



Cloud Master Service Agreement

OneQode Cloud Master Service Agreement

This OneQode Cloud Master Service Agreement (“CMSA”) is entered into by OneQode, and the entity or person agreeing to these terms (“Customer”) and governs the Customer’s access to and use of the Services.

This CMSA is effective when the Customer signs this CMSA or signs an order form that incorporates this CMSA by reference (the “Effective Date”). If you are accepting on behalf of the Customer, you represent and warrant that: (i) you have full legal authority to bind the Customer to this CMSA; (ii) you have read and understand this CMSA; and (iii) you agree, on behalf of the Customer, to this CMSA.

Please note: (a) if you are accessing the Services as a customer of an unaffiliated OneQode solutions partner, your agreement with your solutions partner governs your use of the Services; or (b) if you signed an offline variant of this CMSA with us, your offline terms govern your use of the Services.

Operative Provisions

The parties agree as follows:

1. Provision of the Services

- 1.1 **Services Use.** During the Term, OneQode will provide the Services in accordance with the CMSA, including the SLAs, if any, and the Customer may use the Services in accordance with the CMSA. Where applicable, the Customer may integrate the Services into any Customer Application that has material value independent of the Services.
- 1.2 **OneQode Portal.** For some Services, the Customer may have access to the OneQode Portal, through which the Customer may manage its use of those specific Services.
- 1.3 **Accounts.** Unless otherwise agreed, the Customer must have an Account to use the Services and is responsible for the information it provides to create the Account, the security of its passwords for the Account, and for any use of its Account.
- 1.4 **Modifications.**
 - (a) **To the Services.** OneQode may make updates to the Services from time to time. OneQode will inform the Customer of any changes to the Services that has a materially adverse impact on the Customer’s use of the Services.
 - (b) **To the CMSA.** Excluding any offline variants of this CMSA signed by the parties, which may only be modified by mutual agreement and in accordance with Section 14.13 (Amendments), OneQode may make changes to this CMSA (including the Supplementary Terms) from time to time. Unless otherwise agreed, material changes to the CMSA will become effective 30 days after they are posted, except to the extent the changes apply to new functionality, or are required by any applicable law, in which case they will be effective immediately. OneQode will provide at least 30 days’ advance notice for materially adverse changes to any SLAs by sending an email to the Notification Email Address or posting a notice in the OneQode Portal. If the Customer does not agree to the revised CMSA, the Customer may stop using the Services and terminate this CMSA for convenience in accordance with Section 8.4 (Termination for Convenience). The Customer’s continued use of the Services after such material change will constitute the Customer’s consent to such changes. OneQode will post any modification to this CMSA to the Webpage.
 - (c) **Discontinuation of Services.** OneQode will notify the Customer at least 90 days before discontinuing any Service (or associated material functionality) unless OneQode replaces such discontinued Service or functionality with a materially similar Service or functionality. Further, if applicable, OneQode will notify the Customer at least 90 days before significantly modifying a Customer-facing OneQode API in a backwards-incompatible manner. Nothing in this Section 1.4(c) (Discontinuation of Services) limits OneQode’s ability to make changes required to comply with applicable law, address a material security risk, or avoid a substantial economic or material technical burden.
- 1.5 **Software.** OneQode may make Software available to the Customer, including third-party software. the Customer’s use of any Software is subject to the applicable provisions in the Service Specific Terms and any third-party terms, if any.

2. Payment Terms

- 2.1 **Online Billing.**
 - (a) At the end of the applicable Payment Period or as otherwise stated by OneQode in the OneQode Portal or applicable Subscription, OneQode may issue an electronic bill to the Customer for all charges based on the Customer’s use of the Services during the applicable Payment Period (including, if applicable, the relevant Fees for any OQS).
 - (b) If OneQode determines that the Customer is at risk of non-payment or that the Customer’s Account is potentially fraudulent, then OneQode may invoice the Customer more frequently.
 - (c) The Customer must pay all Fees in the currency stated in the invoice.
 - (d) If the Customer elects to pay by credit card, debit card, or other non-invoiced form of payment, OneQode will charge (and the Customer will pay) all Fees immediately at the end of the Payment Period. If the Customer elects to pay by invoice (and OneQode agrees), all Fees are due as stated in the invoice.
 - (e) The Customer’s obligation to pay all Fees is non-cancellable.
 - (f) OneQode’s measurement of the Customer’s use of the Services is final.

- (g) OneQode has no obligation to provide multiple bills.
- (h) Payments made via wire transfer must include the bank information provided by OneQode.

2.2 Manual Billing

- (a) OneQode may, as part of its engagement with the Customer, agree to a custom billing arrangement, which provides additional cost certainty in relation to the Fees for the Services ("**Billing Arrangement**").
- (b) Where such Billing Arrangement exists, the terms of that Billing Arrangement apply to the Services covered by the same, and the terms of this Section 2 (Payment Terms) may be read in light of such Billing Arrangement.
- (c) For anything not covered by the relevant Billing Arrangement, this Section 2.2 (Manual Billing) shall not apply.

2.3 Taxes.

- (a) The Customer is responsible for any Taxes and shall pay OneQode for the Services without any reduction for Taxes. If OneQode is obligated to collect or pay any Taxes, the Taxes will be invoiced to the Customer and the Customer shall pay such Taxes to OneQode, unless the Customer provides OneQode with a timely and valid tax exemption certificate in respect of those Taxes.
- (b) The Customer will provide OneQode with any applicable tax identification information that OneQode may require under applicable law to ensure its compliance with applicable tax regulations and authorities in applicable jurisdictions. The Customer is liable to pay (or reimburse OneQode for) any taxes, interest, penalties, or fines arising out of any mis-declaration by the Customer.

- 2.4 **Payment Disputes and Refunds.** Any payment disputes must be submitted before the payment due date. If the parties determine that certain billing inaccuracies are attributable to OneQode, OneQode will issue a credit memo specifying the incorrect amount in the affected invoice. If a disputed invoice has not yet been paid, OneQode will apply the credit memo amount to a disputed invoice and the Customer must pay the resulting net balance due on that invoice. Refunds, if any, are at OneQode's discretion and will only be in the form of credit for the Services. Nothing in this CMSA obligates OneQode to extend credit to any party.

- 2.5 **Delinquent Payments; Suspension.** Late payments may bear interest at the rate of 2% per month (or the highest rate permitted by law, if less) from the payment due date until paid in full. The Customer is responsible for all reasonable expenses (including lawyers' fees) incurred by OneQode in collecting such delinquent amounts. Further, if the Customer's payment for the Services is overdue, OneQode may Suspend the Services.

3. Customer Obligations

3.1 Compliance. The Customer shall:

- (a) ensure that the Customer and its End Users' use of the Services complies with the CMSA;
- (b) use commercially reasonable efforts to prevent and terminate any unauthorized use of, or access to, the Services; and
- (c) promptly notify OneQode of any unauthorized use of, or access to, the Services, Account, or the Customer's password of which the Customer becomes aware. OneQode may investigate any potential violation of the AUP by the Customer, which may include reviewing Customer Applications, Customer Data, or Projects.

- 3.2 **Privacy.** The Customer is responsible for any consents and notices required to permit the Customer's use and receipt of the Services and OneQode's accessing, storing, and processing of data provided by the Customer (including Customer Data, if applicable) under the CMSA.

3.3 Restrictions. The Customer shall not nor allow End Users to:

- (a) copy, modify, or create a derivative work of the Services;
- (b) reverse engineer, decompile, translate, disassemble, or otherwise attempt to extract any or all of the source code of, the Services (except to the extent such restriction is expressly prohibited by applicable law);
- (c) sell, resell, sublicense, transfer, or distribute any or all of the Services; or
- (d) access or use the Services:
 - (i) for High Risk Activities;
 - (ii) in violation of the AUP;
 - (iii) in a manner intended to avoid incurring Fees (including creating multiple Customer Applications, Accounts, or Projects to simulate or act as a single Customer Application, Account, or Project (respectively)) or to circumvent Service-specific usage limits or quotas;
 - (iv) to engage in cryptocurrency mining without OneQode's prior written approval;
 - (v) to operate or enable any telecommunications service or in connection with any Customer Application that allows End Users to place calls or to receive calls from any public switched telephone network, unless otherwise described in the Service Specific Terms; or

- (vi) in a manner that breaches, or causes the breach of, Export Control Laws.

3.4 **Documentation.** OneCode may provide Documentation for the Customer's use of the Services.

3.5 **Copyright.** OneCode may respond to notices of alleged copyright infringement and terminate the Accounts of repeat infringers in appropriate circumstances as required to maintain safe harbor for online service providers under applicable law(s).

3.6 **Third-Party Content Compliance.** If the Customer's primary use of the Services is to host third-party content or facilitate the sale of goods or services between third parties on its platform, the Customer must take the following steps to ensure compliance with the AUP:

- (a) publish policies defining what content is prohibited on its platform (e.g., illegal content);
- (b) maintain a publicly accessible method (e.g., webform or email alias) to receive notices of violation of that policy (in addition to a monitored communications channel for OneCode); and
- (c) promptly review and address any such notices and remove content where appropriate.

4. Suspension

4.1 **AUP Violations.** If the Customer's or any End User's use of the Services violates the AUP, OneCode may notify the Customer and request that the Customer correct the violation. If the Customer fails to correct the violation within 24 hours of OneCode's request, then OneCode may Suspend all or part of the Customer's use of the Services until the violation is corrected.

4.2 **Other Suspension.** Notwithstanding Section 4.1 (AUP Violations), OneCode may immediately Suspend all or part of the Customer's use of the Services if:

- (a) OneCode reasonably believes Suspension is needed to protect the Services, OneCode's infrastructure supporting the Services, or any other customer of the Services (or their end users);
- (b) there is suspected unauthorized third-party access to the Services;
- (c) OneCode reasonably believes that immediate Suspension is required to comply with any applicable law; or
- (d) the Customer is in breach of Section 3.3 (Restrictions) or any Service Specific Terms.

OneCode may lift any such Suspension when the circumstances giving rise to the Suspension have been resolved. At the Customer's request, OneCode will, unless prohibited by applicable law, notify the Customer of the basis for the Suspension as soon as is reasonably possible.

5. Intellectual Property Rights; Protection of Customer Data; Feedback

5.1 **Intellectual Property Rights.** Except as expressly stated in this CMSA, this CMSA does not grant either party any rights, implied or otherwise, to the other's content or any of the other's intellectual property. As between the parties, the Customer retains all Intellectual Property Rights in Customer Data and Customer Applications, and OneCode retains all Intellectual Property Rights in the Services, Software and anything else not covered herein.

5.2 **Protection of Customer Data.** OneCode may only access, use, and otherwise process Customer Data in accordance with applicable data protection laws and will not access, use, or process Customer Data for any other purpose than as otherwise agreed.

5.3 **Customer Feedback.** The Customer may provide feedback or suggestions about the Services to OneCode ("**Feedback**"). If the Customer provides Feedback, then OneCode and its Affiliates may use that Feedback without restriction and without obligation to the Customer.

6. Technical Support Services

6.1 **By Customer.** The Customer is responsible for technical support of its Customer Applications and Projects.

6.2 **By OneCode.** Subject to payment of applicable support Fees, OneCode may provide OQS to the Customer during the Term in accordance with a separately agreed technical support services agreement. Certain levels of OQS may include a minimum recurring Fee. If the Customer downgrades its level of OQS during a given calendar month, OneCode may continue to provide OQS at the same level and for the same OQS Fees as applied before the downgrade for the remainder of that month.

7. Confidential Information

7.1 **Obligations.** The recipient shall not use the disclosing party's Confidential Information other than to exercise the recipient's rights and fulfil its obligations under the CMSA. The recipient shall use reasonable care to protect against the disclosure of the disclosing party's Confidential Information. The recipient may disclose Confidential Information only to its Affiliates, employees, agents, or professional advisors ("**Delegates**") who need to know it and who have agreed in writing (or in the case of professional advisors are otherwise bound) to keep it confidential. The recipient will ensure that its Delegates use the received Confidential Information only to exercise rights and fulfil obligations under this CMSA.

7.2 **Required Disclosure.** Notwithstanding any provision to the contrary in this CMSA, the recipient or its Affiliate may also disclose Confidential Information to the extent required by applicable Legal Process provided that the recipient or its Affiliate uses commercially reasonable efforts to:

- (a) promptly notify the other party before any such disclosure of its Confidential Information;

- (b) comply with the other party's reasonable requests regarding its efforts to oppose the disclosure.
- (c) Notwithstanding the foregoing, subsections (a) and (b) above will not apply if the recipient determines that complying with (a) and (b) could:
 - (i) result in a violation of Legal Process;
 - (ii) obstruct a governmental investigation; or
 - (iii) lead to death or serious physical harm to an individual.

8. Term and Termination

- 8.1 **Agreement Term.** The term of this CMSA ("Term") will begin on the Effective Date and continue until the CMSA is terminated as stated in this Section 8 (Term and Termination).
- 8.2 **Termination for Breach.** To the extent permitted by applicable law, either party may terminate this CMSA immediately on written notice if:
- (a) the other party is in material breach of the CMSA and fails to cure that breach within 30 days after receipt of written notice of the breach; or
 - (b) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within 90 days.
- 8.3 **Termination for Inactivity.** OneQode may terminate the provision of the Services to a Project upon 30 days' advance notice if, for a period of 60 days the Customer has not accessed the OneQode Portal or the Project has had no network activity, and such Project has not incurred any Fees for such Services.
- 8.4 **Termination for Convenience.**
- (a) The Customer may stop using the Services and terminate this CMSA for its convenience at any time on prior written notice to OneQode. Upon termination, the Customer must cease using the applicable Services and pay all Fees for the balance of the contract period of the Services, if any. The parties acknowledge that the actual damages likely to result from a breach of the Customer's payment obligations following early termination are difficult to estimate on the date of this CMSA and would be difficult for OneQode to prove. The parties intend that the Customer's payment of Fees as described herein would compensate OneQode for any such breach, and do not intend for it to be a penalty for any such breach.
 - (b) OneQode may terminate this CMSA for its convenience at any time with 30 days' prior written notice to the Customer.
- 8.5 **Termination Due to Applicable Law; Violation of Laws.** OneQode may terminate this CMSA immediately on written notice if OneQode reasonably believes that continued provision of any Service used by the Customer would violate applicable law(s) or the Customer has violated or caused OneQode to violate any Anti-Bribery Laws or Export Control Laws.
- 8.6 **Effect of Termination.** If the CMSA is terminated, then all rights and access to the Services will terminate (including access to Customer Data, if applicable), unless otherwise described in this CMSA, and all Fees owed by the Customer to OneQode are immediately due upon the Customer's receipt of the final electronic bill or as stated in the final invoice.
- 8.7 **Data Migration.** Upon termination, the Customer has 60 days to migrate any Customer Data to either a new Subscription with OneQode or other service provider. Upon request, OneQode may: (i) agree to extend the time to migrate any Customer Data; or (ii) assist the Customer with migration of its the Customer's Data at an additional charge agreed to between the parties; or (iii) both.

9. Publicity

- 9.1 **Publicity.** The Customer may state publicly that it is a OneQode customer and display OneQode Brand Marks in accordance with OneQode's instructions. OneQode may use the Customer's name and Brand Marks in online or offline promotional materials of the Services or OneQode's business generally. Each party may use the other party's Brand Marks only as permitted in the CMSA. Any use of a party's Brand Marks will inure to the benefit of the party holding Intellectual Property Rights to those Brand Marks.

10. Representations and Warranties

- 10.1 **Mutual Representations and Warranties.** Each party states that:
- (a) it has full power and authority to enter into the CMSA; and
 - (b) it will comply with all laws applicable to its provision, receipt, or use of the Services, as applicable.

11. Disclaimer

- 11.1 **Disclaimer.** Except as expressly provided for in the CMSA, OneQode does not make and expressly disclaims to the fullest extent permitted by applicable law any warranties of any kind, whether express, implied, statutory, or otherwise, including warranties of merchantability, fitness for a particular use, title, noninfringement, or error-free or uninterrupted use of the Services or Software, and any representations about content or information accessible through the Services.

12. Limitation of Liability

- 12.1 **Limitation on Indirect Liability.** To the extent permitted by applicable law and subject to Section 12.3 (Unlimited Liabilities), neither party will have any Liability arising out of or relating to the CMSA for any indirect, consequential, special, incidental, or punitive damages, or lost revenues, profits, savings, or goodwill.
- 12.2 **Limitation on Amount of Liability.** Each party's total aggregate Liability for damages arising out of or relating to the CMSA is limited to the Fees the Customer payable during the 12-month period before the event giving rise to Liability, except OneCode's total aggregate Liability for damages arising out of or related to Services or Software provided free of charge is limited to \$5,000.
- 12.3 **Extended Liabilities.** Nothing in the CMSA excludes or limits either party's Liability for:
- (a) its fraud or fraudulent misrepresentation;
 - (b) its obligations under Section 13 (Indemnification);
 - (c) its infringement of the other party's Intellectual Property Rights;
 - (d) its payment obligations under the CMSA; or
 - (e) matters for which liability cannot be excluded or limited under applicable law.
- 12.4 **High Risk Use Warning.** Unless OneCode explicitly states otherwise to the Customer, the Services are not designed or intended for high risk or mission critical use scenarios where failure or fault of any kind of the Services could reasonably be seen to lead to significant financial loss, death, or serious bodily injury, or to severe damage to tangible or intangible property or the environment, and OneCode accepts no liability for the same.

13. Indemnification

- 13.1 **OneCode Indemnification Obligations.** OneCode shall defend the Customer and its Affiliates using the Services under the Customer's Account and indemnify them against Indemnified Liabilities in any Third-Party Legal Proceeding to the extent arising from an allegation that any Service or any OneCode Brand Mark, in each case used in accordance with the CMSA, infringes the third party's Intellectual Property Rights.
- 13.2 **Customer Indemnification Obligations.** The Customer shall defend OneCode and its Affiliates providing the Services and indemnify them against Indemnified Liabilities in any Third-Party Legal Proceeding to the extent arising from any Customer Application, Project, Customer Data, or the Customer Brand Marks, or the Customer's or an End User's use of the Services in breach of the AUP or Section 3.3 (Restrictions).
- 13.3 **Exclusions.** Sections 13.1 (OneCode Indemnification Obligations) and 13.2 (the Customer Indemnification Obligations) does not apply to the extent the underlying allegation arises from:
- (a) the indemnified party's breach of the CMSA;
 - (b) a combination of the indemnifying party's technology or Brand Marks with materials not provided by the indemnifying party under the CMSA, unless the combination is required by the CMSA; and
 - (c) in the case of OneCode or any of its Affiliates as the indemnifying party, any Services provided to the Customer free of charge.
- 13.4 **Conditions.** Sections 13.1 (OneCode Indemnification Obligations) and 13.2 (the Customer Indemnification Obligations) are conditioned on the following:
- (a) Any indemnified party must promptly notify the indemnifying party in writing of any allegation(s) that preceded the Third-Party Legal Proceeding and cooperate reasonably with the indemnifying party to resolve the allegation(s) and Third-Party Legal Proceeding. If breach of this Section 13.4(a) prejudices the defense of the Third-Party Legal Proceeding, the indemnifying party's obligations under Section 13.1 (OneCode Indemnification Obligations) or 13.2 (the Customer Indemnification Obligations) (as applicable) will be reduced in proportion to the prejudice.
 - (b) Any indemnified party must tender sole control of the indemnified portion of the Third-Party Legal Proceeding to the indemnifying party, subject to the following:
 - (i) the indemnified party may appoint its own non-controlling counsel, at its own expense; and
 - (ii) any settlement requiring the indemnified party to admit liability, pay money, or take (or refrain from taking) any action, will require the indemnified party's prior written consent, not to be unreasonably withheld, conditioned, or delayed.
- 13.5 **Remedies.**
- (a) If OneCode reasonably believes the Services might infringe a third party's Intellectual Property Rights, then OneCode may, at its sole option and expense:
 - (i) procure the right for the Customer to continue using the Services;
 - (ii) modify the Services to make them non-infringing without materially reducing their functionality; or
 - (iii) replace the Services with a non-infringing, functionally equivalent alternative.

- (b) If OneCode does not believe the remedies in Section 13.5(a) are commercially reasonable, then OneCode may Suspend or terminate the Customer's use of the impacted Services.

13.6 **Sole Rights and Obligations.** Without affecting either party's termination rights, this Section 13 (Indemnification) states the parties' sole and exclusive remedy under this CMSA for any third-party allegations of Intellectual Property Rights infringement covered by this Section 13 (Indemnification).

14. Miscellaneous

14.1 Notices.

- (a) Under the CMSA, notices to the Customer must be sent to the Notification Email Address and notices to OneCode must be sent to legal@onecode.com.
- (b) Notice is deemed to be effective when the email is sent, unless the sender receives a message stating that the delivery failed. In such cases, the notice or request will not be considered effective until it is successfully delivered.
- (c) The Customer is responsible for keeping its Notification Email Address current throughout the Term.
- (d) Notwithstanding the foregoing, communications in the ordinary course of business (which do not include any notices related to payment, any dispute under or alleged breach of this CMSA, any effort to enforce the terms of this CMSA, or any notice regarding termination or modification of this CMSA or the Services) may be sent via email to the appropriate contact (including to satisfy written approval and consent requirements under the CMSA).

14.2 **Assignment.** Neither party may assign any part of this CMSA without the written consent of the other, except to an Affiliate where the assignee has agreed in writing to be bound by the terms of this CMSA, and the assigning party has notified the other party of the assignment. Any other attempt to assign is void. If the Customer assigns this CMSA to an Affiliate in another jurisdiction, then OneCode may assign this CMSA to another OneCode contracting entity without the Customer's consent.

14.3 **Change of Control.** If a party experiences a change of Control other than as part of an internal restructuring or reorganization (for example, through a stock purchase or sale, merger, or other form of corporate transaction), that party will give written notice to the other party within 30 days after the change of Control.

14.4 **Force Majeure.** Neither party will be liable for failing to perform under this CMSA to the extent that a Force Majeure Event caused the failure. The party subject to the Force Majeure Event must promptly notify the other party in writing and must perform the obligations that were not performed as soon as the Force Majeure Event stops. This section will not apply to any payment obligations under this CMSA. "**Force Majeure Event**" means a fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, labor disputes, acts of civil or military authority, war, and terrorism (including cyber terrorism), acts of God, acts or omissions of Internet traffic carriers, actions or omissions of regulatory or governmental bodies (including the passage of or material change in Laws or other acts of government) that materially affect the performance under this CMSA. A Force Majeure Event does not include theft or loss, or events caused by the negligent or intentional acts or omissions of the affected party.

14.5 **Subcontracting.** OneCode may subcontract obligations under the CMSA but will remain liable to the Customer for any subcontracted obligations.

14.6 **No Agency.** This CMSA does not create any agency, partnership, or joint venture between the parties.

14.7 **No Waiver.** Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under this CMSA.

14.8 **Severability.** If any part of this CMSA is invalid, illegal, or unenforceable, the rest of the CMSA will remain in effect.

14.9 **No Third-Party Beneficiaries.** Certain sections of this CMSA are for the benefit of OneCode's Affiliates. As a result, OneCode and OneCode's Affiliates are entitled to enforce this CMSA. If the doctrine of third-party beneficiaries is not recognized in the Customer's jurisdiction, then the parties agree that while OneCode's Affiliates are not parties to this CMSA and have no obligations under this CMSA, OneCode is a trustee of OneCode's Affiliates for the limited purpose of holding in trust for OneCode's Affiliates the covenants and rights in favor of OneCode's Affiliates. Accordingly, the parties agree that OneCode's Affiliates may enforce such rights and promises in its own right (without being required to add OneCode as a party to any proceedings for such enforcement). Except for OneCode's Affiliates, this CMSA does not create any enforceable rights by anyone other than the Customer and OneCode. Any representation or agreement made by OneCode's Affiliates that would change the terms of this CMSA must be in writing and signed by OneCode's authorized representative.

14.10 **Equitable Relief.** Nothing in this CMSA will limit either party's ability to seek equitable relief.

14.11 **Governing Law.** The choice of jurisdiction and venue stated below, and the dispute resolution method stated in Section 14.12 (Dispute Resolution), do not prevent either party from seeking injunctive relief for violation of intellectual property rights, breach of confidentiality obligations, or enforcement or recognition of any award or order in any appropriate jurisdiction. If either party begins any litigation in connection with this CMSA, the substantially prevailing party will be entitled to recover its reasonable lawyers' fees, costs, and other expenses. The 1980 United Nations Convention on Contracts for the International Sale of Goods does not govern this CMSA. This CMSA is construed and controlled by the laws of the Philippines and the parties' consent to the non-exclusive jurisdiction of the courts there.

14.12 **Dispute Resolution.** In the event of any dispute arising from or related to this CMSA, including questions about its existence, validity, or termination, the parties commit to the following sequential resolution process:

- (a) **Good Faith Negotiation.** Initially, the parties shall endeavor to settle the dispute amicably through good faith negotiations.
- (b) **Mediation.** If the parties are unable to resolve the dispute through negotiation within 30 days, either party may notify the other in writing of their intention to initiate mediation. The matter must then be referred to mediation at a recognized mediation center in the Philippines. The costs of the mediation must be shared equally by the parties.
- (c) **Arbitration.** If mediation does not lead to a resolution within 30 days, either party may inform the other in writing of their intention to proceed with arbitration. The dispute must then be referred to and conclusively resolved by arbitration in the Philippines under the arbitration rules of the Philippine Dispute Resolution Center, Inc. ("PDRCI"), which are deemed incorporated by reference into this section. The tribunal will be comprised of a single arbitrator, mutually appointed by the parties. In the absence of mutual agreement, the Chairman of PDRCI will make the appointment. The arbitration proceedings will be conducted in English. The arbitrator's decision will stand as final, binding, and indisputable and may serve as a foundation for judgment in other jurisdictions. The costs of the arbitration will be shared equally by the parties.

- 14.13 **Amendments.** Except as stated in Section 1.4(b) (Modifications: To the CMSA), any amendment must be in writing, signed by both parties, and expressly state that it is amending this CMSA.
- 14.14 **Survival.** The following Sections will survive expiration or termination of this CMSA: Section 2 (Payment Terms), Section 5 (Intellectual Property Rights; Protection of Customer Data; Feedback), Section 7 (Confidential Information), Section 8.6 (Effect of Termination), Section 11 (Disclaimer), Section 12 (Limitation of Liability), Section 13 (Indemnification), and Section 14 (Miscellaneous).
- 14.15 **Entire Agreement.** This CMSA sets out all terms agreed between the parties and supersedes all other agreements between the parties relating to its subject matter. In entering into this CMSA, neither party has relied on, and neither party will have any right or remedy based on, any statement, representation, or warranty (whether made negligently or innocently), except those expressly stated in this CMSA. The Supplementary Terms are incorporated by reference into the CMSA. After the Effective Date, OneCode may provide an updated URL in place of any URL in this CMSA.
- 14.16 **Conflicting Terms.** In the case of a conflict between the terms of the documents composing Service-specific terms that is not expressly resolved therein, their terms will control in the following order, from highest to lowest priority: (1) any Service Specific Terms; (2) any non-Service Specific Terms Supplementary Terms; and (3) this CMSA. Terms of an amendment control over the amended document and any prior amendments concerning the same subject matter.
- 14.17 **Headers.** Headings and captions used in the CMSA are for reference purposes only and will not have any effect on the interpretation of the CMSA.
- 14.18 **Conflicting Languages.** If this CMSA is translated into any language other than English, and there is a discrepancy between the English text and the translated text, the English text will govern unless expressly stated otherwise in the translation.

15. Definitions

"**Account**" means the Customer's account on the OneCode Portal.

"**Affiliate**" means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with a party, where

"**Control**" means control of greater than 50 percent of the voting rights or equity interests of a party.

"**Anti-Bribery Laws**" means all applicable commercial and public anti-bribery laws that prohibit corrupt offers of anything of value, either directly or indirectly, to anyone, including government officials, to obtain or keep business or to secure any other improper commercial advantage. Government officials include: any government employees, candidates for public office, members of royal families, and employees of government-owned or government-controlled companies, public international organizations, and political parties.

"**AUP**" means the then-current acceptable use policy for the Services, accessible on the Webpage.

"**Brand Marks**" means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party, respectively, as secured by such party from time to time.

"**Confidential Information**" means information that one party (or an Affiliate) discloses to the other party under this CMSA, and which is marked as confidential or would normally under the circumstances be considered confidential information. It does not include information that is independently developed by the recipient, is rightfully given to the recipient by a third party without confidentiality obligations or becomes public through no fault of the recipient. Subject to the preceding sentence, Customer Data is considered the Customer's Confidential Information.

"**Customer Application**" means a software program that the Customer creates or hosts using the Services.

"**Customer Data**" means data provided to OneCode by the Customer or End Users through the Services under the Account, and data that the Customer or End Users derive from that data through their use of the Services.

"**Documentation**" means any documentation (as may be updated from time to time) made available by OneCode to its customers for use with the Services.

"**End Users**" means the individuals who are permitted by the Customer to use the Services and includes employees of the Customer Affiliates and any other authorized third parties.

"Export Control Laws" means all applicable laws and regulations concerning export controls, including any regulation and restriction regarding end-user, end-use, and destination as imposed by any relevant government(s).

"Fees" means the applicable fees for each Service, Software, or OQS plus any applicable Taxes as stated in the relevant Subscription or other Documentation.

"High Risk Activities" means activities where the use or failure of the Services would reasonably be expected to lead to death, personal injury, significant financial loss, or severe damage to tangible or intangible property or the environment (such as the creation or operation of nuclear facilities, air traffic control, life support systems, or weaponry).

"Indemnified Liabilities" means any settlement amounts approved by the indemnifying party and damages and costs finally awarded against the indemnified party by a court of competent jurisdiction.

"Intellectual Property Rights" means current and future worldwide rights under patent, copyright, trade secret, trademark, and moral rights laws, and other similar rights.

"Legal Process" means an information disclosure request made under law, governmental regulation, court order, subpoena, warrant, or other valid legal authority, legal procedure, or similar process.

"Liability" means any liability, whether under contract, tort (including negligence), or otherwise, regardless of whether foreseeable or contemplated by the parties.

"Notification Email Address" means the email address designated by the Customer in the OneCode Portal or otherwise the email address predominantly used by the Customer in their communications with OneCode.

"OneCode" means OneCode Philippines, Inc. or its Affiliate, should they be the signatory.

"OneCode API" means any application programming interface provided by OneCode as part of the Services.

"OneCode Portal" means the Webpage, as applicable, and the online console(s) or dashboard provided by OneCode to the Customer for administering the Services and communicating additional information, updates and other information relating to this CMSA or the Services or both.

"OQS" means the then-current technical support service provided by OneCode to the Customer under an SSA.

"Payment Period" means a calendar month, or another period specified by OneCode in the OneCode Portal or Subscription, as applicable.

"Project" means a collection of OneCode cloud platform resources configured by the Customer via the Services.

"Service Specific Terms" means the then-current terms specific to one or more Services made available through the OneCode Portal or contained in the applicable Subscription, or both.

"Services" means the then-current services described in the applicable Subscription, excluding any Third-Party Offerings.

"SLA" means the applicable, then-current service level agreement incorporated into the applicable Subscription, if any.

"Software" means any downloadable tools, software development kits, or other such computer software provided by OneCode in connection with the Services, and any updates OneCode may make to such Software from time to time, excluding any Third-Party Offerings.

"SSA" means OneCode's technical support services then in effect for the Services as agreed by the parties separately from the CMSA, if any.

"Subscription" means the order form, online order page, or other ordering document acceptable to OneCode under this CMSA, issued by OneCode and accepted by the Customer specifying the Services that OneCode will provide to the Customer under the CMSA, which may set out Fees, OSQ (if requested), and any Service Specific Terms or any agreed combination of the same for agreed Services between OneCode and the Customer.

"Supplementary Terms" means any additional terms agreed to by the parties including the AUP, Service Specific Terms, SLA, and SSA that may be made available via the Webpage or as made available by OneCode upon request, if the parties have signed an offline variant of such terms.

"Suspend" or "Suspension" means disabling or limiting access to or use of the Services or components of the Services.

"Taxes" means all government-imposed taxes, except for taxes based on OneCode's net income, net worth, asset value, property value, or employment.

"Term" has the meaning stated in Section 8.1 (Agreement Term) of this CMSA.

"Third-Party Offerings" means third-party services, software, products, and other offerings that are not incorporated into the Services or Software, offerings identified in the "Third-Party Terms" section of the Service Specific Terms, and third-party operating systems.

"Third-Party Legal Proceeding" means any formal legal proceeding filed by an unaffiliated third party before a court or government tribunal (including any appellate proceeding).

"Webpage" means <https://www.onecode.com>.