Cognigy General Terms and Conditions for Genesys AppFoundry

These Cognigy General Terms and Conditions for Genesys AppFoundry apply for Cognigy Products ordered on Genesys AppFoundry as included in the AppFoundry listing during the time of an order .

1 Definitions

Capitalized terms used herein shall have the meanings set forth in this Section 1.

Product related:

"Cognigy.AI" means the Cognigy conversational AI platform product.

"Cognigy.AI Function(s)" means blocks of code defined inside Cognigy.AI as a "Cognigy Function". They can be run inside the Cognigy Product to help with long-running asynchronous processes. Each Cognigy Product installation is limited to running 10 concurrent Cognigy.AI Functions and within a Cognigy.AI Function to the execution length as defined in the documentation unless agreed otherwise in an Order Form.

"Cognigy Insights" means the Cognigy Insights product, used to collect and display analytics data inside Cognigy.AI.

"Cognigy Live Agent" means the Cognigy Live Agent product, used as an agent desktop for human agents to interact with Users.

"Cognigy Product(s)" means the Licensor products and services such as Cognigy.AI, Cognigy Voice Gateway, Cognigy Live Agent, Cognigy Insights or any other Cognigy Product listed in an Order Form and further described in the documentation on https://www.docs.cognigy.com.

"Cognigy Voice Gateway" means the Cognigy Voice Gateway product, used to connect Cognigy.AI with phone lines and contact center solutions. Use of the Cognigy Voice Gateway is limited to the maximum number of Concurrent Sessions as agreed in an Order Form.

"Release" means a new version of a Cognigy Product.

"Tenant" means an independent instance in a multi-tenant environment, logically isolated, for a group of Users of Licensee, who share a common access with specific privileges to Cognigy SaaS and Cognigy Private Cloud SaaS.

"User" means a unique user, tracked by a user ID on the Cognigy Product.

"User Input" means a message (text and/or data) received by Cognigy.AI from a User or system.

Deployment related:

"Cognigy.AI Dedicated Product" means a Cognigy Product provided to Licensee, which may be installed on a dedicated infrastructure, either by Licensee or a third party including any future Releases, that Licensee may receive in accordance with the terms of the Agreement.

"Cognigy.AI Dedicated Product Setup" means installing Cognigy Products on a dedicated infrastructure, either by Licensee, or a third party where the provision of the dedicated infrastructure is the responsibility of Licensee unless agreed otherwise in an Order Form.

"Cognigy SaaS" means a single-Tenant access to a Cognigy Product within a multi-Tenant environment, hosted and maintained by Licensor. The service includes Standard Support.

"Cognigy Private Cloud SaaS" means an instance of a Cognigy Product, hosted and maintained by Licensor and dedicated to the exclusive use of Licensee. The service includes Standard Support.

"Cognigy Private Cloud SaaS Setup" means provisioning the private cloud environments and providing access to Cognigy Private Cloud SaaS to Licensee.

"Cognigy SaaS Setup" means providing access to Cognigy SaaS for Licensee.

"SaaS" means Cognigy SaaS, Cognigy Private Cloud SaaS or Cognigy Voice Gateway or any future Cognigy Product provided to Licensee as "Software as a Service" including any future Releases, that

Licensee may receive in accordance with the terms of the Agreement. For any SaaS, the Service Level terms defined in Exhibit B apply.

Business model related:

"Billing Period" means the period for which Conversations have been pre-purchased and invoiced.

"Channel" means a way of interacting with a virtual agent, represented in Cognigy.AI as an endpoint resource (e.g. Webchat, Facebook Messenger, REST or Voice Gateway, etc.).

"Cognigy.AI Dedicated (Non-Production)" means a license to operate 1 Cognigy Product on 1 cluster (Kubernetes) with all microservices required to run Cognigy.AI in unlimited scaling as Non-Production where Conversations are not counted. The license includes Standard Support.

"Cognigy.AI Dedicated Product Package" means a license to operate 1 Cognigy Product on 1 cluster (Kubernetes) with all microservices required to run Cognigy.AI in unlimited scaling and which includes an unlimited number of Users , projects and virtual agents, but within the scope of the parameters for use as agreed in an Order Form (e.g. Committed Conversations for Cognigy.AI). The license includes Standard Support.

"Cognigy.AI Private Cloud SaaS Non-Production" means an instance of a Cognigy Product, hosted and maintained by Licensor and dedicated to the exclusive use of Licensee within a multi-Tenant environment as a Non-Production installation where Conversations are not counted. The service includes Standard Support.

"Cognigy.AI Private Cloud SaaS Package" means access for the Licensee to Cognigy Private Cloud SaaS, which includes an unlimited number of Users, projects and virtual agents, but within the scope of the parameters for use as agreed to in an Order Form (e.g. Committed Conversations for Cognigy.AI.).

"Cognigy.AI SaaS Package" means access for the Licensee to 1 Tenant on Cognigy SaaS, which includes an unlimited number of Users, projects and virtual agents, but within the scope of the parameters for use as agreed to in an Order Form (e.g. Committed Conversations for Cognigy.AI).

"Committed Conversations" means the number of Conversations which are included in the purchased license per Billing Period (e.g. 12 times the Committed Monthly Conversations for an annual license). The Committed Conversations can be used freely within the Billing Period. Unused Conversations are not carried over to the subsequent Billing Period but expire. Once Licensee has exceeded 70% of the Committed Conversations for the Billing Period, Licensee will be required to move to the next pricing tier of Conversations for the remainder of the Billing Period as evidenced by the issuance of an additional Purchase Order no later than 30 days after having exceeded the 70% threshold. Licensor will provide Licensee with Committed Conversation consumption data no later than 10 business days after the end of the month.

"Committed Monthly Conversations" means the number of Conversations which are included in the purchased license per month.

"Concurrent Voice Gateway Sessions" means the number of simultaneous Sessions (i.e. which take place at the same time) during the use of Cognigy Voice Gateway.

"Conversation" means 1 Session with 1 User on a Channel during a 24 hour period with a maximum of 50 User Inputs per Conversation.

"Fees" means the fees determined in an Order Form in connection with e.g. the number of Conversations carried out per Billing Period or other measurement units.

"Included Concurrent Voice Gateway Sessions" means the number of simultaneous calls (which take place at the same time) that are included in the Cognigy Voice Gateway under this Agreement. Once Licensee has exceeded 70% of the Included Concurrent Voice Gateway Sessions for the Billing Period, Licensee will be required to increase the number of Included Concurrent Voice Gateway Sessions such that the prior month's actual Concurrent Voice Gateway Sessions is at or below 50% of the newly calculated Included Concurrent Voice

Gateway Sessions total as evidenced by the issuance of an additional Purchase Order no later than 30 days after having exceeded the 70% threshold. Licensor will provide Licensee with Voice Gateway Sessions consumption data no later than 10 business days after the end of the month.

"Included Speech-to-Text (STT) Minutes" means the number of minutes for which the Cognigy Voice Gateway can convert speech audio to text via the described cloud service (e.g. provided by cloud service providers Microsoft Azure or Google Cloud). If the number of Included Speech-to-Text (STT) Minutes is exceeded in a given calendar month, additional and corresponding quantities of Included Speech-to-Text (STT) Minutes in units of sixty thousand (60,000) Included Speech-to-Text (STT) Minutes are payable by Licensee. With regard to Licensee's rights and obligations, the respective cloud service provider's terms and conditions apply.

"Included Text-to-Speech (TTS) Characters" means the number of characters for which the Cognigy Voice Gateway can convert text to speech audio via the described cloud service (e.g. provided by cloud service providers Microsoft Azure or Google Cloud,). If the number of Included Text-to-Speech (TTS) Characters is exceeded in a given calendar month, additional and corresponding quantities of Included Text-to-Speech (TTS) Characters in units of ten million (10,000,000) Included Text-to-Speech (TTS) Characters are payable by Licensee. With regard to Licensee's rights and obligations, the respective cloud service provider's terms and conditions apply.

"**Maximum Concurrent Voice Gateway Sessions Capacity**" means the maximum number of simultaneous calls the Cognigy Voice Gateway licensed under this Agreement can process.

"Non-Production" means Licensee non-production environments solely used for internal testing and development purposes.

"Order Form" means an order form, addendum or similar document submitted by Licensee when ordering Cognigy Products from Genesys AppFoundry which includes details of the Cognigy Products ordered, pricing, term and may include deviations from these Conditions.

"Permitted Usage" means the management of the current and future conversational artificial intelligences of Licensee, which may only be used for the direct business of Licensee and no third party.

"Session" means 1 or more User Inputs tracked by a common session ID on a Cognigy Product (e.g., a call or webchat conversation).

"Standard Support", **"Extended Support"** and **"Premium Support"** are support options for Cognigy Products and defined in Exhibit A.

General:

"Agreement" means an Order Form, these Conditions and any Exhibit, schedule, addendum or amendment to the foregoing, whether attached or incorporated by reference. In the event of any conflict between the Order Form and the Conditions, the terms in the Order Form will control.

"Conditions" means these Cognigy General Terms and Conditions for Genesys AppFoundry.

"Confidential Information" means any information, whether tangible or intangible, including, but not limited to, techniques, discoveries, inventions, ideas, processes, software (in source or object code form), designs, technology, technical specifications, flow charts, procedures, formulas, concepts, any financial data, and all business and marketing plans and information, in each case which is maintained in confidence by the disclosing party ("Disclosing Party") and disclosed to the other party ("Recipient") hereunder.

Failure by the Disclosing Party to designate any tangible or intangible information as Confidential Information shall not give Recipient the right to treat such information as free from the restrictions imposed by these Conditions if the circumstances would lead a reasonable person to believe that such information is Confidential Information.

Confidential Information does not include information which Recipient documents (i) is now, or hereafter becomes, through no act or failure to act on the part of Recipient, generally known or available to the public; (ii) was rightfully in Recipient's possession prior to disclosure by the Disclosing Party; (iii) becomes rightfully known to Recipient, without restriction, from a source other than the Disclosing Party and without any breach of duty to the Disclosing Party; (iv) is developed independently by Recipient without use of or reference to any of the Confidential Information and without violation of any confidentiality restriction contained herein; or (v) is approved by the Disclosing Party for disclosure without restriction, in a written document executed by a duly authorized officer of the Disclosing Party.

"Derivate Works" means any software program (whether in source code or object code), and all copies thereof, developed by or on behalf of Licensee based on or derived from any part of Cognigy Products, including without limitation any revision, modification, enhancement, translation (including compilation or recapitulation by computer), abridgment, condensation, expansion, or any other form in which Cognigy Products may be recast, transformed or adapted, and that, if prepared without Licensor's authorization, would constitute a patent, copyright or trade secret infringement of Cognigy Products, or would otherwise constitute an unauthorized use of Licensor's Confidential Information.

"Intellectual Property" means any and all patents, copyrights, trademarks, service marks and trade names (registered and unregistered), trade secrets, know-how, inventions, licenses and all other proprietary rights throughout the world related to the authorship, origin, design, utility, process, manufacture, programming, functionality and operation of Cognigy Products and Derivative Works.

"Licensee" means the entity identified in the Genesys AppFoundry order system.

"Licensor" means Cognigy GmbH, Düsseldorf, Germany.

"Term" has the meaning as defined in Section 12.1.

2   **SaaS Provision and License Grant:**

Subject to payment of the Fees and the terms of the Agreement, Licensor:
(i) provides Licensee access to Cognigy SaaS, Cognigy Private Cloud SaaS, Cognigy Voice Gateway or any future Cognigy Product; and/or
(ii) grants Licensee a non-exclusive, non-transferable, non-sub-licensable license
to use the Cognigy Product as described in an Order Form and related documentation solely for the Permitted Usage.

Licensee will be provided a license key for the Cognigy.AI Dedicated Product or login details for SaaS which give Licensee access to Cognigy Products.

Except as expressly authorized by the Agreement, no other entity or person, including any other present or future subsidiary or affiliate of Licensee or any entity or person owning any interest in Licensee at present or in the future, shall have any right to use the Cognigy Product under the Agreement.

3   **Ownership of Data and Intellectual Property Rights**

Licensee shall own all right, title and interest in and to data provided by Licensee and/or created with the help of Cognigy Products (e.g., virtual agent definitions, intent collections, functions definitions).

Ownership of Cognigy Products, and all worldwide rights, title and interest in and to the Intellectual Property associated with Cognigy Products shall remain solely and exclusively with Licensor or if applicable with third parties that license modules included with any Cognigy Products.

All rights, title, and interest in Cognigy Products not expressly granted to Licensee in the Agreement are reserved by Licensor.

By submitting any ideas, recommendations or other feedback ("Feedback") related to Cognigy Products, Licensee acknowledges and agrees that Licensor shall be free to exploit and use Feedback for any purpose without restriction or compensation.

Licensee shall retain intact all applicable Licensor copyright, patent and/or trademark notices on and in all copies of Cognigy Products.

4   **Confidential Information**

Recipient shall hold the Confidential Information received from the Disclosing Party in strict confidence and shall not, directly or indirectly, disclose it or use it for any other purpose than for the performance of the Agreement, except as expressly permitted herein. Recipient shall promptly notify the Disclosing Party upon learning of any misappropriation or misuse of Confidential Information disclosed hereunder. Notwithstanding the foregoing, Recipient shall be permitted to disclose Confidential Information pursuant to a judicial or

governmental order, provided that Recipient provides the Disclosing Party reasonable prior notice, and assistance, to contest such order.

5 Restrictions on Use

Except as expressly authorized by Licensor under this Agreement, Licensee shall not (i) use the Cognigy Products or documentation beyond the restrictions or limitations in the Agreement; (ii) copy, in whole or in part, Cognigy Products or documentation, or modify, disassemble, decompress, reverse compile, reverse assemble, reverse engineer, access Cognigy.AI containers or translate any portion of Cognigy Products, or attempt to obtain the source code of Cognigy Products or otherwise reduce the Cognigy Products to human-readable form except to the extent any foregoing restriction is prohibited by applicable law, (iii) rent, lease, lend, distribute or license Cognigy Products, (iv) use or access the Cognigy Products to process PCI (i.e. Payment Card Industry) relevant data, (v) use or access the Cognigy Products to process data within the scope of the United States of America Health Insurance Portability and Accountability Act (HIPAA).

6 Derivative Works

In the event Derivative Works are created, Licensor shall own all right, title, and interest in and to such Derivative Works. If, under the operation of local law or otherwise, Licensee or such third party comes to have any rights associated with such Derivative Works, Licensee shall automatically assign all such rights to Licensor for no additional consideration.

Licensor shall not claim any Intellectual Property interest or other legal interest of any kind in any code created by Licensee to facilitate its authorized use of Cognigy Products so long as the creation of such code does not constitute a Derivative Work or violate any provision of the Agreement.

For the avoidance of doubt, any code that Licensee creates exclusively for its own use that relies on an application programming interface published by Licensor or code that extends, expands or modifies the functionality of Cognigy Products, even in case the code depends on files that Licensor wrote, shall be the exclusive Intellectual Property of the Licensee. Licensor shall retain all legal interest in its application programming interfaces, but shall claim no legal interest in any such code created by Licensee.

7 Third Party Use and Rights

Licensee may authorize third parties to assist Licensee in the management, editing, and hosting of content created by use of Cognigy Products, provided that: (i) such activities are within the scope of the activities Licensee is itself authorized to perform under the Agreement; (ii) such third party's acts are primarily for the direct or indirect benefit of Licensee; (iii) such third parties are not charged a fee by Licensee for such activities and (iv) Licensee shall be responsible for such third parties' compliance with the terms and conditions of the Agreement to the same extent as its own compliance.

Licensee shall not use Cognigy Products as an application software provider or in any time-sharing, service bureau, outsourcing or other commercial arrangement of any kind that makes Cognigy Products available to third parties primarily for the third party's own uses.

Except as expressly stated herein, no rights are granted to a third party under the Agreement. Licensee shall be responsible for any unauthorized use of Cognigy Products by third parties caused by any acts or omissions of Licensee and shall indemnify Licensor in accordance with Section 8.2.

8 Warranties

8.1 Warranty of Licensor

Licensor warrants that Cognigy Products as provided to Licensee will comply in all material respects according to the description of functions provided in the documentation listed at https://www.docs.cognigy.com during the Term. Cognigy Products shall be deemed to be free of any defect in quality if they comply in all material aspects with the description of functions in the documentation. In the event any such Cognigy Products do not comply with this warranty, Licensee will provide written notice of such defects or non-conformities through incident reports without delay and as Licensee's sole and exclusive remedy for breach of this warranty, Licensor shall resolve the defect or provide a workaround within a commercially reasonable period of time. If Licensor is unable to do so, Licensee may terminate the

Agreement for the applicable Cognigy Product for cause as provided in Section 12.

Licensee shall, at no extra charge, assist Licensor to a reasonable extent in the detection and correction of non-conformities of Cognigy Products by e.g. providing Licensor with a description of the reported defect or non-conformity and a description of the respective circumstances under which the reported defect arose.

8.2 Warranty of Licensee

Licensee warrants that Licensee will use Cognigy Products only in compliance with the Agreement and all applicable laws and regulations, including but not limited to export control and trade compliance laws and regulations. Licensee shall indemnify, defend and hold harmless Licensor from and against any damages, losses, liabilities, settlements, judgements and expenses (including without limitation costs and reasonable legal fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Licensee's use of Cognigy Products. Although Licensor has no obligation to monitor Licensee's use of Cognigy Products, Licensor may do so and may prohibit any use of Cognigy Products it believes may be (or alleged to be) in violation of the foregoing.

When using Cognigy Products, Licensee shall be responsible (i) for obtaining and maintaining any equipment, software and ancillary services needed to connect to, access or otherwise use Cognigy Products, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"); (ii) for complying with applicable third party terms and conditions for the use of Equipment and (iii) for maintaining the security of the Equipment, Licensee account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Licensee's account or the Equipment with or without Licensee's knowledge or consent.

Further, Licensee shall be responsible for complying with the applicable terms and conditions of the third party services, materials or systems to which Licensee enables the Cognigy Products to connect to. For the avoidance of doubt, Licensor shall not be responsible for such third party services, materials or systems.

8.3 Virus/Malicious Code

Licensor and Licensee warrant that they will use generally accepted virus and malicious code detection software programs to test any electronic files, including electronic communications, prior to any delivery or upon receiving such communications and that the parties will continue to take such steps with respect to exchanging electronic files and communications pursuant to the Agreement. In the event either party detects any computer virus or malicious code it shall immediately notify the other party and where possible shall promptly provide revised replacement files.

9 Intellectual Property Rights Indemnity

If any third party claim based upon alleged infringement of an Intellectual Property right is asserted against Licensee by virtue of Licensee's use of Cognigy Products, Licensor will indemnify Licensee in relation to its investigation of such claims and in defense of such claims or in settlement thereof, which shall include payment of any costs and damages finally awarded by the relevant court or agreed upon in settlement, provided that Licensor shall (i) have received from Licensee prompt notice of the claim after the assertion thereof, (ii) have the exclusive right, if it so chooses, to control and direct the investigation and the defense or the settlement of such claim, and (iii) have received, at no charge to Licensor, reasonable cooperation and assistance from Licensee in defending or settling the claim.

Notwithstanding the foregoing, Licensor shall have no obligation or liability for any claim of infringement arising out of or in connection with: (i) use of a superseded version of Cognigy Products or related documentation if the infringement would have been avoided by the use of a current Release of such Cognigy Products or documentation; (ii) the combination, operation or use of Cognigy Products with any software, hardware or other materials not furnished by Licensor if the infringement would have been avoided by not combining, operating or using such Cognigy Products with such other software, hardware or other materials; (iii) any modification of Cognigy Products not expressly authorized or instructed by Licensor in writing; or (iv) any breach by

Licensee of the Agreement, if the infringement would have been avoided by Licensee not breaching the Agreement.

Licensee may participate at its own expense using counsel of its choice in the defense or settlement of claims that Licensor is obligated to defend or settle hereunder.

In the event a Cognigy Product is held by a court of competent jurisdiction to be, or is reasonably believed by Licensor to be, infringing, Licensor will have the option, at its expense, to: (i) modify such Cognigy Product to be non-infringing; (ii) obtain for Licensee a license to continue using such Cognigy Product; or (iii) if Licensor determines in its reasonable discretion that such Cognigy Product may neither be so modified using reasonable efforts nor so licensed on reasonable terms, terminate Licensee's license for the infringing Cognigy Product and refund any Fees pre-paid by Licensee, pro-rated for the remainder of the Term of Licensee's license to the impacted Cognigy Product.

This Section states Licensor's entire liability and Licensee's exclusive remedy for any Intellectual Property rights infringement.

10 Limitation of Liability

10.1 Should Licensor be obliged to pay compensatory damages or reimburse expenses, Licensor shall be subject to unlimited liability only for (i) loss or damage to the extent arising out of the infringement of life, limb or health based on intentional or negligent breach of duties by Licensor or an intentional or negligent breach of duties by a statutory representative or vicarious agent of Licensor; and (ii) other loss or damage, to the extent such damage is based on the intentional or grossly negligent breach of a duty by Licensor or its statutory representatives or vicarious agents.

10.2 For loss or damage based on breach of a duty involving slight negligence by Licensor or its legal representatives, officers or agents for whom Licensor is vicariously liable, Licensor shall be liable for compensation of damage or expenses only in those cases where a material duty is breached, i.e. a duty, the fulfillment of which makes the ordinary performance of this entire Agreement even possible and the compliance with which the Licensor can and should regularly rely on.

Liability for breach of a material contractual duty involving slight negligence shall be limited to the typical, foreseeable losses and damages, as of the Effective Date. The parties agree that Licensor's liability stipulated in Section 10.2 based on a breach of duty involving slight negligence will be limited to a total of ten thousand (10,000) € or as indicated on the Order Form.

10.3 The limitations on liability stipulated in Section10.2 shall also apply for the benefit of Licensor's statutory representatives and vicarious agents.

10.4 The limitations of liability stipulated in Section10.2 shall not apply to losses and damages based upon (i) a defect in quality or title fraudulently concealed by Licensor or (ii) the violation of a warranty made by Licensor for the respective quality.

10.5 Any further liability of Licensor for compensatory damages pursuant to the German Product Liability Act (Gesetz über die Haftung für fehlerhafte Produkte - ProdHaftG) shall remain unaffected by the limitations on liability agreed herein.

11 New Releases of Cognigy Products

11.1 Licensor may from time to time provide new Releases of Cognigy Products. Installation of such Releases is recommended but shall be the choice and responsibility of Licensee.

11.2 Notwithstanding the foregoing, Licensee expressly acknowledges that new Releases may change functionality of Cognigy Products and integration with other systems and may not work with some or all of Cognigy Products modules or be backward compatible with earlier Releases of Cognigy Products.

For new Releases of SaaS, which are not backward compatible, Licensor shall provide Licensee parallel access to the new Release installation and Licensee may migrate their virtual agents.

For new Releases of Cognigy Dedicated Product, which are not backward compatible, Licensor shall provide Licensee a second Cognigy Dedicated Product license for the new Release and Licensee may set up a parallel installation for migration purposes.

Alternatively, Licensee may use Licensor's SaaS environment for migration.

Licensor shall support minor Releases of Cognigy Products for 18 months after the publication of a new Release. A minor Release is backward compatible and defined by Licensor by a change of version number right of decimal point (e.g. x.1 to x.2 or x.1.1 to x.1.2), For clarity, a major Release is defined by a version number change left of decimal point (e.g. 4.x to 5.x).

11.3 To the extent that operation of Cognigy.AI Dedicated Products is affected by issues in standard third party software, including, but not limited to, Node.JS, MongoDB, RabbitMQ and ReactJS, then Licensee shall install updates to such standard third party software as they become available and solely per Licensor's specifications in order to resolve these issues. Licensor has no control over such standard third party software and does not warrant that issues with such standard third party software will be corrected or that such corrections will be made in a timely manner. For the avoidance of doubt, the then-current standard third party software required for use of Cognigy.AI Dedicated Products as set forth in the documentation is generally not affected by new Releases and to the extent it is affected, the instructions for the installation of the applicable new Release will note such changes.

12 Term and Termination

12.1 Term

The Agreement commences on first day of the period agreed in the Order Form and remains in effect for the period agreed in the Order Form ("Term").

In addition to any other remedies it may have, either party may terminate the Agreement upon 30 days' prior written notice for material breach, unless the breaching party cures such breach within such notice period. In the event of termination in accordance with this Section 12.1 or for cause by Licensee, Licensor will refund any Fees pre-paid by Licensee for the applicable Cognigy Products, pro-rated for the remainder of Licensee's Term after the effective date of termination.

12.2 Effect Upon Termination

Upon termination of the Agreement, for any reason, the license granted under the Agreement will also terminate and Licensee shall immediately cease all use of Cognigy Products provided to Licensee under the Agreement and delete all copies of Cognigy Products including related documentation in its possession or control. Upon Licensor's request Licensee shall then certify that such use has ceased and that Cognigy Products have been erased, destroyed or otherwise made inoperable by any user in the future.

Further, upon termination of the Agreement, those provisions of the Conditions which by their nature are intended to survive, including without limitation Sections 3 (Ownership of Data and Intellectual Property Rights), 4 (Confidential Information) and 12 (Term and Termination) will survive termination of the Agreement.

13 Severability

If any provision of the Agreement, is adjudicated to be unenforceable, such provision shall be deemed changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions shall continue in full force and effect.

14 Waiver

The failure of either party to enforce any rights granted under these Conditions or the Agreement or to take action against the other party in the event of a breach or default under these Conditions or the Agreement will not constitute a waiver by that party as to subsequent enforcement rights or subsequent actions in the event of future breaches.

15 Assignment

Licensee shall not be entitled to assign the Agreement. Licensor may assign the Agreement to a successor (whether by merger, a sale of all or a significant portion of its assets, a sale of a controlling interest of its capital stock, or otherwise) or affiliate that agrees to assume Licensor's obligations thereunder. Any assignment or transfer in violation of this Section 15 shall be void and of no force or effect.

16 Entire Agreement

The Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous agreements, understandings and communications, whether written or oral, and furthermore may be amended only by a written document signed by both parties. Any term or condition not specifically authorized by the Agreement, which is included in any Licensee invoice, customer purchase order or order form or other document rendered pursuant to the Agreement is of no force or effect unless the specific term or condition has been previously agreed to by the parties in writing in a separate agreement. No action by Licensor (including, without limitation, receipt of payment of any such invoice, or acceptance of any purchase order, in whole or in part) shall be construed as making any such term or condition binding on Licensor.

17 Personal Data and Data Protection

Both parties shall ensure compliance with all applicable laws on data protection and privacy, including the European Union General Data Protection Regulation (Regulation (EU) 2016/679) and all other applicable national laws, in each case as amended from time to time and including succeeding legal instruments. Licensor entrusts only employees with the handling of personal data (in the meaning of Article 4 no. 1 GDPR, "Personal Data") who have been trained to comply with data protection and privacy regulations and are bound to keeping data secret.

If and to the extent Licensor collects, stores, processes or otherwise uses or receives access to personal data of employees, applicants, consumers, customers or business partners on behalf of Licensee, this agreement for processing of personal data applies. The provisions set out in the data processing agreement shall prevail over the Conditions.

18 Independent Contractors

The parties are independent contractors for all purposes under these Conditions and the Agreement, and neither party will be deemed an employee, partner, or agent of the other. Each party will be solely responsible for any and all obligations and payments due with respect to their personnel, including any wages, salaries and amount due or payable to its personnel in connection with these Conditions and the Agreement. This Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between the parties.

19 Publicity

Licensor may use Licensee's or any of its affiliate's, division's or brand's name or logo or refer to any of them directly or indirectly in any media release, public announcement including any promotional or marketing materials, web sites, customer lists, referral lists or business presentations in accordance with the applicable brand guidelines without the prior written consent of Licensee.

20 Governing Law

The Agreement shall be governed by and interpreted in accordance with the laws of the Federal Republic of Germany, with the exception of the Laws of Conflicts. The U.N. Convention on Contracts for the International Sale of Goods are hereby made expressly inapplicable.

21 Place of Jurisdiction

The exclusive place of jurisdiction for any and all disputes under and in connection with the Agreement shall be the courts of Düsseldorf, Germany.

EXHIBIT A

COGNIGY SUPPORT PROGRAM TERMS

Licensor shall provide the following Support to Licensee for the licensed Cognigy Products:

Support Access: Licensor provides a ticketing system to support Licensor's customers. The support system is operated by a skilled Licensor technical team with product expertise. Support Tickets can be opened 24x7.

Support Tickets: Incidents and questions should be reported through the Cognigy user interface as documented here: https://docs.cognigy.com/docs/get-help-report-problems

Where applicable, tickets should include the following resources:
- Description of the issue and steps to reproduce
- Error message
- Screenshot of the Cognigy console
- Package export of the flow and its dependencies
- Copy or screenshot of log files

Licensee will work with Licensor support personnel during the investigation of Support Tickets, as reasonably needed and in a timely manner. Licensor does not require and Licensee shall not provide access to any personally identifiable information for purposes of the Agreement.

Cognigy Help Center: Licensor's Help Center is a collection of tutorials and articles and includes an active online community of Licensor's Users. This forum offers a wealth of shared experiences among the many Cognigy certified developers worldwide, with fresh and historical insight available 24x7. Access via https://support.cognigy.com

Documentation Library: Licensor's online documentation includes technical and user documentation and API reference documents. The documentation covers a range of Licensor's topics, API details, troubleshooting techniques, relevant conceptual articles, tutorials, external integration examples and more.

(Optional) Cognigy Extended Support Program

Extended Support includes Standard Support from 9am to 6pm CET between Monday and Friday, with access to Licensor's phone support only in emergencies which impact the operation of the system in a significant way with a guaranteed response time of 2 hours or less.

(Optional) Cognigy Premium Support Program

Premium Support includes Standard Support 24 hours per day, 7 days per week with access to Licensor's phone only in emergencies which impact the operation of the system in a significant way with a guaranteed response time of 1 hour or less.

Severity Levels and Target Response Times

Licensor shall categorize Support Tickets based on Licensee's characterization of the Severity Level. Licensee will characterize the Severity Level based on the business impact of the incident or question to Licensee using the Severity Levels described in the table below. If Licensor disagrees with Licensee's characterization of the Severity Level, Licensor will notify Licensee and the parties will act in good faith to establish a Severity Level.

Licensor shall provide an update on the investigation, resolution or escalation of the Support Ticket within the response times set out in the table below based on the Severity of the Support Ticket.

For Critical and High Severity Level incidents, Licensor shall assign at minimum a solution architect to continuously work on the Support Ticket until the incident has been solved.

Business Day as used in the table below means 9am to 6pm CET between Monday and Friday.

Severity Level	Criteria	Target Response Times		
		Standard Support	**Extended Support**	**Premium Support**
Critical	Meets all of the following criteria: ☐ Impacts production endpoint environment; and ☐ Involves a continuous or near continuous bot outage, or a performance issue that severely inhibits usage of bots; and ☐ No workaround available.	1 Business Day (Issues must be reported via email)	2 hours (Issues must be reported via email and followed up via telephone)	1 hour (Issues must be reported via email and followed up via telephone)

High	Meets all of the following criteria: ☐ Impacts production flow authoring environment; and ☐ Involves a continuous or near continuous outage, or an issue that severely inhibits the ability of bot developers to edit flows; and ☐ No workaround available.	2 Business Days	1 Business Day	2 hours (Issues must be reported via email and followed up via telephone)
Medium	Meets one of the following criteria: ☐ In production environment, causes intermittent impact and does not critically affect business operations; or ☐ In production environment, impact of the problem is alleviated by the availability of a workaround; or ☐ In non-production environment, causes immediate impact on development activity, such as affecting upcoming project plans, or preventing the development team from working on the project.	3 Business Days	1 Business Day	1 Business Day
Low	Meets one of the following criteria: ☐ In production environment, causes minor or no impact on business operations; or ☐ In non-production environment, causes moderate or minor impact on development activity.	5 Business Days	2 Business Days	2 Business Days

SERVICE LEVEL AGREEMENT

1. **Introduction**

   This Service Level Agreement ("SLA") sets out the service levels for the Cognigy.AI SaaS and Cognigy.AI Private Cloud SaaS Products ("Service" or "Services") valid during the Term of the Agreement.

   As the infrastructure of the Services is designed for Normal Use, the Availability applies solely for Normal Use of the Services. Any use outside of Normal Use may result in the degradation of Service quality and Availability.

   Inability to access the Service due to application errors (incorrectly configured flows, extensions, custom code, externally connected systems, etc.); are excluded from Availability and not considered downtime, as these are the responsibility of Licensee.

   Normal Use is the use of the Service where the rate of Maximum User Inputs per second ("MUIPS") is not exceeded. MUIPS are defined as 0.02% of the Committed Monthly Conversations (e.g., for 100,000 Committed Monthly Conversations, the MUIPS are 20 User Inputs per second).
   Availability outside of Normal Use of the Services may be agreed in writing between the parties upon request by Licensee.

2. **Definitions and Calculations**

   Availability means that the Services are functional and available to Licensee and Users.

   Licensor will maintain Availability of no less than 99.5% per quarter on a 7x24x365 basis.

   Excluded from the calculation of Availability are Planned Maintenance Windows and maintenance requested by Licensee and all downtime resulting from an interruption of third-party, third-party's affiliates or utilities (e.g. AWS or Microsoft Azure) or for any other reason outside Licensor's sphere of responsibility.
   If the Service Level Indicators are consistently not achieved (as defined below), the Services are considered to have the status of "Non-Availability".

   The formal commencement of Non-Availability shall begin from the time in which the monitoring systems indicate Non-Availability, at the latest with notification by e-mail (support@cognigy.com) by Licensee, and ends with the Availability confirmation by Licensor by e-mail to the e-mail address provided by Licensee.

   Service Level Indicators ("SLIs")

   The performance of the Services is measured in regular intervals as indicated in the table below:

Test #	SLI Test	How to test	Expected Result	Test Interval
1	Bot API Response	Make POST requests against a specific Cognigy.AI REST Endpoint and measure the response time.	A response time of less than 3000 milliseconds with a HTTP status code of 200	Every (10) minutes
2	Resource API Availability	Make requests to the Cognigy API to ensure operations required by the UI (e.g. loading a Flow, saving a Node) are working	A response time of less than 3000 milliseconds with a HTTP status code of 200	Every (10) minutes
3	NLU Training Performance	Start trainings for 6 regularly sized Flows (with 15 Intents with more than 5 example sentences each and one attached lexicon with more than 15 entries) in languages corresponding to used languages within implementation and measure training time	Training finished for each training under 5 minutes after training has started	Every 12 hours

   The Service receives the status Non-Availability if SLI Test #1 or Test #2 fail to achieve the Expected Result in three consecutive tests (e.g. the Bot API Response time is more than 3000ms in three consecutive tests).

   In case Test #3 does not achieve the Expected Result, an immediate second and third run for Test #3 shall be carried out. If all runs fail to achieve the Expected Result, the Service receives the status Non-Availability.

Reaction Time

Licensor will immediately after becoming aware of the Non-Availability status address the issue and endeavor to start remediating.

Planned Maintenance Windows

Planned Maintenance Windows are the times during which the Availability of the Services is impacted due to planned maintenance work.

Planned Maintenance Windows may be performed no more than once a month and are notified at least 1 week in advance to Licensee by e-mail to the e-mail address provided by Licensee.

Maintenance work, which is necessary due to unpredictable external circumstances to maintain the operational safety of the agreed Service may be carried out outside the Planned Maintenance Windows. Licensee will be notified immediately after the commencement of the maintenance work by e-mail to the e-mail address provided by Licensee.

Backup Policy

Licensor uses modern GitOps practices and stores all configuration files in encrypted and secure code repositories. All data volumes will be backed up at least once a day and will be kept for 7 days. In the event of a catastrophic failure, Provider can rebuild infrastructure using the backups as well as the archived configuration files in less than a day.