

License and Support Services Agreement for PostSharp and Metalama

Version: October 1st, 2023. Applies to PostSharp 2024.0, Metalama 2023.4 and later.

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1. PARTIES

1.1 ' **Licensor**' means SharpCrafters s.r.o. with its registered office at Prague 5, nám. 11. října 1307/2, Postal Code 150 00, the Czech Republic, ID 28953690, registered in the Commercial Register maintained by the Municipal Court in Prague, Section C, File 155506. Licensor is doing business under the trade names of 'PostSharp' or 'PostSharp Technologies'.

1.2 ' **Licensee**' means the legal entity or individual specified in the respective **Order** , as defined below. For editions of the Software that are available at no cost and used without explicit Order, Licensee means the legal entity or the individual using the free Software edition.

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' **Software**' means the software program known as PostSharp or Metalama, in the respective edition i.e. PostSharp Caching, PostSharp Ultimate, PostSharp Threading, PostSharp Diagnostics, PostSharp XAML, PostSharp Framework, PostSharp Essentials, Metalama Free, Metalama Starter, Metalama Professional, Metalama Ultimate or any other editions of the software program and respective build dates specified in the Order. Software includes any copies, Software Versions, and other derivative works of the foregoing provided by Licensor, as well as the Documentation. Software also means any third-party software programs that are owned and licensed by parties other than the Licensor and that are either integrated with or made part of the PostSharp Software (collectively, ' **Third Party Software**'). The general specification of each the then current editions of the Software is contained on the websites <https://doc.postsharp.net/> and <https://doc.metalama.net/>. Software includes the open-source projects whose name start with Metalama.Extensions and Metalama.Patterns. Software excludes any other open-source work even if Licensor has contributed to these works.

' **Software Version**' refers to a specific iteration of the Software, uniquely identified by a version number, which contains modifications to its code or functionality compared to preceding versions. All Software Versions have a build date, which is the date when the binaries have been produced from the source code. This Agreement treats all kinds of versions — whether they are major releases, minor updates, or bug-fix versions — equally under the terms and conditions herein.

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' **Confidential Information**' means any and all data and information of a confidential nature in any form, electronic data or facts of any kind, especially (but not exclusively), including business and/or commercial information, production, organizational, business development, price information, business strategy and/or technical information, know-how and trade secrets relating to the business and other intellectual property rights, data, documents, personal data of any person. Confidential Information of Licensor includes the License Key, the Software and any Software Updates provided under this Agreement. Confidential Information may be communicated orally, in writing or in any other recorded or tangible form. Data and information shall be considered to be Confidential Information especially, (i) if one party has advised the other of such confidential nature, or (ii) if, due to such character or nature, a reasonable person in a like position and under like circumstances as the Licensor or the Licensee would treat such as secret and confidential

' **Support Services**' means the services specified in Section 7 of this Agreement.

' **License**' means the license granted hereunder by the Licensor to the Licensee in the extent and subject to the terms and conditions hereof.

' **Ordered License Type**' means either the Free License, as defined in 5.7, or the type of license specified in the Order.

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' **Price List**' means a document specified in Section 8.1 of this Agreement.

' **Support Case**' means any unique and indivisible problem experienced by the Licensee in the use of the Software and for which Support Services are requested.

' **Supported Platform**' means any platform on which a specific Software Version is designed to run according to Documentation.

' **Licensee Works**' means any work in the meaning of the Act. No. 121/2000 Coll., on Copyright and Rights Related to Copyright and on Amendment to Certain Acts (hereinafter the ' **Copyright Act** ') or other work outside the Copyright Act which is created by the Licensee's workers (Authorized Users) using the Software provided by the Licensor for the Licensee, but excludes the Software.

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3.1 The subject matter of this Agreement is the terms and conditions under which the Licensor grants to the Licensee the Ordered License Type, provides certain Support Services to the Licensee and the Licensee pays consideration to the Licensor for the Licenses and Support Services.

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4.2 The Licensee may use the Software solely (i) for the purposes for which the Software is determined by its functionality (ii) in accordance with the restrictions of the Ordered License Type, and (iii) in accordance with this Agreement. The Licensee may not use of

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4.3 Without limitations, the following uses of the Software are expressly forbidden to cause or permit (i) disclosure, display, access, or use of the Software by anyone other than an Authorized User and (ii) the loan, lending, publication, transfer of possession (whether by sale, exchange, gift, operation of law or otherwise), sublicensing, rental, or other dissemination or use of the Software, in whole or in part, to or for any third party. Furthermore, Licensee is not entitled to provide access to the Software to any third party (except Authorized Users). Excepts in the cases described in section 9.3, the Licensee may not otherwise modify, alter, adapt, or merge the Software. The obligations set forth in this clause shall survive any termination of this Agreement.

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4.5 The Licensor reserves all rights in the Software not explicitly granted herein. For avoidance of any doubts, the Licensor is entitled to use the Software without any limitations regardless to the granted License.

4.6 Any direct or indirect use of any part the Software by other persons than Authorized Users, including the use of parts of the Software in programs used by other persons than Authorized Users, is prohibited. The provision of Section 6 of this Agreement shall not be affected.

4.7 Unless specified otherwise in section 5, the license shall be perpetual. Licenses which are not perpetual automatically terminate at the end of the Subscription Period.

4.8 The license allows Licensee to use the Software on an unlimited number Build Servers.

5. TYPES OF LICENSES AND DELIVERY

5.1 The Licensee may purchase various licenses. This Agreement applies to any and all licenses to Software that the Licensee purchases. The type of license which the Licensee purchases shall be specified in the Order and are listed below.

5.2 ' **Business License**' (formerly 'Per-Developer Subscription', 'Commercial License' or 'Per-User Subscription') shall mean a license based on a limitation on the number of daily unique Authorized Users. The Business License is ruled by the following principles:

1. The access to (provision of) the Software will be provided/restricted to the number of Authorized Users specified in the Order. The Licensee shall have the right to change Authorized Users provided that no individual Authorized User may be changed more than once every calendar day. The Software may be installed concurrently on two Devices of the particular Authorized User.

2. The number of Authorized Users shall not exceed the entitlements specified in the Order. Licensor will send Licensee a notice in the event they have exceeded the number of Authorized Users and will be notified in writing that it must purchase additional Authorized Users. In the event License continues to exceed the number of Authorized Users, and does not purchase a license for additional Authorized Users within 30 days of Licensor's written notice, Licensor may thereafter suspend or terminate Licensee's license, without liability to Licensee.

5.3 ' **Personal License**' shall mean a license designed for an individual and is based on the following principles. The access to the Software will be restricted to the specific individual to whom the license have been validly granted under this Agreement. In no event the Software may be used by anybody else than the respective individual. The Personal License shall be a worldwide license, provided that all the aforesaid limitations must be complied with for the entire term of the license.

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Order. The specific scope of the particular Global License shall be specified in the respective Order. The Global License shall be a worldwide license, provided that all the aforesaid limitations must be complied with for the entire term of the license. The Global License shall be non-transferable.

The Price List may stipulate different prices for companies of different sizes, where the size is specified as a maximal number of employees. This number shall be interpreted as the number of full-time equivalent employees and freelancers working for the company. The maximum number of employees will be specified in the Order. Licensor must qualify the price category at the time of placing the Order or renewing the Subscription.

5.5 ' **Academic License**' shall mean a license designed for students, teachers, professors, universities, schools, or other physical or legal entities specialized in education or research (whether free or for profit), and is based on the same principles as the Company License with the following restrictions:

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(c) The Licensee with an Academic License shall not be entitled to make Support Requests defined in section 7.2.

(d) Licensor may require Licensee to prove its academic status.

5.6 ' **Evaluation License**' shall mean, in relation to any of the licenses granted under this Agreement, license designed for evaluation purposes only and is based on the following principles. The Licensee is granted the right to use the Software for evaluation or demonstration purposes for a limited period of time specified in the Order. The access to the Software will be provided as specified in relation to each specific license

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1. The following pieces of information are collected by Licensor during Licensee's use of the Software: (i) the License Key, (ii) a non-personally identifiable identifier of the Device, (iii) a non-personally identifiable identifier of the Authorized User running the Software, (iv) the respective edition and build date of the Software being executed, and (v) the date when the Software has been used. The Licensee acknowledges this provision and hereby acknowledges this practice and gives explicit consent to the automatic license auditing. Upon use of the Software, automatic license auditing from Authorized User will occur and Licensee acknowledges the same on behalf of itself and its Authorized Users. Licensee will be responsible for obtain consent of Authorized Users if legally required.

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7. SUPPORT SERVICES

7.1 Subject to purchase by the Licensee of a Subscription, the Licensor shall provide Support Services specified in Section 7.2 for the Subscription Period. The Support Services to be provided hereunder shall be solely the type of the Support Services specified in the respective Order. The Support Services provided hereunder may be used by the Licensee solely for the Software delivered under this Agreement and for no other software.

7.2 Support Services are available to Licensee during the Subscription Period based on the following principles:

(a) **Software Updates**: the Licensee will receive new Software Versions from the Licensor including maintenance releases and new major versions, if any such releases are issued by the Licensor during the Subscription Period. The license granted to any Software Version, for the granted License Type, will be perpetual.

(b) **Support Requests**: Licensee may send Licensor questions relating to the Software to get personalized help. The questions shall only be delivered as specified by the Licensor on the website

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(c) Licensor is entitled, at its sole discretion, to divide a Support Case into multiple Support Cases.

7.3 Unless otherwise specified in the respective Order, the Licensor will not provide Support Services relating to problems or issues arising out of or from:

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(c) third-party products or technologies and their effects on or interactions with a Software, except Supported Platforms and tools, unless the issue is related to a defect or limitation of the Supported Platform;

(d) damage to the media on which the Software is provided, or to the computer on which the Software is installed;

(e) use of low-level application programming interfaces of the Software including any library whose name starts with 'PostSharp.Compiler', 'Metalama.Compiler', 'Metalama.Framework.Sdk', 'Microsoft.CodeAnalysis'.

(f) use of works which are not Licensor Software;

(g) use of different binaries than the one provided by Licensor (i.e. Licensor does not support builds done by the Licensee from the source code);

(h) excessive issuance of Support Requests by Licensee, where 'Excessive' is defined as cases where the Licensor has devoted more than one hour of support time for every 250 USD spent by the Licensee on the total Order, excluding the time spent to fix bugs identified by Licensor, if any.

(i) failure by Licensee to use suitably qualified personnel to issue Support Requests;

(j) repeated issuance of Support Requests which indicate the Licensee has not reviewed the FAQ, Documentation and samples posted by the Licensor on the support site;

(k) attempt to build the Software from its source code, except if a Source Code Subscription was purchased.

8. LICENCE FEES AND PAYMENTS

8.1 The Licensee shall pay to the Licensor, as a consideration for the License granted hereunder, the license fees in accordance with the then current Price List of the Licensor applicable to the respective type of the purchased license, unless otherwise agreed mutually between the parties. The Licensee shall pay to the Licensor, as a consideration for the Support Services granted hereunder, the fees in accordance with

the then current Price List of the Licensor applicable to the respective type of the Support Services, unless otherwise agreed mutually between the parties. The Licensee is entitled to use the Software and Support Services only following the payment of the respective license fees and the Licensee will receive from the Licensor or from the authorized reseller the specific License Key, enabling the Licensee to use the Software, upon payment of the applicable license fee. The then-current Price List is located on the Licensor's website at [\[https://www.postsharp.net/il/pricing\]](https://www.postsharp.net/il/pricing)(<https://www.postsharp.net/il/pricing>) and [\[https://www.postsharp.net/metalama/pricing\]](https://www.postsharp.net/metalama/pricing)(<https://www.postsharp.net/metalama/pricing>) or will be provided to the Licensee otherwise, as the case may be.

8.2 The Price List shall constitute an integral part of this Agreement. The Licensor reserves the right to change, modify and amend the Price List at any time at its sole discretion, which amendments shall become effective as of the date set forth in the Price List in respect of each such amendment.

8.3 For each payment due to the Licensor under this Agreement, an invoice shall be issued in accordance with the applicable tax regulations. The invoice shall be payable within thirty (30) days after the day of its issuance and the fees shall be paid to the account of the Licensor or of an authorized reseller of the Licensor, as specified in the respective invoice.

8.4 Should the Licensee fail to pay the fee within the above-stated period, the Licensee shall after the due date be obliged to pay to the Licensor daily interest at the maximum rate allowable by law and/or the Licensor may terminate this Agreement with immediate effect by written notice delivered to the Licensee. The Licensee will reimburse the Licensor for any reasonable legal fees and other costs and expenses incurred by the Licensor in collecting past due amounts.

8.5 The prices on the Price List are without any VAT or similar taxes. Any such taxes will be added to the price.

8.6 All payments to be made by the Licensee to the Licensor under this Agreement shall be made free and clear of and without deduction for or on account of tax unless the Licensee is required by law to make such payment subject to the deduction or withholding of tax, in which case the sum payable by the Licensee in respect of which

such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after making the required deduction or withholding, the Licensor (or the authorized reseller, as the case may be) receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

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This right is perpetual for any Software Version (i.e. any commit in the Source Repository) created within the validity period of the Source Code Subscription. However, Licensee cannot update the Source Code (i.e. merge changes from the source repository) after the Source Code Subscription has expired.

9.4 It is expressly agreed that the Source Code may in no event be used by the Licensee, neither in any other way, nor for any other purpose than specified in Sections 9.2 and 9.3 respectively, as the case may be. In particular, the following limitations shall apply:

(a) Licensor shall retain all rights, title and interest in and to all corrections, modifications and derivative works of the Source Code created by the Licensee, including all copyrights subsisting therein, to the extent such corrections, modifications or derivative works contain copyrightable code or expression derived from the Source Code.

(b) All Source Code must be kept its original namespace and keep the original copyright and licensing notices.

(c) Licensor shall not make modified copies of the Source Code available outside its organization.

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10.4 This Section states the Licensor's entire liability for copyright and patent infringement.

10.5 The Licensee shall indemnify the Licensor for damages, costs, loss (including expenses and attorney's fees) and damages of any kind resulting from its breach of its obligation under Section 11.2 of this Agreement.

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12. LIMITATION OF LIABILITY

12.1 The Licensor's entire liability for all claims or damages arising out of or related to this Agreement shall be limited to and shall not exceed, in the aggregate for all claims, actions and causes of action of every kind and nature; the amount paid to the Licensor under this Agreement for the 24 calendar months preceding the claim or damage. The parties hereby expressly agree that the amount referenced in the immediately preceding sentence represents the amount of foreseeable damages. The copyright and patent infringement claims are covered solely by Section 11. IN NO EVENT WILL THE MEASURE OF DAMAGES PAYABLE BY THE LICENSOR INCLUDE, NOR WILL LICENSOR BE LIABLE FOR, ANY AMOUNTS FOR LOSS OF INCOME, LOSS OF DATA, LOSS OF PROFIT OR SAVINGS OR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OF ANY PARTY, INCLUDING THIRD PARTIES, EVEN IF THE LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE, AND ALL SUCH DAMAGES ARE EXPRESSLY DISCLAIMED.

13. NON-DISCLOSURE OBLIGATIONS

13.1 During the term of this Agreement, the parties may disclose certain Confidential Information to each other in the performance of their rights and obligations under this Agreement. Without the prior written authorization of the disclosing party, the receiving party shall not use or copy any Confidential Information for any purpose other than as specifically authorized by this Agreement, and shall not transfer or disclose any Confidential Information to any person, except for the purposes of performing its obligations and exercising its rights in accordance with this Agreement to the necessary extent. The receiving party shall take steps necessary or appropriate to protect Confidential Information against unauthorized disclosure or use, including, without limitation, ensuring that each of its personnel and any Authorized Users with access to

Confidential Information is aware of and complies with the non-disclosure obligations set out in this Section. The receiving party shall promptly notify the disclosing party of any unauthorized disclosure or use of any Confidential Information that comes to the receiving party's attention, and shall take all action that the disclosing party reasonably requests to prevent any further unauthorized use or disclosure of it. Each party expressly acknowledges and agrees that, except as specifically provided in this Agreement, at no time shall it acquire or retain, or appropriate for its own use, any right, title or interest in or to any Confidential Information of the other party.

13.2 The obligations set out in Section 13.1 shall not apply to the extent, that any Confidential Information (i) becomes generally available to the public through no fault of the receiving party; (ii) is or has been disclosed to the receiving party, directly or indirectly, by any person that is under no obligation of non-disclosure to the disclosing party or an affiliate of the disclosing party; or (iii) is required to be disclosed under any applicable law, rule, regulation or governmental order.

13.3 Notwithstanding the termination of this Agreement, each party shall continue to abide by the terms of the non-disclosure obligations with respect to Confidential Information as set out in this Section and indemnification as set out in Section 13.2 hereof.

14. TERMINATION

14.1 If either party materially defaults in the performance of any of its duties or obligations under this Agreement and fails to proceed within fifteen (15) days after written notice thereof to commence curing the default and thereafter to proceed with reasonable diligence to substantially cure the default, the other party may, by giving written notice thereof, terminate this Agreement effective immediately. However, this provision does not apply to a default in payments to the Licensor by the Licensee (no cure period is provided for such a breach and the Licensor may terminate this Agreement effective immediately).

14.2 Except as may be prohibited by Czech bankruptcy laws, in the event of either party's insolvency or inability to pay debts as they become due, voluntary or involuntary bankruptcy proceedings by or against a party hereto, or appointment of a receiver or

assignee for the benefit of creditors, the other party may terminate this Agreement by written notice.

14.3 All rights granted will cease upon any termination of this Agreement. Within fifteen (15) days after termination of the license rights granted herein or this Agreement for any reason, the Licensee will destroy the original and all copies of the Software in all forms, and will certify to the Licensor in writing that such obligation has been fulfilled.

15. MARKETING

15.1 Unless agreed otherwise, the Licensee agrees to be identified as a customer of the Licensor and that the Licensor may refer to the Licensee by name, trade name and trademark, if applicable, and may briefly describe the Licensee's business in the Licensor's marketing materials, on the Licensor's website, in public or legal documents. The Licensee hereby grants to the Licensor a license to use the Licensee's name and any of the Licensee's trade names and trademarks solely pursuant to this Marketing Section.

16. NOTICES

16.1 All notices required by or relating to this Agreement will be in writing and will be sent by mail to the Licensor at the address set forth on the first page of this Agreement; to the Licensee by mail or in electronic form to the address set forth in the relevant Order; or to such other address as either party may specify by written notice to the other.

17. GENERAL

17.1 The Licensor reserves the right at any time to cease the support of the Software and to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of the Software.

17.2 The Licensee shall notify Licensor in writing, without undue delay, of any changes in the data contained in this Agreement or any other arrangement between the Licensor and the Licensee, or any changes affecting the Licensee's identity or legal status, or any significant facts and changes that relate to or might have a substantial impact upon its transactions or business relationship with the Licensor or the Licensee's ability to fulfil its obligations towards the Licensor or of which the Licensor could reasonably be expected to want to be informed, and shall submit documents evidencing such changes and other information as the Licensor may reasonably request. Any change shall become effective against and binding on the Licensor on the business day following receipt of such notification, notwithstanding any information contained in any public register. The Licensee is responsible for any loss or damage incurred by the Licensor or the Licensee arising out of the failure of the Licensee to duly and promptly notify the Licensor of such changes.

17.3 Except for Site License and Global License pursuant to this Agreement, and except when neither Automatic License Audit nor License Server is used, the Licensee will at all times maintain records specifically identifying the Software licensed under this Agreement, the location of each copy thereof, and the location and identity of the workstations and servers (Devices) on which the Software is installed. The Licensor may, during regular business hours and upon reasonable advance notice, conduct an audit to determine the Licensee's compliance with the terms and conditions of this Agreement. The Licensee will permit the Licensor or its authorized agents to access the Licensee's facilities, workstations and servers, and otherwise cooperate fully with the Licensor in any such investigation and will take all commercially reasonable actions to assist the Licensor in accurately determining the Licensee's compliance with the terms and conditions of this Agreement.

17.4 Neither party will be liable for any delay in or failure to perform any of its non-monetary obligations under this Agreement if due to any cause or condition beyond their reasonable control, whether foreseeable or not.

17.5 This Agreement, the relevant Order, the then current Price List and the then current Specifications of the Software, and possibly also other arrangements related to the Software agreed between the parties in writing, as the case may be, constitute the entire agreement between the parties concerning the Software. Any reference to Licensee's terms and conditions or any other general terms and conditions included in Licensee's order or in any other communication shall in no event apply to the contractual relationship between the parties hereto and shall have no legal effect.

17.6 The Software includes functionality that when utilized by Licensee may enable temporary access to sensitive data such as passwords or credit card numbers in diagnostic logs and audit servers ("Diagnostic Data"). Licensee does not monitor the content processed by the Software and Licensor is responsible for properly configuring the Software to manage Diagnostic Data and obtaining any required consents to provide access to the Diagnostic Data and disclaims any liability for Licensee's use of the Software in violation of applicable security and privacy laws.

17.7 Nothing in this Agreement shall create a partnership or a corporation between the parties, nor deem either party the agent of the other party for any purpose.

17.8 If any provision of this Agreement is or becomes invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions of this Agreement. The parties are committed to cooperate on replacing the invalid or unenforceable provision with a valid and enforceable one which will achieve the same economic result (to the maximum extent legally possible) as the provision which is or has become invalid or unenforceable.

17.9 If the wording or sense of any provision of this Agreement implies that the obligation(s) stipulated therein shall last after the termination of the Agreement, the parties are obliged to comply with such obligation(s) after the termination of the Agreement. In particular, the parties are obliged to protect the Confidential Information and its confidential character even after the termination of the Agreement.

17.10 For the avoidance of any doubts the parties explicitly confirm they are business entities and enter in the Agreement as businesses and therefore neither the provisions of S. 1693 of the Civil Code (disproportionate shortening) nor S. 1696 of the Civil Code (usury) shall be applied hereto.

17.11 This Agreement is governed by and shall be construed in accordance with the laws of the Czech Republic without regard to the conflict of law principles thereof. Any dispute, controversy or claim arising out of or in connection with this Agreement shall be settled by the courts of the Czech Republic. In accordance with Section 89a of Act No. 99/1963 Coll., the Czech Civil Procedure Code, the parties hereby agree that the

competent court shall be the general court nearest to where the Licensor is registered, e.g. the Prague Commerce Tribunal.