

# Terms of Use

Welcome to Cloudinary, a cloud-based image management solution (the “**Service**”, as more fully described below). The Service is owned and Operated by Cloudinary Ltd. and these Terms of Use will govern the relationship between you and Cloudinary Ltd., or the Cloudinary Ltd. subsidiary from which you are acquiring (directly or through an authorized distributor or reseller) the Cloudinary Services, as applicable (“**Cloudinary**“)

PLEASE READ CAREFULLY THE FOLLOWING TERMS AND CONDITIONS (THE “**TERMS**” OR “**TERMS OF USE**“), BECAUSE THEY, ALONG WITH OUR PRIVACY POLICY AND OUR DMCA COPYRIGHT POLICY, CONSTITUTE A BINDING AGREEMENT BETWEEN YOU, THE INDIVIDUAL OR THE ENTITY ACCESSING OR USING THE SERVICE, AND CLOUDINARY. BY ACCESSING THE SERVICE OR BY USING IT IN ANY MANNER, YOU SIGNIFY YOUR ACCEPTANCE OF THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS OF USE, YOU MAY NOT ACCESS OR USE THE SERVICE.

From time to time, Cloudinary may change the Terms to meet technical, operational and legal changes. Cloudinary will post a notice about changes made to the Terms on Cloudinary’s website, and may send you a notice by email, reasonable time before the changes take effect. You may choose by written notice to Cloudinary to reject the amended Terms if the amendments adversely change your rights and if Cloudinary does not agree that such amended terms will not apply to you, terminate your account. By continuing to use your account with the Service after the new changes have taken effect, you indicate your agreement to the amended Terms.

## About the Service

The Service is an online image and video management platform. The Service offers a feature-rich solution for websites’ and applications’ use of images.

From time to time, Cloudinary may modify or enhance the Service, and may offer additional tools and features, free-of-charge or subject to additional fees. The additional tools and features may be governed by additional or different terms of service.

From time to time, Cloudinary may offer its customers to subscribe to third party add-ons that integrate with, or complement, the Service. Such third party add-ons are owned and operated by the applicable third parties, may be subject to separate terms of service and policies of such third parties, and Cloudinary shall not be responsible or liable for such add-ons.

## Grant of Right

Subject to these Terms and to the payment of fees, if applicable, Cloudinary grants you a worldwide, limited, non-exclusive, revocable, non-transferable, non-sublicensable right to use the Service solely for your business purposes and not for further commercialization or resale. Except as explicitly provided in these Terms, you may not use the Service for any other purpose.

## User Account

When you register, Cloudinary will ask you to provide certain contact and personal details. Cloudinary will explicitly indicate the fields that are mandatory to complete. False, incorrect, or outdated information, such as an invalid email address, may prevent you from registering and impair Cloudinary's ability to provide you with the Service.

To login, you must provide your email address and password. Cloudinary may also establish and require from time to time additional or different means of identification and authentication for logging in and accessing the Service. You will maintain your login details in absolute confidentiality. Make sure that you change your password at least once every six months. You will immediately notify to Cloudinary of any potential or actual misuse, unauthorized use, of your account.

If your subscription terms expressly allow for termination at will, you may terminate your account through your account page, or by contacting Cloudinary via email at: <https://cloudinary.com/contact>. If your subscription is based on a renewable fixed period, you may elect not to renew your subscription by sending Cloudinary the applicable prior notice. Cloudinary may require you to verify your identity by sending Cloudinary additional information, as a condition for terminating your account. Following the termination of your account, you may no longer be able to access the Service. You are not entitled to refund upon termination of these Terms.

Notwithstanding any remedies that may be available to Cloudinary under any applicable law, Cloudinary may temporarily or permanently deny, limit, suspend, or terminate your user account, prohibit you from accessing the Service, remove your content and take technical and legal measures to keep you off the Service without refund, if Cloudinary determines in its sole discretion that you: (i) abused your rights to use the Service; (ii) breached the Terms; (iii) violated any applicable law, rule, or regulation; (iv) performed any act or omission which is harmful or likely to be harmful to us, or any other third party, including other users or providers of the Service.

## Acceptable Use of the Service

When using the Service, you will abide by the applicable laws, rules and regulations, and by any usage guidelines Cloudinary may convey to you from time to time.

You may not access or use the Service for any illegal or abusive purposes, or to develop or create a similar or competitive product or service to the Service. You will be responsible for all acts and omissions associated with your access and use of the Service and the access and use of the Service by employees, agents, contractors, end-users and any other third party who may access or use the Service on your behalf, or at your permission ("**Authorized Users**").

You may allow your Authorized Users to upload, store, administrate, edit, deliver, make available and distribute content ("**Contributed Content**"), subject to any content upload technical and safety guidelines and limitations which will be conveyed to you through your account dashboard, and amended from time to time. Cloudinary may, but is under no duty to, review all Contributed Content and remove or block access to such content, as more fully described below.

Any use of your account is subject to your sole responsibility. You will not, and be responsible that your Authorized Users will not, access and use the Service (including as to upload or transmit any Contributed Content) for any illegal, harmful, fraudulent, offensive purpose or to transmit, store, display, distribute or otherwise make available content that is infringing upon any third party rights, illegal, harmful, indecent, obscene, defamatory, libelous, harassing, threatening, fraudulent, offensive, enables online gambling or inconsistent with the generally accepted practices of the Internet community, including without limitation promoting or facilitating pornography, offering or disseminating fraudulent goods, services, schemes, or promotions, spamming, make-money-fast schemes, ponzi and pyramid schemes, phishing, or pharming, and use of content or technology that may damage, interfere with,

surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms or time bombs.

## Privacy and Data Protection

Cloudinary provides the Service subject to Cloudinary's privacy policy and data protection rules, located at <https://cloudinary.com/privacy>.

## Content Removal

Cloudinary respects the copyrights of its users and any other person. If you believe that your copyrights are abused on the Service, please send us a written notification in accordance with the provisions specified at: <https://cloudinary.com/dmca> ("DMCA Notice"). Cloudinary will act in accordance with the Cloudinary DMCA Copyright Policy (<https://cloudinary.com/dmca>) in any Contributed Content that is alleged to infringe the copyright of any third party.

Cloudinary may report any Contributed Content and share user identifiable information, if Cloudinary believes, in its sole discretion that such content is illegal or abusive or may violate any third party rights.

Cloudinary respects the rights of its users and any other person. If you believe that any of your rights, other than copyrights, are abused on the Service, please contact Cloudinary at: <https://cloudinary.com/contact>. Cloudinary may ask you to provide additional information to process your complaint. Cloudinary will make reasonable efforts to review your complaint and respond promptly. Cloudinary will not respond to anonymous complaints.

Cloudinary may remove any Contributed Content if Cloudinary believes, in its sole discretion, or receives a notice, other than DMCA Notice, from a third party, that such content may violate any third party rights. Prior to removing the said content, Cloudinary will block access to it and provide you a 48 hours prior notice before removing the said content without maintaining any backup copy.

## Service Fees

Cloudinary offers some of its plans free of charge.

Cloudinary also offers fee-based plans. You may use them subject to purchasing one of the Service's plans, as listed in Cloudinary's website at: <https://cloudinary.com/pricing>. From time to time, Cloudinary may change the Service fees, upon reasonable prior notice that Cloudinary will post on its website or send you by email.

You may pay the fees by using the methods of payments as available, published and updated from time to time on the Service. Fees will be regarded as paid only after your payment has been confirmed. Service will be available to you promptly after you have paid the Service fees. You acknowledge that fees are not refundable.

Payments will include applicable taxes. You will pay all fees and taxes in a timely manner and in compliance with Cloudinary's pricing schedule and you will reimburse Cloudinary for any interest and collection costs resulting from overdue payments.

Note that if you use Cloudinary's video distribution solutions and have more than 100,000 subscribers, or use Cloudinary's video distribution solutions to distribute 12 minutes in length or longer videos, you may need an additional third party license per the current terms of MPEG LA license for AVC/H.264

(required for encoding MP4 files). Please contact Cloudinary's customer service for further information at [support@cloudinary.com](mailto:support@cloudinary.com).

Cloudinary will make its best efforts to have a transaction processed accurately and expeditiously and reimburse you for any excess payment that you were mistakenly charged with. However, Cloudinary will not be liable for mistakes, errors, malfunctions and miscalculations made by the payment service providers.

Upon failure to make any payment, and following a seven (7) days prior notice of due payments sent to you, Cloudinary may remove, disable or terminate your account. You waive any and all claims against Cloudinary and anyone on Cloudinary's behalf in connection therewith.

If you acquire our Service from an authorized distributor or reseller and not directly from us, your fee obligations will be instead to such distributor or reseller, in which case we will provide you with the Service subject to: (i) your compliance with such fee obligations towards such distributor or reseller, (ii) your agreement with such distributor or reseller being in effect, and (iii) such distributor or reseller being in compliance with its obligations to us. Unless agreed by us separately and directly in writing towards you or such distributor or reseller, none of the terms of any agreement that you may have with such distributor or reseller will derogate from our rights and your obligations under these Terms.

## Service Level Agreement (SLA)

"Uptime" means the percentage of time in a subscription month that Cloudinary's management console and Cloudinary's API services are available for access, as measured by Cloudinary.

Cloudinary strives for a 100% Uptime. If Uptime falls below 99.9% in a given subscription month, Cloudinary will offer an extension of your Cloudinary plan ("Service Extension") of 5 days.

Service Extension will not be awarded in the following circumstances: (a) circumstances beyond Cloudinary reasonable control, including but not limited to war, terrorism, labor disturbance, interruption of telecommunications, failure of third party software or services, or acts of God; (b) network issues outside of Cloudinary's control, including DNS and connectivity problems; (c) errors in Cloudinary's uptime measurement system; (d) acts or omissions by Authorized Users; (e) downtime that has been advised to you 72 hours in advance; (f) downtime resulting from individual periods of non-availability lasting less than five (5) minutes; (g) suspension or termination of your right to use the Service in accordance with these Terms; (h) accounts using Cloudinary's Free plan;

To receive a Service Extension, you must submit a request by sending an e-mail message to: [support@cloudinary.com](mailto:support@cloudinary.com) within 10 days of becoming eligible to receive it. The request must include supporting documentation, such as log files showing the non-availability of the Service.

This SLA is your sole and exclusive remedy for any failure by Cloudinary to provide the Service.

## Intellectual Property

Except for your Contributed Content, all rights, title and interest in and to the Service, including any intellectual property rights, whether registered or not, and any goodwill associated therewith, are owned by, or licensed to Cloudinary Ltd. Unless as expressly provided herein, these Terms do not grant you any rights to patents, copyrights, trademarks (whether registered or unregistered), trade names, trade secrets, domain names or any other rights, functions or licenses with respect to the Service and you may not use the Service for any other purpose without Cloudinary's prior, express written authorization.

Cloudinary does not claim ownership over Contributed Content. However, you grant Cloudinary permission to use your Contributed Content, for the purposes of providing, developing and supporting the Service. You grant Cloudinary permission to use your Company name and logo in Cloudinary website and any Cloudinary issued publications. If you wish to decline Cloudinary's use of your name and logo, please contact Cloudinary at: [support@cloudinary.com](mailto:support@cloudinary.com). You acknowledge that Cloudinary may adjust and modify Contributed Content, per your requests.

## Confidentiality

“**Confidential Information**” means any information furnished or made available by one party to the other, that is identified as “confidential” or “proprietary,” either by legend on written or electronically stored material, or which ought reasonably to be recognized as confidential or proprietary by virtue of its nature or the circumstances of its disclosure. The foregoing will not be considered as Confidential Information of a party: (a) information already known to the other party without an obligation of confidentiality, (b) information that is or becomes publicly known other than through a breach by a party of these confidentiality provisions, or (c) information that is independently developed by the other party.

Each of Cloudinary and you will maintain strict confidentiality of the other's Confidential Information and will not use, disclose or have such Confidential Information disclosed, directly or indirectly to any third party, except as specifically required to provide or receive the Service, or subject to the other party's prior permission. Each of you and Cloudinary will take precautions to maintain the confidentiality of the other party's Confidential Information with the same degree of care as to its own Confidential Information, but in no case less than reasonable care. Upon termination of these Terms, either party will use commercially reasonable efforts to delete all copies of the other's Confidential Information that is stored on its system or in its possession, except for retaining data for legitimate business purposes or as required under the applicable law, including under tax related requirements, account settling, record keeping, archiving and legal issues.

If a party is compelled by law to disclose the other party's confidential information, then such party will provide the other party a prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure.

## Disclaimer of Warranty

YOU ACKNOWLEDGE AND AGREE THAT THE SERVICE IS PROVIDED FOR USE “AS IS”, WITHOUT ANY WARRANTIES OF ACCURACY, RELIABILITY, LIKELY-RESULT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, COMPATIBILITY, SECURITY OR IT BEING UP-TO-DATE. USE OF THE SERVICE IS AT YOUR SOLE AND EXCLUSIVE RISK.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, CLOUDINARY AND ITS AFFILIATES EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, AND GUARANTEES WITH RESPECT TO THE SERVICE, THE ACCURACY, RELIABILITY, ADEQUACY OR COMPLETENESS OF THE SERVICE OR ANY OTHER MATERIAL PROVIDED BY ANY LINK TO ANOTHER WEBSITE OR SERVICE, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, LIKELY-RESULT, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, INCLUDING, WITHOUT LIMITATION, STATEMENTS REGARDING CAPACITY, SUITABILITY FOR USE OR PERFORMANCE OF THE SERVICE WHETHER MADE BY CLOUDINARY AND ITS

AFFILIATES' EMPLOYEES OR OTHERWISE, WHICH IS NOT CONTAINED IN THESE TERMS, WILL BE DEEMED TO BE A WARRANTY BY CLOUDINARY OR ITS AFFILIATES FOR ANY PURPOSE, OR GIVE RISE TO ANY LIABILITY OF CLOUDINARY OR ITS AFFILIATES WHATSOEVER.

## **Limitation of Liability**

CLOUDINARY AND ITS AFFILIATES WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGE (INCLUDING WITHOUT LIMITATION LOSS OF PROFIT AND LOSS OF DATA), COSTS, EXPENSES AND PAYMENTS, EITHER IN TORT, CONTRACT, OR IN ANY OTHER FORM OF LIABILITY, ARISING FROM, OR IN CONNECTION WITH THESE TERMS, THE USE OF, OR THE INABILITY TO USE THE SERVICE, OR FROM ANY FAILURE, ERROR, OR BREAKDOWN IN THE FUNCTION OF THE SERVICE, OR FROM ANY FAULT OR ERROR MADE BY CLOUDINARY'S STAFF OR ANYONE ACTING ON CLOUDINARY'S BEHALF, OR FROM YOUR OWN OR YOUR AUTHORIZED USERS RELIANCE ON THE CONTENT OR ON MATERIAL ORIGINATING FROM THIRD PARTIES, OR FROM ANY COMMUNICATION WITH CLOUDINARY OR WITH OTHER USERS IN CONNECTION WITH THE SERVICE, OR FROM ANY REPORTING OF CONTRIBUTED CONTENT TO THE LAW ENFORCEMENT AUTHORITIES OR ANY OTHER AUTHORITY – WHETHER OR NOT CLOUDINARY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, LOSS, COSTS, EXPENSES OR PAYMENTS.

CLOUDINARY AND ITS AFFILIATES' TOTAL LIABILITY UNDER THESE TERMS IN CONTRACT, TORT, NEGLIGENCE, PRE-CONTRACT OR OTHER REPRESENTATIONS OR OTHERWISE ARISING OUT OF, OR IN CONNECTION WITH THESE TERMS OR THE PERFORMANCE OR OBSERVANCE OF ITS OBLIGATIONS UNDER THESE TERMS, AND EVERY APPLICABLE PART OF THEM WILL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL AMOUNT ACTUALLY RECEIVED BY CLOUDINARY DURING THE THREE (3) MONTHS BEFORE THE OCCURRENCE OF THE EVENTS GIVING RISE TO SUCH LIABILITY.

## **Indemnification**

You will indemnify, defend and hold harmless, Cloudinary, Cloudinary's affiliates and Cloudinary and Cloudinary affiliates' employees, directors, shareholders, advisors or anyone acting on Cloudinary's behalf with respect of any claim, demand, damage, loss, loss of profit, payment or expense, including reasonable attorney fees Cloudinary incur in connection with an alleged or actual breach of these Terms or an alleged or actual unlawful or tortious action or inaction with respect to the Service by you or by anyone on your behalf. Such indemnity will include, but will not be limited to, legal expenses and attorney fees.

## **Governing Law and Jurisdiction**

These Terms, the Service or any dispute arising out of or related thereto, will be governed solely by: (i) the laws of the State of Israel or, (ii) if the Cloudinary affiliate with which you (or the distributor or seller from whom you acquired the Service) contracted is Cloudinary Inc. a Delaware corporation, the laws of the State of California, USA, regardless of your country of origin or where you access the Service, and without giving effect to any conflicts of law principles, which would result in the application of the laws of a jurisdiction other than the State of Israel or California, as applicable.

The competent courts in the Tel Aviv district in Israel (or, if the Cloudinary affiliate with which you (or the distributor or seller from whom you acquired the Service) contracted is Cloudinary Inc. a Delaware

corporation, the competent courts in the Santa Clara County in California, USA) will have sole and exclusive jurisdiction over any claim in connection with the Service and in respect of any matter relating to the validity, applicability, performance or interpretation of these Terms. You agree to the exclusive jurisdiction of the above mentioned courts, agree to accept service of process by any means permitted by the applicable law and hereby waive any jurisdictional, conflict of law or venue defenses otherwise available to you.

## General

These Terms along with the Privacy Policy specified at <https://cloudinary.com/privacy> and the DMCA Copyright Policy specified at: <https://cloudinary.com/dmca> constitute the entire agreement between you and Cloudinary with respect to the access and use of the Service and supersede any and all agreements, negotiations and understandings, whether written or oral, about the Service, except that if you have separately entered with Cloudinary into an online or written agreement or subscription form that incorporates by reference these Term, any terms of such agreement or subscription form that add to, conflict with or change, these Terms shall prevail.

No waiver, concession, extension, representation, alteration, addition or derogation from these Terms will be effective unless effected in writing and expressly.

## Severability

If any provision of these Terms is held by a court of competent jurisdiction to be illegal, invalid, unenforceable, or otherwise contrary to law, the remaining provisions of these Terms will remain in full force and effect.

## Contact Us

You may contact Cloudinary with any question about the Service, through the contact form at: <https://cloudinary.com/contact> Cloudinary will make efforts to address your inquiry promptly.

Last updated: December 5, 2018.