

## Markforged Cloud Service Terms

### For Eiger

Last Revised: November 2, 2023

#### HOW THESE TERMS APPLY TO YOU

THESE MARKFORGED CLOUD SERVICE TERMS FOR EIGER (“**TERMS**”) ARE ENTERED INTO BY AND BETWEEN YOU (“**YOU**”, “**YOUR**”) AND MARKFORGED, INC., A DELAWARE CORPORATION (“**MARKFORGED**”, “**US**”, “**OUR**”, “**WE**”), AND GOVERN YOUR USE OF THE CLOUD SERVICE. BY CREATING AN ACCOUNT FOR THE CLOUD SERVICE, USING THE CLOUD SERVICE, OR OTHERWISE INDICATING YOUR ACCEPTANCE OF THESE TERMS (INCLUDING BY CHECKING A BOX INDICATING SUCH ACCEPTANCE OR SELECTING “I ACCEPT”) (THE EARLIEST OF WHICH IS THE “**ACCEPTANCE DATE**”), YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE BENEFITS YOU RECEIVE FROM USING THE CLOUD SERVICE ARE SUFFICIENT CONSIDERATION, YOU HAVE READ THESE TERMS, ARE BOUND BY THESE TERMS, AND AGREE TO ALL OF THE TERMS AND CONDITIONS SET FORTH HEREIN.

IF YOU ARE ENTERING INTO THESE TERMS ON BEHALF OF A COMPANY OR OTHER ORGANIZATION, YOU REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO ENTER INTO THESE TERMS ON BEHALF OF SUCH ORGANIZATION AND TO BIND SUCH ORGANIZATION TO THE TERMS AND CONDITIONS CONTAINED HEREIN, IN WHICH CASE, THE TERMS “YOU” AND “YOUR” WILL REFER TO SUCH ENTITY. FURTHER, YOU EXPRESSLY AGREE THAT THESE TERMS OVERRIDE ANY TERMS OR CONDITIONS WHICH YOU HAVE PREVIOUSLY PROVIDED TO US IN THE FORM OF A PURCHASE ORDER OR OTHER COMMUNICATION. FOR CLARITY, ANY PURCHASE ORDER PROVIDED TO MARKFORGED WILL BE USED FOR ADMINISTRATIVE PURPOSES ONLY, SUCH AS TO DETERMINE THE LENGTH OF A PAID SUBSCRIPTION AND PAYMENT OF FEES. ALL LEGAL TERMS AND CONDITIONS PRINTED ON A PURCHASE ORDER ARE SPECIFICALLY REJECTED. IF YOU DO NOT ACCEPT ALL THE TERMS AND CONDITIONS HEREIN OR ARE NOT AN AUTHORIZED AGENT FOR THE ORGANIZATION ENTERING INTO THESE TERMS, DO NOT CREATE AN ACCOUNT OR OTHERWISE USE THE CLOUD SERVICE.

If these Terms are considered an offer, Our acceptance is expressly limited to Your agreement to these Terms in full. Any offer made on Our Websites is void where prohibited by law. You represent that You are at least the age of majority in Your state or province of residence. Children under the age of 18 may not accept these Terms, use Our Websites, or use the Markforged Technology.

Your access to and use of Digital Source is subject to the Cloud Service Terms for Digital Source, available later in the document, in the “Markforged Cloud Service Terms For Digital Source” Section. When using Markforged Technology other than the Cloud Service, You will be subject to additional terms and conditions. These additional terms may be posted on the Websites (including <https://markforged.com/legal> and <https://markforged.com/privacy-policy>) or they may appear as a

software click-wrap (including the click-wrap presented with Eiger Offline Software) (together, the “Additional Terms”).

## 1. DEFINITIONS

These Terms use certain words and phrases in a specific manner. These words or phrases have been capitalized, and each is bolded where the definition is first provided. Some definitions are provided in close proximity to the initial use of the word or phrase, and for convenience, some are defined in this Section of the Terms.

**“Aggregate Data”** means aggregated and anonymous information relating to Your use of the Markforged Technology. Aggregate Data will not include Confidential Information or personally identifiable information and will not identify You as its source.

**“Authorized User”** means (a) if You are an organization, Your employees that You have authorized to use the Cloud Service; and (b) if You are an individual using the Cloud Service on Your own behalf, You.

**“Cloud Service”** means a software-as-a-service platform made available by Markforged to Authorized Users for use with the Product(s) via a Website.

**“Content”** means, collectively: (a) any files, designs, models, data sets, meshes, geometries, images, documents or similar material that You upload to the Markforged Technology; (b) any specific tangible output generated from the Markforged Technology that is based on the foregoing, including, but not limited to, physical parts, articles, tools and prototypes; and (c) as regards Products that include a laser or a camera, any images, usage data, or other data produced by said laser or camera. Content expressly excludes all Markforged Technology.

**“Firmware”** means any pre-installed software embedded on any Product, as updated from time-to-time.

**“Free Services”** means Cloud Services that Markforged makes available to You free of charge.

**“Markforged Technology”** means the Cloud Service, the Materials, the Firmware, and the Products.

**“Materials”** means materials that are used to print items with the Products, including, but not limited to, any and all filaments or powders, plastics, composites and carbon fiber filament fabrication materials that are made available by Markforged, as well as other consumables that are provided by Markforged for use with the Products.

**“Metrics”** means information about Your access to 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, excluding the Firmware that is installed on the Products.

**“Paid Subscription”** means Cloud Services (or a module or feature of the Cloud Service) that Markforged makes available to You for a fee, as distinguished from Free Services.

**“Websites”** means [www.markforged.com](http://www.markforged.com), [www.eiger.io](http://www.eiger.io) or any website owned or controlled by Markforged.

## 2. FEES AND RESELLERS

The Cloud Service is subscription-based, and some modules, features, and functionality are subject to fees (“Fees”). Your acceptance of these Terms serves as Your agreement to pay any Fees associated with the Cloud Service, as shown in an order form or as part of the Cloud Service’s registration process. If Fees are associated with the Cloud Service, You may agree upon them separately with an authorized Markforged reseller, or You may pay Markforged directly, as further specified herein, but in either case Your access to the Cloud Service is conditioned upon Your payment of any applicable Fees. Regardless of the arrangements made for applicable Fees, these Terms shall apply to Your use of the Cloud Service. Resellers are not authorized to modify or supplement these Terms.

### **3. YOUR ACCOUNT INFORMATION**

Registration. In order to operate the Products, each Authorized User must establish an account for the Cloud Service via a Website. As an Authorized User, You represent and warrant that: (i) any information You submit as part of the account registration process is accurate, current and complete; and (ii) You will maintain and promptly update the information provided during Your registration to keep it accurate, current and complete. Authorized Users of an organization that is a customer of Markforged each acknowledge and agree that such organization is entitled to: (i) manage its Authorized Users’ accounts, reset their passwords, and suspend or cancel their accounts; (ii) view its Authorized Users’ usage and profile data, including how and when their accounts are used; and (iii) read or store any Content that is uploaded to the Cloud Service or that is generated using the Markforged Technology. You accept all responsibility for all activity that occurs under Your username and password (“Login Credentials”), including, if You are an entity, for all of Your Authorized Users’ use of and access to the Markforged Technology. You will keep Your Login Credentials confidential and not authorize any third party to access or use the Markforged Technology. You agree to immediately notify Markforged of any unauthorized use or suspected unauthorized use of Your Cloud Service 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 foregoing requirements.

Use of Your Data. You acknowledge and agree that it is necessary for Us to collect, process and use the personal data that You provide to us when You create a Cloud Service account or place an order with Us, or otherwise contact Us. This personal data is required for us to perform our obligations under these Terms, to process and ship orders, communicate with You regarding orders and other Markforged products that we believe You may be interested in, perform administrative tasks, fulfill our legal and regulatory responsibilities, and to provide You with service. Your personal data is hosted in the United States. You can learn more about our Privacy Policy and exercise Your rights regarding Your personal data at <https://markforged.com/privacy-policy>.

### **4. YOUR ACCESS AND USE**

You may use the Products only in conjunction with the Materials and the Cloud Service and in accordance with the documentation available at: <https://support.markforged.com/portals> (the “Documentation”). Subject to Your compliance with these Terms, Markforged grants You a nonexclusive, non-sublicensable, non-transferable license to, solely in connection with Your use of the Products, access

and use the: (i) Firmware in its installed state; (ii) Documentation; and (iii) the Cloud Service, in each case for Your own personal purposes (if You are an individual) or for Your internal business purposes (if You are an entity). If You are an entity, You may permit the Cloud Service to be accessed and used by Your Authorized Users, provided that: (i) all such access and use is solely for Your internal business purposes; (ii) You remain responsible and liable for all acts and omissions of such Authorized Users; and (iii) You require Your Authorized Users to review and agree to these Terms 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. No rights or licenses not expressly granted to You in these Terms shall arise by implication, estoppel or otherwise.

## **5. SUBSCRIPTION ACCESS**

The term for any Paid Subscription is as stated in the applicable order, in the applicable online portal, or as noted in the account information that is available via Your Cloud Service account (the "Subscription Period"). Access to any Free Service shall continue until terminated by Markforged, and You agree that any termination of Your access to the Free Services and Content is at Markforged's sole discretion and may occur without prior notice. You agree that Markforged will not be liable to You or any third-party for such termination.

## **6. CONTENT**

Your Content is Yours. You maintain sole and exclusive ownership of and responsibility for Your Content. You acknowledge and agree that: (i) You will evaluate and bear all risks associated with the Content; and (ii) 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 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 Your Content to Your own computer or other device. Markforged does not guarantee or warrant that Your Content will be free of damage, corruption or loss.

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 "Assignment" below) right and license to copy, display, modify and otherwise use Your Content: (i) in connection with ensuring the operation of the On-line Software and the Products; (ii) internally in connection with performing quality assurance or improving the Markforged Technology; and (iii) to provide You with any technical support that You request and that We agree to provide to You. For clarity, You agree that Markforged may use the Metrics and the Aggregate Data for any lawful purpose without any restrictions or payment obligations.

Limits. You acknowledge that Markforged is not responsible or liable in any way for Your Content and has no duty to monitor or screen Your Content. However, Markforged reserves the right at all times to pre-screen, refuse and/or remove Your Content at any time, without prior notice and in Our sole

discretion if we determine that Your Content is inappropriate, or if it fails to comply with these Terms and/or applicable law. Markforged reserves the right to restrict access to the Cloud Service from certain geographic locations. In addition, Markforged reserves the right to: (i) impose limits on the types of Content You can store through the Cloud Service, such as unsupported file types; and (ii) set storage limits for the Cloud Service.

## **7. INTELLECTUAL PROPERTY RIGHTS**

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 to 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. You will not do, or cause to be done, any act that in any way contests, impairs or that intends to contest or impair any portion of Markforged’s right, title or interest 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.

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 a related patent claim will be infringed by the manufacture, use, sale, offer for sale or importing of Markforged’s existing or future products or services. You and Markforged agree that it is not the intent for You to use the Markforged Technology in a manner that may restrict Markforged from freely 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 or any other intellectual property rights issued to, obtained by, developed by or acquired by You that: (i) are derived from and/or improve upon the Markforged IP; (ii) are developed in connection with use of the Markforged Technology; and/or (iii) 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 is satisfied.

Feedback. You may from time to time, make known to Us suggestions, enhancement requests, techniques, know-how, comments, feedback or other input with respect to the Markforged Technology (collectively, “Feedback”) and You hereby grant Markforged a royalty-free, worldwide, irrevocable, fully paid up, perpetual license to use, disclose, distribute, publicly display and perform, reproduce, license, sublicense, create and have made derivative works, and otherwise exploit any Feedback without restriction or obligation of any kind, on account of confidential information, intellectual property rights or otherwise. Markforged may freely, without any obligation to You, incorporate into the Markforged Technology any code, service, product, technology, enhancement, documentation or other development incorporating or derived from any Feedback.

Action in Response to Potential Infringement. If the Markforged Technology becomes, or in Markforged’s reasonable opinion is likely to become, the subject of a third-party infringement or misappropriation claim, or if use of the Markforged Technology is permanently enjoined for any reason, Markforged, at its

option and expense, may: (i) replace or modify the applicable Markforged Technology so as to make it non-infringing so long as the modified Markforged Technology performs materially the same functions in a non-infringing manner; (ii) procure the right for You to continue to use the applicable Markforged Technology as contemplated herein; (iii) substitute an equivalent for the applicable Markforged Technology; or (iv) if options (i)-(iii) are not reasonably practicable, terminate these Terms and refund any pre-paid Fees.

Third-Party Components. The Markforged Technology may include third-party software components, including software made available under an “open source” or similar license (“Third-Party Components”). To the extent required by the license covering any Third-Party Component, the terms of such license will apply to such Third-Party Component instead of these Terms. To the extent the license applicable to any Third-Party Component prohibits any of the restrictions herein with respect to such Third-Party Component, such restrictions will not apply to such Third-Party Component. To the extent the terms of the license applicable to any Third-Party Component requires Markforged to offer to provide source code or related information in connection with such Third-Party Component, such offer is hereby made. Any request for source code or related information should be directed only to [open-source@markforged.com](mailto:open-source@markforged.com). Additional information regarding the Third-Party Components can be found in the Documentation.

## **8. ACCEPTABLE USE POLICY**

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), in all cases, in accordance with these Terms (the “Intended Use”). As clarity regarding the intended use, and not in limitation of the foregoing, 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 develop, collect, upload, transmit, display, or distribute any Content: (i) that violates any third-party’s 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, or promotes illegal activities; (iii) that contributes to the creation or distribution of medical devices, weapons, munitions, or any component thereof unless You are in compliance with every applicable law and regulation relating to such activity; (iv) that is harmful to minors in any way; (v) to engage in fraudulent activity (including impersonating another person or entity, submitting misleading or false declarations concerning Your affiliation with a person or entity, or using a proxy, anonymizing server, false or manipulated headers, identifiers, or addresses in any way for the purpose of concealing the origin of any data sent via the Markforged Technology); (vi) to perpetrate a hoax or engage in phishing schemes, forgery or other similar falsification or manipulation of data; or (vii) that is otherwise objectionable or 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 benchmarking or competitive purposes or attempt to create products or services that are similar to 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) unless You are in compliance with all applicable laws, regulations, and licensing requirements 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) unless You are in compliance with all applicable laws, regulations, and licensing requirements, 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 and any Documentation.

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, and to investigate and/or take appropriate action against You in Markforged's sole and absolute discretion if Markforged reasonably believes that You will violate, have violated or where You appear to violate any applicable law or regulation, the Acceptable Use Policy or any other provision of these Terms. Such

action may include removing or modifying Content, terminating or suspending Your account (and any related individual Authorized User accounts), and/or reporting You to law enforcement or regulatory authorities even if Markforged is not legally obligated to do so. You agree that the information provided to law enforcement or regulatory authorities (including your name, contact information, and the nature of your use of the Markforged Technology shall not be considered Confidential Information (as defined below) under these Terms. Any use of or access to the Markforged Technology other than in accordance with these Terms is unauthorized.

## **9. CONFIDENTIALITY**

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. For clarity, Your Confidential Information includes Content, but not the Aggregated Data or the Metrics, and Markforged’s Confidential Information includes the Markforged Technology and related product plans and technical information. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without any sort of breach on the part of the Receiving Party of any obligation; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation by the Receiving Party; (iii) is received from a third party without breach by the Receiving Party of any obligation; (iv) was independently developed by the Receiving Party without reliance on any Confidential Information disclosed by the Disclosing Party hereunder; or (v) constitutes Feedback.

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: (i) 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; and (ii) 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 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. 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.

## **10. 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 unless You are in compliance with all applicable laws, regulations, and licensing requirements, agents harmless against any and all settlement amounts and damages, liabilities, penalties, costs and expenses, including reasonable attorney fees, arising from any third-party claim, suit or proceeding arising out of or in connection with: (i) Your (or any of Your Authorized Users') use of the Markforged Technology in breach of these Terms (for clarity, including the Additional Terms); (ii) arising from or relating to any claim or allegation that pertains to an item that You have produced using the Markforged Technology; or (iii) Your Content.

## **11. DISCLAIMERS; LIMITATION OF LIABILITY**

SOME JURISDICTIONS DO NOT ALLOW EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON LIABILITY. IN SUCH JURISDICTIONS, THE LIABILITY OF MARKFORGED AND ITS SUPPLIERS SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. IF ANY PORTION OF THIS SECTION 11 IS HELD TO BE INVALID, THE INVALIDITY OF SUCH PORTION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTION. TO THE MAXIMUM EXTENT PERMITTED BY LAW:

DISCLAIMER. MARKFORGED OFFERS A LIMITED WARRANTY WITH RESPECT TO THE PRODUCTS, SOLELY AS SET FORTH IN THE ADDITIONAL TERMS. EXCEPT FOR THE LIMITED WARRANTY THAT IS APPLICABLE TO THE PRODUCTS AS SET FORTH IN THE ADDITIONAL TERMS, 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, 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.

LIMITATION OF DIRECT DAMAGES. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT SHALL MARKFORGED OR OUR AFFILIATES, MANUFACTURERS, SUPPLIERS OR LICENSORS BE LIABLE FOR DIRECT DAMAGES OR OTHER LOSSES OR LIABILITIES DIRECTLY RELATING TO THE PRODUCT(S) OR OTHERWISE ARISING OUT OF OR RELATED TO THESE TERMS, IF AND TO THE EXTENT SUCH DIRECT DAMAGES OR LOSSES EXCEED THE GREATER OF \$100 USD OR THE ACTUAL AMOUNT PAID TO MARKFORGED DURING THE SIX MONTHS PRECEDING THE EVENT THAT GAVE RISE TO THE CLAIM FOR THE SPECIFIC MARKFORGED TECHNOLOGY THAT DIRECTLY GAVE RISE TO THE DAMAGES OR OTHER LOSSES OR LIABILITIES CLAIMED, WHETHER BASED IN CONTRACT, EXPRESS OR IMPLIED WARRANTY, TORT, PRODUCT OR OTHER STRICT LIABILITY, TRADE PRACTICES, OR OTHERWISE, AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING LIMITATION SHALL NOT APPLY TO CLAIMS RELATING TO YOUR BREACH OF THE RESTRICTIONS SECTION OR THE ACCEPTABLE USE POLICY.

EXCLUSION OF CERTAIN DAMAGES. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT SHALL MARKFORGED OR OUR AFFILIATES, MANUFACTURERS, SUPPLIERS OR LICENSORS (AS

THIRD-PARTY BENEFICIARIES) BE LIABLE FOR ANY LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF CONTRACTS, LOSS OF THE USE OF MONEY, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS, LOSS OF OPPORTUNITY, LOSS OF GOOD WILL, LOSS OF REPUTATION, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA; PERSONAL INJURY; PROPERTY DAMAGES; OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXEMPLARY, PUNITIVE, OR OTHER SIMILAR DAMAGES OF ANY KIND, WHETHER FORESEEABLE OR UNFORESEEABLE, EVEN IF IT IS MADE AWARE OF THE POSSIBILITY OF SUCH DAMAGES, AND WHETHER BASED IN CONTRACT, EXPRESS OR IMPLIED WARRANTY, TORT, PRODUCT OR OTHER STRICT LIABILITY, TRADE PRACTICES, OR OTHERWISE, AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE.

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 is 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 OR FOR USE OR SALE OF ITEMS THAT ARE MANUFACTURED WITH MARKFORGED PRODUCTS OR MATERIALS.

Limitation of Actions. Any action against Markforged or our affiliates, manufacturers, suppliers, or licensors that relates to these Terms must be brought within twelve months after the cause(s) of action accrue(s).

## **12. SUPPORT AND MAINTENANCE**

Except as may be specified in the Additional Terms 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.

## **13. FEES AND PAYMENT TERMS**

Fees; Payment Terms. If there are Fees associated with the Cloud Service, You will pay such Fees. If owed to Markforged, all payments are due thirty days from the date on the invoice, will be made in U.S. Dollars, and are non-refundable. Markforged's Fees are set for the duration of each Subscription Period. Markforged reserves the right to increase Fees for each additional Subscription Period, or to impose Fees on features or modules of the Cloud Service that were previously provided at no charge.

Late Payment. If payment of any Fees is not made when due and payable (e.g., if You fail to update Your payment information until after the payment method on file expires, have insufficient funds or otherwise fails to settle payment hereunder), a late fee shall accrue at the rate of the lesser of one and one-half percent (1.5%) per month or the highest legal rate permitted by law and You will pay all reasonable expenses of collection. In addition, if any past due payment has not been received by Markforged within five days from the time such payment is due, Markforged may suspend Your (or any of Your Authorized Users') access to the Cloud Service until such payment is made.

Suspension of Service and Acceleration. If any charge owing by You under this or any other agreement for the Markforged Technology is thirty days or more overdue, Markforged may, without limiting its other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Your use of the Cloud Service until such amounts are paid in full, provided that Markforged will notify You at least ten days in advance of any such suspension.

Net of Taxes. All amounts payable by You to Markforged hereunder are exclusive of any sales, use and other taxes or duties, however designated, including without limitation, withholding taxes, royalties, know-how payments, customs, privilege, excise, sales, use, value-added and property taxes (collectively "Taxes"). You shall be solely responsible for payment of any Taxes, except for those taxes based on the income of Markforged. You will not withhold any Taxes from any amounts due to Markforged.

#### **14. TERM AND TERMINATION**

Term. The term of these Terms commences on the date You first accept them and continues until all subscriptions

hereunder have expired or have been terminated.

Termination. A party may terminate these Terms for cause: (i) upon thirty days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. If these Terms are terminated by Markforged for cause as described in this Section 14, You will pay any unpaid Fees covering the remainder of the Subscription Period to the extent permitted by applicable law. In no event will termination relieve You of Your obligation to pay any Fees payable to Markforged for the period prior to the effective date of termination.

#### **15. CHANGES**

No Markforged reseller is authorized to make any modification, extension, or addition to these Terms.

Markforged reserves the right, at any time and from time-to-time, to update, revise, supplement or otherwise modify these Terms (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 through reasonable means, which may include: (i) posting the new version of the Terms on a Website; (ii) issuing a notice via the Firmware or the Cloud Service; and/or (iii) sending an email to the email address associated with Your account. If a modification to these Terms will have a material adverse effect on You and You do not agree to the modification, You may terminate these Terms by notifying Markforged of the same by email to [sales@Markforged.com](mailto:sales@Markforged.com) within thirty days of 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 in effect immediately before the change (except to the extent modifications were made to comply with applicable law) for sixty days after Your receipt of the modification, at which time these Terms 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 constitutes Your acceptance of any and all such changes.

## **16. ERRORS, INACCURACIES, AND OMISSIONS**

There may be information on our Websites or in our documentation that contains typographical errors, inaccuracies or omissions that may relate to Product or Cloud Service descriptions, pricing, promotions, offers, shipping charges, transit times, or availability. We reserve the right, at any time and with or without prior notice (including after You have submitted Your order), to correct any errors, inaccuracies or omissions, and to change or update information or cancel orders. Notwithstanding the foregoing, We undertake no obligation to update, amend or clarify information on our Websites or in such documentation, including without limitation, pricing information, except as required by law. We are not responsible if information made available on our Websites is not accurate, complete or current. The material on our Websites is provided for general information only and should not be relied upon or used as the sole basis for making decisions without consulting primary, more accurate, more complete or more timely sources of information. Any reliance on the content on our Websites is at Your own risk.

## **17. UNITED STATES GOVERNMENT USE**

Markforged sells commercial-item goods and services, as defined by the Federal Acquisition Regulation ("FAR"). Where Markforged is a United States Government ("Government") prime contractor, FAR Part 12 (or applicable agency supplement) authority for terms and conditions have been used; where Markforged is a subcontractor for Government end use, FAR Subpart 44.4 authority for commercial-item subcontract terms and conditions has been used. Any other terms and conditions must be expressly accepted in writing by Markforged in order to apply. If You are part of an agency, department, or other entity of the Government, the use, duplication, reproduction, release, modification, disclosure or transfer of a Product or the Cloud Service is further restricted in accordance with the FAR or applicable agency supplement as applied to civilian agencies, and the Defense Federal Acquisition Regulation Supplement as applied to defense and military agencies, for "commercial items," "commercial computer software" and "commercial computer software documentation." In accordance with such provisions, any use thereof by the Government shall be governed solely by these Terms.

## **18. 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 limitation; 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 You: (i) are not located within a nation or region that is subject to comprehensive U.S. trade sanctions or restrictions; (ii) 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; (iii) 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 (iv) will not upload Content that is subject to any restriction on disclosure, transfer, download, export or re-export under the Export Control Laws. You further agree that You will not use the Markforged Technology to disclose, transfer, download, export or re-export, directly or indirectly, Content, third-party materials or any other content or material to any country, entity or other party that is ineligible to receive such items under the Export Control Laws or under other laws or regulations.

## **19. GENERAL**

Entire Agreement. These Terms and the Additional Terms constitute the entire agreement and understanding between You and Us regarding Your access to and use of the Markforged Technology. These Terms supersede any prior or contemporaneous agreements, communications and proposals, whether oral or written, between You and us (including, but not limited to, any prior versions of these Terms). For clarity, We object to and reject any additional or different terms proposed by You, including those contained in Your purchase order or other ordering documents, acceptance or website, even if such terms were provided to Us prior to Your acceptance of these Terms. Our failure to object elsewhere to any provisions of any subsequent document, communication, or act of You shall not be deemed a waiver of any of the terms hereof. Your decision to enter into these Terms is not contingent on the delivery of any future functionality or features of the Markforged Technology, nor dependent on any oral or written public comments made by us (including without limitation on our Websites) regarding future functionality or features of the Markforged Technology. Any ambiguities in the interpretation of these Terms shall not be construed against the drafting party. No employee or agent (including resellers) of Markforged has any authority to vary any of the terms and conditions set forth herein.

Notices. Markforged may send You information about the Markforged Technology, any information we are required to provide You by law, and certain other additional information. Markforged may provide this information to You by email at the address You provided when You placed an order with us, or such other email address used by You in conjunction with a Cloud Services account. Notices emailed to You will be deemed given and received when the email is sent. You may provide legal notices to Markforged via email to [legal@markforged.com](mailto: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.

Headings and Language. The section headings used in these Terms are for convenience only and will not be given any substantive effect. The words "includes" or "including" mean "including but not limited to" or "include but are not limited to." The English language version of these Terms is legally binding in case of any inconsistencies between the English version and any translations. The parties confirm that it is

their wish that these Terms, as well as other documents relating hereto, including notices, have been and will be written in the English language only.

Survival. Sections 1 (“Definitions”), 7 (“Intellectual Property Rights”), 9 (“Confidentiality”), 10 (“Indemnification”), 11 (“Disclaimers, Limitation of Liability”), and 19 (“General”) of these Terms, as well as any other provision that, in order to give proper effect to its intent, should survive such expiration or termination, will survive the expiration or earlier termination of these Terms.

Basis of the Bargain. You agree that the releases, waivers, and limitations of liability in these Terms 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 with You and providing You with the Markforged Technology, and that Markforged would not have entered into these Terms or provided You with the Markforged Technology in the absence of such releases, waivers, and limitations of liability. You and Markforged agree that the disclaimers and limitations of liability set forth herein are reasonable in light of the Fees paid and the benefits You realize due to the Markforged Technology.

Waiver. Our failure to exercise or enforce any right or provision of these Terms shall not constitute our waiver of such right or provision.

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 beyond its reasonable control, including, without limitation, acts of God, earthquake, fire, flood, embargoes, strikes, pandemic, 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 or military authorities, and severe weather. The affected 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.

Relationship of the Parties. We and You agree that no joint venture, partnership, employment, or agency relationship exists between us as a result of these Terms and that We are acting as an independent contractor in performing any services for You. Neither party will have the authority to obligate or bind the other in any manner, and no provision of these Terms gives 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.

Severability. If any part of these Terms is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision so that the terms shall remain in full force and effect, and the remainder of these Terms shall continue in full force and effect.

Assignment. You will not assign or transfer Your rights and obligations under these Terms, including any assignment or transfer by operation of law or otherwise, without our express prior written consent. We may freely assign these Terms, including without limitation to our successor in a merger, acquisition or other change of control, including without limitation the sale of all or substantially all of its assets, stock or business to which these Terms relate.

No Third-Party Beneficiaries. These Terms shall not be interpreted or construed to confer any rights or remedies on any third parties.

Governing Law. These Terms 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.

If You have any questions about these Terms, please write to us at [legal@markforged.com](mailto:legal@markforged.com).

## **Markforged Cloud Service Terms For Digital Source**

**Last Revised: November 2, 2023**

### **HOW THESE TERMS APPLY TO YOU**

THESE MARKFORGED CLOUD SERVICE TERMS FOR DIGITAL SOURCE (THESE “**DIGITAL SOURCE TERMS**”) ARE ENTERED INTO BY AND BETWEEN YOU AND MARKFORGED AS OF THE ACCEPTANCE DATE. THESE DIGITAL SOURCE TERMS FORM PART OF, AND HEREBY ARE INCORPORATED INTO (AND ARE IN ADDITION TO), THE MARKFORGED CLOUD SERVICE TERMS FOR EIGER IN WHICH THESE DIGITAL SOURCE TERMS ARE REFERENCED (“**TERMS**”). BY CREATING AN ACCOUNT FOR THE CLOUD SERVICE, USING THE CLOUD SERVICE, OR OTHERWISE INDICATING YOUR ACCEPTANCE OF THE TERMS (INCLUDING BY CHECKING A BOX INDICATING SUCH ACCEPTANCE OR SELECTING “I ACCEPT”), YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE BENEFITS YOU RECEIVE FROM USING THE CLOUD SERVICE ARE SUFFICIENT CONSIDERATION, YOU HAVE READ THESE DIGITAL SOURCE TERMS, ARE BOUND BY THESE DIGITAL SOURCE TERMS AS BUYER AND/OR VENDOR, AS APPLICABLE (ANY REFERENCES TO “**YOU**” AND/OR “**YOUR**” IN THESE DIGITAL SOURCE TERMS SHALL REFER TO YOU AND/OR YOUR ROLE AS BUYER AND/OR VENDOR, AS APPLICABLE), AND AGREE TO ALL OF THE TERMS AND CONDITIONS SET FORTH HEREIN. YOUR USE OF ANY MARKFORGED PRODUCTS IS GOVERNED BY THE MARKFORGED CUSTOMER TERMS OF PURCHASE, AVAILABLE AT: [HTTPS://MARKFORGED.COM/TERMS-OF-PURCHASE](https://markforged.com/terms-of-purchase). CAPITALIZED TERMS USED, BUT NOT OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE TERMS. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THESE DIGITAL SOURCE TERMS AND THE TERMS, THESE DIGITAL SOURCE TERMS SHALL GOVERN.

### **1. DEFINITIONS**

These Digital Source Terms use certain words and phrases in a specific manner. These words or phrases have been capitalized, and each is bolded where the definition is first provided. Some definitions are provided in close proximity to the initial use of the word or phrase, and for convenience, some are defined in this Section of these Digital Source Terms.

**“Buyer”** means an Authorized User of Digital Source that: (i) owns one or more Markforged Products; and (ii) has the ability to access a Print License within Digital Source in accordance with these Digital Source Terms.

**“Buyer-Vendor Connection”** means a digital connection within Digital Source of two Eiger Organizations as may be facilitated by Markforged. Every Buyer will be a Connected Buyer of Markforged.

**“Cloud Service”** means the proprietary software-as-a-service offerings, made available by Markforged to Markforged Clients for use in connection with Markforged Products, which include Eiger and Digital Source.

**“Commercial Order”** means a written agreement between Markforged and a Vendor, setting forth at a minimum: (1) whether the Vendor operates under the DS Transactional Model or the DS Subscription Model; (2) the Vendor’s permitted Connected Buyers; and (3) if Vendor operates under the DS Transactional Model, the Platform Fee due from Vendor to Markforged for Digital Source Transactions; or, if Vendor operates under the DS Subscription model, the subscription fee due from Vendor to Markforged for Cloud Services.

**“Connected Buyer”** means a Buyer to which a particular Vendor has a Buyer-Vendor Connection, as set forth in a Commercial Order.

**“Digital Catalog”** means a visual representation within Digital Source of a Vendor’s virtual repository of Digital Files available for Print License to Markforged Clients in Digital Source.

**“Digital File”** means a digital file, containing a specific instance of Product Intellectual Property, uploaded to the Cloud Service for the purpose of 3D printing, together with its associated categories of information (e.g., a digital representation, images, product geometry, print settings, material, printer requirements, or work instructions; print history; Part certification or Part verification; and price). A Digital File constitutes Content under the Terms.

**“Digital Inventory”** means Buyer’s inventory of Buyer’s Print Licenses obtained through Digital Source.

**“Digital Source”** means the SaaS platform, within Markforged’s Eiger & Digital Forge ecosystems, wholly owned by Markforged, which allows Vendors to share Digital Files with Connected Buyers for the purpose of distributed manufacturing.

**“Digital Source Transaction”** means any sale by a Vendor, and purchase by a Buyer, of a Print License within Digital Source, regardless of whether the charge is invoiced, and/or the payment is effectuated, outside of Digital Source.

**“DS Subscription Model”** means the Digital Source commercial model under which Vendor pays to Markforged a subscription fee in exchange for rights for such Vendor’s Connected Buyers to obtain Print Licenses, all in accordance with a Commercial Order.

**“DS Transactional Model”** means the Digital Source commercial model under which: (1) a Connected Buyer pays a Print License Fee to a Vendor to obtain a Print License; and (2) Markforged receives a Platform Fee.



**“Eiger”** means the online multifunctional software solution, eiger.io, wholly owned by Markforged, for creating and managing Parts through the additive manufacturing workflow.

**“Eiger Organization”** means a Markforged Client that is operating under a single Eiger account.

**“Intellectual Property Right”** means any patent, patent right, trademark, service mark, registered design, application for any of the foregoing, copyright, unregistered design right, and any other similar protected right in any country to the extent recognized by any relevant jurisdiction as intellectual property, trade secret, know-how, and Confidential Information.

**“Manufacturer”** means a Markforged Client with the capability to produce a Part using a Markforged Product.

**“Markforged Client”** means an organization with rightful access to Markforged Technology.

**“Part”** means an item or object manufactured (i.e., 3D printed on a Markforged Product) by a Manufacturer.

**“Platform Fee”** means a percentage (%) of a Print License Fee that is paid to Markforged, as set forth in a Commercial Order.

**“Print License”** means a Connected Buyer’s digital authority to print, from a Markforged Product, a Part from a Digital File in accordance with the Print License Agreement, either: (1) in exchange for a Print License Fee; or (2) in connection with the relevant Vendor’s subscription under the DS Subscription Model.

**“Print License Agreement”** means the agreement between a Vendor and a Connected Buyer, governing such Connected Buyer’s Print License, attached hereto as Exhibit A.

**“Print License Fee”** means any fee charged by a Vendor to a Connected Buyer for the Connected Buyer to acquire a Print License, exclusive of any Taxes.

**“Product Intellectual Property”** means a design that is a work or invention that is the result of creativity, including without limitation, models, data sets (e.g., usage data, or other data produced by a laser or camera), meshes, geometries, images, documents, or similar material, proprietary or otherwise, and that may be uploaded to the Cloud Service, or may be made available or is capable of being made available as part of a Digital File.

**“Taxes”** means, collectively, sales, use, goods and services (GST), value-added (VAT), digital services, and similar taxes.

**“Third-Party Payment Processor”** means a third party approved by Markforged to process payments for Digital Source Transactions.

**“Trademarks”** means the words, names, symbols, designs, or any combination thereof, used in commerce to identify and distinguish the products, services, and company, of a party from those of others and to indicate the source of such products and services.

**“Vendor”** means a Markforged Client that owns: (1) one or more Markforged Products; and (2) one or more Digital Files that will be available for Print License in Digital Source.

## 2. DIGITAL SOURCE OPERATIONS

Vendor Eligibility. Vendor shall: (i) truthfully and accurately furnish all information requested by Markforged to verify Vendor as eligible to transact under these Digital Source Terms; and (ii) meet any other eligibility requirements specified by Markforged to list any Digital File in Digital Source.

Print License Agreement. When Vendor uploads a Digital File to Digital Source, Vendor will designate any Print License Fee to be charged to a Connected Buyer of a Print License for such Digital File. Vendor hereby agrees to make available its Digital Files to Buyers in accordance with the Print License Agreement. Buyer hereby agrees to access such Digital Files in accordance with the Print License Agreement. You acknowledge and agree that You have had the opportunity to engage legal counsel to review the Print License Agreement. Markforged does not have any responsibility or liability related to the Print License Agreement or any compliance or non-compliance by any Vendor or Buyer under any Print License Agreement. Vendor is responsible for ensuring that all information provided by Vendor about a Digital File is accurate and up to date at all times. If any such information is inaccurate or needs to be updated or modified, Vendor will promptly make any necessary modification.

Prohibited Actions. Vendor shall not (i) upload any Digital File that contains software or other materials that are subject to licenses or restrictions (e.g., open-source software licenses) that, when combined with additional software or other materials, would require Markforged or any Buyer to disclose, license, distribute, or otherwise make all or any part of such additional software available to a third party; (ii) upload, access or use any Digital File through the Digital Source that infringes or misappropriates any Intellectual Property Rights of any third-party or otherwise violate any laws, rules or regulations. You shall not: (i) use Digital Source for any purpose that is fraudulent or otherwise tortious or unlawful; (ii) falsely state or misrepresent Your association with Markforged or another person or entity; or (iii) access or use Digital Source if You are a Markforged competitor, or access or use Digital Source for any competitive purposes, including to build a competitive program, store, marketplace, product, or service. You shall not make any false, inaccurate, or misleading claims or statements regarding any Digital File or Part or otherwise mislead Buyers or Markforged.

Digital File Availability; Withdrawal. Markforged may determine in its sole discretion whether to make any Digital File available through Digital Source. Markforged may stop any Digital Source Transaction, or take other action needed to remove or to restrict access to any Digital File. Any withdrawal of a Digital File does not relieve Vendor of responsibility to ensure the Digital File complies with these Digital Source Terms or to perform other obligations under these Digital Source Terms.

Markforged Operates Digital Source. Markforged has sole discretion to determine all features and operations of Digital Source and to change Digital Source from time to time. You acknowledge and agree that Markforged has no obligation: (i) to list, promote, distribute, or offer for evaluation, sale, or license any Digital File or Print License; or (ii) except as otherwise agreed in writing between You and Markforged, to permit You to use Digital Source, or to continue any of the foregoing once begun. Markforged reserves the right to determine the manner in which Digital Files, information about Digital Files and/or Parts, and other information intended to inform Buyers about Digital Files and/or Parts, are presented and promoted in Digital Source.

Marketing. Vendor shall not make a press release or other announcement regarding your use of Digital Source or a relationship with Markforged without the prior written consent of Markforged. For all such inquiries, Vendor shall contact [press@markforged.com](mailto:press@markforged.com). Within a Vendor's Digital Catalog, or otherwise within Digital Source, Vendor may not include any advertisements or promotions for, or opportunities for, a Buyer to purchase products or services that Vendor does not list in Digital Source.

Markforged's Digital Catalog. Digital Files in Markforged's Digital Catalog are made available without charge for a limited time for 3D printing on Markforged Products as part of the Digital Source demo experience. Markforged is not responsible or liable for the print quality of these Parts, or any damage to or issues with any printer in connection with these Digital Files or Parts.

### **3. PROCESSING OF DIGITAL SOURCE TRANSACTIONS**

DS Transactional Model: Credit Card Transactions. Under the DS Transactional Model, Markforged may, in its sole discretion, make available the ability to purchase or otherwise obtain Print Licenses through Digital Source via credit card payments, processed by a Third-Party Payment Processor. If a Buyer to which a Vendor has a Buyer-Vendor connection wishes to effectuate such a Digital Source Transaction, such Connected Buyer may be asked to supply certain relevant information, such as credit card number and its expiration date, and billing address. Buyer represents and warrants that Buyer has the right to use any credit card for which Buyer provides any credit card information in connection with a Digital Source Transaction. Verification of information may be required prior to the acknowledgment or completion of any Digital Source Transaction. Buyer will pay all charges incurred by Buyer or on Buyer's behalf through Digital Source, at the prices in effect when such charges are incurred. For Digital Source Transactions paid by credit card, the Platform Fee will be paid automatically to Markforged. Markforged reserves the right to charge Vendors for the Third-Party Processor fee. Markforged or the Third-Party Payment Processor may withhold amounts for investigation of any transaction that We suspect, or it suspects, is fraudulent, unlawful, or otherwise violates these Digital Source Terms or Our policies. Vendor bears all risk of fraud or loss, including the risk of chargebacks and/or credit card fraud associated with the sale of Print Licenses through Digital Source. If Markforged or a Third-Party Payment Processor receives a chargeback or determines a payment related to a Digital Source Transaction was a result of fraud, then Vendor will promptly reimburse Markforged or the Third-Party Payment Processor for the total amount of any applicable Digital Source Transaction proceeds previously paid to Vendor, as well as all credit card association, bank, or other payment processing, representment, and/or penalty fees associated with the original Digital Source Transaction.

DS Transactional Model: Direct Invoicing. Under the DS Transactional Model, Markforged may, in its sole discretion, make available the ability to purchase or otherwise obtain Print Licenses through Digital Source via the Vendor sending to the Connected Buyer directly an invoice for the Print License Fee, outside of Digital Source. If Vendor wishes to avail itself of such direct invoicing option, Vendor shall complete any required paperwork (e.g., credit application) requested by Markforged. If a Buyer to which a Vendor has a Buyer-Vendor connection wishes to effectuate such a Digital Source Transaction: (i) such Connected Buyer agrees to pay the Print License Fee to the Vendor in accordance with the Print License Agreement; (ii) Markforged will invoice Vendor for the Platform Fee in accordance with the Commercial Order; and (iii) Vendor agrees to pay the Platform Fee to Markforged in accordance with the Commercial

Order. Vendor acknowledges and agrees that Vendor's obligation to pay the Platform Fee to Markforged is independent of whether any Connected Buyer has paid any Print License Fee to Vendor and independent of any issue with any Connected Buyer's prints of Parts.

DS Subscription Model. Under the DS Subscription Model, Vendor agrees to pay to Markforged a subscription fee in exchange for the entitlement of such Vendor's Connected Buyers to obtain Print Licenses, all in accordance with a Commercial Order.

Minimum Print License Fee. Markforged reserves the right to set a minimum Print License Fee for Digital Source Transactions.

Audit Rights. Markforged shall have the right to audit (either directly or indirectly through an independent third party) Vendor's books of account and business records as necessary to verify Vendor's compliance with these Digital Source Terms.

#### **4. TAXES**

DS Transactional Model: Credit Card Transactions. For credit card payments under the DS Transactional Model: (i) Markforged (or, in Markforged's sole discretion, a Third-Party Payment Processor on Markforged's behalf) will collect and remit Taxes, if any, applicable to a Connected Buyer's acquisition of a Print License in a Digital Source Transaction (which may include validating the business status of Buyers by obtaining tax registration numbers or exemption certificates and issuing tax invoices, where required); (ii) Vendor is solely responsible for complying with any tax obligation that applies to Vendor; (iii) Vendor is solely responsible for providing accurate information about Print Licenses to Markforged for tax classification purposes; and (iv) Markforged is a 'Marketplace Facilitator' for U.S. federal and state tax purposes.

DS Transactional Model: Direct Invoicing. For direct invoicing under the DS Transactional Model, Vendor is solely responsible for collecting, reporting, and remitting any Tax applicable to a Digital Source Transaction. Markforged has no responsibility whatsoever with respect to Taxes for Digital Source Transactions paid by direct invoice. Vendor acknowledges and agrees to cooperate with Connected Buyers to facilitate the furnishing, exchange, transmittal, or other provision of tax documentation, and such cooperation includes, but is not limited to, authorizing Markforged to grant Buyers the ability to contact You to obtain any required tax invoices, which ability is hereby granted.

DS Subscription Model. Under the DS Subscription Model, Markforged will collect, report, and remit Taxes, if any, applicable to Vendor's subscription to Digital Source in accordance with the Commercial Order.

#### **5. SUPPORT AND SECURITY**

Reprints and Refunds. If Buyer experiences an issue with a print (or a reprint), Buyer may request a reprint from Vendor through Digital Source in accordance with the Print License Agreement. Markforged has no responsibility, obligation, or liability for or with respect to reprints. Refunds are not supported through Digital Source. If Vendor chooses to issue a refund to a Buyer, Vendor is responsible for all costs and expenses resulting from any return, exchange, or refund of a Print License or Print License Fee. Vendor is responsible for directly paying such amounts to Buyer. The Platform Fee is non-refundable,

including in the event Vendor issues any credit, refund, or exchange to a Buyer for any Digital Source Transaction.

Support for Digital Files, Print Licenses, and Parts. Vendor shall provide to Buyers reasonable support for Digital Files, Print Licenses, and Parts in accordance with the Print License Agreement. Markforged is not responsible for any such support or maintenance. Aside from any initial reprint or refund request, Buyer shall contact Vendor directly outside of Digital Source, rather than Markforged, with respect to Vendor's failure to support Digital Files, Print Licenses, and/or Parts. Vendor's failure to provide any support or maintenance does not entitle Buyer to any refund. If Markforged is the Vendor, Markforged will provide any support and maintenance in accordance with the Terms.

Digital File Security. Vendor shall employ security best practices in connection with the development and provision of Vendor's Digital Files. If Vendor suspects or becomes aware of any security vulnerability related to a Digital File, Vendor will immediately notify Markforged and will take all appropriate steps to remedy such vulnerability, including cooperating with Markforged. Vendor shall ensure that all Product Intellectual Property associated categories of information contained in Digital Files are kept up to date. Vendor acknowledges and agrees that Vendor's Digital Files shall not contain any viruses, spyware, "Trojan horses," or other "malware" or harmful code, and shall not cause injury to any person or damage to any property.

## **6. ADDITIONAL BUYER RESPONSIBILITIES**

Buyer's Representations and Warranties. Buyer (including anyone acting on Your behalf) represents, warrants, and covenants that You have all necessary right, power, and authority: (i) to enter into and be legally bound by these Digital Source Terms, (ii) to enter into Digital Source Transactions; (iii) to authorize Vendors to access and use Your data and information as described in the Data Processing' Section of these Digital Source Terms, all without violation of any other agreements or policies; and (iv) by accessing and using a Digital File on Digital Source, You acknowledge and agree that: You will evaluate and bear any risks associated therewith the Digital File, including that the Vendor's Digital File may be imported to, exported from, and lawfully used (without the need for Markforged to obtain any license or clearance or take any other action); and Your access and use of the Vendor's Digital File does not infringe or misappropriate any Intellectual Property Rights of any third-party. Buyer must discretion when visiting third-party websites. Buyer shall always independently verify that any Digital File, Part, or Vendor business practices meet Buyer's needs.

Compliance with Law. Buyer shall comply with all applicable laws and regulations in connection with Buyer's access to and use of Digital Source, including without limitation Buyer's conduct under these Digital Source Terms.

Indemnification. Buyer agrees to indemnify, defend (at Markforged's request), and hold harmless Markforged, its affiliates, and its and their officers, agents, and employees from and against any and all claims by third parties, and any related damages, losses, and costs (including reasonable attorneys' fees) arising out of: (i) Buyer's violation of these Digital Source Terms or any Print License; (ii) Buyer's violation of any rights of a third party; or (iii) any information Buyer makes available via Digital Source. Buyer may not settle any such claim without Markforged's prior written consent.

## **7. ADDITIONAL VENDOR RESPONSIBILITIES**

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