TeamCity Cloud Terms of Service

Version 1.0, effective as of April 27, 2021

Welcome to JetBrains TeamCity Cloud!

This is a legal document and it is important that you read it carefully.

JETBRAINS TEAMCITY CLOUD REQUIRES A HEIGHTENED AWARENESS OF SECURITY-RELATED ISSUES, INCLUDING ENABLING GUEST USER ACCESS TO YOUR DATA. PLEASE FAMILIARIZE YOURSELF WITH THE PRODUCT'S CHARACTERISTICS AND CAPABILITIES BY READING THE DOCUMENTATION (DEFINED BELOW) AND WITH YOUR RESPONSIBILITIES SET OUT IN THESE TERMS OF SERVICE. PLEASE NOTE THE DISCLAIMERS AND LIMITATIONS OF LIABILITY BELOW IN SECTIONS 12 AND 13, AS WELL AS THE INDEMNIFICATION PROVISIONS IN SECTION 11.

You understand that by accepting these TeamCity Cloud Terms of Service (by clicking the "I agree" or a similar button, or by accessing or using TeamCity Cloud), you are entering into a legal agreement and agree to certain legal conditions.

By accepting these TeamCity Cloud Terms of Service, you confirm that you understand them, you agree to them, and you are at least 13 years of age.

1. Introduction

These JetBrains TeamCity Cloud Terms of Service ("**Terms**"), describe how you can access, purchase, and use the in-cloud version of JetBrains TeamCity.

Accepting these Terms creates a legal agreement between (i) JetBrains s.r.o., a company registered in the Commercial Register of the Prague Municipal Court, Section C, File 86211, ID No. 265 02 275 with its registered office at Na Hřebenech II 1718/10, Prague, 14000, Czech Republic ("**JetBrains**", "**us**", or "**we**") and (ii) you, who are either an organization or a natural person ("**you**" or "**Organization**").

If you accept these Terms on behalf of an Organization, you confirm ('represent and warrant') that you are authorized to enter into agreements on behalf of that Organization. If these Terms are accepted using an email address provided by a legal entity, we will regard ('deem') you as authorized to represent that Organization. You must be able to enter into contracts ('have capacity').

Summary: Accepting these Terms creates a legal agreement between you and JetBrains. There are legal consequences to accepting these Terms.

2. Definitions

a) Special legal phrases

There are certain phrases that have an accepted meaning for lawyers. To ensure these Terms are clear and accessible, we have included the accepted 'legal' phrase in parentheses after the word to show that we intend it to have the accepted 'legal' meaning.

b) Definitions

There are also words or phrases in these Terms that have a particular defined meaning. When the word or phrase is used for the first time, it is defined and capitalized. These Terms also use these definitions:

"**Build Agent**" means a software application hosted in TeamCity Cloud (TCC) that executes commands and runs software build processes. A Build Agent can also be hosted by you outside of TCC ("**Self-Hosted Build Agent**").

"**Committer**" means any unique individual or bot that makes changes to all or part of your Repository that you instruct TCC to monitor.

"**Data**" refers to data that may be transferred, stored, processed, or otherwise used in connection with TCC, including code, text, images, photographs, graphics, software, Third-Party Software, the Organization URL, and any other materials you, your Users, and Committers share with us.

"**Documentation**" means the latest versions of all online TCC documentation and any other relevant TCC policy or resource available on the JetBrains Website that applies to TCC available at https://www.jetbrains.com/help/teamcity/teamcity-documentation.html.

"**JetBrains Account**" means an account created by you at https://account.jetbrains.com enabling administration of and/or access to TCC.

"**JetBrains Website**" means the TCC product website and any other website operated by us.

"**Self-Hosted Build Agent**" means a Build Agent that is hosted by you outside of TCC.

"**Storage**" means a certain amount of memory, allocated to you in your Subscription, where you can keep Data.

"**Subscription**" means your TCC instance and your right to use TCC according to these Terms and the Documentation.

"**Subscription Period**" means either a calendar month or a calendar year, except for the initial Subscription Period as detailed in Section 6.

"**TeamCity Cloud**" or "**TCC**" means the JetBrains product offering known as 'JetBrains TeamCity Cloud'. TCC comprises (a) the JetBrains software program known as 'TeamCity', which is provided as a service but may include downloadable parts in binary form; (b) access to TCC, Build Agents, and/or the right to use a Self-Hosted Build Agent; (c) the Documentation; (d) updates to TCC; (e) incorporated Third-Party Software; and (f) Resources.

"**Transfer**" means the downloading of your Data from Storage to any external location, including Self-Hosted Build Agents, in line with the Documentation.

"**Repository**" means all or part of a supported version-control system outside of TCC (e.g. GitHub or a self-hosted system) where your Data is made accessible to us, and to which you give TCC access and instructions to track changes. Repositories that are supported by TCC are detailed in the Documentation.

"**Resources**" means Build Credits, Storage, Transfer, Committers, and any other resource made available to you by us in TCC.

"**Third-Party Software**" means third-party software programs that are owned or licensed by someone other than us and are described on the JetBrains Website.

"**URL**" refers to a unique URL that was assigned to your Organization that allows you to use TCC.

"**User**" means any unique individual or bot that is authorized by you to use your Subscription. A User can be registered as part of your Organization, or can be someone who has access to your Subscription as an unregistered outsider (guest) if you have enabled guest User access for your Subscription.

Summary: Words starting with capital letters have a special meaning. These are defined in this Section or wherever they are used for the first time in these Terms. Please note the difference between Committer and User.

3. Rights and responsibilities

a) Right to use TCC

You can use TCC as long as you comply with these Terms and the Documentation.

b) Your Responsibilities

You are responsible for:

i) *Users* — creating and maintaining a JetBrains Account, permissions you grant to your Users (and guest Users), including registering User accounts, and your and your Users' actions and omissions while using TCC. If you enable

guest Users, they do not require TCC registration, which can result in third parties having access to your Organization's Subscription. If you become aware that any User breaches these Terms, you must notify us and immediately cancel such User's access to TCC.

ii) *Committers* — any commits, edits, and changes made in your Repository.

iii) *Confidentiality & Security* — keeping your Data usernames, passwords, and access tokens confidential and secure, and making sure that your Users do the same;

iv) *Acceptable use* — using TCC in accordance with the Documentation, your Subscription, and the JetBrains Cloud-Based Product Acceptable Use Policy available at https://www.jetbrains.com/legal/docs/terms/teamware-acceptable-use.html ("**Acceptable Use Policy**");

v) *Equipment* making sure that you have a suitable internet connection and any equipment that you need for that internet connection. It is also your responsibility to have access to any hardware and any third-party software needed to run TCC, such as a browser with compatible data security protocols;

vi) *Your Data* — all Data that you or your Users submit, store, or use in TCC, including ensuring that it is legal for you and your Users to do so. You are also responsible for all legal consequences, such as claims, damages, losses, liabilities, costs, and expenses, that result from your Data. If you become aware that any of your Data breaches these Terms or another person's ('third-party') rights, you must notify us and remove this Data from TCC;

vii) *Build Agents* — maintaining Build Agent settings and ensuring that interactions with your Build Agents are in accordance with the Documentation;

viii) *Self-Hosted Build Agents* — the configuration, maintenance, and security of your Self-Hosted Build Agent and ensuring it is in accordance with the Documentation;

ix) *Settings* — maintaining the default settings we provided or the settings recommend in the Documentation;

x) *Repository* — maintaining your Repository in accordance with the Documentation, connection, and interoperability with TCC; and

xi) *Compliance with Laws* — ensuring that you, your Committers, and your Users use TCC according to all applicable laws and governmental regulations.

c) Restrictions

You must not, and you must make sure your Committers and Users do not:

i) *Interfere* — reverse-engineer, disassemble, or decompile all or part of TCC, or try to derive the source code of TCC in any way, unless applicable law allows it;

ii) *Steal* — modify all or part of the TCC binaries, or modify, alter, tamper with, repair, or otherwise create derivative works of TCC, unless we give you express permission;

iii) *Cheat* — use, or try to use, TCC in a way that avoids incurring fees or exceeding your Resource limits;

iv) *Transmit illegal Data* — use TCC to upload, store, or share, or allow others to upload, store, or share ('transmit'), any material that is criminal, offensive, defamatory, or otherwise unlawful or a tort, or that breaches the privacy or intellectual property rights of anyone else ('third-party'). We have ('reserve') the right, but not the responsibility, to reject or remove any Data or suspend or ban any User or close a User account that we believe ('in our sole discretion') breaches these Terms, any other legal agreement with us, or our policies, or is otherwise illegal;

v) *Facilitate unauthorized access* — allow unauthorized access to TCC, unless expressly permitted by these Terms;

vi) *Resell or distribute* — resell TCC or access to TCC to any third party, except if we give you express permission; and

vii) *Hack* — utilize any procedures or tools to bypass TCC security, or utilize or allow TCC to be utilized for the purpose of hacking, tunneling, or otherwise gaining unauthorized access to any computer or system.

More details are included in the JetBrains Acceptable Use Policy.

d) Our responsibilities

We will exercise commercially reasonable efforts regarding:

i) *Access and availability* — making TCC available in accordance with the 'Service Level Agreement' Section below and providing your Users with access to TCC, according to the permissions you define;

ii) *Security and Confidentiality* — keeping Data, usernames, passwords, and access tokens associated with your Subscription confidential and secure from unauthorized use, access, and disclosure;

iii) *Data integrity* — not altering your Repository without your permission, and maintaining the integrity of your Storage; you can see more details in our Data Retention Policy available here https://www.jetbrains.com/legal/docs/terms/teamware-data-retention.html;

iv) *Build Agents* — providing you with clean installation, maintenance, and security of Build Agents, although this does not include Self-Hosted Build Agents; and

v) *TCC's Compliance with Laws* — ensuring TCC complies with all applicable laws and governmental regulations.

Summary: You can use TCC according to these Terms. Do not breach the restrictions outlined above, as they are an important part of our agreement. We both have certain responsibilities and need to approach them with the appropriate levels of seriousness.

4. Access

a) Access control

Your Data, Repository, and Storage might be accessible to us and visible to other Committers and Users, depending on the nature of your Data, the type and specifications of your Repository, and the specific TCC feature that you are using. It is your responsibility to select and set the appropriate level of access to your Data, Storage, and Repository, as described in the Documentation.

Regardless of the level of access you set, you give us permission to access your Data and Repository for the following purposes:

i) *To provide you with TCC* — we can access and utilize your Data and Repository for the purpose of us providing you with the TCC service and, if you have given us permission, we can alter your Data as well;

ii) *For security reasons* — we can access your Data and Repository if we have a good reason to ('reasonably') believe this access is required to maintain the ongoing confidentiality, integrity, availability, performance, and resilience of our systems and TCC;

iii) *For support reasons* — if you request support, you give us permission to access your Data and Repository to carry out the support task, though you can revoke these permissions at any time; and

iv) *If we are legally required* — we have the right to access, review, and remove all or a part of your or your Users' Data if we have a good reason to ('reasonably') believe that the Data breaches the law or these Terms. You understand that there are laws that could require us to disclose your Data and, if these laws apply, we are obliged to comply with them.

b) Our Suspension Rights

We can immediately suspend your, your Committers', or your Users' right to use all or part of TCC, if we have a good reason to ('reasonably') believe that:

i) *Threats* — your use of TCC might adversely impact, or pose a security, privacy, or legal risk to TCC or any of its parts, us, or another person ('third party'). This also applies to your Committers' or Users' use of TCC;

ii) *Failure to pay* — you have not complied with the payment obligations laid out in these Terms (see the "Fees and Payment" Section);

iii) *Financial distress* — you have stopped operating in the usual course of business, have transferred ('assigned') your assets for the benefit of creditors or made a similar arrangement, or are undergoing bankruptcy, reorganization, liquidation, dissolution, or a similar proceeding; or

iv) *Breach of terms* — you, your Committers, or your Users breach these Terms, applicable law, our policies, or someone else's rights. This means we have the right, but not the responsibility, to refuse or remove any Data that is in breach of these Terms or is illegal.

We will make reasonable efforts to let you know of a suspension. Suspensions are temporary, but if the reasons for suspension are not resolved, we can end these Terms (see the 'Termination' Section).

Summary: You are responsible for deciding who has access to your Data in TCC. You give us permission to access your Data so that we can offer TCC to you and your Users. We can suspend your access under certain circumstances.

5. Data

a) Permission to handle your Data

You give ('grant') us certain permissions ('rights') so that we can provide TCC to you.

Each of these permissions takes effect immediately when your Data is submitted to TCC. Each permission ends when your Data is removed from TCC, except as described in our Data Retention Policy available at https://www.jetbrains.com/legal/docs/terms/teamware-data-retention.html. You understand that these permissions are necessary to use TCC and you will not receive any payment for them.

i) Permission that you grant to us

You give us permission to host, store, copy, alter, utilize, parse, display, publish, and share your Data in TCC with you, and you allow it to be similarly shared in TCC with your Users. This permission includes the right to do things such as copy it to our database, make backups, and analyze it on our servers. It does not permit us to sell or otherwise transfer ownership of your Data to a third party, nor does anything here give us permission to grant access to your Data to any third party (other than, to the extent applicable, to Users or Committers) without your written permission.

ii) Permission you grant to Committers and Users

You understand that, depending on the specific settings you choose in TCC, your Committers and Users may be able to access and use any or all of your Data submitted to TCC. You give us permission to enable this access among your Committers and Users. These rights can be given to multiple Users (are 'non-exclusive') and apply worldwide.

Summary: Any Data created by you is yours. You have control over your Data, and responsibility for it. However, you grant us certain rights with respect to this data so that we can provide TCC to you.

6. Subscription, Fees, and Payments

In Section 6, a Committer is any individual or a bot that has made at least 10 changes to all or part of the Repository during the last 30-day period.

a) Subscription

When you sign up, you must select a number of Committers for your Subscription, which determines the number of Resources that we will allocate to you.

Your Subscription gives you the ability to use Resources in TCC based on the limits described on the JetBrains Website. The most important limits include:

i) your Subscription Period;

ii) the number of Committers;

iii) the total amount of Data in your Storage and the amount of Data you Transfer;

iv) the number and type of Build Agents you use in TCC; and

v) your Build Credits (see the 'Build Credits' Section below).

For monthly Subscriptions, Resources will be allocated immediately upon payment. For annual Subscriptions, Resources are allocated to you on the first day of every calendar month, provided that you have paid your Subscription fees. Resources will expire at the end of the month, except for additionally purchased Build Credits.

You choose when your Subscription starts. The starting date impacts the duration of your initial Subscription Period, which could be as follows:

i) if your Subscription Period starts between the first and the fifth day of a calendar month:

- for monthly Subscriptions — your Subscription Period ends on the last day of the same calendar month it started;
- for annual Subscriptions — your Subscription Period ends on the last day of the previous calendar month in the following year;

ii) if your Subscription Period starts on the sixth day or later of a calendar month:

- for monthly Subscriptions — your Subscription Period ends on the last day of the following calendar month;
- for annual Subscriptions — your Subscription Period ends on the last day of the previous calendar month in the following year.

For initial Subscription Periods, the Subscription fees and Build Credits will be adjusted on a pro-rata basis and you will be billed for the full duration of the Subscription term, which may differ from the actual calendar month or calendar year as described above.

If you use up your Resources before the end of the month, you can enable an automatic feature that allows you to use additional Resources (see the 'Overdraft' Section below) or purchase additional Build Credits (see the 'Build Credits' Section below).

b) Subscription Billing

You agree to pay Subscription fees based on the pricing described on the JetBrains Website and in this Agreement. We will bill you as follows:

i) *Annual Subscriptions* — at the beginning of the annual Subscription Period. You will be charged for the number of Resources that are included in your Subscription. You can choose to pay via the payment methods described in JetBrains Terms and Conditions of Purchase available at https://www.jetbrains.com/legal/docs/store/terms/ or on the JetBrains Website. Some of these payment methods will allow us to automatically deduct payments from any major debit or credit cards you provide ("**Recurring Payment**") and others do not, such as wire transfer;

ii) *Monthly Subscriptions* — at the beginning of the monthly Subscription Period. You will be charged for the number of Resources that are included in your Subscription. You can pay for monthly Subscriptions by Recurring Payment only.

You can change your billing period from annual to monthly, or from monthly to annual. These changes will be effective after the end of the then-current Subscription Period.

c) Overdraft

If eligible, you can choose to enable an 'Overdraft' feature ("**Overdraft**"). By enabling this feature, additional Resources will be made available to you automatically.

However, we will set a limit on the amount of additional Resources available to you ("**Overdraft Limit**"). Your Overdraft Limit is based on:

- how many Committers you have as part of your Subscription;
- your payment method; and
- any outstanding dues and your payment history.

If you use Overdraft in a given month, you will be billed for it at the end of that month. The Overdraft Limit will be made available to you to you for the next calendar month, unless there are any outstanding overdue fees.

If you have a Trial Subscription, you cannot enable the Overdraft feature.

d) Build Credits

TCC uses '**Build Credits**' that can be used to run the TCC build process or exchanged for Resources. Resources that are exchanged for Build Credits will be available for use until the end of the calendar month in which the exchange is made.

The exchange rate of Build Credits to Resources can change at any time and is specified on the JetBrains Website. You understand that Build Credits can only be issued by us and are non-refundable. Build Credits are not real money ('legal tender'), currency, cryptocurrency, vouchers, or prizes, and they have no cash value. Build Credits only can be purchased from us, they cannot be sold, traded, transferred, exchanged, or bartered, and they can only be used within TCC.

Build Credits that were made available to you within your Subscription will expire at the end of the current calendar month, just like any other Resource. You can purchase additional Build Credits separately and these will expire if this Agreement is terminated (see the 'Term and Termination' Section).

e) Renewals

Unless you let us know (see the 'Notice' Section below), your monthly Subscription renews automatically for another Subscription Period. For annual Subscriptions renewal is optional. We will let you know shortly before your Subscription Period is renewed.

If you exchange Build Credits for additional Resources, the exchange will be repeated in the following calendar month as well, unless you opt out.

f) Payments

i) *Payment Terms* — If approved for credit, fees are due no later than 30 days from the date of the invoice. The JetBrains Terms and Conditions of Purchase (available at https://www.jetbrains.com/legal/docs/store/terms/) apply to all fees and amounts that you have or might have to pay ('are payable') relating to these Terms. We solely determine your eligibility for Overdraft and credit terms.

ii) *Set-off* — You cannot deduct or set off any amount from the fees that you have to pay us, even if we owe you an amount or you believe we owe you an amount ('counterclaim').

iii) *Taxes* — All Subscription fees, and other amounts relating to TCC, exclude any and all applicable taxes and similar fees (except taxes based solely on our income) now in force or that may be imposed in the future on the provision of TCC. You are responsible for all taxes, levies, and duties, such as value added tax ('VAT'), sales tax, and withholding tax, that apply in your country. You have to pay these in addition to the fees payable to us.

g) Resolution of late payments

To continue using TCC without interruption, you must make sure that you pay all the relevant fees on time. If you do not, we can:

i) limit your Committers' and/or Users' access to all or part of TCC or its features; or

ii) suspend your access to TCC or end these Terms (see the 'Term and Termination' Section).

You will reimburse us for any additional costs that we incur in collecting late payments or from a breach of this Section. There will be no refunds of prepaid services in cases of termination or suspension, and we can charge you during the suspension period.

Summary: To use TCC, you must pay your Subscription fees on time. The duration of the initial Subscription depends on when you choose it to start. At *the end of each month, all unused Resources that were allocated to your Subscription expire and you will be allocated 'new' Resources at the beginning of the next calendar month. If you use up all your Resources, you can enable an Overdraft feature that gives you limited, additional Resources or you can purchase additional Build Credits. Build Credits allow you to run build processes, or they can be exchanged for Resources.*

7. Trial Period

You may be eligible for a 14-day evaluation Subscription ("**Trial Subscription**"), as described in Documentation or on the JetBrains Website. The Trial Subscription is free and must be used only to assess whether TCC suits your needs. You are eligible for a Trial Subscription once. Trial Subscriptions come with limited Resources that do not automatically transfer to paid Subscriptions.

Once the Trial Subscription ends, you will have the option to continue with a paid Subscription or to stop using TCC. If you stop using TCC, we will suspend the Trial Subscription and maintain your Data for a period of 30 days, in case you decide to purchase a Subscription. If you do not let us know that you would like to purchase a Subscription, the suspended Data will permanently be deleted. If you let us know you would like us to delete the data earlier, we will do so.

8. Support

Your Subscription includes the support outlined on the JetBrains Website ("**Support**"). You can request Support by submitting a Support ticket. We will try to respond to your request in a reasonable period of time. You understand that we can handle Support requests in the manner we deem best ('in our sole discretion'), including by choosing to remain inactive.

9. Service Level Agreement (SLA)

We will use commercially reasonable efforts to make TCC available to you at least 99% of the time. We track TCC's availability using our monitoring systems, which does not include unavailability resulting from the following:

a) when TCC is offline and/or unavailable and we let you know at least twenty-four (24) hours before the unavailability;

b) failures of our network, including failures or delays contributed to by an internet service provider;

c) issues caused by Third-Party Software;

c) TCC features that we describe as 'early access', 'alpha', 'beta', 'testing', 'nightly build', or similar;

d) failures attributable to our equipment, services, technology, or Data; or

e) circumstances beyond our reasonable control (see the 'Force Majeure' section).

10. Intellectual Property

a) We own TCC

We own, or have the right to use, all the proprietary and intellectual property rights to TCC. This includes all TCC-related trade secrets, copyright, trademarks, service marks, patents, other registered or unregistered intellectual property, and system-generated Data. System-generated Data includes aggregate anonymized data on how TCC is used, system logs, metadata, registration and login data, and data required to provide support. These are our rights ('rights are reserved') and the only rights that you have in relation to TCC are those that are necessary for you to access and use TCC in accordance with these Terms and the Documentation.

b) You own your Data

You own your Data and keep all proprietary rights, including intellectual property rights.

Every time you submit Data to TCC, you confirm that you have the right to do so and understand that you are doing so at your own risk, and that you are solely responsible for this Data and all consequences of its use in TCC. You also indemnify us for any liability relating to this Data (see the 'Indemnification' Section).

If you believe any Data affects ('infringes') your rights, please let us know at copyright@jetbrains.com.

c) Moral Rights

You keep all moral rights to the Data that you upload, publish, or submit to TCC. This includes rights of integrity and attribution. However, you waive these rights and agree not to assert them against us, but only so that we can perform the tasks described in the 'Permissions to handle your Data' Section. If a court finds that these Terms are not enforceable under applicable law, you grant us the rights that we need to use your Data without attribution and to make reasonable adaptations to your Data, but only to the extent that is necessary to enable us to provide TCC.

d) Feedback

You give us the right to use, change ('modify'), commercialize, and incorporate into TCC any of your ideas, suggestions, recommendations, proposals, or other feedback relating to TCC. You cannot withdraw this permission after it is given (it is 'irrevocable') and it is perpetual. We are not required to pay a fee for this feedback (it is 'royalty-free'), and we can transfer and give similar rights ('sublicense') to your feedback to anyone else worldwide.

e) Third-Party Software

You understand that TCC integrates Third-Party Software and that by using TCC you might be using Third-Party Software. This Third-Party Software is provided to you on the terms and conditions of the respective Third-Party Software and you need to comply with those terms and conditions, which are available here https://www.jetbrains.com/legal/third-party-software/.

Summary: TCC and all intellectual property relating to TCC is owned by us. Any Data created by you remains yours. However, you provide us with certain limited rights to it so we can provide you with TCC. You have control over your Data and responsibility for it.

11. Indemnification

a) Indemnity

If there are any claims, damages, losses, liabilities, or fees and similar expenses, including fair ('reasonable') attorney fees, brought against us that are related to any of the following:

i) *Access and use of TCC* — your, your Committers', or your Users' access or use of TCC. This includes all activities related to your URL and any actions taken by your personnel in relation to TCC;

ii) ***Breach of these Terms*** — the breach of these Terms by any of your Users or Committers;

if you or any of your Users or Committers breach these Terms;

iii) ***Your Data*** — your Data or the combination of your Data with other data, infrastructure, or processes. This includes any allegation that your Data, or its use, development, design, production, advertising, or marketing infringes someone else's (a 'third party's') rights, or that you have illegally or without permission claimed someone else's rights; or

iv) *Disagreements* — disagreement between you, any of your Committers or Users, and another person (each of these is a "**Claim**");

then you agree to indemnify, defend, and hold us and our owners, directors, employees, agents, and representatives harmless, and to indemnify, defend, and hold our affiliates and their owners, directors, employees, agents, and representatives harmless, from any and all Claims.

b) Indemnity claims

We will quickly ('promptly') let you know if someone makes a Claim. If we fail to let you know quickly, then that failure will only affect your obligation to indemnify us to the extent that our failure to inform you quickly adversely affected your ability to defend the Claim. When you are defending a Claim you can choose your own lawyer, with our written permission. If you have our written permission, you can resolve ('settle') the claim as you decide ('at your discretion'). However, we can take full control of your defense and settlement at any time.

12. IMPORTANT — YOUR RISK AND OUR DISCLAIMERS

(**RISK**) TCC AND ANY TCC SUPPORT IS PROVIDED ON AN 'AS IS' AND 'AS AVAILABLE' BASIS. YOU ACCESS AND USE TCC AT YOUR OWN RISK.

(**WARRANTIES & REPRESENTATIONS**) EXCEPT AS EXPRESSLY SET OUT IN THESE TERMS, IN RELATION TO TCC, WE MAKE NO REPRESENTATIONS AND GIVE NO WARRANTIES ('DISCLAIM' THEM) — WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE — SUCH AS (WITHOUT LIMITATION) ANY WARRANTIES THAT TCC WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF HARMFUL COMPONENTS, THAT YOUR SYSTEM, ENVIRONMENT, OR CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED, 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.

THIS DISCLAIMER DOES NOT APPLY TO REPRESENTATIONS AND WARRANTIES THAT CANNOT BE EXCLUDED BY LAW.

(**SECURITY**) YOU UNDERSTAND AND AGREE THAT PARTS OF TCC MAY REQUIRE YOU, COMMITTERS, AND/OR USERS TO INITIALIZE, CONFIGURE, AND MAINTAIN TCC, WITHOUT ASSISTANCE OR GUIDANCE FROM US. IT IS YOUR RESPONSIBILITY TO ASSESS YOUR SYSTEM REQUIREMENTS AND COMPATIBILITY WITH TCC, AND CONFIGURE ALL OR PART OF TCC IN A SECURE MANNER, AND/OR KEEP IT SO CONFIGURED, CONSISTENT WITH INDUSTRY STANDARDS, ALL OUR RECOMMENDATIONS (IF ANY), AND THE DOCUMENTATION. WE ARE NOT RESPONSIBLE FOR YOUR, YOUR COMMITTERS', OR YOUR USERS' ACTIONS, OR OMISSIONS ARISING IN CONNECTION WITH IMPROPER, INADEQUATE, OR DEFICIENT INITIALISATION, CONFIGURATION, OR USE OF TCC.

IF YOU USE A SELF-HOSTED AGENT, YOU MUST ENSURE THAT YOUR BUILD AGENT IS SECURE AND DOES NOT OPERATE IN A MANNER THAT IS LIKELY TO COMPROMISE OR ADVERSELY AFFECT TCC, OUR INFRASTRUCTURE, OR ANY THIRD PARTY.

13. IMPORTANT — LIMITATION OF OUR LIABILITY

(**TYPES OF DAMAGES**) WE WILL NOT BE LIABLE TO YOU OR ANY OF YOUR COMMITTERS OR USERS FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES. THIS INCLUDES DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR DATA, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(**CIRCUMSTANCES OF LOSS**) WE WILL NOT BE LIABLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH:

a) YOUR, YOUR COMMITTERS', OR YOUR USERS' INABILITY TO USE TCC, INCLUDING AS A RESULT OF A SUSPENDED SUBSCRIPTION, OR THE CANCELLATION OF YOUR SUBSCRIPTION OR THESE TERMS;

b) OUR DECISION TO NO LONGER PROVIDE TCC FOR BUSINESS, ECONOMIC, LEGAL, OR REGULATORY REASONS;

c) YOUR HAVING MADE TCC AVAILABLE TO YOUR COMMITTERS OR USERS;

d) YOUR USE OF TCC BEING CONTRARY TO OR INCONSISTENT WITH THE DOCUMENTATION;

f) THE COST OF PROVIDING A SUBSTITUTE FOR TCC;

g) ANY UNANTICIPATED OR UNSCHEDULED UNAVAILABILITY OF TCC OR ITS PART FOR ANY REASON, INCLUDING AS A RESULT OF POWER OUTAGES, SYSTEM FAILURES, OR OTHER INTERRUPTIONS

h) ANY INVESTMENTS, EXPENSES, OR COMMITMENTS THAT YOU OR A MEMBER MAKE RELATING TO THESE TERMS OR YOUR ACCESS TO OR USE OF TCC; OR

i) ANY UNAUTHORIZED ACCESS TO, OR MODIFICATION, DELETION, DESTRUCTION, DAMAGE, LOSS, OR FAILURE TO STORE ANY OF YOUR DATA.

(**MAXIMUM LIABILITY**) OUR MAXIMUM, OVERALL ('AGGREGATE') LIABILITY RELATING TO THESE TERMS IS LIMITED TO THE GREATER OF $100 OR THE AMOUNT THAT YOU ACTUALLY PAID TO US FOR TCC IN THE SIX (6) MONTHS BEFORE YOU CLAIMED THAT WE WERE LIABLE. THE MAXIMUM LIABILITY APPLIES EVEN IF WE WERE ADVISED THAT LIABILITY COULD EXCEED THE MAXIMUM LIABILITY AMOUNT OR EVEN IF THE LEGAL BASIS (I.E. TORT, BREACH OF CONTRACT, EQUITY, OR A SIMILAR BASIS) FOR A REMEDY IS INVALID.

14. Term and Termination

a) Term

These Terms start ('take effect') when you click the "I Accept" button or provide similar consent to ('be bound by') these Terms. These Terms continue until they are ended ('terminated') either by you or us as described in these Terms.

b) Ending this agreement due to a breach of these Terms

Either you or we can end these Terms if the other party breaches them. This must be done by letting the breaching party know ('give notice') that it has breached these Terms. If these breaches are not resolved within 30 days, these Terms will end.

If you end these Terms according to this Section, we are not required to refund you any prepaid amount for the period that would have been your Subscription Period, after the date these Terms were ended.

If we end these Terms according to this Section, we are not required to refund you any prepaid fees for the period that would have been your Subscription Period, after the date these Terms were ended, but you must pay us ('remain liable for') any unpaid fees that you owe for the period that would have been your Subscription Period after the date these Terms were ended.

c) Termination by us

In addition, we can immediately end these Terms if we decide that:

i) you have materially breached these Terms and did not resolve this breach within the 3 days following our notifying you of it; or

ii) we will no longer provide TCC, due to any business, economic, legal, or regulatory reason.

We can also terminate these Terms immediately if we choose for any reason or no reason ('for convenience'), in which case we will return any prepaid fees that are unused ('on a pro rata basis').

If you have materially breached these Terms and did not resolve this breach within 3 days of the breach occurring, you must pay us any unpaid fees that you owe for the period that would be your Subscription Period after the date these Terms were ended. We are not required to refund you any prepaid amount for the period that would be your Subscription Period.

d) Your Data at Termination

Once your Subscription ends, we will store your Data and make it available to you for export ('download') in accordance with the JetBrains Team Tools Data Retention Policy, available at https://www.jetbrains.com/legal/docs/terms/teamware-data-retention.html. You understand that after the time specified therein, your Data will be deleted.

You understand that there is no feature in TCC that allows you to export all your Data directly from TCC; you will need to do this through the application programming interface (API) or ask us to help you with the export.

We have the right to remove your Data from TCC in the event that your Data exceeds the amount of Resources associated with your Subscription.

e) Manual deletion

You can request the manual deletion of your Data currently stored by us by sending a request to privacy@jetbrains.com. We will use commercially reasonable efforts to keep an automatic backup of your deleted Data for 1 month after deletion. However, we will also delete this backup if you request us to do so.

15. Marketing

If you are a legal entity, you give us permission to publicly identify you as our customer, refer to you by name, trade name, and trademarks, and describe your business. You give us permission to do this, but only for our marketing purposes and to identify you as our customer. We can use your name, trade name, and trademarks in our marketing materials, on the JetBrains Website, and in other public documents. We are not required to pay a fee for this permission (it is 'royalty-free'), and it applies worldwide.

16. Notices

a) If you are required to let us know ('give notice') of anything under these Terms, you may do so:

i) by sending an email to legal@jetbrains.com. Any time period starts on the next business day after you send the email;

ii) by courier delivery of a letter marked for the attention of the "Legal Department" at the physical address on the JetBrains Website. Any time period starts 5 consecutive days from when you send the letter; or

iii) by registered post, marked for the attention of the "Legal Department" at the address on the JetBrains Website. Any time period starts 10 consecutive days from when you send the letter.

b) If we are required to let you know ('give notice') of anything under these Terms, we may do so:

i) by posting the information on the JetBrains Website. Any time period starts on the day specified on the JetBrains Website; or

ii) by sending an email to the email address you provide us. Any time period starts on the next business day after we send the email.

It is your responsibility to check the JetBrains Website for any changes and make sure that your email address is up to date in our records.

17. Export Control Laws

You must comply with all applicable laws and regulations relating to export restrictive measures, economic sanctions, export controls, import regulations, and trade embargoes, including those maintained by the European Union and the United States of America ("**Export Control Laws**"). You confirm ('represent and warrant') that you are not an entity, nor are you owned, controlled, or otherwise related to a person or entity, or acting on behalf of any person or entity, that is targeted by Export Control Laws.

This means that you will ensure that the Product, related services, and/or technical data is not (i) accessed, downloaded, transferred, provided, exported, or re-exported directly or indirectly in violation of Export Control Laws; or (ii) used for any purpose prohibited by Export Control Laws.

You are also expected to report any concerns of non-compliance with these requirements and/or address any questions to ethics@jetbrains.com, compliance@jetbrains.com, or legal@jetbrains.com. In addition, you are required to cooperate with us in our efforts to verify our and/or your compliance with Export Control Laws.

18. General Provisions

a) This agreement and its Parties

The JetBrains Privacy Policy, available at https://www.jetbrains.com/legal/docs/privacy/privacy.html, the JetBrains Cloud-Based Tools Acceptable Use Policy, available at https://www.jetbrains.com/legal/docs/terms/teamware-acceptable-use.html, the JetBrains Team Tools User Agreement, available at https://www.jetbrains.com/legal/docs/agreements/teamware.html, the JetBrains Team Tools Data Retention Policy, available at https://www.jetbrains.com/legal/docs/terms/teamware-data-retention.html, and the JetBrains Terms and Conditions of Purchase, available at https://www.jetbrains.com/legal/docs/store/terms/ (each also available at https://www.jetbrains.com/legal) are part of ('incorporated into') these Terms. Each of your guest Users is also subject to the JetBrains Team Tools User Agreement, available at https://www.jetbrains.com/legal/docs/agreements/teamware.html. Together, these documents form the entire agreement and replace any previous agreement between you and us in relation to its subject matter. Except as expressly mentioned, these Terms do not apply or give rights to anyone else ('no third-party beneficiaries').

b) Governing Law and Disputes

These Terms are governed by the laws of the Czech Republic, without reference to conflict of laws principles, and specifically excluding the United Nations Convention on Contracts for the International Sale of Goods. The parties to the agreement constituted by these Terms undertake to use best commercial efforts to amicably settle any disputes arising hereunder ("**Dispute**").

Should the parties to the agreement constituted by these Terms fail to settle a Dispute amicably, the Dispute will be excluded from the jurisdiction of general courts and all such Disputes will be finally decided by the Arbitration Court attached to the Czech Chamber of Commerce and the Agricultural Chamber of the Czech Republic by three arbitrators in accordance with the Rules of that Arbitration Court, and the language of the proceedings will be English; if you are a consumer, you and we both agree that any Dispute-related litigation may only be brought in, and shall be subject to the jurisdiction of, any competent court of the Czech Republic, unless provided otherwise by applicable consumer law. Consumer Disputes can also be settled out of court through the

Czech Trade Inspection Authority (www.coi.cz) or the European Commission online platform for dispute resolution (http://ec.europa.eu/consumers/odr).

c) Force Majeure

We will not be responsible ('liable') for any delay or failure to perform any obligation under these Terms where the delay or failure results from any cause beyond our reasonable control. This includes any 'acts of God', labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, public health emergencies, earthquakes, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.

d) Severability

If a court finds that any part of, or word in, these Terms is not enforceable, that part or word will not affect the enforceability of the rest of these Terms.

e) Interpretation

All heading, title, or paragraph summary is only for convenience and does not affect interpretation of these Terms. Any references to an inclusive word, such as 'including', are not comprehensive and refer to other items in that category. References to time or periods of time are determined in reference to Central European Time. A reference to a section, paragraph, heading, or clause refers to these Terms unless specified otherwise.

f) Waiver

Any waiver of our rights under these Terms must be in writing and signed by us.

g) Changes to Terms and Policies

These Terms can be updated from time to time, to reflect changes in TCC and how it is offered to you. If this happens, we will update the terms on the JetBrains Website and let you know either by:

i) displaying them to you in TCC;

ii) in your JetBrains Account; or

iii) by sending the updated version to the email address used in your JetBrains Account.

Any updated Terms will start ('be effective') on the date specified in the updated Terms. By continuing to use TCC after the effective date you agree to be bound by the modified Terms.

We respect that you may not agree to the updated Terms. If that is the case, you can terminate your Subscription any time up to 30 days after the effective date of the updated Terms. Termination according to this Section entitles you to a pro-rata refund of the pre-paid unused subscription fees.

h) Relationship

Your relationship with us is that of a customer and a vendor ('independent parties'). These Terms do not create a partnership, franchise, joint venture, agency, fiduciary, employment, or any other type of relationship.

19. Important notices

a) Contract Review

By agreeing to these Terms, you are confirming to us that:

- you have had sufficient opportunity to read, review, and consider these Terms;
- you understand the content of each paragraph of these Terms; and
- you have had sufficient opportunity to seek independent professional legal advice.

This means that, to the extent permitted by applicable law, any statutory provisions relating to so-called "form" or "adhesion" contracts do not apply to these Terms.

b) Children and Minors

If you are younger than 13 years old, you cannot agree to these Terms or use TCC. By agreeing to these Terms you are confirming that:

- either you have legal capacity to enter into these Terms, or, if you are between the age of 13 and 18, you have valid consent from a parent or legal guardian to do so; and
- you understand the JetBrains Privacy Policy, available at https://www.jetbrains.com/legal/docs/privacy/privacy.html.

IF YOU DO NOT UNDERSTAND THIS SECTION, DO NOT UNDERSTAND THE JETBRAINS PRIVACY POLICY, OR DO NOT KNOW WHETHER YOU HAVE THE LEGAL CAPACITY TO ACCEPT THESE TERMS, PLEASE ASK YOUR PARENT OR LEGAL GUARDIAN FOR HELP.

If you have any questions about these Terms, please contact us at legal@jetbrains.com.