

RAPID ACCESS CLOUD

Terms of Service

The following points capture the highlights of the Terms of Service for the Rapid Access Cloud (RAC):

- Access to the RAC is provided on a best effort basis
- Cybera does not maintain any backup of user data
- When presenting or publishing results from work conducted on the RAC, please give appropriate credit to Cybera for providing cloud resources
- As a provincially funded not for profit, Cybera has obligations for reporting to the Government of Alberta and as such, we retain the right to inquire about your RAC use-case, while being considerate of any intellectual property
- The user retains all intellectual property that the user develops in the RAC environment
- Failure to adhere to the terms of the AUP can lead to your immediate RAC access termination
- The RAC is intended for research, development, and scalability testing of applications; if your use case does not fall into this category, your access to the RAC may be removed
- Cybera monitors user activity and has the right to terminate idle accounts
- The user is responsible for monitoring the email address the user provided for communication about the RAC; if no response is received after a reasonable amount of time, Cybera has the right to terminate your account
- Each person is only permitted one RAC account and using multiple email accounts to create multiple RAC accounts is not permitted
- Cybera shall in no event be held liable for any direct, indirect, incidental, or consequential damages however caused by the use of this service

For additional details, see the full terms of service below.



CYBERA RAPID ACCESS CLOUD TERMS OF SERVICE

BETWEEN:

Cybera Inc (“Cybera”)

-and-

You or the entity you represent (the “User”)

(collectively the “Parties”, each a “Party”)

THE AGREEMENT

Your use of Cybera’s Rapid Access Cloud (“RAC”) service is governed by these Cloud Terms of Service and the Cloud Acceptable Use Policy. When we use the term "Agreement" in any of the Terms of Service or Acceptable Use Policy, we are referring collectively to all of them, including any product specific terms that apply to the Services. You acknowledge that your electronic assent constitutes your acceptance to the Agreement and if you are entering into this Agreement for an entity, such as the company you work for, you represent to us that you have the legal authority to bind that entity to this Agreement.

1. TERM OF AGREEMENT

- a. This Agreement takes effect when the User clicks the “I accept” button or check box presented with these terms.
- b. The User represents to Cybera that they are lawfully able to enter into an agreement, whether as an individual or, if on behalf of an entity they represent, with the legal authority to bind the User to this Agreement.
- c. So long as the User is in compliance with the terms of this Agreement and the Acceptable Use Policy (the “AUP”) also presented through the Rapid Access Cloud portal, the User shall have access to the RAC beginning from the creation of the user account by Cybera and terminating up to one year after creation of the user account by Cybera (the “Term”) on the terms and conditions herein.
- d. Cybera will determine and enforce the set of resources the User has access to, including, but not limited to, CPU, memory, public IPs, and storage space.
- e. Should a User create multiple user accounts using different e-mail addresses belonging to the same User, Cybera may deem this agreement void and terminate all the User’s accounts without prior notice and according to Cybera’s sole discretion.

2. ACCESS TO THE RAC

- a. The User acknowledges that misuse of the RAC or violation of the AUP can lead to temporary or permanent disabling of accounts and administrative or legal actions.
- b. Connecting Equipment: The User is responsible for the installation, operation, maintenance and all costs related to the User’s equipment or software at the User’s premises that may be required

to make use of the RAC.

- c. Users shall notify Cybera immediately if they become aware that:
 - i. the account they use to access the RAC has been compromised;
 - ii. their RAC password has been compromised;
 - iii. any misuse, abuse or criminal activities occur in relation to the RAC;
 - iv. they become aware of any violation of this policy;
 - v. there are any changes in their contact information.
- d. The RAC is intended for research, development, and scalability testing of applications. Special use cases may be accommodated that fall outside this scope according to the sole discretion of Cybera. The User understands that not providing Cybera information about their use-case upon Cybera's request can lead to temporary or permanent disabling of the User's account.

3. TERMS OF USE

- a. The User acknowledges and agrees that they are using the RAC on an "as is" basis and that the RAC will be maintained by Cybera on a "best effort" basis. The User further acknowledges and agrees that Cybera makes no backups of user data and makes no warranties as to the safety of data or proprietary information on the RAC and that Cybera will not be held liable in the event of any loss, damage or misappropriation of data.
- b. Without limiting the generality of the foregoing,
 - i. Cybera shall not be responsible for any limitations, technological problems or systems failure of the RAC, including but not limited to any such limitations, technological problems or system failures that cause damage to the User's data, equipment or software.
 - ii. The User acknowledges and agrees that they are solely responsible for their content on the RAC, including their data, software, and connectivity configuration (e.g. DNS) and that Cybera will have no responsibility or liability for same.

4. USER ACCOUNTABILITY

The User acknowledges that they are solely responsible for their activities on the RAC and may be liable under applicable administrative or legal sanctions for their actions.

5. REPORTING

- a. The User acknowledges that Cybera has reporting and accountability obligations to both its Board of Directors and the Government of Alberta and agrees that they shall provide Cybera with such information and reports related to the User's activities enabled by the RAC and the results of those activities as Cybera may request (each an "**Information Request**").
- b. The User acknowledges and agrees that ignoring or refusing to provide information in response to an Information Request may lead to Cybera temporarily or permanently disabling the User's account.

6. PUBLIC COMMUNICATIONS

- a. The User will not issue any release or publicity concerning this Agreement or its subject matter except with prior written approval from Cybera, which consent will not be unreasonably withheld.
- b. The User further agrees that all materials produced with respect to the RAC (including, but not limited to, publicly accessible websites) shall reference Cybera's role. The User acknowledges that the right to display and otherwise use Cybera's corporate name, corporate identity, and logo is granted to the User only with respect to the the RAC Project and the User agrees that it will not use the same in any other manner at any other time, with the exception only of any rights to use

the same arising from the User's membership in Cybera, if applicable.

- c. Cybera has the right to release to the Government of Alberta any reports and other information received or produced in accordance with this Agreement. Cybera has the right to use such materials, excluding proprietary information, in the implementation of its public communications and accountability strategy.
- d. The User grants the right for Cybera to display and otherwise use the User's corporate name, corporate identity, and logo only with respect to the the RAC Project and Cybera agrees that it will not use the same in any other manner at any other time.

7. INTELLECTUAL PROPERTY

- a. The Parties hereby acknowledge and agree that all intellectual property belonging to each Party as well as all rights arising therefore shall remain the sole and exclusive property of that Party.
- b. All right, title and interest in and to any intellectual property which may be created, generated or produced in connection with the User's use of the RAC shall vest in the User. Notwithstanding the foregoing, the User acknowledges and agrees that all right title and interest in the RAC and the intellectual property related thereto is and remains that of Cybera.
- c. Any enhancement to the intellectual property of Cybera made as a result of the User's use of the RAC shall belong exclusively to Cybera.

8. INDEMNIFICATION

The User agrees to indemnify, save and hold harmless Cybera against any and all liability, expense, damage, cost or claim arising from or in relation to or in any way connected with the User's use of the RAC.

9. ARBITRATION

- a. All questions, controversy, or claims arising out of or relating to this Agreement shall be settled by arbitration in accordance with the Arbitration Act (Alberta) as amended from time to time by a single arbitrator (the "Arbitrator") appointed by the mutual agreement of the parties hereto.
- b. The arbitration will take place in the City of Calgary.
- c. The Arbitrator has the right to grant legal and equitable relief including injunctive relief and the right to grant permanent and interim injunctive relief. The Arbitrator shall not amend or otherwise alter the terms and conditions of this Agreement. The Arbitrator shall render a decision within 90 days after his or her appointment as Arbitrator.
- d. Any claim arising out of or relating to the terms of this Agreement shall be made in writing and shall be served upon the party against whom the claim is made not more than twelve (12) months from the date of the alleged breach and any such claim not made within such twelve (12) month period shall be deemed to have been abandoned and shall be absolutely barred.

The final award of the Arbitrator shall be final and binding on the parties with no appeal to any court. It shall be a condition precedent to any action in any court that the final award of the Arbitrator shall have been made. The parties hereby agree to carry out any decision or order of the Arbitrator in good faith.

10. NO WARRANTIES

- a. Cybera makes no express or implied warranty as to the RAC, the conditions of research thereon or the fitness for purpose of the RAC for research or a particular purpose or form of research or



as to the fitness of any intellectual property, resulting property or generated information or product that may be made or developed using the RAC.

- b. Cybera makes no warranty that the goods, services, materials, products, processes, information or data to be furnished hereunder will accomplish intended results or are fit for any purpose including the intended purpose or that any of the above will not interfere with privately owned rights of others. Cybera shall not be liable for any damages attributed to the use of the RAC or the use of intellectual property, information generated or product made using the RAC.

11. **TERMINATION**

- a. Cybera may terminate this Agreement without notice in their sole and absolute discretion in the event the User violates the AUP.
- b. The User acknowledges and agrees that only a limited number of users can have access to the RAC at a given time and that should the User not make use of the RAC, Cybera will attempt to provide reasonable notification and may terminate this Agreement at its own discretion.
- c. The User may terminate this Agreement at any time by giving 30 days written notice in writing to Cybera.
- d. Cybera may terminate this Agreement for any reason other than a termination under section 11(a) upon the provision of 30 days written notice to the User.

12. **ACKNOWLEDGEMENT OF APPROPRIATE USE**

- a. The User acknowledges and agrees that their use of the RAC is subject to the RAC Acceptable Use Policy also presented in the Rapid Access Cloud portal and available through www.cybera.ca. The User acknowledges that they have read the AUP and will abide by its terms. The User acknowledges that Cybera may amend the AUP from time to time in its sole and absolute discretion and that the User shall be bound by any such amendments.
- b. The User acknowledges and agrees that Cybera in its sole and absolute discretion has the right to determine what constitutes a violation of the AUP and can suspend or terminate the User's use of the RAC without notice and in their sole absolute discretion should User violate the AUP.

13. **NOTICES**

- a. Any notice or other written communication required or permitted hereunder shall be in writing.
- b. All such notices to Cybera Inc. shall be addressed to:

By mail or personal delivery: Attn: Rapid Access Cloud
Suite 200, 3512 33 Street NW
Calgary, Alberta
T2L 2A6
By facsimile: (403) 210-5339
By e-mail: rac-admin@cybera.ca

- c. All such notices to the User shall be addressed using the information provided with their RAC submission. It is the User's responsibility to monitor any contact information provided at the time of sign-up and Cybera is not responsible for any correspondence that may be missed due to outdated or unmonitored contact information.
- d. Any such notice or other written communication shall, if mailed as aforesaid be effective eight (8) calendar days from the date of posting; if given by facsimile or e-mail, shall be effective on



the first business day after reception; and if given by personal delivery shall be effective on the day of delivery.

Either party may at any time change its address by giving notice of such change of address to the other party in the manner specified in this paragraph.