

CODENVY HOSTED SERVICES AGREEMENT

This Codenvy Hosted Services Agreement (the “**Agreement**”) and Terms of Service (“**TOS**”) is between you and Codenvy, S.A. (R.C.S B-172848) (“**Codenvy**” or “**us**” or “**we**”). If you are agreeing to this Agreement not as an individual but on behalf of your company, then (“**Customer**” or “**you**”) means your company, and you are binding your company to this Agreement. Codenvy may modify this Agreement from time to time, subject to the terms in Section 25.

This Agreement governs your use of Codenvy’s Hosted Services and Professional Services.

BY SIGNING UP FOR THE SERVICE HOSTED AT CODENVY.COM, CODENVY.IO, OR ANY WEB SITE OR PROPERTY OWNED OR OPERATED BY CODENVY AND ANY SUCCESSOR OR RELATED SITE DESIGNATED BY US; OR BY ACCESSING CODENVY HOSTED SERVICES AND PRODUCTS, YOU INDICATE YOUR ASSENT TO BE BOUND BY THIS AGREEMENT.

Effective Date: June 29th, 2017

1. DEFINITIONS

1.1 “Administrative Coder” means a Coder who has been authorized by Customer to administer a Workspace by granting other Coders the right to read only, to read and write Projects, or restrict Behaviors (such as disabling certain features) on such Workspace. By default, only the Administrative Coder has read and write privileges for a Workspace.

1.2 “Organization Administrative Coder” means a Coder who has been authorized by Customer to administer an Organization by granting other Administrative Coders the ability to create, destroy or modify Workspaces within an Organization. By default, only the Organization Administrative Coder has create, delete, and modify privileges for an Organization.

1.3 “Authorized User Limitations” means, if applicable, the total number of Users, and/or the specific User Types, for which Customer has purchased a Software Subscription.

1.4 “Business Day” means any weekday other than a day designated as a holiday under the Codenvy holiday schedule, as revised annually and from time to time.

1.5 “Codenvy Software” or “Software” means the object code version of the Codenvy proprietary software that the customer is using, along with any Updates thereto provided by Codenvy to Customer hereunder. For the avoidance of doubt, Codenvy Software does not include third party Open Source Software provided to Customer along with the Codenvy Software.

1.6 “Coder” means a specific individual identified by a valid e-mail address that has registered with the Service.

1.7 “Concurrent User” means a nominated person identified by a valid e-mail address.

1.8 “Consulting Services” means the consulting services, if any, set forth on an applicable Order Form, to be performed by Codenvy for Customer, as may be further described in an applicable Professional Services Attachment.

1.9 “Customer” means any person or entity that, as applicable, either (i) opens a Customer Account, (ii) creates a Factory URL, or (iii) generates a Temporary Workspace by invoking a Factory URL.

1.10 “Customer Account” means any person with a registered account that is associated with an email address. Customer Accounts can have one or more Subscriptions.

1.11 “Customer Content” means any information, data or content, including, without limitation, any and all software (whether in object or source code format), files, text, graphics, images, photos, video, audio, inventions (whether or not patentable), works of authorship, ideas and other materials provided by Customer to Codenvy, or uploaded to the Service by Customer, in connection with Customer’s use of the Service.

1.12 “Documentation” means the information made generally available online by Codenvy to its customers that describes the form, features and/or operation of the Service, including any updates of Documentation that Codenvy may make available to Customer pursuant to this Agreement.

1.13 “Factory” means an Internet URL that enables the creation of one or more Workspaces.

1.14 “Factory End User” means any individual accessing and/or using a Workspace that is generated by a Factory.

1.15 “Hosted Services” means Codenvy’s hosted or cloud-based solutions.

1.16 “Hosted Services Subscription” means a non-exclusive, nontransferable right to use the Hosted Services in accordance with this Customer Agreement, the Hosted Services Subscription Term, and any applicable Order.

1.17 “Hosted Services Subscription Term” means the period of time for which a Hosted Services Subscription is valid.

1.18 “Named User” means a specific individual identified by a valid e-mail address.

1.19 “Open Source Software” means individual software components that are provided with the Codenvy Software, for which the source code is made generally available, and that are licensed under the terms of various published open source software license agreements or copyright notices accompanying such software components. We list the open source software that ships with Codenvy here: <https://install.codenvycorp.com/codenvy/codenvy-dependencies-latest.txt>.

1.20 “Order” means a purchase commitment mutually agreed upon between (1) Codenvy and Customer, or (2) a Codenvy authorized reseller. Each Order will be governed by this Agreement.

1.21 “Order Form” means a Codenvy order form, pursuant to which Customer may order Codenvy Hosted Services, and Professional Services from Codenvy.

1.22 “Organization” is an account that is authorized to have two or more Workspaces within the Service allocated to Customer in connection with a Subscription.

- 1.23 “Persistent Workspace” is a Workspace that is mapped to a registered, named account and whose contents will be placed in storage for the period of the Subscription Term.
- 1.24 “Project” means a software development project created in or uploaded to a Workspace.
- 1.25 “Private Project” means a Project that is viewable only by the applicable Administrative Coder and Coders authorized by such Administrative Coder.
- 1.26 “Protected Information” means any (i) "non-public personal information" as that term is defined in the Gramm-Leach-Bliley Act found at 15 USC Subchapter 1, Section 6809(4), (ii) "protected health information" as that term is defined in regulations promulgated pursuant to the Health Insurance Portability and Accountability Act found at 45 CFR § 164.501, (iii) any and all information identifying specific individuals, such as name, address, phone number, date of birth, mother’s maiden name, e-mail address, social security number, and (iv) any other information that is the subject of special legal or regulatory security requirements, both in effect as of the Effective Date and as subsequently enacted.
- 1.27 “Products” means Codenvy: SAAS, or Codenvy Factories for Sales & Support.
- 1.28 “Public Project” means a Project that is viewable by anyone who visits the website where the Services is made available, whether or not they are registered users of the Service. Public Projects may also be reproduced by any Coder and imported into any Workspace.
- 1.29 “Services” or “Professional Services” or “Ancillary Services” means collectively, Consulting Services and Training Services.
- 1.30 “Professional Services Attachment” means a statement of work executed by the parties and setting forth the specific details of Professional Services to be performed by Codenvy for Customer. Any initial Professional Services Attachment may be attached to this agreement as an exhibit.
- 1.31 “Services Subscription Term” means the period of time for which a Services Subscription is valid, as set forth in the applicable Order Form.
- 1.32 “Site” means any Web site or property owned or operated by Codenvy and any successor or related site designated by us.
- 1.33 “Software Subscription” means a non-exclusive, nontransferable right to use the applicable Codenvy Software in accordance with this Customer Agreement, the License Term, and any applicable Order, subject to the Authorized User Limitations, for which such right has been purchased.
- 1.34 “Software Subscription Term” or “License Term” means the period of time for which a Software Subscription is valid, as set forth in the applicable Order Form.
- 1.35 “Subscription Fee” means a fee to be paid by Customer to Codenvy for a Subscription, in accordance with Codenvy’s then-current pricing schedule set forth at <http://codenvy.com> or as specified within your Order.
- 1.36 “Subscription Term” means the period of time for which a Subscription is valid, as set forth in the applicable Order Form.
- 1.37 “Support Services” means the technical support services related to the use of the Codenvy Software that are purchased by Customer, as set forth on an applicable Order Form, and as further described in Codenvy’s Support Services Policy located at <https://codenvy.com/legal/support-policy.pdf>, as the same may be modified by Codenvy from time to time. The Support Services Policy is hereby incorporated into and made a part of this Agreement.
- 1.38 “Temporary Workspace” is a Workspace pursuant to a temporary Subscription with a Subscription Term that lasts for duration of the session or the passage of a fixed period of non-usage of the Workspace (approximately 10 minutes). The Customer’s content will be destroyed at the end of this limited Subscription Term.
- 1.39 “Training Services” means the training services, if any, set forth on an applicable Order Form, as may be further described in an exhibit to this agreement.
- 1.40 “Update” means any major release, minor release, service pack and/or patch for the Codenvy Software that is made generally available by Codenvy to customers during the term of this Agreement.
- 1.41 “User” means an individual user of the Codenvy Software.
- 1.42 “User Type” means a Named User, Concurrent User, or Administrative User.
- 1.43 “Workspace” means a developer environment with an allocation of resources that have a defined Scope of Use within the Service allocated to Customer in connection with a Subscription.

2 Types of Codenvy Products. This Agreement governs (a) Codenvy’s hosted or cloud-based solutions (“**Hosted Services**”), and (c) any related support or maintenance services provided by Codenvy. Software and Hosted Services, together with related Documentation, are referred to as “**Products**”. The Products and their permitted use are further described in Codenvy’s standard documentation (“**Documentation**”).

3 Account Registration. You may need to register for a Customer Account in order to place orders or access or receive any Products. Any registration information that you provide to us must be accurate, current and complete. You must also update your information so that we may send notices, statements and other information to you by email or through your account. You are responsible for all actions taken through your accounts. As an express condition of being permitted to open a Customer Account, you represent and warrant that you (i) have the legal capacity (including, without limitation, being of sufficient age) to enter into contracts under the law of the jurisdiction in which you reside, (ii) are not on a list of persons barred you from receiving services under U.S. laws (including, without limitation, the Denied Persons List and the Entity List issued by the U.S. Department of Commerce, Bureau of Industry and Security) or other applicable jurisdiction and (iii) are not a resident of Cuba, Iran, North Korea, Sudan or Syria. Upon registration with the Service, Codenvy will provide Customer a password for use with the Customer Account. Customer is responsible for maintaining the confidentiality of its password and for all use made of the Customer Account (whether or not authorized by Customer) and all Customer Content that is created, transmitted, stored, or displayed by, from, or within such account(s), and for any consequences thereof. Customer agrees to immediately notify Codenvy of any unauthorized use of its password(s) or account(s), or any other breach of security related to the Services of which it becomes aware. Codenvy shall not be liable for any loss or damage arising from Customer’s failure to keep its password(s) secure.

4 Orders.

4.1 Directly with Codenvy. Codenvy's Product ordering documentation or purchase flow ("**Order**") will specify your authorized scope of use for the Products, which may include: (a) number and type of Authorized Users (as defined below), (b) storage or capacity (for Hosted Services), (c) numbers of licenses, or (d) other restrictions or billable units (as applicable, the "**Scope of Use**"). The term "**Order**" also includes any applicable Product or Support and Maintenance renewal, or purchases you make to increase or upgrade your Scope of Use.

4.2 Additional Orders. In the event that in the future Customer desires to: (i) purchase from Codenvy additional Hosted Services Subscriptions; (ii) pay an additional fee to increase the Authorized User Limitations; (iii) extend the Software Subscription Term; and/or (iv) purchase a different service level of Support Services, the parties may execute one or more additional Order Forms, setting forth the additional Products to be licensed, any different level of Support Services being purchased and/or the increase in Authorized User Limitations, along with the applicable additional fees to be paid by Customer to Codenvy.

4.3 Reseller Orders. This Agreement applies whether you purchase our Products directly from Codenvy or other authorized resellers (each, a "**Reseller**"). If you purchase through a Reseller, your Scope of Use shall be as stated in the Order placed by Reseller for you, and Reseller is responsible for the accuracy of any such Order. Resellers are not authorized to make any promises or commitments on Codenvy's behalf, and we are not bound by any obligations to you other than what we specify in this Agreement.

5 Authorized Users. Only the specific individuals for whom you have paid the required fees and whom you designate through the applicable Product ("**Authorized Users**") may access and use the Products. Some Products may allow you to designate different types of Authorized Users, in which case pricing and functionality may vary according to the type of Authorized User. Authorized Users may be you or your Affiliates' employees, representatives, consultants, contractors, agents, or other third parties who are acting for your benefit or on your behalf. You may increase the number of Authorized Users permitted to access your instance of the Product by placing a new Order or, in some cases, directly through the Product. In all cases, you must pay the applicable fee for the increased number of Authorized Users. You are responsible for compliance with this Agreement by all Authorized Users. All use of Products by you and your Authorized Users must be within the Scope of Use and solely for the benefit of you or your Affiliates. "**Affiliate**" means an entity which, directly or indirectly, owns or controls, is owned or is controlled by or is under common ownership or control with a party, where "control" means the power to direct the management or affairs of an entity, and "ownership" means the beneficial ownership of 50% (or, if the applicable jurisdiction does not allow majority ownership, the maximum amount permitted under such law) or more of the voting equity securities or other equivalent voting interests of the entity.

6 No-Charge Products. We may offer certain Products to you at no charge, including free accounts, trial use, and access to Beta Versions as defined below ("**No-Charge Products**"). Your use of No-Charge Products is subject to any additional terms that we specify and is only permitted for the period designated by us. You may not use No-Charge Products for competitive analysis or similar purposes. We may terminate your right to use No-Charge Products at any time and for any reason in our sole discretion, without liability to you. You understand that any pre-release and beta products we make available ("**Beta Versions**") are still under development, may be inoperable or incomplete and are likely to contain more errors and bugs than generally available Products. We make no promises that any Beta Versions will ever be made generally available. In some circumstances, we may charge a fee in order to allow you to access Beta Versions, but the Beta Versions will still remain subject to this Section 6 (No-Charge Products). All information regarding the characteristics, features or performance of Beta Versions constitutes Codenvy's Confidential Information. To the maximum extent permitted by applicable law, we disclaim all obligations or liabilities with respect to No-Charge Products, including any Support and Maintenance, warranty, and indemnity obligations.

7 Hosted Services Terms. These terms apply to the Codenvy-SaaS product, hosted at codenvy.com, codenvy.io, or any web site or property owned or operated by Codenvy and any successor or related site designated by us that lets you access Codenvy services in environments that we manage.

7.1 Access to Hosted Services. Subject to the terms and conditions of this Agreement, Codenvy grants you a non-exclusive right to access and use the Hosted Services during the applicable Subscription Term (as defined below) in accordance with this Agreement, your applicable Scope of Use and the Documentation. If Codenvy offers client software (e.g., a CLI, desktop or mobile application) for any Hosted Service, you may use such software solely with the Hosted Service, subject to the terms and conditions of this Agreement. You acknowledge that our Hosted Services are on-line, subscription-based products and that we may make changes to the Hosted Services from time to time.

7.2 Account Definitions, Subscription Definitions and Scope of Use Restrictions.

7.2.1 Free Account. There is no charge for access to the Hosted Services with this account. This account includes the right to (i) an unlimited number of Public Projects, (ii) an unlimited number of Private Projects, (iii) workspace read access by an unlimited number of Coders, (iv) Team capabilities and Organization add-on, (v) three read-write (3) Coders with an applicable fee of \$0, (vi) ability to create one or more Workspaces, (vii) community support, (viii), unlimited editor usage, (ix) 3 Gigabytes of RAM with an applicable fee of \$0 to be used for workspace runtimes, (x) a 10-minute workspace idle timeout, (xi) retention of workspace snapshots for a period of 20 days since last access. Codenvy, through periodic promotions, may increase the size of the RAM for Customer. Unless otherwise agreed upon by Customer and Codenvy, the Subscription Term is always set at one (1) month and automatically renewable for one (1) month at the end of the Subscription Term. We periodically review our database to determine if your Organization is operating within this restriction. Organizations that exceed the limits may be invoiced for the appropriate subscription service to bring their usage within compliance.

7.2.2 Pay As You Go Account. This account includes the right to (i) an unlimited number of Public Projects, (ii) an unlimited number of Private Projects, (iii) workspace read access by an unlimited number of Coders, (iv) Team and Organization add-on, (v) three (3) read-write Coders with an applicable fee of \$0, (vi) additional read-write Coders purchased as part of the Subscription, (vii) ability to create one or more Workspaces, (viii) premium support, (ix), unlimited editor usage, (x) 3 Gigabytes of RAM with an applicable fee of \$0 to be used for workspace runtimes, (xi) the amount of additional RAM purchased as part of the Subscription, (xii) four hour workspace idle timeout, (xiii) retention of workspace snapshots for a period of at least 182 days since last access. If not defined in an Order Form, the cost of each Gigabyte of RAM in the subscription is the then-current price on the Codenvy.com website: <https://codenvy.com/pricing/>. Unless otherwise agreed upon by Customer and Codenvy, the Subscription Term is

always set at one (1) month and automatically renewable for one (1) month at the end of the Subscription Term. Fees are charged when the Subscription is purchased and in the case of a Subscription renewal again at the beginning of each month.

7.3 Credentials. You must ensure that all Authorized Users keep their user IDs and passwords for the Hosted Services strictly confidential and not share such information with any unauthorized person. User IDs are granted to individual, named persons and may not be shared. You are responsible for any and all actions taken using your accounts and passwords, and you agree to immediately notify Codenvy of any unauthorized use of which you become aware.

7.4 Your Data. “Your Data” means any data, content, code, video, images or other materials of any type that you upload, submit or otherwise transmit to or through Hosted Services. You will retain all right, title and interest in and to Your Data in the form provided to Codenvy. Subject to the terms of this Agreement, you hereby grant to Codenvy a non-exclusive, worldwide, royalty-free right to (a) collect, use, copy, store, transmit, modify and create derivative works of Your Data, in each case solely to the extent necessary to provide the applicable Hosted Service to you and (b) for Hosted Services that enable you to share Your Data or interact with other people, to distribute and publicly perform and display Your Data as you (or your Authorized Users) direct or enable through the Hosted Service. Codenvy may also access your account or instance in order to respond to your support requests or diagnose incidents affecting the Hosted Service.

7.5 Security. Codenvy implements security procedures to help protect Your Data from security attacks. However, you understand that use of the Hosted Services necessarily involves transmission of Your Data over networks that are not owned, operated or controlled by us, and we are not responsible for any of Your Data lost, altered, intercepted or stored across such networks. We cannot guarantee that our security procedures will be error-free, that transmissions of Your Data will always be secure or that unauthorized third parties will never be able to defeat our security measures or those of our third party service providers.

7.6 Storage Limits. There may be storage limits associated with a particular Hosted Service. These limits are described in the services descriptions on our websites or in the Documentation for the particular Hosted Service. Codenvy reserves the right to charge for additional storage or overage fees. We may impose new, or may modify existing, storage limits for the Hosted Services at any time in our discretion, with or without notice to you.

7.7 Responsibility for Your Data.

7.7.1 General. You must ensure that your use of Hosted Services and all Your Data is at all times compliant with our Acceptable Use Policy (<https://codenvy.com/legal/acceptable-use-policy.pdf>) and all applicable local, state, federal and international laws and regulations (“**Laws**”). You represent and warrant that: (i) you have obtained all necessary rights, releases and permissions to provide all Your Data to Codenvy and to grant the rights granted to Codenvy in this Agreement and (ii) Your Data and its transfer to and use by Codenvy as authorized by you under this Agreement do not violate any Laws (including without limitation those relating to export control and electronic communications) or rights of any third party, including without limitation any intellectual property rights, rights of privacy, or rights of publicity, and any use, collection and disclosure authorized herein is not inconsistent with the terms of any applicable privacy policies. Other than its security obligations under Section 7.5 (Security), Codenvy assumes no responsibility or liability for Your Data, and you shall be solely responsible for Your Data and the consequences of using, disclosing, storing, or transmitting it.

7.7.2 Sensitive Data. You will not submit to the Hosted Services (or use the Hosted Services to collect): (i) any personally identifiable information, except as necessary for the establishment of your Codenvy account; (ii) any patient, medical or other protected health information regulated by HIPAA or any similar federal or state laws, rules or regulations; or (iii) any other information subject to regulation or protection under specific laws such as the Gramm-Leach-Bliley Act (or related rules or regulations) ((i) through (iii), collectively, “**Sensitive Data**”). You also acknowledge that Codenvy is not acting as your Business Associate or subcontractor (as such terms are defined and used in HIPAA) and that the Hosted Services are not HIPAA compliant. “HIPAA” means the Health Insurance Portability and Accountability Act, as amended and supplemented. Notwithstanding any other provision to the contrary, Codenvy has no liability under this Agreement for Sensitive Data.

7.7.3 Indemnity for Your Data. You will defend, indemnify and hold harmless Codenvy from and against any loss, cost, liability or damage, including attorneys’ fees, for which Codenvy becomes liable arising from or relating to any claim relating to Your Data, including but not limited to any claim brought by a third party alleging that Your Data, or your use of the Hosted Services in breach of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law. This indemnification obligation is subject to your receiving (i) prompt written notice of such claim (but in any event notice in sufficient time for you to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, or settlement of such claim; and (iii) all reasonable necessary cooperation of Codenvy at your expense.

7.8 Removals and Suspension. Codenvy has no obligation to monitor any content uploaded to the Hosted Services. Nonetheless, if we deem such action necessary based on your violation of this Agreement or in response to takedown requests that we receive following our Section 7.8.1 Guidelines for Reporting Copyright and Trademark Violations, we may (1) remove Your Data from the Hosted Services or (2) suspend your access to the Hosted Services. We will generally alert you when we take such action and give you a reasonable opportunity to cure your breach, but if we determine that your actions endanger the operation of the Hosted Service or other users, we may suspend your access immediately without notice. You will continue to be charged for the Hosted Service during any suspension period. We have no liability to you for removing or deleting Your Data from or suspending your access to any Hosted Services as described in this section 7 (Hosted Services Terms).

7.8.1 Guidelines for Copyright and Trademark Violations. If you believe that your copyrighted work has been illegally uploaded or posted on the Site or the Service, you may send a written notice to Codenvy at admin@codenvy.com, and Codenvy will respond pursuant to its Digital Millennium Copyright Act (“DMCA”) procedure. Codenvy’s DMCA procedure is in accordance with that suggested by DMCA, the text of which can be found at the U.S. Copyright Office web site <http://www.copyright.gov/legislation/dmca.pdf>. Codenvy reserves all rights to seek damages and fees associated with infringement and or fraud.

7.9 Deletion at End of Subscription Term. We may remove or delete Your Data within a reasonable period of time after the termination of your Subscription Term.

7.10 Acceptable Use Policy. For many of our Hosted Services we offer (mostly) unlimited storage, projects and bandwidth. As with any business, we have real costs associated with these resources. As such, we ask you to follow a reasonable use policy on these resources. Generally, you can consume as much as you want, but if we notice that your consumption is excessive outside the normal bounds for the use of the service, then we will ask you to make some adjustments to bring your usage back into a range of reasonable use. We reserve the right to suspend any account that operates outside of the Acceptable Use policy. We want this to be a fantastic service, so please respect the policy and work with us to make Codenvy a great service for everyone. Otherwise, we'll need to alter our stance and create hard restrictions which could limit the enjoyment and utility for many. In general, we start to monitor any account whose storage exceeds 5GB or monthly bandwidth exceeds 1GB. Please read the Acceptable Use Policy (<https://codenvy.com/legal/acceptable-use-policy.pdf>) for full guidance.

7.11 Codenvy Content. Except as may be otherwise noted, the information, materials (including, without limitation, HTML, text, audio, video, white papers, press releases, data sheets, product descriptions, software and FAQs and other content) available on the Site and/or the Service (collectively, "Codenvy Content") are the copyrighted works of Codenvy and its licensors, and Codenvy and its licensors expressly retain all right title and interest in and to the Codenvy Content, including, without limitation, all intellectual property rights therein and thereto. Except as expressly permitted herein, any use of the Codenvy Content may violate copyright and/or other applicable laws.

7.12 Trademarks. All trademarks, service marks and logos included on the Site ("Marks") are the property of Codenvy or third parties, and you may not use such Marks without the express, prior written consent of Codenvy or the applicable third party.

7.13 Hosted Services Location. Codenvy operates or controls the operation of its Hosted Services from offices in San Francisco, California and Cherkassy, Ukraine. In addition, the Hosted Services may be mirrored, and other websites operated or controlled by Codenvy may be located, at various locations in and outside of the United States. Codenvy makes no representation or warranty that all of the features of this Hosted Service will be available to you outside of the United States, or that they are permitted to be accessed outside of the United States. You acknowledge that you are solely responsible for any decision by you to use of this Hosted Service from other locations, and that such use may be subject to, and that you are responsible for, compliance with applicable local laws.

7.14 Linked Websites. The Hosted Service may contain links to other websites that are not owned or operated by Codenvy, and you agree that Codenvy provides links to such websites solely as a convenience and has no responsibility for the content or availability of such websites, and that Codenvy does not endorse such websites or any products or services associated therewith. Your use of such websites will be subject to the terms of use applicable to each such website.

7.15 Service Level Agreement. Each Subscription entitles you to the benefits of the Codenvy Service Level Agreement (<https://codenvy.com/legal/service-level-agreement.pdf>) as the same may be modified by Codenvy in its reasonable discretion from time-to-time ("Service Level Agreement"). In no event will you be entitled to the benefits of the Service Level Agreement when your access to the Hosted Services has been suspended for any reason.

7.16 Internet and Telecommunications Connections. Customer shall be responsible for obtaining any and all Internet and/or telecommunications connections used by Customer to access the Service. Codenvy shall have no responsibility or liability for any interruption or delay in accessing or using the Service arising out of such Internet or telecommunications connections.

8 Support and Maintenance. Support for Free Account holders (outlined in section 7.2.1) will be provided by the community at GitHub (<https://github.com/codenvy/codenvy/issues>) and other community sites. Support services for Pay As You Go Account holders (outlined in section 7.2.2) are described in the Codenvy Support Policy (<https://codenvy.com/legal/support-policy.pdf>) ("Support and Maintenance") and are available during the period for which you have paid the applicable fee. Support and Maintenance is subject to the terms of the Codenvy Support Policy and will be provided at the support level and during the support term specified in your Order. The Codenvy Support Policy may be modified by Codenvy from time to time to reflect process improvements or changing practices. Support and Maintenance for Software includes access to New Releases, if and when available. You may use any New Releases that we provide to you during a valid support term in the same way that you use Software, and New Releases are included in the definition of Software in that case. "New Releases" are bug fixes, patches, major or minor releases, or any other changes, enhancements, or modifications to the Software that we make generally commercially available. For the sake of clarity, any release with an "rc," "rc-unstable," "beta," "alpha," or "nightly" label are not considered a New Release and will not be supported.

9. Professional Services. Codenvy will provide you with certain professional services described on order forms (including online order flows), which may include, without limitation Consulting Services or Training Services ("Professional Services"). Unless otherwise agreed, Professional Services are provided on a time-and-materials basis for a set term designated on the Order Form (the "Services Subscription Term").

9.1. Services and Deliverables. During the applicable Services Subscription Term Codenvy agrees to use diligent efforts to render the Services by the delivery dates specified on the applicable Order Form, if any. Subject to Section 9.4 (Codenvy Products) below, any reports, recommendations or other deliverables provided by Codenvy to you as part of the Professional Services are "Deliverables". Codenvy grants you a perpetual, worldwide, royalty-free, non-exclusive license to use the Deliverables internally in connection with the applicable Products.

9.2. Customer Materials. Customer agrees to provide Codenvy with reasonable access to Customer materials, personnel, equipment or facilities (including without limitation Customer's instances of the Products) to the extent such access is necessary for the performance of Professional Services. To the extent that Customer does not timely provide the foregoing access required for Codenvy to perform the Professional Services or deliver the Deliverables, Codenvy shall be excused from performance until such items are provided. Customer hereby grants Codenvy a limited right to use any Customer materials provided to Codenvy in connection with the Professional Services (the "Customer Materials") solely for the purpose of performing the Professional Services for Customer. Customer owns and will retain ownership (including all intellectual property rights) in and to the Customer Materials (subject to Codenvy's ownership of any underlying Products, service descriptions, documentation, and other Codenvy Technology).

9.3. Ownership of Deliverables. Codenvy owns and will retain ownership (including all intellectual property rights) (and Customer hereby assigns to Codenvy all of its right, title and interest) in and to the Deliverables and any modifications, improvements and derivative works thereof (including

any such materials to the extent incorporating any Feedback).

9.4. Codenvy Products. For the avoidance of doubt, no Codenvy Technology (including any Product updates, upgrades, patches and bug fixes) shall be considered a Deliverable hereunder. Customer acknowledges that the Professional Services are being purchased separately from any Product licenses or subscriptions and that no such license or subscription is being provided or offered under this Agreement. Fees for the Professional Services are separate from any fees paid for Products, and Customer's payment obligations hereunder are not contingent on the purchase or use of any Product.

9.5. Services Subscription Term and Renewals Unless otherwise specified on the applicable Order Form, each Services Subscription Term for Professional Services will automatically renew for additional successive Services Subscription Terms of the same length at Codenvy's then-current rates, unless either party gives the other written notice of non-renewal at least thirty (30) days prior to expiration of the then-current Services Subscription Term.

9.6. Subcontractors. Codenvy may use the services of subcontractors for performance of Professional Services under this Agreement, provided that Codenvy remains responsible for (a) compliance of any such subcontractor with the terms of this Agreement and (b) for the overall performance of the Professional Services as required under this Agreement.

10 Financial Terms.

10.1 Fees. Subscription Fees, if any, are set forth in Codenvy's pricing schedule located at <http://codenvy.com>. If an applicable Order Form has been provided, then the price quoted on the Order Form will supersede those provided on the Web site. Codenvy shall have the right to change fees at any time.

10.2 Return Policy. All sales are final and Subscriptions cannot be returned for any reason.

10.3 Delivery. We will deliver the applicable activation instructions to the email addresses specified in your Order when we have received payment of the applicable fees. All deliveries under this Agreement will be electronic

10.4.1 Payment for Product Orders. You agree to pay all fees in accordance with each Order. Unless otherwise specified in your Order, you will pay all amounts in U.S. dollars at the time you place your Order. Other than as expressly set forth in Section 10.2 (Return Policy), all amounts are non-refundable, non-cancelable and non-creditable. In making payments, you acknowledge that you are not relying on future availability of any Products beyond the current License Term or Subscription Term or any Product upgrades or feature enhancements. If you add Authorized Users or other resources that were restricted in your Order during your Subscription Term, we will charge you for the increased number of Authorized Users or resources pursuant to the then-currently applicable rates in your next billing cycle. You agree that we may bill your credit card for renewals, additional users, and unpaid fees, as applicable. If you purchase any Products through a Reseller, you owe payment to the Reseller as agreed between you and the Reseller, but you acknowledge that we may terminate your rights to use Products if we do not receive our corresponding payment from the Reseller.

10.4.2 Payment for Professional Services Orders. Customer agrees to reimburse Codenvy for pre-approved travel, lodging and meal expenses incurred in the course of performing the Professional Services at any location other than Codenvy's site, unless otherwise specified on the Order Form (including any data sheet incorporated therein by reference). Codenvy will invoice Customer for expenses incurred and at Customer's request and expense, Codenvy will provide copies of receipts for which charges are incurred. All payments are non-refundable and all payment obligations non-cancellable unless otherwise specified on an Order Form. Upon termination all payments for Professional Services shall be accelerated and become immediately due and payable.

10.5 Invoices. If applicable, as specified in your Order, Codenvy shall, invoice you in advance of the beginning of a Subscription Term for the full amount of Subscription Fees. All payments must be made in U.S. dollars within thirty (30) days of the date of an applicable invoice. Late payments may be subject to a monthly charge of one and one-half percent (1.5%) per month, or the highest rate allowed by applicable law, whichever is lower. In the event of non-payment, Codenvy may terminate Customer's access to Hosted Services.

10.6 Taxes. Your payments under this Agreement exclude any taxes or duties payable in respect of the Products or Professional Services in the jurisdiction where the payment is either made or received. To the extent that any such taxes or duties are payable by Codenvy (including any amounts required to be paid to any foreign jurisdiction in connection with tax withholding), you must pay to Codenvy (or the foreign jurisdiction, in the case of tax withholding) the amount of such taxes or duties, in addition to paying Codenvy, without deduction, all fees owed under this Agreement. Notwithstanding the foregoing, you may have obtained an exemption from relevant taxes or duties as of the time such taxes or duties are levied or assessed. In that case, you will have the right to provide to Codenvy any such exemption information, and Codenvy will use reasonable efforts to provide such invoicing documents as may enable you to obtain a refund or credit for the amount so paid from any relevant revenue authority if such a refund or credit is available.

11 Restrictions. Except as otherwise expressly permitted in this Agreement or in your Order, you will not (and will not permit or assist any third party to): (a) rent, lease, reproduce, modify, adapt, create derivative works of, distribute, sell, sublicense, loan, transfer, or provide access to, or otherwise make available, any Product (or any part of any Product) to a third party, or use any Product in any manner except as expressly permitted in this Agreement (b) use any Product (or any part of any Product) for the benefit of any third party, (c) use any Product (or any part of any Product) to provide time-sharing or service bureau services, or as part of any software-as-a-service or application services provider offering, or otherwise incorporate any Product (or any part of any Product) into a product or service you provide to a third party, (d) interfere with any license key mechanism in any Product, or otherwise attempt to circumvent, disable or disrupt any (i) mechanism in any Product intended to limit your use of such Product or (ii) any limitations on your use that are encoded into the applicable Software Subscription, (e) reverse engineer, disassemble, decompile, translate, or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats or non-public APIs to any Product (or any part of any Product), except to the extent that applicable law prohibits reverse engineering restrictions, (f) remove, alter or obscure any proprietary or other notices contained in any Product, or (g) make available to any third party any analysis of the results of operation of any Product, including benchmarking results, without the prior written consent of Codenvy, or otherwise publicly disseminate information regarding the performance of the

Products.

12 Your Development of Add-Ons.

12.1 License to Developer Guides. From time to time, Codenvy may publish SDK's or API's and associated guidelines ("**Developer Guides**") to allow you to develop plugins, extensions, add-ons or other software products or services that interoperate or are integrated with the Products ("**Add-Ons**"). You may distribute your Add-Ons to third parties, but only for those Products permitted by Codenvy, and only in accordance with the Developer Guides.

12.2 Conditions to Development of Add-Ons. Notwithstanding anything in this Agreement to the contrary, Codenvy has no support, warranty, indemnification or other obligation or liability with respect to your Add-Ons or their combination, interaction or use with the Products. You shall indemnify, defend and hold us harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any claim brought against us by a third party relating to your Add-Ons (including but not limited to any representations or warranties you make about your Add-Ons) or your breach of this Section.

12.3 Customer Obligations When Developing Add-Ons. Customer agrees, represents and warrants that it will: (a) not, without Codenvy's prior written consent, link, integrate, incorporate or otherwise use any open source, copyleft, public or similar software (including, without limitation, any software licensed under the GPL or LGPL) in connection with the Codenvy Software in any manner that would (i) require Codenvy or Customer to make or permit any disclosure of, or to make available, any source code for Codenvy's (or any of its licensors') proprietary software or (ii) prohibit Codenvy from restricting further modification or distribution of its source code by third parties; and (b) not disrupt, disable or otherwise interfere with any mechanism or feature of the Codenvy Software that is designed to audit or ensure authorized use of the Codenvy Software.

13 License Certifications and Audits. At our request, you agree to provide a signed certification that you are using all Products pursuant to the terms of this Agreement, including the Scope of Use. You agree to allow us, or our authorized agent, to audit your use of the Products. We will provide you with at least 10 days advance notice prior to the audit, and the audit will be conducted during normal business hours. We will bear all out-of-pocket costs that we incur for the audit, unless the audit reveals that you have exceeded the Scope of Use. You will provide reasonable assistance, cooperation, and access to relevant information in the course of any audit at your own cost. If you exceed your Scope of Use, we may invoice you for any past or ongoing excessive use, and you will pay the invoice promptly after receipt. This remedy is without prejudice to any other remedies available to Codenvy at law or equity or under this Agreement. To the extent we are obligated to do so, we may share audit results with certain of our third party licensors or assign the audit rights specified in this Section to such licensors.

14 Ownership and Feedback. Products are made available on a limited license or access basis, and no ownership right is conveyed to you, irrespective of the use of terms such as "purchase" or "sale". Codenvy and its licensors have and retain all right, title and interest, including all intellectual property rights, (and Customer hereby assigns to Codenvy all of its right, title and interest, if any) in and to the Products (including all No-Charge Products), and all parts thereof, their "look and feel", any and all related or underlying technology (including any inventions, discoveries, know-how and improvements, processes, and any technology or intellectual property that has general applicability in Codenvy's business and is created in the course of performing Professional Services hereunder), and any modifications or derivative works of the foregoing, in each case created by or for Codenvy or by Codenvy and Customer jointly, and including without limitation as they may incorporate Feedback ("**Codenvy Technology**"). Any feedback, comments, enhancements, improvements, suggestions, know-how, descriptions of processes, data or other ideas or information provided by Customer to Codenvy about or in connection with any Product, Deliverable and/or Professional Services, including any of the foregoing provided in the course of receiving Support and Maintenance, shall be "**Feedback**". Codenvy may in connection with any of its products or services freely use, copy, disclose, license, distribute and exploit any Feedback in any manner and for any purpose, without any compensation, and without any obligation or restriction based on intellectual property rights or otherwise. No Feedback will be considered your Confidential Information, and nothing in this Agreement limits Codenvy's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

15. Confidentiality.

15.1 Confidential Information. Except as otherwise set forth in this Agreement, each party agrees that all code, inventions, know-how, business, technical and financial information disclosed to such party ("**Receiving Party**") by the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party ("**Confidential Information**"), provided that it is identified as confidential at the time of disclosure. Any Codenvy Technology and any performance information relating to the Products shall be deemed Confidential Information of Codenvy without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law.

15.2 Public Data. Some Codenvy Products offer default "Public" visibility of selected content stored within account. You acknowledge that this content is made publicly viewable by others and that Codenvy is not in violation of any Receiving Party obligations.

15.3 Exclusions. Confidential Information does not include any information that: (i) was already known through lawful means by Recipient without an obligation of confidentiality before disclosure under this Agreement as evidenced by written records predating the disclosure; (ii) is readily accessible to the public on or after the date of disclosure other than through Recipient's breach of this Agreement; (iii) was rightfully received by Recipient without restriction on disclosure from a third party entitled to make such a disclosure (except that this exception applies only after Recipient receives the information from the third party); (iv) was independently developed by Recipient without using any of Discloser's Confidential Information as directly evidenced by Recipient's written records; or (v) is approved for release or disclosure by written authorization of the Discloser.

15.4 Disclosure Required by Law. Recipient may comply with an order from a court or other governmental body of competent jurisdiction and disclose the other party's Confidential Information in compliance with that order provided that Recipient shall: (i) give the Discloser prior notice of such disclosure if the time between that order and such disclosure reasonably permits or, if time does not permit, gives the Discloser notice of such

disclosure promptly after complying with that order and (ii) fully cooperate with the Discloser, at the Discloser's cost and expense, in seeking a protective order, confidential treatment, or taking other measures to oppose or limit such disclosure. Recipient must not release any more of the Discloser's Confidential Information than is, in Recipient's good faith judgment, reasonably necessary to comply with that order.

15.5 Retention of Rights; Return of Confidential Information. Discloser retains full ownership of all disclosed information, including Confidential Information. Except for Recipient's limited right to use Confidential Information as set forth in this Agreement, no license or rights, either express or implied, are granted under this Agreement, including without limitation, any intellectual property rights. Upon termination or expiration of this Agreement or Discloser's written request, Recipient shall immediately: (i) cease using all of Discloser's Confidential Information, and (ii) return or destroy all copies of Discloser's Confidential Information held or controlled by Recipient in tangible form, or if stored electronically, shall destroy or erase all such Confidential Information so stored, unless it has been archived on electronic backup media. Upon Discloser's request, Recipient shall certify to Discloser in writing that Recipient has fully complied with its obligations under this Section .

16 Term and Termination. This Agreement takes effect on the Effective Date and remains in effect until expiration or termination of all Subscription Terms. The "**Effective Date**" of this Agreement is the date which is the earlier of (a) Customer's initial receipt of Services, (b) the effective date of the first Order Form referencing this Agreement, (c) Customer's access to the Hosted Services. This Agreement is in effect for as long as you have a valid Subscription Term (the "**Term**"), unless sooner terminated as permitted in this Agreement. Either party may terminate this Agreement before the expiration of the Term if the other party materially breaches any of the terms of this Agreement and does not cure the breach within thirty (30) days after written notice of the breach. Either party may also terminate the Agreement before the expiration of the Term if the other party ceases to operate, declares bankruptcy, or becomes insolvent or otherwise unable to meet its financial obligations. You may terminate this Agreement at any time with notice to Codenvy, but you will not be entitled to any credits or refunds as a result of convenience termination for prepaid but unused Hosted Services Subscriptions, or Support and Maintenance. Except where an exclusive remedy may be specified in this Agreement, the exercise by either party of any remedy, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise. Once the Agreement terminates, you (and your Authorized Users) will no longer have any right to use or access any Products, or any information or materials that we make available to you under this Agreement, including Codenvy Confidential Information. You are required to delete any of the foregoing from your systems as applicable (including any third party systems operated on your behalf) and provide written certification to us that you have done so at our request. The following provisions will survive any termination or expiration of this Agreement: 1 (Definitions); 6 (No-Charge Products) (disclaimers and use restrictions only); 7.7.3 (Indemnity for Your Data); 9.3 (Ownership of Deliverables); 10.4.1 (Payment for Product Orders); 10.4.2 (Payment for Professional Services Orders); 10.6 (Taxes); 11 (Restrictions); 12.2 (Conditions to Development of Add-Ons); 13 (License Certifications and Audits); 14 (Ownership and Feedback); 15 (Confidentiality); 16 (Term and Termination); 17 (Warranty Disclaimer); 18 (Limitation of Liability); 22 (Dispute Resolution); 23 (Export Restrictions); and 24 (General Provisions).

17. Warranty and Disclaimer

17.1 Due Authority. Each party represents and warrants the following to the other party: (i) such party has the full corporate right, power, and authority to enter into this Agreement, to perform the acts required of it hereunder; (ii) the execution of this Agreement by such party, and the performance by such party of its obligations and duties hereunder, do not and will not violate any agreement to which such party is a party or by which it is otherwise bound; and (iii) when executed and delivered by such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

17.2 Customer Warranties. Customer represents and warrants to Codenvy that: (i) the Account Information Customer has provided to Codenvy is accurate; (ii) Customer will not use the Products in violation of any applicable law rule or regulation, or for the development, design, manufacture, production, stockpiling, or use of nuclear, chemical or biological weapons, weapons of mass destruction, or missiles, in a country listed in Country Groups D: 4 and D:3, as set forth in Supplement No. 1 to Part 740 of the United States Export Administration Regulations, (iii) Customer shall not provide administrative access to the Service to any person (including any natural person or government or private entity) that is located in or is a national of any embargoed or highly restricted country under United States export regulations and (iv) Customer is not on the United States Department of Treasury, Office of Foreign Asset Controls list of Specially Designated Nationals and Blocked Persons.

17.3 Warranty and Remedy.

17.3.1 Software Performance Warranty and Remedy. THE SOFTWARE IS PROVIDED "AS IS," AND WITHOUT WARRANTY OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE AND NON-INFRINGEMENT. IN NO CASE WILL LICENSOR'S TOTAL CUMULATIVE LIABILITY FOR CLAIMS, LOSSES OR DAMAGES OF ANY KIND ARISING UNDER THIS FREE LICENSE EXCEED ONE HUNDRED DOLLARS (\$100).

17.3.2 Professional Services Warranty and Remedy. Codenvy warrants that it will perform the Professional Services in a workmanlike manner consistent with generally accepted industry standards, and that for a period of thirty (30) days from delivery of a Deliverable, such Deliverable will perform in all material respects in accordance with any specifications therefore set forth in an applicable Professional Services Attachment. In the event of a breach of the foregoing warranty, Codenvy's sole obligation, and Customer's exclusive remedy shall be for Codenvy to re-perform the applicable Professional Services to correct the applicable non-conformity.

(Note 17.4 is purposely unused)

17.5 Warranty Disclaimer.

17.5.1 Products Warranty Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 17.3 (WARRANTY AND REMEDY), CODENVY PROVIDES THE PRODUCTS, SOFTWARE AND HOSTED SERVICES ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CODENVY MAKES NO, AND HEREBY EXPRESSLY DISCLAIMS (TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW) ALL WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTE, AS TO THE PRODUCTS, HOSTED SERVICES OR ANY MATTER WHATSOEVER. IN PARTICULAR, ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE EXPRESSLY EXCLUDED. CODENVY SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES AND OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF CODENVY. TO THE

MAXIMUM EXTENT PERMITTED BY LAW, NEITHER CODENVY NOR ANY OF ITS THIRD PARTY SUPPLIERS MAKES ANY REPRESENTATION, WARRANTY OR GUARANTEE AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF ANY PRODUCTS OR ANY CONTENT THEREIN OR GENERATED THEREWITH, OR THAT: (A) THE USE OF ANY PRODUCTS WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE; (B) THE PRODUCTS WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM, OR DATA; (C) THE PRODUCTS (OR ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE PRODUCTS) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS); (D) ANY STORED DATA WILL BE ACCURATE OR RELIABLE OR THAT ANY STORED DATA WILL NOT BE LOST OR CORRUPTED; (E) ERRORS OR DEFECTS WILL BE CORRECTED; OR (F) THE PRODUCTS (OR ANY SERVER(S) THAT MAKE A HOSTED SERVICE AVAILABLE) ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

17.5.2 Professional Services Warranty Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 17.3 (WARRANTY AND REMEDY), ALL PROFESSIONAL SERVICES AND DELIVERABLES ARE PROVIDED "AS IS" AND CODENVY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

18 Limitation of Liability. NEITHER PARTY (NOR ITS SUPPLIERS) SHALL BE LIABLE FOR ANY LOSS OF USE, LOST OR INACCURATE DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, PRODUCTS OR SERVICES, COSTS OF DELAY OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. NEITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER SHALL EXCEED THE AMOUNT ACTUALLY PAID BY YOU TO US FOR THE APPLICABLE PRODUCT(S) AND SUPPORT AND MAINTENANCE IN THE 12 MONTHS IMMEDIATELY PRECEDING THE CLAIM. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, OUR AGGREGATE LIABILITY TO YOU IN RESPECT OF NO-CHARGE PRODUCTS SHALL BE US\$20. THIS SECTION 18 (LIMITATION OF LIABILITY) SHALL NOT APPLY TO (1) AMOUNTS OWED BY YOU UNDER ANY ORDERS, (2) EITHER PARTY'S EXPRESS INDEMNIFICATION OBLIGATIONS IN THIS AGREEMENT, OR (3) YOUR BREACH OF ANY OF THE FOLLOWING: SECTION 7, (HOSTED SERVICES TERMS), 11 (RESTRICTIONS), OR SECTION 15 (CONFIDENTIALITY). TO THE MAXIMUM EXTENT PERMITTED BY LAW, NO SUPPLIERS OF ANY THIRD PARTY COMPONENTS INCLUDED IN THE PRODUCTS WILL BE LIABLE TO YOU FOR ANY DAMAGES WHATSOEVER. The parties agree that the limitations specified in this Section 18 (Limitation of Liability) will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

19 IP Indemnification by Codenvy. We will defend you against any claim brought against you by a third party alleging that a Product, when used as authorized under this Agreement, infringes a United States or European Union patent or registered copyright (a "Claim"), and we will indemnify you and hold you harmless against any damages and costs finally awarded by a court of competent jurisdiction or agreed to settlement by Codenvy (including reasonable attorneys' fees) arising out of a Claim, provided that we have received from you: (a) prompt written notice of the claim (but in any event notice in sufficient time for us to respond without prejudice); (b) reasonable assistance in the defense and investigation of the claim, including providing us a copy of the claim and all relevant evidence in your possession, custody or control; and (c) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of the claim. If your use of a Product is (or in our opinion is likely to be) enjoined, if required by settlement, or if we determine such actions are reasonably necessary to avoid material liability, we may, at our option and in our discretion: (i) procure a license for your continued use of the Product in accordance with this Agreement; (ii) substitute a substantially functionally similar Product; or (iii) terminate your right to continue using the Product and refund, in the case of Software, the license fee paid by you as reduced to reflect a three year straight-line depreciation from the license purchase date, and in the case of a Hosted Service, any prepaid amounts for the terminated portion of the Subscription Term. Codenvy's indemnification obligations above do not apply: (1) if the total aggregate fees received by Codenvy with respect to your license to Software or subscription to Hosted Services in the 12 month period immediately preceding the claim is less than US\$50,000; (2) if the Product is modified by any party other than Codenvy, but solely to the extent the alleged infringement is caused by such modification; (3) if the Product is used in combination with any non-Codenvy product, software or equipment, but solely to the extent the alleged infringement is caused by such combination; (4) to unauthorized use of Products; (5) to any Claim arising as a result of (y) Your Data (or circumstances covered by your indemnification obligations in Section 7.7.3 (Indemnity for Your Data)) or (z) any third-party deliverables or components contained with the Products; (6) to any unsupported release of the Software; or (7) if you settle or make any admissions with respect to a claim without Codenvy's prior written consent. THIS SECTION 19 (IP INDEMNIFICATION BY CODENVY) STATES OUR SOLE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS IN CONNECTION WITH ANY PRODUCT OR OTHER ITEMS PROVIDED BY CODENVY UNDER THIS AGREEMENT.

20 Publicity Rights. We may identify you as a Codenvy customer in our promotional materials. You may request that we stop doing so by submitting an email to sales@codenvy.com at any time. Please note that it may take us up to 30 days to process your request.

21 Improving Our Products. We are always striving to improve our Products. In order to do so, we need to measure, analyze, and aggregate how users interact with our Products, such as usage patterns and characteristics of our user base. We collect and use analytics data regarding the use of our Products as described in our Privacy Policy (<https://codenvy.com/legal/privacy-policy.pdf>).

22 Dispute Resolution

22.1 Dispute Resolution; Arbitration. In the event of any controversy or claim arising out of or relating to this Agreement, the parties hereto shall consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to both parties. If the parties do not reach settlement within a period of 60 days, any unresolved controversy or claim arising out of or relating to this Agreement shall proceed to binding arbitration under the Rules of Arbitration of the International Chamber of Commerce. The parties shall seek to mutually appoint an arbitrator. If the parties cannot agree on a single arbitrator, then there shall be three (3) arbitrators: one selected by each party, and a third selected by the first two. Arbitration will take place in San Francisco, CA (USA). If the parties are unable to agree to one of these cities, then the arbitration shall proceed in San Francisco, CA. All negotiations and arbitration proceedings pursuant to this Section will be confidential and treated as compromise and settlement negotiations for purposes of all similar rules and codes of evidence of applicable legislation and jurisdictions. The language of the arbitration shall be English.

22.2 Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the applicable laws of the State of California, USA, without giving effect to the principles of that State relating to conflicts of laws. Each party irrevocably agrees that any legal action, suit or proceeding that is not otherwise subject to the arbitration provisions of Section 22.1 (Dispute Resolution; Arbitration) must be brought solely and exclusively in, and will be subject to the service of process and other applicable procedural rules of, the State or Federal court in San Francisco, California, USA, and each party irrevocably submits to the sole and exclusive personal jurisdiction of the courts in San Francisco, California, USA, generally and unconditionally, with respect to any action, suit or proceeding brought by it or against it by the other party.

22.3 Injunctive Relief; Enforcement. Notwithstanding the provisions of Section 22.1 (Dispute Resolution; Arbitration), nothing in this Agreement shall prevent either party from seeking injunctive relief with respect to a violation of intellectual property rights, confidentiality obligations or enforcement or recognition of any award or order in any appropriate jurisdiction.

22.4 Exclusion of UN Convention and UCITA. The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to this Agreement. The Uniform Computer Information Transactions Act (UCITA) shall not apply to this Agreement regardless of when or where adopted.

23 Export Restrictions. The Products are subject to export restrictions by the United States government and import restrictions by certain foreign governments, and you agree to comply with all applicable export and import laws and regulations in your use of the Products. You shall not (and shall not allow any third-party to) remove or export from the United States or allow the export or re-export of any part of the Products or any direct product thereof: (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (c) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (d) otherwise in violation of any export or import restrictions, laws or regulations of any United States or foreign agency or authority. You represent and warrant that (i) you are not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list and (ii) that none of Your Data is controlled under the US International Traffic in Arms Regulations. The Products are restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology without the prior permission of the United States government.

24 General.

24.1 Assignment. Neither this Agreement nor any of your rights or obligations hereunder may be assigned by you in whole or in part without the prior written consent of Codenvy. Codenvy may assign its rights and obligations under this Agreement to any successor to all or substantially all of its assets or business.

24.2 Severability. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

24.3 Waiver. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

24.4 Entire Agreement. This Agreement completely and exclusively states the entire agreement of the parties regarding the subject matter herein, and supersedes, and its terms govern, all prior proposals, agreements or other communications between the parties, oral or written, regarding such subject matter. The parties hereby expressly acknowledge and agree that if Customer issues any purchase orders or similar documents in connection with the purchase of a Subscription to Services, it shall do so only for its own internal, administrative purposes and not with the intent to provide any contractual terms. By entering into this Agreement, whether prior to or following receipt of Customer's purchase order or any similar document, the parties are hereby expressly showing their intention not to be contractually bound by the contents of any such purchase order or similar document, which are hereby deemed rejected and extraneous to this Agreement, and Codenvy's performance of this Agreement shall not amount to an acceptance by conduct of any terms set out or referred to in the purchase order or similar document or an amendment of this Agreement. Each instance of the word "includes" or "including" in this Agreement shall be deemed to be followed by the phrase "without limitation".

24.5 Notice. Any notice under this Agreement must be given in writing. We may provide notice to you via email or through your account. Our notices to you will be deemed given upon the first business day after we send it. You may provide notice to us by post to Codenvy, Inc., 33 New Montgomery, Suite 1500, San Francisco, CA USA 94105, Attn: General Counsel. Your notices to us will be deemed given upon our receipt.

24.6 Government Rights. Codenvy Products is "Commercial Computer Software," as that term is defined in 48 C.F.R. 2.101, and as the term is used in 48 C.F.R. Part 12, and is a Commercial Item comprised of "commercial computer software" and "commercial computer software documentation". If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement, as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulation ("FAR") and its successors. If acquired by or on behalf of any agency within the Department of Defense ("DOD"), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of the Codenvy Software License and Services Agreement as specified in 48 C.F.R. 227.7202-3 and 48 C.F.R. 227.7202-4 of the DOD FAR Supplement ("DFARS") and its successors, and consistent with 48 C.F.R. 227.7202. This U.S. Government Rights clause, consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202 is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software, computer software documentation or technical data related to the Codenvy Software under this Agreement and in any Subcontract under which this commercial computer software and commercial computer software documentation is acquired or licensed. Customer will not export the Products in violation of the export laws of the United States or of any other country.

25 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 your rights, we will use reasonable efforts to notify you (by, for example, sending an email to the billing or technical contact you designate in the applicable Order, posting on our blog, through your Codenvy account, or in the Product itself). If we modify the Agreement during your License Term or Subscription Term, the modified version will be effective upon your next renewal of a License Term, Support and Maintenance term, or Subscription Term, as applicable. In this case, if you object to the updated Agreement, as your exclusive remedy, you may choose not to renew, including cancelling any terms set to auto-renew. With respect to No-Charge Products, accepting the updated Agreement is required for you to continue using the No-Charge Products. You may be required to click through the updated Agreement to show your

acceptance. If you do not agree to the updated Agreement after it becomes effective, you will no longer have a right to use No-Charge Products. For the avoidance of doubt, any Order is subject to the version of the Agreement in effect at the time of the Order.