

# CODA OCTOPUS THROUGH LIFE SUPPORT (TLS) AGREEMENT

Publication Date:  
March 2023

## THROUGH LIFE SUPPORT AGREEMENT (“TLS”)

### AGREED TERMS

#### 1. INTERPRETATION

- 11 The definitions and rules of interpretation in this clause apply in this agreement (unless the context requires otherwise).

**Agreement:** means these terms and conditions and our general conditions of sale which together constitute the agreement for the support of the Purchaser’s Product(s) during the Support Period.

**Coda Octopus:** means any of the following legal entities:

- **Coda Octopus Products Limited** a Scottish company with its place of business at 38 South Gyle Crescent, Edinburgh, EH12 9EB, United Kingdom (COPL); or
- **Coda Octopus Products, Inc.** a Delaware corporation with its place of business at 9100 Conroy Windermere Road, Suite 200, Windermere, Florida 34786, USA (COPI); or
- **Coda Octopus Products Pty Limited**, an Australian company with its registered office at Shop 10, 2 Murrajong Road, Springwood, Queensland 4127, Australia (COPTY); or
- **Coda Octopus Products A/S**, a Danish corporation with its place of business at Gl Strandvej 22C, st tv, 2990 Nivaa, Denmark
- **Coda Octopus Products (India) Pty Ltd**

and is also referred to as “we”, “us” and “our” as the context requires.

**Delivery:** ex-works Coda Octopus.

**Exclusions:** those matters excluded from this Support Agreement during the Support Period and which are listed in Section 7 of this Agreement.

**Product:** means the item purchased from Coda Octopus and which is the subject matter of this Support Agreement.

**Purchaser:** means the purchaser of the Product which is the subject matter of this Support Agreement and is referred to as “you” and “your” as the context requires.

**Seller:** means one of the Coda Octopus companies listed above but specifically the entity from which the Purchaser has purchased the Product. The Contract for the TLS Services is specifically with the entity whom the Product is purchased from.

**Support Period:** Either three years or five (5) years from Delivery of the Product, depending on the TLS Support Package purchased by the Purchaser.

- 12 The headings in this agreement are inserted for convenience only and shall not affect its construction.
- 13 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 14 A reference to one gender includes a reference to the other gender.
- 15 The schedule to this agreement forms part of (and is incorporated into) this agreement.

## **2. SCOPE OF AGREEMENT**

- 21 This Agreement shall be read in conjunction with our standard terms and conditions, the terms of which are incorporated herein by reference.
- 22 Through Life Support (TLS) provides support for your Product shown in Schedule 1 hereto for a period of five (5) years from Delivery date of your Product.
- 23 The extent of the support provided is set out in Sections 3, 4 and 5 of this Agreement.
- 24 The Exclusions are set out in Section 7 of this Agreement.

## **3. EXTENT OF SUPPORT DURING THE SUPPORT PERIOD**

- 31 During the Support Period and subject to compliance with our recommendations on the proper use of your Product, the TLS package covers the following:
- (a) Extended Hardware Warranty on your Product. This warranty covers manufacturers' defects which arise during the Support Period, and which occur through the proper use of the Product and include repairing and replacing components that fail during the Support Period. Extended Hardware Warranty does not cover the Exclusions set out in Section 7 of this Agreement.
  - (b) All software upgrades (including major releases) which Coda Octopus releases during the Support Period and which pertain to your Product.
  - (c) All firmware upgrades (including major releases) which Coda Octopus releases during the Support Period and which pertain to your Product.
  - (d) Support for your Product for the duration of the Support Period. This includes a membership to our TEAM Program which covers the support provided under Sections 4 and 5 of this Agreement.
  - (e) Servicing of your Product twice during the Support Period including providing calibration and calibration certificates where appropriate.

This requires that you return your Product to our Facility for such service and calibration.

32 TLS excludes the Exclusions set out in Section 7 of this Agreement.

#### **4. TEAM PROGRAM**

41 Unless otherwise agreed in writing your TLS entitles you to the following during the Support Period:

- (a) 24x7x365 telephone and/or email support
- (b) Training to your staff on your Product at a discounted rate including training on major software releases by Coda Octopus during the Support Period.
- (c) Loan systems where your product is out for repair (and where one is available in our demonstration equipment pool). This is subject to paying the shipping and insurance costs associated with such loan and signing our loan agreement in force from time to time.
- (d) Access to Online Video Tutorials through our Virtual Training Rooming.
- (e) Annual Statement of Usage of your Support Account.

42 Any other benefits we may introduce for TEAM members during the Support Period.

#### **5. OUR SUPPORT OBLIGATIONS**

51 Subject to complying with our recommendations on the proper use of the Product and providing us with sufficient details to investigate and resolve your problems with the Product, during the Support Period we will provide you with the support set out in this Section.

52 Hardware and Software support. This will be provided by either email or telephone or through access to our on-line technical library.

53 We will also, where appropriate, offer remote support sessions.

54 Training and project support which includes providing virtual/remote training.

55 Tailoring workflow process for your project.

56 Assisting with data cleaning on a limited basis.

57 Subject to providing us with sufficient information and data where required, we will investigate problems or questions that you have relating to the Product promptly.

58 We do not guarantee a response time but we have a 24 hour support line which is usually available and we will use reasonable endeavors to respond to your support requirements within reasonable period of time from receiving your request for support.

59 Where your Product is returned for repair, we will endeavor to repair promptly and perform such repair service with due care and attention.

## **6. MISCELLANEOUS**

61 A condition of the continued validity of the Through Life Support for your Product, is that during the Support Period you return your Product to our Production Facility for servicing. It is the Purchaser's responsibility to schedule and coordinate through our Support Desk the return of the Product to Coda Octopus. The Product must be returned within 18 months of Delivery date for the first inspection and service.

62 All releases of software and firmware to the Purchaser during the Support Period are released to you under our standard terms and conditions (including the terms of our End User License for our Software Products) and under which we sell our Products.

63 All shipping and other costs associated with return of your Product to us for servicing or repair shall be paid by you.

64 You are responsible for maintaining adequate insurance to cover your Product for loss and/or damage during transit. We take no responsibility for such loss and damage and our liability for your Product is restricted to the period during which it is on our premises.

65 Any liability which may have under this agreement is limited to the fullest extent permissible under applicable law to the replacement of your Product or return of the purchase price paid to us. We accept no responsibility for consequential losses.

## **7. EXCLUSIONS**

71 Expressly excluded from your TLS package are the following:

- (a) Your Extended Hardware Warranty does not cover damage caused by your acts or omissions whether they are accidental or otherwise;
- (b) Your TLS package does not entitle you to the next generation of products that we release within the family of Products which your Product falls but only to support of your existing Product(s) set out in Schedule 1 of this Agreement.
- (c) TLS only applies to the Product that is within Schedule 1 of this Agreement.
- (d) Your TLS package only covers defects which arise through normal use and does not cover exceptional use that you make of the Product.

- (e) All Software releases that we make available to you during the Support Period can only be used for the Product set out in Schedule 1 hereto and any other use invalidates the TLS Agreement.

## **8. ENFORCEMENT OF RIGHTS**

- 81 All or any enforcement rights of any of the Seller's obligations are strictly against the Coda Octopus Company from which the item was purchased as is confirmed on the said Company's Sales Order Confirmation (SOC).
- 82 Specifically excluded from the scope of this Agreement and our Conditions of Sale are any joint and/or several liability for any of the obligations under the contract for the purchase.

## **9. GOVERNING LAW AND JURISDICTION**

- 91 If you purchase your Product from COPL then your rights are governed by the Laws of Scotland and Scottish Courts shall have jurisdiction over all disputes unless the parties agree to resolve outside of a court process.
- 92 If you purchase your Product from COPI then your rights are governed by the Laws of Florida and Florida Courts shall have jurisdiction over all disputes unless the parties agree to resolve outside of a court process.
- 93 If you have purchased your Product from COPAS then your rights are governed by the Laws of Denmark and Danish Courts shall have jurisdiction over all disputes unless the parties agree to resolve outside of a court process.
- 94 If you purchase your Product from COPTY then your rights are governed by the Laws of Australia and Australian Courts shall have jurisdiction over all disputes unless the parties agree to resolve outside of a court process.

## **SCHEDULE 1 – SCOPE OF THROUGH LIFE SUPPORT COVERAGE**

**CUSTOMER NAME:**

**THROUGH LIFE SUPPORT COVERS THE FOLLOWING PRODUCT(S)**

**DESCRIPTION OF PRODUCT**

**SERIAL NUMBER**

**DELIVERY DATE**

**SUPPORT PERIOD**