

Kogena's End-User License Agreement

- This end-user license agreement (“**EULA**”) is a legal agreement between an end-user of the Software (as defined below) (“**you**” or “**User**”) and Kogena Sp. z o.o. with its registered office in Wrocław at Plac Solny 15, 50-062 Wrocław, Poland (“**Kogena**”, “**us**” or “**we**”) for: platform that allows data collection, monitoring, analysis and maintenance of the collaborative robots (“**cobots**”) and all devices connected to cobots.
- The main components of Kogena's software named “**CobotMonitor**”, distributed in a software as a service (SaaS) model are: software connectors installed on dedicated End-Devices, allowing communication between cobots and “**CobotMonitor**” software, and web application allowing Users to access, retrieve and visualize collected data, manage cobots and other connected devices, as well as to customize this software, to the extent permitted. “**CobotMonitor**” software constitutes a computer program in accordance with Polish Copyright Act of 4 February 1994 (unified text Journal of Laws of 2019, item 1231, as amended), hereinafter referred to as the “**Copyright Act**” (the “**Software**”).
- Kogena compiles the data acquired through cobots monitoring, while providing the services for you (“**data**”), which constitutes a (cloud-based) database within the meaning of Polish Act on Protection of Data Bases of 27 July 1991 (unified text Journal of Laws of 2021, item 386) (the “**Database**”).
- This EULA specifies the detailed terms of using the Software along with the scope of the License (as defined below) granted and constitutes an appendix to the Terms & Conditions (the “**T&C**”), accepted by the User, and shall be construed and interpreted exclusively jointly with the provisions of the T&C. All capitalized terms used herein and not otherwise defined in this EULA will have the meanings set forth in the T&C.

We do not sell the Software to you. We remain the owners of the Software at all times.

IMPORTANT NOTICE TO ALL USERS:

- THIS EULA SETS OUT THE TERMS ON WHICH WE SUPPLY THE SOFTWARE TO YOU. PLEASE READ THEM CAREFULLY. THESE TERMS TELL YOU WHO WE ARE, YOUR RIGHTS AND THE RESTRICTIONS APPLYING TO YOU IN RELATION TO USE OF THE SOFTWARE, WHAT TO DO IF THERE IS A PROBLEM AND OTHER IMPORTANT INFORMATION.
- BY ORDERING OUR SERVICES YOU AGREE TO THE TERMS OF THIS EULA WHICH WILL BIND YOU. THE TERMS OF THIS EULA INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CONDITION 8.

You should print a copy of this EULA for future reference.

1. INFORMATION ABOUT US AND HOW TO CONTACT US

- 1.1 We are Kogena sp. z o.o. a company incorporated and registered in Poland. Our company registration number is 0000721255 and our registered office is at Plac Solny 15, 50-062 Wrocław in Poland. Our registered tax identification number is PL8971852678.
- 1.2 If we have to contact you or give you notice otherwise than in writing, we will do so by e-mail at the e-mail address you have provided to us in your order for the Software. If we have to contact you or give you notice in writing, we will do so at the address you have provided to us in your Order for the Software.

2. GRANT AND SCOPE OF THE LICENSE

- 2.1 We hereby grant to you a royalty-free, non-exclusive, non-transferable, non-sublicensable worldwide license to use the Software in the fields of operation described in section 2.2 and on the terms of this EULA, for a limited time specified in the T&C or in your order for the Software, in any case not longer than for the time it was paid up under the T&C, or your order for the Software, unless terminated in accordance with section 9 (the “**License**”), subject to any contrary arrangements or indications in your order for the Software or in the T&C (either generally or as a particular reference to an express right of certain, limited group of Users). The fee for the License is included in the payment for the services rendered by us, on the basis of the T&C. The scope of the License may vary depending on the version of the Software or License ordered by you.

2.2 Fields of operation enable you to:

- 2.2.1 install and use the Software only on the dedicated End Device(s) connected with a cobot(s) in order to collect and aggregate different type of data from different types of cobots from different cobots manufacturers to provide comparable data and essential knowledge; such an End Device(s) may be provided independently by you or, for a fee, by Kogena;
- 2.2.2 receive and use any free supplementary software code or updates of the Software incorporating “patches” and corrections of errors as we may provide from time to time;
- 2.2.3 providing access by means of any telecommunication services and using any type of systems and equipment (*inter alia* cellular phones, stationary or portable computers as well as any transmissions using any and all available technology, and data transfer telecommunication networks);
- 2.2.4 regarding any effects of Software usage or data, information or works resulting from using the Software for its intended purposes (the “**Effects**”) – complete and partial permanent or temporary reproduction of Effects using any methods and formats, for an internal (intra-corporate), use of any Effects including non-public presentation and dissemination and limited access in a place and time individually selected, for internal purposes only in any intranet networks, databases, servers and other equipment and systems, provided these are protected from an unauthorised access by external persons, in any technology, system or format (provided, however, that such field of operation is possible only regarding the Effects and shall not be extended to the Software itself); for the avoidance of doubt the Effects shall not cover the Models specified in section 2.4 by default and their presence in the Software may vary depending on the ordered version of the License, however if the order for our Software states, that the Models are included in the Software, the License cover the usage of such Models as an Effect accordingly.

- 2.3 You are the owner of the data compiled during providing the services by Kogena, however, due to the process of compilation Kogena is the producer of the Database. According to Polish Act on Protection of Databases Kogena transfers to you the exclusive and transferable right to download the data and to reuse them in whole or in substantial part, either in quality or in quantity, subject to section 2.5. At the same time, and as a perquisition for effectiveness of such transfer, you grant Kogena a worldwide, non-exclusive, royalty-free, transferable and sublicensable license to reuse the data contained in the Database, to download them and to reuse them in whole and in part, either in quality or in quantity, for the period of 10 years, and the Article 66 section 1 of the Copyright Act shall not apply. The foregoing means, that on the fifth anniversary of granting the contemplated license, it is deemed to be prolonged for the indefinite period of time and may be terminated in accordance with Article 68 of the Copyright Act. The data compiled in the Database shall be anonymized and Kogena shall be obliged to protect the confidentiality and business secrets and to use the data from the Database solely for its business purposes in order to improve its services and Software (the “**Machine-generated Data**”).
- 2.4 Kogena may use the Machine-generated Data in particular for the purposes of creating and developing predictive models regarding the behaviour and day-to-day operation of cobots (the “**Models**”). Such models shall remain the sole property of Kogena and may be then used and disposed by Kogena at its absolute discretion, both commercially and not for profit, including but not limited to incorporating them in the Software, presenting and publishing them publicly as well as sale or lease to any third party on commercially agreed terms, for remuneration, especially to cobots manufacturers and other Users. Nothing in this EULA shall be understood as a limitation of the right stipulated in this section and you shall have no right to oppose, object to or otherwise hinder or prevent such acts by Kogena.
- 2.5 Should you at any time after the aforementioned license is granted to Kogena withdraw, terminate, rescind from or otherwise cause the expiry of it, such an event shall constitute a resolving condition for the transfer of the Database under section 2.3. In such event the ownership of the Database shall immediately return to Kogena and further use of the data compiled in the Database by you shall be prohibited.

3. RESTRICTIONS

- 3.1 Except as expressly set out in this EULA or as permitted by law, you undertake:
- 3.1.1 not to rent, lease, sublicense, loan, sell, translate, merge, adapt, vary or modify the Software, as well as the End Device(s);
- 3.1.2 not to make alterations to, or modifications of, the whole or any part of the Software or End Device(s), nor permit the Software or End Device(s) or any part of it to be combined with, or become incorporated in, any other programs otherwise as originally set up to operate with your cobot(s); this provision shall be construed as prohibiting any interferences with the End Device(s) and the part of the Software which it is furnished with;
- 3.1.3 not to disassemble, de-compile, reverse engineer, modify, translate, alter or create derivative works based on the whole or any part of the Software nor otherwise discern the source code of the Software nor attempt to do any such things except to the extent that such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities:
- (a) is used only for the purpose of achieving inter-operability of the Software with another software program;

- (b) is not disclosed or communicated without our prior written consent to any third party to whom it is not necessary to disclose or communicate it; and
 - (c) is not used to create any software which is substantially similar to the Software;
 - 3.1.4 except as expressly permitted by this EULA, not to provide, or otherwise make available, the Software in any form, in whole or in part to any person (other than your employees, permanent independent contractors or representatives, if you are a business user) without prior written consent from us;
 - 3.1.5 not to permit or assist others to do any of the acts set out in subsections 3.1.1 to 3.1.4;
 - 3.1.6 to supervise and control use of the Software and the operation of the End Device(s) and ensure that the Software and the End Device(s) is used by your employees, permanent independent contractors, and representatives in accordance with the terms of this EULA.
- 3.2 The Software may contain certain open-source software and materials which are subject to the terms of certain open-source licenses listed under this link: [Open-Source Licenses.pdf](#) (“**Open-Source Licenses**”). By accepting this EULA, you acknowledge that you have read the terms and conditions of the Open-Source Licenses and undertake to comply with these terms and conditions.

4. INTELLECTUAL PROPERTY RIGHTS

You acknowledge that all intellectual property rights in the Software throughout the world belong to us, that rights in the Software are licensed (not sold) to you, and that you have no rights in, or to, the Software other than the right to use it in accordance with the terms of this EULA.

5. DISCLAIMER

The Software is provided “as is”. To the maximum extent permitted by law, we and our affiliates, suppliers and licensors, if any, disclaim all warranties, either express or implied, including warranties of merchantability, fitness for a particular purpose, performance, accuracy, reliability and non-infringement. We do not warrant that the Software will meet your requirements, operate without interruption or be error-free. Your sole recourse in the event of any dissatisfaction is to stop using the Software.

6. CHANGES TO SOFTWARE

6.1 We may update or require you to update the Software:

6.1.1 to reflect changes in relevant laws and regulatory requirements;

6.1.2 to implement minor or major technical adjustments and improvements, for example to address a security threat.

7. LIMITATION OF LIABILITY FOR A BUSINESS USER

7.1 We only supply the Software for use by your business, and you agree not to use the Software for any re-sale purposes, unless otherwise agreed in your order for the Software or a contrary indication appears in the T&C (either generally or as a particular reference to an express right of certain, limited group of Users).

- 7.2 Subject to section 7.5 we and our affiliates, suppliers, and licensors, if any, shall not in any circumstances whatever be liable to you, whether in contract, tort (including negligence) breach of statutory duty, or otherwise, arising under or in connection with the License for:
- 7.2.1 loss of profits, sales, business or revenue (*lucrum cessans*);
 - 7.2.2 business interruption;
 - 7.2.3 loss of anticipated savings;
 - 7.2.4 loss or corruption of data or information;
 - 7.2.5 loss of business opportunity, goodwill or reputation; or
 - 7.2.6 any indirect or consequential loss or damage.
- 7.3 We are only responsible for factual damage you suffer (*damnum emergens*) that is a foreseeable result of our deliberate breach of this EULA or our deliberate negligence (both understood as deliberate fault), but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our intended breach or if they were contemplated by you and us at the time we became bound by this EULA.
- 7.4 Subject to sections 7.3 and 7.5, our maximum aggregate liability and the maximum aggregate liability of our Affiliates, suppliers, licensors, distributors and resellers under or in connection with this EULA whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to twelve months remuneration for provision of Kogena's services, including the Software, paid to Kogena under the order in accordance with the T&C, if actually paid by the User.
- 7.5 Nothing in this EULA shall limit or exclude our liability for:
- 7.5.1 death or personal injury resulting from our negligence;
 - 7.5.2 fraud or fraudulent misrepresentation;
 - 7.5.3 any other liability that cannot be excluded or limited by Polish law.

8. HOW WE MAY USE YOUR FEEDBACK

If you contact us with feedback regarding the Software such as questions, comments, suggestions or similar, you consent to our use of this feedback on an anonymised basis ("**Anonymised Information**") for our business. You hereby grant to us a transferable, non-exclusive, worldwide, perpetual license to use the Anonymised Information without payment of any fee or royalty.

9. DURATION & TERMINATION

- 9.1 The License is granted for the limited time, as specified in the T&C or your order of the Kogena's services.
- 9.2 Each party shall have the right to terminate this EULA only along with the T&C or your order of our services, on the terms and within the deadlines set forth thereof. Termination of services provision shall be effective for the EULA accordingly.
- 9.3 Upon termination:

- 9.3.1 all rights granted to you under this License shall cease;
 - 9.3.2 you must cease all activities authorised by this EULA;
 - 9.3.3 you must immediately delete or remove the Software from all devices in your possession;
 - 9.3.4 you must immediately return all End Device(s) if it was not provided by you or sold to you by Kogena.
- 9.4 The license specified in section 2.3 as well as Kogena's right described in section 2.4 hereabove shall survive any such termination, withdrawal, rescission or expiry of this EULA, License or provision of services by Kogena under the T&C.

10. OTHER IMPORTANT TERMS

- 10.1 We do not collect or process any personal data whatsoever through the Software. The Software is provided off-premise, as a SaaS (cloud computing), save for the Communicator (as defined in the T&C), which is installed on a Connector (as defined in the T&C), which might be supplied by Kogena or the User. The Communicator however allows only the exchange of data between cobot and the main part of the Software (CobotMonitor), collects only machine data, and no sensitive data is transferred in the process.
- 10.2 We may transfer our rights and obligations under this EULA to another organization, but this will not affect your rights under this EULA.
- 10.3 You may not transfer your rights or your obligations under this EULA to another person without our prior approval.
- 10.4 This EULA is an agreement between you and us. No other person shall have any rights to enforce any of its terms. Neither of us will need to obtain the agreement of any other person in order to end the License or make any changes to its terms.
- 10.5 This License and any document expressly referred to in it (in particular the T&C and an order of our services) constitutes the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of the us which is not set out in this EULA or any document expressly referred to in it.
- 10.6 If we do not insist that you perform any of your obligations under this EULA, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that you do not have to perform those obligations. If we do release you from performing any obligation, we will only do so in writing, and that will not mean that we will automatically release you from any further obligations you have under this EULA.
- 10.7 Each of the conditions of this EULA operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 10.8 This EULA, its subject matter and its formation (and any non-contractual disputes or claims) are governed by Polish law. Any disputes arising out of this EULA shall be settled in a two-instance arbitration before the Court of Arbitration at the Lower Silesian Chamber of Commerce, according to its Rules. The exclusive place of arbitration shall be Wrocław, Poland or Warsaw, Poland. The language of the arbitration shall be Polish in case the User is a Polish-seated entity or English in other cases.