

# Qodana Community Linters Agreement

Version 1.0, effective as of October 11, 2021

IMPORTANT! READ CAREFULLY:

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

JetBrains and Customer may each also be referred to individually as a “Party” or jointly as the “Parties”.

## 1. PARTIES

1.1. “Customer” or “you” means either a natural person or a legal entity, entering into and exercising rights under this Agreement. In case of a customer who is a legal entity, Customer includes its Affiliates.

1.2. “JetBrains” or “we” means JetBrains s.r.o., having its principal place of business at Na Hrebenech II 1718/10, Prague, 14000, Czech Republic, registered in the Commercial Register maintained by the Municipal Court of Prague, Section C, File 86211, ID No.: 265 02 275.

## 2. DEFINITIONS

2.1. “Affiliate” means, with respect to any Party, any entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of such Party; “control” for such purposes means, direct or indirect, power to direct or affect the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract, or otherwise.

2.2. “Agreement” means this Qodana Community Linters Agreement.

2.3. “Machine” means a computing device used exclusively by Customer to run Qodana Community.

2.5. “Qodana Community” means an edition of Qodana with limited functionality that is provided to you free of charge. JetBrains does not develop Qodana Community according to Customer’s specifications, nor is Qodana Community customized through modification or personalization.

2.6. “Report” means a record of functional and structural issues, performance metrics, adjustment recommendation and tips identified by Qodana.

2.7. “Review” means the technical analysis of code by Qodana.

## 3. GRANT OF RIGHTS

3.1. Qodana Community is provided to you on a ‘per user’ basis. Customer must at all times use the most up to date version of Qodana Community made available by us.

3.2. Subject to Customer’s compliance with the terms of this Agreement and the product documentation, JetBrains grants to Customer a non-exclusive, revocable, conditional, world-wide right as set out in this Section 3 to the extent necessary to enable Customer to effectively use Qodana Community and Reports as follows:

(A) You may:

(i) install and use Qodana Community to run Review and generate Reports;

(ii) redistribute Qodana Community onto a third-party Machine for legitimate purposes provided that you have received authorization from the owner of that computer device to do so; and

(iii) distribute, display and use the Report for internal development purposes.

(B) You may not:

- (i) modify, adapt, reproduce, transfer, create derivative works of, reverse engineer, decompile, disassemble, modify, translate, or make any attempt to discover the source code of Qodana Community;
- (ii) rent, lease, or sell Qodana Community or Report, or their parts or features, or provide these in connection with a service bureau, time-sharing, terminal sharing or similar type of service or product;
- (iii) distribute Qodana Community to third parties, unless expressly permitted by this Agreement;
- (iv) provide a third party with access to Customer's JetBrains Account; and
- (v) alter, remove or obscure any proprietary or other notices contained in Qodana Community.

3.3. Customer acknowledges that no ownership rights are conveyed to Customer under this Agreement, irrespective of the use of terms such as "purchase" or "sale". JetBrains has and retains all rights, title, and interest, including all intellectual property rights, in and to Qodana Community and Report, any and all related or underlying technology, and any modifications or derivative works of Qodana Community and Report, including without limitation as these may incorporate Feedback (as defined below).

#### 4. ACCESS TO QODANA COMMUNITY

4.1. All deliveries under this Agreement will be electronic. You must have an Internet connection in order to access your JetBrains Account and to receive any deliveries. For the avoidance of doubt, you are responsible for downloading and installing Qodana Community, which are made available for download on JetBrains' website at [www.jetbrains.com](http://www.jetbrains.com), or one of the third-party sources listed on the JetBrains website.

4.2. Qodana Community does not require activation.

#### 5. FEEDBACK

You have no obligation to provide us with ideas, suggestions, or proposals ("Feedback"). However, if you submit Feedback to us, then you grant us a non-exclusive, worldwide, royalty-free license that is sub-licensable and transferable, to make, use, sell, have made, offer to sell, import, reproduce, publicly display, distribute, modify, or publicly perform the Feedback in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise.

#### 6. THIRD PARTY SOFTWARE LICENSE

Qodana Community includes code and libraries licensed to JetBrains by third parties, including open source software ("Third-Party Software"). A list of Third-Party Software included in Qodana Community is available in the respective product documentation and/or at <https://www.jetbrains.com/legal/third-party-software>. All Third-Party Software is provided to you under the respective terms stipulated in the product documentation.

#### 7. LIMITED WARRANTY

7.1. QODANA COMMUNITY IS PROVIDED TO CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS. USE OF QODANA COMMUNITY IS AT CUSTOMER'S OWN RISK.

7.2. JETBRAINS MAKES NO WARRANTY AS TO QODANA COMMUNITY'S USE OR PERFORMANCE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, JETBRAINS (OR ITS AFFILIATES, SHAREHOLDERS, AGENTS, DIRECTORS, AND EMPLOYEES), ITS LICENSORS, SUPPLIERS (WHICH SHALL INCLUDE THE PROVIDERS OF THIRD PARTY SOFTWARE), AND RESELLERS (COLLECTIVELY "JETBRAINS PARTIES") DISCLAIM ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED (INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY; FITNESS FOR A PARTICULAR PURPOSE; TITLE; AND NON-INFRINGEMENT) WITH REGARD TO QODANA COMMUNITY AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES.

7.3. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, JETBRAINS PARTIES DO NOT REPRESENT OR WARRANT THAT QODANA COMMUNITY: (A) IS ACCURATE, RELIABLE OR CORRECT; (B) WILL

MEET ANY CUSTOMER REQUIREMENTS; (C) WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; (D) IS FREE OF DEFECTS OR ERRORS AND THAT ANY, IF FOUND, WILL BE CORRECTED; AND/OR (E) IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

7.4. CUSTOMER MAY, AT ITS OWN RISK, OBTAIN QODANA COMMUNITY FROM A THIRD PARTY SOURCE; ANY CONTENT OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF QODANA COMMUNITY IS DOWNLOADED AT CUSTOMER'S OWN RISK; CUSTOMER AGREES IT IS SOLELY RESPONSIBLE FOR ANY DAMAGE TO ITS PROPERTY OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD.

7.5. CUSTOMER MAY HAVE OTHER RIGHTS WHICH MAY NOT BE LIMITED OR EXCLUDED AND WHICH MAY VARY FROM JURISDICTION TO JURISDICTION. THIS DOCUMENT IS NOT INTENDED TO NEGATIVELY AFFECT SUCH RIGHTS.

## **8. DISCLAIMER OF DAMAGES**

8.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL JETBRAINS PARTIES BE LIABLE TO CUSTOMER, CUSTOMER'S AFFILIATES, USERS 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 CUSTOMER'S ACCESS TO QODANA COMMUNITY IN ACCORDANCE WITH THIS AGREEMENT; OR (C) ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER (EVEN IF THE RELEVANT JETBRAINS PARTY HAS 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 CUSTOMER'S USE OF OR ACCESS TO QODANA COMMUNITY OR SUPPORT. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

8.2. THE TOTAL LIABILITY OF THE JETBRAINS PARTIES IN ANY MATTER ARISING OUT OF OR IN RELATION TO THIS AGREEMENT IS LIMITED TO THE AMOUNT PAID, IF ANY, FOR QODANA COMMUNITY OR FIVE (5) US DOLLARS, WHICHEVER IS LESS. THIS LIMITATION WILL APPLY EVEN IF THE JETBRAINS PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF LIABILITY EXCEEDING SUCH AN AMOUNT AND NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

## **9. EXPORT REGULATIONS**

9.1. Customer must comply with all applicable laws and regulations with regard to economic sanctions, export controls, import regulations, restrictive measures, and trade embargoes ("Sanctions"), including those of the European Union and United States. Customer declares and warrants that it is not a person targeted by Sanctions nor is it otherwise acting on behalf of any entity or person targeted by Sanctions. Customer agrees that it will not download or otherwise export or re-export Qodana Community or any related technical data directly or indirectly to any person targeted by Sanctions or download or otherwise use Qodana Community for any end-use prohibited or restricted by Sanctions.

9.2. Customer must immediately report any concerns of non-compliance regarding Sanctions to [compliance@jetbrains.com](mailto:compliance@jetbrains.com), or [legal@jetbrains.com](mailto:legal@jetbrains.com) and cooperate with JetBrains in its efforts to verify and ensure compliance with Sanctions.

## **10. TEMPORARY SUSPENSION**

JetBrains reserves the right to suspend Customer's access to Qodana Community if Customer's use of Qodana Community is in violation of this Agreement, disrupts or imminently threatens the security, integrity, or availability of Qodana Community.

## 11. TERM AND TERMINATION

11.1. The term of this Agreement will commence upon acceptance of this Agreement by Customer as set out in the preamble above, and will continue for each product installation until Qodana Community is terminated by either party. Upon termination by either JetBrains or Customer, Customer must discontinue using Qodana Community and delete all copies of Qodana Community from its Machines and archives, except as expressly permitted in this Agreement.

11.2. Customer may terminate this Agreement with immediate effect by notifying JetBrains of such termination.

11.3. JetBrains may terminate this Agreement if:

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

(B) JetBrains is required to do so by law, including where the provision of Qodana Community to Customer is, or becomes, unlawful; or

(C) JetBrains elects to discontinue providing Qodana Community, in whole or in part.

11.4. JetBrains will make reasonable efforts to notify Customer by email (to the email address of the billing or technical contact provided by Customer) as follows thirty (30) days prior to termination of the Agreement in the events specified in Sections 11.3(C) above, if applicable.

11.5. Upon the expiration or termination of this Agreement, Sections 5, 6, 7, 8, 9 and 13 of this Agreement survive.

## 12. MARKETING

Customer agrees that JetBrains may identify them as a customer of JetBrains and may refer to them by name, trade name, and trademark, if applicable. JetBrains may also briefly describe Customer's business in JetBrains marketing materials, on the JetBrains website, and/or in public or legal documents. Customer hereby grants JetBrains a worldwide, non-exclusive, and royalty-free license to use Customer's name and any of Customer's trade names and trademarks solely pursuant to this marketing section.

## 13. GENERAL

13.1. **Entire Agreement.** The following documents are part of ('incorporated into') this Agreement: the JetBrains Privacy Policy, available at <https://www.jetbrains.com/legal/docs/privacy/privacy.html>, the Data Processing Addendum (if applicable) at <https://www.jetbrains.com/legal/dpa>. 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, this Agreement does not apply or give rights to anyone else ('no third-party beneficiaries'). No purchase order, Customer terms or other document that purports to modify or supplement this Agreement will vary the terms of this Agreement unless signed by Customer and JetBrains.

13.2. **EAP Version.** Customer may choose to use EAP Versions during the term of this Agreement. Such use is subject to the JetBrains EAP User Agreement (available at [https://www.jetbrains.com/legal/docs/toolbox/user\\_eap.html](https://www.jetbrains.com/legal/docs/toolbox/user_eap.html)) and by using the EAP Version Customer accepts these terms and conditions. If Customer ceases use of EAP Version but continues to use Qodana Community, such use will continue to be governed by this Agreement.

13.3. **Reservation of Rights.** JetBrains reserves the right at any time to cease the support of Qodana Community and to alter prices, features, specifications, capabilities, functions, terms of use, release dates, general availability or other characteristics of Qodana Community. Nothing in this Agreement limits any rights a consumer may have under applicable consumer protection laws.

13.4. **Changes to this Agreement.** The Agreement can be updated from time to time, to reflect changes in Qodana Community and how it is offered to you.

(A) If this happens, we will update the terms on the JetBrains website and let you know either:

(i) by displaying them to you in Qodana Community;

(ii) in your JetBrains Account; or

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

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

(C) We respect that you may not agree to the updated Agreement. If that is the case, you can terminate at any time up to 30 days after the effective date of the updated Agreement.

(D) If you are using a Fallback Version and object to the update to the Agreement, you can continue using the Fallback Version under the previously applicable terms.

**13.5. Opportunity to Review.** You declare that you have had sufficient opportunity to review this Agreement, understand the content of all of its sections, negotiate its terms, and seek independent professional legal advice in that respect before entering into it. Consequently, any statutory "form contract" ("adhesion contract") regulations shall not be applicable to this Agreement.

**13.6. Severability.** If a particular term of this Agreement is not enforceable, the unenforceability of that term will not affect any other terms of this Agreement.

**13.7. Interpretation.** Headings and titles are for convenience only and do not affect the interpretation of this Agreement. Terms such as "including" are not exhaustive.

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

**13.9. Notice.** JetBrains may deliver any notice to Customer via electronic mail to an email address provided by Customer, 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 Customer via email, (ii) upon being uploaded to your JetBrains Account (irrespective of when Customer actually receives it), (iii) upon personal delivery, (iv) one (1) day after deposit with an express courier, (v) or five (5) days after deposit in the mail, whichever occurs first.

**13.10. Governing Law.** This Agreement is governed by the laws of the Czech Republic, without regard 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 this Agreement undertake to use best commercial efforts to amicably settle any disputes arising hereunder ("Dispute").

**13.11. Dispute Resolution.** Should the Parties to this Agreement fail to settle a Dispute amicably, the Dispute will be excluded from the jurisdiction of general courts and such Dispute 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](http://www.coi.cz)) or the European Commission online platform for dispute resolution (<http://ec.europa.eu/consumers/odr>).

**13.12. Data Privacy.** By accepting this Agreement, Customer acknowledges that JetBrains will process personal data in accordance with JetBrains' Privacy Policy (available at <https://www.jetbrains.com/company/privacy.html>). Unless you have signed an individual data processing addendum with JetBrains, JetBrains' data processing addendum available at <https://www.jetbrains.com/legal/dpa> applies.

**13.13. Force Majeure.** Neither Party shall be in breach of this Agreement, or otherwise liable to the other, by reason of any delay in performance, or non-performance of any of its obligations under this Agreement (except payment obligations), arising directly from an act of God, fire, flood, natural disaster, act of terrorism, strike, lock-out, labour dispute, public health emergency, civil commotion, riot, or act of war.

**13.14. Children and minors.** If you are under 18 years old, then by entering into this Agreement you explicitly stipulate, that (i) you have legal capacity to conclude this Agreement or that you have valid consent from a parent or legal guardian to do so and (ii) you understand the JetBrains Privacy Policy available at: <https://www.jetbrains.com/legal/docs/privacy/privacy.html>. You may not enter into this Agreement if you are under 13 years old. 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.

For further information, please contact us at [legal@jetbrains.com](mailto:legal@jetbrains.com).