

LinearB Services Agreement

Last updated April 12, 2023

This Services Agreement (the “**Agreement**”) dated as of the date set forth in the Customer Order Form (the “**Effective Date**”) is entered into by and between LinearB, Inc., a company duly incorporated under the laws of the State of Delaware, with its principal place of business at 929 Colorado Ave., Santa Monica, CA 90401 (“**LinearB**”) and the customer identified in the Order Form (the “**Customer**”). BACKGROUND: LinearB provides a solution that performs software development productivity analytics (the “**Solution**”). This Agreement governs Customer’s access and use of the Solution and any proprietary technology of LinearB incorporated therein. Any individual accepting this Agreement on behalf of Customer represents and warrants that s/he is authorized to accept this Agreement on behalf of Customer and legally bind Customer to the terms and conditions set forth herein. **NOW, THEREFORE, the parties hereby agree as follows:**

1. **Solution.** Subject to the terms and conditions of this Agreement, LinearB shall provide Customer with access to the Solution identified in the order form executed by the parties (the “**Order Form**”) on a non-exclusive basis for the Term of this Agreement. Such Order Form shall, in addition, set forth the Solution start date (“**Solution Start Date**”) and the Solution end date (“**Solution End Date**”). Customer may use the Solution, commencing on the Solution Start Date, on a non-exclusive basis solely for its internal purposes. Customer shall not be entitled to any other software (including any other executable or source code) from LinearB. No licenses or rights are granted herein by estoppel or by implication. Customer represents that it has all necessary authority to enter into this Agreement and that the execution of this Agreement and the receipt of the Solution will not conflict with any legal, regulatory or contractual obligations of Customer.
2. **Restrictions.** Except as set forth expressly herein, Customer shall not, and shall not permit any third party, to (a) reverse engineer or attempt to find the underlying code of, the Solution; (b) modify the Solution, (c) sublicense, sell, distribute or provide the Solution to any third party, or (d) bypass any security measure or access control measure of the Solution or (e) use the Solution to provide services to any third party, including as part of a service bureau or timeshare arrangement. To the extent any of the restrictions set forth in this Section are not enforceable under applicable law, Customer shall inform LinearB in writing in each instance prior to engaging in the activities set forth above.
3. **Data; Privacy.** In order to provide the Solution and associated analytics, LinearB collects certain data regarding Customer's systems, code and users, including regarding how the systems and code are used, planned, accessed and developed by employees and service providers of Customer (the “**Customer Data**”). All Customer Data is the confidential information of Customer and, except as set forth in this Agreement, LinearB shall not disclose such Customer Data to third parties or use such Customer Data except to provide services to Customer. Certain certified LinearB analysts may have access to Customer Data in order to understand Customer’s needs, make recommendations and provide support. Customer represents and warrants that it has the right to provide LinearB with access to all Customer Data, including without limitation the use of Customer's systems and code by its employees and service providers, and including all account and login information that Customer may provide to LinearB. Customer shall provide its employees and service providers with all

notices required under law regarding the use of the Solution. LinearB analyzes all Customer Data in order to provide Customer with the Solution, including for the purposes of generating analysis and reports for the Customer. In addition, LinearB may use Customer Data for the purpose of generating aggregate or anonymous data, such as for the purpose of providing benchmarks. LinearB may also use aggregate or anonymous data for the purpose of improving the Solution, including the algorithms and models used by the Solution. LinearB will implement reasonable security measures appropriate to the nature of the Customer Data including without limitation, technical, physical, administrative and organizational controls, and will maintain the confidentiality, security and integrity of such Customer Data. LinearB may disclose Customer Data to the extent required by applicable law or to cooperate with a law enforcement investigation or to enforce its rights under this Agreement. LinearB may transfer all Customer Data to its affiliate LinearB Ltd. or use the services of subcontractors located in jurisdictions other than the jurisdiction of the Customer in accordance with the DPA provided at <https://linearb.io/data-processing-agreement/>.

4. **Intellectual Property.** As between the parties, LinearB has all right, title and interest in the Solution, including all enhancements, improvements and modifications thereof (“**LinearB Property**”). LinearB does not request Customer’s feedback regarding the LinearB Property. Notwithstanding the foregoing, if Customer provides LinearB with any feedback regarding the LinearB Property, LinearB may use all such feedback without restriction and shall not be subject to any non-disclosure or non-use obligations in respect of such feedback.
5. **Confidentiality.** Either party (a “**Disclosing Party**”) may disclose to the other party (a “**Receiving Party**”) certain confidential information regarding its technology and business (“**Confidential Information**”). Receiving Party agrees to keep confidential and not disclose or use any Confidential Information except to support its provision or use of the Solution. Confidential Information shall not include information that Receiving Party can show (a) was already lawfully known to or independently developed by Receiving Party without access to or use of Confidential Information, (b) was received by Receiving Party from any third party without restrictions, (c) is publicly and generally available, free of confidentiality restrictions; or (d) is required to be disclosed by law, provided that Receiving Party provides Disclosing Party with prompt notice of such requirement and cooperate in order to minimize such requirement. Receiving Party shall restrict disclosure of Confidential Information to those of its employees with a reasonable need to know such information and which are bound by written confidentiality obligations no less restrictive than those set out herein. All pricing information herein and all non-public information in respect of the Solution shall be deemed the Confidential Information of LinearB.
6. **Payment.** In consideration of the use of the Solution pursuant to this Agreement, Customer shall make payment to LinearB as set forth in the Order Form . Except to the extent set forth otherwise in the Order Form, amounts due hereunder do not include applicable sales, value-added and other taxes, and Customer shall make payment in respect of such taxes in addition to other amounts due hereunder. Customer shall make payment to LinearB without deduction or withholding of any taxes or other government charges. Late payments shall bear interest at the rate of 18% per annum.
7. **Warranties; Disclaimer.** Each party warrants that it has full corporate power and authority to execute this Agreement and to perform its obligations hereunder; and all corporate action necessary for the authorization, execution, delivery and performance of this Agreement by it have been taken. LinearB represents and warrants that the

Solution will be performed on a good and workmanlike basis consistent with industry standards. Subject to the foregoing, the Solution is provided “as is”. To the maximum extent permitted by applicable law, LinearB disclaims all implied and statutory warranties, including, but not limited to, any implied warranty of merchantability, fitness for a particular purpose or non-infringement.

8. **Indemnification.** 8.1. **LinearB Indemnification Obligations.** LinearB shall defend (and pay all costs and expense of such defense) Customer from and against any and all claims, demands, actions or other proceedings by any third party against Customer arising from any claims that the Solution infringes the patent, copyright, trademark or misappropriates the trade secret rights of a third party and will indemnify and hold customer harmless from and against any and all awarded or settled damages, losses or liabilities in connection therewith. LinearB shall not have any liability to the extent any claim is the result of (a) LinearB's compliance with specifications provided by Customer, (b) the combination of the Solution with other hardware, software or services not provided by LinearB, (c) the collection, use or transfer of Customer Data in compliance with this Agreement, (d) Customer's actions, omissions or breach of this Agreement or (e) Customer's modification of the Solution. If the Solution shall be the subject of an indemnifiable claim, or LinearB reasonably believes that the Solution shall be the subject of an indemnifiable claim, LinearB may terminate this Agreement and Order Form with written notice. 8.2. **Customer Indemnification Obligations.** Customer shall defend and indemnify LinearB (and its affiliates, officers, directors and employees) from and against any and all damages, costs, losses, liabilities or expenses (including court costs and attorneys' fees) which LinearB may suffer or incur in connection with any actual claim, demand, action or other proceeding by any third party arising from the provision by Customer of any data not in compliance with applicable law. 8.3. **Procedure.** The obligations of either party to provide indemnification under this Agreement will be contingent upon the indemnified party (i) providing the indemnifying party with prompt written notice of any claim for which indemnification is sought, (ii) cooperating fully with the indemnifying party (at the indemnifying party's expense), and (iii) allowing the indemnifying party to control the defense and settlement of such claim, provided that no settlement may be entered into without the consent of the indemnified party if such settlement would require any action on the part of the indemnified party other than to cease using any allegedly infringing or illegal content or services. Subject to the foregoing, an indemnified party will at all times have the option to participate in any matter or litigation through counsel of its own election at its own expense. 8.4. **Sole and Exclusive.** This Section 8 states LinearB's entire obligation and Customer's exclusive remedy regarding any claims for intellectual property infringement.
9. **Limitation of Liability.** To the greatest extent allowed under applicable law, in no event shall either party (or its directors, officers, affiliates, agent or employees) have any liability for any consequential, indirect, special or punitive damages, arising out of or relating to this agreement or the provision or use of the LinearB software or solution. To the greatest extent allowed under applicable law, the entire liability of either party (or its directors, officers, affiliates, agents or employees) hereunder or in respect of the software and the solution shall not exceed the total amount Customer has actually paid to LinearB in respect of the solution. The foregoing limitations of liability to not apply to liability arising from customer's breach of sections 2, 5 or 6 hereof or the liability of either party pursuant to the indemnification obligations set forth in sections 8.1 and 8.2 hereof.

10. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue in effect until the Solution End Date as set forth in the Order Form (the "**Initial Term**"). Subsequent to the Initial Term, this Agreement and Order form shall automatically renew for consecutive periods of one year each (each, a "**Renewal Term**" and, together with the Initial Term, the "**Term**"), unless one of the parties provides written notice of its intent not to renew at least 30 days prior to the applicable Initial Term and/or Renewal Term. LinearB will notify Customer of the upcoming Renewal Term at least 45 days prior to the Renewal Term through written communication, of which email is an acceptable medium, otherwise this Agreement and Order Form will not automatically renew. Either party may terminate this Agreement and Order Form upon the occurrence of a material breach or default as to any obligation hereunder by the other party and the failure of such breaching party to remedy such breach within thirty (30) (ten(10) for non-payment) days after receiving written notice thereof from the non-breaching party, any such termination becoming immediately effective upon the giving of written notice of termination. Upon any termination of this Agreement and Order Form, Customer shall cease all use of the Solution. Sections 2 – 12 of this Agreement shall survive any termination or expiration thereof. Neither party shall have liability for the termination of this Agreement or Order Form in accordance with the terms of this Agreement.
11. **Publicity.** LinearB may disclose that Customer is using the Solution, including by displaying Customer's name and logo on LinearB's website and other marketing materials.
12. **Miscellaneous.** This Agreement together with its Exhibits and the Order Form constitute the entire agreement between the parties regarding the subject matter hereof and supersedes any and all other agreements between the parties regarding the subject matter hereof. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of any Exhibit (including any SOW) or Order Form, the terms of the Order Form shall govern unless expressly set forth otherwise in the applicable Exhibit executed by the authorized signatories of both parties that the terms of this Agreement shall govern notwithstanding contrary terms in this Agreement. Except as expressly set forth herein, this Agreement may not be modified or amended except in a writing executed by both parties. If any part of this Agreement shall be invalid or unenforceable, such part shall be interpreted to give the maximum force possible to such terms as possible under applicable law, and such invalidity or unenforceability shall not affect the validity or enforceability of any other part or provision of this Agreement. Either party may assign its rights or obligations under this Agreement upon notice to the other party in the event of assignment to an affiliated company or to a purchaser of all or substantially all of its assets or share capital, or to any company succeeding to its business. Assignments in violation of the foregoing shall be void. This Agreement shall be governed by the laws of the State of New York, and the competent state or federal courts in New York County, New York shall have exclusive jurisdiction to hear any disputes arising hereunder. Notwithstanding the foregoing, either party may seek an injunction or other equitable relief in any court of competent jurisdiction in order to prevent a breach or threatened breach of Section 5 of this Agreement.

In Witness Whereof the parties have executed this Agreement as of the Effective Date.