

## NON-DISCLOSURE AND NONCOMPETITION AGREEMENT

This Non-Disclosure Agreement (the "Agreement") is made and entered into effective \_\_\_\_\_, by and between the following parties:

**Codecov, LLC**  
6639 Pirate Perch Tr.,  
Lakewood Ranch, FL 34202  
("Codecov")

and

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
("Individual")

For good and other valuable consideration, the receipt of which is acknowledged, Individual and Codecov agree as follows:

### 1. Definitions.

(a) For purposes of this Agreement, the term "Confidential Information" of a party shall mean its own, or third party confidential, proprietary and/or trade secret information which (i) if received in a tangible form, is marked using a legend such as "Confidential" or "Proprietary" or if not so marked, is reasonably understood by the Receiving Party from the context of disclosure or from the information itself, to be confidential; or (ii) if received in an intangible form (e.g., orally or visually), is accompanied by a statement or description that such information is confidential, or if not accompanied by such statement, is reasonably understood by the parties to be confidential. Unless otherwise expressly stated herein, Confidential Information is intended to refer to the Confidential Information of the Disclosing Party and not to the Confidential Information of the Receiving Party.

(b) "Disclosing Party" means the indicated party or parties disclosing Confidential Information under this Agreement (check all that apply):

☒ **Codecov**                      ☐ **Individual**

(c) "Receiving Party" means either Individual or Codecov to the extent they receive or otherwise obtain Confidential Information from the Disclosing Party.

(d) "Affiliate" means any entity that another entity directly or indirectly controls, is controlled by or is under common control with (but an entity shall remain an Affiliate only so long as it meets such control requirements). An entity is considered to control another entity if it owns, directly or indirectly, more than 50% of the total voting equity or has other such similar voting rights.

2. Permitted Use. The Receiving Party shall: (a) protect Confidential Information from unauthorized use or disclosure using at least the same degree of care as the Receiving Party uses for its own information of like character or importance but in no event less than reasonable care; (b) use such Confidential Information only for the purpose of (i) evaluating the possibility of forming a joint business relationship or other commercial arrangement between the parties concerning such Confidential Information, and (ii) if and when such relationship is formed by a written agreement, furthering the purpose and intent expressly stated in such written agreement; (c) reproduce such Confidential Information only to the extent necessary for such purpose; (d) restrict disclosure of such Confidential Information to its employees with a need to know (and advise such employees of the obligations assumed herein); and (e) except as expressly set forth in Section 5 herein, not disclose such Confidential Information to any third party, including but not limited to any affiliate, vendor, customer, manufacturer or independent contractor, without prior written approval of such Disclosing Party. In addition, with respect to any equipment, component, software, or other items delivered to the Receiving Party by the Disclosing Party, the Receiving Party shall not reverse engineer, disassemble, decompile, or otherwise analyze the physical construction of, any such items.

3. Exclusions. Confidential Information expressly excludes any information which the Receiving Party can demonstrate: (a) is wholly and independently developed by the Receiving Party without the use of Confidential Information of the Disclosing Party; or (b) is or has become generally known to the public without breach of this Agreement by the Receiving Party; or (c) at the time of disclosure to the Receiving Party, was known to such Receiving Party free of restriction and evidenced by documentation in the Receiving Party's possession; or (d) is approved for release by written authorization of the Disclosing Party, but only to the extent of and subject to such conditions as may be imposed in such written authorization.

4. Court Ordered Disclosure. In the event Receiving Party receives an order or request to disclose any Confidential Information by a court of competent jurisdiction or a governmental body, then the Receiving Party agrees: (a) if not prohibited by the request or order, Receiving Party shall immediately inform the Disclosing Party in writing of the existence, terms, and circumstances surrounding the request or order; (b) to consult with the Disclosing Party on what steps should be taken to avoid or restrict the disclosure of Confidential Information; (c) to give the Disclosing Party the chance to defend, limit or protect against the disclosure; and (d) if disclosure of Confidential Information is lawfully required, to supply only that portion of the Confidential Information which is legally necessary and try to obtain confidential treatment for any Confidential Information required to be disclosed.

5. Affiliates. Codecov or Individual may disclose Individual's Confidential Information to or among Codecov Affiliates who have a need to know. A Codecov Affiliate may disclose Confidential Information directly to Individual. In these contexts, a Codecov Affiliate shall be considered a Disclosing Party or a Receiving Party under this Agreement. Any disclosure of Confidential Information to or by a Codecov Affiliate shall be subject to the terms and conditions of this Agreement, and the applicable Codecov Affiliate shall comply with this Agreement. Any Codecov Affiliate shall have the right to enforce the provisions of this Agreement against Individual. Codecov shall be responsible for any improper disclosure or use by its Affiliates of such Confidential Information.

6. No License or Representations. No license to a party of any trademark, patent, copyright, mask work protection right or any other intellectual property right is either granted or implied by this Agreement or any disclosure hereunder, including, but not limited to, any license to make, use, import or sell any product embodying any Confidential Information. No representation, warranty or assurance is made by either party with respect to the non-infringement of trademarks, patents, copyrights, mask protection rights or any other intellectual property rights or other rights of third persons.

7. No Obligation. Neither this Agreement nor the disclosure or receipt of Confidential Information shall be construed as creating any obligation of a party to furnish Confidential Information to the other party or to enter into any agreement or relationship with the other party with respect to mutual business.

8. Return of Information. All Confidential Information and all inventions and developments which arise therefrom (except as may be expressly agreed to by the parties under a separate written agreement), are and shall remain the sole property of the Disclosing Party, and all materials containing any such Confidential Information (including all copies made by the Receiving Party) shall be returned to the Disclosing Party immediately upon termination or expiration of this Agreement or destroyed, or upon the Receiving Party's determination that it no longer has a need for such Confidential Information. Upon request of the Disclosing Party, the Receiving Party shall certify in writing that all materials containing such Confidential Information (including all copies thereof) have been returned to the Disclosing Party or destroyed.

9. U.S. Export Controls. Individual acknowledges that all products, proprietary data, know-how, software or other data or information (herein referred to as "Products") obtained from Codecov are subject to United States ("US") Government export control laws and accordingly their use, export and re-export, may be restricted or prohibited. Individual, therefore, agrees not to directly or indirectly export, re-export, or cause to be exported or re-exported, any such Products or any direct Product thereof, to any destination or entity prohibited or restricted under US law including but not limited to US Government embargoed or sanctioned countries or entities, unless it shall have first obtained prior consent of the US Department of Commerce (or other applicable agency of the US Government, either in writing or as

provided by applicable regulation, as the same may be amended from time to time). Individual agrees that no Products received from Codecov will be directly employed in missile technology, sensitive nuclear, or chemical biological weapons end uses or in any manner transferred to any party for any such end use. This requirement shall survive any termination or expiration of this Agreement.

10. Term and Termination. This Agreement shall become effective on the date first set forth above and shall terminate upon the expiration of sixty (60) months from the date first set forth above ("Term").

11. Notice. Any notice or other communication made or given by either party in connection with this Agreement shall be sent via facsimile (with confirmation) or by registered or certified mail, postage prepaid, return receipt requested, or by courier service addressed to the other party at its address set forth above.

12. Survivability. Each party agrees that all of its obligations undertaken herein as a Receiving Party shall survive and continue after any termination or expiration of this Agreement.

13. Injunctive Relief. The parties agree that any unauthorized use or disclosure of the Confidential Information in violation of this Agreement disclosed by a Disclosing Party will cause such Disclosing Party irreparable injury for which it would have no adequate remedy at law. Accordingly, the Disclosing Party shall be entitled to seek immediate injunctive relief prohibiting any violation of this Agreement, in addition to any other rights and remedies available to such Disclosing Party.

14. Governing Law, Forum and Attorneys' Fees. This Agreement shall be governed in all respects solely and exclusively by the laws of the State of Florida, U.S.A. without regard to conflict of laws principles. The parties hereto expressly consent, and submit themselves, to the exclusive jurisdiction of the federal and state courts in Manatee County, and it is stipulated that venue shall be in Manatee County for the adjudication or disposition of any claim, action or dispute arising out of this Agreement. In the event either party shall bring any action to enforce or protect any of its rights under this Agreement, the prevailing party shall be entitled to recover, in addition to its damages, its reasonable attorneys' fees and costs incurred in connection therewith.

15. Noncompetition. Individual agrees, during the Term and for a period of twelve (12) months following the end of the Term, that Individual shall not, individually, jointly, or as a partner, member, employee, agent, officer, director, shareholder, equity holder, lender, consultant, independent contractor, or joint venturer of any other Person, as that term is defined herein, or in any other capacity, work for, be employed by, consult for, or directly or beneficially own, manage, operate, join, control or participate in the ownership, management, operation or control of, or be associated in any other way with, a Competing Business, as that term is defined herein, anywhere in the United States of America and anywhere in any country in which Codecov is doing business or contemplates doing business during or before the end of the Term.

- a. "Person" shall mean individual, partnership, corporation, limited liability company, association, trust, joint venture, unincorporated organization and any government, governmental department or agency or political subdivision thereof.
- b. "Competing Business" shall mean any one or more of the following: (a) any business engaged in the design, development, manufacturing, marketing or sale of products, systems, services or applications that are competitive with the products, systems, services or applications sold or contemplated to be sold by Codecov, which shall include but not be limited to software primarily focusing on code analytics (e.g., "code coverage," "linting," "static analysis," etc.); (b) any other business in which Codecov engages on or before the end of the Term; or (c) any other business in which the Codecov intends to engage on or before the end of the Term, and for which Codecov prepared or commissioned a business plan or study on or before the end of the Term.

16. Miscellaneous. Each undersigned individual affirms that they are duly authorized to execute this Agreement on behalf of the applicable party. This Agreement constitutes the entire understanding

among the parties hereto as to the Confidential Information and supersedes all prior discussions between them relating thereto. No amendment or modification of this Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of each of the parties by its authorized officer or representative. No party may assign or transfer, in whole or in part, any of its rights, obligations or duties under this Agreement. The failure or delay of any party to enforce at any time any provision of this Agreement shall not constitute a waiver of such party's right thereafter to enforce each and every provision of this Agreement. In the event that any of the terms, conditions or provisions of this Agreement are held to be illegal, unenforceable or invalid by any court of competent jurisdiction, the remaining terms, conditions or provisions hereof shall remain in full force and effect.

17. Counterparts, Electronic and Facsimile Delivery. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute the Agreement when a duly authorized representative of each party has signed a counterpart. Each party agrees that the delivery of the Agreement by electronic or facsimile transmission shall have the same force and effect as delivery of original signatures and that each party may use such electronic or facsimile signatures as evidence of the execution and delivery of the Agreement by all parties to the same extent that an original signature could be used.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement through their authorized representatives as of the Effective Date.

**Codecov, LLC**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**Individual**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_