

## End User License Agreement

This is an agreement between You and Cognitive Scale Inc. (“CognitiveScale”) and governs your Use of CognitiveScale Product. “You” and “Your” means the individual or legal entity licensing the Product under this EULA. “Use” or “Using” means to download, install, activate, access or otherwise use the Product. “Product” means the CognitiveScale computer programs made available to You by an Approved Source and licensed to You by CognitiveScale.

“Documentation” is the CognitiveScale user or technical manuals, training materials, specifications or other documentation applicable to the Product and made available to You by an Approved Source. “Approved Source” means (i) CognitiveScale or (ii) the CognitiveScale authorized reseller or systems integrator from whom you acquired the Product. “Use Limitations” means the license detail; including license metric, duration, and quantity provided, for example, and not limitation, the Certifai Toolkit can only be used if you have a valid Certifai Pro or Enterprise Subscription.

By Using the Product, You agree to be bound by the terms of the EULA. If you are entering into this EULA on behalf of an entity, you represent that you have authority to bind that entity. If you do not have such authority or you do not agree to the terms of the EULA, neither you nor the entity may Use the Product and it may be returned to the Approved Source for a refund within five (5) days of the date you acquired the Product. Your right to return and refund applies only if you are the original end user licensee of the Product.

### 1. GRANT, DELIVERY, AND USE OF PRODUCT

#### 1.1 Grant of License.

(a) Product. CognitiveScale grants to You a limited, world-wide, non-exclusive, non-transferable (except as permitted in Section 14.2) right to You and its Users to access and use Product during the term and as defined in the applicable Subscription Order is in effect in accordance with this Agreement. Your right to use Product is subject to the Scope Limitations and contingent upon Your compliance with the Scope Limitations.

(b) If licensing CognitiveScale’s Cortex Fabric, then CognitiveScale grants to You a limited, world-wide, non-exclusive, non-transferable right to You and its Users to access and use Solution(s) during the term the applicable Subscription Order is in effect in accordance with the Scope Limitations and contingent upon Your compliance with the Scope Limitations of this Agreement.

(c) Your License to CognitiveScale. If You are purchasing professional services under a SOW to develop a Solution, You agree to provide a right to use Your licensed Cortex instance so that CognitiveScale or Reseller may begin the Services while You set up its DCI. You will have access to Product to build and orchestrate other AI solution(s) on CognitiveScale or Reseller’s DCI until such time as You has its DCI established. CognitiveScale or Reseller will then transfer the Solution to Your DCI. Nothing in this section shall prevent CognitiveScale from invoicing monthly subscription fees pursuant to the relevant Subscription Order(s).

1.2 Audit. You will permit CognitiveScale to audit Your use of Product. During the term of this EULA, and for a period of two years after the expiration or termination of this agreement, an audit may be conducted no more than once per year, at CognitiveScale’s expense, and this right will be exercised with reasonable prior notice, in a manner as not to interfere with Your normal conduct of business. If any of these audits reveal any usage overage or that You has underpaid

any fees to CognitiveScale, or you have failed to destroy, delete and/or remove all Product from your environments, You will pay to CognitiveScale an amount equal to that license fee amount or underpayment within 10 business days of the date of the relevant audit.

## 2. YOUR RESPONSIBILITIES

2.1 Restrictions. Except as otherwise explicitly provided in the Agreement or as may be expressly permitted by applicable law, You will not, and will not permit or authorize third parties to:

- (a) make the Product and Solution available to anyone other than Users;
- (b) use Product or Solution to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights;
- (c) use Product or Solution to store or transmit malicious code;
- (d) interfere with or disrupt the integrity or performance of the Product, Solution, or third-party data contained in Product;
- (e) attempt to gain unauthorized access to Product or their related systems or networks;
- (f) except as contemplated by this Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of Product, Solution, or Documentation in any form or media or by any means;
- (g) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of Product and/or Solution;
- (h) access all or any part of Product, Solution, or Documentation in order to build a product or service that competes with the Product or the Documentation;
- (i) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit Product, Solution, or Documentation, or otherwise make Product, Solution, or Documentation available to any third party (e.g., as a service bureau) except the Users; or
- (j) circumvent or disable any security or other technological features or measures of Product or Solution.

2.2 Compliance. If there is unauthorized use of Product or Solution by anyone who obtained access to Product or Solution directly or indirectly through You, You will take all steps reasonably necessary to terminate the unauthorized use. You will cooperate and assist with any actions taken by CognitiveScale to prevent or terminate unauthorized use of Product or Solution. CognitiveScale has the right to disable access to or otherwise remove any content that is in violation of the Agreement or that is the subject of a claim by a third party that may be in violation of the Agreement, including claims that the content includes copyrighted or otherwise protected or confidential information or that the content includes defamatory, libelous or other actionable content. You:

- (a) is responsible for Users' compliance with the Agreement;
- (b) is solely responsible for the accuracy, quality, integrity and legality of You Data and of the means by which You acquired You Data;
- (c) will use commercially reasonable efforts to prevent unauthorized access to or use of Product or Solution and immediately notify CognitiveScale in writing of any unauthorized access or use or violation by You or its Users of the Agreement;
- (d) will use Product and/or Solution in compliance with all applicable laws and government regulations, including, but not limited to, laws related to privacy (whether applicable within the United States, the European Union, or otherwise), intellectual property, consumer and child protection, obscenity, libel and defamation.

### 3. OTHER SERVICES

3.1 Support Services. For so long as You are current with its payment of the fees specified in the applicable Subscription Order, CognitiveScale will use reasonable efforts to provide You with the support.

3.2 Professional Services. For each request for Professional Services under the Agreement, the parties will in good faith negotiate a statement of work (each, a “Statement of Work”), each of which will be deemed a part of the Agreement. A Statement of Work may be a separate document executed by the parties or may be incorporated into a Subscription Order. Each Statement of Work will specify specific terms of the project(s) to be performed by CognitiveScale.

### 4. PROPRIETARY RIGHTS

4.1 Reservation of Rights. You will not have any rights to Product or any Technology of CognitiveScale except as expressly granted in the Agreement. CognitiveScale reserves to itself all rights to Product and Technology of CognitiveScale not expressly granted to You in accordance with the Agreement.

4.2 You Data, Outputs, Insights. All rights, title, and interest in and to Your Data are and will remain the property of You and all intellectual property rights including copyright, trademark, and trade secret rights in Your Data are and will remain the property of You. You hereby grants to CognitiveScale, throughout the term of the Agreement and after the term as necessary for any of CognitiveScale’s post-termination obligations to You, the necessary rights or license to use, reproduce, promote, distribute, modify, publicly display, and perform, cache, and transmit Your Data via Product solely as necessary for the purposes of the Agreement. Without limiting any of Your obligations under a Subscription Order or a Statement of Work, You will provide CognitiveScale, in the form and format and on the schedule specified by CognitiveScale, all Your Data reasonably required for CognitiveScale’s performance under the Agreement. You shall also own exclusively all right, title, and interest in and to all outputs and insights created by Solution. Output files of all Use Cases are owned by You in accordance with the Agreement and all actions based on output and insights are owned by the You.

4.3 You Technology. You hereby consent to CognitiveScale’s access and use of Your Data at no charge to CognitiveScale and without requiring additional license agreements solely for the purposes of CognitiveScale providing the Product.

4.4 Third-Party or Open Source Technology. Technology licensed to CognitiveScale by a third party or open source technology (“Third Party Technology”) may be utilized for purposes of CognitiveScale providing the Product. Third Party Technology may be used and disclosed by You solely for utilizing the Product in accordance with the Agreement. If required, You will enter into an agreement directly with the applicable third party in order to use the Third Party Technology.

4.5 Technology Ownership. No Person acquires any right to use, or any title or interest in, another Person’s Technology except as expressly specified in the Agreement.

4.6 Knowledge Capital. Nothing in the Agreement will preclude CognitiveScale from marketing, developing or using for itself or others, services, technology, or products that are the same as or similar to those configured or created for You pursuant to the Agreement.

CognitiveScale will continue to be free to use and will retain its general knowledge, skills and experience and any ideas, concepts, know-how and techniques that are acquired or used in the course of providing the Product under the Agreement.

4.7 Feedback. If You provides any feedback to CognitiveScale concerning the functionality and performance of Product (including identifying potential errors and improvements), You hereby assigns to CognitiveScale all right, title, and interest in and to the feedback, and CognitiveScale is free to use the feedback without payment or restriction.

## 5. CONFIDENTIALITY

5.1 Definition. “Confidential Information” means all confidential information disclosed by or otherwise obtained from a party (“Disclosing Party”) to or by the other party (“Receiving Party”), whether orally, visually, or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your “Confidential Information” includes You Data.

CognitiveScale’s “Confidential Information” includes Product, CognitiveScale Technology, all Documentation, the product of all Product, and CognitiveScale’s financial, security, architectural, or similar information. “Confidential Information” of each party will include the terms and conditions of the Agreement and each Subscription Order and Statement of Work, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by or on behalf of the applicable party. However, “Confidential Information” does not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party.

5.2 Protection of Confidential Information. Except as otherwise permitted in writing by the Disclosing Party, the Receiving Party will: (a) use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of the Agreement and (b) limit access to Confidential Information of the Disclosing Party to those of its employees, contractors, and agents who need access for purposes consistent with the Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those in this Section 6.

However, CognitiveScale is also permitted to disclose Confidential Information of You on a need-to-know basis to employees, contractors, and agents of its direct and indirect parents, subsidiaries and sister entities, and subcontractors. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, so long as the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

## 6. FEES AND PAYMENT

6.1 Fees and Payment Terms. You will pay CognitiveScale via wire transfer or ACH (details below) the fees, reasonable travel and expenses, and any other amounts owing under the Agreement, plus any applicable sales, use, excise, or other taxes, as specified in the applicable Subscription Order and/or Statement of Work. Unless otherwise specified in the applicable Subscription Order and/or Statement of Work, You will pay all amounts due within 30 days of the date of the applicable invoice. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. You will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by CognitiveScale to collect any amount that is not paid when due. Amounts due from You under the Agreement may not be withheld or offset by You against amounts due to You for any reason. All amounts payable under the Agreement are denominated in United States dollars, and You will pay all those amounts in United States dollars.

6.2 Additional Usage. You may, from time to time during the Term, to the extent specified in the Subscription Order or in accordance with CognitiveScale's then-current applicable policies, purchase rights to exceed some or all of the then-applicable Scope Limitations.

6.3 Taxes. Other than net income taxes imposed on CognitiveScale, You will bear all taxes, duties, and other governmental charges (collectively, "Taxes") resulting from the Agreement. You will pay any additional Taxes as are necessary to ensure that the net amounts received by CognitiveScale after all those Taxes are paid are equal to the amounts that CognitiveScale would have been entitled to in accordance with the Agreement as if the Taxes did not exist.

## 7. TERM AND TERMINATION

7.1 Agreement Term. The term of the Agreement will commence upon the Effective Date and continue until the later to occur of: (a) Subscription Term for each Subscription Order has ended, or (b) the Statement of Work Term (if any) has ended, unless the Agreement is terminated earlier as set forth in the Agreement (the "Term").

7.2 Subscription Order Term. The term for each Subscription Order will commence on the effective date of the applicable Subscription Order (or, if no effective date is specified, on the date the Subscription Order has been executed by both You and CognitiveScale) and will be in effect for the term specified in the Subscription Order, except that if no term is indicated in the Subscription Order, the initial term will be for one (1) year (the "Initial Term"). The term of each Subscription Order will automatically renew for a one (1) year term (each, a "Renewal Term" and all Renewal Terms, if any, together with the Initial Term, the "Subscription Term") unless a party provides the other party written notice 60 days in advance of the expiry of the Initial Term or each subsequent one year anniversary of the then-current Renewal Term, as applicable, of its desire to amend the duration of the Renewal Term or terminate the Subscription Order. Service fees for Renewal Terms will be based on the then-current list price for the applicable Product. If You terminates a Subscription Order prior to the completion of the Initial Term or then-current Renewal Term, as applicable, it will pay CognitiveScale any unpaid Subscription Fees under that Subscription Order for the remainder of the Subscription Term.

7.3 Statement of Work Term. Each Statement of Work will be in effect for the time period specified on the applicable Statement of Work, if applicable.

7.4 Termination for Material Breach. Either party may terminate the Agreement, a Subscription

Order, or a Statement of Work if the other party does not cure its material breach of the Agreement, Subscription Order, or Statement of Work within 30 days of receiving written notice of the material breach from the non-breaching party. At the non-breaching party's election, that termination will apply only to the applicable Subscription Order or Statement of Work and related Product and not to other Subscription Orders or Statement of Works governed by the Agreement. Termination of the Agreement will terminate any then-outstanding Subscription Orders and Statement of Works. Termination in accordance with this Section 7.4 will take effect when the breaching party receives written notice of termination from the non-breaching party, which notice must not be delivered until the breaching party has failed to cure its material breach during the 30-day cure period. If You fails to timely pay any fees, CognitiveScale may, without limitation to any of its other rights or remedies, suspend performance of Product, Technology, and/or Solution, as applicable, until it receives all amounts due. Termination of the Agreement or any Subscription Order or Statement of Work will be in addition to and not in lieu of any equitable remedies available to CognitiveScale.

**7.5 Post-Termination Obligations.** If a Subscription Order or Statement of Work is terminated for any reason, (a) You will pay to CognitiveScale any fees or other amounts that have accrued prior to the effective date of the termination, (b) any and all liabilities accrued prior to the effective date of the termination will survive, and (c) with respect to a terminated Subscription Order, You will provide CognitiveScale with a written certification signed by an authorized You representative certifying that all use of Product licensed pursuant to the applicable Subscription Order has been discontinued.

**7.6 Post-Termination Grant of Rights.** If licensing CognitiveScale's Cortex Fabric, then upon termination or expiration of this Agreement, the Solution(s), which are dependent upon Cortex's dynamic processing would cease and the on-going ability to learn and gain insights would become static and will no longer perform as designed. Upon request and payment of all outstanding fees, CognitiveScale will deliver to You a list of components used in the configuration of the Solution(s), excluding CognitiveScale's Product or Technology, or Third-Party Technology, of Solution. You may use the component list to reconfigure Solution outside of Cortex platform without accounting to CognitiveScale. CognitiveScale makes no representations that the Solution(s) will perform outside of Cortex.

**7.7 Survival.** Sections 1.2, 2.3, 3.2, 3.3, 5, 6, 7, 8, 9.2, 10, 11, 12, and 14 will survive the termination of this Agreement

## **8. WARRANTIES AND DISCLAIMER**

**8.1 Mutual Warranties.** Each party represents and warrants to the other that: (a) the Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against that party in accordance with its terms; and (b) no authorization or approval from any third party is required in connection with that party's execution, delivery, or performance of the Agreement.

**8.2 Disclaimer.** EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION 9, COGNITIVESCALE MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. COGNITIVESCALE EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. COGNITIVESCALE DOES

NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF PRODUCT OR SOLUTION. COGNITIVESCALE DOES NOT WARRANT THAT PRODUCT OR SOLUTION IS ERROR-FREE OR THAT OPERATION OF PRODUCT OR SOLUTION WILL BE SECURE OR UNINTERRUPTED. COGNITIVESCALE DOES NOT WARRANT THAT ANY INFORMATION OR INSIGHT PROVIDED THROUGH PRODUCT OR SOLUTION IS accurate OR COMPLETE OR THAT any information PROVIDED THROUGH Product OR SOLUTION WILL ALWAYS BE AVAILABLE. COGNITIVESCALE EXERCISES NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF OR BASED UPON THE RESULTS OF YOUR USE OF PRODUCT OR SOLUTION.

## 9. INTELLECTUAL PROPERTY INFRINGEMENT

9.1 Defense of Infringement Claims. CognitiveScale will, at its expense, either defend You from or settle any claim, proceeding, or suit (“Claim”) brought by a third party against You alleging that Your use of Product infringes or misappropriates any patent, copyright, trade secret, trademark, or other intellectual property right during the term of the Agreement if: (a) You gives CognitiveScale prompt written notice of the Claim; (b) You grants CognitiveScale full and complete control over the defense and settlement of the Claim; (c) You provides assistance in connection with the defense and settlement of the Claim as CognitiveScale may reasonably request; and (d) You complies with any settlement or court order made in connection with the Claim (e.g., relating to the future use of any infringing Product). You will not defend or settle any Claim without CognitiveScale’s prior written consent. You will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing, but CognitiveScale will have sole control over the defense and settlement of the Claim.

9.2 Indemnification of Infringement Claims. CognitiveScale will indemnify You from and pay: (a) all damages, costs, and attorneys’ fees finally awarded against You in any Claim under Section 9.1; (b) all out-of-pocket costs (including reasonable attorneys’ fees) reasonably incurred by You in connection with the defense of a Claim under Section 9.1 (other than attorneys’ fees and costs incurred without CognitiveScale’s consent after CognitiveScale has accepted defense of the Claim); and (c) all amounts that CognitiveScale will pay to any third party to settle any Claim under Section 9.1.

9.3 Exclusions from Obligations. CognitiveScale will have no obligation under this Section 9 for any infringement or misappropriation to the extent that it arises out of or is based upon: (a) use of Product or Solution in combination with other products or services if that infringement or misappropriation would not have arisen but for that combination; (b) Product or Solution are provided to comply with designs, requirements, or specifications required by or provided by You, if the alleged infringement or misappropriation would not have arisen but for the compliance with those designs, requirements, or specifications; (c) use of Product or Solution by You for purposes not intended or outside the scope of the license granted to You; (d) Your failure to use Product or Solution in accordance with instructions provided by CognitiveScale, if the infringement or misappropriation would not have occurred but for that failure; or (e) any modification of Product or Solution not made or authorized in writing by CognitiveScale where that infringement or misappropriation would not have occurred absent that modification.

9.4 Limited Remedy. This Section 9 states CognitiveScale’s sole and exclusive liability, and Your sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third party intellectual property right by Product or Solution.

## 10. YOU INDEMNIFICATION

10.1 Defense. You will defend CognitiveScale from any actual or threatened third party Claim arising out of or based upon Your use of Product or Solution or Your breach of any of the provisions of the Agreement if: (a) CognitiveScale gives You prompt written notice of the Claim; (b) CognitiveScale grants You full and complete control over the defense and settlement of the Claim; (c) CognitiveScale provides assistance in connection with the defense and settlement of the Claim as You may reasonably request; and (d) CognitiveScale complies with any settlement or court order made in connection with the Claim. CognitiveScale will not defend or settle any Claim without Your prior written consent. CognitiveScale will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing, but You will have sole control over the defense and settlement of the Claim.

10.2 Indemnification. You will indemnify CognitiveScale from and pay (a) all damages, costs, and attorneys' fees finally awarded against CognitiveScale in any Claim under Section 10.1; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by CognitiveScale in connection with the defense of a Claim under Section 10.1 (other than attorneys' fees and costs incurred without Your consent after You has accepted defense of the Claim); and, (c) all amounts that You will pay to any third party to settle any Claim under Section 10.1.

## 11. LIMITATIONS OF LIABILITY

11.1 Disclaimer of Indirect Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, COGNITIVESCALE WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO YOU FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE AGREEMENT, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF COGNITIVESCALE IS APPRAISED OF THE LIKELIHOOD OF THOSE DAMAGES OCCURRING.

11.2 Cap on Liability. UNDER NO CIRCUMSTANCES WILL COGNITIVESCALE'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THE AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY YOU TO COGNITIVESCALE DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE CLAIM (DETERMINED AS OF THE DATE OF ANY FINAL JUDGMENT IN AN ACTION) UNDER THE APPLICABLE SUBSCRIPTION ORDER OR STATEMENT OF WORK.

11.3 Independent Allocations of Risk. EACH PROVISION OF THE AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THE AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY COGNITIVESCALE TO YOU AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THE AGREEMENT. THE LIMITATIONS IN THIS SECTION 12 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THE AGREEMENT.



## 12. Use of Your Logo

Subject to Your reasonable brand guidelines, CognitiveScale may include Your name and logo, in CognitiveScale's lists of other customers of the Product, in printed or web-based marketing materials (including its website), press releases, and in CognitiveScale's marketing presentations.

## 13. GENERAL

13.1 Relationship. CognitiveScale will be and act as an independent contractor (and not as the agent or representative of You) in the performance of the Agreement.

13.2 Assignability. Neither party may assign its right, duties, and obligations under the Agreement (including by way of merger, acquisition, sale of assets, or operation of law) without the other party's prior written consent, which consent will not be unreasonably withheld or delayed. Any assignment in violation of this section is void.

13.3 Subcontractors. CognitiveScale may utilize a subcontractor or other third party to perform its duties under the Agreement so long as CognitiveScale remains responsible for all of its obligations under the Agreement.

13.4 Export Control. This Agreement is made subject to any restrictions concerning the export of products or technical information from the United States or other countries that may be imposed on the parties from time to time. Each party agrees that it will not export, directly or indirectly, any technical information acquired from the other party under this Agreement or any products using such technical information to a location or in a manner that at the time of export requires an export license or other governmental approval, without first obtaining the written consent to do so from the appropriate agency or other governmental entity in accordance with applicable law.

13.5 Notices. Any notice required or permitted to be given in accordance with the Agreement will be effective if it is in writing and sent by certified or registered mail, or insured courier, return receipt requested, or email to the appropriate party at the addresses set forth below and with the appropriate postage affixed.

13.6 Force Majeure. Neither party will be liable for, or be considered to be in breach of or default under the Agreement on account of, any delay or failure to perform as required by the Agreement as a result of any cause or condition beyond its reasonable control, so long as that party uses all commercially reasonable efforts to avoid or remove the causes of non-performance.

13.7 Mitigation. Each party must mitigate the impact of any damage arising out of or related to the Agreement.

13.8 Governing Law. The Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of Texas, U.S.A., without reference to its choice of law rules and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. Each party hereby irrevocably consents to the exclusive jurisdiction and venue of the federal, state, and local courts in Austin, Texas in connection with any action arising out of or in connection with the Agreement.

13.9 Waiver. The waiver by either party of any breach of any provision of the Agreement does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with the Agreement will not be a waiver of that party's right to demand strict compliance in the future, nor will the same be construed as a novation of the Agreement.

13.10 Severability. If any part of the Agreement is found to be illegal, unenforceable, or invalid,

the remaining portions of the Agreement will remain in full force and effect. If any material limitation or restriction on the use of Product under the Agreement is found to be illegal, unenforceable, or invalid, Your right to use Product will immediately terminate.

13.11 Counterparts. The Agreement may be executed in any number of identical counterparts, notwithstanding that the parties have not signed the same counterpart, with the same effect as if the parties had signed the same document. All counterparts will be construed as and constitute the same agreement. The Agreement may also be executed and delivered by facsimile and that execution and delivery will have the same force and effect of an original document with original signatures.

13.12 Entire Agreement. The Agreement, including all attachments, Statement of Works, and Subscription Orders, is the final and complete expression of the agreement between these parties regarding Your use of Product. The Agreement supersedes, and the terms of the Agreement govern, all previous oral and written communications regarding these matters, all of which are merged into the Agreement, except that the Agreement does not supersede any prior nondisclosure or comparable agreement between the parties executed prior to the Agreement being executed. No employee, agent, or other representative of CognitiveScale has any authority to bind CognitiveScale with respect to any statement, representation, warranty, or other expression unless the same is specifically set forth in the Agreement. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of the Agreement. The Agreement may be changed only by a written agreement signed by an authorized agent of the party against whom enforcement is sought. CognitiveScale will not be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to the Agreement (whether or not it would materially alter the Agreement) that is proffered by You in any receipt, acceptance, confirmation, correspondence, or otherwise, unless CognitiveScale specifically agrees to that provision in writing and signed by an authorized agent of CognitiveScale.

#### 14. DEFINITIONS.

14.1 “Product” means CognitiveScale’s Product (as further defined below) and Documentation as provided pursuant to Subscription Order(s). Product includes all of the embedded Product, generic patterns, accelerators, agents, and skills.

(a) “Cortex” means CognitiveScale’s AI Product including Cortex Fabric, Cortex Amplify, Cortex Engage.

(b) “Cortex Fabric” means CognitiveScale’s AI tooling and platform Product that allows one to build Cortex Amplify and Cortex Engage solutions.

(i) “Cortex Amplify” means a family of cognitive processes that leverages data to boost employee expertise and operational productivity through machine accumulated insights.

(ii) “Cortex Engage” means a family of cognitive processes that leverages data to boost engagement and conversion through hyper personalization.

(c) “Cortex Certifai” is an automated model and risk management Product tool that generates an unique AI trust index numeric score based on key elements of trust.

14.2 “Your Data” means the data inputted by You, its Users, or CognitiveScale on behalf of You, for the purpose of using Product or facilitating Your use of Product.

14.3 “Dedicated Cortex Instance” or “DCI” means a dedicated Cortex instance encompassing is a single-tenant cloud infrastructure, which essentially acts as an isolated, single-tenant public or private cloud for Your use only.

14.4“Documentation” means user documentation that describes the principles of the operation or functionality of Product and that are embedded with Product (e.g., on-line help files).

14.5“Non-production” means any testing, training, development, and other non-production, non-live environments. Non-production is: (i) accessible to a limited number of Users, and (ii) not entitled to backup services or disaster recovery services or other services that Production receive.

14.6 “Person” means any means any individual, partnership (whether general or limited), limited liability company, corporation, or other entity.

14.7“Production” means any environment where the Products and/or Solutions are deployed into operation for their intended use.

14.8“Professional Services” means implementation, training, configuration, data migration, consulting, and professional services performed by or on behalf of CognitiveScale and paid for by You pursuant to the Statement of Work.

14.9“Scope Limitations” means the limitations on Your use of Product and, if applicable, Solution specified in the applicable Subscription Order.

14.10 “Services” means Product and Support Services.

14.11 “Solution” means the Professional Services development of an overall cognitive business process, trained with You Data and feedback, enriched datasets tied to You Data, as identified as the “Solution” in the applicable Statement of Work and running on Cortex.

14.12 “Statement of Work” means the ordering documents for Professional Services under the Agreement. All Statement of Works shall be mutually agreed to and separately executed.

14.13 “Subscription Orders” means the ordering documents for licenses of a subscription to Product under the Agreement. All Subscription Orders shall be mutually agreed to and separately executed.

14.14 “Support Services” means ongoing maintenance and technical support services for Product.

14.15 “Technology” means the technology, knowledge, techniques, procedures, routines, methods, tooling, content, models, analytics, applications, user interface, datasets, data graphs, data sourcing and enriching agents, and other materials owned by a Person that have been developed or acquired by that Person, together with all derivative works, improvements or modifications to any of the foregoing, and all intellectual property rights and other rights associated with the foregoing.

14.16 “Use Case” means a specific You cognitive business process. A defined Use Case shall include some or all of the following: (i) has KPI’s that align with the specific business outcome; (ii) has a distinct or unique interface; and (iii) is not defined by the underlying data sources.

14.17 “Users” means individuals who are authorized by You to use Product, for whom subscriptions to Product have been purchased (where applicable), and who have been supplied CognitiveScale-issued user identifications and passwords by You. “Users” may include Your employees, consultants, contractors, and agents.