

CINDERWING TERMS OF USE

Last Revised: August 31, 2023

The following terms and conditions (the “Terms of Use”) constitute a binding agreement between you and Cinderwing Studios, LLC (“Cinderwing,” “we,” or “us”) with respect to your use of all Cinderwing-owned websites and domains including cinderwing3d.com (collectively, the “Site”), and the products and designs available on the Site (collectively, the “Offerings”), including any Content (as defined in Section 2 below). **BY CLICKING “I AGREE” OR BY OTHERWISE ACCESSING OR USING THE OFFERINGS IN ANY MANNER (WHETHER AUTOMATED OR OTHERWISE), YOU (A) ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND, AND AGREE TO THESE TERMS OF USE, AND (B) AFFIRM THAT YOU ARE AT LEAST 18 YEARS OF AGE (OR HAVE REACHED THE AGE OF MAJORITY IN THE JURISDICTION WHERE YOU RESIDE), OR THAT YOU HAVE REVIEWED THESE TERMS OF USE WITH YOUR PARENT OR LEGAL GUARDIAN AND HE OR SHE AGREES TO THESE TERMS OF USE ON YOUR BEHALF AND TAKES FULL RESPONSIBILITY FOR YOUR COMPLIANCE WITH THEM. IF YOU ARE UNDER 18 YEARS OF AGE, YOU UNDERSTAND THAT YOU CANNOT LATER VOID THIS AGREEMENT WITH CINDERWING AS A MINOR WITHOUT LOSING ACCESS TO THE OFFERINGS AND YOUR PARENT OR LEGAL GUARDIAN BEING HELD RESPONSIBLE FOR YOUR ACTIONS AND ANY OBLIGATIONS YOU HAVE INCURRED WHILE ACCESSING AND USING THE OFFERINGS AS IF YOU WERE AN ADULT. IF YOU DO NOT AGREE TO THESE TERMS OF USE OR OUR PRIVACY POLICY, DO NOT USE THE OFFERINGS. YOU MAY NOT BEGIN TO USE THE OFFERINGS UNTIL CINDERWING HAS PROVIDED YOU WITH AN AUTHORIZED SELLER BADGE, WHICH WILL OCCUR AS SOON AS YOU INDICATE YOUR ACCEPTANCE OF THESE TERMS OF USE.**

1. **Changes to Terms of Use.** We may revise and update these Terms of Use from time to time in our sole discretion. The date these Terms of Use were last updated is set forth at the top of this page. All changes are effective 30 days after posting for current users and immediately for new users, and apply to all access to and use of the Offerings thereafter. Your continued use of the Offerings following the posting of revised Terms of Use means that you accept and agree to the changes.
2. **Scope of and Restrictions on Use.** Subject to these Terms of Use, Cinderwing grants you a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use the Offerings for your personal, non-commercial use or legitimate business purposes, including any graphics, text, instructions, images, audio files and/or other sounds, videos, and other materials you may view on, access through, or are otherwise related to the Offerings (collectively, the “Content”). Except as otherwise provided in these Terms of Use, the Content may not be copied, downloaded, or stored in a retrieval system for any other purpose, nor may it be redistributed, reused, or modified for any purpose, without the express written permission of Cinderwing. You agree not to:

- use automated means to access the Offerings, or gain unauthorized access to the Offerings or to any account or computer system connected to the Offerings;
- obtain, or attempt to obtain, access to areas of the Site or our systems that are not intended for access by you;
- “flood” the Offerings with requests or otherwise overburden, disrupt, or harm the Offerings or our systems;
- restrict or inhibit other users from accessing or using the Offerings;
- modify or delete any copyright, trademark, or other proprietary rights notices that appear on the Site or in the Content; or
- access or use the Offerings or Content for any unlawful purpose or otherwise beyond the scope of the rights granted herein.

3. Subscription Services. Cinderwing’s subscription service is an automatic recurring monthly subscription service. Cinderwing may make a number of different subscription plans available, if and as set forth on the Site, each of which may have different associated fees. We reserve the right to modify, terminate or otherwise amend, in our sole discretion, our offered subscription plans; provided, however, that any amendment or modification to the billing provisions associated with those plans shall not apply to any charges incurred prior to the applicable amendment or modification. WHEN YOU REGISTER FOR THE CINDERWING SUBSCRIPTION SERVICE, YOU EXPRESSLY AUTHORIZE AND AGREE THAT CINDERWING AND/OR OUR THIRD PARTY PAYMENT PROCESSOR IS AUTHORIZED TO AUTOMATICALLY CHARGE YOUR PAYMENT METHOD (AS DEFINED BELOW) ON A RECURRING BASIS IN AN AMOUNT EQUAL TO THE THEN-EFFECTIVE RATE FOR YOUR PLAN, TOGETHER WITH ANY APPLICABLE TAXES AND SHIPPING (THE “PLAN RATE”), FOR AS LONG AS YOU CONTINUE TO USE THE SUBSCRIPTION SERVICE, UNLESS YOU CANCEL YOUR SUBSCRIPTION SERVICE IN ACCORDANCE WITH THIS AGREEMENT. YOU ACKNOWLEDGE AND AGREE THAT CINDERWING WILL NOT OBTAIN ANY ADDITIONAL AUTHORIZATION FROM YOU FOR SUCH AUTOMATIC, RECURRING PAYMENTS. EVERY TIME THAT YOU USE THE SUBSCRIPTION SERVICE, YOU RE-AFFIRM THAT CINDERWING IS AUTHORIZED TO CHARGE YOUR PAYMENT METHOD AS PROVIDED IN THIS AGREEMENT, AND TO HAVE ALL APPLICABLE FEES AND CHARGES APPLIED TO SAME.

4. Payment and Billing Information. By providing your credit or debit card information (or other payment method accepted by Cinderwing from time to time) when you sign up (your “Payment Method”), you authorize Cinderwing and/or our third-party payment processor to charge your Payment Method as provided in this Agreement. If your Payment Method cannot be authorized or is otherwise in error, we may suspend or cancel your subscription for the affected period. In the event of such failure of your Payment Method, we may take reasonable steps to retry your Payment Method. We may contact you to reconfirm or update your Payment Method. We are not responsible for any fees incurred by you when charging or retrying your Payment Method, including but not limited to, overdraft fees. You can update or change your Payment Method and other billing and payment account information by contacting us. Your right to use the Offerings is subject to limits established by Cinderwing and/or by the issuer of your Payment Method.

- 5. Ownership.** The Offerings (including the Content) are owned by Cinderwing and are protected under copyright, trademark, and other applicable United States and international laws and treaties. Without limiting the foregoing, the trademarks, service marks, and logos displayed on the Site are registered and unregistered marks of Cinderwing and its licensors. You acknowledge and agree that, as between you and Cinderwing, Cinderwing is and shall remain the sole owner of the Offerings and the Content, including, without limitation, all patents, copyrights, trademarks, trade secrets, and other intellectual property and proprietary rights therein and thereto. Cinderwing does not grant any express or implied right to you under any patents, registered design, copyrights, trademarks, or trade secret information of Cinderwing. For the avoidance of doubt, you will only sell 3D models generated from your use of the Offerings (“Models”) while having an active subscription to Cinderwing. You must display your Authorized Seller Badge on every listing of the Models you have online; or if selling at a physical location, you must display the Authorized Seller Badge somewhere that is visible. Cinderwing may also require you to purchase a particular subscription plan prior to selling Models to any third party; not all Cinderwing subscriptions necessarily permit you to sell Models. You will never sell the Offerings themselves, and you may only sell Models that you yourself have physically printed with printers you own or control. In the event you modify the Models in any way before selling them, you agree that: (i) Cinderwing remains the sole and exclusive owner of the Model and all modifications thereto; and (ii) you hereby assign all right, title and interest you may have in such modifications to Cinderwing. You agree that your failure to comply with any of the provisions of this Section 5 is a material breach of this Agreement.
- 6. Account Registration and Security.** Access to and use of certain Offerings may require you to register for an account. You agree to provide true, accurate, current, and complete information about yourself as prompted by the applicable registration or log-in form, and you are responsible for keeping such information up to date. You are responsible and liable for all activities conducted through your account, regardless of who conducts those activities. You may not share your account with anyone or allow anyone else to access or use your account. You are responsible for maintaining the confidentiality of your account information, including your username and password. You agree to immediately notify Cinderwing of any unauthorized use of your account, or any other breach of security. We are not liable for any loss or damage arising from your failure to protect your username or password.
- 7. Submitted Ideas.** We appreciate your interest in the Offerings and our business and welcome your ideas and feedback. However, Cinderwing does not want and cannot accept any ideas or information users consider confidential and/or proprietary. This is to avoid the possibility of future misunderstandings when projects independently developed by or on behalf of Cinderwing might seem to others to be similar to users’ own creative ideas, suggestions, and/or materials. All comments, suggestions, ideas, drawings, concepts, or other information or materials disclosed or offered to us by you via the Offerings or in response to solicitations on the Site shall be deemed to be non-confidential and non-proprietary.
- 8. Electronic Communications.** The communications between you and Cinderwing via the Offerings use electronic means. For contractual purposes, you consent to receive

communications from us in electronic form, and you agree that all terms and conditions, agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

9. Change and Suspension.

- 9.1. Changes to the Offerings.** Cinderwing reserves the right to make changes to, suspend, or discontinue (temporarily or permanently) the Offerings or any portion thereof (including any Content) at any time. You agree that Cinderwing will not be liable to you or to any third party for any such change, suspension, or discontinuance.
- 9.2. Suspension/Termination of Access.** Without limiting Cinderwing's remedies at law and equity, Cinderwing has the right to deny access to, and to suspend or terminate your access to, the Offerings or to any features or portions thereof, at any time and for any reason, including if you violate these Terms of Use. In the event that we suspend or terminate your access to the Offerings, you will continue to be bound by the Terms of Use that were in effect as of the date of your suspension or termination. Upon any such suspension or termination, you must immediately stop selling Models unless and until your access is reinstated by Cinderwing.

10. Disclaimer; Limitation of Liability.

- 10.1. Disclaimer of Warranties.** THE OFFERINGS AND THE CONTENT ARE PROVIDED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OF ANY KIND, AND CINDERWING HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. NEITHER CINDERWING NOR ANY PERSON ASSOCIATED WITH CINDERWING MAKES ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE OFFERINGS OR ANY CONTENT. WITHOUT LIMITING THE FOREGOING, NEITHER CINDERWING NOR ANYONE ASSOCIATED WITH CINDERWING REPRESENTS OR WARRANTS THAT THE OFFERINGS OR THE CONTENT WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT THE OFFERINGS, CONTENT, OR THE SERVERS THAT MAKE THEM AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE OFFERINGS OR THE CONTENT WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.
- 10.2. Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL CINDERWING OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, LICENSORS, OR SERVICE PROVIDERS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL,

PUNITIVE, OR EXEMPLARY DAMAGES ARISING FROM OR RELATED TO YOUR USE OF OR INABILITY TO USE THE OFFERINGS OR THE CONTENT, INCLUDING, BUT NOT LIMITED TO LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE, OR LOSS OF DATA, WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE. IF, NOTWITHSTANDING THE PROVISIONS OF THIS SECTION 10.2, CINDERWING IS FOUND LIABLE FOR ANY LOSS, DAMAGE, OR INJURY UNDER ANY LEGAL THEORY RELATING IN ANY WAY TO THE SUBJECT MATTER OF THESE TERMS OF USE, IN NO EVENT WILL CINDERWING'S AGGREGATE LIABILITY TO YOU OR ANY THIRD PARTY EXCEED THE TOTAL AMOUNT OF FEES, IF ANY, PAID BY YOU TO CINDERWING IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM OR U.S. \$100.00, WHICHEVER IS LESS. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF YOUR REMEDIES UNDER THESE TERMS OF USE FAIL OF THEIR ESSENTIAL PURPOSE. USE OF THE OFFERINGS IS AT YOUR SOLE RISK.

10.3. Exclusions. Some jurisdictions do not allow the exclusion or limitation of certain warranties or consequential damages, so some of the exclusions and/or limitations in this Section 10 may not apply to you.

11. **Indemnification.** You agree to indemnify, defend, and hold Cinderwing and its officers, directors, employees, agents, licensors, and service providers harmless from and against any claims, liabilities, losses, damages, judgments, awards, costs, and expenses (including reasonable attorneys' fees) arising out of or resulting from your use of the Offerings and/or any Content, your modification or sale of any Models, or any violation of these Terms of Use or applicable law.

12. **Third Party Materials.** The Offerings may display, include, or make available third-party content (including data, information, applications and other products services and/or materials) or provide links to third-party websites or services (collectively, "Third Party Materials"). You acknowledge and agree that Cinderwing is not responsible for any Third Party Materials, including their accuracy, completeness, timeliness, validity, legality, decency, quality, or any other aspect thereof. Cinderwing does not assume and will not have any liability to you or any other person or entity for any Third Party Materials. Third Party Materials and links thereto are provided solely as a convenience to you, and you access and use them at entirely at your own risk and subject to such third parties' terms and conditions.

13. **Miscellaneous.**

13.1. Governing Law; Jurisdiction and Venue. These Terms of Use and any dispute or claim arising out of or related to these Terms of Use, their subject matter, or their formation (in each case, including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the State of Utah, other than such laws and case law that would result in the application of the laws of a

jurisdiction other than the State of Utah. Any litigation under this Agreement shall be brought and maintained in the appropriate courts in Salt Lake City, Utah. Each party irrevocably submits to the exclusive jurisdiction of these courts, agrees to file all pleadings in connection with the subject matter of this Agreement in such courts, and waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of this Agreement in such courts.

13.2. Waiver and Severability. Our failure to exercise or enforce any right or provision of these Terms of Use will not constitute a waiver of such right or provision. If any provision of these Terms of Use is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent possible, and the remaining provisions of these Terms of Use will continue in full force and effect.

13.3. Entire Agreement. These Terms of Use constitute the sole and entire agreement between you and Cinderwing with respect to the subject matter hereof, and supersede and replace all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter.

14. **Questions.** If you have any questions about the Offerings or these Terms of Use, please email us at contactcinderwing3d@gmail.com.