

TOOLBOX SUBSCRIPTION LICENSE AGREEMENT FOR BUSINESS AND ORGANIZATIONS

Version 2, effective as of September 9th, 2016

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THIS IS A LEGAL AGREEMENT. BY CLICKING ON THE “I AGREE” (OR SIMILAR) BUTTON THAT IS PRESENTED TO LICENSEE AT THE TIME OF LICENSEE’S PURCHASE, OR BY DOWNLOADING, INSTALLING, COPYING, SAVING ON LICENSEE’S COMPUTER, OR OTHERWISE USING JETBRAINS SOFTWARE, SERVICES OR PRODUCTS LICENSEE IS BECOMING A PARTY TO THIS AGREEMENT AND LICENSEE IS CONSENTING TO BE BOUND BY ALL THE TERMS AND CONDITIONS SET FORTH BELOW.

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

1. PARTIES

1.1. “JetBrains” or “We” means JetBrains s.r.o., having its principal place of business 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.

1.2. “Licensee” means the sole proprietor or legal entity specified in the Subscription Confirmation. 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 (i) the power, direct or indirect, to cause the direction or management of such entity, whether by contract or otherwise, or (ii) ownership of fifty percent (50%) or more of the outstanding shares or beneficial ownership of such entity.

2. DEFINITIONS

2.1. “Agreement” means this Toolbox Subscription License Agreement.

2.2. “Product” means any software provided as part of the JetBrains Toolbox.

2.3. “Client” means a computer device used by User for running Product.

2.4. “Product Version” means a release, update, or upgrade of a particular Product that is not identified by JetBrains as being made for the purpose of fixing software bugs.

2.5. “Bug Fix Update” for a particular Product Version means a software update or release that is specifically identified by JetBrains as a bug fix for that Product Version.

2.6. “Fallback Date” means the date that was 12 months prior to the date of expiration of the Toolbox Subscription.

2.7. “Fallback Version” means the most recent Product Version that JetBrains made available for public purchase prior to the Fallback Date, along with any Bug Fix Updates for that Product Version. For purposes of clarity, Fallback Version does not include any Product updates or upgrades other than Bug Fix Updates that Licensee may have used in the period between the Fallback Date and the date of expiration of the Toolbox Subscription.

2.8. “JetBrains Account” or “JBA” means an account at <https://account.jetbrains.com> created by Licensee or a single User, having a unique name and password, and enabling User management and Toolbox Subscription administration and/or access to Products in accordance with a Toolbox Subscription.

2.9. “JetBrains Toolbox” means all of JetBrains individual developer productivity software (as identified on the JetBrains [website](#)). For the avoidance of doubts, JetBrains Toolbox does not include team productivity

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2.10. “Subscription Confirmation” means an email confirming Licensee’s rights to access and use Products, including Toolbox Subscription plans and number of licenses acquired.

2.11. “Toolbox Subscription” specifies the subscription term, the set of Products covered by this Agreement, subscription fees and payment schedules.

2.12. “User” means any employee, independent contractor or other temporary worker authorized by Licensee to use Software while performing duties within the scope of their employment or assignment.

3. GRANT OF LICENSE

3.1. The Product is licensed on a per-seat basis. If Licensee complies with terms of this Agreement, Licensee has the rights identified below in this section for each Toolbox Subscription that Licensee acquires.

3.2. Unless the Toolbox Subscription is expired or this Agreement is terminated in accordance with Section 12, and subject to the terms and conditions specified herein, JetBrains grants Licensee a limited, non-exclusive and non-transferable license to use each Product covered by Toolbox Subscription as follows:

(A) Licensee may:

(i) Install and use any version of the Product covered by Toolbox Subscription on any number of Clients and on any operating system supported by the Product;

(ii) Make one backup copy of the Product solely for archival purposes.

(B) Licensee may not:

(i) Allow the same Toolbox Subscription to be used concurrently by more than one (1) User.

(ii) Rent, lease, reproduce, modify, adapt, create derivative works of, distribute, sell, sublicense or transfer the Product, or provide access to the Product or Licensee’s JetBrains Account to a third party;

(iii) Reverse-engineer, decompile, disassemble, modify, or translate the Product, or make any attempt to discover the source code of the Product;

(iv) Remove or obscure any proprietary or other notices contained in the Product.

3.3. Following the expiration of this Agreement, the license rights in Section 3.2(A) shall continue on a perpetual, royalty-free, limited, non-exclusive, and non-transferable basis for the continued use of a Fallback Version of each Product covered by the Toolbox Subscription. The rights granted in this Section 3.3 are expressly contingent upon Licensee having paid in full the applicable Toolbox Subscription fees for the preceding 12 months or longer without interruption. The limitations set forth in clause 3.2.B of this Agreement apply to the usage of the Fallback Version. The parties agree that upon expiration of this Agreement and Licensee’s continued use of the Fallback Version, the provisions identified in Section 12.5 shall continue to apply to Licensee.

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(A) By sending an invitation from Licensee's JBA to a User JBA. Licensee acknowledges that Product will periodically connect from a User Client to JetBrains' servers via the Internet to confirm User's right to use Product;

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(C) Via a server application located on Licensee's premises that enables access to the Product from Clients that are within Licensee's local area network ("License Server"). The License Server option may be provided to Licensee at the sole discretion of JetBrains.

6. FEES

Licensee must pay Toolbox Subscription fees in accordance with the [JetBrains Terms of Purchase](#) or reseller's terms of purchase, whichever is applicable. If Licensee fails to make the timely payment of Toolbox Subscription fees, this Agreement will be terminated and Licensee may not use Products except as set forth in Section 3.3 of this Agreement.

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8.1. The Products include code and libraries licensed to us by third parties, including open source software ("Third-Party Software"). The list of Third-Party Software included in each Product is available in [Product](#)

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9. TOOLBOX SUBSCRIPTION TRIAL

9.1. Subject to the terms of this Agreement, Licensee is granted a one-time right to install and use Product for evaluation purposes without charge for a period of thirty (30) days from the date of the Product installation, unless otherwise specified (“Evaluation Period”). Licensee’s use of Product during Evaluation Period shall be limited to the internal evaluation of Product for the sole purpose of determining whether Product meets Licensee’s requirements and whether Licensee desires to continue using Product.

9.2. Licensee may withdraw from using Product at Licensee’s sole discretion anytime before expiration of Evaluation Period. Upon expiration of Evaluation Period, Licensee’s right to continue to use Product will terminate, unless Licensee purchases a Toolbox Subscription to the Product. The Product contains a feature that will automatically disable the Product upon expiration of Evaluation Period.

10. LIMITED WARRANTY

ALL PRODUCTS ARE PROVIDED TO LICENSEE ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES. USE OF THE PRODUCTS IS AT YOUR OWN RISK. JETBRAINS MAKES NO WARRANTY AS TO ITS USE OR PERFORMANCE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, JETBRAINS, AND ITS 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 THE PRODUCTS, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES. THIS LIMITED WARRANTY GIVES LICENSEE SPECIFIC LEGAL RIGHTS. LICENSEE MAY HAVE OTHER RIGHTS, WHICH VARY FROM STATE/JURISDICTION TO STATE/JURISDICTION. JETBRAINS (AND ITS AFFILIATES, AGENTS, DIRECTORS AND EMPLOYEES) DOES NOT WARRANT THAT THE PRODUCTS ARE ACCURATE, RELIABLE OR CORRECT; THAT THE PRODUCTS WILL MEET YOUR REQUIREMENTS; THAT THE PRODUCTS WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE PRODUCTS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE PRODUCTS ARE DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD.

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11.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL JETBRAINS (OR ITS AFFILIATES, AGENTS, DIRECTORS, OR EMPLOYEES), OR JETBRAINS’ LICENSORS, SUPPLIERS OR RESELLERS BE LIABLE TO LICENSEE OR ANYONE ELSE FOR: (A) ANY LOSS OF USE, DATA, GOODWILL, OR PROFITS, WHETHER OR NOT FORESEEABLE; (B) ANY LOSS OR DAMAGES IN CONNECTION WITH TERMINATION OR SUSPENSION OF LICENSEE’S ACCESS TO OUR PRODUCTS IN ACCORDANCE WITH THIS AGREEMENT, AND (C)

ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES), INCLUDING THOSE (X) RESULTING FROM LOSS OF USE, DATA, OR PROFITS, WHETHER OR NOT FORESEEABLE, (Y) BASED ON ANY THEORY OF LIABILITY, INCLUDING BREACH OF CONTRACT OR WARRANTY, STRICT LIABILITY, NEGLIGENCE OR OTHER TORTIOUS ACTION, OR (Z) ARISING FROM ANY OTHER CLAIM ARISING OUT OF OR IN CONNECTION WITH LICENSEE'S USE OF OR ACCESS TO THE SERVICES OR SOFTWARE. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

11.2. OUR TOTAL LIABILITY IN ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT IS LIMITED TO ONE HUNDRED (100) US DOLLARS OR THE AGGREGATE AMOUNT THAT LICENSEE PAID FOR PRODUCTS DURING THE THREE-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE LIABILITY, WHICHEVER IS LARGER. THIS LIMITATION WILL APPLY EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF THE LIABILITY EXCEEDING THE AMOUNT AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

12. TERM AND TERMINATION

12.1. The term of this Agreement will commence upon acceptance of this Agreement by Licensee as set forth in the preamble above, and will continue for each Product through the end of the applicable subscription period specified in the respective Subscription Confirmation. This Agreement will automatically renew with respect to each Product for a successive Toolbox Subscription term, unless terminated as set forth herein.

12.2. Licensee may terminate this Agreement at any time by cancelling a subscription via JetBrains Account. If such termination occurs during a then-current subscription period, this Agreement will continue to be effective until the end of that subscription period. Such termination does not relieve Licensee of the obligation to pay any outstanding subscription fees owed to JetBrains, and no credits or refunds will be issued to Licensee for prepaid subscription fees (except as specified in JetBrains Terms of Purchase, if applicable).

12.3. JetBrains may terminate this agreement 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 subscription fees;
- (C) JetBrains is required to do so by law (for example, where the provision of the JetBrains Toolbox to Licensee is, or becomes, unlawful); or
- (D) JetBrains elects to discontinue to provide JetBrains Toolbox, in whole or in part.

12.4. JetBrains will make reasonable efforts to notify Licensee via email as follows:

- (A) Thirty (30) days prior to termination of the Agreement in the events specified in Clauses 12.3(C) and 12.3(D) above, 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 the Agreement in the event specified in Clause 12.3(B), and in such event Licensee will not be entitled to any refund of unused portion of prepaid subscription fees.

12.5. Survival. Upon the expiration or termination of this Agreement by Licensee under Section 12.2, and if Licensee elects to use the Fallback Version Licensee subject to Section 3.3 of this Agreement, Sections 3.3, 7, 8, 10 and 11 of this Agreement will survive.

13. TEMPORARY SUSPENSION FOR NON-PAYMENT

13.1. JetBrains reserves the right to suspend Licensee's access to JetBrains' Products in the event that Licensee fails to make payment for its subscription.

13.2. If JetBrains suspends Licensee's access to JetBrains' Products for non-payment according to the provision 13.1., Licensee must pay all past due amounts in order to restore its access to JetBrains' Products.

13.3. Licensee hereby agrees that JetBrains is entitled to charge Licensee for the time period during which Licensee has access to JetBrains Products until Licensee or JetBrains terminates or suspends Licensee's subscription in accordance with this Agreement.

14. 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 JetBrains Toolbox or any related technical data directly or indirectly to any person targeted by Sanctions or download or otherwise use JetBrains Toolbox for any end-use prohibited or restricted by Sanctions.

15. MARKETING

Licensee agrees to be identified as a customer of JetBrains and that JetBrains may refer to Licensee by name, trade name and trademark, if applicable, and may briefly describe Licensee's business in JetBrains marketing materials, on the JetBrains website, in public or legal documents. Licensee hereby grants JetBrains a license to use Licensee's name and any of Licensee's trade names and trademarks solely pursuant to this marketing section.

16. GENERAL

16.1. Entire Agreement. This Agreement, including the Third-Party Software license terms, constitutes the entire agreement between the parties concerning its subject matter and supersedes any prior agreements between Licensee and JetBrains regarding Licensee's use of any JetBrains software covered by JetBrains Toolbox. 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 JetBrains.

16.2. Reservation of Rights. JetBrains reserves the right at any time to cease the support of JetBrains Toolbox and to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of JetBrains Toolbox.

16.3. Changes to this Agreement. We may update or modify this Agreement from time to time, including any referenced policies and other documents. If a revision meaningfully reduces Licensee's rights, we will use reasonable efforts to notify Licensee (by, for example, sending an email to the billing or technical contact provided by Licensee to us, posted on our blog, through JetBrains Account, or via the Product itself). If we modify Agreement, the modified version of Agreement will be effective upon the next Toolbox Subscription term. In this case, if Licensee objects to the updated Agreement terms, as Licensee's exclusive remedy, Licensee may cancel Toolbox Subscription. Licensee may be required to click through the updated Agreement to show the acceptance. For the avoidance of doubt, any Subscription Confirmation is subject to the version of the Agreement in effect on the Subscription Confirmation date.

16.4. Opportunity to Review. Licensee hereby declares that Licensee has had sufficient opportunity to review this Agreement, understand the content of all of its clauses, negotiate its terms, and seek independent professional legal advice in that respect before entering into it. Consequently, any statutory “form contracts” (“adhesion contracts”) regulations shall not be applicable to this Agreement.

16.5. Severability. If a particular term is not enforceable, the unenforceability of that term will not affect any other terms.

16.6. Headings. Headings and titles are for convenience only and do not affect the interpretation of this Agreement.

16.7. No Waiver. Our failure to enforce or exercise any of this Agreement is not a waiver of that section.

16.8. Notice. JetBrains may deliver any notice to Licensee via electronic mail to an email address provided by Licensee, JetBrains Account, registered mail, personal delivery or renowned express courier (such as DHL, Fedex or UPS). Any such notice will be deemed to be effective (i) on the day the notice is sent to Licensee via email, (ii) upon being uploaded to JetBrains Account (irrespective of when Licensee actually receives it), (iii) upon personal delivery, (iv) one (1) day after deposit by express courier, (v) or five (5) days after deposit in the mail, whichever occurs first.

16.9. Governing Law. 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 will be subject to the jurisdiction of, any relevant competent court of Czech Republic.

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

Address: Na hřebenech II 1718/10, Prague, 14700, Czech Republic

Fax: +420 241 722 540

Email: sales@jetbrains.com