

# Cognitopia Terms of Service

Last updated: June 13, 2023

## 1. Your Acceptance of Terms

- A. Acceptance. The following Terms of Service (“TOS”) are between you and Cognitopia Inc (“Cognitopia”), and constitute a legal agreement that governs your use of the Cognitopia Platform service and Cognitopia website (collectively referred to as the “Service”). You must agree to these TOS before you can use the Service. If you do not agree to the TOS, do not use the Service.
- B. Legal Authority. To use and/or register for the Service, you must be of legal age to form a binding contract with Cognitopia, and cannot be a person barred from receiving the Service under the laws of the United States or other applicable jurisdiction, including the country in which you reside or from where you use the Service.
- C. Changes. Cognitopia may update or change these TOS from time to time and recommends that you review the TOS on a regular basis. You understand and agree that your continued use of the Service after the TOS has changed constitutes your acceptance of the TOS as revised.

## 2. Description of the Service

- A. Pricing. Cognitopia is a SaaS product provided through a monthly or annual subscription. Individual and organizational pricing options are described on the Cognitopia website at <https://cognitopia.com/pricing/>
- B. Changing The Service. Cognitopia reserves the right to modify, suspend, or stop the Service (or any part thereof), at any time or from time to time, with or without prior notice to you. Without limiting the foregoing, Cognitopia may provide notice of any such changes to the Service by posting them on its websites and/or via the Service. You agree that Cognitopia shall not be liable to you or any third party for any modification or cessation of the Service. You acknowledge that Cognitopia has no express or implied obligation to provide, or continue to provide, the Service, or any part thereof, now or in the future.
- C. Feedback. As part of using the Service, Cognitopia will provide you with the opportunity to submit comments, suggestions, or other feedback regarding your

use of the Service. You agree that in the absence of a separate written agreement to the contrary, Cognitopia will be free to use any feedback you provide for any purpose.

D. No Resale of Service. You agree that you will not reproduce, copy, duplicate, sell, resell, rent or trade the Service (or any part thereof) for any purpose.

### 3. Privacy Policy

A. General. You understand that by using the Service, you consent and agree to the collection and use of certain information about you and your use of the Service in accordance with Cognitopia's Privacy Policy. Information collected when you use the Service may include technical or diagnostic information related to your use that may be used by Cognitopia to maintain, improve and enhance the Service. For more information please read our full privacy policy at <https://www.cognitopia.com/privacypolicy>.

### 4. Content and Your Conduct

A. Content. "Content" means any information that may be generated or encountered through use of the Service, such as data files, written text, software, music, graphics, photographs, images, sounds, videos, messages and any other like materials. You understand that all Content whether publicly posted or privately transmitted on the Service is the sole responsibility of the person from whom such Content originated. This means that you, and not Cognitopia, are solely responsible for any Content you upload, download, post, email, transmit, store or otherwise make available through your use of the Service. You understand that by using the Service you may encounter Content that you may find offensive, indecent, or objectionable, and that you may expose others to Content that they may find objectionable. Cognitopia does not control the Content posted via the Service, nor does it guarantee the accuracy, integrity or quality of such Content. You understand and agree that your use of the Service and any Content is solely at your own risk.

B. Your Conduct. You agree that you will NOT use the Service to:

- i. Upload, download, post, email, transmit, store or otherwise make available any Content that is unlawful, harassing, threatening, harmful, tortious, defamatory, libelous, abusive, violent, obscene, vulgar, invasive of another's privacy, hateful, racially or ethnically offensive, or otherwise objectionable;
- ii. Stalk, harass, threaten or harm another;

- iii. Pretend to be anyone, or any entity, you are not — you may not impersonate or misrepresent yourself as another person, entity, another subscriber of the Service, a Cognitopia employee, or a civic or government leader, or otherwise misrepresent your affiliation with a person or entity;
- iv. Engage in any copyright infringement or other intellectual property infringement, or disclose any trade secret or confidential information in violation of a confidentiality, employment, or nondisclosure agreement;
- v. Post, send, transmit or otherwise make available any unsolicited or unauthorized email messages, advertising, promotional materials, junk mail, spam, or chain letters, including, without limitation, bulk commercial advertising and informational announcements;
- vi. Forge any TCP-IP packet header or any part of the header information in an email or a posting, or otherwise putting information in a header designed to mislead recipients as to the origin of any Content transmitted through the Service ("spoofing");
- vii. Upload, post, email, transmit, store or otherwise make available any material that contains viruses or any other computer code, files or programs designed to harm, interfere or limit the normal operation of the Service (or any part thereof), or any other computer software or hardware;
- viii. Interfere with or disrupt the Service (including accessing the Service through any automated means, like scripts or web crawlers), or any servers or networks connected to the Service, or any policies, requirements or regulations of networks connected to the Service (including any unauthorized access to, use or monitoring of data or traffic thereon);
- ix. Plan or engage in any illegal activity; and/or
- x. Gather and store personal information on any other users of the Service to be used in connection with any of the foregoing prohibited activities.

C. Removal of Content. You acknowledge that Cognitopia is not responsible or liable in any way for any Content provided by others and has no duty to pre-screen such Content. However, Cognitopia reserves the right at all times to determine whether Content is appropriate and in compliance with these TOS, and may pre-screen, move, refuse, modify and/or remove Content at any time, without prior notice and in its sole discretion, if such Content is found to be in violation of these TOS or is otherwise objectionable.

D. Backup Your Content. You are responsible for backing up, to your own computer or other device, any important documents, images or other Content that you store

or access via the Service. Cognitopia does not guarantee or warrant that any Content you may store or access through the Service will not be subject to inadvertent damage, corruption or loss.

E. Access to Your Account and Content. You acknowledge and agree that Cognitopia may access, use, preserve and/or disclose your account information and Content if legally required to do so or if we have a good faith belief that such access, use, disclosure, or preservation is reasonably necessary to: (i) comply with legal process or request; (ii) enforce these TOS, including investigation of any potential violation thereof; (iii) detect, prevent or otherwise address security, fraud or technical issues; or (iv) protect the rights, property or safety of Cognitopia, its users or the public as required or permitted by law.

F. Copyright Notice - DMCA. If you believe that any Content in which you claim copyright has been infringed by anyone using the Service, please e-mail Cognitopia at [contact@cognitopia.com](mailto:contact@cognitopia.com). Cognitopia may, in its sole discretion, suspend and/or terminate accounts of users that are found to be repeat infringers.

G. Violations of TOS. If while using the Service, you encounter Content you find inappropriate, or otherwise believe to be a violation of these TOS, you may report it by sending an email to [contact@cognitopia.com](mailto:contact@cognitopia.com).

## 5. Content Submitted or Made Available by You on the Service

A. License from You. Except for material we may license to you, Cognitopia does not claim ownership of the materials and/or Content you submit or make available on the Service. However, by submitting or posting such Content on areas of the Service that are accessible by the public, you grant Cognitopia a worldwide, royalty-free, non-exclusive license to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform and publicly display such Content on the Service solely for the purpose for which such Content was submitted or made available. Said license will terminate within a commercially reasonable time after you or Cognitopia remove such Content from the public area. By submitting or posting such Content on areas of the Service that are accessible by the public, you are representing that you are the owner of such material and/or have authorization to distribute it.

B. Changes to Content. You understand that in order to provide the Service and make your Content available thereon, Cognitopia may transmit your Content across various public networks, in various media, and modify or change your Content to comply with technical requirements of connecting networks or devices. You agree that the license herein permits Cognitopia to take any such actions.

## 6. Trademark Information

A. General. Cognitopia, the Cognitopia logo, and other Cognitopia trademarks, service marks, graphics and logos used in connection with the Service are trademarks or registered trademarks of Cognitopia in the United States. Other trademarks, service marks, graphics, and logos used in connection with the Service may be the trademarks of their respective owners. You are granted no right or license in any of the aforesaid trademarks, and further agree that you shall not remove, obscure, or alter any proprietary notices (including trademark and copyright notices) that may be affixed to or contained within the Service.

## 7. Software

A. Cognitopia's Proprietary Rights. You acknowledge and agree that Cognitopia and/or its licensors own all legal right, title and interest in and to the Service, and any software (including any Content provided therein) provided by Cognitopia to you as a part of and/or in connection with the Service (the "Software"), including any and all intellectual property rights that exist therein, whether registered or not, and wherever in the world they may exist. You further agree that the Service (including the Software, or any other part thereof) contains proprietary and confidential information that is protected by applicable intellectual property and other laws.

B. License from Cognitopia. Cognitopia grants you a personal, non-exclusive, non-transferable, limited license to use the Software as provided to you by Cognitopia as a part of the Service and in accordance with these TOS; provided that you do not (and do not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile, or otherwise attempt to discover the source code (unless expressly permitted or required by law), sell, lease, sublicense, assign, grant a security interest in or otherwise transfer any right in the Software.

C. Software Updates. As part of the Service, you may from time to time receive updates to the Service from Cognitopia. These updates may include bug fixes, feature enhancements or improvements, or entirely new versions of the Software. You agree that Cognitopia may automatically deliver such updates to you as part of the Service.

D. Copyright and Digital Imagery. The Service and Software may be used to reproduce materials so long as such use is limited to reproduction of non-copyrighted materials, materials in which you own the copyright, or materials you are authorized or legally permitted to reproduce. Title and intellectual property rights in and to any Content displayed by or accessed through the Software or Service belongs to the respective Content owner, and may be protected by copyright or other intellectual property laws and treaties.

## 8. Termination

- A. Termination By You. You may terminate your account and/or stop using the Service at any time.
- B. Termination By Cognitopia. Cognitopia may at any time, under certain circumstances and without prior notice, immediately terminate or suspend all or a portion of your account and/or access to the Service. Cause for such termination shall include, but not be limited to: (i) violations of the TOS or any other policies or guidelines that are referenced herein and/or posted on the Service; (ii) a request by you to cancel or terminate your account; (iii) discontinuance or material modification to the Service or any part thereof; (iv) a request and/or order from law enforcement, a judicial body, or other government agency; (v) where provision of the Service to you is or may become unlawful; (vi) unexpected technical or security issues or problems; or (vii) your participation in fraudulent or illegal activities. Any such termination or suspension shall be made by Cognitopia in its sole discretion, and Cognitopia will not be responsible to you or any third party for any damages that may result or arise out of such termination or suspension of your account and/or access to the Service.
- C. Effect of Termination. Upon termination of your account you lose all access to the Service and any portions thereof.

## 9. Links and Third Party Materials.

- A. General. Certain Content, components or features of the Service may include materials from third parties and/or hyperlinks to other web sites, resources or Content. Because Cognitopia may have no control over such third party sites and/or materials, you acknowledge and agree that Cognitopia is not responsible for the availability of such sites or resources, and does not endorse or warrant the accuracy of any such sites or resources, and shall in no way be liable or responsible for any Content, advertising, products or materials on or available from such sites or resources. You further acknowledge and agree that Cognitopia shall not be responsible or liable in any way for any damages you incur or allege to have incurred, either directly or indirectly, as a result of your use and/or reliance upon any such Content, advertising, products or materials on or available from such sites or resources.

## 10. Disclaimer of Warranties.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, AS SUCH, TO THE EXTENT SUCH EXCLUSIONS ARE SPECIFICALLY PROHIBITED BY APPLICABLE LAW, SOME OF THE EXCLUSIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK AND THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. COGNITOPIA AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. IN PARTICULAR, COGNITOPIA AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS MAKE NO WARRANTY THAT (I) THE SERVICE WILL MEET YOUR REQUIREMENTS; (II) YOUR USE OF THE SERVICE WILL BE TIMELY, UNINTERRUPTED, SECURE OR ERROR-FREE; (III) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF THE SERVICE WILL BE ACCURATE OR RELIABLE; AND (IV) ANY DEFECTS OR ERRORS IN THE SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICE WILL BE CORRECTED.

ANY MATERIAL TRANSMITTED, STORED, ACCESSED OR OTHERWISE MAINTAINED THROUGH THE USE OF THE SERVICE IS DONE SO AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR LOSS OR CORRUPTION OF DATA THAT RESULTS FROM ANY SUCH USE OF THE SERVICE. YOU FURTHER ACKNOWLEDGE THAT THE SERVICE IS NOT INTENDED OR SUITABLE FOR USE IN SITUATIONS OR ENVIRONMENTS WHERE THE FAILURE OR TIME DELAYS OF, OR ERRORS OR INACCURACIES IN, THE CONTENT, DATA OR INFORMATION PROVIDED BY THE SERVICE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM COGNITOPIA OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS.

#### 11. Limitation of Liability

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, AS SUCH, TO THE EXTENT SUCH EXCLUSIONS OR LIMITATIONS ARE SPECIFICALLY PROHIBITED BY APPLICABLE LAW, SOME OF THE EXCLUSIONS OR LIMITATIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT COGNITOPIA AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSSES (EVEN IF COGNITOPIA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (I) THE USE OR INABILITY TO USE THE SERVICE; (II)

ANY CHANGES MADE TO THE SERVICE OR ANY TEMPORARY OR PERMANENT CESSATION OF THE SERVICE OR ANY PART THEREOF; (III) THE UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (IV) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE AND/OR SEND OR RECEIVE YOUR TRANSMISSIONS OR DATA ON OR THROUGH THE SERVICE; (V) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; AND (VI) ANY OTHER MATTER RELATING TO THE SERVICE.

## 12. Indemnity.

A. General. You agree to defend, indemnify and hold Cognitopia, its affiliates, subsidiaries, directors, officers, employees, agents, partners and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by a third party, relating to or arising from:

- i. Any Content you submit, post, transmit, or otherwise make available through the Service;
- ii. Your use of the Service;
- iii. Any violation by you of these TOS; or
- iv. Your violation of any rights of another. This obligation shall survive the termination or expiration of these TOS and/or your use of the Service.

## 13. Notices

A. General. Cognitopia may provide you with notices regarding the Service, including changes to these TOS, by email, regular mail, or by postings on its website and/or the Service.

## 14. Governing Law

A. General. Any litigation or other dispute resolution between you and Cognitopia arising out of or relating to these TOS or your use of the Service will take place in Oregon, and you and Cognitopia hereby consent to the personal jurisdiction of and exclusive venue in the state and federal courts within Oregon with respect to any such litigation or dispute resolution.

## 15. General Provisions

A. General. These TOS constitute the entire agreement between you and Cognitopia and govern your use of the Service. You may also be subject to additional terms and conditions that may apply when you use affiliate services, third-party content, or third-party software. If any part of these TOS is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect. The failure of Cognitopia to exercise or enforce any right or provision of these TOS shall not constitute a waiver of such right or provision. You agree that, except as otherwise expressly provided in these TOS, there shall be no third-party beneficiaries to this agreement. Any translation of these TOS is done for local requirements and in the event of a dispute between the English and any non-English versions, the English version of these TOS shall govern. You agree that any claim or cause of action arising out of or related to these TOS or the use of the Service must be filed within one (1) year after the cause of action arose or be forever barred.