

# Stiltsoft App License Agreement

Stiltsoft Development Ltd. ("we" or "us") is willing to license its App(s) available through Atlassian Marketplace to you if you accept the terms of this Stiltsoft App License Agreement (for Apps ordered through Atlassian's ordering and license management system) ("Agreement").

Please read the Agreement carefully. By clicking "I agree" (or similar button or checkbox) at the time you sign up for an App, downloading, installing or subscribing to an App, or by otherwise indicating your consent, you accept and agree to the terms of the Agreement.

If you are not willing to be bound by all the terms of this Agreement, do not download, install or subscribe to the App, or do not otherwise consent to the Agreement.

When you are accepting this Agreement on behalf of your employer or another company or organization, you represent and warrant that you have full authority to act for and to bind that legal entity to this Agreement, in which case the terms "you" and "your" will refer to that legal entity.

If you sign up using an email address from your employer or another entity, then (i) you will be deemed to represent such party, (ii) your click to accept will bind your employer or that entity to this Agreement, and (iii) the word "you" in this Agreement will refer to your employer or that entity.

This Agreement is effective as of the date you first click "I agree" (or similar button or checkbox) or download, use, subscribe to or access an App, whichever is earlier (the "Effective Date"). The Agreement does not have to be signed in order to be binding.

## 1. Definitions

- **"App"** means a cloud or downloadable software application, plugin or extension to an Atlassian Product developed and distributed by us that you obtain through Atlassian Marketplace (either paid or free of charge), including any upgrades, modified or subsequent versions, updates, or error corrections provided by us.
- **"Atlassian Product"** means a downloadable software application or a cloud product developed and distributed by Atlassian with which the App is enabled or used (e.g. Confluence, Bitbucket or Jira).
- **"Atlassian Marketplace"** shall have the meaning assigned to such definition in the Atlassian Marketplace Terms.
- **"Atlassian"** means Atlassian Pty Ltd, an Australian corporation (ABN 53 102 443 916), the owner and provider of the Atlassian Marketplace and a reseller of the Apps available through Atlassian Marketplace.
- **"Documentation"** user manuals, FAQ or support pages, information contained on an App Page, and other documentation related to the App provided by us in electronic or online form, including in our [Documentation Center](#).
- **"App Page"** means a section of the Atlassian Marketplace dedicated to the particular App.
- **"Software App"** means an App downloadable from the Atlassian Marketplace and designed to run in your instances of Atlassian Products behind your firewall. Software Apps include any "Server" or "Data Center" deployments of our Apps.
- **"Cloud App"** means our App that runs on our or Atlassian's servers or is provided to you as a cloud-based (software-as-a-service) solution.
- **"Reseller"** means Atlassian, Atlassian Solution Partners (as defined by Atlassian) or other Atlassian authorized resellers, through which you have obtained the App from the Atlassian Marketplace.
- **"Atlassian Marketplace Terms"** means [Atlassian Marketplace Terms of Use](#) and other sections of the Atlassian website applicable to apps developed by Atlassian verified vendors and distributed through Atlassian Marketplace, for example, [this section](#).
- **"End User"** means the specific individual you or your Affiliate designates and permits or invites to use the Apps. For the avoidance of doubt individuals invited by your End Users, individuals under managed accounts, and individuals interacting with an App as your customer are considered your End Users.
- **"Scope of Use"** means the extent to which you may use the App as may be specified in the ordering documentation, which includes, as applicable: (i) the number and types of End Users, (ii) storage or capacity (for Cloud Apps), (iii) numbers of licenses, copies or instances (for Software Apps), (iv) domain(s) associated with your use of Cloud Products (for Cloud Apps), (v) entity, division, business unit, website, field of use or other restrictions or billable units (for Software Apps), (vi) term or subscription period, and (vii) other conditions, limitations or restrictions.
- **"Access Credentials"** means login details and passwords of your End Users, which may be required to access and/or use the App or its particular feature or section.
- **"SLA"** means terms and conditions that define the support level for an App as may be provided at [Support](#) and [Service Level Agreement](#) pages.
- **"Your Data"** means your content, code, materials, information of any type that you (including any of your End Users) submit, upload, transmit or otherwise make available to Cloud Apps.
- **"Third-Party Services"** means software platforms, services, plug-ins, applications, components developed and/or provided by Atlassian (e.g. the Atlassian Marketplace, Atlassian Products, etc.) or by other Atlassian vendors and software developers.
- **"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 of this Agreement, 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.
- **"Sensitive Data"** means any (i) categories of data enumerated in European Union Regulation 2016/679, Article 9(1); (ii) patient, medical or other protected health information regulated by HIPAA; (iii) credit, debit or other payment card data subject to PCI DSS; (iv) other information subject to regulation or protection under specific laws such as the Gramm-Leach-Bliley Act (or related rules or regulations); (v) social security numbers, driver's license numbers or other government ID numbers; or (vi) any data similar to the foregoing that is protected under foreign or domestic laws or regulations.

## 2. Ownership

We, our Affiliates and/or our licensors own all rights, title and interest, including all worldwide intellectual property rights in the Apps and the trademarks, service marks and logos contained therein.

App is licensed to you directly by us, not sold, irrespective of the use of terms such as "purchase" or "sale".

The ownership of Your Data shall remain with you. Subject to the Agreement, and solely to the extent necessary to provide the Apps to you, you grant us a worldwide, limited term license to access, use, process, copy, distribute, perform, export, and display (including reformatting and modification for display in an App) Your Data.

### 3. License Grant

Subject to the terms and conditions of this Agreement and provided you have paid the applicable fee (unless the App is provided free of charge or during a free trial), you are granted a limited, worldwide, non-exclusive, non-transferable, non-assignable, non-sublicensable and revocable license to (i) download and install one production instance (except for the trial period) of the App on systems owned or operated by you (for Software Apps), (ii) access (for Cloud Apps) and use the App for a single instance of your Atlassian Product in support of your own business needs, as applicable, during the term of the Agreement or the applicable subscription term:

- for paid Apps - according to (a) the Scope of Use, (b) the license terms and conditions contained in the "Pricing" section of the App Page, and (c) Documentation;
- for free Apps – according to the terms specified in Documentation.

Notwithstanding the above, the license offered by us for an App for use with an Atlassian Server Product (as opposed to Atlassian Cloud or Data Center Product) is perpetual.

Atlassian may make available non-production, a.k.a. "developer" licenses free of charge to allow you to deploy non-production instances, for example, for staging or QA purposes. Such non-production licenses may be available after the purchase of certain paid Software Apps. These licenses are for testing purposes and for staging or development environments only. They shall not be used for a live production instance. Atlassian, not us, is responsible for availability and other terms and conditions of non-production licenses.

You may make and use one copy of a Software App for disaster recovery or business resumption purposes.

No other right, title or interest is granted except as expressly stated in this Agreement.

License is granted subject to the condition that you must ensure the maximum number of End Users that are able to simultaneously access and use the App is less or equal to the number of End Users for which the necessary fees have been paid. The maximum number of the End Users will be determined by the license tier you have chosen when ordering the App.

You acknowledge that the App will only function if its license tier matches the tier of the Atlassian Product the App is used with.

There may be storage limits associated with a particular Cloud App. Such limits, if imposed, will be described on the App Page or in other Documentation.

You shall purchase a separate license and use a separate instance of the App for each instance of the Atlassian Product.

### 4. License Restrictions

Except as otherwise expressly permitted in the Agreement, you will not:

- Reverse engineer, decompile or disassemble the Apps or otherwise seek to obtain or derive the source code, underlying ideas or algorithms, except as permitted by law.
- Adapt, alter, modify, translate, make any attempt to create derivative works of/from the Apps.
- Defeat, bypass, disable, interfere with or otherwise circumvent any license key mechanism in the Apps or otherwise circumvent mechanisms in the Apps intended to limit its use.
- Attempt to access or use the Apps other than by using the Access Credentials or as otherwise made available or permitted by us.
- Remove or alter any our or third party's trademark, logo, copyright or other proprietary notices, legends, symbols or labels.
- Redistribute, encumber, sell, rent, lease, sublicense, assign, or otherwise transfer the Apps or any rights or interest therein, or provide access to the Apps to a third party.
- Use the Apps as part of a service provider or software-as-a-service, or otherwise display, perform, or publish the Apps or their parts to benefit from the use of the Apps.
- Use the Apps for competitive analysis or to build competitive products.
- Use the Apps to generate and send spam and unsolicited advertising in case the App lets you send messages. You must determine whether any anti-spam, advertising, e-commerce or data protection laws apply to you based on the country where you, your contacts or customers are located, and comply with those laws when using the App.
- Use the Apps to submit, upload, post, share, store, transmit or otherwise provide Your Data, as well as other text, images, videos, sounds, music, code, or files containing such content that:
  - is unlawful, obscene, harmful, threatening, harassing, defamatory or hateful or that contain objects or symbols of hate, invade the privacy of any third party, contain nudity (including without limitation any pornography), is deceptive, threatening, abusive, inciting of unlawful action, defamatory, libelous, vulgar or violent or constitute hate speech or is otherwise objectionable in our opinion;
  - you do not have right to submit;
  - infringes the intellectual property rights or violates the rights of any third party (including without limitation copyright, trademark, patent, trade secret, or other intellectual property right, or moral right, right of publicity, personal data rights or any confidentiality or fiduciary obligations), or otherwise violates or promotes the violation of the rights of any third party;
  - contains software viruses or any other computer code, files, or programs designed to interrupt, destroy or limit the functionality of any computer software, or interferes with the access of any user, host or network.
- Use the Apps in any manner not authorized by this Agreement.
- Encourage or assist any third party to do any of the foregoing.

We have no obligation to monitor any content submitted to the Apps. However, if we deem such action necessary, we may remove Your Data or other content from the Apps. We have no liability to you for removing Your Data or other content from or suspending your access to any Apps as described herein.

### 5. Payment, Subscriptions, Renewals, Refunds, Delivery

The pricing terms and conditions are set out in the "Pricing" section of the App Page and are subject to change.

Cloud Apps are subscription-based.

The Reseller will deliver the applicable license keys (for Software Apps) or subscription instructions (for Cloud Apps) to the email address(es) you specified to Reseller. All deliveries will be electronic. You are responsible for installation of the App and its compatibility with your systems, hardware, software and services.

Any and all payments, delivery, renewals, subscriptions and refunds are handled by and managed through the Reseller. We are not a part of these arrangements, which are exclusively between you and the Reseller, and are not responsible for the processing of payments, delivery, renewals, subscription management or refunds, and shall not be held liable for any matter in connection therewith. Please refer to the "Pricing" section of the App Page and to the applicable Atlassian Marketplace Terms for more information about pricing, delivery, billing, subscription management, renewals and payment terms.

## 6. End Users; Administrators

Only End Users may access and use the Apps. Some Apps may allow you to designate various types of End Users, in which case their access rights may vary according to the type of End User.

You may also permit your customers to have limited access to certain Apps as End Users (for example, as part of your support of your products and services), provided that (i) you have entered into valid and binding agreements with your customers that require them to comply with the applicable terms of this Agreement, including any conditions or restrictions with respect to the use of, or access to the App, (ii) the purpose of your customer's access and use of your instance of the App is solely ancillary or conducive to their use of your products and services, (iii) your customers may not receive any administrative, configuration or similar access to the App, and (iv) you do not charge your customers for such access to the App. For the avoidance of doubt, your customers are not parties to, or third party beneficiaries under the Agreement. Notwithstanding anything to the contrary in this Agreement, we have no direct or indirect warranty, indemnity or other liability or obligations of any kind to your customers.

You are responsible for the activities and for compliance with this Agreement of all your End Users, including how they use Your Data, even if they are not from your organization or domain.

The use of the Apps by you and End Users must fall within the Scope of Use, be according to Documentation and be solely for your or your Affiliates' benefit. We are only required to provide the Apps to those End Users for whom you have paid the applicable fees (for paid Apps), and only such End Users are permitted to access and use the Apps.

You are solely responsible for the internal management and administration of the App within your organization. You are responsible for understanding and using the settings and controls for the Apps and for controlling whom you allow to become an End User.

You are responsible for whom you allow to become App administrators and any actions they take, including enabling/disabling the Apps, creating, de-provisioning, monitoring or modifying End User accounts, setting End User usage permissions, and managing access to Your Data by End Users or others.

You will provide all required disclosures to and will obtain and maintain all required consents from End Users to allow:

- Administrators to have the access described in the Agreement; and
- Our provision of the Apps to End Users (including Administrators).

The Apps are not intended for, and should not be used by, anyone under the age of 16. You are responsible for ensuring that all End Users are at least 16 years old.

## 7. Access Credentials

If the App requires Access Credentials you must ensure that all End Users keep them strictly confidential and do not share such information with any unauthorized person. Access Credentials are granted to and are associated with a particular individual and may not be shared. You and End Users may not convey, transfer or otherwise disseminate Access Credentials or their parts to any other person, entity or organization.

You accept responsibility for the confidentiality and use of Access Credentials that you may receive for your End Users' access to the App and for their use. You accept responsibility for all activities that occur under your and End User's Access Credentials. You agree to notify us without undue delay if you become aware of any loss, theft or unauthorized use of Access Credentials.

## 8. Evaluation License

An App may be provided for a free trial period for you to assess its features and performance. Evaluation license is granted for evaluation purposes only, and for a limited period of time.

Atlassian is responsible for setting out trial terms and conditions and their extension (if applicable), which may vary for Cloud Apps and Software Apps. Please, refer to the "Pricing" section of the App Page for more information.

## 9. Third Party Software and Services

The App may be connected, interoperate or work with, and/or utilize Third-Party Services.

You recognize and acknowledge that:

- Your use of any Third-Party Service and information will be governed by the applicable license agreements or terms of services, if any, with such third party. You shall comply with the terms of these agreements. **WE ARE NOT RESPONSIBLE FOR PERFORMANCE AND/OR RELIABILITY OF ANY THIRD PARTY SERVICES AND WILL HAVE NO LIABILITY OF ANY KIND FOR YOUR USE OF SUCH THIRD PARTY SERVICES. WE MAKE NO WARRANTIES OR REPRESENTATIONS OF ANY KIND WITH RESPECT TO THIRD PARTY SERVICES.**
- We do not conduct investigations or reviews of any of Third-Party Services, and do not recommend, endorse or approve of any of them.

## 10. Support

The purchase price of a Software App includes version updates (maintenance) and support.

Maintenance and support for Software App are provided for a prepaid period of one, two or three years, or for other term as agreed by you and the Reseller. The pricing details and the terms of the support and maintenance renewal can be found in the "Pricing" section of the App Page.

A Cloud App is supported as long as your subscription is active.

We do not provide support and maintenance for free Apps. We may provide support and maintenance for free Apps at our sole discretion and on our own ad hoc terms.

We provide support services in accordance with our SLA.

App support includes an online FAQ, online documentation and support through online helpdesk (ticket system) or via email. Support is available in English. At our discretion we may make it available in other languages or through other communication channels.

By submitting a support request you authorize us to access your accounts, End User accounts and your App as necessary to respond to the support request.

We will make updates or upgrades available for the Apps, if and when available.

For the avoidance of doubt, support and maintenance do not include any training, custom software development or implementation of custom features for the App, or any assistance with the Atlassian Product or any other Third-Party Service, their updating, maintenance or support.

## 11. Publicity Rights

You give us consent to use your name and to include a link to your website for the purposes of mentioning you as our customer or as a user of an App, and to describe our or our Affiliate's role in relation to the App and/or the services provided to you (if applicable), in any form for any promotional, publicity, marketing or advertising purpose in any media, on any website including, but not limited to Atlassian Marketplace, our or our Affiliates' websites, portfolios, or in other promotional materials and media. You can withhold this consent at any time by sending a request to [tech-support@stiltsoft.com](mailto:tech-support@stiltsoft.com) or creating a ticket in our helpdesk system.

## 12. Your Feedback

If you choose to communicate to us any feedback, ideas or suggestions for improvement of the Apps, you grant us free-of-charge, perpetual, irrevocable, non-exclusive, transferable right to use, modify, share, distribute and communicate such feedback for any and all commercial or non-commercial purposes, without charge and free of any obligation of attribution. You warrant that any such feedback you communicated to us is not subject to any license or any other third party right and it is not confidential information.

## 13. Security, Data Collection and Privacy Policy

We implement and maintain physical, technical and administrative security measures designed to protect Your Data from unauthorized access, destruction, use, modification, or disclosure. Please refer to an App-specific "Security" page for more information.

You authorize us to collect and use technical data and related information (including technical information relating to your devices, systems, and the respective App), in non-personally identifiable form, to facilitate the provision of updates, product support, marketing efforts and other services to you related to the Apps. We may use this information, as long as it is in a form that does not personally identify individual users, for our statistical and analytical purposes and to improve our products or to provide services or technology to you.

Any information and data that we collect from you, your End Users or the devices and systems used by you and your End Users will be subject to our [Privacy Policy](#) and App-specific data collection policies.

By entering into this Agreement, you agree that our [Privacy Policy](#) and the App-specific data collection and/or data retention policy, as they exist at any relevant time, shall be applicable to you and your End Users.

If you are subject to the territorial scope of the General Data Protection Regulation (GDPR), you can request and complete our Data Processing Addendum.

## 14. Representations and Warranties

You (including anyone acting on your behalf) represent, warrant and covenant that:

- You have the full right, power, and authority to enter into and fully perform this Agreement.
- Your use of the App is in compliance with applicable laws and Atlassian terms.
- You have obtained all necessary rights, releases and permissions to submit all Your Data and other content described in Section 4 to the Apps and to grant the rights granted to us in the Agreement.
- Your Data and its submission and use as you authorize in the Agreement will not violate any of your or third-party policies or terms governing Your Data.
- Your Data, other content described in Section 4 and/or the exercise of any rights granted under this Agreement by you will not violate any laws, contain any defamatory material, or violate or infringe any intellectual property, proprietary, privacy or other rights of any person or entity (including contractual rights, copyrights, trademarks, patents, trade dress, trade secret, common law rights, rights of publicity, or privacy, or moral rights).
- You will not submit to the App or use the App to collect any Sensitive Data.

We represent, warrant and covenant that:

- We have the full right, power, and authority to enter into and fully perform this Agreement.
- We own or otherwise have all rights necessary to provide the App and grant the rights and licenses granted in this Agreement, without infringing any third party's rights.
- We use commercially reasonable efforts to ensure that the App does not include at the time of delivery to you, any "worms," "viruses," "Trojan horses", "spyware", "back doors", "time-bombs", "easter eggs", or "lock out" or "self destruct" devices, or any other code intended to disable, limit, restrict, disrupt or provide, enable or allow unauthorized access to the App or to your information systems and networks. For the avoidance of doubt, we are not responsible for harmful materials submitted by you or End Users).

## 15. Disclaimers of Warranties

EXCEPT AS EXPRESSLY PROVIDED IN SECTION 14 ABOVE, THE APPS AND SUPPORT ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, ARE DISCLAIMED, EXCEPT TO THE EXTENT THAT THESE DISCLAIMERS ARE HELD TO BE LEGALLY INVALID. YOU ASSUME RESPONSIBILITY FOR SELECTING THE APPS TO ACHIEVE YOUR INTENDED RESULTS, AND FOR THE INSTALLATION OF, USE OF, AND RESULTS OBTAINED FROM THE APPS OR INFORMATION MADE AVAILABLE VIA THE APPS. WITHOUT LIMITING THE FOREGOING PROVISIONS, WE MAKE NO WARRANTY THAT THE APPS WILL BE ERROR-FREE OR FREE FROM INTERRUPTIONS OR OTHER FAILURES, THAT THE APPS WILL MEET YOUR REQUIREMENTS, OR THAT WE WILL PRESERVE OR MAINTAIN YOUR DATA WITHOUT LOSS. YOU UNDERSTAND THAT USE OF THE CLOUD APPS NECESSARILY INVOLVES TRANSMISSION OF YOUR DATA OVER NETWORKS THAT WE DO NOT OWN, OPERATE OR CONTROL, 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. WE WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE OUR REASONABLE CONTROL. YOU MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

## 16. Limitation of Liability

TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOST REVENUE, PROFIT OR DATA, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED REGARDLESS OF THE THEORY OF LIABILITY, ARISING OUT OF OR RELATED TO THE USE OF OR INABILITY TO USE THE APP, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY WILL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION. NEITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER SHALL EXCEED, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER FORM OR CAUSE OF ACTION, THE TOTAL AMOUNT ACTUALLY RECEIVED BY US UNDER THIS AGREEMENT FOR YOUR USE OF THE APP DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE IN WHICH THE CLAIM AROSE. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, OUR AGGREGATE LIABILITY TO YOU IN RESPECT OF A FREE APP SHALL BE US\$20. THIS SECTION SHALL NOT APPLY TO EITHER PARTY'S EXPRESS INDEMNIFICATION OBLIGATIONS IN THIS AGREEMENT, OR TO YOUR BREACH OF THE LICENSE RESTRICTIONS. The parties agree that the limitations specified in this Section will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

To the maximum extent permitted by applicable law, we disclaim all obligations or liabilities with respect to free Apps, including any maintenance, warranty, and indemnity obligations.

Other than our express obligations under Section 13, we assume no responsibility or liability for Your Data, and you are solely responsible for Your Data and the consequences of submitting and using it with the Apps.

Neither party shall be liable for any loss resulting from a cause over which it does not have direct and reasonable control, including but not limited to, the failure of electronic or mechanical equipment or communication lines, Internet, telephone or other interconnect problems, unauthorized access, theft, your errors, or events of force majeure.

## 17. Indemnification

*Indemnification by You.* You agree to indemnify, defend and hold harmless us, our Affiliates, officers, directors, employees and agents from and against any and all claims, costs, liabilities, expenses, losses, damages, suits, judgments, and attorney's fees, of every kind and nature, arising from or relating to (i) your breach of your obligations in relation to End User consent (Section 6); (ii) any claims or disputes brought by your End Users arising out of their use of Apps; (iii) your breach (or alleged breach) of your representations and warranties; or (iv) Your Data.

*Indemnification by Us.* We agree to indemnify, defend and hold harmless you, your Affiliates, officers, directors, employees and agents from and against any and all claims, costs, liabilities, expenses, losses, damages, suits, judgments, and attorney's fees, of every kind and nature, arising from or relating to infringement of any third-party patent, copyright or trademark, or misappropriation of any third-party trade secret, by your use of the paid App. Our indemnification obligations above do not apply: (i) if the total aggregate fees we receive with respect to your subscription or license to the App in the twelve (12) month period immediately preceding the claim is less than US\$25,000; (ii) if the App is modified by any party other than us, but solely to the extent the alleged infringement is caused by such modification; (iii) to unauthorized use of the App; (iv) to any claim arising as a result of Your Data or circumstances covered by your indemnification obligations in subsection "Indemnification by You"; or (v) if you settle or make any admissions with respect to a claim without our prior written consent. This subsection sets forth our sole liability and your exclusive remedy with respect to third party claims of intellectual property rights infringement in connection with any App.

As a condition to the parties' obligations under this Section, the indemnified party must provide to the indemnifying party (i) prompt written notice of the claim (and in any event notice in sufficient time for us to respond without prejudice), (ii) the exclusive right to control and direct the investigation, settlement and defense (if applicable) of the claim (and, in no event, will the indemnifying party agree to any settlement or admission of fault or liability on the part of the indemnified party without the written consent of the indemnified party), and (iii) all reasonable necessary cooperation.

## 18. Modifications

We reserve the right, at any time and at our sole discretion:

- To modify or revise this Agreement.
- To update or modify Documentation.
- To make changes, update or discontinue our Apps or any of their features and functionality at any time.
- To terminate or restrict access to the App.

If a revision of the Agreement meaningfully reduces your rights, we will use reasonable efforts to notify you, for example:

- By sending an email to your designated contact;
- By posting the amendments or the amended Agreement to our website; or
- By making an in-App notification.

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 shall discontinue use of the App immediately.

Your continued use of the App after a change or update has been made will constitute your acceptance to the amended Agreement.

## 19. Term and Termination

This Agreement shall commence upon first installation, download, subscription to or use of the App by you, whether the App is provided for evaluation, as a fully licensed version, or in any other form.

Unless earlier terminated as set forth herein or terminated due to the expiration of the trial period, this Agreement shall be effective as of the Effective Date and expire:

- on the date of expiration or termination of the applicable subscription term (for Cloud Apps), or
- on the expiration date indicated in your account with Atlassian, unless earlier terminated in accordance with this Agreement (for Software Apps).

You may terminate this Agreement at any time, for any reason or no reason upon written notice to us.

Without limiting other remedies, we may suspend or terminate this Agreement with you, or may terminate or suspend your use of the App at any time and with no liability to you if:

- Atlassian terminated its vendor agreement with us.
- You breach any term of this Agreement.
- You infringe on our or our Affiliates' proprietary rights, rights of privacy, or intellectual property rights.
- You have been engaged in other actions relating to or in the course of using the App that may be illegal or cause liability, harm, abuse or disruption for you, other customers, us, any other third parties, or for any of our Apps.
- We have not received our payment pertaining to your use of the App from the Reseller.
- It is required by law.
- We ceased offering or discontinued the App.

We may terminate your right to use free Apps at any time and for any reason or for no reason in our sole discretion, without liability to you.

Your license will end upon any termination of this Agreement, even if it is identified as "perpetual" or if no expiration date is specified when you ordered the App.

Upon expiration or termination, all license grants end and you must destroy and permanently erase all copies of the App and Documentation, and cease all use.

Unless otherwise stated in an applicable data retention policy, You will not have access to Your Data (and we may delete all of Your Data unless legally prohibited) after expiration or termination of the Agreement, so you should make sure to export Your Data during the term of the Agreement.

Notwithstanding the above, in relation to paid Apps, prior to expiration of the Transition Period (as defined in section 11.3(a) of [the Atlassian Marketplace Vendor Agreement](#)) the following will apply:

- For Cloud Apps we will make the App available to you on a hosted basis until the conclusion of any Surviving Terms (as defined in section 11.3(b) of [the Atlassian Marketplace Vendor Agreement](#)).
- When we continue to provide the App but have taken it down from the Atlassian Marketplace, where possible, we will use commercially reasonable efforts to move you to our non-Atlassian license mechanism.

Whatever the cause of termination is, you will not receive any credits or refunds for any license or support fees which you may have paid in advance (including fees for a perpetual license), except as may otherwise be provided by the Atlassian Marketplace Terms. You agree and acknowledge that the Resellers are responsible for refunds (if any), and you will not request any refunds from us.

The following provisions will survive any termination or expiration of this Agreement: Sections 2 (Ownership), 4 (License Restrictions), 5 (Payment, Subscriptions, Renewals, Refunds, Delivery), 9 (Third Party Software and Services), 11 (Publicity Rights), 12 (Your Feedback), 14 (Representations and Warranties), 15 (Disclaimer of Warranties), 16 (Limitation of Liability), 17 (Indemnification), 19 (Term and Termination), 20 (Dispute Resolution; Governing Law), and 21 (Miscellaneous).

## 20. Dispute Resolution; Governing Law

*Informal Resolution.* In the event of any controversy or claim arising out of or relating to this Agreement, the parties will 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 thirty (30) days, either party may pursue relief as may be available under this Agreement pursuant to subsections "Choice of Law" and "Location for Resolving Disputes". All negotiations pursuant to this subsection 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.

*Choice of Law.* You agree that the laws of the Republic of Belarus govern this Agreement, its subject matter, any action related to this Agreement, and any claim or dispute that may arise, without regard to the conflict of laws rules, and that the United Nations Convention on Contracts for the International Sale of Goods shall have no applicability.

*Location for Resolving Disputes.* You further agree that any disputes or claims related to this Agreement will be resolved by a state court located in the Republic of Belarus. BY ENTERING THIS AGREEMENT, YOU ARE: (1) WAIVING CLAIMS THAT YOU MIGHT OTHERWISE HAVE AGAINST US AND /OR OUR AFFILIATES BASED ON THE LAWS OF OTHER JURISDICTIONS, INCLUDING YOUR OWN; (2) IRREVOCABLY CONSENTING TO THE EXCLUSIVE JURISDICTION OF, AND VENUE IN, THE STATES COURTS IN THE REPUBLIC OF BELARUS OVER ANY DISPUTES OR CLAIMS YOU HAVE WITH US; AND (3) SUBMITTING YOURSELF TO THE PERSONAL JURISDICTION OF SUCH COURTS FOR THE PURPOSE OF RESOLVING ANY SUCH DISPUTES OR CLAIMS. Nothing in this Section shall limit our right to take proceedings against you in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the laws of such other jurisdiction.

## 21. Miscellaneous

*Consent to Receive Communications in Electronic Form.* For contractual purposes, you:

- Consent to receive communications from us in an electronic form via the email address(es) you have submitted or using other electronic means of communication; and
- Agree that this Agreement and all other agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications would satisfy if it were in writing.

*Independent Contractors.* The parties are independent contractors. This Agreement will not be construed as constituting either party as a partner of the other or to create any other form of legal association that would give either party the express or implied right, power or authority to create any duty or obligation of the other party.

*Severability.* If any provision of this Agreement is held to be unenforceable, this Agreement will remain in effect with the provision omitted, unless omission would frustrate the intent of the parties, in which case this Agreement will immediately terminate.

*Export/Import Laws.* You must ensure that you comply with any applicable export or import rules, regulations and restrictions applicable to your licensing or use of the App.

*Assignment.* You may not assign or transfer the Agreement without our prior written consent, except that you may assign all of your rights and obligations under this Agreement to any legal entity without consent in connection with a merger or the sale of all or substantially all of your assets as long as (i) you give us written notice of any such assignment at least fifteen (15) days before such assignment and (ii) the assignee agrees in writing to be bound by all terms and conditions of this Agreement. We may freely assign, transfer, and delegate our rights and obligations under this Agreement. You acknowledge and agree that our Affiliates, contractors and service providers may exercise all our rights under the Agreement.

*Entire Agreement.* This Agreement is the entire agreement between you and us relating to its subject matter. It supersedes all prior or contemporaneous oral or written communications, proposals, representations and warranties and prevails over any conflicting or additional terms of any quote, order, acknowledgment, letter or other communication between the parties relating to its subject matter during the term of this Agreement. This Agreement does not give any third party any rights or remedies hereunder.

**Last updated:** 23 June 2021