

You must agree to our Acceptable Use Policy before using Blackfire.

You must agree to our Privacy Policy before using Blackfire.

You must agree to our Terms of Service before using Blackfire.

Terms of Service

Last Updated: January 19th, 2024

Our Terms of Service govern your subscription to the Blackfire services and use of said services as a standalone, i.e. not in conjunction with other Platform.sh services. If you have executed a standalone agreement with Platform.sh, your use is governed by the terms contained within that executed agreement.

Platform.sh Terms of Service consist of the General Terms, the Acceptable Use Policy available at <https://platform.sh/trust-center/legal/aup/>, and all other documents or policies referenced in this Agreement (all together the "Agreement").

By signing up for an account and using our services, you represent and warrant (i) that you are at least 18 years old or otherwise able to enter into a legally binding agreement, and (ii) you assent to this Agreement.

If you are entering into this Agreement on behalf of a company or other legal entity that you represent, you represent and warrant that you have the legal capacity to bind such entity to this Agreement. If you do not have such authority, and/or do not assent to this Agreement, you must not accept this Agreement on behalf of such entity and must not use Platform.sh services.

General Terms

1. Contracting Parties

This Agreement constitutes a legally binding agreement made between you, whether personally or on behalf of an entity ("You") and Platform.sh. Platform.sh is a French company registered as "Platform.sh" with the Paris Trade and Companies Register under the number 521 496 059, whose registered office is located at 22 rue de Palestro, 75002 Paris, FRANCE.

As an exception to the above sentence, if you have first subscribed to the Blackfire Service between 2017 and 2019, and are billed by Blackfireio Incorporated, then this Agreement is made between you, whether personally or on behalf of an entity ("You") and Blackfireio Incorporated whose business office is located at 2021 Fillmore St. Ste 1252 San Francisco CA 94115 (USA) (hereafter referred to as "Platform.sh").

This Agreement is effective as of the date these Terms of Services are accepted by You ("Effective Date"). You and Platform.sh are individually referred to herein as a "Party" and collectively as the "Parties".

2. Provision of the Services

2.1. Services

The Blackfire service is a performance management solution that helps Platform.sh customers to test, set and reach performance expectations for their applications. For the duration of this Agreement, Platform.sh will allow You to access and use the Blackfire service (the "Services").

Platform.sh will make the Services available to You pursuant to this Agreement and the documentation relating to the applicable Service, which is available under <https://blackfire.io/docs/introduction>.

2.2.Account Registration

An account ("Account") with us may be created with Platform.sh, SymfonyConnect, Github or Google's services. As long as You use our Services, You must provide information that is accurate, complete, and current at all times. You will not give false or misleading information about You and, upon Platform.sh request, You will provide any additional information as reasonably needed by Platform.sh to verify Your identity as a customer.

Upon creating an Account, an organization ("Organization") will be created to group Your environments ("Environment"), payment plan subscription(s) ("Plan(s)"), and Users (as defined below) together for billing and administration purposes. You can create additional Environments upon discretion to organize Your Plan(s) and Users at Your convenience, being understood that additional Environments may be subject to additional fees as further described in section "Fees, billing and payment" below.

2.3.Administration of the Service

Through Your Account, You can access the web administration dashboard (the "Dashboard"), and subject to Your permission level, (i) manage Your Environment, add or remove Plan(s) and Add-ons; (ii) manage and update Your information; (iii) permit any individual that is at least 16 or age of majority whichever is greater and that is Your employee, agent, contractor or representative to access, use, and/or manage the Services ("User"), (iv) configure the access controls of Your Users, (v) manage Your subscription, and (vi) review information on Your usage of the Services.

The Services may be accessed through the Blackfire website, the Blackfire Agents, the Blackfire browser extension, and other third party integrations or software, as further set forth in the Documentation. Using the Services may require the installation of software elements, on your local machine, servers, or internet browser, as further detailed in the Documentation. You are allowed to change your Plan(s) at any time. Billing will be adjusted by Platform.sh as set forth in section " Fees".

2.4.Administration of Users

You are responsible for managing Your User's access rights and making sure that said access rights are up to date at all times. You will ensure that User login and other credentials are kept confidential, are individual, and are not shared between several individuals. You and Your Users must comply with the Acceptable Use Policy and applicable laws. You are responsible and liable to Platform.sh for the acts and omissions of Your Users, and are responsible for each User's compliance with this Agreement. You will notify us immediately and terminate the relevant person's access to the Services should you become aware of (i) any breach of this Agreement by a User or (ii) any possible misuse of a User's credentials.

2.5.Content

The Services, give You the opportunity to manage the performance of your applications and all information and content in relation or connection with your applications, including without limitation related data collected and aggregated from Users' servers or local machines, or directly uploaded by Users, excluding personal data (individually and all together Your "Content").

You are solely responsible for Your and Your User's use and submission of all Content and files sent, distributed or collected, as well as for their operation and updating as part or through the use of the Services.

You understand and agree that the Services is not meant to collect and process personal data (as defined by Regulation (EU) 2016/679) and that personal data is not necessary for the purposes of the services. As such, You agree not to include personal data in Your Content and not to use the Services to collect or otherwise process personal data.

You represent and warrant that Your use of the Services does not (i) breach any provision of this Agreement, including the Acceptable Use Policy, (ii) infringe or misappropriate the rights of any third party, or (iii) breach applicable law or regulation, including any law or regulation related to the protection of personal data.

To improve the performance of the Services, Platform.sh may recommend specific configurations. Platform.sh will not be liable in case you fail or decide not to abide by the configuration recommendations shared by Platform.sh.

3. Plans and Services specifications

Plan(s) and add-ons are described on the Blackfire website. As further detailed in the Documentation, some services and add-ons may come with specific usage limits. Depending on the Plan(s) elected and used by You, usage in excess may not be allowed by Platform.sh or may be allowed as overage and subject to billing.

4. Support

Unless otherwise agreed in writing between You and Platform.sh, the Services do not include specific support obligations. However, Platform.sh will make commercially reasonable efforts to provide You with support services through an online service desk and on public forums.

Support cases will only be managed via Platform.sh's support management tool. You understand and agree that We may handle only support cases described with enough context, and that those have to be related to the Services, Account, subscriptions or be questions about the Terms of Service.

5. Maintenance

Platform.sh reserves the right to interrupt part or all of the Services to perform a technical intervention for the purpose of ensuring the proper operation of the Services, and the safety and stability of the infrastructure behind the Services. Platform.sh will make commercially reasonable efforts to limit the occurrence and duration of the interruption and, where feasible, will give You reasonable prior notice of Platform.sh interventions. Temporary interruption of the Services according to this section will not give rise to any payment of compensation to Users.

6. Changes to the Services

Platform.sh reserves the rights, in its sole discretion, to modify, add, or remove portions and/or functionality of the Services on a temporary or permanent basis, without liability to you or any third party. Except where an urgent change is required for security reasons, Platform.sh will notify You ahead of any negatively impacting material change by displaying a prominent notice within the Services and/or by sending You an email, to the extent that You subscribed to receive email updates. You may object to any material change that has an adverse effect on Your use of the Services by, as Your sole and exclusive remedy, terminating Your subscription, discontinuing your use of the Services and canceling all Your Plan(s). Your continued use of the Services after such material change will constitute your consent to such changes. New features and services will also be subject to this Agreement.

7. Beta Features

Platform.sh may occasionally offer You to try, at your option, certain beta or pre-release features still undergoing testing and that are not generally available (each a "Beta Feature"). Beta Features are for evaluation purposes and are not intended for production use. Beta Features do not come with any uptime commitment, or support obligation. You understand and agree that (i) You can agree or decline any such trial of Beta Feature, and (ii) any of these Beta Features may be modified, removed, or discontinued, or made generally available to all our customers for production use (incl. for a fee) at our sole discretion, for any reason and without any liability of Platform.sh to You. All Beta Features are provided "AS IS," without warranty or representation of any kind. Notwithstanding section Liability, Platform.sh's liability for any damage arising out of or in connection with any Beta Feature is excluded in entirety, including any obligation or liability with respect to Your Content, except to the extent liability cannot be limited under applicable law. You assume all risks associated with Your use of a Beta Feature.

8.Sponsored use of the Services

If (i) Your application is a non-commercial open source project providing core contributions to the open source community and (ii) You and Your project are not funded by commercial companies or organizations (e.g. NGO, educational, research, or governmental)), Platform.sh may, from time to time and at its sole discretion, sponsor Your use of the Services. You understand and agree that such a sponsored use (i) must comply with this Agreement, (ii) may have limited features and resources, and (iii) may be reviewed and terminated by Platform.sh at its sole discretion, for any reason and without any liability to You.

If Your use of the Services is sponsored by Platform.sh, You will be expected to add a link on Your website relating to the sponsored project mentioning that Your website's performance analytic is powered by Blackfire. If You don't have a website for this project, You will need to add a link to Blackfire in their repository "Readme" file or otherwise publicly give credit to Platform.sh in a reasonable way. Platform.sh further reserves the right to announce on its own media presence, both online and offline, any such sponsored project and may kindly ask You to communicate the same (at least once) over Your social media presence (e.g., Twitter, LinkedIn).

9.Suspension

Platform.sh, Platform.sh may immediately suspend Your access to Your Account and/or suspend Your Plan(s) (i) in case You or Your User(s) breach the Acceptable Use Policy or applicable law; (ii) in case Your Account shows any overdue invoices, and/or Your payment information is expired and needs to be updated to enable further payments; and/or (iii) as reasonably deemed necessary by Platform.sh to prevent any harm to Platform.sh, to Platform.sh's customers, to the Services, or the underlying infrastructure.

Such suspension will be lifted when the circumstances giving rise to the suspension have been resolved. Suspension does not relieve you from Your payment obligation.

For the avoidance of doubt, nothing in this section limits the Platform.sh right to immediately and permanently delete Your Plan(s) or Account and terminate this Agreement in case of material breach of the Acceptable Use Policy, these Terms of Services or applicable law, or in case You fail to promptly resolve the circumstances giving rise to the suspension as reasonably requested by Platform.sh.

10.Subcontractors

Platform.sh may subcontract obligations under this Agreement, but will remain liable to You for any subcontracted obligation.

11.Third-party services

The Service may contain links or integrations with third-party content, products and services, as a convenience. Platform.sh is not responsible for examining or evaluating the content or accuracy of such third-party tools and websites and does not warrant, and will not have any liability or responsibility for any third-party materials or websites, or for any other materials, products, or services of third parties. Such access to third-party links or tools are "as is" and "as available," without any warranties, representations, or conditions of any kind and without any endorsement. Platform.sh is not liable and shall have no liability whatsoever for any harm or damages related to the purchase or use of goods, services, resources, content, or any other transactions made in connection with any third-party tools or websites relating to Your use of optional third-party tools. This Agreement does not apply to any third party links, tools or integrations, and you should consult the terms of service applicable to such links, tools or integrations. In the case where You or any User consent to a third-party integration, You shall be deemed as agreeing to the passage of data to the third party integration partner for the purposes agreed upon between You and Platform.sh. Platform.sh will make commercially reasonable efforts to maintain such features. However Platform.sh cannot guarantee the continued availability of such features and may cease to provide them without entitling You to any refund, credit, or other compensation, if for example and without limitation, the provider of a

third-party service, tools, or component ceases to make its service, tools, or component available for interoperation with the Services in a manner acceptable to Platform.sh or changes the terms of the third-party services in a manner that no longer allows Platform.sh to provide said integration or interoperability feature.

12.Fees, billing, and payment

12.1.Fees

The Services can be bundled in Plan(s) and options as further described on <https://www.blackfire.io/pricing/>.

Platform.sh will provide the Services to You at the rates and for the fees ("Fees") displayed on the pricing pages listed above.

You may elect to upgrade or downgrade your Plan(s), and add or remove add-ons at any time. Any change toward a lower paying Plan or removal of an add-on will be effective at the end of the then current billing period, whereas any upgrade or addition of an add-on will be effective immediately. When adding an add-on, the add-on subscription fee will be prorated and adjusted to align with the billing period and billing schedule of the underlying Plan.

All payment obligations are non-cancelable and all amounts paid are non-refundable, except as specifically provided for in this Agreement.

12.2.Billing and payment

Bills are issued by Platform.sh at the Organization level and are sent by email to the billing contact registered in Your Account. All fees due under this Agreement are payable in advance, on a yearly term. Some Plans may be eligible for a monthly billing schedule, as further described on <https://www.blackfire.io/pricing/>.

You may switch from a monthly billing schedule to a yearly billing schedule at any time. When moving to a yearly billing schedule, Platform.sh will refund the prepaid monthly fee prorated on the change date and bill a full year of Services.

Unless otherwise expressly allowed by Platform.sh in writing and at its discretion, our fees must be paid by credit or debit card. If your billing currency is Euro, you can elect to pay our fees by SEPA direct debit. By providing payment card information or signing a SEPA direct-debit mandate, You authorize Platform.sh to charge Your payment card or debit Your account automatically at the billing frequency and in the amount selected by You based on the plan You subscribed to and on your use of the Services. You further authorize Platform.sh to use a third-party to process payments, and consent to the disclosure of your payment information to such third party. You must make sure your payment information is accurate and up to date at all times and maintains sufficient availability under Your credit card limit to sufficient funds in the account linked to Your payment card or SEPA.

You are responsible for all currency conversion fees, wire transfer fees and similar bank payment charges. Platform.sh must receive the payment of all Fees net of any transaction fees.

Platform.sh is not responsible for any (i) payment failure resulting from inaccurate or expired payment card details provided by You, (ii) any restrictions applicable to Your payment card by Your bank, or (iii) misuse, abuse, unauthorized use, or fraudulent use of Your payment cards.

12.3.Delinquent payments and payment disputes

Delinquent payments, including without limitation those resulting from invalid or expired payment card information, will be subject to interest on overdue amounts at a rate of up to 1.5% per month or the maximum rate permitted by applicable law, whichever is lower.

If an amount is overdue, Platform.sh may, at its sole discretion (i) suspend access to your Account, (ii) suspend Your Account, and/or (iii) delete Your Account and terminate the Agreement.

In the event Platform.sh brings a legal action for collection or hires an agent or authorized representative of collections due to overdue amounts, You will be obligated to pay all related costs of such collection, including but not limited to Platform.sh attorneys' fees, expenses, court costs, and any other related collection enforcement fees.

Should You wish to dispute a payment, you must promptly, and no later than within 15 days from the payment date, send a written notification of dispute to Platform.sh. You understand and agree that asking Your bank or credit card company to reverse a charge does not relieve you of your obligation to formally and promptly notify Platform.sh of the dispute. You and Platform.sh will collaborate in good faith and without undue delay to resolve said dispute.

12.4.Taxes

You are responsible for and must pay all Taxes and duties assessed in connection with this Agreement and its performance by any applicable authority, including any sales, use, value-added, withholding, and other Taxes and duties. In the event that Taxes are applicable in respect of this Agreement and its performance, Taxes shall be payable by You in addition to the Fees. For clarification purposes, in the event tax is required by law to be withheld from the Fees, Platform.sh may gross up the invoice sufficiently such that after the deduction of withholding tax, the original Fees are received by Platform.sh. In the event that any withholding taxes are paid by You, You shall provide Platform.sh with a valid withholding tax receipt in Platform.sh name within thirty (30) days following the payment. Platform.sh shall provide You with reasonable documentation, such as certificates of residence, required to enable You to apply any reduced rates of withholding tax given by a double tax treaty, if applicable.

For the purpose of complying with applicable tax regulations and authorities in applicable jurisdiction, Platform.sh may ask You to provide accurate and valid tax identification information. You must make sure your tax identification information is always up to date in Your Account, and You understand and agree that You will be liable to pay, or reimburse Platform.sh for, any taxes, interest, penalties, or fines arising out of any misdeclaration.

For the purpose of this section, "Taxes" means any and all taxes imposed by any taxing authority including, without limitation, income tax on nationals and on foreigners, all corporate taxes, imports, duties, levies, stamp duties, charges, and other assessments and payments in the nature of taxes, wherever payable, including withholding taxes and VAT.

12.5.Changes to prices

At the sole discretion of Platform.sh, prices applicable to the Services and add-ons, may change over time.

You will be notified by email of any price change 30 days prior to the next billing cycle. If You object to the updated prices, as Your sole and exclusive remedy, You can terminate Your subscription.

13.Intellectual Property

13.1.Ownership of the Services

Platform.sh, and where applicable its licensors, are and remain the sole and exclusive owners of all right, title, and interest in and to the Services. Without prejudice to the foregoing and subject to this Agreement, Platform.sh hereby grants You a limited in time, worldwide, royalty-free, non-transferable, non-assignable, non-sublicensable, and non-exclusive right to use the Services as provided to You by Platform.sh in the manner permitted by this Agreement and subject to the usage restrictions as further detailed in the Acceptable Use Policy and Documentation.

Platform.sh reserves all rights that are not expressly granted to You under this Agreement or by law.

You may not, nor permit Users, or others within Your control to copy, republish, reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code or underlying ideas or algorithms of the Services; modify, translate, or create derivative works based on the Services; rent, lease, distribute, sell, resell, assign, or otherwise transfer intellectual property rights of the Services; use the Services for time-sharing or service bureau purposes, or otherwise for the benefit of a third party; remove any trademark or proprietary notices from the Services; or publish or disclose to third parties any evaluation of the Services without Platform.sh prior written consent and only to the extent of such authorized disclosure.

13.2.Ownership of the Content

You, and where applicable, Your licensors, are and will remain the sole and exclusive owner of all rights and title to and interest in the Content. Without prejudice to the foregoing, by using the Services, You hereby grant to Platform.sh a non-exclusive, transferable, sub-licensable, royalty-free, worldwide license to use the Content only as

necessary to operate and feed the Services and to store their Content.

You guarantee that your Content does not include personal data, as defined by Regulation (EU) 2016/679 and that You have, or have been granted, any rights and licenses required for using the data collected by, or uploaded, to the Services. With respect to the Content, Users undertake to comply with all legal and regulatory requirements, in particular those relating to personal data, including filing any declaration required by the local data protection authority.

13.3. Trademarks

Platform.sh and Blackfireio company names, the terms Platform.sh, Blackfire, Blackfireio, the Blackfire logo, the Platform.sh logo and all related names, logos, product and service names, designs, and slogans are trademarks of Platform.sh or its affiliates or licensors. You must not use such marks without the prior written consent of Platform.sh. All other names, logos, product and service names, designs, and slogans on the Platform.sh or Blackfire.io websites, Services, and Documentation are the trademarks of their respective owners. If You upload any designs, logos, or names subject to trademark or servicemark from the Platform.sh, Blackfire.io, Services, and Documentation for Your own use, You represent and warrant that You have the right and authority to do so.

13.4. Publicity

Platform.sh may state publicly that You are a Platform.sh customer by displaying Your Organization's name and logo in online or offline promotional materials of the Services, or on Platform.sh websites.

13.5. Feedback

The Services provide You with ways to share feedback, ideas, and suggestions (collectively "Feedback") with Platform.sh. You have no obligation to provide Platform.sh with Feedback. However, if You submit Feedback to Platform.sh, You acknowledge that such Feedback is free from any confidentiality restriction and You hereby grant Platform.sh a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, translate, create derivative works of, and otherwise commercially exploit such Feedback. The foregoing grant of rights is made without any duty to account to You or Your Users for the use of such Feedback. No Feedback will be considered Your Confidential Information, and nothing in this Agreement limits our right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

13.6. Open-source software

Certain items of software made available through the Services may be open-source software. Such open-source software is not subject to the terms and conditions of this Agreement. Each item of open-source software is licensed under such terms of the end-user license that accompanies such open-source software.

13.7. Copyright Policy and Copyright Agent

Platform.sh respects the intellectual property rights of others. If You believe something on our site or our Services has infringed on Your intellectual property rights, please contact abuse@platform.sh, and provide the following information:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- Identification of the protected work claimed to have been infringed.
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled.
- Address, telephone number, and, if available, an electronic mail address where Platform.sh may contact You.
- A statement that the complaining party has a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- A statement that the information in the notification is accurate, and under penalty of perjury, that You are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

14. Confidentiality

14.1. Definition

"Confidential Information" means: (i) any non-public technical or business information of a Party, including without limitation, any information relating to a Party's techniques, algorithms, know-how, current and future products and services, research, engineering, designs, financial information, procurement requirements, manufacturing, customer lists, business forecasts, marketing plans and information; and (ii) any other information of a Party that is disclosed in writing and is conspicuously designated as "confidential" at the time of disclosure or that should reasonably be understood by the receiving Party to be Confidential Information of the disclosing Party.

Confidential Information will not include any information that (i) is or becomes generally known to the public through no fault or breach of this Agreement by the receiving Party; (ii) the receiving Party can demonstrate by written evidence that was rightfully in the receiving Party's possession at the time of disclosure, without an obligation of confidentiality; (iii) is independently developed by the receiving Party without the use of or access to the disclosing Party's Confidential Information; or (iv) the receiving Party rightfully obtains from a third party not under a duty of confidentiality and without restriction on use or disclosure.

14.2.Obligations

Each Party will, at all times, both during the term of this Agreement and for a period of three (3) years after its termination, maintain in confidence all Confidential Information of the other Party and will not use such Confidential Information for any purpose, except as otherwise expressly permitted herein.

Each Party will limit the disclosure of such Confidential Information to those of its Users, employees, agent, legal affiliate, consultants or professional advisors ("Representatives") who need to access such Confidential Information and are subject to binding use and disclosure restrictions at least as protective as those set forth herein. The receiving Party will be responsible for any or omissions of such Representatives that, if taken by the receiving Party, would constitute a breach of this Agreement. The receiving Party will notify the disclosing Party of any actual or suspected breach of this Confidentiality section.

14.3.Compelled disclosure

The receiving Party may make disclosures to the limited extent required by law or court order, provided the receiving Party uses diligent reasonable efforts to limit disclosure and to obtain confidential treatment or a protective order and allows the disclosing Party to participate in the proceeding (to the extent legally permitted).

14.4.Injunction and remedies

In the event of a breach or threatened breach of this section by either Party, the other Party shall be entitled to seek preliminary and permanent injunctive relief (in addition to monetary damages and other remedies at law) to enforce the provisions hereof and shall be entitled to recover attorneys' fees incurred in connection therewith.

Notwithstanding the foregoing, the remedies in this section shall in no way be considered the exclusive remedies of a breach of this section by either Party.

15.Security

Platform.sh will maintain appropriate administrative, physical, and technical safeguards for the protection of the security, availability, confidentiality and integrity of the Service and of the underlying infrastructure. Platform.sh maintains a compliance program that includes independent third-party audits and certifications. The Platform.sh Trust Center, as updated from time to time, provides further details on Platform.sh security measures and certifications.

Platform.sh may notify You of security vulnerabilities relating to elements under Your control and responsibility scope (e.g. application code, configuration of application, and routes managed through YAML files), but has no obligation to review or advise You of any security vulnerabilities. You must patch any notified vulnerabilities as soon as possible. Not patching notified vulnerabilities may lead to immediate suspension of Your and Services, at Platform.sh's sole discretion. For the avoidance of any doubt, Platform.sh will not be responsible for any such vulnerabilities, whether or not identified and notified by Platform.sh. You remain solely responsible for applying security patches and solely liable for the consequences resulting from their failure to apply the security patches needed.

16.Data protection

The Parties acknowledge that as at the Effective Date, neither Party acts as a processor of personal data on behalf of the other. Without prejudice to the foregoing, the Parties shall, at all times during this Agreement, comply with their obligations under the applicable data protection laws.

17.Warranty

The Services (including but not limited to products, functionalities, and information) are provided on an "AS IS" and "AS AVAILABLE" basis. PLATFORM.SH HEREBY DISCLAIMS TO YOU OR TO ANY OTHER PERSON, INCLUDING ANY OF YOUR USERS, ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED, IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, PLATFORM.SH DOES NOT WARRANT THAT SERVICES, PRODUCTS, FUNCTIONALITY, DOCUMENTATION, OR INFORMATION, AS APPLICABLE, WILL MEET YOUR REQUIREMENTS, OR BE UNINTERRUPTED OR ERROR-FREE, AND IT DOES NOT MAKE ANY REPRESENTATION REGARDING RESULTS OR USE IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR RISK OF INJURY. Applicable law may not allow the exclusion of certain warranties, so to that extent such exclusions may not apply.

18.Indemnification

18.1.Indemnification by Platform.sh

Platform.sh hereby agrees to defend, indemnify, and hold You harmless from and against any and all liabilities, losses, damages, or expenses incurred by You arising out of or relating to any claim, suit, action or proceeding by a third party alleging that Your use of the Services in compliance with the terms of this Agreement infringes upon such third party's intellectual property rights. The above indemnification obligations are subject to the following: (i) You will promptly inform Platform.sh of the applicable third-party claim, (ii) Platform.sh will have sole control of the defense and all related settlement negotiations with respect to the claim, provided You may not settle the claim unless it unconditionally releases Platform.sh of all liability or such settlement receives Platform.sh's prior approval, and (iii) You will, to the necessary extent and upon request of Platform.sh, fully cooperate to the claim investigation, defense, and trial. Platform.sh indemnification obligation does not apply to the extent the third-party claim arises out of or relates to (i) Your breach of this Agreement, including the Acceptable Use Policy or Documentation, (ii) Your Content, (iii) the use of the Services in connection with materials including third-party materials not provided by Platform.sh, and (iv) Beta Features, or Sponsored Projects.

18.2.Indemnification by You

You hereby agree to defend, indemnify, and hold harmless, at Your own expenses, Platform.sh and its officers, directors, employees, vendors, agents, or affiliates against all claims, settlements procedures, expenses, damages, or suits (including attorneys' fees and expenses) resulting from Your Content, including any improper use of a third party license, tool or service used in connection with Your Content or the Services, a breach of the other terms of this Agreement by You or Your Users (including, but not limited to, any unauthorized or illegal use or distribution of the Services).

19.Liability

IN NO EVENT SHALL PLATFORM.SH OR ITS SUBCONTRACTORS, LICENSORS, AFFILIATES, OR SUBSIDIARIES, AND RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS BE LIABLE TO YOU OR TO ANY THIRD PARTY, INCLUDING ANY END USER, FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR INCIDENTAL DAMAGES OR LOSSES, INCLUDING WITHOUT LIMITATION, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, GOODWILL OR SAVINGS, LOSS OR CORRUPTION OF DATA, DATA FILES, OR PROGRAMS, OR OTHER PECUNIARY LOSS ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICES OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF YOU OR PLATFORM.SH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL

PLATFORM.SH AGGREGATE LIABILITY TO YOU OR ANY THIRD PARTY, INCLUDING ANY END USER, FROM ALL CAUSES OF ACTION AND THEORIES OF LIABILITY, EXCEED THE ACTUAL AMOUNT OF FEES PAID BY YOU DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE THE LIABILITY AROSE. SUCH FOREGOING EXCLUSIONS, LIMITATIONS OF LIABILITY, AND REMEDIES WILL APPLY, TO THE FULLEST EXTENT PERMITTED BY LAW, IN ALL ACTIONS OF ANY KIND, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY.

EACH EXCLUSION AND LIMITATION IS INTENDED TO BE SEPARATELY ENFORCEABLE, WITHOUT REGARD TO THE OTHER EXCLUSIONS AND LIMITATIONS, AND WITHOUT REGARD TO WHETHER ANY OTHER REMEDY UNDER THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

20. Term and Termination

20.1. Term

This Agreement will begin on the Effective Date and will continue until terminated in accordance with this section.

20.2. Termination

You may delete Your Plan(s) at any time. Deletion of all Your Plan(s) will be interpreted by Platform.sh as a termination for convenience of your subscription and this Agreement.

Either Party may terminate this Agreement immediately on written notice to the other if the other Party is in breach of the Agreement and fails to cure that breach within 30 days after receipt of written notice of the breach.

Notwithstanding the foregoing, Platform.sh may also terminate this Agreement (i) immediately on written notice to You, if Your or your Users' use of the Services breaches export control laws, Applicable Data Protection Laws, or materially breaches the Acceptable Use Policy or these Terms of Services; or (ii) with 8 days written notice in the case You fail to pay any undisputed overdue amount.

20.3. Effect of termination

Upon termination of this Agreement, and irrespective of the cause for termination, Your rights and access to the Service will be terminated, and Platform.sh will delete your Plan without undue delay, unless otherwise required by applicable Law or as reasonably necessary for the establishment, exercise, or defense of legal claims.

It's your sole responsibility to carry out any reversibility operation (e.g., deletion, backup, transfer to another hosting provider) necessary for the conservation or transfer of your Content.

20.4. Survival

All sections of this Agreement, which, by their nature, extend beyond termination of this Agreement, shall survive the expiration or termination of this Agreement to the full extent necessary for their enforcement and for the protection of the Party in whose favor they operate, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

21. Force Majeure

Except for payment obligations of amounts due under this Agreement, neither Party will be responsible for failure or delay of performance if caused by: an act of war, hostility, terrorism, riot; strike or sabotage; an act of God, like epidemic, fire, or floods; energy crisis or electrical, internet, or telecommunication outage that is not caused by the obligated Party; government restrictions or embargoes; or other event outside the reasonable control of the obligated Party. Such failure or delay will not be deemed to constitute a material breach of this Agreement, but such obligation will remain in full force and effect, and will be performed or satisfied as soon as reasonably practicable after the termination of the relevant circumstances causing such failure or delay, provided that if such Party is prevented or delayed from performing for more than 60 days, the other Party may terminate this Agreement upon 15 days' written notice. Each Party will use reasonable efforts to mitigate the effect of a force majeure event.

22.Compliance with laws

22.1.Export control

You represent and warrant that You are not a restricted party (e.g., individual or entity that has been denied import or export privileges) and will comply with all applicable export control laws, regulations, and trade sanctions, including those emitted by the United Nation Security Council (UNSC), the US Government, the European Union or its Member States, the UK Government, the Government of Canada, and the Government of Australia. You further represent and warrant that: (i) You will not directly or indirectly use or allow Users to use the Service in a prohibited country (e.g., Cuba, Iran, North Korea, South Sudan, and Syria) or engage in any export or re-export activity with any entity or individual who You know or has reason to know is engaging in the design, development, or production of nuclear, chemical, or biological weapons, or missile technology, and (ii) none of You, your affiliates, or any of your directors, officers, employees, and none of the Users of the Service is a sanctioned person.

22.2.Anti-bribery

Each Party shall comply with Applicable Laws concerning anti-bribery and anti-corruption, which may include the US Foreign Corrupt Practices Act of 1977, and the UK Bribery Act 2010.

23.Non-consumer service

The Services are not designed primarily for Your personal, family, or household use, but rather are designed for purposes which are inside Your trade, business, craft, or profession. As such, and to the fullest extent allowed by applicable law, You understand and agree that this Agreement is primarily deemed to be entered into between two professionals. Nonetheless, if You qualify as a consumer under applicable law, and applicable law provides consumers with consumer-specific, statutory and non-waivable rights, then any such statutory provision will prevail over any conflicting terms of this Agreement.

If You are a UK or European Union resident: by agreeing to these Terms of Service, You consent to the immediate performance of this Agreement and acknowledge that You will lose Your right of withdrawal from the Agreement once the ordered Services have been made available to You by Platform.sh.

24.Authorized Reseller

If Subscriber has purchased Services through a reseller authorized by Platform.sh (an "Authorized Reseller"), then Platform.sh will make the Services ordered by the Authorized Reseller available to Subscriber. Unless otherwise agreed in writing between the Subscriber and Platform.sh, Subscriber's access to and use of the Platform.sh Services purchased through a Reseller shall at all times be subject to this Agreement, provided that, (i) Sections "Fees billing and Payment" shall not apply between Subscriber and Platform.sh as Platform.sh will seek payment for all fees associated with Subscriber's use of the Services from the Authorized Reseller; (ii) if any amount owing by the Authorized Reseller for Subscriber's use of the Services is overdue, Platform.sh may, without limiting any rights and remedies, suspend the provision of Services to Subscriber until the overdue amounts are paid in full; (iii) if the Authorized Reseller fails to provide Platform.sh with a renewal order before or on expiry of the then-current service period, Platform.sh may, without limiting any rights and remedies, suspend or terminate the provision of Services to Subscriber until receipt of a renewal order; (iv) amounts paid by the Authorized Reseller to Platform.sh for Services subscribed for by Subscriber shall be deemed to be payments made by Subscriber hereunder for purposes of section Liability; and (v) any agreement between the Subscriber and the Authorized Reseller cannot modify or take precedence over this Agreement.

25.Governing law and jurisdiction

The Parties agree that this Agreement will be governed by and construed under the laws of France, without regard to conflict of law principles. The United Nations Convention for the International Sale of Goods shall not apply. The Parties undertake to take all steps to reach a mutual agreement to any dispute arising in relation to the validity,

interpretation, or fulfillment of the Agreement. The Parties agree that all disputes and any claims arising out of or in connection with this Agreement and its subject matter shall be exclusively settled by the Commercial court of Paris.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE THAT ANY AND ALL DISPUTES, CLAIMS AND CAUSES OF ACTION YOU MAY HAVE IN CONNECTION WITH OR RELATED TO THIS AGREEMENT OR THE USE OR ACCESS TO THE SERVICES WILL BE RESOLVED INDIVIDUALLY, WITHOUT RESORT TO ANY FORM OF CLASS ACTION PROCEEDING. YOU MAY ONLY RESOLVE DISPUTE WITH PLATFORM.SH ON AN INDIVIDUAL BASIS AND MAY NOT BRING A CLAIM AS A PLAINTIFF OR A CLASS MEMBER IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION. CLASS ARBITRATIONS, CLASS ACTIONS, PRIVATE ATTORNEY GENERAL ACTIONS, AND CONSOLIDATION WITH OTHER ARBITRATIONS ARE NOT ALLOWED.

26. Changes to this Agreement

26.1. Update to Agreement

Platform.sh may, in its sole discretion, modify these Terms of Service and such incorporated documents, including the Acceptable Use Policy from time to time. When Platform.sh makes a material change to the Agreement, Platform.sh will provide You with prominent notice of modification as appropriate under the circumstances (e.g., by displaying prominent notice within the Services or by sending You an email, to the extent that You subscribed to receive email updates). Said modifications will become effective as of the first day of the calendar month following the month they were posted. If You object to the updated Agreement, as Your sole and exclusive remedy, You may choose not to renew, including canceling any terms set to auto-renew.

26.2. No waiver

No failure or delay by either Party in exercising any right or remedy under this Agreement will constitute a waiver of that right or remedy or any other right or remedy.

27. Miscellaneous

27.1. Language

This Agreement, the Services, and the related Documentation are only available in English. Platform.sh may, at its sole discretion, communicate, produce, or translate content in other languages with no further obligation to provide the Service or Documentation in additional languages. Any content produced in other languages is provided for convenience only. The English language version of this Agreement or any other content in English shall be controlling in all respects and shall prevail in case of any inconsistencies with translated versions, if any.

27.2. Notices

Your notices to Platform.sh under this Agreement (including the notices required to be in writing) must be sent via email through the Platform.sh support portal, except for notices relating to an indemnifiable claim, which must also be sent by an express courier (with confirmation) to the address listed for the Platform.sh contracting entity.

Platform.sh will send notices and disclosures regarding the Services or this Agreement to You by posting such disclosures and notices within the Services or email them to the address listed on Your Account. You agree that electronic disclosures and notices have the same meaning and effect as if Platform.sh had provided You with a paper copy. Such disclosures and notices shall be considered to be received by You within 24 hours of the time they are posted within the Services or emailed to You unless Platform.sh receives notice that the email was not delivered.

The Parties may use emails to satisfy written approval and consent requirements under this Agreement. All communications and notices made or given pursuant to this Agreement, must be in the English language.

27.3. Relationship of the Parties

The Parties to this Agreement are independent contractors. There is no relationship of agency, partnership, joint venture, employment, or franchise between the Parties. Neither Party nor its employees has the authority to bind or commit the other Party in any way or to incur any obligation on its behalf.

27.4. Severability

If a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be amended to achieve as nearly as possible the intent of the Parties, and the remainder of this Agreement will remain in full force and effect.

27.5. Entire Agreement

Except as otherwise agreed to in a separately signed writing, this Agreement and any incorporated policies or operating rules posted by Platform.sh in respect to the Services constitute the entire agreement and understanding between You and Platform.sh and govern Your use of the Services, superseding any prior or contemporaneous agreements, communications and proposals, whether oral or written, between You and Platform.sh (including, but not limited to, any prior versions of the Terms of Service).

In the event of any conflict or inconsistency among the following documents, the order of precedence shall be:
(1)the Acceptable Use Policy, (2) the Terms or Services, and (3) the Documentation.

The headings used in these Terms of Service are included for convenience only and will not limit or otherwise affect these Terms. For purposes of this Agreement, the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; the word "or" is not exclusive; and the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole.

27.6. Assignment

You will not assign or transfer this Agreement. Platform.sh may assign this Agreement, in whole or in part, to any Platform.sh affiliate, or in the event of merger, reorganization, sale of all or substantially all of Platform.sh assets, change of control or operation of law. If you change Your billing address to one associated with a different Platform.sh contracting entity, You agree that this Agreement is then assigned to the new Platform.sh contracting entity without any further action required by either Party.

27.7. No Third-party beneficiaries

There are no third-party beneficiaries under this Agreement.