

TEAMWARE END-USER AGREEMENT

Version 1.0, Effective as of March 15th, 2018

THIS IS A LEGAL AGREEMENT. BY CLICKING THE “I AGREE” (OR SIMILAR) BUTTON THAT IS PRESENTED TO YOU AT THE TIME OF YOUR FIRST USE OF THE JETBRAINS SERVICE, SOFTWARE, OR SUPPORT, YOU ARE BECOMING A PARTY TO THIS AGREEMENT, YOU DECLARE YOU HAVE THE LEGAL CAPACITY TO ENTER INTO SUCH AGREEMENT, AND YOU ARE CONSENTING TO BE BOUND BY ALL THE TERMS AND CONDITIONS SET FORTH BELOW.

IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU SHOULD NOT USE THE SOFTWARE AND SERVICE.

1. PARTIES

(a) “JetBrains” means JetBrains s.r.o. whose registered office is at Na hřebenech II 1718/10, Prague, 140 00, Czech Republic, registered with Commercial Register kept by the Municipal Court of Prague, Section C, file 86211, ID.Nr.: 265 02 275.

(b) “User” or “You” means the individual given the right to use Software and Service in accordance with this Agreement. For the avoidance of doubt, User is a natural person and not a corporation, company, partnership or association, or other entity or organization.

2. DEFINITIONS

“JetBrains Site” means websites operated by JetBrains, including, but not limited to, www.jetbrains.com and confluence.jetbrains.com.

“Hosting System” means any server, real or virtual, network, Internet connection, infrastructure, hardware, and applications used by JetBrains to host Software.

“Server” means a server part of Software that enables administration of User accounts and performs other services as specified in the Software documentation.

“Software” or “Teamware” means the team software program known as Hub, YouTrack, TeamCity, or Upsource, in binary form, including its documentation, upgrades and any third-party software programs that are owned and licensed pursuant to Section 8 of this Agreement by parties other than JetBrains and that either integrated with or made part of Software (collectively, “Third-Party Software”).

“Privacy Policy” means the JetBrains Privacy Policy available at <https://www.jetbrains.com/company/privacy.html>, which may be updated from time to time.

“Personal data” means any information relating to an identified or identifiable natural person.

“Service” means access to Software hosted by JetBrains on Hosting System and provided to User by JetBrains via website JetBrains Site.

“User’s Data” means all electronic data or information submitted by User via Service or generated as a result of User using Service and stored by JetBrains on Hosting System.

3. OWNERSHIP

(a) JetBrains retains ownership of all proprietary rights in Service and Software associated or displayed with Service, and in all related trade names, trademarks, and service marks.

(b) JetBrains does not acquire any rights in User’s Data transmitted, collected, or created by User via Service or Software. User retains ownership of all proprietary rights in User’s Data.

4. FEEDBACK

(a) User has no obligation to provide JetBrains with ideas, suggestions, or proposals in regards to Service or Software (“Feedback”). However, if User submits Feedback to JetBrains, then User grants to JetBrains a non-exclusive, worldwide, royalty-free, irrevocable, perpetual license that is sub-licensable and transferable, to make, use, sell, have made, offer to sell, import, reproduce, publicly display, distribute, modify, and publicly perform the Feedback in any manner without any obligation, royalty, or restriction based on intellectual property rights or otherwise.

(b) JetBrains is authorized to use anonymous technical data concerning usage of Service for JetBrains’ internal statistical purposes.

5. GRANT OF RIGHTS

Subject to the terms, conditions, and limitations set forth in this Agreement, including any amendments thereto, JetBrains hereby grants to User a limited, non-exclusive, non-transferable right to use Software and Service as follows:

(a) User may use Software and Service in accordance with this Agreement and applicable documentation, and in accordance with instructions from JetBrains where available. For the avoidance of doubt, in case of conflict between the terms of this Agreement and instructions from JetBrains, the terms of this Agreement shall prevail.

(b) Without written JetBrains permission, User may not :

(i) modify, alter, tamper with, repair, or otherwise create derivative works of Service or associated Software (except to the extent Software or any of its parts are provided to User under a separate license that expressly permits the creation of derivative works);

(ii) reverse-engineer, disassemble, or decompile Service or apply any other process or procedure to derive the source code of Service or associated Software;

(iii) sell, redistribute, encumber, give, lend, rent, lease, sublicense, or otherwise transfer Service or associated Software, or any portions of it, to anyone without the prior written consent of JetBrains;

(iv) use Service to store or transmit infringing, libelous, or otherwise unlawful or tortuous material, or to store or transmit material in violation of third-party privacy or copyrights, or;

(v) attempt to gain unauthorized access to Service or to Hosting System.

(c) User shall be responsible for:

(i) legality of User’s Data and of the means by which User acquired User’s Data. If User becomes aware of any User’s Data violating this Agreement or any third-party rights, User shall immediately remove such User’s Data from Service;

(ii) compliance with applicable laws and government regulations;

(iii) configuration of its projects and using Service; and

(iv) keeping User’s Service access credentials confidential.

6. RELATED TERMS

Due to the nature of provided Software and Service, use of Software and Service is governed by this Agreement and the JetBrains Website Terms of Use available at <https://www.jetbrains.com/company/useterms.html>.

7. PERSONAL DATA

(a) In connection with use of Software and Service by User, JetBrains and associated group of companies of JetBrains will process User’s personal data, in particular, User’s contact and identification details, data about usage of Software and Service, and information about User’s subscription and payments, for the following purposes:

- (i) To provide User with software, services, or information;
- (ii) To protect JetBrains from piracy and unlawful use of JetBrains software or services;
- (iii) To improve JetBrains offerings based on usage;
- (iv) For internal evidence of JetBrains and to protect the rights and interests of JetBrains and other users;
- (v) To promote and market JetBrains software and services; and
- (vi) To fulfil legal duties stipulated by accounting, taxation, and other laws.

User may object to the processing of User's personal data for the purposes (ii) to (v) at any time. More detailed information about personal data processing for the above-mentioned purposes and about User's rights can be found in the Privacy Policy.

- (b) For the above purposes, JetBrains may process, among others, User's IP address, usernames, passwords, first name, last name, full name, email addresses, and SSH public keys.
- (c) The processing of any personal data that JetBrains collects from User is governed by the JetBrains Privacy Policy, by the JetBrains Website Terms available at <https://www.jetbrains.com/company/userterms.html>, by this Agreement, and by any other agreement User may have entered into with JetBrains which specifically addresses the processing of personal data.
- (d) User has to keep his/her personal data up-to-date, update the data, and in case any inconsistencies arise with the current state of his/her personal data, report such inconsistencies to JetBrains.

8. THIRD PARTY SOFTWARE

- (a) User agrees to comply with the terms and conditions contained in Third-Party Software licenses with respect to the applicable Third-Party Software. User may review all such Third-Party Software licenses and/or notices in Software documentation under the section "Third-Party License Agreement".
- (b) User agrees and acknowledges that Sections 9, 10, and 11 of this Agreement shall also govern User's use of Third-Party Software. JetBrains will bear no responsibility with respect to any Third-Party Software, and User will look solely to the licensor(s) of Third-Party Software for any remedy. JetBrains claims no right in Third-Party Software, and the same is owned exclusively by the licensor(s) of Third-Party Software.
- (c) JetBrains provides no warranty, express or implied, including but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement, with respect to any Third-Party Software.

9. DISCLAIMER

SERVICE AND THE ASSOCIATED SOFTWARE ARE PROVIDED "AS IS". JETBRAINS MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING SERVICE AND/OR SOFTWARE, INCLUDING ANY WARRANTY THAT SERVICE AND/OR SOFTWARE WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF HARMFUL COMPONENTS, OR THAT ANY CONTENT, INCLUDING USER'S DATA AND CODE, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. EXCEPT TO THE EXTENT PROHIBITED BY LAW, JETBRAINS DISCLAIMS ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

10. LIMITATION OF LIABILITY

- (a) JETBRAINS WILL NOT BE LIABLE TO USER FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR DATA, INCLUDING, WITHOUT LIMITATION, THE RETRIEVAL, TESTING, VERIFICATION, OR DEPLOYMENT

OF ANY CODE SUBMITTED FOR TESTING AND/OR DEPLOYMENT), EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, JETBRAINS WILL NOT BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH:

- (i) USER'S INABILITY TO USE SERVICE AND/OR SOFTWARE, INCLUDING AS A RESULT OF ANY TERMINATION OR SUSPENSION OF THIS AGREEMENT OR USER'S USE OF SERVICE AND/OR SOFTWARE;
 - (ii) JETBRAINS' DISCONTINUATION OF THE PROVISION OF SERVICE AND/OR SOFTWARE;
 - (iii) ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF SERVICE AND/OR SOFTWARE FOR ANY REASON, INCLUDING AS A RESULT OF POWER OUTAGES, SYSTEM FAILURES, OR OTHER INTERRUPTIONS;
 - (iv) THE COST OF PROCUREMENT OF SUBSTITUTE SERVICE OR SOFTWARE;
 - (v) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY USER IN CONNECTION WITH THIS AGREEMENT OR USER'S USE OF OR ACCESS TO SERVICE AND/OR SOFTWARE; OR
 - (vi) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS, OR FAILURE TO STORE, ANY OF USER'S DATA.
- (b) IN ANY CASE, JETBRAINS' AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT OF FIVE (5) USD.
- (c) JETBRAINS WILL NOT BE LIABLE FOR ANY DELAY OR FAILURE TO PERFORM ANY OBLIGATION UNDER THIS AGREEMENT WHERE THE DELAY OR FAILURE RESULTS FROM ANY CAUSE BEYOND OUR REASONABLE CONTROL, INCLUDING ACTS OF GOD, LABOR DISPUTES, OR OTHER INDUSTRIAL DISTURBANCES, SYSTEMIC ELECTRICAL, TELECOMMUNICATIONS, OR OTHER UTILITY FAILURES, EARTHQUAKE, STORMS OR OTHER ELEMENTS OF NATURE, BLOCKAGES, EMBARGOES, RIOTS, ACTS OR ORDERS OF GOVERNMENT, ACTS OF TERRORISM, OR WAR.

11. INDEMNIFICATION

(a) User will defend, indemnify, and hold harmless JetBrains, its affiliates, and each of their respective employees, officers, directors, and representatives from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third-party claim concerning:

- (i) User's or any User's use of Service;
 - (ii) breach of this Agreement or violation of applicable law by User or any User;
 - (iii) User's Data or the combination of User's Data with other applications, content, or processes, including any claim involving alleged infringement or misappropriation of third-party rights by User's Data or by use, development, design, production, advertising, or marketing of User's Data; or
 - (iv) a dispute between User and any other User.
- (b) JetBrains will promptly notify User of any claim subject to previous section above, but JetBrains' failure to promptly notify User will only affect User's obligations to the extent that JetBrains failure prejudices User's ability to defend the claim. User may:
- (i) use counsel of User's own choosing (subject to JetBrains' written consent) to defend against any claim; and
 - (ii) settle the claim as User deems appropriate, provided that User obtains prior written consent from JetBrains before entering into any settlement. JetBrains may also assume control of the defense and settlement of the claim at any time.

12. EXPORT REGULATIONS

User shall comply with all applicable laws and regulations with regards to: economic sanctions; export controls; import regulations; and trade embargoes ("Sanctions"), including those of the European Union and United States

(specifically the Export Administration Regulations (EAR)). User acknowledges that it is not a person targeted by Sanctions nor is it otherwise owned or controlled by or acting on behalf of any person targeted by Sanctions. Further, User acknowledges that it will not download or otherwise export or re-export Software or any related technical data directly or indirectly to any person targeted by Sanctions or download or otherwise use Software for any end-use prohibited or restricted by Sanctions.

13. TERM AND TERMINATION

- (a) This Agreement takes effect when User clicks an “I Accept” button or check-box presented with these terms (the “Effective Date”) and shall continue until terminated by either party as provided herein.
- (b) User may terminate this Agreement at any time by ceasing use of Service and associated Software.
- (c) JetBrains may terminate this Agreement immediately upon notice to User if:
 - (i) JetBrains decides to cease providing Service due to any business, economic, legal, or regulatory reason,
 - (ii) User has breached any provision of this Agreement, or
 - (iii) JetBrains is required to do so by law.
- (d) JetBrains reserves the right to discontinue to provide Service, in whole or in part, at any time and without cause. In such case, JetBrains will make reasonable efforts to notify User via email three (3) days prior to termination of the Agreement.
- (e) JETBRAINS RESERVES THE RIGHT TO CLOSE REGISTRATION FOR SERVICE AND DISCONTINUE THE PROVISION OF SERVICE AT ANY TIME. JETBRAINS RESERVES THE RIGHT TO MAKE USER’S DATA AND PROJECTS UNAVAILABLE AT ANY TIME AND DELETE IT AT JETBRAINS’ DISCRETION.

14. GENERAL

- (a) Entire Agreement. This Agreement, together with the JetBrains Website Agreement available at <https://www.jetbrains.com/company/useterms.html> and the Privacy Policy, constitutes the entire agreement between the parties concerning its subject matter and supersedes any prior agreements between You and JetBrains regarding Your use of Software or Service. No purchase order, other ordering document or any handwritten or typewritten text which purports to modify or supplement the printed text of this Agreement or any schedule will add to or vary the terms of this Agreement unless signed by both User and JetBrains.
- (b) JetBrains reserves the right at any time to cease the provision of Software or Service and to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability, or other characteristics of Software or Service.
- (c) A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, shall not waive such term or condition or any subsequent breach. The provisions of this Agreement which require or contemplate performance after the expiration or termination of this Agreement shall be enforceable notwithstanding said expiration or termination.
- (d) This Agreement will be governed by the laws of Czech Republic, without reference to conflict of laws principles. User agrees that any litigation relating to this Agreement may only be brought in, and shall be subject to the jurisdiction of, any Court of Czech Republic.
- (e) Titles are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. If any provision of this Agreement is held invalid, the remainder of this Agreement will continue in full force and effect. Either JetBrains or User may assign this Agreement in the case of a merger or sale of substantially all of its respective assets to another entity. This Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and assigns.

For exceptions or modifications to this Agreement, please contact JetBrains at:

Address: JetBrains s.r.o., Na hřebenech II 1718/10, Prague, 140 00, Czech Republic

Fax: +420 2 4172 2540

Email: legal@jetbrains.com