIND SUCH ENTITY TO THE TERMS AND CONDITIONS CONTAINED HEREIN, IN WHICH CASE, THE TERMS “YOU” AND “YOUR” WILL REFER TO SUCH ENTITY. IF YOU DO NOT ACCEPT ALL THE TERMS AND CONDITIONS HEREIN OR ARE NOT AN AUTHORIZED AGENT FOR THE ENTITY ENTERING INTO THESE TERMS OF SERVICE, DO NOT CREATE AN ACCOUNT OR OTHERWISE USE THE CLOUD SERVICE.

In addition, when using certain Markforged Technology, you will be subject to any additional terms applicable to such Markforged Technology that may be posted on the Sites (as defined below) from time to time, including, without limitation, the Markforged Product Terms and Conditions located at <https://markforged.com/terms-conditions> (the “**Product Ts&Cs**”) and the Markforged Privacy Policy located at <https://markforged.com/privacy-policy> (the “**Privacy Policy**”, and together with the Product Ts&Cs and any other such additional terms, the “**Additional Terms**”). The Additional Terms are hereby incorporated by reference into these Terms of Service.

1. DEFINITIONS

In addition to terms defined elsewhere in these Terms of Service, the following terms have the following meanings for purposes of these Terms of Service.

“**3D Printer**” means a computer-aided manufacturing device that creates three-dimensional objects through a process in which such object is additively created by introducing or bonding additional material.

“**Authorized Users**” means (a) if You are an entity, Your employees that You have authorized to use the Markforged Technology, and (b) if You are an individual, You.

“**Cloud Service**” means a software-as-a-service platform made available to Authorized Users via a Site for use in connection with such Authorized Users’ use of a Product.

“**Documentation**” means any guides or other documentation relevant to the Markforged Technology made available by Markforged.

“**Firmware**” means any pre-installed software embedded on any Markforged 3D Printer, including any updates thereto provided to You by Markforged.

“**Markforged 3D Printer**” means a 3D Printer manufactured by or on behalf of Markforged, including, but not limited to, the Metal X 3D print system, X3 print system, X5 print system, X7 print system, Onyx One, Onyx Pro and Mark Pro.

“**Markforged Technology**” means the Cloud Service, Products (including the Firmware) and Documentation.

“**Materials**” means printing materials made available by Markforged for use in Markforged 3D Printers including, but not limited to, any and all metal filaments or metal powders, plastics, composites and carbon fiber filament fabrication materials made available by Markforged.

“**Metrics**” means information about Your access and use of the Markforged Technology, including, but not limited to, information regarding use of storage space and features of the Markforged Technology and any other statistical or analytical information or data derived from any of the foregoing.

“**Products**” means Markforged 3D Printers, Materials and any other products made available by Markforged.

“**Sites**” means www.markforged.com and/or www.eiger.io.

“**Your Content**” means, collectively, (a) any files, designs, models, data sets, meshes, geometries, images, documents or similar material uploaded to the Markforged Technology by You; and (b) the specific tangible output generated from the Markforged Technology, if any, based on the foregoing, including, but not limited to, physical parts, articles, tools and prototypes. Your Content expressly excludes all Markforged Technology.

2. ACCESS AND USE OF THE MARKFORGED TECHNOLOGY

2.1 Intended Use of the Markforged Technology. The Markforged Technology is intended to enable You to engage in additive manufacturing of three-dimensional objects for Your personal purposes (if You are an individual) or for Your internal business purposes (if You are an entity) through processes in which such objects are additively created by introducing or bonding Materials, in all cases, in accordance with these Terms of Service (including the Acceptable Use Policy set forth below) and the Documentation (the “**Intended Use**”).

2.2 Registration. In order to operate Markforged 3D Printers, You will need to establish an account in the Cloud Service (an “**Account**”) via the Sites, unless otherwise authorized in a writing executed by an authorized representative of Markforged. You represent and warrant that: (a) any information submitted as part of the Account registration process (the “**Registration Process**”) is true, accurate, current and complete and (b) You will maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If You are an Authorized User of an entity that is a customer of Markforged, You (i) are required to set up an individual Account and provide and maintain Your Registration Data as set forth above and (ii) acknowledge and agree that such entity is entitled to (A) manage Your Account, reset Your password and suspend or cancel Your Account, (B) view Your Account’s usage and profile data, including how and when Your Account is used and (C) read or store Your Content uploaded to the Markforged Technology or generated using the Markforged Technology under Your Account. You accept all responsibility for all activity that occurs under Your user name and password (“**Login Credentials**”), including, if You are an entity, for all activity that occurs under Your Authorized Users’ Accounts. You will keep Your Login Credentials confidential and not authorize any third party to access or use the Markforged Technology on Your behalf. You agree to immediately notify Markforged of any unauthorized use, or suspected unauthorized use of Your Account or any other breach of security. Markforged will not be liable for any loss or damage arising from Your failure to comply with the above requirements.

3. YOUR CONTENT

3.1 Your Content is Yours. You maintain sole and exclusive ownership of, and responsibility for, Your Content. You acknowledge and agree that (a) You will evaluate and bear all risks associated with Your Content and (b) under no circumstances will Markforged be liable in any way for Your Content, including, but not limited to any errors or omissions. You represent and warrant that (i) You have the requisite rights to submit, develop and use Your Content in connection with Your use of the Markforged Technology and (ii) Your Content does not infringe or misappropriate any intellectual property rights of any third party or violate any applicable laws, rules or regulations. Markforged shall have no responsibility or liability if any of Your Content is deleted by You or Your Authorized Users or in accordance with Your settings or actions or inactions. You are solely responsible for backing up, to Your own computer or other device, Your Content. Markforged does not guarantee or warrant that Your Content will be free of damage, corruption or loss.

3.2 License to Your Content. You hereby grant to Markforged a fully paid-up, royalty-free, worldwide, non-exclusive, non-sublicensable (except to Markforged’s third-party contractors or service providers), non-transferable (except as set forth in Section 11.9) right and license (a) to copy, display, modify and otherwise use Your Content only (i) in connection with ensuring the operation of the Products on Your behalf and (ii) internally in connection with improving the Markforged Technology, and (b) to create anonymized and aggregated data from Your Content, provided such data cannot be used to identify You or any Authorized Users (“**Aggregated Data**”). You acknowledge and agree that Markforged can use the Aggregated Data and Metrics in any manner.

3.3 Removal of Your Content. Subject to the Acceptable Use Policy set forth below and the other provisions in these Terms of Service, You acknowledge that Markforged is not responsible or liable in any way for Your Content and has no duty to pre-screen Your Content. However, Markforged reserves the right at all times to determine whether Your Content is appropriate and in compliance with these

Terms of Service, and may pre-screen, refuse and/or remove Your Content at any time, without prior notice and in its sole discretion, if Your Content is found to be in violation of these Terms of Service, including the Acceptable Use Policy.

3.4 Restrictions. Markforged reserves the right to restrict access to the Cloud Service from certain geographic locations. In addition, Markforged reserves the right to impose limits on the types of content You can store through the Cloud Service, such as unsupported file types. Additionally, Markforged reserves the right to set storage limits for the Cloud Service.

4. INTELLECTUAL PROPERTY RIGHTS

4.1 Markforged Technology. Markforged and its respective licensors or suppliers own all right, title, and interest in and to the Markforged Technology, and all intellectual property rights in or to any of the foregoing or that claim or cover any of the foregoing (the “**Markforged IP**”). You are not granted any licenses or rights of any kind to the Markforged IP, except as expressly set forth in these Terms of Service. You will not do, or cause to be done, any acts or things contesting or in any way impairing or tending to impair any portion of the right, title and interest of Markforged in and to the Markforged IP. You will not delete or in any manner alter the copyright, trademark, or other proprietary rights notices or markings that appear on the Markforged Technology as delivered to You.

4.2 Access and Use of Firmware, Documentation and Cloud Service. Subject to Your compliance with these Terms of Service and the Documentation, Markforged grants You a nonexclusive, non-sublicensable, non-transferable license to (a) use the Firmware, solely as installed on Markforged 3D Printers, and (b) use the Documentation, solely in connection with your use of the Markforged Technology. Subject to Your compliance with these Terms of Service and the Documentation, Markforged also grants You the right to access and use the Cloud Service for Your own personal purposes (if You are an individual) or for Your internal business purposes (if You are an entity), solely in connection with Your use of the Products. If You are an entity, You may permit the Cloud Service to be accessed and used by Authorized Users provided all such access and use is solely for Your internal business purposes and You remain responsible and liable for all acts and omissions of such Authorized Users. Authorized Users will be required to review and agree to these Terms of Service before they access and use the Cloud Service. You will not grant access to the Cloud Service to any third party other than Authorized Users.

4.3 Unblocking License. It is possible that You may develop an invention through the use of the Markforged Technology that is or includes an improvement to the Markforged IP and that the related patent claims will be infringed by the manufacture, use, sale, offer for sale or importing of Markforged’s existing or future products or services. Both You and Markforged agree that it is not the intent for You to use the Markforged Technology in a manner that results in restricting Markforged from running its business. Therefore, You hereby grant to Markforged and its customers a fully paid-up, royalty-free, worldwide, non-exclusive, irrevocable, sublicensable, transferable right and license under any patent rights issued to, obtained by, developed by or acquired by You that (a) are derived from and/or improve upon the Markforged IP; (b) are developed in connection with using the Markforged Technology and (c) are directed to 3D printing equipment or software, uses thereof or printing materials thereof. For the avoidance of doubt, You retain ownership of all such patent rights and only grant the foregoing license to Markforged and its customers to the extent each of the foregoing clauses (a)-(c) is satisfied.

4.4 Feedback. To the extent You provide any suggestions, comments or other feedback related to the Markforged Technology to Markforged or its authorized third party agent(s) (“**Feedback**”), You hereby grant to Markforged a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, sublicensable, transferable license to copy, display, distribute, perform, modify and otherwise use such Feedback or subject matter thereof in any way and without limitation.

4.5 Action in Response to Potential Infringement. If the Markforged Technology becomes, or in Markforged’s reasonable opinion is likely to become, the subject of an infringement or misappropriation Claim (as defined below), or if use of the Markforged Technology is permanently enjoined for any reason, Markforged, at its option and expense, may (a) replace or modify the applicable Markforged Technology so as to make it non-infringing so long as the modified Markforged Technology perform materially the same functions in a non-infringing manner; (b) procure the right for You to continue to use the applicable Markforged Technology as contemplated herein; (c) substitute an equivalent for the applicable Markforged Technology; or (d) if options (a)-(c) are not reasonably practicable, terminate these Terms of Service.

5. ACCEPTABLE USE POLICY

5.1 Acceptable Use Policy. You represent, warrant and covenant that You will comply with Markforged’s acceptable use policy, as set forth in clauses (a)-(d) below (the “**Acceptable Use Policy**”).

(a) You will not use the Markforged Technology to collect, upload, transmit, display, or distribute any of Your Content (i) that violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) that is unlawful, harassing, abusive, tortious, threatening, harmful, invasive of another's privacy, vulgar, defamatory, false, intentionally misleading, trade libelous, pornographic, sexually explicit, obscene, patently offensive, promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual, promotes illegal activities or contributes to the creation of weapons, illegal materials, or is otherwise objectionable; (iii) that is harmful to minors in any way; (iv) to engage in fraudulent activity (including impersonating another person or entity, or submitting misleading or false declarations concerning Your affiliation with a person or entity, or use proxy or anonymizing servers, or falsify headers or manipulate identifiers or addresses in any other way for the purpose of concealing the origin of any data sent via the Markforged Technology) or perpetrate a hoax or engage in phishing schemes or forgery or other similar falsification or manipulation of data; or (v) that is in violation of any law, regulation, or obligations or restrictions imposed by any third party.

(b) You will not (i) modify, alter, tamper with, repair, translate, transmit, adapt, arrange, or create derivative works based on the Markforged Technology, except as expressly permitted herein; (ii) decompile, disassemble, disassociate, decrypt, extract, reverse compile or otherwise reverse engineer the Markforged Technology or any component thereof, or otherwise attempt to decipher the source code, algorithms, methods, structure, interfaces, protocols, messaging or techniques used or embodied in the Markforged Technology or any component thereof, except and only to the extent required by applicable law; (iii) distribute, rent, loan, lease, sell, resell, sublicense, convey, publicly display, publicly perform, exploit or otherwise make the Markforged Technology available for use by others in any time-sharing, service bureau or similar arrangement; (iv) remove, alter, or obscure any copyright, trademark, confidentiality or other proprietary notices, labels or marks from, on or pertaining to the Markforged Technology; or (v) use the Markforged Technology for any other benchmarking or competitive purposes or attempt to create similar products or services through use of the Markforged Technology.

(c) You will not use the Markforged Technology to: (i) upload, transmit, or distribute any computer viruses, worms, or any software intended to damage or alter a computer system or data; (ii) utilize any equipment, device, software, or other means to (or designed to) circumvent or remove any form of technical protection used by Markforged in connection with the Markforged Technology; (iii) interfere with or disrupt the Markforged Technology or servers or networks used by Markforged to provide the Markforged Technology; (iv) use the Markforged Technology to perform any stress, vulnerability, penetration, availability, or performance testing on, or otherwise attempt to access in a manner not expressly permitted by Markforged, any network, system, server, or computer hosting the Markforged Technology; or (v) attempt to gain unauthorized access to the Markforged Technology, other computer systems or networks connected to or used together with the Markforged Technology, through password mining or other means.

(d) You will not use the Markforged Technology (i) in connection with any military operations or the operation of nuclear facilities, aircraft navigation, communication systems, medical devices, air traffic control devices, real time control systems or other situations in which the failure of the Markforged Technology could lead to death, personal injury, or physical property or environmental damage; (ii) to experiment with ordnance or collect, upload, transmit, display, print, extrude, deposit or distribute any of Your Content that contributes to the creation or modification of any firearm slide, lower, upper, upper receiver, lower receiver, barrel, bolt, or any other firearm or ordnance component, in whole or in part, that is capable of containing pressures in excess of 500 PSI; or (iii) in any manner or for any purpose other than for the Intended Use and as expressly permitted by these Terms of Service and any Documentation.

5.2 Enforcement. Markforged has the right (but not the obligation) to monitor and audit Your (and the Authorized Users') usage of the Markforged Technology to verify compliance with these Terms of Service, and to investigate and/or take appropriate action against You in Markforged's sole and absolute discretion if You demonstrate an intent to violate, violate or appear to violate the Acceptable Use Policy or any other provision of these Terms of Service. Such action may include removing or modifying Your Content or terminating or suspending Your Account (and any individual Authorized User accounts thereunder) and/or reporting You to law enforcement or regulatory authorities. Any use or access other than in accordance with these Terms of Service is unauthorized.

6. CONFIDENTIALITY

6.1 Confidential Information. "Confidential Information" means all confidential information disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party"), whether disclosed orally or in writing, that is explicitly designated as "confidential", "proprietary" or some similar designation, or is by its nature reasonably recognizable as potentially confidential and/or proprietary or is disclosed in a manner that it may be reasonably inferred to be confidential and/or proprietary to the Disclosing Party at the time of disclosure. Your Confidential Information shall include Your Content (subject to Section 3.2); Markforged's Confidential Information shall include the Markforged Technology and related product plans and technical information. Confidential Information shall not include any information that (a) is or becomes generally known to the public without breach on the part of the Receiving Party of any obligation owed to the Disclosing Party hereunder; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed by the Receiving Party to the Disclosing Party hereunder; (c) is received from a third party

without breach by the Receiving Party of any obligation owed to the Disclosing Party hereunder; (d) was independently developed by the Receiving Party without reliance on any Confidential Information disclosed by the Disclosing Party hereunder; or (e) constitutes Feedback.

6.2 Confidentiality Obligations. The Receiving Party shall use at least the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) and agrees (a) not to use any Confidential Information of the Disclosing Party for any purpose except to exercise its rights or perform its obligations under these Terms of Service, and (b) to limit access to Confidential Information of the Disclosing Party to those of the Receiving Party's and its affiliates' employees, contractors and professional advisers (e.g. lawyers, accountants, etc.) who need such access for purposes consistent with these Terms of Service and who are subject to written nondisclosure and nonuse obligations (or, in the case of professional advisers, ethical obligations) with the Receiving Party that are no less stringent than those set forth herein, and the Disclosing Party shall be responsible for the compliance by such individuals with the restrictions set forth herein.

6.3 Legal Related Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by applicable law, court order, regulation, the rules of any relevant securities exchange or legal process to do so, provided that the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted). If such disclosure is made at Your request, You may be responsible for the costs of compiling and providing access to such Confidential Information.

7. INDEMNIFICATION

You shall, at Your sole expense and to the fullest extent permitted by law, indemnify, defend and hold Markforged and its officers, directors, employees, contractors, licensors, suppliers and other agents harmless against any and all settlement amounts and damages, liabilities, penalties, costs and expenses, including reasonable attorneys' fees, arising from any third party claim, suit or proceeding ("**Claim**") arising out of or in connection with Your (or any of Your Authorized Users') use of the Markforged Technology in breach of these Terms of Service (including any Additional Terms) or the Documentation.

8. DISCLAIMERS; LIMITATION OF LIABILITY

8.1 Disclaimers. Markforged offers a limited warranty with respect to the Products, solely as set forth in the Product Ts&Cs. EXCEPT FOR THE LIMITED WARRANTY SET FORTH THEREIN, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE MARKFORGED TECHNOLOGY IS PROVIDED ON AN "AS IS" BASIS AND NEITHER MARKFORGED NOR ITS SUPPLIERS MAKE ANY WARRANTIES, REPRESENTATIONS, OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR TITLE, OR WARRANTIES OTHERWISE IMPLIED BY STATUTE OR FROM A COURSE OF DEALING OR USAGE OF TRADE). WITHOUT LIMITING THE FOREGOING, MARKFORGED DOES NOT WARRANT (A) THAT THE CLOUD SERVICE WILL BE UNINTERRUPTED, TIMELY, ERROR-FREE, SECURE, ACCURATE, RELIABLE, OR COMPLETE, WHETHER OR NOT UNDER SUBSCRIPTION OR SUPPORT BY MARKFORGED OR ANY THIRD PARTY OR (B) THAT THE MARKFORGED TECHNOLOGY WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS.

8.2 Limitation of Liability. TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR LIMITATION OF LIABILITY, (A) IN NO EVENT WILL MARKFORGED OR ANY OF ITS SUPPLIERS BE LIABLE FOR SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, CONSEQUENTIAL, OR ANY OTHER DAMAGES OF LIKE KIND WHATSOEVER ARISING OUT OF OR RELATED TO THESE TERMS OF SERVICE OR THE MARKFORGED TECHNOLOGY (HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, WHETHER DERIVED FROM CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE) OR OTHERWISE), INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE, LOSS OF OR DAMAGE TO DATA, BUSINESS INTERRUPTION, LOSS OF OR DAMAGE TO REPUTATION OR GOODWILL, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR OTHER COVER, OR ANY OTHER SIMILAR COMMERCIAL OR ECONOMIC LOSS OF ANY KIND, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, NOR WILL ANY OF THE FOREGOING PARTIES BE LIABLE FOR ANY DAMAGES WHATSOEVER RESULTING FROM A FORCE MAJEURE EVENT OR ANY ACT OF A THIRD PARTY; AND (B) THE TOTAL CUMULATIVE COLLECTIVE LIABILITY OF MARKFORGED AND EACH OF ITS SUPPLIERS FOR ALL COSTS, LOSSES OR DAMAGES FROM ALL CLAIMS, ACTIONS OR SUITS HOWEVER CAUSED OR ARISING FROM OR IN RELATION TO THESE TERMS OF SERVICE SHALL NOT EXCEED (I) ALL AMOUNTS PAID OR DUE FROM YOU WITH RESPECT TO THE PARTICULAR MARKFORGED TECHNOLOGY GIVING RISE TO THE CLAIM DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE CLAIM (NO MATTER WHEN PAYMENTS WERE ACTUALLY MADE), OR (II) ONE HUNDRED DOLLARS (\$100), WHICHEVER IS GREATER.

THE FOREGOING LIMITATIONS OF LIABILITY SHALL APPLY, EVEN IF MARKFORGED AND/OR ITS SUPPLIERS HAVE BEEN ADVISED, OR ARE OTHERWISE AWARE, OF THE POSSIBILITY OF DAMAGES IN EXCESS OF SUCH LIMITATIONS. SOME STATES DO NOT ALLOW EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON LIABILITY, SO THE LIMITATIONS AND EXCLUSIONS SET FORTH IN SECTIONS 8.1 AND 8.2 OF THESE TERMS OF SERVICE MAY NOT APPLY. IN SUCH STATES, THE LIABILITY OF MARKFORGED AND ITS SUPPLIERS SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

IF YOU ARE FROM NEW JERSEY, THE SECTIONS TITLED “INDEMNIFICATION BY YOU”, “DISCLAIMERS” AND “LIMITATION OF LIABILITY” ARE INTENDED TO BE ONLY AS BROAD AS IS PERMITTED UNDER THE LAWS OF THE STATE OF NEW JERSEY. IF ANY PORTION OF THESE SECTIONS IS HELD TO BE INVALID UNDER THE LAWS OF THE STATE OF NEW JERSEY, THE INVALIDITY OF SUCH PORTION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THE APPLICABLE SECTIONS.

8.3 Functionality Limitations. The Markforged Technology consists of commercial professional tools intended to be used by trained professionals only. The Markforged Technology is intended only to assist You with Your design, analysis, simulation, estimation, testing and/or other activities and are not a substitute for Your own independent design, analysis, simulation, estimation, testing, and/or other activities, including those with respect to product stress, safety and utility. Due to the large variety of potential applications for the Markforged Technology, the Markforged Technology has not been tested in all situations under which it may be used. MARKFORGED WILL NOT BE LIABLE IN ANY MANNER WHATSOEVER FOR THE RESULTS OBTAINED THROUGH USE OF THE MARKFORGED TECHNOLOGY.

8.4 Basis of the Bargain. You agree that releases, waivers, warranty disclaimers, limitations of liability and indemnities in these Terms of Service are a fundamental basis of the bargain between You and Markforged, and are a material part of the consideration received by Markforged for entering into these Terms of Service with You and providing You with the Markforged Technology, and Markforged would not have entered into these Terms or provided You with the Markforged Technology in the absence of such releases, waivers, warranty disclaimers, limitations of liability and indemnities. You and Markforged agree that the disclaimers and limitations of liability set forth in this Section 8 are reasonable in light of the fees paid for the Markforged Technology.

9. SUPPORT AND MAINTENANCE

Except for any support or maintenance expressly outlined in the Product Ts&Cs or otherwise in a written agreement between You and Markforged, Markforged has no obligation to provide You with any support or maintenance in connection with the Markforged Technology.

10. TERM AND TERMINATION

10.1 Term and Termination. These Terms of Service commence on the Acceptance Date and continue until terminated as set forth herein (the “Term”). Markforged may terminate these Terms of Service upon written notice to You if you breach any of the terms and conditions set forth in this Terms of Service. In addition, Markforged may, as an alternative to termination, suspend Your access to the Cloud Service if You fail to make a payment to Markforged or one of its authorized distributors or resellers or otherwise fail to comply with the provisions of these Terms of Service. Markforged may also terminate these Terms of Service upon written notice to You if (a) You become subject to bankruptcy proceedings, become insolvent, or make an arrangement with Your creditors or (b) the continued provision of the Cloud Service to You becomes prohibited by applicable law, rule or regulation. These Terms of Service will terminate automatically without further notice or action by Markforged if You go into liquidation. You may terminate these Terms of Service at any time, with or without cause, upon written notice to Markforged, provided that under no circumstances will You be entitled to a refund for any fees paid or credit against fees due in connection with the Markforged Technology.

10.2 Effect of Termination. Upon any termination of these Terms of Service for any reason, You (and, if You are an entity, all of Your Authorized Users) must immediately cease using the Cloud Service. It is Your responsibility to retain copies of Your Content. Within thirty (30) days following the end of the Term (“Content Retrieval Period”), You may request retrieval of Your Content currently uploaded and stored in the Cloud Service. Provided You have paid all amounts due in connection with Your use of the Markforged Technology and are not otherwise in breach of these Terms of Service, Markforged will, at Markforged’s election, either (a) grant You limited access to the Cloud Service for the sole purpose of allowing You to retrieve Your Content or (b) deliver Your Content to You in a mutually agreed upon format. Each of (a) and (b) will be made available to You at Markforged’s then-current daily professional services rates. Upon termination Markforged shall have the right to immediately deactivate Your Account (and any individual Authorized User accounts thereunder) and suspend access to Your Content and, following the Content Retrieval Period, Markforged may delete, without notice, Your Content and all backups thereof.

11. GENERAL

11.1 Modifications. Markforged reserves the right, at any time and from time to time, to update, revise, supplement or otherwise modify these Terms of Service (including the Additional Terms) and to impose new or additional rules, policies, terms or conditions on Your use of the Markforged Technology. Markforged will communicate changes to these Terms of Service through reasonable means, which may include (a) posting the new version of the Terms of Service on its website located at www.markforged.com, (b) issuing a notice via functionality within the Markforged Technology and/or (c) sending an email to the email address associated with Your Account. If a modification to these Terms of Service will have a material adverse effect on You and You do not agree to the modification, You may terminate these Terms of Service by notifying Markforged of the same by email to sales@Markforged.com within thirty (30) days after Markforged's notice of the modification. If You so notify Markforged, Your use and access to the Markforged Technology will remain governed by the Terms of Service in effect immediately before the change (except to the extent modifications were made to comply with applicable law) until sixty (60) days after Markforged's notice of the modification, at which time these Terms of Service will terminate and you will no longer be authorized to use the Markforged Technology. Your continued use of any Markforged Technology after Markforged provides notice of a change to these Terms of Service constitutes Your acceptance of any and all such changes.

11.2 Governing Law; Dispute Resolution. These Terms of Service shall be governed by the laws of the Commonwealth of Massachusetts, without regard to the conflict of laws provisions thereof. In no event shall either the United Nations Convention on Contracts for the International Sale of Goods or any adopted version of the Uniform Computer Information Transactions Act apply to, or govern, these Terms of Service. Any dispute, claim, or controversy arising out of or relating to these Terms of Service or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined solely and exclusively by binding arbitration in Boston, Massachusetts before a single arbitrator (the "**Arbitrator**"). The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures, unless otherwise agreed to in writing by the parties. Either party may initiate arbitration by filing and serving a written demand for arbitration, which must be served on the other party by overnight mail with delivery confirmation. The parties agree that the arbitration hearing shall commence within 180 days of the date on which a written demand for arbitration is filed by any party hereto (the "**Filing Date**"). The Arbitrator's decision and award (the "**Award**") shall be made and delivered within 240 days of the Filing Date, and shall set forth a reasoned basis for the Award. The Arbitrator shall not have the power to award damages in excess of traditional (i.e., benefit of the bargain) compensatory damages in contract and may not award special, liquidated, multiple, punitive, or other damages, and each party hereby irrevocably waives any claim to such damages. In connection with the arbitration proceeding, the Arbitrator shall have the power to allow each party to (i) propound up to five (5) requests for the production of documents, including subparts, and (ii) conduct five (5) depositions of witnesses. Interrogatories may not be propounded by any party, and all discovery must be completed within 60 days after the selection of the arbitration, and no later than 120 days after the Filing Date. The Arbitrator shall also have the power to issue a subpoena for documents or information to any third-party witness within his or her jurisdiction. The parties agree that the entirety of the arbitration proceedings, including all documents and information produced by any party or non-party, all deposition testimony, and all pleadings, motions, or correspondence exchanged in connection with the arbitration proceeding, shall be kept confidential. Any arbitral award determination shall be final and binding upon the parties. Arbitration shall proceed only on an individual basis. The parties waive the right to assert, participate in, or receive money or any other relief from any class, collective, or representative proceeding. Each party shall only submit his, her or its own individual claims against the other and will not seek to represent the interests of any other person. Notwithstanding anything to the contrary in the JAMS Rules of Arbitration, no arbitrator shall have jurisdiction or authority to compel any class or collective claim, to consolidate different arbitration proceedings, or to join any other party to an arbitration between the parties. Each party hereby irrevocably agrees and submits to exclusive jurisdiction and venue in the federal district courts in Boston, Massachusetts for entry of judgment on the Award; except, however, if the federal district courts in Boston, Massachusetts decline to exercise jurisdiction, each party agrees and submits to exclusive jurisdiction and venue in the state courts in Boston, Massachusetts for the entry of judgment on the Award. If each of these courts decline to exercise jurisdiction, each party agrees and submits to jurisdiction and venue in any federal or state court located in the Commonwealth of Massachusetts for entry of judgment on the Award; and if each of those courts decline to exercise jurisdiction, judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. Further, this clause shall not preclude Markforged from seeking immediate and/or equitable relief (including but not limited to a temporary restraining order, preliminary injunction, and/or permanent injunction) from a court of appropriate jurisdiction, regardless of whether the dispute has been submitted to arbitration. You must bring any claim related to these Terms of Service or the Markforged Technology within one year of the date You could first bring the claim, unless Your local law requires a longer time to file claims. If a claim is not filed by You in accordance with the foregoing, the claim is permanently waived by You.

11.3 Government Rights. For U.S. Government procurements, Markforged Technology is deemed to be a "Commercial Item" as defined at 48 C.F.R. 2.101 and 48 C.F.R. Part 12.212. If acquired by or on behalf of a civilian agency, the U.S. Government agrees to acquire commercial computer software and/or commercial computer software documentation in the Markforged Technology subject to the terms of these Terms of Service as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulation ("**FAR**") and its successors. If acquired by or on behalf of any agency within the Department of Defense ("**DOD**"), the U.S. Government agrees commercial computer software and/or commercial computer software documentation in the Markforged Technology are subject to the terms of this License as specified in 48 C.F.R. 227.7202-3 and 48 C.F.R. 227.7202-4 of the

DOD FAR Supplement ("DFARS") and its successors, and consistent with 48 C.F.R. 227.7202. This U.S. Government Rights clause, consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202 is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software, computer software documentation or technical data related to the Markforged Technology under these Terms of Service and in any subcontract under which this commercial computer software and commercial computer software documentation is acquired or licensed. Any use, modification, reproduction release, performance, display or disclosure of the Markforged Technology by the U.S. Government shall be solely in accordance with the commercial license rights and restrictions described herein.

11.4 Export Control. You acknowledge and agree that Your use of the Markforged Technology may be subject to compliance with U.S. and other applicable country export control and trade sanctions laws, rules and regulations, including, without limitations the regulations promulgated by the U.S. Department of Commerce and the U.S. Department of the Treasury ("**Export Control Laws**"). You shall be solely responsible for complying with applicable Export Control Laws and monitoring any modifications to them. You represent and warrant that (a) You are not a citizen of, or located within, a nation or region that is subject to comprehensive U.S. trade sanctions or restrictions (currently including Crimea, Cuba, Iran, North Korea and Syria); (b) You are not identified on any U.S. government restricted party lists (including, without limitation, the U.S. Treasury Department's List of Specially Designated Nationals and Other Blocked Persons, the U.S. Department of Commerce's Denied Party List, Entity List and Unverified List and the U.S. Department of State's proliferation-related lists), or owned or controlled by any such person; (c) You will not, unless otherwise authorized under the Export Control Laws, use the Markforged Technology for any restricted end use, including, without limitation, design, analysis, simulation, estimation, testing, or other activities related to nuclear, chemical/biological weapons, rocket systems or unmanned air vehicles applications; and (d) that no part of Your Content is subject to any restriction on disclosure, transfer, download, export or re-export under the Export Control Laws. You agree that You will not use the Markforged Technology to disclose, transfer, download, export or re-export, directly or indirectly, Your Content, third party materials or any other content or material to any country, entity or other party which is ineligible to receive such items under the Export Control Laws or under other laws or regulations to which You may be subject.

11.5 Relationship Between the Parties. These Terms of Service will not be construed as creating any partnership, joint venture or agency relationship between You and Markforged. Neither party will have the authority to obligate or bind the other in any manner, and nothing herein contained shall give rise or is intended to give rise to any rights of any kind to any third parties. Neither party will represent to the contrary, either expressly, implicitly or otherwise.

11.6 Severability. If any provision of these Terms of Service is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, then: (a) the remaining provisions of these Terms of Service shall remain in full force and effect; and (b) such affected provision shall be ineffective solely as to such jurisdiction (and only to the extent and for the duration of such invalidity, illegality, or unenforceability), and shall be substituted (in respect of such jurisdiction) with a valid, legal, and enforceable provision that most closely approximates the original legal intent and economic impact of such provision.

11.7 Headings and Language. The section headings used in these Terms of Service are for convenience only and will not be given any substantive effect. When used in these Terms of Service, "includes" or "including" will be deemed to mean "including but not limited to" or "include but are not limited to." The English language version of these Terms of Service is legally binding in case of any inconsistencies between the English version and any translations. The parties hereto confirm that it is their wish that these Terms of Service, as well as other documents relating hereto, including notices, have been and will be written in the English language only.

11.8 Waiver. A party may only waive its rights under these Terms of Service by a written document executed by an authorized representative of such party. No failure or delay to enforce any provision of, or exercise any right or remedy under, these Terms of Service shall constitute a waiver thereof or of any other provision hereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy.

11.9 Assignment. Markforged may freely assign or sub-contract any of its rights or obligations under these Terms of Service. You may not assign or delegate these Terms of Service or any of Your rights or obligations hereunder without prior written permission from Markforged. Any unauthorized assignment will be null and void. Subject to the foregoing, these Terms of Service will bind and inure to the benefit of any successors or assigns.

11.10 Notices. Markforged may send You, in electronic form, information about the Markforged Technology, and information the law requires Markforged to provide to You and certain other additional information. Markforged may provide required information to You by email at the address You specified when You signed up for the Service or by access to a website that Markforged identifies. Notices emailed to You will be deemed given and received when the email is sent. If You don't consent to receive notices electronically, You must stop using the Markforged Technology. You may provide legal notices to Markforged via email to legal@Markforged.com, with a duplicate copy sent via registered mail, return receipt requested, to the following address: Markforged, Inc. Attn: Legal, 480 Pleasant

Street, Watertown, MA, USA 02472. Any such notice, in either case, must specifically reference that it is a notice given under these Terms of Service.

11.11 Force Majeure. Neither party shall be responsible or have any liability for any delay or failure to perform to the extent due to unforeseen circumstances or causes beyond its reasonable control, including, without limitation, acts of God, earthquake, fire, flood, embargoes, strikes, lockouts or other labor disturbances, civil unrest, failure, unavailability or delay of suppliers or licensors, riots, terrorism or terrorist acts, war, failure or interruption of the Internet or third party Internet connection(s) or infrastructure, power failures, acts of civil and military authorities and severe weather. Such party will give the other party prompt written notice (when possible) of the failure to perform and use its reasonable efforts to limit the resulting delay in its performance.

11.12 Survival All provisions of these Terms of Service which, by their nature, should survive the expiration or termination of Your relationship with Markforged shall survive such expiration or termination, including, without limitation, Sections 1, 2.1, 3, 4.1, 4.3, 4.4, 5, 6, 7, 8, 10.2 and 11.

11.13 Entire Agreement. These Terms of Service (including, without limitation, the Additional Terms) contain the entire agreement between You and Markforged with respect to the subject matter hereof and supersede all prior or contemporaneous communications and proposals, whether electronic, oral or written, between You and Markforged with respect to the Markforged Technology. In the event of a conflict or inconsistency between these Terms of Service and the Additional Terms, these Terms of Service will control.