LICENSE AGREEMENT FOR TEAMCITY
(Commercial License)

Version 1.0, Effective as of September 9th, 2016

IMPORTANT! READ CAREFULLY: THIS IS A LEGAL AGREEMENT. BY DOWNLOADING, INSTALLING, COPYING, SAVING ON YOUR COMPUTER, OR OTHERWISE USING THIS SOFTWARE, YOU (LICENSEE, AS DEFINED BELOW) ARE BECOMING A PARTY TO THIS AGREEMENT AND YOU ARE CONSENTING TO BE BOUND BY ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT.

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

Note: In case the terms of this Agreement are in conflict with the terms of any agreement individually negotiated and agreed between JetBrains and customer, the terms of the latter shall prevail.

1. PARTIES

(a) "Licensor" means JetBrains s.r.o. whose registered office is at Na hřebenech II 1718/10, Prague, 14700, Czech Republic, registered with Commercial Register kept by the Municipal Court of Prague, Section C, file 86211, ID.Nr.: 265 02 275.

(b) "Licensee" means an individual or a legal entity exercising rights under, and complying with all of the terms of, this Agreement. For the purpose of Enterprise Server License or Build Agent License, "Licensee" means an individual or a legal entity specified in the License Certificate. For legal entities, "Licensee" includes any entity which controls, is controlled by, or is under common control with Licensee. For purposes of this definition, "control" means (a) the power, direct or indirect, to cause the direction or management of such entity, whether by contract or otherwise, or (b) ownership of fifty percent (50%) or more of the outstanding shares or beneficial ownership of such entity.

2. DEFINITIONS

(a) "Build Agent" means an auxiliary part of Software that performs functions requested by Server as specified in the Software documentation.

(b) "Build Agent License" means a license to use an additional Build Agent subject to paragraph (iii) of clause 4(a) of this Agreement.

(c) "Enterprise Server License" means a license to use Software subject to paragraph (ii) of clause 4(a) of this Agreement.

(d) "License Certificate" means evidence of a license provided by Licensor to Licensee in electronic or printed form.

(e) "License Key" means a unique key-code that enables a Licensee to run the Software. Only Licensor and/or its representatives are permitted to produce License Keys for the Software.

(f) "Professional Server License" means a license to use Software subject to paragraph (i) of clause 4(a) of this Agreement.

(g) "Server" means a server part of Software that enables administration of User accounts and performs other services as specified in the Software documentation.

(h) "Software" means the software program known as TeamCity in binary form, including its documentation, upgrades provided pursuant to Section 7 of this Agreement, and any third party software programs that are owned and licensed pursuant to Section 5 of this Agreement by parties other than Licensor and that either integrated with or made part of TeamCity (collectively, "Third Party Software").

(i) "User" means (i) if Licensee is an individual, solely Licensee; (ii) if Licensee is a legal entity, any person who is authorized by Licensee to use Software while performing duties within the scope of his/her employment or assignment with Licensee, including its employee, independent contractor, temporary worker, and any third-party person, (iii) if Licensee meets the

Open Source definition, an open source development group member who is authorized by Licensee to use Software for the purpose of open source development.

3. OWNERSHIP

(a) Software is the property of Licensor or its suppliers. Software is licensed, not sold. Title and copyrights to Software, in whole and in part and all copies thereof, and all modifications, enhancements, derivatives and other alterations of Software regardless of who made any modifications, if any, are, and will remain, the sole and exclusive property of Licensor and its suppliers.

(b) Software is protected by United States Copyright Law and International Treaty provisions. Further, the structure, organization, and code embodied in Software are the valuable and confidential trade secrets of Licensor and its suppliers and are protected by intellectual property laws and treaties. Licensee agrees to abide by the copyright law and all other applicable laws of the United States including, but not limited to, export control laws.

4. GRANT OF LICENSE

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

(a) Licensee may:

(i) under Professional Server License, run unlimited number of Servers with the limit of twenty (20) build configurations per Server and connect three (3) Build Agents per Server at no additional costs. Each additional Build Agent License obtained by Licensee qualifies Licensee for using the additional ten (10) build configurations on a single Server;

(ii) under Enterprise Server License, run one instance of Server without any limitations on the number of build configurations and connect three (3) Build Agents to a single Server at no additional costs. The total number of Servers run by Licensee under Enterprise Server License shall not exceed the number of Servers specified in License Certificate(s);

(iii) install and run more Build Agents than granted under paragraphs (i) and (ii) of this clause 4 (a) if Licensee has obtained the additional Build Agent Licenses or has been granted Enterprise Server License qualifying Licensee for the exceeding number of Build Agents. The total number of the additional Build Agents run by Licensee shall not exceed the number of Build Agents specified in License Certificate(s);

(iv) create and use unlimited number of User accounts on Server, and;

(v) make backup copies of Software for archival purposes.

(b) Licensee may not:

(i) sell, redistribute, encumber, give, lend, rent, lease, sublicense, or otherwise transfer Software, or any portions of Software, to anyone without the prior written consent of Licensor;

(ii) reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover the source code of Software, or create derivative works from Software;

(iii) in case of Enterprise Server License, use the same License key for running multiple Servers;

(iv) use a number of Build Agents exceeding the number of Build Agents granted under paragraphs (i), (ii) and (iii) of clause 4 (a), or use the same Build Agent License for running multiple Build Agents, or;

(v) in case of Professional Server License, use more build configurations on a single Server than granted under paragraph (i) of clause 4 (a).

(c) License Limitations for Open Source Development:

(i) if Licensee has been granted Enterprise Server License for open source development, restrictions on using Build Agents set forth in paragraph (ii) of clause 4 (a) shall not apply;

(ii) the purpose of use of Software shall be restricted solely to development of non-commercial open source projects that meet the Open Source Definition at http://www.opensource.org/docs/osd. Any commercial use of Software is expressly prohibited, and;

(iii) Licensee's right to use Software for open source development shall be limited to one (1) year. Licensee may renew its Enterprise Server License for another year free of charge by submitting a written request to Licensor thirty (30) days prior to the Enterprise Server License expiration.

5. THIRD PARTY SOFTWARE

(a) Licensee agrees to comply with the terms and conditions contained in Third-Party Software licenses with respect to the applicable Third-Party Software. Licensee may review all such Third Party Software licenses and/or notices in Software documentation under section "Third Party License Agreement".

(b) Licensee agrees and acknowledges that Sections 9 and 10 of this Agreement shall also govern Licensee's use of the Third-Party Software. Licensor will bear no responsibility with respect to any Third Party Software, and Licensee will look solely to the licensor(s) of the Third Party Software for any remedy. Licensor claims no right in the Third Party Software, and the same is owned exclusively by the licensor(s) of the Third Party Software.

(c) Licensor 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.

6. RESTRICTED USE DURING EVALUATION PERIOD CONCERNING ENTERPRISE SERVER LICENSE

(a) In case of Enterprise Server License and subject to the terms of this Agreement, Licensee is granted the right to install and run Server for evaluation purposes without any charge for a period of sixty (60) days unless otherwise specified by Licensor ("Evaluation Period").

(b) Licensee's use of Server during Evaluation Period shall be limited to the internal evaluation for the sole purpose of determining whether Server meets Licensee's requirements and whether Licensee desires to continue using Server.

(c) Upon expiration of Evaluation Period, Licensee shall do either of the following: (i) obtain Enterprise Server License for perpetual use of Server; (ii) switch to Professional Server License, or; c) uninstall Software. Software contains a feature that will automatically switch Licensee to Professional Server License upon expiration of Evaluation Period. Licensee may not disable, destroy, or remove this feature of Software, and any attempt to do so will be in violation of this Agreement and will terminate Licensee's rights to use Software.

7. UPGRADES

7.1 Licensor will provide generally available Software upgrades to Licensee as follows:

(a) under Professional Server License, free of charge during the term of this Agreement;

(b) under Enterprise Server License or Build Agent License, free of charge during a 1-year period following the initial license purchase ("Upgrade Subscription"). Licensee may renew Upgrade Subscription for another 1-year period by paying Upgrade Subscription renewal fees as set forth on Licensor's web site. Each subsequent Upgrade Subscription term will start on the day following expiration of the previous Upgrade Subscription term regardless of the actual Upgrade Subscription renewal date. Upon Upgrade Subscription renewal, Licensee shall destroy any Enterprise Server License key or Build Agent License key provided by Licensor during the previous Upgrade Subscription term and continue using Software with an Enterprise Server License key or a Build Agent License key provided by Licensor for the new Upgrade Subscription term. If Licensee elects not to renew Upgrade Subscription, Licensee would retain perpetual right to continue using the most recent version of the Software released by Licensor during applicable Upgrade Subscription term, subject to restrictions set forth in Clause 4.

7.2 Licensor may terminate Upgrade Subscription if:

(a) Licensee has materially breached this Agreement and fails to cure such breach within thirty (30) days of written notice thereof;

(b) Licensee fails to make the timely payment of Upgrade Subscription fees;

(c) Licensor is required to do so by law (for example, where the provision of the Software to Licensee is, or becomes, unlawful); or

(d) Licensor elect to discontinue to provide Software, in whole or in part.

7.3 Licensor will make reasonable effort to notify Licensee via an email as follows:

(a) Thirty (30) days prior to termination of Upgrade Subscription in the events specified in Clauses 7.2 (c) and 7.2 (d), and in such events Licensee will be entitled to refund of unused portion of prepaid subscription fees, if applicable;

(b) Three (3) days prior to termination of Upgrade Subscription in the event specified in clause 7.2 (b).

7.4 If not agreed otherwise in writing between Licensor and Licensee, upon upgrading to new version of Software the relationship between parties shall be governed and amended (if applicable) by the terms and conditions of Licensee agreement related to Software available at www.jetbrains.com on the day of upgrade purchase.

8. PURCHASE AND PAYMENT

Licensee agrees to the terms and conditions of Software purchase published on Licensor's website at www.jetbrains.com. Licensee will pay to Licensor the license fee and other charges (if applicable) as set forth in the invoice or other purchase documentation. Licensor may charge Licensee interest for any payment that is more than thirty (30) days past due at the rate of one and one-half percent (1.5%) per month or the highest amount allowed by law, whichever is lower.

9. LIMITED WARRANTY

SOFTWARE IS PROVIDED TO LICENSEE "AS IS" AND WITHOUT WARRANTIES. LICENSOR MAKES NO WARRANTY AS TO ITS USE OR PERFORMANCE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LICENSOR AND ITS AFFILIATES, SUPPLIERS AND RESELLERS DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, WITH REGARD TO SOFTWARE, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES.

10. DISCLAIMER OF DAMAGES

(a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL LICENSOR OR ITS AFFILIATES, LICENSORS, SUPPLIERS OR RESELLERS BE LIABLE TO LICENSEE UNDER ANY THEORY FOR ANY DAMAGES SUFFERED BY LICENSEE OR ANY USER OF SOFTWARE, OR FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR SIMILAR DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF THE USE OR INABILITY TO USE SOFTWARE, OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

(b) IN ANY CASE, LICENSOR'S ENTIRE LIABILITY UNDER ANY PROVISION OF THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY LICENSEE FOR SOFTWARE UNDER THIS AGREEMENT.

11. EXPORT REGULATIONS

Licensee 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)). Licensee 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, Licensee 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.

12. TERM AND TERMINATION

(a) Except as otherwise provided in License Certificate, the license granted herein shall be perpetual.

(b) If Licensee fails to comply with the terms and conditions of this Agreement, Licensor may terminate this Agreement and Licensee's right and license to use Software. Licensee may terminate this Agreement at any time by notifying Licensor. Upon the termination of this Agreement, Licensee must delete Software from its computers and archives. LICENSEE AGREES THAT UPON TERMINATION OF THIS AGREEMENT FOR ANY REASON, LICENSOR MAY TAKE ACTIONS SO THAT SOFTWARE NO LONGER OPERATES.

13. MARKETING

Licensee agrees to be identified as a customer of Licensor and that Licensor may refer to Licensee by name, trade name and trademark, if applicable, and may briefly describe Licensee's business in Licensor's marketing materials

and on Licensor's web site. Licensee hereby grants Licensor a license to use Licensee's name and any of Licensee's trade names and trademarks solely in connection with the rights granted to Licensor pursuant to this marketing section.

14. GENERAL

(a) Licensor reserves the right at any time to cease the support of Software and to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of Software.

(b) This Agreement, including the Third Party Software agreements, constitutes the entire agreement between the parties concerning Licensee's use of Software, and supersedes any and all prior or contemporaneous oral or written representations, communications, or advertising with respect to Software. 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 Licensee and Licensor.

(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. Licensee 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 Licensor or Licensee 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 Licensor at:
Address: JetBrains s.r.o., Na hřebenech II 1718/10, Prague, 14700, Czech Republic
Fax: +420 2 4172 2540
E-mail: sales@jetbrains.com