

# STANDARD TERMS AND CONDITIONS

## Part 1 – Website and User Account

Please note: We've separated our Standard Terms and Conditions into two parts. Part 1 is valid for website visitors and registered users. Part 2 is valid for electronic commerce and product shipping.

### Preface

These Standard Terms and Conditions cover the legal relationship between you as an individual or as a legal representative of a business ("You") and Cognitone GmbH, DE-22159 Hamburg, Germany ("Cognitone" or "We") relating to our online service, including (but not limited to) the website, newsgroups, forum, mail lists, software download service, including all contents and information contained therein or directly made available through it ("Service").

Please read this agreement carefully. By fulfilling the conditions of paragraph 1 below, You will become a party to the contract and be bound by these standard terms and conditions.

### 1. Commencement

By using the Service, You expressly agree to these Standard Terms and Conditions. This contract especially becomes effective upon submission of the online registration form for creating a new user account.

### 2. Duration and Termination

These Standard Terms and Conditions remain legally binding until You terminate your account by sending an email to the address shown below (an informal message is sufficient) and not using the service any more. The termination is effective after Cognitone confirmed your request via email and suspended your account. You are free to request a termination at any time. However, by using the service once more, these Standard Terms and Conditions come in to effect again.

Any existing software license agreements between You and Cognitone remain in force independent from these Standard Terms and Conditions.

Cognitone reserves the right to deny further access to the service and to take other measures Cognitone might consider appropriate, if Cognitone, in its own estimation, is of the view that You have violated a provision of these Standard Terms and Conditions.

### 3. Fees

Using the online service is free of charge.

### 4. Personalization and Security

Prior to delivery via download or physical shipping, our software is tagged with a watermark ("Signature") referring to the original licensee. By means of this Signature, You are enabled to prove your legal ownership of the associated software license at any time.

You are obliged to protect your login password and all downloaded software files with reasonable diligence from being accessed and misused by others. This means: The account password and downloaded software (in part or as a whole) must not be deposited at publicly accessible places or be made available to a third party, either directly or indirectly through negligence by passively giving others the opportunity to get hold of it.

Your user account and future access to the software and online service will be automatically locked, if unusual login attempts are detected or if your Signature is used by third parties or if it happens to appear on public networks. Cognitone reserves the right to take appropriate legal action against intentional copyright infringement and piracy to the maximum extent possible under law.

### 5. Code of Conduct

You are not entitled to publish, or transmit via the website's services, any material that infringes or impinges upon the rights of any third party in any way, that is illegal,

threatening, libelous or defamatory, that offends against the laws of privacy or publication, that contains anything that is vulgar, obscene, blasphemous or in any other way offensive, that encourages actions that infringe against the criminal law, that gives grounds for a claim for damages according to the civil law, or is contrary to any other valid law.

Member registration for the web forum works independent from your user account. Additional terms of conduct may apply to the forum membership, which have to be confirmed at the time of registration.

You are expected to express any criticism concerning Cognitone GmbH, its employees or products fairly in an objective and constructive form. Cognitone welcomes criticism and suggestions, but reserves the right to remove any polemic, untrue, disparaging or intentionally harmful statements or to add explanatory comments, if appropriate.

You are not allowed to advertise or offer any commercial goods or services without our explicit prior permission.

### 6. Technical Infrastructure

Using or accessing the technical infrastructure (e.g. web server, submission forms, forum, newsgroups, mail lists, etc.) in ways other than designated for the intended purpose of the respective service, or by means of automated, high volume processes (e.g. robots, scripts, macros) of any kind, is prohibited. This holds true regardless whether there is any impact on server performance or a violation of the privacy of other users (e.g. spamming), or any intent to circumvent regular functionality and/or security measures of the service (hacking, cracking). Cognitone reserves the right to take legal action against any such attempts.

### 7. Duty To Inform

(Applies to registered users only)  
You are obliged to inform Cognitone of any changes regarding your contact information (email and postal address), to enable Cognitone to contact you on special incidents. An

informal notification sent to the email address shown below is sufficient. For security reasons, accounts with an invalid email address will be suspended within seven days.

### **8 . Modification**

Cognitone reserves the right to change the range of services offered and the present Standard Terms and Conditions in its discretion at any time. Registered users will be informed of any changes by email addressed to the email address provided by the User. Should You disagree with any changes, you have the right to terminate your account as described in (2).

### **9 . Disclaimer of Warranties and Liability**

YOU AGREE THAT THE USE OF THE SERVICE IS SOLELY AT YOUR OWN RISK AND THAT SUCH SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. COGNITONE EXPRESSLY DISCLAIMS 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.

Some jurisdictions do not allow the exclusion of implied warranties, so some the above conditions may not apply to you.

Cognitone makes no warranty that the service will meet your requirements, or that the service will be timely, secure, or error free; nor does Cognitone make any warranty as to the results that may be obtained from the use of the service or as to the accuracy or reliability of any information obtained.

It is your own responsibility to check the accuracy, integrity or usefulness of any opinions, advice, information or other contents made available on the website, or via other users. Cognitone will not be held responsible for any losses or damages that result from you relying on any information found on the website; exceptions to this can only be made in the

context of applicable consumer protection laws.

While Cognitone will go to great efforts to accommodate our customers, mechanical or human error may occur. Thus, COGNITONE AND ITS EMPLOYEES WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR COMPENSATORY DAMAGES ARISING FROM THE USE OF THE WEBSITE AND ITS SERVICES. EVEN IF COGNITONE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOUR SOLE REMEDY WITH COGNITONE WILL BE A COMPLETE REFUND OF ANY AND ALL FEES PAID TO COGNITONE FOR OUR SERVICES.

### **10 . Final provisions**

This contract is governed under the law of the Federal Republic of Germany and any dispute shall be subject to the exclusive jurisdiction of the local courts. The place of performance is the place of business of Cognitone GmbH, DE-22159 Hamburg, Germany.

Any amendments or supplements to, and terminations of this contract must be made in writing (or by e-mail, except for legally formative declarations).

This contract supersedes all oral agreements, if any. Should one or more of the individual provisions of this contract be or become invalid, this will have no effect on the validity of the remaining provisions. The invalid provision will be replaced by a regulation that matches as closely as possible the intended purpose of the invalid provision; the same applies in the case of an omission.

In case of questions please contact us. See [www.cognitone.com](http://www.cognitone.com) contact page for details.

Hamburg, January 1st, 2005