

Cognitech General Terms of Use

Published April 28, 2022. These Terms replace and supersede all prior versions.

THE MANDATORY ARBITRATION PROVISION AND CLASS ACTION WAIVER IN SECTION 14 (DISPUTE RESOLUTION) BELOW GOVERN THE RESOLUTION OF DISPUTES. PLEASE READ THEM CAREFULLY. IF YOU DO NOT AGREE WITH THE MANDATORY ARBITRATION PROVISION AND CLASS ACTION WAIVER IN THE TERMS, OR ANY OTHER PROVISIONS OF THESE TERMS, PLEASE DO NOT USE THE SERVICES, MY COGNITECH CLOUD OR COGNITECH SOFTWARE.

BY ACCEPTING THESE TERMS, YOU DECLARE TO BE 18 OR OLDER IN ORDER TO PURCHASE MY COGNITECH CLOUD SERVICES AND SOFTWARE.

Subscription Terms and Cancellation Policy, No Refund Policy

Subscription Terms

Your subscription begins as soon as your initial payment is processed. Your subscription ends at the end of the subscription term you selected and paid for.

We may change future plan's rate at any time.

If your primary payment method fails, we will not validate your new or renewed or changed subscription.

Cancellation Terms and No Refund Policy

You cannot cancel and get refund for your active prepaid One Day, One Week or One Month paid for subscription. Your above payment is non-refundable, and your service will continue until the end of paid subscription period. All these sales are final. If you do not agree with that, stop the subscription process prior to authorizing the payment.

For cancellation request of the Annual subscription, you must contact sales@cognitech.com within the 30 days period from the original purchase of the Annual subscription. If you cancel your Annual subscription within one month (30 days) of your initial order, you'll be refunded minus the One Month subscription fees rate and minus \$130 Processing Fees. The refund will be processed after One Month expiration since the original payment. Should you try to cancel after 30 days, your payment is non-refundable, and your service will continue until the end of that Annual subscription term.

These General Terms of Use (“**General Terms**”), along with any applicable Additional Terms (see section 1.2 (Additional Terms) below) (collectively, the “**Terms**”) govern your use of and access to our website, customer support, discussion forums or other interactive areas or services, and services such as My Cognitech Cloud (MC2) (collectively, the “**Services**” and “MC2”) and software that we include as part of the Services, as well as any applications, including mobile applications, Sample Files and Content Files (defined below), scripts, instruction sets, and related documentation (collectively, the “**Software**”). The end-user of the Services and Software will be referred to as “User”. Cognitech, Inc. will be referred in as “Cognitech” and “We”. If you have agreed to the Subscription and Cancellation Terms, then such terms are also considered part of the Terms. If you have entered into another agreement with us concerning specific Services or Software, then the terms of that agreement control where it conflicts with the Terms.

1. Your Agreement with Cognitech, Inc.

1.1 Choice of Law and Contracting Entity. **If you reside in North America (inclusive of United States, Canada, Mexico, United States territories and possessions, and United States military bases wherever located), your relationship is with Cognitech, Inc., a United States company, and the Terms are governed by the law of California, U.S.A., unless preempted by U.S. federal law, without regard to conflict of law rules. If you reside outside of North America, your relationship is with Cognitech, Inc., a United States company, and the Terms are governed by the law of California, U.S.A., unless preempted by U.S. federal law, without regard to conflict of law rules.** You may have additional rights under your local law. We do not seek to limit those rights where it is prohibited to do so by law.

1.2 Additional Terms. Our Services and Software are licensed, not sold, to you, and may also be subject to one or more of the additional terms below (“**Additional Terms**”). If there is any conflict between the terms in the General Terms and the Additional Terms, then the Additional Terms govern in relation to that Service or Software. The Additional Terms are subject to change as described in section 1.6 (Updates to Terms) below.

1.3 Ownership. You (as a Business or an individual, as applicable) retain all rights and ownership of your Content. We do not claim any ownership rights to your Content.

1.4 Updates to Terms. We may make changes to the Terms from time to time, and if we do, we will notify you by revising the date at the top of the Terms and, in some cases, we may provide you with additional notice. You should review the Terms regularly, each time you renew the Subscription to Service. Unless otherwise noted, the amended Terms will be effective immediately, and your continued use of our Services and Software will confirm your acceptance of the changes. If you do not agree to the amended Terms, you must stop using our Services and Software.

2. Privacy.

2.1 **Privacy.** For information about how we collect, use, share, or otherwise process information about you and your use of our apps and websites, please see our [Privacy Policy](#).

2.2 **Our Access to Your Content.** The Service user is responsible for storage and maintenance of their Content utilizing their own data storage. No user's Content will be stored by My Cognitech Cloud MC2 Services, once the Service user exits the My Cognitech Cloud session. Each MC2 new session starts with a fresh Cloud workstation memory space with no prior Content. Where requested by you or required by law, we will only access, view, or listen to your Content (defined in section 4.1 (Content) below) in limited ways. For example, in order to perform the Services, we may need to access, view, or listen to your Content to (A) respond to support requests; (B) detect, prevent, or otherwise address fraud, security, criminal use, legal, or technical issues; and (C) enforce the Terms.

2.3 **Sensitive Personal Information.** You agree not to collect, process, or store any Sensitive Personal Information using the Services or Software. You agree not to transmit, disclose, or make available Sensitive Personal Information to Cognitech or Cognitech's third-party providers. "**Sensitive Personal Information**" means an individual's financial information, sexual preferences, medical, or health information protected under any health data protection laws, biometric data (for purposes of uniquely identifying an individual), personal information of children protected under any child data protection laws (such as the personal information defined under the US Children's Online Privacy Protection Act ("**COPPA**")) and any additional types of information included within this term or any similar term (such as "sensitive personal data" or "special categories of personal information") as used in applicable data protection or privacy laws.

3. Use of Services and Software.

3.1 **License.** Subject to your compliance with the Terms and applicable law, you may access and use the Services and Software that we make available, and that you license from us. Your license(s) expire at the end of the term set forth in your subscription document. The version(s) of the Services and Software available at your renewal date may be different from the version(s) available when you first purchased your license(s) from Cognitech. You agree that your decision to use or purchase Software or Services is not contingent on the delivery of any future

functionality or features, or dependent on any oral or written public comments made by us regarding future functionality or features.

3.2 Cognitech Intellectual Property. We (and our licensors) remain the sole owner of all right, title, and interest in the Services and Software. Except as stated in the Terms, we do not grant you any rights to patents, copyrights, trade secrets, trademarks, or any other rights in respect to the items in the Services or Software. We reserve all rights not granted under the Terms including Intellectual Property rights.

3.3 Storage. We recommend that you copy out, to your own local and/or internet data storage, all the Content intermittently and prior to terminating any MC2 session. We recommend that you convert all your Content into a generic non-compressed (e.g. .bmp, .avi etc.) data type prior to transferring the data to your own storage. We may create reasonable technical limits on temporary file size, temporary file storage space, processing capacity, and other technical limits.

3.4 Sample Files. “**Sample Files**” means Cognitech-provided audio, visual, video, or other content files for use in tutorials, demonstrations, and for other trial purposes, which may be identified as sample files. Sample Files cannot be used for any other purpose than for which they were provided. You cannot distribute Sample Files in any way that allows a third party to use, download, extract, or access the Sample Files as a stand-alone file, and you cannot claim any rights in the Sample Files.

3.5 Free memberships, offers, and trials. Cognitech may offer free offers, and trial subscriptions in its sole discretion. If access to the Services or Software is provided to you for free or for trial purposes, such access is governed by these Terms. At any time prior to or during the free or trial period, Cognitech may, in its sole discretion, terminate the free or trial access without prior notice and without any liability to you, to the extent permitted under applicable law, for any reason, including to prevent abuse of the free or trial access. After the free or trial access period expires, you may only continue using the Services or Software by enrolling in a paid subscription, if available, or as otherwise permitted by Cognitech. During the free or trial period, no express or implied warranties shall apply to the Services and Software, all Services and Software are provided “as-is” with all defects, and no technical or other support is included.

3.6 Other License Types.

(A) **Prerelease or Beta Version.** We may designate the Services or Software, or a feature of the Services or Software, as a prerelease or beta version (“**Beta Version**”). A Beta Version does not represent the final product and may contain bugs that may cause system or other failure. We may choose not to release a commercial version of the Beta Version. Any separate agreement we enter into with you governing the Beta Version will supersede these provisions.

(B) **Education Version.** If we designate the Services or Software to be for use by educational users (“**Educational Version**”), then you may only use the Educational Version if you meet the Cognitech eligibility requirements.

3.7 Third-Party Services and Software. The Services and Software may include third-party public software, and you are responsible for complying with any and all third-party terms that apply. Access to third-party public software is provided for convenience only, and Cognitech has no responsibility for such third-party software.

3.8 Tampering. Unauthorized Tampering with MyCognitechCloud workstation instance is strictly prohibited by the account holder and if detected, will cause an immediate suspension of the MyCognitechCloud account for the remainder of the paid service duration with no refund and with no renewal option. The examples of tampering include but not limited to attempting to access secured information directories, attempting to start or shutdown system processes, attempting to breach instance communications with other internal cloud resources, attempting to breach authentication protocols, attempting to explore AWS internal structure to gain access to Cognitech Proprietary Data and Proprietary Backend information and codes.

4. Your Content.

4.1 Content. “**Content**” means any text, information, or material, such as audio files, video files, electronic documents, or images, that you upload and import into, or create with the Services or Software in connection with or through your use of the Services. You must not upload any Content that is prohibited by any applicable law. We reserve the right to remove Content or restrict access to Content, Services, and Software if any of your Content is found to be in violation of these Terms. We do not review all Content uploaded to the Services or Software, but we may use available technologies, vendors, or processes to screen for certain types of illegal content (for example, child pornography) or other abusive content or behavior (for example, patterns of activity that indicate spam or phishing, or keywords that indicate adult content has been posted outside of the adult wall).

4.2 **Feedback.** You have no obligation to provide us with ideas, suggestions, proposals, or bug or crash reports (“**Feedback**”). If you submit Feedback to us however, then you grant us a non-exclusive, irrevocable, perpetual, worldwide, royalty-free, sublicensable, and transferable license to make, use, sell, have made, offer to sell, import, export, reproduce, publicly display, distribute, modify, and publicly perform the Feedback. We have no obligation to respond to your Feedback if and when deemed appropriate by us.

4.3 At no time your Content will be saved once you (Services user) terminate each of the Services on-line session. It is Services user’s responsibility to save the Content out of the Services on-line session storage to the user’s own local or internet storage intermittently and prior to the session termination.

5. Your Account.

5.1 **Account Information.** You are responsible for all activity that occurs via your account even if that activity is not by you or is without your knowledge or consent. Please notify Customer Support immediately if you become aware of any unauthorized use of your account. You may not (A) share your account information (except with an authorized account administrator), whether intentionally or unintentionally; or (B) use another person’s account. Your account administrator may use your account information to manage your use and access to the Services and Software.

5.2 **Free Account Inactivity.** Account Inactivity does not apply to paid subscription during the period of subscription. Your general account information will be kept temporarily after your Services subscription expires for purposes of facilitating the renewal and and/or other ordering choice in subscription product. If your account is closed, you may have an option to register a new account.

6. User Conduct.

6.1 **Responsible Use.** The Cognitech communities often consist of users who expect a certain degree of courtesy and professionalism. You must use the Services and Software responsibly.

6.2 **Misuse.** You must not misuse the Services or Software. For example, you must not:

- (A) use the Services or Software without, or in violation of, a written license or agreement with Cognitech;
- (B) copy, modify, host, stream, sublicense, or resell the Services or Software;
- (C) enable or allow others to use the Services or Software using your account information;
- (D) offer, use, or permit the use of the Services or Software in a computer services business, third-party outsourcing service, on a membership or subscription basis, on a service bureau basis, on a time-sharing basis, as a part of a hosted service, or on behalf of any third party;
- (F) access or attempt to access the Services or Software by any means other than the interface we provide or authorize;
- (G) circumvent any access or use restrictions put into place to prevent certain uses of the Services or Software;
- (H) Engage in behavior that violates Cognitech's and anyone's Intellectual Property Rights. **"Intellectual Property Rights"** means copyright, moral rights, trademark, trade dress, patent, trade secret, unfair competition, right of privacy, right of publicity, and any other proprietary rights;
- (I) Share any Content that is unlawful, harmful, threatening, obscene, violent, abusive, tortious, defamatory, libelous, vulgar, lewd, profane, invasive of another's privacy, hateful, or otherwise objectionable;
- (J) Share any Content that sexualizes minors or that is intended to facilitate inappropriate interactions with minors, other Cognitech users, or the public;
- (K) impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- (L) attempt to disable, impair, reverse engineer, or destroy the Services or Software or its libraries; attempt to circumvent the Cloud workstation security setting of MC2 instance session;
- (M) upload, transmit, store, or make available any Content or code that contains any viruses, malicious code, malware, or any components designed to harm or limit the functionality of the Services or Software;
- (N) disrupt, interfere with, or inhibit any other user from using the Services or Software (such as stalking, intimidation, harassment, or incitement or promotion of violence or self-harm);
- (O) engage in chain letters, junk mails, pyramid schemes, phishing, spamming, fraudulent activities, or other unsolicited messages;

(P) place an advertisement of any products or services in the Services except with our prior written approval;

(Q) use any data mining or similar data gathering and extraction methods in connection with the Services or Software, including data scraping for machine learning or other purposes;

(R) artificially manipulate or disrupt the Services or Software;

(S) create Cognitech accounts for the purpose of violating these terms or for circumventing account termination or other types of actions taken by Cognitech;

(T) manipulate or otherwise display the Services or Software by using framing or similar navigational technology; or

(U) violate applicable law.

7. Fees and Payment.

7.1 Taxes and Third-Party Fees. You must pay any applicable taxes and third-party fees (including, for example, telephone toll charges, mobile carrier fees, ISP charges, data plan charges, credit card fees, foreign exchange fees, and foreign transaction fees). We are not responsible for these fees. Contact your financial institution with questions about fees. We may take steps to collect the fees you owe us. You are responsible for all related collection costs and expenses.

7.2 Credit Card Information. You authorize us to process your payment method and use it in connection with your use of the Services and Software as described in your Subscription and Cancellation Terms.

8. Your Warranty and Indemnification Obligations.

8.1 Warranty. By accessing the Services or Software, you agree that you have: (A) all necessary licenses and permissions to use and Share your Content; and (B) the rights necessary to grant the licenses in the Terms; and that you are 18 years old or older.

8.2 Indemnification. You will indemnify us and our subsidiaries, affiliates, officers, agents, employees, partners, and licensors from any claim, demand, loss, or damage, including reasonable attorneys' fees, arising out of or related to your Content, your use of the Services or Software (as applicable), or your violation of the Terms. We have the right to control the defense of any claim, action, or matter subject to indemnification by you with counsel of our own choosing. You will fully cooperate with us in the defense of any such claim, action, or matter.

9. Disclaimers of Warranties.

9.1 The Services and Software are provided "AS-IS." To the maximum extent permitted by law, we disclaim all warranties, express or implied, including the implied warranties of non-infringement, merchantability, and fitness for a particular purpose. We make no commitments about the content within the Services. We further disclaim any warranty that (A) the Services or Software will meet your requirements or will be constantly available, uninterrupted, timely, secure, or error-free or bug-free; (B) the results obtained from the use of the Services or Software will be effective, accurate, or reliable; (C) the quality and derived results of the Services or Software will meet your expectations; or (D) any errors or defects in the Services or Software will be corrected.

9.2 We specifically disclaim all liability for any actions resulting from your use of any Services or Software or that use-derived resulting Content. You may use and access the Services or Software at your own discretion and risk, and you are solely responsible for any damage to your computer system or loss of data that results from the use of and access to any Service or Software.

9.3 In addition to the 8.2 of these Terms, if you use Services and Software to derive Content, for purposes of any legal or Court proceedings and processes, Cognitech has no responsibilities for such usage, such Content or consequences of thereof. At no time can Cognitech or its: subsidiaries, affiliates, officers, agents, employees, partners, and licensors be responsible or be compelled or be liable to participate in any activity or deliberations in connection to the above-described use of Services or Software. If you decide to use Services and Software for any investigative or forensic or legal purposes, Cognitech has no responsibility either real or implied for such use or consequences of such use or participation of such use, whether directly or indirectly. For example, Cognitech cannot be compelled to perform or testify about any forensic use of its Services and software and the algorithms it expresses.

9.4. Cognitech has no responsibility for: (A) any loss, corruption, or damage to your Content; (B) the deletion of Content upon any session-termination, whether intended or not; or (C) the inclusion of your Content by third parties on other websites or in other media by third parties.

10. Limitation of Liability.

10.1 Unless stated in the Additional Terms, and subject to any mandated provisions of California Law, we are not liable to you or anyone else for any special, incidental, indirect, consequential, moral, exemplary or punitive damages whatsoever, regardless of cause, including losses and damages (A) resulting from loss of use, data, reputation, revenue, or profits; (B) based on any theory of liability, including breach of contract or warranty, negligence, or other tortious action; or (C) arising out of or in connection with your use of or access to the Services or Software.

10.2 Our total liability in any matter arising out of or related to the Terms is limited to the greater of (A) US \$100; or (B) the aggregate amount that you paid for access to the Services and Software during the three-month period preceding the event giving rise to the liability.

10.3 These limitations and exclusions in this section 10 (Limitation of Liability) apply to the maximum extent permitted by law even if (A) a remedy does not fully compensate you for any losses or fails of its essential purpose; or (B) we knew or should have known about the possibility of damages.

10.4 These Terms set forth the entire liability of Cognitech and its affiliates as well as your exclusive remedy with respect to access and use of the Services and Software.

11. Termination.

11.1 Termination by You. You may stop or continue using the Services and Software at any time while within the paid subscription period. Termination of your account does not relieve you of any obligation to pay any outstanding fees.

11.2 Termination by Us. If we terminate the Terms, or your use of the Service(s) or Software for reasons other than for cause, we will make reasonable efforts to notify you at least 30 days prior to termination via the email address you provide to us. Unless stated in any Additional Terms, we may, at any time, terminate or suspend your right to use and access the Services or Software if:

(A) you breach any provision of the Terms (or act in a manner that clearly shows you do not intend to, or are unable to, comply with the Terms);

(B) you fail to make the timely payment of fees for the Services or Software, if any;

(C) you physically, verbally, or through other means abuse, threaten, bully, or harass us or our personnel;

(D) you have repeatedly made complaints in bad faith or without a reasonable basis, and continue to do so after we have asked you to stop;

(E) we are required to do so by law (for example, where the provision of the Services or Software to you is, or becomes, unlawful);

(F) we elect to discontinue the Services or Software, in whole or in part (such as if it becomes impractical for us to continue offering Services in your region due to change of law);

11.3 Survival. Upon the expiration or termination of the Terms, some or all of the Services and Software may cease to operate without prior notice. Your indemnification obligations, our warranty disclaimers and limitations of liabilities, and dispute resolution provisions stated in the Terms will survive.

12. Trade Sanctions and Export Control Compliance. The Services and Software, and your use of them, are subject to laws, restrictions, and regulations of the United States and other jurisdictions that (A) govern the import, export, and use of the Services and Software; and (B) may prohibit us from providing the Services and Software to you without notice. By using the Services and Software, you agree to comply with all such laws, restrictions, and regulations, and you warrant that you are not prohibited from receiving the Services and Software by the laws of any jurisdiction.

14. Dispute Resolution.

14.1 Process. If you have any concern or dispute, you agree to first try to resolve the dispute informally by contacting us. If a dispute is not resolved within 30 days of receipt by us, any resulting legal actions must be resolved through final and binding arbitration, including any question of whether arbitration is required, except that you may assert claims in small claims court if your claims qualify. Claims related to the Terms, Services, or Software are permanently barred if not brought within one year of the event resulting in the claim.

14.2 Rules. Arbitration organization is subject to Cognitech's choice such as AAA, JAMS, ACR, CPR or other US based organization only, that will administer the arbitration in Los Angeles County, California. The arbitration will be conducted in the English language, but any witness whose native language is not English may give testimony in the witness' native language, with simultaneous translation into English (at the expense of the party presenting the witness). Judgment upon the award rendered may be entered and will be enforceable in any court of competent jurisdiction having jurisdiction over you and us.

14.3 No Class Actions. You may only resolve disputes with us on an individual basis, and you may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action.

14.4 Injunctive Relief. Notwithstanding the foregoing, in the event of your or others' unauthorized access to or use of the Services or Software in violation of the Terms, you agree that we are entitled to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

15. Updates to Services and Software and Availability.

15.1 Updates to the Services and Software. We may modify, update, or discontinue the Services or Software (including any portions or features) at any time, without liability to you or anyone else. If we discontinue the Services or Software in its entirety, we may provide you with

a pro rata refund for any unused portion of subscription fees for that Service or Software that you prepaid.

15.2 Availability. Webpages describing the Services are accessible worldwide, but this does not mean all Services or service features are available in your country. Access to Services in certain countries may be blocked by us or foreign governments. It is your responsibility to make sure your use of the Services is legal or available where you use them. Services and Software are available in English language, and may be offered in other languages if and when available.

16. No Modifications, Reverse Engineering. Except as expressly permitted in the Terms, you may not (A) modify, port, adapt, or translate any portion of the Services or Software; or (B) reverse engineer (including but not limited to monitoring or tracking the inputs and outputs flowing through a system or an application in order to recreate that system), decompile, disassemble, or otherwise attempt to discover, within any Service or Software, the source code, data representations or underlying algorithms, processes, methods, and any other portion of such Service or Software.

17. Miscellaneous.

17.1 English Version. The English version of the Terms will be the version used when interpreting or construing the Terms.

17.2 Notice to Cognitech. You may send notices to us at the following address: Cognitech Inc., P.O. Box5338, Pasadena, California, 91117, USA, Attention: General Counsel.

17.3 Notice to You. We may notify you by email postings regarding the Services. It is your responsibility to keep your account information current to receive notifications.

17.4 Non-Assignment. You may not assign or otherwise transfer the Terms or your rights and obligations under the Terms, in whole or in part, without our written consent, and any such attempt will be void. We may transfer our rights under the Terms to a third party.

17.5 **Headings.** Headings used in the Terms are provided for convenience only and will not be used to construe meaning or intent.

17.6 **Severability.** If any provision of the Terms is held invalid or unenforceable for any reason, the remainder of the Terms will continue in full force and effect.

17.7 **No Waiver.** Our failure to enforce or exercise any provision of the Terms is not a waiver of that provision.

17.8 **Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation (other than your payment obligations to Cognitech) under the Terms if the delay or failure is due to unforeseen events, which occur after the effectiveness of the Terms and which are beyond the reasonable control of the parties, such as strikes, blockade, war, terrorism, riots, natural disasters, refusal of license by the government or other governmental agencies, in so far as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost.

Cognitech Inc.: Cognitech Inc., P.O. Box5338, Pasadena, California, 91117, USA