

# Space CODEV General Terms and Conditions

## 1. Definitions

- “You” shall mean the legal entity or natural person that is making this Agreement with ESA.
- “ESA” shall mean the European Space Agency.
- “Users” shall mean your employees or contractors (if any) who have access to the Collaboration Platform.
- “User Generated Content” shall mean any content posted, uploaded, linked or otherwise made available via the Collaboration Platform by You or Your Users, including without limitation submissions to repositories (e.g. source code or documentation) and communication via issue tracking tools, message boards or similar services.
- “Collaboration Platform” shall mean the Space CODEV repository available at [space-codev.org](https://space-codev.org), used by communities to manage and develop projects. The Collaboration Platform may include services like source code repositories, issue tracking systems, discussion forums, mailing lists, etc. for project management and development purposes.

## 2. Provision of the Collaboration Platform

2.1. Subject to the terms of this Agreement ESA provides You with access to the Collaboration Platform.

2.2. ESA provides access to the Collaboration Platform for free until the [Space CODEV Community](#) has been established.

2.3. ESA continues to further develop the Collaboration Platform. Its functionality may change during the term of this Agreement in ESA’s sole discretion.

2.4. While ESA aims to make the Collaboration Platform available on a 24/7 basis, ESA makes no warranty whatsoever regarding the availability and is not obliged to provide the Collaboration Platform with a minimum availability. In particular, and without limitation, ESA may shut down the platform at any time for maintenance, development or security purposes.

2.5. This Agreement shall continue for an indefinite period of time, unless terminated by either party by giving one month notice. Each party may terminate this Agreement if the other party commits a material breach of its obligations under this Agreement and, where such breach is capable of remedy, fails to remedy such breach within fourteen days after receipt of the termination notice setting out details of the breach and requiring it to be remedied.

### 3. Use of the Collaboration Platform

3.1. The Collaboration Platform may include facilities to manage user accounts for You and Your Users. Alternatively ESA creates and deletes User accounts on Your request. You agree to keep User accounts and account information up-to-date and correct. You represent and warrant that Your Users are authorized to use the Collaboration Platform and in particular submit contributions on Your behalf.

3.2. You acknowledge and agree to observe, and have Your Users observe, the governance rules and policies of the communities You and Your Users are participating in and the governance rules and policies of the Collaboration Platform, as published on the Collaboration Platform.

3.3. You acknowledge and agree that neither ESA nor the communities are obliged to include User Generated Content in a project nor make User Generated Content available on the Collaboration Platform. While ESA does not review User Generated Content before publication, ESA may delete at any time User Generated Content in its own discretion.

3.4. ESA may suspend at any time Your and/or Your User's access to the Collaboration Platform, in whole or in part, in ESA's reasonable discretion (for example, and without limitation, due to security or performance reasons, abuse or violation of governance rules).

## 4. Intellectual Property Rights

4.1. You are obliged to enter into a Contributor Agreement with ESA for each of the communities You and Your Users are participating in. All contributions to a project (as defined in the Contributor Agreement) are subject to the grant of rights set out in the respective Contributor Agreement, in addition to the grant of rights set out in the following provisions.

4.2. You hereby grant to ESA the non-exclusive, perpetual, irrevocable, no-charge, royalty-free, transferable and sub-licensable license to use User Generated Content for the purpose of operating and providing the Collaboration Platform. This includes, without limitation, the right to host, publish and share the User Generated Content, make it available to the public via the Collaboration Platform, make copies and modify it as required to provide the services (e.g. include content into a search index or otherwise analyze it).

4.3. For the avoidance of doubt, User Generated Content will usually not be deleted upon termination of this Agreement and may remain available via the Collaboration Platform for the lifetime of the respective project and/or the Collaboration Platform.

4.4. You represent and warrant that (a) You can legally grant the rights and licenses set out in this Agreement and (b) User Generated Content does not infringe any third party's copyrights, patents or other intellectual property rights. In particular, and without limitation, if You are a natural person and Your employer has rights to intellectual property that includes Your User Generated Content (for example if You created User Generated Content in the execution of Your duties as an employee), You represent and warrant that You have received permission from Your employer to make the User Generated Content available under the terms of this Agreement.

## 5. Warranty and Liability; Indemnification

5.1. ESA provides the Collaboration Platform on an "as is" basis and without warranties of any kind, including without limitation merchantability, fitness for a particular purpose, absence of defects or errors, accuracy or non-infringement of

intellectual property rights. In particular, and without limitation, ESA does not assume any responsibility or make any warranties with regards to content published or made available on the platform, e.g. with regards to the fitness for a particular purpose, absence of defects or errors, accuracy or non-infringement of intellectual property rights. However, Your statutory warranty claims remain unaffected in case of willful deception or fraudulent misrepresentation by ESA.

5.2. Except in cases of willful misconduct or gross negligence, ESA shall not be liable for any damages of any kind, arising out of or in connection with the Collaboration Platform, including content published or made available on the platform.

5.3. You are solely responsible for User Generated Content, and for any harm or damages resulting from it. You are responsible for Your and Your Users' use of and behavior on the Collaboration Platform. You agree to indemnify and hold harmless ESA from and against any and all claims, liabilities and expenses arising out of or in connection with Your and Your Users' use of the Collaboration Platform.

## 6. Final Provisions

6.1. Operation of the Collaboration Platform might be taken over in the future by a new provider (e.g. an organization founded by ESA and the Space industry). In that event ESA may assign and transfer this Agreement in whole to the new provider. Upon assignment and transfer the new provider takes over the Agreement from ESA and will assume all rights and obligations of ESA arising from this Agreement. All data (including personal data and User Generated Content) related to this Agreement and the Collaboration Platform will be transferred to the new provider. ESA will be released from its obligations under this Agreement. You hereby acknowledge and agree to such transfer and assignment.

6.2. If any provision of this Agreement is held invalid or unenforceable, the remaining provisions of this Agreement shall not be affected. The invalid or unenforceable provision shall be construed and/or reformed to the extent necessary to make it enforceable and valid.

6.3. This Agreement is governed by the laws of Germany, excluding their rules governing conflicts of laws.

6.4. Any dispute arising out of this Agreement shall be finally settled in accordance with the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators designated in conformity with those rules. Arbitration proceedings shall take place in Cologne, Germany. The award shall be final and binding on the parties, no appeal shall lie against it. The enforcement of the award shall be governed by the rules of procedure in force in the state/ country in which it is to be executed.

(A) Corporate Agreement, if applicable

Agreed and accepted: \_\_\_\_\_

Company name: \_\_\_\_\_

Company address: \_\_\_\_\_

Position/Title: \_\_\_\_\_

I am acting on behalf of the above mentioned company. I hereby represent and warrant that I am duly authorized to act on behalf of and legally bind the company.

(B) Individual Agreement

Name: \_\_\_\_\_

Address: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_