



Master Service Agreement

OneCode Master Service Agreement

OneCode provides communications-related services to businesses. These Services are delivered directly by us, our Affiliates, and third parties. You wish to engage us to provide certain services under the terms and conditions set out in this Master Service Agreement ("MSA") and any applicable Additional Documents. Together, these terms govern your use of the Services.

If we have signed an offline version of this MSA with you, your offline terms will govern your use of the Services, and the online [Master Service Agreement](#) terms published on our Website will not apply to you, unless otherwise agreed.

Additionally, some services are governed separately by our [Cloud Terms of Service](#), which are also available on the Website and must be expressly accepted when ordering those services. Where the Cloud Terms of Service apply, they will govern your use of the relevant services, and this MSA will not apply unless expressly stated.

Operative Provisions

The parties agree as follows:

1. Term and Operation of this MSA

1.1 Application. These Terms are binding on you from the earlier of the date you:

- (a) sign this MSA (if applicable);
- (b) enter into any Additional Document;
- (c) place an Order on any Customer Management Platform; or
- (d) instruct us to commence any Services or purchase any Product.

This MSA applies to all Services we undertake for you unless expressly excluded by us, or where the Cloud Terms of Service apply to those Services. Agreement to this MSA includes indicating your consent to it through our Customer Management Platform.

1.2 Term.

- (a) This MSA will continue to apply to the relationship between the parties and any applicable Services unless terminated under the terms of this MSA or expressly superseded by another document.
- (b) Other than where terminated by us or you in accordance with this MSA (and any applicable Additional Documents), a Service remains in force for its specified Initial Term.
- (c) Following the expiration of an Initial Term for a Service (or where no Initial Term is specified), the Service will continue automatically on a month-to-month basis. Either party may then terminate that Service at any time by giving no less than 30 days' Written Notice to the other party. This Section does not apply to the extent an Additional Document states that the Service does not automatically renew, does not continue month-to-month, or requires a signed renewal or further written agreement.

1.3 Continuing Agreement.

- (a) We regularly update, upgrade, and change our Services. We may update the terms of this MSA from time to time to keep up with our changing Services and any relevant laws.
- (b) By continuing to use our Services after we publish updated terms, you agree to be bound by the updated MSA. You acknowledge that it is your responsibility to check the Website regularly for updates.
- (c) This Section 1.3 does not apply to an offline version of this MSA duly signed by the parties, which may only be modified in accordance with Section 22.10.

2. Additional Documents

2.1 Operation of Additional Documents.

- (a) These terms govern the provision of Services to you.
- (b) We may enter into Additional Documents with you when you place an Order. The Additional Document(s) will set out additional terms for a requested Service including payment details and the Initial Term. Each Additional Document is subject to the terms of this MSA.
- (c) You do not have to make any minimum level of purchases under this MSA, and we are not obligated to accept any particular Order you make.
- (d) Each Additional Document constitutes a separate agreement, and the expiry or termination of any Additional Document does not automatically affect the validity of this MSA or any other Additional Documents remaining in force.
- (e) Unless the terms of the Additional Document state otherwise, each Additional Document (and corresponding Service) will continue in force on the same terms beyond the end of the applicable Initial Term, unless either party elects to end the Service at the end of the Initial Term in accordance with Section 1.2.

- (f) Product-specific terms, service addenda, supplemental terms, customer intake forms, compliance declarations, schedules, vendor requirements, asset schedules, statements of work and similar documents may also form Additional Documents where they are attached to, incorporated into, or accepted in connection with an Order.

2.2 Relationship between the MSA and Additional Documents. To the extent that any conflict exists, and unless a relevant Additional Document states a more specific order of precedence for the documents applicable to a particular Order, the various documents comprising this MSA will take precedence in the following order (from highest to lowest priority):

- (a) any variation to this MSA or any Additional Document agreed in writing between the parties (in order of recency);
- (b) the terms of any Additional Document (including any appendix or schedule attached to it);
- (c) the terms of this MSA; and
- (d) any policy or procedure of ours we disclose to you.

2.3 Relationship Between the Parties.

- (a) Nothing in this MSA constitutes an agency, partnership, or contract of employment, or as a guarantee of future employment or engagement. It is the express intention of the parties to deny any such relationship.
- (b) You must not represent to anyone that:
 - (i) we provide preferential pricing or service to you over any other customer or client of ours;
 - (ii) you are approved or endorsed by us, act as our agent, or are affiliated with us in any way other than as a recipient of the Services; or
 - (iii) any fault, downtime, or suspension of the Services is our responsibility, unless we have verified in writing that we caused the issue.

3. Services

3.1 Services. We will provide the Services as agreed in each Additional Document, subject to the terms of this MSA.

3.2 Advanced Compute Services. Advanced Compute Services, GPU Capacity, related GPU Hardware and related Products may be ordered under this MSA through an Additional Document and are subject to Section 14 and any applicable product-specific or service-specific terms.

3.3 Orders.

- (a) An Order constitutes an Additional Document for the purposes of this MSA.
- (b) You may request Orders through the Customer Management Platform, or we provide them directly to you.
- (c) Any Order requested through a Customer Management Platform is subject to our final acceptance. We may refuse to accept an Order (and decline to provide a Service) in our sole discretion, even after it has been requested through the Customer Management Platform.

3.4 Hours of Operation. Our personnel are available during Business Hours on Business Days. Services requiring personnel involvement outside of these hours will only be carried out where expressly agreed in writing.

3.5 First Line Support. Unless we specifically agree to do so in an Additional Document, we do not provide 'first line' support to your organisation or your customers. All support enquiries should be made by your nominated support representative(s). Where support enquiries do not come through your nominated representative(s), we reserve the right to charge you for our time as an Out-of-Scope Service without further notice.

3.6 Performance.

- (a) We will use commercially reasonable efforts to provide the Services:
 - (i) to the standards and key performance indicators (or KPIs) specified in any Order or Additional Document;
 - (ii) within the timeframe(s) set out in the relevant Order or Additional Document;
 - (iii) in compliance with all applicable standards;
 - (iv) in accordance with good industry practice;
 - (v) and to rectify any faults in the Services for which we are responsible; and
 - (vi) taking reasonable steps to investigate and restore Services affected by causes beyond our control.
- (b) In performing the Services, we will endeavour to:
 - (i) comply with any relevant occupational health and safety policies we set for our performance of the Services;
 - (ii) comply with all applicable laws; and
 - (iii) maintain prudent insurance policies.

- 3.7 **Service Limitations.** We will use commercially reasonable efforts to provide the Services. However, other than as set out in this MSA, to the fullest extent permitted at law:
- (a) we do not warrant or guarantee that the Services will be uninterrupted or error free, or that the Services will be fit for any particular purpose; and
 - (b) we exclude all liability for faults, delays, or interruptions to the Services caused by:
 - (i) your misuse or user error, or your software or equipment;
 - (ii) the acts or omissions of any third party or Supplier (or their services, software, or equipment);
 - (iii) any delay in anything provided or required to be provided by you; or
 - (iv) any Unforeseen Event.
- 3.8 **Provisioning and Installations.**
- (a) Where you order a Service, we will advise you of a delivery date by which we plan to provision or install the Service.
 - (b) We will use commercially reasonable efforts to provision a Service by the agreed delivery date. However, you acknowledge that:
 - (i) any delivery date we provide is an estimate only; and
 - (ii) we are not liable to you for any failure to provision or install a Service by a scheduled delivery date.
- 3.9 **Practical Completion.**
- (a) Upon completion of the provisioning or installation, we will provide you with confirmation that work is completed on our end ("**Practical Completion Notice**" or "**PCN**"). Following the issuance of a PCN:
 - (i) we will request that you test the service and ensure it is functional;
 - (ii) we will provide you with a mechanism (via the Customer Management Platform or otherwise) to provide feedback regarding the Service; and
 - (iii) we will give you a timeframe by which, if we do not hear from you, we may commence billing.
 - (b) We will not begin invoicing you for a Service unless you have indicated that the Service is functional after issuance of a PCN. However, you acknowledge and agree that we may begin invoicing if:
 - (i) you do not indicate that the Service is functional within 5 Business Days of the PCN, but:
 - (A) your Service is demonstrably functional;
 - (B) you commence using the Services for any business purpose; or
 - (C) you fail to test the Service or provide feedback to us;
 - (ii) your issues with the Service do not relate to any lack of functionality or deficiency under this MSA or the relevant Additional Document, and 5 Business Days have passed; or
 - (iii) we otherwise reasonably consider that your Service is compliant with the scope of the Order and 5 Business Days have passed.
 - (c) This Section 3.9 applies except to the extent an Additional Document, product-specific term, service-specific term, acceptance plan or signed SLA states a different readiness, acceptance, deemed acceptance, service commencement or billing commencement process. For Advanced Compute Services and GPU Capacity, the readiness, acceptance, deemed acceptance, service commencement and billing commencement process in the applicable Additional Document or product-specific terms applies to the extent of any inconsistency.
- 3.10 **Out-of-Scope Services.**
- (a) At our discretion, we may, upon request by you, provide Out-of-Scope Services.
 - (b) The same standards, warranties, inspection rights, and indemnities apply to Out-of-Scope Services as apply to the Services.
 - (c) We charge Out-of-Scope Fees for any Out-of-Scope Services we provide. We may vary Out-of-Scope Fees at any time. Where we vary any Out-of-Scope Fees, we will notify you.
 - (d) Out-of-Scope Services generally only occur where specifically requested outside of the usual Order process. We will confirm with you prior to providing any Out-of-Scope Services.
 - (e) We may, with your prior consent, provide Out-of-Scope Services without an Additional Document. In such cases, we may charge Out-of-Scope Fees on a time and materials basis.
 - (f) We may elect to provide an Out-of-Scope Service to you free of charge, but this will be confined to that specific instance and will not apply to any other Out-of-Scope Services. Our failure to charge you (or charge a reduced rate)

for any part of Out-of-Scope Services does not create an expectation or entitlement to receiving any future Services (including Out-of-Scope Services) free of charge or at a reduced rate.

- 3.11 **Changes to Services or Equipment.** Technology and business environments are constantly evolving, and we may adjust our Services to ensure we deliver Services that are commercially relevant and current. We will give you reasonable notice of any changes we consider are substantial and use commercially reasonable efforts to ensure that any altered services provide materially equivalent functionality to the original.
- 3.12 **Right to Subcontract.** We may appoint third parties, contractors, or agents to provide all or part of the Services. We remain liable for the acts and omissions of such subcontractors (other than Suppliers) as if they were our own acts and omissions.
- 3.13 **Identifying Data.** We may attach labels or index your data within our databases and remotely measure your usage of the Services to ensure billing accuracy and technical efficiency.
- 3.14 **Charges from Suppliers.**
- (a) Where Services you order from us require or include services from a Supplier, additional charges may apply which were not contemplated or agreed to in an Additional Document ("**Additional Supplier Charges**").
 - (b) Additional Supplier Charges will, where possible, be provided to you for approval prior to them being incurred. Where a Service is dependent on that approval, we will delay provisioning of the Service pending your approval. However, you acknowledge that some Additional Supplier Charges may be incurred without the opportunity for prior approval (such as variable usage charges passed through by a carrier).
 - (c) Where Additional Supplier Charges are incurred, these will be billed to you upon delivery of the relevant service by the Supplier. You agree that you will pay any Additional Supplier Charges required in relation to the Services we provide from time to time.
 - (d) Where you do not approve the Additional Supplier Charges, we may terminate the Services in question under Section 15.3.
- 3.15 **Third Party Terms.**
- (a) Third party software and services provided or utilised in conjunction with the Services may be subject to Third Party Terms.
 - (b) Where possible, we will provide you directly with relevant Third Party Terms. In other cases, we may pass these Third Party Terms on in our agreements. Some terms may be located directly in software. It is a condition of our provision of Services that you agree (and continue to agree) with any relevant Third Party Terms which are provided or referenced.
 - (c) Where you believe you have a basis for a claim in relation to third party services or software, your sole and exclusive remedy is to pursue that third party for resolution in line with the relevant Third Party Terms.
 - (d) You agree that you will not pursue, bring a Claim, or otherwise involve us in any Claim relating to third party Services or Software, except to the extent that such Claim is directly caused by our acts or omissions.

4. Your Rights and Obligations

- 4.1 **Instructions, Equipment, and Materials.** To enable us to deliver the Services to you in an efficient and timely manner, you must:
- (a) supply any requested Client Materials promptly;
 - (b) supply clear instructions regarding the scope and specifications of the Services, and respond to any questions about the scope and specifications of the Services promptly and clearly;
 - (c) provide us with all information and assistance that we reasonably require to meet our obligations under this MSA and to supply the Services, including for feasibility studies and service qualifications, as well as to enable our compliance with any applicable laws;
 - (d) respond promptly if we bring an issue to your attention in relation to your software, equipment, data, or network that affects the Services;
 - (e) notify us if you make any changes to your software, network, or data which are likely to affect the Services; and
 - (f) take reasonable measures to prevent any unauthorised person from accessing the Services.
- 4.2 **Warranties.**
- (a) You warrant and undertake that:
 - (i) you and your representatives have all necessary licenses and legal right(s) to permit and authorise us to provide the Services;
 - (ii) providing the Services in accordance with your directions will not contravene any applicable laws or regulations; and
 - (iii) you and each of your employees and contractors have and will maintain prudent and comprehensive insurance policies.

- (b) We may ask for evidence of these warranties (including copies of any licenses or insurance policies referenced in Section 4.1). If you cannot provide them, we may stop providing the Services and serve you with a Notice of Default.

4.3 **Access Authority.** Where you provide access to your premises or any other location under your control (for example, a server rack in a third party data centre) as part of the Services, you must provide a safe working environment in compliance with all applicable occupational health and safety laws.

4.4 **Nominated Representative.** Upon our request, you agree to nominate a key representative who has the authority to make decisions and give us instructions on your behalf.

4.5 **Customer Responsibilities.**

- (a) You must:
 - (i) provide us with all assistance and information we reasonably request for the installation and provision of any Services;
 - (ii) ensure that any cabling you install or connect to Our Network:
 - (A) has been installed by a qualified and licensed professional; and
 - (B) complies with all applicable technical standards and regulations; and
 - (iii) obtain all required permissions, consents, licences, and approvals for us to conduct any installation in relation to the Services and assist us in doing the same.
- (b) Unless expressly stated in this MSA or an Additional Document, you are responsible for, and we exclude all Liability regarding:
 - (i) issues with or damage to any goods or products that you purchase from a third party (even if we installed them);
 - (ii) providing any backup, disaster recovery, or business continuity practices that are outside the scope of the agreed Services;
 - (iii) any performance outcomes or business objectives you hope to achieve from your use of the Services;
 - (iv) the suitability of any Product or Service for your specific needs;
 - (v) any issues or defects arising in relation to your data, business processes, software, equipment, or network;
 - (vi) your reliance on the Services without any backups, redundancy, or alternative solutions for emergencies; and
 - (vii) any third party software or services (including integration issues), unless that functionality forms part of the Service itself.

4.6 **Use of the Network.** You must ensure that:

- (a) your employees, End Users, contractors, and agents only use Our Network and any Products or Software in accordance with this MSA and any other applicable terms (such as Additional Documents and Third Party Terms);
- (b) everything connected to Our Network by you or on your behalf:
 - (i) is technically compatible with Our Network;
 - (ii) complies with generally accepted industry standards, requirements, and codes; and
 - (iii) complies with all reasonable procedures, standards, and other requirements notified by us to you from time to time;
- (c) you do not use Our Network, Services, or Products, connect anything to Our Network, or do anything at our sites or facilities in a way that:
 - (i) endangers the health or safety of any person or materially negatively impacts the environment or the normal operation of any network or system over which we supply Services;
 - (ii) damages or interferes with the environment or any site, facility, or telecommunications equipment which we own, operate, or use under license (including sites of third parties); or
 - (iii) interrupts or degrades the normal operation of Our Network, Services, or any Services or Products supplied by us to another customer or to us by another third party;
- (d) in using Our Network, Services, and Products, you comply with:
 - (i) our policies and procedures (including any acceptable use policy); and
 - (ii) any restrictions within this MSA;
- (e) you allow for us, our Suppliers, and contractors to have safe and timely access to your sites and the sites of your resellers or End Users, where it is necessary for us to:
 - (i) ensure that the supply of the Services continues without any issues;

- (ii) maintain the integrity or optimal performance of Our Network; or
- (iii) install, maintain, repair, enhance, remove, or otherwise perform work with any equipment relating to Our Network or the Services;
- (f) you provide any and all assistance and information we reasonably require (including following our reasonable directions) to allow us to confirm whether you have complied (and will continue to comply) with this Section 4.6;
- (g) you take all reasonable measures to ensure that your End Users comply with the obligations in this Section 4.6 as if any reference to 'you' is a reference to those End Users; and
- (h) you implement policies, procedures, monitoring software, and training to ensure compliance with this Section 4.6.

4.7 Resellers.

- (a) You must ensure that your Resellers comply with all of your obligations in this MSA which relate to the authorised:
 - (i) marketing, branding, and use of our name and Intellectual Property (including that of our Affiliates);
 - (ii) use of the Customer Management Platform;
 - (iii) use and supply of the Services; and
 - (iv) activities which relate to that use or supply (including those in Section 4.6),
 as if the references to 'you' in this MSA and any Additional Documents were references to your Resellers.
- (b) You are fully liable for, and shall indemnify us against, any Claim or Liability arising from any non-compliance by your Resellers with their obligations under this MSA.

4.8 Restrictions. You agree that you will not, without our prior written authorisation:

- (a) interfere or attempt to interfere with the proper working of the Services, Our Network, the Customer Management Platform, or any Software we use;
- (b) bypass, circumvent, or attempt to bypass or circumvent any measures we may use to prevent or restrict access to Services or Software (or other accounts, computer systems, or networks connected to our Software or Services);
- (c) access all or any part of the Services to use knowledge gained by that access to build a Service which competes with us or the maker of that Product;
- (d) attempt to obtain, or assist third parties in obtaining, access to the Services, Customer Management Platform, or Software, other than as provided under this MSA; or
- (e) otherwise take any action in violation of any guidelines, policies, or supplemental documentation which are applicable to the Services, Customer Management Platform, or Software from time to time;

without our express written authorisation.

4.9 Connected Networks. If Your Network is connected to Our Network and either party intends to implement an outage or change to that network, or becomes aware of a fault or other event affecting that network, that could have a detrimental impact on the other's network, that party must:

- (a) provide prior Written Notice (where possible) to the other party;
- (b) notify the other party promptly (where prior notice was not possible);
- (c) take all commercially reasonable steps to minimise all impacts to the other party; and
- (d) keep the other party informed of the status of the event and the steps being taken in relation to the same.

This Section 4.9 will not affect our rights to make any changes to Our Network which are permitted by this MSA or an Additional Document.

4.10 Data. Unless we have provided our prior written consent to assume responsibility for the preservation of your data (and the data of your customers and other End Users), you remain solely responsible for preserving such data on digital mediums.

4.11 Customer Management Platform.

- (a) We may provide you with access to our Customer Management Platform(s) to facilitate the ordering of Services, access to Our Network, management of your relationship with us, and to perform other functions (like payment).
- (b) Where we provide you with credentials or other ways of authenticating yourself (and your employees and other End Users) on a Customer Management Platform, anyone who obtains those credentials and uses the Customer Management Platform will be considered your authorised representative until you notify us in writing otherwise.
- (c) You acknowledge that we have no method to ascertain whether a user with access to your credentials is authorised by you or not. You agree that responsibility for account security is ultimately yours, and you release us from all Liability arising from any unauthorised access to your account.

- (d) When using a Customer Management Platform, you must comply with all terms published by us in relation to that platform or otherwise provided to you. We may suspend or withdraw your access if you do not comply.
- (e) We make no guarantees that any Customer Management Platform or any other systems we use will be fault free, secure, always available, or provide accurate information, and exclude all Liability regarding your reliance on the same.

4.12 Legislation Specific Obligations.

- (a) You acknowledge that we may be required by certain government and/or law enforcement agencies:
 - (i) to intercept communications transmitted through or in connection with the Services, as required by an applicable law or any lawful direction; and
 - (ii) to monitor communications, usage, or other aspects of the Services,
 and you release us from all consequences, Liability, and responsibility in connection with such lawful requirements.
- (b) If you are served with any warrant, notice, or directive (including a Technical Assistance Request, Technical Assistance Notice, or Computer Access Warrant) which would compel you to access, or provide access to, Our Network or our Services on behalf of any third party (including Government Agencies) without our knowledge:
 - (i) you must immediately notify us (unless legally prohibited from doing so);
 - (ii) you must take all legal actions available to you to dispute such notice or instrument (or the portion relating to Our Network); and
 - (iii) any dispute must include a submission that any such notice regarding Our Network ought properly to be served on us directly.
- (c) You warrant that you are purchasing the Services as a business and not as a consumer. Specifically, you warrant that you:
 - (i) have 15 or more employees; or
 - (ii) are a licenced carrier or carriage services provider (or the local equivalent in your jurisdiction),
 and you indemnify us against any Claim or Liability arising from a breach of the warranty in Section 4.12(c) including any penalties we incur under consumer protection laws.

5. Payment

5.1 Payments.

- (a) You must make payments as specified in this MSA and each Additional Document.
- (b) Information on Fees for the Services will be provided through the Customer Management Platform or directly by us. Any initial setup Fees are invoiced and payable as part of the initial onboarding or payment process.
- (c) In addition to any Fees specified in this MSA and each Additional Document, we will issue invoices for the following fees (where applicable):
 - (i) setup fees (if any);
 - (ii) the price of any Product ordered, to be paid in the amount and frequency specified on the Order;
 - (iii) Out-of-Scope Fees for any Out-of-Scope Services, payable fortnightly in arrears or otherwise as agreed;
 - (iv) surcharges for after-hour services or onsite visits (other than planned visits included with a Service); and
 - (v) pre-approved expenses (including travel time at current daily rates) if we are required to travel to a site.
- (d) Unless expressly stated otherwise, Fees for the Services will be billed monthly in advance, on the first day of each calendar month.

5.2 Further Payment Provisions.

- (a) Unless expressly stated otherwise, each tax invoice:
 - (i) is payable within 14 days from the date of issue;
 - (ii) where you have a Credit Account, is payable in accordance with the terms of the applicable Credit Agreement; and
 - (iii) will be issued via email or through our Customer Management Platform.
- (b) You are responsible for, and shall reimburse us for, any transaction, processing, dishonour, or chargeback fees levied by a financial institution or payment gateway in connection with your payment method.
- (c) All Fees are in U.S. Dollars (USD) and are exclusive of tax unless expressly stated otherwise. If any tax is applied to a supply under this MSA, you shall pay that tax together with, and in addition to, the Fees. Any applicable tax will be itemised on each tax invoice.

- (d) Certain Services may be invoiced in a currency other than U.S. Dollars. In such cases, we will advise you accordingly.
- (e) You must ensure that the total amount outstanding with us at any one time does not exceed your approved Debt Limit. If you exceed this amount and fail to pay at least 50% of the Debt Limit within 7 days, we may suspend or cease all Services without further notice and take any action necessary to recover the outstanding balance. This Section 5.2(e) does not apply to funds validly attributed to a Credit Account (where the terms of the Credit Agreement shall apply).
- (f) We reserve the right to vary any Fees if the cost of supplying a Service (whether direct or indirect) increases due to additional legislative, regulatory, or other charges, penalties, imposts, or taxes imposed by any Government Agency.
- (g) If you fail to pay any taxes required in connection with the Services, or if taxes collected from you are subsequently assessed as payable, you shall indemnify us against the same (including for payment of those taxes and any interest or penalties levied or assessed). Upon request, we will provide evidence of any such assessment.

5.3 Fee Disputes.

- (a) If you reasonably believe that an invoice contains an error, you must notify us before the invoice due date and pay any undisputed portion of the invoice.
- (b) If you have complied with this Section 5.2, we will not suspend or terminate your Services for non-payment of the disputed Fees while we investigate the matter.
- (c) Our records constitute prima facie evidence of Fees owing or paid.
- (d) Nothing in this Section requires us to commence or continue procurement, reservation, staging, deployment, onboarding, Service access, hardware transfer, post-term services or any related supplier, vendor, OEM, data centre, logistics or financing commitment where the relevant Additional Document requires payment, security, deposits, downpayments, prepayments or other amounts before that step is taken and those amounts have not been received by us in cleared funds.

5.4 Default in Payment.

- (a) Notwithstanding Sections 20.1 and 20.2 or any other term of this MSA, if you fail to pay any invoice by its due date, then without prejudice to our other rights or remedies, and until payment is made in full (including any accrued interest), we may:
 - (i) charge you an overdue fee on all overdue amounts at the Singapore Overnight Rate Average, as set by the Monetary Authority of Singapore, plus 6 percentage points, compounded daily from the invoice due date;
 - (ii) immediately suspend any or all Services without notice (a Notice of Default may be issued thereafter);
 - (iii) where the Services include the rental of space within a data centre, suspend all access to assets within that data centre;
 - (iv) commence legal action, debt recovery proceedings, or any other similar action or proceeding against you in any jurisdiction, and to engage third parties to assist with that process;
 - (v) retain a lien over all equipment, materials, data, and work in progress, including those owned by you that are in our possession or control; and
 - (vi) take any other steps we deem necessary to place us in the position we would have been in had you paid the invoice by the due date.
- (b) You are liable, by way of liquidated damages, for all amounts payable under this Section, together with all costs of debt collection and enforcement, including legal fees on an indemnity basis.

5.5 Fee Increase. Unless otherwise specified in the relevant Additional Document, monthly Fees and surcharges will remain unchanged for the duration of an Initial Term, subject to any variations resulting from a change in the scope of Services or any other increase provided for under this MSA. Upon completion of the Initial Term, we reserve the right to increase the Fees but will provide you with Written Notice before doing so.

5.6 Creditworthiness.

- (a) We may request that you provide us with information relating to your capacity to pay for our Services or the financial position of your business. This assists us in assessing business risk and determining your ongoing capacity to pay us.
- (b) You must provide us with any documentation or financial statements that we reasonably request within 5 Business Days. Usually, we will only require a Certificate of Solvency, but we may request other supporting documentation if needed.
- (c) If you cannot provide the requested documentation, you must provide us with written reasons within 5 Business Days of the initial request. If you fail to do so, we may suspend the provision of Services, impose a reduced credit limit, require pre-payment for future Services, or take any other action we deem necessary until satisfactory information is provided.

5.7 Fixed Contract Period. Where you have purchased a Fixed Contract Service and:

- (a) you terminate a Service prior to the expiry of its Initial Term (other than in accordance with Sections 15.1 or 15.2); or

- (b) we terminate that Service, all Services, or this MSA before the expiry of the relevant Initial Term(s) pursuant to Sections 15.1 or 15.3 (excluding subsections 15.3(a)(ii), (vii), and (viii)),

then any unpaid Fees for the Fixed Contract Services will become immediately due and payable for the remainder of each applicable Initial Term.

5.8 Security Deposit.

- (a) Where you fail to pay our Fees under this MSA or an Additional Document, or where we consider it necessary to maintain confidence in your ability to meet payment obligations, we may give you Written Notice requiring you to provide a security deposit ("**Security Deposit**").
- (b) The amount of any Security Deposit we require may not exceed a total of 6 months of Fees for all of your current Services combined.
- (c) Where we require payment of a Security Deposit, you must pay it to a bank account we nominate within 5 Business Days of the date of our Written Notice. Failure to do so constitutes a default under this MSA and may result in immediate suspension or termination of the affected Services.
- (d) We will hold the Security Deposit as security for all Fees relating to your Services. If you fail to make any payment by the due date, you authorise us to deduct the corresponding amount from the Security Deposit. Where a deduction is made, you must immediately pay us, upon request, an amount equal to the sum deducted to restore the Security Deposit to its original balance.
- (e) We may increase the required Security Deposit to reflect any increase in your total Fees for Services. Any unused portion of the Security Deposit will be returned to you following termination of this MSA, subject to the settlement of all outstanding amounts.

5.9 **Group Invoices.** Services under this MSA may be performed and invoiced by any of our Affiliates, entities, or related bodies corporate. Where an Affiliate issues an invoice for Services, you must pay that invoice as if it was rendered by us.

5.10 **Acknowledgements.** You acknowledge and agree that we may pay commission or referral fees in connection with the Services you purchase from us.

5.11 **Credit Checks.** You authorise us to use any information you provide (including Personal Information) to conduct any enquiries we consider reasonable in assessing your creditworthiness, including checking your credit history with credit reporting agencies. We may perform checks before, during, or after providing any Services.

6. Equipment

6.1 **Title to Equipment.** From time to time, we may install or provide equipment as part of a Service. Where we do:

- (a) we or our Supplier(s) retain all right, title, and interest in that equipment and may register our interest in it on any applicable personal property securities register;
- (b) you must reimburse us for all of our reasonable Costs we incur in repairing or replacing equipment that is lost, damaged, or otherwise adversely affected while under your control (or that of your Associated Persons), excluding normal fair wear and tear; and
- (c) where the equipment is installed at your premises (or those of your Associated Persons), you must ensure there is adequate space for installation and are responsible for providing the necessary power to operate the equipment.

6.2 **Controlled Hardware.** Without limiting Section 14, we, our Affiliates, and our Suppliers retain title to GPU Hardware and other equipment used to provide Advanced Compute Services unless title transfers under an Additional Document, signed bill of sale, or other written transfer instrument executed by us after every stated transfer condition is satisfied.

7. Confidentiality

7.1 **Confidential Information.** Each party acknowledges that, in connection with performing its obligations under this MSA, it may receive Confidential Information that is proprietary and confidential to the other party or of that party's Associated Persons. Each party agrees not to use or disclose any Confidential Information of the other party, or of that party's Associated Persons, except as permitted under this MSA or with the other party's prior written consent.

7.2 **Disclosure and Return.**

- (a) Either party may use or disclose Confidential Information strictly to the extent necessary to:
- (i) carry out its obligations under this MSA;
 - (ii) comply with any law, binding directive of a regulator, or court order;
 - (iii) comply with the listing rules of any stock exchange on which its (or its Affiliates) securities are listed; or
 - (iv) obtain professional advice, provided the advisor is bound by an equivalent obligation of confidentiality.
- (b) At the request of a party, the other party must return all Confidential Information received and must not retain any copies, reproductions, or extracts of that Confidential Information, except as may be retained in accordance with

prudent business practices. Any retained material will remain subject to the confidentiality provisions of this MSA without any time limit.

- (c) You acknowledge and agree that we make no representation or warranty, express or implied, as to the accuracy, correctness, or completeness of any Confidential Information.
- (d) You agree that neither we nor any of our Associated Persons have Liability to you arising from the use of Confidential Information by you or your Associated Persons.

8. Intellectual Property

8.1 Client Materials.

- (a) You (or, where applicable, any third party owner) retain ownership of all Intellectual Property rights in the Client Materials. Such rights are not assigned or transferred to us.
- (b) You grant us (and our Associated Persons, as applicable) a revocable, royalty-free, non-transferable license to use, copy, modify, and adapt any Intellectual Property in the Client Materials as reasonably necessary to provide the Services and perform our obligations under this MSA.

8.2 Pre-existing IP. Unless otherwise agreed, each party retains ownership of all Intellectual Property rights in material owned or created by that party independently of this MSA (even if incorporated into a Service). No such Intellectual Property is assigned or transferred under this MSA.

8.3 Third Party Material. We may incorporate third party materials into the Services. Use of third party materials may be subject to Third Party Terms, open source licensing terms, or other terms notified to you.

8.4 Ownership of Intellectual Property. The parties agree that all Intellectual Property rights in:

- (a) the Services, Software, and any other material developed by us under this MSA; and
- (b) any improvements, modifications, or enhancements to the Services, and any other material developed by us in connection with the Services,

will vest in, and are owned by, us upon creation, even if based on your new feature requests, feedback, or other input.

8.5 Licence.

- (a) Provided that you comply with your payment obligations, we grant you a limited, non-exclusive, revocable, royalty-free licence to use our Intellectual Property to the extent that it is incorporated as part of the Services under this MSA.
- (b) The licence granted under Section 8.5(a):
 - (i) includes the right to use the Services for commercial purposes, subject to any licence limitations set out in this MSA or the relevant Additional Document;
 - (ii) may not be sublicensed except as reasonably necessary for you to maintain any Services; and
 - (iii) is not transferable without our written consent.
- (c) Without limiting your rights at law, and subject to any conflicting rights granted by this MSA or Additional Documents, you agree that you will not, without our written consent:
 - (i) sell, sublicense, rent, lease, lend, modify, alter, translate, reproduce, transmit, distribute, publicly display, publicly perform, publish, adapt, or edit any part of our Intellectual Property;
 - (ii) combine or incorporate our Intellectual Property in any programme or system without our consent in writing; or
 - (iii) copy our Intellectual Property, in whole or in part,

and you must ensure that you do not enable or permit any other person with whom you are associated to do any of the above.

8.6 IP Addresses and Network Space.

- (a) Any internet protocol address ("IP Address") we allocate to you as part of this MSA or a Service remains our Intellectual Property. Nothing in this MSA assigns any rights to IP Addresses provided to you, and you shall only use them in connection with the Service. All IP Addresses are used under a limited, revocable licence.
- (b) Where a Service is terminated for any reason, your licence to any associated IP Addresses will immediately cease, and we may deal with them as we see fit.
- (c) Any space or addresses we provide you on Our Network is for use with the relevant Service only and must be returned upon termination or suspension of the Service (or this MSA).
- (d) You acknowledge and agree that we may cease your use of any areas of Our Network referred to in this Section 8.6 without further notice to you upon suspension or termination.

8.7 Publicity Rights. Unless you notify us in writing that you revoke such consent, you grant to us, and our Associated Persons (as applicable), a non-exclusive and revocable licence to:

- (a) use your logo, trademarks, and other branding rights to advertise or promote the Services;
- (b) publish general case studies describing your use of the Services in general terms for academic or promotional purposes; and
- (c) display, link to, or promote your business as part of our portfolio.

Notwithstanding this Section 8.7(a), it is our usual practice to request permission before using your logo, trademarks, or other branding in public, particularly in any press releases.

9. Indemnity and Limitation of Liability

9.1 Client Indemnity.

- (a) You agree to release, indemnify, defend, and hold us harmless (including our Indemnified Officers) against any Claim or Liability arising from or in connection with:
 - (i) your misuse of the Services, Software, or Products;
 - (ii) your breach of any law, warranty, or infringement of any third party rights (including Intellectual Property rights);
 - (iii) your instructions causing us to be in breach of any law, regulation, or infringement of any third party rights;
 - (iv) any loss of, or damage to, persons or property (including data) caused by your acts or omissions;
 - (v) any Claim brought by a third party against us arising out of your use of the Services or of your acts or omissions; or
 - (vi) your breach of Export Control Laws, sanctions, Vendor Requirements, restricted-party requirements, end-use or end-user restrictions, diligence obligations, or any declaration or information obligation relating to Advanced Compute Services.
- (b) You further agree to release us, and to indemnify and defend us against any Claim brought by your Affiliates, customers, or End Users, arising from or in connection with:
 - (i) our actions taken in accordance with legal obligations, regulatory requirements, or court orders;
 - (ii) any issues arising from or relating to a Supplier (as contemplated by Section 11.7), except to the extent caused by our gross negligence or wilful misconduct;
 - (iii) our reasonable actions taken to suspend or deny access to the Services for security, operational, or compliance reasons;
 - (iv) any Unforeseen Event;
 - (v) the physical failure of, or damage to, a fibre-optic cable (including submarine cables); and
 - (vi) any downtime, interruption, data loss, or Service failure.
- (c) You indemnify us for any reasonable legal expenses we incur as a result of your breach of this MSA, including expenses for enforcing payment, on an indemnity basis.
- (d) You similarly agree to release, indemnify, and hold harmless our Suppliers against any Claim or Liability arising from any of the matters listed in Section 9.1(a) and (b).

9.2 Limitation of Liability.

- (a) We only accept liability to you as set out in this Section 9.2, or as required by consumer or other laws that cannot be excluded by contract.
- (b) To the fullest extent permitted by law:
 - (i) neither party is liable to the other for any indirect, special, pure economic, or Consequential Loss (whether arising under contract, tort, statute, or otherwise);
 - (ii) all Services are provided on an 'AS IS' basis, and all warranties or guarantees implied by law or statute are excluded;
 - (iii) we are not liable for any Claims, losses, or Liability arising from our compliance with any lawful direction, warrant, or notice issued by a Government Agency (including regarding interception or data access);
 - (iv) our liability for any breach of a condition or warranty that cannot be excluded by law is limited (at our election) to:
 - (A) in the case of Services, supplying the Services again, or paying the cost of having the Services supplied again; and
 - (B) in the case of Products, repairing or replacing the Product, or paying the cost of having the Product repaired or replaced; and

- (v) notwithstanding any other provision to the contrary, our total aggregate liability (including that of our Indemnified Officers) in connection with this MSA or the Services, whether under contract, tort, statute, or otherwise, will in no circumstances exceed the total Fees paid by you in the 3 months immediately preceding the event giving rise to the claim.

9.3 **Costs.** Subject to our obligations under any applicable consumer laws, we exclude all other liability to you for any Costs, including Consequential Loss, suffered, or incurred (whether directly or indirectly) by you in connection with this MSA or the Services. This limitation applies regardless of how such Costs arise, including under contract, tort (whether or not arising from our negligence), statute, or otherwise.

9.4 **Additional Documents.** Where you fail to comply with any Additional Document, you acknowledge and agree:

- (a) that such failure may adversely affect our ability to provide the Services; and
- (b) to release us from any obligation or Liability (including obligations to meet service levels, or to provide rebates, compensation, or other remedies required by applicable laws) to the extent that such obligation or Liability is caused or contributed to by your failure to comply with the requirements of an Additional Document.

10. Suspension and Unforeseen Events

10.1 Your Default and Suspension.

- (a) We may suspend the Services under this MSA or any Additional Documents at any time and provide you a Notice of Default if:
 - (i) you fail to make any payment when due, or any payment is dishonoured or subject to chargeback, subject to Section 5;
 - (ii) you breach your obligations to us, or we have reasonable cause to believe you have done so;
 - (iii) you fail to provide clear and timely instructions after repeated requests by us;
 - (iv) you cause any malicious code or other damaging virus, malware, or code to be uploaded to our servers or software;
 - (v) you use the Services or any other Software, Products for Mission Critical or High-Risk Activities without:
 - (A) notifying us;
 - (B) obtaining our written permission; and
 - (C) signing any and all additional documentation required for the same;
 - (vi) we have reason to suspect illegal or fraudulent activity in relation to your data;
 - (vii) in our reasonable opinion your data, network, software, or equipment may be causing damage to any person or property; or
 - (viii) we reasonably believe that continued provision of the Services, any Advanced Compute Service, GPU Hardware access, hardware transfer, or post-term service may breach Export Control Laws, sanctions, Vendor Requirements, restricted-party requirements, a regulator direction, or our compliance policies.
- (b) Suspension of Services under this Section does not affect your liability to make payment and will end when the issue giving rise to the suspension is remedied to our reasonable satisfaction.
- (c) We may reinstate the Services after the cause of suspension has been remedied. However, we make no guarantees about the timeliness of this reinstatement. We reserve the right to charge a reconnection fee equal to our reasonable Costs incurred in suspending and reactivating any Services.

10.2 Unforeseen Events.

- (a) If a party is affected by an Unforeseen Event, they must promptly notify the other party of the circumstances. The parties' obligations (other than an obligation to pay money) are suspended for the duration of and to the extent that they are affected by the Unforeseen Event.
- (b) Where an Unforeseen Event continues for more than 30 consecutive days, the nonaffected party may terminate this MSA by Written Notice.
- (c) Section 10.2(b) shall not apply where the Unforeseen Event relates to a failure of or any issue with a submarine cable.
- (d) For Advanced Compute Services and GPU Capacity, a delay affecting a target delivery date, capacity-ready date, go-live date, procurement milestone, deployment milestone, onboarding milestone, hardware transfer date or other target date does not give rise to a termination right under this Section merely because the delay continues for more than 30 consecutive days, unless the applicable Additional Document expressly states that the relevant date is fixed and that this Section applies to that delay.

11. Our Network

11.1 Fault Reporting.

- (a) You must report any Faults related to Our Network or the Services to the NOC promptly after you become aware of them.
- (b) Before you report a Fault to our NOC, you must take reasonable steps to ascertain that the origin of the Fault does not originate from Your Network, equipment, applications, systems, or any other hardware or software you use to interface with Our Network.

11.2 Fault Restoration and Responsibilities.

- (a) Subject to any SLA provided in relation to a Service, we will use our commercially reasonable efforts to rectify any Fault which is directly attributable to Our Network and parts of the Services under our direct control, however:
 - (i) we make no guarantees that any Fault will be rectified within any specific timeframe;
 - (ii) we are not responsible for rectifying Faults which arise from issues attributable to Your Network, equipment, or any other aspect under your control;
 - (iii) we are not responsible for rectifying Faults which arise in or are caused by Suppliers or third parties (but we will request that such Faults are rectified);
 - (iv) you acknowledge that Faults are an inherent part of the normal operation of a telecommunications network and that you are not entering into this MSA under the assumption that there will not be Faults; and
 - (v) you warrant to us that you will take measures to prepare for the occurrence of Faults (including building redundancies into Your Network).
- (b) You acknowledge and agree that you will be liable for any and all Costs we incur in restoring a Service due to a Fault, where that Fault is caused by:
 - (i) your actions, or the actions of your employees, agents, contractors, customers, End Users, representatives, or associated third parties; or
 - (ii) a fault or defect in equipment or software under your control (or under the control of your associated third parties) which is not owned or provided by us.

11.3 **Change of Services.** We reserve the right to upgrade, maintain, tune, backup, amend, redesign, improve, or otherwise alter the Services (including adding or removing features, or offering new Services) at our sole and absolute discretion.

11.4 **Intentional Maintenance.** We reserve the right to perform maintenance on some or all of the Services from time to time as is required for the proper operation of Our Network. We will use commercially reasonable efforts to provide you with advance notice of any maintenance period, but you accept that emergency maintenance may be required where notice is not possible, and we are not liable for any harm or damage you may suffer during any maintenance.

11.5 Unintentional Inaccessibility.

- (a) From time to time, without notice, access to all or part of the Services may be disrupted or limited due to factors beyond our control.
- (b) During such an interruption, we will use commercially reasonable efforts to restore access to the Services as soon as practicable.
- (c) Subject to any applicable SLA, nothing in this MSA gives us any obligation or liability to you in any way whatsoever for unintentional inaccessibility or interruptions, and you accept that in the case of emergencies, notice may not always be possible.
- (d) We may suspend a Service without notice where we reasonably consider it necessary to:
 - (i) protect the integrity of Our Network;
 - (ii) protect the health and safety of any person;
 - (iii) respond to an emergency; or
 - (iv) comply with any law or order.

11.6 **Security Responsibilities.** We will take commercially reasonable steps to ensure that the Services and any Software are secure from unauthorised access consistent with generally accepted industry standards. For clarity, these obligations are limited to taking commercially reasonable measures to:

- (a) secure our physical premises from unauthorised access;
- (b) restrict access to critical parts of Service infrastructure to employees, contractors, and third parties who have a legitimate need to have access; and
- (c) maintain and regularly review reasonable security protocols regarding any connections, Software, and Services.

11.7 Supplier Risk.

- (a) You acknowledge that our ability to provide the Services relies on the services and networks of Suppliers.
- (b) You acknowledge and agree that in using Our Network and the Services:
 - (i) you may be adversely affected by the acts or omissions of Suppliers;
 - (ii) we may be unable to provide certain Services if our relationship with a Supplier terminates or changes;
 - (iii) Suppliers may experience Insolvency Events, remove products or services, or be subject to other adverse occurrences beyond our control; and
 - (iv) while we use commercially reasonable efforts to mitigate adverse effects caused by a Supplier, we do not make any guarantee that we can re-establish affected areas of Our Network.
- (c) Subject to any applicable SLA, you acknowledge that Our Network and the Services, to the extent they rely on Suppliers, are provided on an 'AS IS' basis. By placing an Order, you accept this acceptable risk.
- (d) Where our agreements with Suppliers require us to ensure that you do not take any action against them, you agree to release those Suppliers from all Liability to you. You further agree not to bring any Claim against a Supplier arising under this MSA without our prior written approval.

11.8 DDoS Protection. Our DDoS Protection is provided 'in-line' on Our Network, meaning that all traffic passes through our scrubbing appliances prior to entering Our Network. While we use enterprise-grade mitigation devices and have significant filtering headroom, our DDoS Protection is not limitless. Accordingly, you acknowledge and agree that:

- (a) all DDoS Protection is offered 'AS IS' and is provided based only on the current DDoS scrubbing footprint within Our Network as it exists from time to time;
- (b) we cannot guarantee DDoS Protection against attacks that are either beyond the limits of our capacity (e.g., state level and/or large-scale DDoS attacks) or which are not actively filtered by our equipment (e.g., new, or complex Layer-7 attacks);
- (c) we do not provide discrete or specialised DDoS Protection to any IP Transit customers, and any DDoS Protection on these services will be simply the existing in-network protection;
- (d) notwithstanding Section 11.8(c), we may provide specialised DDoS products, however, these will be subject to their own specific agreements and SLAs, and any further protection afforded will be expressly set out therein;
- (e) we give no guarantees that our DDoS Protection will provide complete protection from attacks, be error-free, or otherwise meet any specific outcome, goal, or expectation you may have;
- (f) all liability for standard DDoS Protection, DDoS attacks, or related events is expressly excluded from this MSA and we will not be liable to you for any Costs or Liability including direct, indirect, incidental, punitive or special loss, Consequential Loss or exemplary damages and regardless of the form of action or claim (whether contract, tort, strict liability, or otherwise), even if we have been informed of the possibility thereof; and
- (g) you will notify us in advance if enhanced DDoS protection is required, so that we may tailor a custom solution for you. Such solutions will incur additional cost and/or latency and will be subject to a separate agreement.

12. Account, Credit and Personal Property Securities Register

12.1 Application. This Section 12 only applies where we have provided you with a Credit Account under a valid Credit Agreement.

12.2 Ability to Pay.

- (a) To be eligible for a Credit Account, you must:
 - (i) complete the Credit Account request form attached to the initial Additional Document;
 - (ii) provide us with any evidence we request which demonstrates that you are able to meet your payment obligations to us as they fall due; and
 - (iii) comply with the terms listed on that request form and this Section 12.
- (b) Prior to providing you access to a Credit Account, and for the term of this MSA, we reserve the right to:
 - (i) check your credit history with institutions of our choosing;
 - (ii) request information regarding your financial position, including cash flow, expenses, and projected revenue; and
 - (iii) take all other actions we deem reasonably necessary to satisfy ourselves that you will discharge your payment obligations under this MSA.
- (c) We may refuse to provide a Credit Account, suspend or terminate your Credit Account, or terminate this MSA at our complete discretion where you fail to comply with our requests under Section 12.2(b).

12.3 Credit Agreement.

- (a) You may obtain Services, Products, and other goods under this MSA up to the amount of your credit limit. The credit limit is stipulated in your Credit Agreement.
- (b) You must comply with all terms, payment periods, and requirements of any Credit Agreement you enter into with us for a Credit Account.
- (c) We reserve the right to suspend the provision of Services, Products, and other goods on credit and may (in our discretion) suspend or terminate the Credit Agreement or Credit Account entirely if:
 - (i) you breach any term of this MSA;
 - (ii) you breach any term of the Credit Agreement;
 - (iii) you do not make payments on your Credit Account within the period stipulated; or
 - (iv) you exceed the credit limit.
- (d) You expressly release and discharge us from any Liability to you for a suspension or termination of a Credit Account or Credit Agreement under Section 12.3(c).
- (e) You acknowledge that the provision of a Credit Account is a discretionary facility provided entirely at our option, and that you have no inherent or continuing right to that facility. You agree that we may revoke your Credit Account at any time without prior notice to you.
- (f) We may update, amend, or vary any of the terms on which we provide you a Credit Account at our complete discretion. Your continued use of the Credit Account is considered acceptance of all terms and conditions which relate to the provision of that account.
- (g) Where you do not agree with any updated terms and conditions as they relate to a Credit Account, your sole and exclusive remedy is to cease usage of the Credit Account altogether.
- (h) You indemnify us for any failure to comply with the Credit Agreement or misuse of your Credit Account, including any legal costs, Consequential Loss, or other damages which flow from that breach.
- (i) You acknowledge and agree that we may charge interest and other fees on the Credit Account. We may update these fees at any time and will notify you of changes in relation to the same within a commercially reasonable timeframe.

12.4 Security Interest.

- (a) As a condition of providing a Credit Account, we may require that you provide Collateral.
- (b) You acknowledge that this MSA constitutes a Security Agreement for the purposes of any applicable personal property securities laws and you irrevocably consent to us registering our Security Interest on any applicable personal property securities register.
- (c) To secure your obligations under this MSA and Credit Agreement, including any obligation to pay any amount to us, you:
 - (i) grant to us a Security Interest in respect of the Property and any proceeds thereof;
 - (ii) consent to us perfecting such Security Interest by registration on any applicable personal property securities register, including as a Purchase Money Security Interest;
 - (iii) undertake to do all things reasonably necessary or required by us to assist us in perfecting the registration of the Security Interest on any applicable personal property securities register; and
 - (iv) waive, to the extent permitted by any applicable personal property securities laws, your right to receive any notice of a verification statement or any other notice we would otherwise be required to give.

12.5 Dealing with Secured Collateral. In relation to any Collateral for which we have a Security Interest under this MSA, you agree and warrant that you:

- (a) have good and valid title to the Collateral;
- (b) will disclose any and all encumbrances over the Collateral to us promptly;
- (c) will not create or permit any other encumbrances over the Collateral without our prior written consent; and
- (d) will not sell, dispose of, grant a licence or lease in, give control to another, part with possession of, allow the value to be reduced, commingle, or deal with the Collateral in any way which could be harmful to our interests without our prior written consent.

12.6 Enforcement. If any applicable personal property securities laws would otherwise apply to the enforcement of this MSA, you agree that, to the extent permitted by law, any provisions regarding the following will not apply to the enforcement of this MSA:

- (a) notice of removal of accession;
- (b) notices regarding enforcement of liquid asset;
- (c) notices of disposal;

- (d) contents of statement of account (including after disposal);
- (e) notices of retention;
- (f) redemption of collateral; and
- (g) reinstatement of security agreement.

13. Mission Critical and High-Risk Activities

13.1 Reliance Not Permitted for Standard Services.

- (a) The Services, including any Products we provide under this MSA or any associated Additional Documents, are not intended for use in any Mission Critical or High-Risk Activity in their 'standard' form.
- (b) You must not use the Services for any Mission Critical or High-Risk Activity without our prior written consent. Examples of such activities include the operation of nuclear facilities, air traffic control, life support systems, or any other use where the failure of Services could lead to death, personal injury, serious financial cost, or environmental damage.
- (c) If you intend to use any Service or Product we provide to you for Mission Critical or High-Risk Activities, you must notify us prior to commencing any such use.
- (d) Where you wish to use our Services or Products for Mission Critical or High-Risk Activities, we reserve the right to:
 - (i) require that you sign additional agreements or documentation;
 - (ii) require that you upgrade or purchase specific hardware or software;
 - (iii) require that you purchase additional Services;
 - (iv) require that you implement redundancies and backup measures in case of a failure within Our Network;
 - (v) provide your staff with additional training;
 - (vi) issue further documentation, policies, and procedures in your organisation wherever critical communications solutions will be implemented;
 - (vii) increase our Fees; and
 - (viii) do any other act or thing we consider necessary in light of the particular Mission Critical or High-Risk Activity.

13.2 No Liability for Breach.

- (a) You acknowledge and agree that the requirements of Section 13.1 are reasonable considering the difference in standard Services usage and usage for Mission Critical or High-Risk Activities.
- (b) If you fail to comply with Section 13.1, including failing to strictly adhere to any directions or recommendations we give in relation to Mission Critical or High-Risk Activities, you agree to indemnify, defend, and hold us harmless against any Claim, Loss, or Liability arising from or in connection with such failure.
- (c) To the fullest extent permitted by law, we exclude all liability for use of our Products or Services for Mission Critical or High-Risk Activities where you have not obtained our prior written consent.

13.3 Requirement Extends to Third Parties. Where any of your Affiliates or associated third parties (and their agents, employees or assigns) have access to our Services, Products, or Software and could use them for Mission Critical or High-Risk Activities, you agree to:

- (a) notify us of such intended use prior to any use for such a purpose;
- (b) obtain any consents, agreements, and warranties requested by us (at our sole discretion); and
- (c) do all acts and things necessary to ensure that those Affiliates or associated third parties comply with the requirements of this MSA, any Additional Documents, and any other associated terms, policies, or procedures agreed between the parties from time to time.

13.4 Initial Permitted Mission Critical or High-Risk Activities. Any permitted Mission Critical or High-Risk Activities, and any terms associated with those activities, will be set out in the relevant Additional Document. Unless expressly stated in an Additional Document, no Mission Critical or High-Risk Activities are permitted.

14. Advanced Compute, GPU Capacity, and Controlled Hardware Services

14.1 Application.

- (a) This Section applies to Advanced Compute Services and any related Products, Software, GPU Hardware, data centre services, networking, storage, orchestration, cloud platform access, support, post-term services, purchase option or hardware transfer described in an Additional Document.
- (b) If an Additional Document contains more specific terms for an Advanced Compute Service, those terms apply to that Advanced Compute Service and prevail to the extent of any inconsistency with this Section.

- (c) For clarity, an Advanced Compute Service may be governed by this MSA where the applicable Additional Document states that this MSA applies, even if the service uses cloud platform features, a Customer Management Platform, APIs, orchestration, reserved capacity, GPU clusters or other cloud-like functionality.

14.2 Service Model.

- (a) Unless the applicable Additional Document expressly states otherwise, Advanced Compute Services are services and do not constitute a sale, lease, financing arrangement, loan, security arrangement, partnership, joint venture, lease of real property, data centre licence, or grant of any property interest in GPU Hardware, data centre space, racks, cages, power infrastructure, cooling infrastructure, cabling, network infrastructure, Software, platform tooling or any Supplier or vendor assets.
- (b) We, our Affiliates, or our Suppliers retain all right, title and interest in GPU Hardware and related infrastructure unless and until title transfers under a signed bill of sale or other written transfer instrument executed by us after every condition in the applicable Additional Document has been satisfied.
- (c) Any upfront payment, prepayment, committed charge, security deposit or other payment for an Advanced Compute Service is service consideration unless the applicable Additional Document expressly states otherwise. No such payment creates any present, future, contingent, beneficial, equitable, possessory or security interest in GPU Hardware.

14.3 Procurement, Delivery, Acceptance and Substitutions.

- (a) Delivery dates, capacity-ready dates, and service commencement dates for Advanced Compute Services are targets unless expressly stated to be fixed dates in the applicable Additional Document. They are subject to vendor supply, customs, import/export clearance, site readiness, power, cooling, network delivery, cross-connect delivery, permits, Supplier performance, Vendor Requirements, compliance review, and customer dependencies.
- (b) We are not liable for delay to the extent caused by a GPU vendor, OEM, data centre operator, carrier, customs authority, regulator, Supplier, logistics provider, power utility, customer dependency, Vendor Requirement, compliance review, Export Control Law, or other circumstance outside our reasonable control.
- (c) We may repair, replace, reconfigure, relocate or substitute GPU Hardware, components, firmware, network equipment, Software, or platform elements with equivalent or better alternatives where required for availability, supply chain, security, performance, vendor lifecycle, maintenance, support, safety, compliance, or operational reasons.
- (d) Acceptance tests, if any, apply only to the technical acceptance criteria expressly stated in the applicable Additional Document. Acceptance, deemed acceptance, production use, or payment does not waive our rights relating to compliance, Export Control Laws, Vendor Requirements, suspension, termination, audit, post-term services, or hardware transfer conditions.

14.4 Customer Workloads, Data, Users and Downstream Use.

- (a) You are responsible for all workloads, models, datasets, applications, containers, images, Software, user-space libraries, credentials, keys, access controls, network destinations, results, outputs, and Customer or End User materials used with or generated from Advanced Compute Services.
- (b) You are responsible for all acts and omissions of End Users, Resellers, Downstream End Users, and any person accessing Advanced Compute Services through your environment, credentials, accounts, APIs, systems, networks, or commercial arrangements.
- (c) You must maintain backups, checkpoints, business continuity, and disaster recovery arrangements suitable for your workloads. Unless expressly agreed in an Additional Document, we are not responsible for model accuracy, training completion, inference results, workload efficiency, dataset integrity, application compatibility, customer-side tuning, business outcomes, or loss of Customer data arising from your workloads, Software, credentials, or configurations.
- (d) You must not resell, sublicense, broker, white-label, sub-host, pool, share, or otherwise provide access to an Advanced Compute Service to any person or entity except to the extent expressly permitted in the applicable Additional Document and accepted by us in writing.

14.5 Diligence, Sanctions, Export Controls and Restricted Use.

- (a) You must provide, and must procure that End Users, Resellers, and Downstream End Users provide, information reasonably requested by us for customer diligence, beneficial ownership checks, sanctions screening, export-control screening, restricted-party screening, end-use assessment, anti-bribery, anti-money laundering, tax, Vendor Requirement, and similar compliance purposes.
- (b) We may screen and rescreen you, your Affiliates, beneficial owners, directors, officers, authorised signatories, End Users, Resellers, Downstream End Users, workloads, destinations, access countries, payment counterparties, financing parties, and other relevant persons against applicable restricted-party, sanctions, and defence-related lists. Unless the applicable Additional Document states otherwise, we may do so at ordering, before procurement, before onboarding, before accepting new users or downstream users, periodically during the term, before any hardware transfer, or post-term services, and at any other time we reasonably consider appropriate.
- (c) You authorise us to use third-party screening providers and to share relevant diligence, screening, end-use, end-user, workload, and compliance information with vendors, OEMs, Suppliers, data centre providers, carriers, regulators,

lenders, insurers, and professional advisors where reasonably required for compliance, Vendor Requirements, financing, insurance, legal, or audit purposes.

- (d) You must not use, provide access to, transfer, export, re-export or otherwise make available Services, GPU Hardware, Software, firmware, technical data, Controlled Technology, output, model weights, training results, inference results, credentials, remote-access pathways, or related items in breach of Export Control Laws, sanctions, defence trade controls, restricted end-use controls, anti-bribery laws, anti-terrorism laws, this MSA, an Additional Document, Vendor Requirements, or our policies.
- (e) You must not allow access to or use of Advanced Compute Services by or for Restricted Parties, prohibited military end users, prohibited military end uses, prohibited weapons end uses, restricted supercomputer or advanced-computing end uses, sanctioned jurisdictions, Restricted Access Jurisdictions, or any person, jurisdiction, device, destination, or access pathway where a licence, permit, consent, or other authorisation is required but has not been obtained and accepted by us in writing.
- (f) You must not self-blind, ignore red flags, structure around diligence obligations, use intermediaries to obscure ownership, control, end use or end users, or fail to investigate facts that would give a reasonable person reason to know that a use, user, end user, destination, workload, or transaction may be restricted. You must promptly disclose to us any fact or circumstance that may affect our compliance position or create reason to know under applicable export-control rules.
- (g) We may suspend, delay, withhold, decline, modify, or terminate Services, procurement, onboarding, access, support, hardware transfer, post-term services, or any other performance if we reasonably believe that providing or continuing them may breach applicable law, Export Control Laws, sanctions, restricted-party requirements, Vendor Requirements, or our compliance policies. We are not required to give notice or an opportunity to cure where we reasonably believe notice or delay may prejudice our compliance position, a vendor position, or any regulator investigation or enforcement process.

14.6 Vendor Requirements.

- (a) Our provision of Advanced Compute Services and related Products may depend on Vendor Requirements. You must comply with Vendor Requirements notified by us to the extent they apply to the Services, Products, GPU Hardware, Software, firmware, access model, end use, end users, Downstream End Users, hardware transfer, or post-term services.
- (b) We may provide supplemental Vendor Requirements, require you to sign vendor compliance declarations, or require supporting information where reasonably required for us to remain compliant with vendor, export-control, supply-chain, support, data centre, carrier, financing, insurance, or legal obligations.
- (c) We are not in breach of this MSA or any Additional Document to the extent we suspend, delay, withhold, decline, modify, or terminate performance to comply with Vendor Requirements or avoid breach of obligations owed to a Supplier or vendor.

14.7 Conditional Hardware Transfer and Post-Term Services.

- (a) Any purchase option, title transfer, bill of sale, or post-term transfer of GPU Hardware is conditional and occurs only if expressly stated in an Additional Document and every transfer condition in that Additional Document is satisfied.
- (b) Transfer conditions may include full payment, ordinary expiry of the applicable Initial Term, no continuing breach or insolvency, refreshed compliance declarations, satisfactory screening, export-control clearance, required vendor consent, required legal, or export-control assessment, required licences or approvals, final asset schedules, data sanitisation requirements, a signed transfer instrument, and any other condition stated in the applicable Additional Document.
- (c) If a transfer condition is not satisfied, we may decline the transfer. Unless an Additional Document expressly states otherwise, you are not entitled to a refund of service consideration consumed over the applicable term merely because a conditional purchase option or hardware transfer does not occur.
- (d) Any transfer is on an as-is, where-is basis, with all faults and without warranty except title to the fullest extent permitted by law. Transfer excludes our Intellectual Property, Software, platform tooling, orchestration systems, telemetry, shared network assets, racks, cages, cabling, cross-connects, licences, data centre interests, support services, and third-party services unless expressly listed as transferred assets.
- (e) Continued use of GPU Hardware at a site, or continued use of our platform, network, support, or data centre services after any transfer or after expiry of the applicable term, requires a separate Additional Document and is subject to our then-current willingness to provide those services, site availability, Vendor Requirements, compliance clearance, and risk assessment.

14.8 Audit, Information Rights and Records.

- (a) We and our legal, compliance, technical, audit, insurance, and financial advisors may review or audit your compliance with this MSA and any Additional Document relating to Advanced Compute Services, including sanctions, export-control, end-use, end-user, Downstream End User, security, acceptable-use and Vendor Requirement obligations, at any time on reasonable suspicion of breach or upon request from a competent authority, vendor, Supplier, lender, insurer, or other relevant stakeholder.

- (b) Audits and reviews may include written questionnaires, document requests, interviews, access-log review, workload/access-country review, user-register review, evidence of screening, end-use attestations, and review of relevant policies and procedures. We will conduct audits in a manner reasonably designed to protect your Confidential Information and avoid unnecessary disruption.
- (c) You must cooperate with audits and information requests. If an audit identifies a material breach, inaccurate declaration, or material non-disclosure, you must reimburse our reasonable audit, legal and remediation costs, without limiting our suspension, termination, or indemnity rights.
- (d) We may share relevant audit outputs, diligence information, and compliance confirmations with vendors, OEMs, Suppliers, regulators, insurers, lenders, and professional advisors where reasonably required for compliance, vendor, financing, insurance, legal, or audit purposes.

14.9 Service Levels and Remedies.

- (a) Service levels, support targets, and service credits for Advanced Compute Services apply only if expressly set out in an Additional Document or signed SLA. Unless expressly stated, support targets are operational targets and not service-credit commitments. No schedule, service description or product-specific service level applies to an Advanced Compute Service merely because it is attached to or included with product-specific terms unless the applicable Additional Document, signed SLA or other Order Document expressly states that it applies.
- (b) Unless the applicable Additional Document or signed SLA expressly states otherwise, service credits are your sole and exclusive remedy for failure to meet an applicable service level, except for fraud, wilful default or liability that cannot be limited by law. Service credits are applied only as credits against future invoices unless required by law or expressly agreed by us.

14.10 Additional Indemnity.

- (a) Without limiting any other indemnity, you indemnify us, our Affiliates, personnel, Suppliers, and vendors against all Claims, losses, liabilities, fines, penalties, investigations, enforcement actions, costs, legal fees, remediation costs, service interruption costs, and expenses arising from or relating to: your breach of compliance, sanctions, export-control, end-use, end-user, Downstream End User or Vendor Requirement obligations; inaccurate, misleading, or omitted information; use of Advanced Compute Services or GPU Hardware by you, End Users, Resellers, Downstream End Users, or persons accessing through your environment; undisclosed or unapproved changes in ownership, control, financing, end use, users, destinations, or access pathways; or post-transfer use, transfer, export, re-export, financing, relocation, or encumbrance of GPU Hardware by you or your successors.
- (b) The indemnity in this Section is not subject to any contractual liability cap to the extent the liability arises from sanctions, export controls, anti-bribery, anti-money laundering, fraud, wilful misconduct, intentional non-disclosure, post-transfer use, or another compliance breach, except to the extent such uncapped treatment is not permitted by law.

14.11 Survival. This Section, and any provisions relating to payment, taxes, confidentiality, compliance, Export Control Laws, Vendor Requirements, customer responsibilities, limitations of liability, indemnities, audit rights, hardware transfer, post-term services, data handling, ownership, and no security interest, survive expiry or termination of this MSA and any applicable Additional Document.

15. Termination

15.1 Termination for Default; Both Parties. Either party may terminate this MSA and any Additional Documents immediately by Written Notice if the other party:

- (a) fails to remedy a breach specified in a Notice of Default within the required timeframe; or
- (b) experiences an Insolvency Event.

15.2 Termination by You.

- (a) You may terminate an Order by Written Notice prior to the Commencement Date for the relevant Service and pay to us any applicable early termination charges.
- (b) Early termination charges are calculated as set out in the Additional Document or Order. Where no calculation is specified, early termination charges will be calculated as 100% of the Fees payable for the Service for the entire Initial Term. You acknowledge and agree that this is a genuine pre-estimate of our loss considering that we may need to place similar orders for Supplier services in preparation for provisioning your Service and may not be able to cancel those orders without incurring early termination charges of our own.
- (c) Where we can cancel your Order or Service prior to the Commencement Date without incurring any loss, we may elect to reduce or waive entirely an early termination charge. However, you acknowledge and agree that we are under no obligation to do so.
- (d) After the conclusion of an Initial Term for a Fixed Contract Service, the termination rights in Section 1.2 shall apply.

15.3 Termination by Us.

- (a) We may terminate this MSA, an Additional Document, or an Order (as the case may be) by Written Notice to you if:

- (i) you fail to pay any amount due under this MSA or an Additional Document within 5 days of Written Notice from us;
 - (ii) a failure, issue, or Unforeseen Event occurs in relation to one of our Suppliers which prevents us from or affects our ability to deliver the Services;
 - (iii) you commit a breach of this MSA or any Additional Document which is incapable of remedy;
 - (iv) you fail to pay any Additional Supplier Charges when required;
 - (v) you breach any warranties you give to us;
 - (vi) you fail to comply with the Security Deposit requirements of Section 5.8;
 - (vii) we are unable to obtain or maintain any approval, licence, permit, lease, or instrument which is required for the provision of the Services;
 - (viii) we are required to terminate this MSA or the Services due to a change in law or a direction of any Government Agency;
 - (ix) you refuse or fail to comply with any terms of this MSA;
 - (x) you undergo a change of control without our prior written consent;
 - (xi) we reasonably believe that providing the Services to you would breach any applicable law or regulation (including sanctions laws); or
 - (xii) we reasonably believe that providing or continuing the Services, any Advanced Compute Service, GPU Hardware access, hardware transfer, or post-term service may breach Export Control Laws, sanctions, Vendor Requirements, restricted-party requirements, a regulator direction, or our compliance policies.
- (b) For clarity, where we have cause to terminate a single Service under Section 15.3(a) or otherwise:
- (i) you shall be considered in default of this MSA and all Additional Documents; and
 - (ii) we may elect to terminate this MSA and all other Services immediately.

15.4 Consequences of Termination.

- (a) If this MSA or a Service terminates for any reason, then in addition to any other rights we may have:
- (i) we may issue an invoice for Services delivered but not yet invoiced;
 - (ii) you must return all access codes, keys, and equipment that belong to us (or that we have provided to you, and you do not own clear title to);
 - (iii) you must provide us with reasonable access and all required assistance (on notice) to your premises for the purpose of disconnecting, removing, or decommissioning a Service and any related equipment;
 - (iv) you must remove all equipment you have within any data centre space we have provided within 5 Business Days;
 - (v) you must pay all of our outstanding invoices whether or not due, including any invoice issued under Section 15.4(a)(i); and
 - (vi) we retain a lien over all equipment and data in our possession until all outstanding invoices have been paid in full, including any invoice issued under Section 15.4(a)(i).
- (b) If a Service is terminated before the end of any applicable contract period for any reason, and we were not in default in relation to that Service, then in addition to the rights specified in Section 15.4(a) and any other rights we may have, all fees for the remainder of the contract period (if any) of that Service (calculated using the fees applicable as at the date of termination) become immediately due and payable. The parties agree that this is not a penalty but represents a genuine pre-estimate of our loss in light of our sunk infrastructure, effort, support, training, and implementation costs and ongoing commitments. This does not apply where we terminate the Service under Sections 15.3(a)(ii), 15.3(a)(vii), or 15.3(a)(viii).
- (c) Where you do not remove your equipment under Section 15.4(a)(iv) after we have provided at least 5 Business Days Written Notice to you, you waive any rights you have in that equipment and assign all right, title, and interest in that equipment to us, and we may dispose of such equipment at your expense.
- (d) A party not in default may pursue any other rights or remedies available at law against a defaulting party, subject to Section 9.

16. Security

16.1 General Security Obligations. You must use industry-standard security measures in connection with the Services (including any Products and Software). This shall include (but not be limited to) the following:

- (a) setting strong passwords and access control mechanisms;

- (b) safeguarding access to all hardware, systems, Customer Management Platforms, and Products from unauthorised use or tampering;
- (c) safeguarding access to all logins and passwords, including enforcing the use of multi-factor authentication where available;
- (d) verifying the trustworthiness of persons with access to the Services, Products, and Customer Management Platform;
- (e) performing regular checks on user accounts;
- (f) implementing appropriate policies and procedures to safeguard access to the Services, Products, and Software within your organisation;
- (g) providing adequate security training to your employees, contractors, and agents; and
- (h) implementing security controls consistent with industry best practice.

16.2 Notifiable Data Breaches. You must notify us immediately if you learn of any security breaches relating to your systems or the Services. If the breach(es) could constitute a breach of any applicable privacy laws, you must notify us immediately upon the breach (suspected or confirmed) coming to your attention. You must provide us with all reasonable assistance in any subsequent investigation or legal action taken in connection with the breach.

16.3 Malicious Code and Security.

- (a) It is your responsibility to protect your systems and the areas of the Services which are under your control from Malicious Code.
- (b) While we will take commercially reasonable measures to secure the Software and the infrastructure on which the Services run from cyberattacks and Malicious Code, you acknowledge that security threats evolve rapidly. By using the Services, you acknowledge that we cannot be expected to anticipate every new threat but can only employ industry-standard measures to mitigate the risks. Where we are actively employing standard measures to combat cybercrime and an exploit or data loss occurs, you agree to release us from any Liability regarding the same.

16.4 Insurance. You must obtain and maintain cyber liability insurance (or an equivalent policy covering electronic and computer crime) to a level consistent with prudent business practice. It is acceptable for this to be incorporated into an overarching general insurance policy.

16.5 Specific Release and Indemnity. You release and indemnify us against any Claim, loss, or Liability resulting from your failure to comply with this Section 16. You acknowledge that while we may secure the Software as part of the Services, we are unable to protect you from a failure to properly secure your business, educate your employees and agents, or practice security best practices.

17. Privacy

17.1 Privacy Policy.

- (a) You agree and consent to our handling of Personal Information in accordance with our Privacy Policy.
- (b) We may change the Privacy Policy at any time by publishing an updated version on our Website.
- (c) You acknowledge and agree to inform any of your employees, contractors, and any other relevant individuals, where reasonably necessary:
 - (i) of our Privacy Policy; and
 - (ii) that their Personal Information may be Disclosed to us.

17.2 Privacy Obligations - Service Provider. If Personal Information is Disclosed to us in connection with this MSA, we agree that we will not:

- (a) sell the Personal Information to any third party, except where that information has been de-identified such that it is no longer Personal Information; or
- (b) distribute or Disclose identifiable Personal Information to any third party other than:
 - (i) to our personnel and/or related bodies corporate; or
 - (ii) service providers who require the information to provide services to us;

provided such parties will only use the Personal Information for the purposes contemplated by this MSA.

17.3 Privacy Obligations - Customer. If Personal Information is Disclosed to you in connection with this MSA, you agree that you will not:

- (a) sell the Personal Information to any third party in any form; or
- (b) distribute or Disclose Personal Information to any third party other than:
 - (i) your personnel and related bodies corporate; or
 - (ii) service providers who require the information to provide services to you;

provided that such parties will only use the Personal Information for the purposes contemplated by this MSA.

17.4 No Warranty.

- (a) We make no warranties or guarantees that the manner in which we manage Personal Information is compliant with any foreign privacy laws (laws outside of the jurisdiction governing this MSA). It is your sole responsibility to ensure you are compliant with any foreign privacy laws in your use of the Services.
- (b) If you request changes to the Services to achieve compliance, you acknowledge and agree that any such work will be considered an Out-of-Scope Service.

18. Open Source Software

18.1 Key Reliance.

- (a) You acknowledge that we use Open Source Software in the delivery of the Services.
- (b) You acknowledge and agree that:
 - (i) we may use Open Source Software in our core Services; and
 - (ii) we may use any Open Source Software we deem appropriate for the fulfilment of the Services.

18.2 Liability.

- (a) Open Source Software is provided on an 'AS IS' basis.
- (b) To the fullest extent permitted by law, we are not liable for any deficiencies, issues, or vulnerabilities within Open Source Software.
- (c) Notwithstanding Section 18.2(b), where Open Source Software used in the Services is deprecated or found to contain critical vulnerabilities, we will use commercially reasonable efforts to update, patch, or replace that software within a commercially reasonable timeframe.

19. Affiliates

19.1 Our Affiliates.

- (a) The Services may be provided to you by us or our Affiliates.
- (b) We reserve the right to require that you contract with an Affiliate separately, however unless we require otherwise, this MSA will form the framework for your relationship with any of our Affiliates.
- (c) You acknowledge and agree that any debt you owe under this MSA is a debt owing to us, regardless of how it arose or which Affiliates were involved.

19.2 Your Affiliates.

- (a) You may authorise your Affiliates to utilise the Services under this MSA.
- (b) To do so, you must provide us with written details of the Affiliate and ensure that the Affiliate executes an agreement (in a form satisfactory to us) agreeing to be bound by this MSA.
- (c) Once we have received such agreement, your Affiliates may order Services directly from us within the framework of this MSA. We may elect to invoice you or your Affiliates in respect of those Services.
- (d) You acknowledge and agree that you remain jointly and severally liable for the acts, omissions, and payment obligations of your Affiliates in connection with this MSA.

20. Dispute Resolution

20.1 Mediation.

- (a) If a dispute arises between the parties in relation to this MSA, either party may give the other party a written notice that they intend to arrange mediation.
- (b) The parties must refer the dispute to an independent mediator within 21 days of the written notice.
- (c) If the parties cannot agree on a suitable mediator, either party may contact the Singapore Mediation Centre and request that they provide a mediator.
- (d) The costs of the mediation must be paid by the parties in equal shares.

20.2 Arbitration.

- (a) If the dispute is not settled within 30 Business Days of the submission to mediation (unless such period is extended by agreement of the parties), it will be submitted to final and binding arbitration in accordance with the rules of the Singapore International Arbitration Centre ("SIAC") for the time being in force, which rules are deemed to be incorporated by reference in this clause.

- (b) The seat of the arbitration will be Singapore. The Tribunal will consist of one arbitrator. The language of the arbitration will be English.
- (c) When the dispute is submitted to arbitration, each party will pay its own costs and expenses for the proceedings. The parties will share equally the costs and expenses payable to SIAC.
- (d) Subject to this section, a party must not bring court proceedings (if ever) in respect of any dispute unless it first complies with the requirements of the dispute resolution mechanism outlined in this section.
- (e) Nothing in this section prevents either party from instituting court proceedings to seek urgent injunctive, interlocutory, or declaratory relief in respect of a dispute. However, where such relief is not granted, that party will indemnify the other for all related Costs, however occurring, which result from those proceedings (including all legal costs on an indemnity basis).
- (f) Despite the existence of a dispute, the parties must continue to perform their respective obligations under the Terms and any other agreement between the parties.

21. Non Solicitation

21.1 Restraints.

- (a) During the term of this MSA and the Restraint Period following termination of this MSA for any reason, you must not solicit, entice, hire, or interfere with:
 - (i) any of our employees or contractors; or
 - (ii) any of our customers, or cause them to decrease their dealings with us,

either directly or through an intermediary entity or entities.

- (b) You must implement reasonable internal policies to ensure that you comply with this Section 21.1.

21.2 Consequence for Breach. If you breach Section 21.1(a)(i), you must pay us an amount equal to 50% of the employee's or contractor's new annual remuneration package (if applicable and including all commissions, bonuses, and other benefits). The parties agree that this represents a genuine pre-estimate of our loss for the costs to us of recruiting, hiring, and training a suitable replacement for the employee or contractor. This Section 21.2 does not prevent us from seeking other relief, such as interlocutory relief or damages.

22. General

22.1 Assignment.

- (a) You may only assign, novate, or transfer any of your rights under this MSA with our prior written consent, which will not be reasonably withheld.
- (b) We may in our absolute discretion assign, novate, or transfer all or any of our rights under this MSA with 7 days' Written Notice.
- (c) Upon assignment or novation, the parties' obligations, and benefits under this MSA are binding on and will benefit their respective representatives, successors, and assigns.

22.2 Notices.

- (a) Communications (including notices) must be in writing.
- (b) Either party may serve any communication on the other party by sending it to that party's email address. A communication by email will be taken to have been received by the addressee at the time sent, unless the sender receives an automated message delivery failure notification indicating that the email has not been delivered.
- (c) If delivery is made after 5:00pm on a Business Day, it must be treated as received on the next Business Day.
- (d) The parties agree to send, receive, and execute notices and documents electronically, and agree that any document signed electronically will be binding with the same effect as a physical signature.

22.3 Costs. All stamp duty, government charges and legal fees incidental to this MSA, specifically including all legal fees incurred in enforcing this MSA on an indemnity basis, are the responsibility of and payable by you.

22.4 Survival. The parties' rights and obligations under Sections 3.7, 4.2, 4.5, 7, 8, 9, 12, 15.4, 16, 20, 21, and 22.5 will survive the termination of this MSA, as well as any other terms in this MSA or Additional Document which should, when taken at face value, survive termination. For clarity, Section 14 and all rights and obligations concerning Advanced Compute Services, GPU Hardware, Vendor Requirements, Export Control Laws, diligence, audit rights, hardware transfer, post-term services, and compliance indemnities also survive expiry or termination.

22.5 Jurisdiction. The laws of Singapore govern this MSA, and the parties submit to the exclusive jurisdiction of the courts of Singapore.

22.6 Severability. If any provision of this MSA is ruled by a court to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision or part provision of this MSA.

- 22.7 **References.** Subject to our Privacy Policy, we may include your name and trademarks in a list of subscribers, online content, or promotional materials, unless you notify us in writing that you do not wish for us to do so. You also agree that we may verbally communicate your status as a customer of ours.
- 22.8 **Waiver.** Any delay or failure to enforce any rights in relation to a breach by the other party will not be construed as a waiver of those rights.
- 22.9 **Entire Agreement.** This MSA constitutes the entire agreement between the parties and supersedes all previous negotiations or agreements in relation to the subject matter of this MSA.
- 22.10 **Variation.** Subject to Section 1.3, no variation of this MSA is effective unless it is in writing and signed by both parties.

23. Definitions and Interpretation

23.1 Definitions. In this MSA:

"Additional Document" means a document setting out service specific terms and details of agreed Services or Products you are purchasing from us, and may include (but not be limited to) the following additional documents:

- (a) executed statements of work or work orders;
- (b) Orders; and
- (c) any other supplementary terms or documents which are relevant to our relationship under this MSA and not expressly excluded from application in the document itself.

"Advanced Compute Services" means Services involving GPU, accelerator, high-density compute, AI/ML compute, bare-metal compute, reserved compute capacity, dedicated compute nodes, compute clusters, cloud platform access, data centre hosting, related storage, networking, orchestration, monitoring, Software, support, post-term services, or related Products, whether provided as GPU capacity, GPU-as-a-service, cloud compute, reserved capacity, dedicated infrastructure, colocation-adjacent infrastructure, or another service model.

"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.

"Associated Persons" means in relation to a party, that party's Affiliates, clients (including Resellers and End Users), directors, officers, employees, contractors, agents, and professional advisors, as applicable in the given context.

"Business Day" means a day (other than a Saturday or Sunday) upon which banks are ordinarily open for business in Singapore.

"Business Hours" means between the hours we publish from time to time, and failing publication, as we reasonably determine.

"Claim" means any claim notice, demand, investigation, action, proceeding, litigation, or judgment however arising, whether present, unascertained, immediate, future, or contingent, whether based in contract, tort (including negligence), or statute and whether involving a party to this MSA or third party.

"Client Materials" means any data, materials, and Intellectual Property that you provide to us in connection with our provision of the Services and includes any materials we request from you from time to time.

"Collateral" means personal property that is subject to a Security Interest.

"Commencement Date" means the date specified in any Order or Additional Document for the commencement of a Service.

"Confidential Information" means all spoken, written or electronically stored information belonging to or relating to either party and includes without limitation:

- (a) any kind of technical, financial, or business information;
- (b) details of employees, suppliers, or customers;
- (c) material developed under this MSA; and
- (d) Intellectual Property, concepts, know-how and trade secrets;

but excludes information in the public domain (other than through a breach of this MSA) or information independently known to the other party.

"Consequential Loss" includes, without limitation, data loss, reputational loss, loss of opportunity, loss of anticipated profits or savings, expenses incurred through default or breach, wasted overheads, loss of contract, loss of business, loss of production, loss of use, loss of goodwill, and all other pure economic loss, and any other type of loss which would usually be considered consequential.

"Contract Period" means the period defined as such in the initial Additional Document.

"Controlled Technology" means any hardware, software, firmware, technical data, technology, access credential, API, remote-access pathway, model weight, training output, inference output, documentation, or other item that is subject to Export Control Laws, sanctions, Vendor Requirements, or similar restrictions.

"Costs" means any costs, expenses, losses, damages, claims, demands, proceedings, and other liability.

"Credit Account" means an account with us in which we allow you to accrue debt to us for Services rendered under this MSA without the need for immediate payment of those debts.

"Credit Agreement" means a contract or form which details specific terms for a Credit Account and falls under the terms of this MSA, generally by way of a credit application form.

"Customer", "you", "your" means the signatory and/or contracting party for this MSA, any Additional Document, Credit Agreement, or other document referencing these terms where we are the other contracting party.

"Customer Management Platform" means any platform, portal, or system which we provide to you to access and use, including for the management of your account, placing Orders, and accessing the Services.

"DDoS Protection" means the act of protecting against Distributed Denial of Service ("DDoS") attacks by way of hardware and software mitigation.

"Debt Limit" means the amount specified as such in this MSA, the Customer Management Platform, and/or in any Additional Document.

"Disclose" or "Disclosed" means when an entity makes personal information accessible to others outside the entity and releases the subsequent handling of the information from its effective control.

"Downstream End User" means any person or entity that accesses, consumes, receives, controls, brokers, resells, sublicenses, uses, directs, benefits from, submits workloads to, or otherwise receives the benefit of an Advanced Compute Service, directly or indirectly through you, an End User, a Reseller, an API, a hosted service, a brokered arrangement, or any other access pathway.

"End Users" means any person or entity who accesses or uses the Services by, through, or on behalf of you (including your employees, contractors, agents, and customers).

"Export Control Laws" means all applicable laws, regulations, rules, orders, directions, and requirements concerning export controls, sanctions, import, export, re-export, in-country transfer, access, end-user, end-use, and destination controls, including restrictions relating to controlled hardware, Software, firmware, technology, technical data, remote access, and compute capacity.

"Fault" means a degradation, failure, or other issue which has a material effect on your use of the Services or Our Network as a whole.

"Fees" means the fees for any Products or Services purchased by you, as set out in any Order or Additional Document.

"Fixed Contract Service" means any Service we supply for a fixed Initial Term where the period of the Initial Term is specified in the Order for that Service.

"Government Agency" means any statutory, public, regulatory, judicial, or governmental authority, department, entity, or body, and for the purposes of this MSA, includes any self-regulating organisation for which we hold membership or are given delegated authority by law.

"GPU Capacity" means the capacity entitlement, accelerator quantity, GPU hours, node allocation, cluster allocation, reserved capacity, dedicated capacity, shared capacity, access rights, service levels and related storage, network, Software, platform, and support components specified in an Additional Document for an Advanced Compute Service.

"GPU Hardware" means any GPU, accelerator, server, host system, NIC, local drive, baseboard, directly attached component, or other physical hardware used to provide an Advanced Compute Service, whether owned by us, our Affiliates, a Supplier, a vendor, you, or another party.

"Indemnified Officers" means, in relation to a party, its directors, employees, contractors, agents, and representatives.

"Initial Term" means the minimum contract period specified in the Order applicable to a Service, the beginning of which will commence on the relevant Commencement Date.

"Insolvency Event" in relation to a party means any of the following:

- (a) the party enters into a scheme of arrangement with its creditors;
- (b) the party is wound up or dissolved, or an administrator, liquidator, or receiver is appointed;
- (c) the party is placed under official management, commits an act of bankruptcy, or is charged with a criminal offence; or
- (d) judgment is entered against the party for an amount exceeding the statutory minimum required to issue a statutory demand, which remains unsatisfied or unappealed for the statutory period allowed for satisfaction of such a demand.

"Intellectual Property" means all intellectual property rights, patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, trade names and domain names, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, rights in designs, rights in computer software, source and object code, products, programs, technology, hardware, data, database rights, rights in confidential information (including know-how, trade secrets, and marketing secrets), improvements, machines, techniques, methods, and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

“Liability” means any liability (whether actual or prospective), loss, damage, cost, or expense of any description, including legal fees on an indemnity basis.

“Malicious Code” means any code, program, script, software, file, thing or device which may: prevent, impair, or otherwise adversely affect the operation of any computer software, hardware, or network, any telecommunications service, equipment or network or any other service or device; prevent, impair, or otherwise adversely affect access to or the operation of any program or data (whether by rearranging, altering, or erasing the program or data in whole or part or otherwise); or adversely affect the user experience, including viruses, exploits, malware, logic bombs, denial of service attacks, ransomware, flood or mail bombs, back-doors, and other similar things or devices.

“Mission Critical” or **“High-Risk Activity”** means any use of the Services or Products which, if they were to fail, could result in death, serious injury, or significant financial loss to any party, and includes (but is not limited to):

- (a) emergency services;
- (b) military and police services;
- (c) critical communications infrastructure; or
- (d) financial settlements and high-speed trading.

“MSA” means the legally binding contract arising between the parties under this document, comprising this agreement and any Additional Documents.

“NOC” means our network operations centre, which can be contacted at noc@onecode.com (or such other email as advised from time to time).

“Notice of Default” means a Written Notice that:

- (a) states that it is a notice of default;
- (b) specifies the default with sufficient detail and particulars; and
- (c) gives a reasonable deadline by which the default must be remedied, which must be not less than:
 - (i) 5 days in the case of a failure to pay amounts due; and
 - (ii) 10 Business Days in all other cases.

“Open Source Software” means any software where the source code is available in an open, public repository and is licensed under terms that allow for its use, modification, and distribution.

“Order” means an order for the provision of a Service, which includes details of the Initial Term and Fees, which has been approved by us. For clarity, an Order includes a request for Service placed through a Customer Management Platform.

“Our Network” means the network used by us to provide the Services (including any network of our Suppliers).

“Out-of-Scope Fees” means the fees charged for Out-of-Scope Services, which shall be calculated according to the rates set out in the relevant Additional Document, or as advised by us from time to time.

“Out-of-Scope Services” means all services outside the Scope of Services of an Additional Document.

“Personal Information” means data, whether true or not, about an individual who can be identified from that data or from that data and other information to which a party has or is likely to have access.

“Privacy Policy” means our privacy policy as amended from time to time available at the Website.

“Product” means any physical or digital goods, such as equipment, routers, cables, Software, computer systems, specific configurations, or code, that you request, order, or purchase under this MSA and/or as part of the Services.

“Product Fees” means the fees for a Product that you request, order, or purchase under this MSA or a relevant Additional Document.

“Property” means any personal property, goods, or chattels that can be subject to a Security Interest.

“Purchase Money Security Interest” means a Security Interest in Collateral that secures all or part of its purchase price, or value given to enable the grantor to acquire rights in the Collateral.

“Resellers” means any third party who acquires a Service for the purpose of resale to an End User.

“Restraint Period” means the duration of this MSA, and the longest enforceable period following termination, of: 24 months; 18 months; 12 months; 6 months; 3 months; or 1 month.

“Restricted Access Jurisdiction” means any country or territory subject to comprehensive sanctions, embargoes or similar restrictions, and any jurisdiction, location, or access pathway from which access to Services, GPU Hardware, Software, Controlled Technology, or compute capacity would breach Export Control Laws or require an authorisation that has not been obtained and accepted by us in writing.

“Restricted Party” means any person, entity, government, organisation, vessel, aircraft, beneficial owner, affiliate, end user, customer, supplier, or counterparty that is listed, owned, or controlled by a listed party, ordinarily resident in, organised under

the laws of, acting from or acting for a restricted jurisdiction, or otherwise subject to restrictions under applicable sanctions, export control, defence trade, anti-money laundering, anti-bribery, anti-terrorism, or similar laws.

"Security Agreement" means any agreement or act by which a Security Interest is created, arises, or is provided for.

"Security Interest" means an interest in personal property provided for by a transaction that, in substance, secures payment or performance of an obligation (including a charge, mortgage, lien, or pledge).

"Service Provider", "we", "us", "our" means OneQode Singapore Pte. Ltd. or its Affiliate, should they be the signatory.

"Services" means services that you request, order, or purchase under this MSA, the details of which are set out in the relevant Additional Document.

"Software" means the software applications, programs, deployed code, portals, and managed storage provided by us as part of the Services or purchased by you in connection with the Services.

"Supplier" means a third party supplier, who may be a carrier, a carriage service provider, a wholesale supplier, equipment supplier, lessor, or another third party who we engage to enable us to provide the Services from time to time.

"Third Party Terms" means any terms and conditions imposed upon Software, hardware, or other products developed, owned and/or licensed by a third party which are used in conjunction with the provision of the Services or provided under an Additional Document.

"Unforeseen Event" means an unforeseen event beyond the control of the affected party, including an act of God, war, or terrorism, riot, vandalism, hacking, industrial action, or law or action of any Government Agency.

"Vendor Requirements" means any end-use, end-user, access, customer diligence, downstream-control, audit, reporting, export-control, support, lifecycle, Software, firmware, hardware transfer, data centre, carrier, supplier, or other requirement notified to us by an OEM, GPU vendor, data centre provider, carrier, software provider, equipment supplier, regulator, lender, insurer, or other relevant vendor or stakeholder in relation to Services or Products.

"Website" means <https://www.oneqode.com> (or such other URL as advised from time to time).

"Written Notice" means a notice given in accordance with Section 22.2.

"Your Network" means your network and any network of your customer that is connected to your network.

23.2 Rules for Interpreting this MSA. The following rules also apply in interpreting this MSA, except where the context makes it clear that a rule is not intended to apply:

- (a) headings are for convenience only, and do not affect interpretation.
- (b) a reference to a law (including any subordinate law) is to that law as amended, re-enacted, or replaced, and includes any subordinate law issued under it;
- (c) a reference to a party to this MSA or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
- (d) a reference to a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator, or successor in law of the person;
- (e) anything (including a right, obligation, or concept) includes each part of it;
- (f) a reference to a singular word includes the plural, and vice versa;
- (g) a reference to a word which suggests one gender includes each gender;
- (h) if a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning;
- (i) if an example is given of anything (including a right, obligation, or concept), such as by saying it includes something else, the example does not limit the scope of that thing;
- (j) a reference to this MSA includes the agreement recorded by this MSA and by any document incorporated in this document by attachment or by reference;
- (k) a reference to 'dollars' or '\$' is to an amount in United States Dollars (USD), unless otherwise stated in an Additional Document;
- (l) a reference to 'information' is to information of any kind in any form or medium, whether formal or informal, written, or unwritten, including computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology, or trade secrets; and
- (m) a reference to a 'representative' of the Service Provider is to an employee, officer, agent, or subcontractor of ours; and
- (n) a reference to 'GPU Hardware' does not imply that the Customer has or will acquire any legal, beneficial, equitable, possessory, security or other interest in that GPU Hardware unless title transfers under a signed bill of sale or other written transfer instrument executed by us after every applicable transfer condition has been satisfied.

- 23.3 **Multiple Parties.** If a party to this MSA is made up of more than one person, or a term is used in this MSA to refer to more than one party:
- (a) an obligation of those persons is joint and several;
 - (b) a right of those persons is held by each of them severally; and
 - (c) any other reference to that party or term is a reference to each of those persons separately, including so that a representation, warranty, or undertaking is given by each of them separately.