

THEIA MARKERLESS INC.

Terms of Use

Last Updated: April 11, 2024

These Terms of Use (these “**Terms**”) are a legal agreement between Theia Markerless Inc. (“**Theia Markerless**”, “**we**”, “**us**”, or “**our**”) and you, an individual accessing the website located at <https://www.theiamarkerless.ca/> (the “**Website**”). The Website includes, but is not limited to, all other sites owned and operated by Theia Markerless that redirect to the Website, all subdomains provided through such other site or the Website, and all downloadable applications, features, functionality, content or information that is made available or provided on the Website. The Website is made available to you for the purposes of providing you with access to information about Theia Markerless, the software application Theia3D and other product offerings (collectively, the “**Services**”). These Terms set out the terms and conditions that apply to your access and use of the Website and Services.

BY ACCESSING THE WEBSITE AND USING THE SERVICES, YOU AGREE THAT YOU HAVE READ AND ARE INDICATING YOUR ACCEPTANCE OF, AND YOU AGREE TO BE BOUND BY, THE TERMS AND CONDITIONS OF THESE TERMS WHICH SHALL GOVERN YOUR ACCESS TO AND USE OF THE WEBSITE AND SERVICES. IF YOU DO NOT AGREE WITH ONE OR MORE OF THESE TERMS, YOU MAY NOT ACCESS OR USE THE WEBSITE OR SERVICES AND MUST EXIT THE WEBSITE AND REFRAIN FROM USING THE SERVICES.

THESE TERMS CONTAIN A RELEASE BY YOU OF ALL CLAIMS FOR DAMAGE AGAINST US THAT MAY ARISE OUT OF YOUR USE OF THE SERVICES OR ACCESS TO THE WEBSITE. BY USING THE SERVICES AND ACCESSING THE WEBSITE, YOU AFFIRM THAT YOU AGREE TO THESE PROVISIONS.

1. Modification of Terms

We may revise these Terms from time to time. The most current version will always be posted on our Website. Therefore, we recommend that you frequently visit the Website to monitor any changes to the Terms. Any changes will be effective only after the effective date of the change and will not affect any dispute arising prior to the effective date of the change.

2. Access and License

Theia Markerless hereby grants you a limited, non-exclusive, personal, non-transferable, non-sub-licensable and revocable right and license to (i) access the Website for the purposes of receiving the Services in accordance with these Terms and for general information purposes only; and (ii) access, view and print any information and documentation made available on the Website, for your personal, non-commercial and informational use only to assist you in the access and use of the Services.

3. Permitted Uses

You agree to use the Services only for purposes that are permitted, both by the Terms and by any applicable law, regulation, or generally accepted practices or guidelines, in relevant local, national, and international jurisdictions.

You agree that when using the Website and Services, you will not:

- (i) access (or try to access) and use the Website or Services through any automated means, including without limitation, scrapers, scripts, robots or web crawlers;
- (ii) submit false or misleading information via the Website or Services;
- (iii) use or attempt to use another user’s account;

- (iv) impersonate any person or entity, or falsely state or otherwise misrepresent yourself, your personal information or your affiliations with any person or entity;
- (v) publish, publicly perform or display, or communicate to the public or otherwise distribute to any third party any Theia Markerless Content (as defined below);
- (vi) market, sell, re-sell or make commercial use of the Website, Services or Theia Markerless Content;
- (vii) systematically collect from the Website and use any Theia Markerless Content, including the use of any data mining, robots, or similar data gathering and extraction methods;
- (viii) decompile, reverse engineer, disassemble, modify, or reduce the Website to human perceivable form;
- (ix) make derivative uses of the Website or Theia Markerless Content;
- (x) post or transmit any files which contain viruses, worms, Trojan horses or other code that manifests contaminating or destructive properties;
- (xi) post or transmit data or content which violates or infringes any third party rights, is false, misleading or inaccurate or is injurious to a third party or defames, libels or disparages any third party;
- (xii) post or transmit data or content which would be considered a criminal offence, give rise to civil liability, or would otherwise violate the law;
- (xiii) take any action or use any program or device that may result in or is intended to interfere with the operation and functioning of the Website or to shut down, overload or overwhelm the Website.

4. Suspension and Termination of Access

Theia Markerless may suspend or terminate your access to the Services or the Website or terminate these Terms at any time without prior notice to you and without further obligation or liability to you if, in Theia Markerless' sole discretion, it determines you have breached these Terms.

If these Terms are terminated for any reason, you are still bound by the provisions of the Terms that are intended to survive. EXCEPT TO THE EXTENT PROHIBITED BY LAW, THEIA MARKERLESS HAS NO LIABILITY OF ANY KIND OR ANY NATURE WHATSOEVER TO YOU SOLELY BY REASON OF ANY CHANGE, MODIFICATION, SUSPENSION OR DISCONTINUANCE OF THE WEBSITE OR SERVICES OR ANY OR ALL OF THE WEBSITE OR SERVICES IN ACCORDANCE WITH ITS TERMS. EXCEPT TO THE EXTENT PROHIBITED BY LAW, YOU AGREE THAT YOU SHALL NOT MAKE ANY CLAIM AGAINST THEIA MARKERLESS, INCLUDING WITH RESPECT TO ANY LOST REVENUE, PROFITS OR OPPORTUNITIES AS A RESULT OF SUCH CHANGE, MODIFICATION, SUSPENSION OR DISCONTINUANCE OR ON ACCOUNT OF ANY EXPENDITURES MADE OR ACTIONS TAKEN IN RELIANCE ON THE EXPECTED CONTINUATION OF THE WEBSITE, THE SERVICES OR THESE TERMS.

5. Content

The Website may include images, text, works, audio files, sounds and other content and data that are owned by third parties ("**Third Party Content**"). You agree that all of the terms and conditions of these Terms relating to the Website apply to your access to and use of any Third Party Content and you further agree to comply with any terms and conditions that are specific to the Third Party Content.

All content and data made available by Theia Markerless through the Website and modifications, enhancements, upgrades, updates or customization thereto, including any Third Party Content, (the "**Theia Markerless Content**") is owned solely and exclusively by Theia Markerless and/or third parties. You may not market, sell, re-sell or make commercial use of the Website or any Theia Markerless Content.

If you provide Theia Markerless with any comments, suggestions, recommendations, requests or any other feedback ("**Feedback**"), Theia Markerless may use such feedback to improve the Website and the Services or for any other purpose. Furthermore, Theia Markerless shall own such Feedback and Theia Markerless and its affiliates, licensees, clients, partners, third-party providers and other authorized parties may use, license, distribute, reproduce and commercialize the Feedback, and you hereby assign, irrevocably, exclusively and on a royalty-free basis, all such Feedback to Theia Markerless. Theia Markerless will have no obligation to consider, use, return or preserve any Feedback you provide to us. Any Feedback you

provide to us may or may not be treated confidentially by us, and Theia Markerless will have no obligation or liability to you for the use or disclosure of any Feedback.

6. Age of Majority

The Website and Services are not intended to be used by any person under the age of eighteen (18). To use and access the Website and Services, you must be at least eighteen (18) years of age (or the minimum legal age in your province or country to use our Website and Services).

7. Disclaimers and Limitation of Liability

THE SERVICES, WEBSITE AND THEIA MARKERLESS CONTENT ARE PROVIDED BY THEIA MARKERLESS ON AN "AS IS" AND "AS AVAILABLE" BASIS. THEIA MARKERLESS MAY MAKE CHANGES OR IMPROVEMENTS TO THE THEIA MARKERLESS CONTENT AND FUNCTIONALITY OF THE SERVICES AND WEBSITE AT ANY TIME, WITHOUT PRIOR NOTICE TO YOU. THEIA MARKERLESS DOES NOT WARRANT THAT THE SERVICES, WEBSITE OR THEIA MARKERLESS CONTENT WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION OR THAT THE WEBSITE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THEIA MARKERLESS MAKES NO REPRESENTATIONS ABOUT THE TECHNICAL ACCURACY OR FUNCTIONALITY OF THE SERVICES OR THE WEBSITE OR THAT THE THEIA MARKERLESS CONTENT IS ACCURATE, ERROR-FREE OR UP-TO-DATE. THEIA MARKERLESS MAKES NO REPRESENTATIONS WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR INTELLECTUAL PROPERTY.

IN NO EVENT SHALL THEIA MARKERLESS, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SERVICE PROVIDERS, CONTRACTORS, LICENSORS, LICENSEE, SUCCESSORS OR REPRESENTATIVES (COLLECTIVELY, "**PARTIES**") BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOSS OF USE, DATA, REVENUE, PROFITS, BUSINESS, ANTICIPATED SAVINGS, OR GOODWILL, WHETHER OR NOT THEIA MARKERLESS HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES, ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH ACCESS TO, USE OR PERFORMANCE OF THE SERVICES OR WEBSITE, FAILURE OF THE SERVICES OR WEBSITE TO OPERATE, OR ANY THEIA MARKERLESS CONTENT OR OTHER INFORMATION PROVIDED ON THE WEBSITE OR IN CONNECTION WITH THE SERVICES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN SUCH JURISDICTIONS, OUR LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW, OR \$5, WHICHEVER IS LESS.

8. Collection, Use and Disclosure of Personal Information

You agree that your use of the Services and Website is subject to the terms of our Privacy Policy, which is incorporated by reference into, and forms an integral part of the Terms. By agreeing to the Terms or by using the Services or Website, you consent to the collection, storage, use and disclosure of your information, including your personal information, according to the Privacy Policy available through <https://www.theiamarkerless.ca/privacy-policy/>.

9. Trade-marks

All product, brand and Theia Markerless names and logos and trade-marks displayed on the Website or used in connection with the Services are the trade-marks of Theia Markerless (or its suppliers, partner businesses or third party licensors). Any use of any of the marks appearing on the Website or in connection with the Services without the express written consent of Theia Markerless or the owner of the mark, as appropriate, is strictly prohibited.

10. Links

Any links on the Website to third party websites are provided for your convenience and for partnering sites to identify that you are using our Services. If you choose to access third party websites or obtain products or services from third parties, you do so entirely at your own risk and such access is between you and such third party. Theia Markerless does not warrant or make any representations regarding the legality, accuracy or authenticity of content presented by such websites or any products or services offered by third parties and shall have no liability for any loss or damages arising from the access or use of such websites, products or services. You are strongly advised to check the terms of use and the privacy policies of these external websites or resources before making use of them. You acknowledge that Theia Markerless may remove any link to an external website or to resources at any time for any reason whatsoever.

11. Jurisdiction

The Services are administered by Theia Markerless from a Website that is located in Ontario, Canada. This Website is not intended for use in any jurisdiction where its use is not permitted. If you access the Website from outside of Canada, you do so at your own risk and you are responsible for compliance with local laws of your jurisdiction.

You agree that these Terms shall be exclusively governed by, construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. You irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario in respect of all matters and disputes arising hereunder. You expressly agree that, in the event that there is a dispute under these Terms and such dispute is to be resolved in a court of law, such dispute shall not be resolved by jury trial and you hereby waive any right to trial by jury.

12. Waiver

No delay or omission by Theia Markerless to exercise any right or power we have under these Terms or to object to the failure of any covenant of you to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. Any waivers by Theia Markerless must be in writing and signed by an authorized representative of Theia Markerless.

13. Assignment

These Terms are personal to you, and are not assignable, transferable, or sublicensable by you except with Theia Markerless' prior written consent. Theia Markerless may assign, transfer, or delegate any of its rights and obligations hereunder without your consent.

14. Entire Agreement

These Terms, the Privacy Policy and any documents incorporated by reference herein, constitute the entire agreement between you and Theia Markerless as it relates to the access to, and use of, the Services, and the subject matter of these Terms and supersede all prior or contemporaneous agreements, negotiations, representations and proposals, written or oral between Theia Markerless and you. You and Theia Markerless agree that these Terms and all documents relating thereto be drawn-up in English. While a French translation of these Terms may be provided for convenience, in the event of a dispute as to the terms of these Terms, the English version shall prevail.

15. Severability

If any provision of these Terms is held by a court of competent jurisdiction to be invalid or unenforceable in any respect, then the remaining provisions of these Terms, or the application of such provisions to persons

or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each such provision of these Terms shall be valid and enforceable to the extent permitted by law.

16. Electronic Documents

This electronic document, and all other electronic documents referred to or incorporated herein, will be: (i) deemed for all purposes to be a “writing” or “in writing”, and to comply with all statutory, contractual, and other legal requirements for a writing; and (ii) legally enforceable as a signed agreement.

17. Contact/Notice

If you have any questions about the Terms or would like to send feedback to, provide notice to, or otherwise communicate with us, please email us at info@theiamarkerless.ca or write to us at 27 Sydenham Street, Kingston Ontario, Canada, K7L3G8; Attention: **Marcus Brown**.

Theia Markerless may provide notices or communications to you on the Website or through the Services and you agree that such notices shall constitute notice to you whether or not you actually access the notice.