

CODESCENE

ON-PREMISES SOFTWARE TERMS AND CONDITIONS

CodeScene AB, registration number 559028-3270, address Hyllie Boulevard 34, 215 32 Malmö, (the “**Service Provider**”), provides the software tool *CodeScene* which can be accessed through a remote facility, such as a server farm or cloud (the “**Cloud Service**”) or through installation of the software in the local IT-environment (the “**Software**”) of the responsible user (the “**Customer**”). The Customer and the Service Provider are hereinafter individually referred to as a “**Party**” and collectively as the “**Parties**”.

By accepting the description of the functionality of the Software (the “**Specification**”), provided to the Customer by the Service Provider, the Customer acknowledges and agrees to be bound by these terms and conditions (the “**Software Terms**”). Separate terms and conditions are applicable to the use of the Cloud Service (“**Cloud Terms**”). The Customer acknowledges that these Software Terms and the Cloud Terms govern separate services. Consequently, with respect to the Customer’s use of the Software and in the event of a conflict between the provisions of these Software Terms and the Cloud Terms, these Software Terms shall prevail.

These Software Terms, the Specification, and other documents applicable to the Customer’s use of the Software are hereinafter jointly referred to as the “**Agreement**”.

1 DEFINITIONS

“**Content**” means any materials, such as code, text and other data, retained in the Software by the Customer.

“**Defects**” means reproducible cases where the Software materially fails to perform as promised pursuant to the Specification.

“**Effective date**” means the date when the Software is to be delivered to the Customer pursuant to the Specification.

“**Device**” means the information technology devices (e.g. hard disks or central processing units) of the Customer that are appropriate for use or interoperation with the Software pursuant to the Service Provider’s instructions.

“**License Fee**” means the from time to time applicable fee for the Software to be paid by the Customer to the Service Provider which is based on the Service Provider’s general price list, currently available at <https://codescene.com/>

“**Support**” means, if applicable, the support services with respect to the Software provided by the Service Provider to the Customer in accordance with the Specification.

“**Trial Period**” means an optional trial-period of the Software, free of charge with limited functionality, as described from time to time at <https://codescene.com/>

2 LICENSE

- 2.1 Subject to payment of the License Fee and compliance with these Software Terms, the Customer is granted a non-exclusive, non-transferable, limited license to use the Software, in object code format, for use in the Customer’s internal business operations as set out in the Specification (the “**Purpose**”). The Software shall

under no circumstances be considered as sold to the Customer and, other than the license granted pursuant to the Agreement, the Service Provider reserves all rights to the Software not expressly granted herein.

- 2.2 The Software shall be provided in respect of the number of physical users of the Software, including but not limited to, employees, consultants and advisors of the Customer (“Users”) registered by the Customer with the Service Provider in accordance with the Specification. The Customer shall ensure that each such User complies with these Software Terms.
- 2.3 Upon the Customer’s acceptance of the Specification, the Service Provider shall ensure that the Software is made available to the Customer as soon as possible for installation into the Customer’s Device. As from this moment, the Service Provider shall be entitled to invoice the Customer in accordance with Section 4 below.
- 2.4 The Service Provider shall not be responsible for installing the Software unless otherwise agreed by the Parties in writing. In such case, the Service Provider may charge the Customer for the installation in accordance with the Service Provider’s from time to time applicable price list.
- 2.5 The Customer may not use the Software for any other purpose than the Purpose and may only use the Software in compliance with these Software Terms.

3 TRIAL PERIOD

- 3.1 The Trial Period is provided *as is* and the Service Provider makes no undertakings as regards to availability, freedom from Defects or otherwise in such plan. During the Trial Period, the Service Provider shall use its’ best endeavors to provide the Customer with Support. However, the Service Provider assumes no liability for any loss the Customer may incur upon use of the Software during the Trial Period.

4 LICENSE FEE AND PAYMENT

- 4.1 As consideration for the Customer’s use of the Software pursuant to the Agreement and other than the Free Plan, the Customer shall pay the License Fee to the Service Provider in accordance with Service Provider’s from time to time applicable price list.
- 4.2 The License Fee is stated exclusive of value-added tax, and any other applicable taxes, which shall be borne by the Customer. In the event the Customer changes the level of usage of the Software pursuant to the Specification, the Service Provider will charge the Customer the applicable License Fee in connection with such a change.
- 4.3 The Service Provider has the right to amend the License Fee and/or other agreed prices by notifying the Customer of the change sixty (60) days before the change takes effect. Amendments have no effect on any License Fees that are paid before the validity date of the amendment.
- 4.4 If the Customer does not accept the new License Fee, the Customer has the right to terminate the Agreement, by notifying the Service Provider at the latest thirty (30) days before the amended prices take effect.
- 4.5 Section 4.2 shall not apply to changes in the License Fee resulting from any changes in laws, court practice, decisions of authorities, decisions on new or changed taxes or public fees affecting the Software. In such case, the Service Provider is entitled to raise the License Fee in order to cover the Service Provider’s increased costs.

- 4.6 If the Service Provider is incurred with additional work or additional costs due to circumstances that the Customer is liable for, the Service Provider is entitled to invoice the Customer in accordance with the Service Provider's from time to time applicable price list.
- 4.7 Invoices are payable within thirty (30) days from the date of the invoice. Invoices may be provided electronically or in such other manner as the Service Provider in its reasonable opinion deems appropriate.
- 4.8 In the event of late payment, the Customer shall use its' best efforts to ensure payment is made. However, the Customer notes that interest in accordance with the Swedish Interest Act (1975:635) may accrue on the outstanding amount until payment has been made. In case of the Customer's late or non-payment of the License Fee, the Service Provider may, in addition to its other rights under these Software Terms, cease to provide any Support, Updates (as defined below) or otherwise suspend the Customer's access to the Software until payment in full has been received.

5 UPDATES

- 5.1 The Customer will be given free access to general updates and bug fixes of the Software. By default, the Software is set to automatically download and install such updates. The Customer may disable automatic updates but is then responsible for downloading new updates manually when these are made available by the Service Provider.
- 5.2 The Customer is responsible for procuring and maintaining, at its own cost, its own Device and other software as well as hardware required to use the Software.
- 5.3 The Service Provider is not obliged to provide any additional updates or upgrades of the Software other than those expressly specified in the Agreement.
- 5.4 During the term of the Agreement, Support for rectifying Defects in the Software are included.

6 AVAILABILITY AND SUPPORT

- 6.1 The Service Provider shall provide the Customer with Support related to the Software by e-mail. If a Defect cannot be corrected remotely, the Customer shall at the Service Provider's request provide access to the Customer's Device on which the Software is installed. The Service Provider undertakes not to access any data in readable form in the Customer's Device unless necessary to correct the Defect. In order to avoid confidential information being disclosed in connection with providing Support, the Parties note that the non-disclosure agreement entered into by and between the Parties shall apply if the Service Provider is given access to the Customer's Device.
- 6.2 The Service Provider shall provide Support with due care, in a professional manner in accordance with its ordinary routines.
- 6.3 Support is provided during weekdays, between 9 am and 5 pm CET (the "**Business Days**").
- 6.4 Upon receiving an inquiry for Support from the Customer, the Service Provider shall endeavor to respond to the Customer the Business Day following the Service Provider's receipt of such inquiry.
- 6.5 In the next invoice, the Customer will be credited an amount equivalent to the License Fee during the time that the Defect persisted from the support request. If the Defect cannot be corrected within a reasonable time, the Customer may as its exclusive remedy terminate the Agreement prematurely.

- 6.6 If it turns out that the experienced Defect was not caused by the Software but instead by any handling error, Customer setting, Customer's Device or any other matter which the Service Provider cannot control, then Service Provider may charge the Customer in accordance with the Service Provider's from time to time applicable price list.

7 CUSTOMER'S WARRANTIES AND OTHER OBLIGATIONS

- 7.1 The Customer is responsible for the Customer's Device, all equipment, communications and other measures required by the Customer to enable use of the Software.
- 7.2 The Customer maintains all responsibility for determining whether the Content, data or any other information generated from Customer's use of the Software is accurate or sufficient for the Customer's purposes.
- 7.3 The Customer is responsible for backing up its Content and the Service Provider shall not be liable for any loss or corruption of the Content, unless such loss or corruption is due to the Software materially deviating from the Specification.
- 7.4 The Customer assumes the sole responsibility and liability in relation to any Content and the Service Provider does not assume any responsibility for any Content used, published or downloaded into the Service by the Customer and the Customer agrees to indemnify and hold harmless the Service Provider against any claims for infringement, third party liabilities, costs, loss, damages or otherwise incurred as a result of any materials or Content provided by or on behalf of the Customer. The Service Provider shall notify the Customer without undue delay in writing of any received claim of infringement and allow the Customer to fully control the defense.
- 7.5 The Customer may not permit a third party, directly or indirectly, with or without remuneration, to use or access the Software. However, the Customer may allow its consultants to use the Software, where such consultants are employed by the Customer to support and facilitate the use of the Software. The Customer shall warrant that the abovementioned consultants abide by these Terms and that the Customer remains solely liable for any usage of the Software by such consultants.

8 INTELLECTUAL PROPERTY RIGHTS

- 8.1 All property and intellectual property rights related to the Software, Specification and any additional developments or specific configurations of the Software, including but not limited to, source code, designs, trademarks and know-how will remain the property of the Service Provider.
- 8.2 The Customer, or the Customer's licensor(s), retains any rights to its Content retained locally in the Software and nothing in these Software Terms shall be interpreted as a transfer of such rights, or part of such rights, to the Service Provider.
- 8.3 The Customer may not, and shall not permit any User or third party to make any attempt to: (a) sublicense or otherwise make the Software available to third parties; (b) copy, decompile, attempt to receive access to source code, methods, algorithms or procedures from the Software or otherwise practice "reverse engineering", or modify, adapt, or create new works or software which are based on the Software, except as expressly stated in mandatory provisions of applicable law; (c) remove, conceal or circumvent the Service Provider's trademarks or copyright markings in the Software; or (d) attempt to circumvent licenses or other usage restrictions in the Software.

9 SUBCONTRACTORS

The Service Provider may use sub-contractors for the performance of its obligations under these Software Terms. The Service Provider shall remain fully liable to the Customer for the performance of such sub-contractors' obligations.

10 LIMITATION OF LIABILITY

- 10.1 The Service Provider shall, except for in the event of its gross negligence or willful misconduct, not be liable for any loss of profit, revenue, business savings or goodwill, loss of data, or the Customer's obligation to compensate any third party or any indirect or consequential damage whatsoever. For the avoidance of doubt, the Service Provider shall not be liable for Defects or other damages that occur due to (a) the Software not being installed or used in accordance with Service Provider's instructions, (b) the Software being modified by any other than the Service Provider, or (c) use of a previous version of the Software, if use of a newer version would have prevented the Defect or damage and such newer version has been made available to the Customer.
- 10.2 Section 10.1 above means that the Customer can only rely on the Software working in the Device and environment approved by the Service Provider at the initial order of the Software and in accordance with the Specification.
- 10.3 The Service Provider's aggregate and total liability under the Agreement shall be limited to direct damages and to an amount equal to one hundred (100) percent of the License Fees paid by the Customer during the Agreement Period in which the claim arose. For the avoidance of doubt, the Service Provider's total liability under the Agreement shall never exceed the amount actually paid by the Customer during the Agreement Period in question.
- 10.4 For the avoidance of doubt, the Service Provider shall have no liability for any loss whatsoever arising in connection with the Trial Period and the Service Provider's liability for loss arising in connection with the Customer's use of the Cloud Service shall be solely governed by the Cloud Terms.

11 CONFIDENTIALITY

- 11.1 Both Parties shall undertake not to disclose to third parties, without the consent of the other Party, such information concerning the other Party's business as can be deemed to constitute a trade secret or information which is covered by a statutory duty of secrecy. Information stated by one of the Parties to be confidential shall always be deemed to constitute a trade secret.
- 11.2 The Parties confidentiality obligation under this Section 11 shall not apply to trade secrets or any other confidential information which the receiving Party can demonstrate (a) was already known when received, (b) is or has become public knowledge other than through breach of this confidentiality undertaking, (c) is received from a third-party who lawfully acquired it and who is under no obligation restricting its disclosure in relation to the Service Provider, or (d) is to be made publicly available due to a court order, a decision by a public body or as otherwise required by mandatory law.
- 11.3 Each Party agrees to impose on its employees and consultants, in an appropriate manner, the confidentiality obligations set out above in this Section 11. Each Party shall be liable for its employees' and consultants' actions and for their observance of the above stated provisions.

11.4 The Parties' confidentiality obligations shall be applicable as long as the Agreement are in force between the Parties and continue for a period of two (2) years after termination of the Agreement, regardless of the reason therefor.

11.5 Notwithstanding the aforementioned, the Service Provider may subject to the Customer's prior consent publicly disclose the Customer's name for publicity purposes, including in its advertising. This right shall survive the termination or expiry of the Agreement.

12 PERSONAL DATA

12.1 The Customer is responsible for ensuring that backups are made of the Software and the Content. The information is stored on the Customer's own Device and/or server with a third-party hosting provider, and the Service Provider is not able to affect this. The Customer is the controller of all personal data which is processed by the Software. It is the Customer's responsibility to make sure that such processing complies with GDPR and any other applicable rules.

12.2 When providing Support, the Customer shall be the data controller in relation to such personal data and the Service Provider shall be the data processor. The Parties shall enter into the separate data processing agreement ("DPA") which shall be incorporated into this Agreement by reference. The Parties agree that Service Provider's processing of the Customer's personal data on behalf of the Customer under the Agreement shall be governed exclusively by the DPA.

13 TERM AND TERMINATION

13.1 The Agreement shall enter into force on the Effective date and remain in force for the time period stated in the Specification ("Term"). The Agreement will automatically renew for a successive Term (each such successive Term "Agreement Period"). Either Party may terminate the Agreement thirty (30) days prior to the expiration of the then effective Agreement Period.

13.2 Each Party may, upon written notice to the other Party, terminate the Agreement with immediate effect if: (a) the other Party has committed a material breach of the Agreement, and has not rectified the same within thirty (30) days after receipt of a written notice thereof; or (b) the other Party becomes subject to an insolvency proceeding, goes into liquidation, suspends its payments or can otherwise be deemed to have become insolvent.

13.3 In the event the Customer has committed a material breach of the Agreement, the Customer shall compensate the Service Provider for its direct damages, costs and loss, regardless if the Service Provider chooses to terminate the Agreement under this Section 13 or not.

13.4 Upon termination of the Agreement, both Parties shall delete all material, information, and anything else which belongs to the other Party, with the exception of material which is necessary to exercise the rights which survive termination of the Agreement in accordance with this Agreement. Upon written request by a Party, the other Party shall permanently and irrevocably destroy all data related to the Agreement and Support.

14 FORCE MAJEURE

14.1 If and to the extent that a Party's performance of any of its obligations pursuant to the Agreement is prevented, hindered or delayed due to circumstances beyond the reasonable control of such Party,

including but not limited to, lightning, labor disputes, pandemics, epidemics, fire, acts of war, requisition, seizure, currency restriction, riots and civil disorders, shortage of means of transportation, shortage of goods, amendments to regulations issued by governmental authorities, intervention of authorities or defects and/or delays in delivery of sub-contractors due to the circumstances here stipulated (each, a “**Force Majeure Event**”), then the non-performing Party shall be excused from any performance of those obligations affected by the Force Majeure Event for as long as such Force Majeure Event continues. The Party whose performance is prevented, hindered or delayed by a Force Majeure Event shall immediately notify the other Party of the occurrence of the Force Majeure Event. The non-performing Party is, however, always obligated to mitigate the effects of the Force Majeure Event.

- 14.2 Should fulfilment of the Agreement to a significant extent be prevented for more than three (3) months due to above described circumstances, either Party shall have the right to terminate the Agreement by written notice.

15 MISCELLANEOUS

- 15.1 Any amendments of these Software Terms for an upcoming contract term must be communicated by the Service Provider at least three months prior to the end of the previous term, to enable the Customer to review them and terminate the Agreement if they are not accepted.
- 15.2 The Service Provider may transfer all rights and obligations under the Agreement to another company within the same group of companies as the Service Provider. The Customer may not, without the Service Provider’s prior written approval, transfer the rights and obligations under the Agreement.
- 15.3 No delay or failure to exercise any right or remedy shall constitute a waiver of such right or remedy or prevent the exercise of such right or remedy on any subsequent occasion. Any waiver granted shall not, unless expressly stated, constitute any waiver for any future occasion.
- 15.4 If any provision of the Agreement is held to be invalid or unenforceable, such provision shall be limited, modified or severed to the minimum extent necessary to eliminate its invalidation or unenforceability so that the Agreement otherwise remain in full force and effect. Any provision of the Agreement, which inherently should endure beyond termination, shall survive termination or expiration of the Agreement.
- 15.5 Notices in connection with the Agreement shall be in writing and may be delivered to the other Party via e-mail. Such notice shall be deemed to be given, if sent by e-mail, on the day when the e-mail is sent, provided that the sending e-mail account has generated a message indicating that the e-mail has been successfully sent. All inquiries and notices to the Service Provider shall be made to support@codescene.com.
- 15.6 The Agreement shall constitute the entire agreement between the Parties regarding the Software and shall replace and supersede any prior agreement or arrangement, oral or written. No additional terms set out by the Customer and provided to the Service Provider, whether in connection with the Specification or otherwise, shall apply to the Customer’s use of the Software unless confirmed in writing by an authorized representative of the Service Provider.

16 GOVERNING LAW AND DISPUTES

- 16.1 Any dispute, controversy or claim in connection with the Agreement, and any non-contractual obligations arising out of or in connection with the same, shall be governed by and construed in accordance with the laws of Sweden, with the exclusion of its conflict of law rules.

16.2 Any dispute, controversy or claim (contractual or non-contractual) arising out of or in connection with the Agreement, or the breach, termination or invalidity thereof, shall be settled exclusively by Swedish courts, with Malmö District Court (Malmö tingsrätt) as the court of first instance.

17 MANDATORY APPLICABLE CONSUMER LEGISLATION

In the event that the Customer is deemed a consumer under mandatory applicable consumer legislation and such legislation prescribes provisions that are in conflict with the Agreement, the provisions under the mandatory applicable consumer legislation shall prevail and the sections of the Agreement which are not in conflict with such legislation shall remain in force with no changes.