Terms and Conditions of Purchase

Version 22, effective as of September 7, 2020

GENERAL

In these Terms and Conditions of Purchase ("Purchase Terms"):

1. "Affiliate" means 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 the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise.
2. "Customer" means an individual or a legal entity purchasing Product and/or Plugin directly from JetBrains.
3. "Individual Consumer" means an individual who purchases, or is otherwise in a contractual relationship or deals with JetBrains in relation to, JetBrains Products and/or Plugins outside the scope of his or her trade, business, craft or profession.
4. "JetBrains" means:

   A. if Customer is

   - a) located outside North and South America, the Russian Federation (as specified below), Switzerland (as specified below), South Africa, India, Belgium, The Netherlands and Luxembourg; or;
   - b) Authorized Software Reseller located in Belgium, The Netherlands and Luxembourg appointed under duly executed Authorized Software Reseller Agreement,

   JetBrains s.r.o. with its registered office at Na Hřebenech II 1718/10, Prague, 14000, Czech Republic, registered with Commercial Register kept by the Municipal Court of Prague, Section C, file 86211, ID.Nr.: 265 02 275;

   B. if Customer is located in North or South America, JetBrains Americas, Inc., a Delaware corporation with its registered office at 10 Lake Center Drive, Suite 203, Marlton, NJ 08053, USA;

   C. if Customer is located in:

   - a) Switzerland and has a valid local VAT ID number;
   - b) South Africa;
   - c) Russian Federation; or
   - d) India;

   JetBrains Distributions s.r.o., with its registered office at Na Hřebenech II 1718/10, Prague, 14000, Czech Republic, registered with Commercial Register kept by the Municipal Court of Prague, Section C, file 295970, ID.Nr.: 071 74 811.

   D. if Customer is located in:

   - a) Belgium;
   - b) The Netherlands; or
   - c) Luxembourg;

   JetBrains N.V., with its registered office at Huidekoperstraat 26-28 1017 ZM Amsterdam, The Netherlands.
5. "Product" means any software program or service made available by JetBrains, unless otherwise expressly stated in these Purchase Terms. The use of Product by Customer is governed by the applicable Terms of Use.
6. "Plugin" means any plugin, extension, or other software designed to work with Product.
7. "JetBrains Marketplace" means any platform at which JetBrains markets Plugins, including the website https://plugins.jetbrains.com or any other JetBrains Website.
8. "JetBrains Website" or "Site" means any website that is the property of JetBrains s.r.o. including but not limited to everything hosted under the domains listed at https://www.jetbrains.com/legal/websites/.

9. “Terms of Use” mean the terms and conditions of end-user license agreement, subscription terms, terms of service, or other standard customer agreements set forth by JetBrains and applicable to Product or Plugin in addition to these Purchase Terms.
10. “Privacy Policy” means the JetBrains Privacy Policy available at https://www.jetbrains.com/company/privacy.html, which may be updated from time to time.
11. “Personal data” means any information relating to an identified or identifiable natural person.

Customer accepts these Purchase Terms by placing an order for Product or Plugin with JetBrains.

For orders placed online on JetBrains Website, the entity with which Customer is contracting is shown on the Order Checkout page above the “Place Order” button. For orders placed by email, the entity with which Customer is contracting is shown on invoice issued to Customer by JetBrains.

Orders placed by Customer with a reseller of JetBrains are subject to terms and conditions of purchase set forth by that reseller.

ORDER PLACEMENT AND ACCEPTANCE

Customer may place an order with JetBrains:

1. online on the JetBrains Website; or
2. by email using the appropriate contact of JetBrains.

Order details shall be in English. Customer can modify order details before acceptance of Customer order by JetBrains by submitting a written notice to JetBrains. English is the preferred language for order-related enquiries.

Any order is not binding upon JetBrains until accepted by JetBrains. Non-acceptance of an order may be the result of one of the following:

1. failed payment;
2. growing backlog or negative payment history;
3. incomplete or incorrect order details, such as missing email address for delivery, missing Customer billing address, or a pricing or product description error, among others;
4. ineligibility according to the order criteria (e.g. entitlement to upgrade or to certain Product or Plugin purchase options restricted to particular users or purpose of use); or
5. for any reason at the sole discretion of JetBrains.

Any additional or conflicting terms on an order will not apply unless specifically agreed to in a separate written agreement signed by JetBrains.

PRICES AND PAYMENT TERMS

These terms apply to Products and Plugins that are offered to Customer in return for a fee paid to JetBrains (“Paid Plugin”). In relation to Plugins developed by a third-party developer (“Developer”), additional terms agreed between the Developer and Customer may apply.

JetBrains, subject to its sole decision, sets prices for Products and Paid Plugins in one of the following currencies depending on Customer’s country: USD, EUR, GBP, JPY, or CZK.

JetBrains accepts major debit and credit cards (collectively, “Payment cards”) for online orders via third-party payment gateway providers, including, but not limited to, Adyen and PayPal. JetBrains is not responsible for any (i) payment failure resulting from inaccurate payment card details provided by Customer when placing an online order, (ii) any restrictions applicable to payment card by Customer’s bank, (iii) payment gateway failure, or (iv) misuse, abuse, unauthorized use or fraudulent use of Payment cards.

In relation to payment by card or any other form of payment agreed in writing with JetBrains on a monthly, quarterly, or annual basis (“Recurring Payments”), by purchasing Product or a Plugin requiring regular payments, Customer authorizes JetBrains to charge Customer’s payment card automatically at the interval and in the amount

selected by Customer based on the available options during the purchase process. Customer agrees that the payment card specified by Customer for Recurring Payments is, and will continue to be, an account that Customer owns or is otherwise legally authorized to use, and that Customer will maintain sufficient availability under Customer's credit card limit, or sufficient funds in the account linked to Customer's debit card, as applicable, to pay Recurring Payments. Customer can cancel Recurring Payments at any time via Customer's account at https://account.jetbrains.com prior to the next Recurring Payment due date. If Customer cancels Recurring Payments after this time, the cancellation will not take effect until the following Recurring Payment due date, and no refund or partial refund will be issued to Customer by JetBrains.

In relation to other forms of payment, JetBrains will only accept orders from existing corporate Customers that have no outstanding payments past due. Orders can only be paid by wire transfer on net 30 days terms (payable within 30 days from the date Products are delivered), unless otherwise specified by JetBrains. Orders from newly registered corporate Customers and offline orders from individual Customers are subject to advance payment by wire transfer.

PRODUCT DELIVERY

JetBrains ships no physical Products or Plugins. Any details necessary to enable Customer to download and/or use the purchased Product or Plugin will be delivered by JetBrains to Customer via email to an email address provided by Customer (and in case of Plugins also made available to Customer via JetBrains Website). Customer is responsible for providing JetBrains with a valid email address for delivery purposes.

Should JetBrains' Products not be delivered immediately, JetBrains will use its commercially reasonable efforts to deliver Product or a Plugin purchased by Customer within 2 business days of the order acceptance. JetBrains shall not be liable for any failure to deliver Product or Plugin within this timeframe.

Products or Plugins shall be deemed delivered to Customer immediately or on the date when JetBrains sends Product or a Plugin email to the email address provided by Customer. JetBrains shall not be liable for any failure to deliver Product or a Plugin to Customer due to non-delivery of an email message concerning Product or a Plugin.

TAXES AND DEDUCTIONS

Product and Plugin prices do not include any national, state or local sales tax, use tax, value added tax (VAT), goods and sales tax (GST), digital services tax (DST) or other tax ("Local Tax").

If purchase is subject to any Local Tax, it can be added to the invoice.

Also, JetBrains reserves the right to use any global service provider, including Taxamo Checkout Limited Ltd. as its commissionaire to invoice Customer. Notwithstanding the foregoing, JetBrains remains Customer's counterparty and no other provisions of these Purchase Terms shall be affected.

If there is a possibility to issue the invoice without Local Tax, Customer is obliged to provide JetBrains with a valid Local Tax number (e.g. VAT ID) or valid exemption documentation.

Customer bears the sole responsibility for any withholding tax liabilities, and no deductions shall be made by Customer from the amount payable to JetBrains or Taxamo Checkout Limited Ltd. under any invoice.

Any correction to an invoice due to tax reasons (in particular based on the provision of Customer's Local Tax number) shall be requested by Customer by the 7th day of the month following the month when the affected invoice was issued, at the latest. JetBrains reserves the right to request any supporting document relating to the requested correction and/or reject any such request if received after this date.

TEMPORARY SUSPENSION FOR NON-PAYMENT

If Customer fails to pay any amount on time under these Purchase Terms and the applicable Terms of Use, JetBrains reserves the right to, at its sole discretion, suspend Customer's access to all JetBrains' Products and/or Plugins until such time as it is satisfied that all payments have been made or terminate the Terms of Use, in the manner specified in the applicable Terms of Use.

If JetBrains suspends Customer's access to JetBrains' Products and/or Plugins for any failure to, or delay in, payment of any amount, Customer must pay the entire outstanding amount in order to restore its access to JetBrains' Products and/or Plugins. During any period of suspension, Customer hereby agrees that JetBrains is entitled to charge Customer for the entire period for which Customer has placed an order for subscription to JetBrains Products and/or Plugins.

REFUND AND SUPPORT

Any refund request following the Product or Plugin purchase date will be subject to prior authorization by JetBrains, and acceptance of such request shall be at the sole discretion of JetBrains, unless otherwise provided by applicable law.

In case a Product and/or Plugin shows any defects or does not function properly, Customer may contact JetBrains here:

For Product support: https://www.jetbrains.com/support/

For Sales support: https://www.jetbrains.com/support/sales/#email-sales

Any Customer in the position of an Individual Consumer has the right to request that:

1. any defect is removed without undue delay free of charge;
2. if the removal is not possible, an appropriate discount corresponding to the actual malfunction of the Product and/or Plugin.

The above Individual Consumer rights are applicable only in respect to any defects or malfunctions existing at the time of the Product and/or Plugin purchase, even if apparent later. Customer in the position of an Individual Consumer is entitled to assert his rights arising from a defect within twenty-four months from the purchase. If a defect occurs within six months, the Product and/or Plugin is presumed to have already been defective upon purchase.

EXPORT CONTROL

Customer shall comply with all applicable laws and regulations with regards to economic sanctions; export controls, import regulations and trade embargoes (collectively "Export Control Laws"), including those of the European Union and United States (specifically, the Export Administration Act of 1979 and the Export Administration Regulations ("EAR")). Customer acknowledges that it is not an entity targeted by Export Control Laws nor is it otherwise owned or controlled by or acting on behalf of any person targeted by Export Control Laws. Further, Customer agrees to ensure that neither JetBrains Products and/or Plugins, nor any related technical information, are:

1. Downloaded, transferred, exported, or re-exported directly or indirectly in violation of Export Control Laws; or
2. Used for any purpose prohibited by Export Control Laws, including but not limited to nuclear, chemical, or biological weapons proliferation; or
3. exported to restricted and/or embargoed destinations (including, but are not limited to, Cuba, Iran, North Korea, Sudan, and Syria), prohibited end-user(s); and/or
4. participate in prohibited end-use and/or proliferation activities.

JetBrains will not be liable to Customer for any failure to provide Product and/or Plugin, as a result of any government action that JetBrains reasonably believes may adversely impact its obligations under these Purchase Terms, business or reputation.

MISCELLANEOUS

No terms and conditions other than the terms and conditions contained herein shall be binding upon JetBrains, unless explicitly accepted by JetBrains in writing and signed by the duly authorized representative of JetBrains.

If Customer's terms and conditions of purchase are different from or in addition to these Purchase Terms, these Purchase Terms shall prevail and Customer's terms are hereby rejected, unless otherwise explicitly agreed in writing with JetBrains.

These Purchase Terms are subject to change at any time by JetBrains by posting the updated Purchase Terms on a JetBrains Website.

Customer declares having had sufficient opportunity to review these Purchase Terms, understood the content of all of their clauses, negotiated their terms and sought independent professional legal advice in that respect, before accepting these Purchase Terms. Consequently, any statutory "form contracts" ("adhesion contracts") regulations shall not be applicable to these Purchase Terms.

If Customer is located outside North and South America and outside Belgium, The Netherlands and Luxembourg, these Purchase Terms shall be governed by the laws of Czech Republic, without reference to conflict of laws principles, and the parties agree that any litigation relating to these Purchase Terms may only be brought in, and shall be subject to the jurisdiction of, any Court of Czech Republic, unless provided otherwise by applicable Consumer law. Any disputes between Jetbrains and an Individual Consumer can be settled out of court through the extrajudicial dispute resolution entity, such as Czech Trade Inspection Authority (www.coi.cz) or through the designated on-line platform accessible here: https://webgate.ec.europa.eu/odr/main/index.cfm?event=main.home.show&lng=CS

If Customer is located in North or South America, then the following applies: these Purchase Terms shall be governed by and construed under the laws of the State of New Jersey, without reference to conflict of laws principles of that state or any nation state. The parties agree that any litigation relating to these Purchase Terms shall be settled by the court of competent jurisdiction in the State of New Jersey.

If Customer is located in Belgium, The Netherlands and Luxembourg, then the following applies: these Purchase Terms shall be governed by and construed under the laws of The Netherlands, without reference to conflict of laws principles of that state or any nation state. The parties agree that any litigation relating to these Purchase Terms shall be settled by the court of competent jurisdiction in The Netherlands, unless provided otherwise by applicable consumer law.

If the Customer is located in the Russian Federation, Product means only YouTrack and Datalore and no other JetBrains products whatsoever. Provision of JetBrains products other than YouTrack and Datalore to Customers located in the Russian Federation is not governed by these Purchase Terms.

The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Purchase Terms.

JetBrains reserves the right (and Customer grants its consent with it) to assign or otherwise transfer the agreement based on these Purchase Terms or any rights or obligations under this Purchase Terms, in whole or in part, without further Customer's consent to any JetBrains' Affiliate. If the foregoing is in breach of applicable consumer laws, Individual Consumers have the right to terminate their contract with JetBrains.

PERSONAL DATA

In connection with purchase of Products and Plugins by Customer, JetBrains and JetBrains Affiliates will process Customer's Personal Data, in particular, Customer's contact and identification details and information about Customer's subscription and payments, for the following purposes:

To provide Customer with software services or information;

To protect JetBrains from piracy and unlawful use of JetBrains software or services;

To improve JetBrains offerings based on usage;

For internal evidence of JetBrains and to protect the rights and interests of JetBrains and other users;

To promote and market JetBrains software and services; and

To fulfil legal duties stipulated by accounting, taxation, and other laws.

Customer may object to processing of Customer's Personal Data for the purposes 2 to 5 above at any time. More detailed information about personal data processing for the above-mentioned purposes and about Customer's rights can be found in the Privacy Policy.

For the above purposes, JetBrains may process information including but not limited to Customer's name, email address, username, physical address, telephone number, payment data, company name, and tax identification number where applicable. To receive the software, support, and services, Customer explicitly fills in their Personal Data, whether Customer purchases a JetBrains Downloadable Software Product, a Plugin, or JetBrains Software as a Service.

JetBrains products and services often give Customer the option to provide feedback, such as suggestions, compliments, or problems encountered. JetBrains invites Customer to provide such feedback as well as to post comments on JetBrains website, blogs, and discussion forums.

Transfer of Personal Data to third parties. JetBrains is responsible for the handling of Customer's Personal Data by such third party. The transfer is made to assist it in providing its services to Customer or in its operations; to do so JetBrains, may send them Customer's Personal Data. Personal Data collected from Customer is transferred to:

1. A third-party payment provider to process payment transactions;
2. A third-party cloud accounting service;
3. Resellers who are handling purchases of JetBrains products in a certain region. Information about the reseller obtaining Customer's Personal Data is indicated to Customer before the transfer is made;
4. Other representatives of the same Customer; or
5. A third-party Plugin vendor.

JetBrains may communicate with Customers by sending them emails aiming to help avoid interruption of a service. Such examples include but not limited to:

1. payment reminders;
2. debt reminders;
3. license expiration reminders;
4. license delivery and confirmation emails;
5. credit card expiration reminders about cards saved for automatic payments for licenses;
6. purchase follow-ups requesting information about Customer's company for enhancement of customer service;
7. license assignment emails;
8. administrator invitation emails; and
9. purchase administration requests.

For any questions regarding these Purchase Terms, please contact us at legal@jetbrains.com.