

## **COPADO ACCESS AGREEMENT**

(For Accessing Copado's Cloud-Based DevOps Services)

This Copado Access Agreement ("CAA") and any Order Form(s) or documents incorporated herein ("Agreement") sets forth terms under which Copado, Inc. ("Copado") shall provide Customer (as set forth in an Order Form) access to certain DevOps Services as described in the Order Form(s) (hereinafter "Services") and is effective as of the date of last signature or execution of an Order Form that incorporates this Agreement by reference (the "Effective Date").

### **1. Access to Services and Availability.**

**1.1. Access Right and Customer Users.** Copado agrees to provide access to the cloud-based offerings as described in the Order Form(s) which reference this Agreement. Customer is responsible for its Users compliance with this Agreement, the Documentation, and the Acceptable Use Policy. "Users" means Customer's and its Affiliates' employees, agents, contractors, consultants, suppliers, or other individuals that access to the Services by or through Customer. "Affiliate" means a legal entity in which a party directly or indirectly holds more than 50% of the shares or voting rights or has the direct or indirect power to direct the management and policies of the entity.

**1.2. Availability.** Copado will use commercially reasonable efforts to make the Services available without unscheduled interruption. Per the Documentation, Copado will provide maintenance services and updates necessary to keep the Services functioning along with support. "Documentation" means the usage guides and technical specifications relating to the Services as updated from time to time and generally made available by Copado to Users.

### **2. Payment and Taxes.**

**2.1 Payment.** Customer will pay Copado the amounts as set forth in the applicable Order Form. "Order Form" means an ordering document specifying the Services purchased by Customer and executed by the parties. The invoice will be issued on the earlier of the Order Form start date or the Order Form signature date. Except as set forth in this Agreement, all orders are non-cancelable and non-refundable. Unless otherwise stated in the Order Form, all payments will be made within thirty (30) days from the date of Copado's invoice. If Customer requires a purchase order to be invoiced, Customer shall submit one to Copado within seven (7) days of Order Form execution. Customer is responsible for providing complete and accurate billing and contact information to Copado; Customer will promptly notify Copado of any changes to this information. Any late payments shall be subject to a service charge of 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less, plus actual costs of collection.

**2.2 Taxes.** Copado's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Copado has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Copado will invoice Customer and Customer will pay that amount, unless Customer provides Copado with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Copado is solely responsible for taxes assessable against it based on its income, property, and employees.

**3. Term and Termination.** This Agreement remains in effect until terminated in accordance with this Section 3. Either party may terminate this Agreement at any time when there is no Order Form then in effect by giving the other party thirty (30) days written notice. Either party may terminate this Agreement or any Order Form if the other party: (a) fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach; (b) ceases operations without a successor; or (c) files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or if any such proceeding is instituted against such party (and not dismissed within sixty (60) days thereafter). If Customer terminates this Agreement or an Order Form due to Copado's uncured material breach, Copado shall provide a pro-rata refund for any prepaid and unused fees attributable to the terminated subscription. Except as otherwise specified in an Order Form, each Order Form shall automatically renew for one (1) year, unless either party gives the other notice of non-renewal at least thirty (30) days before expiration of the current term. The per-unit price for any renewal may be increased by up to seven percent (7%) above the applicable pricing in the prior term. Promotional or one-time discounts will not be applicable to any renewal. Any decrease in subscription volume (including removal of mid-term add-ons) will impact any previously provided discounts. Upon any expiration or termination of this Agreement, all Order Forms shall immediately terminate, and Customer shall, as of the date of such expiration or termination, immediately cease access and use of the applicable Services and Copado's Confidential Information.

### **4. Access and Ownership.**

**4.1. Customer Access and Proprietary Rights.** Copado's Services can be accessed by Customer through its designated cloud platform (which may include, but is not limited to Salesforce, SAP, ServiceNow, or Google) or as stand-alone instances, as applicable. Customer is solely responsible for obtaining access rights to the designated cloud platform. Customer agrees that the use of Services requires the interoperability with a designated cloud platform and hereby grants Copado a limited license to use Customer Materials to the extent necessary to perform the Services and to connect to such designated cloud platform via an API or HTTPS/SSH connection. If and to the extent Customer enters or imports content

into the Services ("Customer Materials"), Customer shall have sole responsibility for the legality, integrity, accuracy, and quality of Customer Materials. Except for the limited rights granted herein, Customer retains all rights, title, and ownership (including all intellectual property rights) in the Customer Materials, which shall be deemed Confidential Information of Customer, as set forth more fully in **Section 8**.

**4.2. Use of the Services.** Unless otherwise provided in the applicable Order Form or Documentation, (a) access to the Services and Documentation are purchased as subscriptions for the term stated in the Order Form or in the applicable online purchasing portal, (b) additional subscriptions may be added during a subscription term by entering into new Order Forms with Copado, and (c) any add-on subscriptions will be co-terminus unless otherwise expressly stated. Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Copado regarding future functionality or features. Copado may suspend and/or terminate Customer's access to the Services if: (i) it reasonably determines that Customer is violating Copado's Acceptable Use Policy, or (ii) fees owed to Copado are more than thirty (30) days past due and Customer has been notified of such delinquency. Copado will promptly notify Customer of such suspension and/or termination via electronic notification.

**4.3 Restrictions.** Customer and its Users shall not (i) modify or copy the Services or create any derivative works based on the Services; (ii) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, timeshare, offer in a service bureau, or otherwise make the Services available to any third party, other than to Users as permitted herein; (iii) reverse engineer or decompile any portion of the Services; (iv) access the Services in order to build any commercially available product or service; (v) modify, copy or create derivative works of any features, functions, integrations, interfaces or graphics of the Services; (vi) interfere with or disrupt the integrity or performance of the Services or its related systems or networks or third party data contained therein; or (vii) process Restricted Information in the Services. "Restricted Information" means (a) government issued identification numbers, (b) personal credit card numbers, (c) medical records or health care information; (d) information regulated under the International Traffic in Arms Regulations, (e) technical data restricted under applicable export law, and/or (f) any other personal data without ensuring sufficient legal basis.

**4.4 Copado's Proprietary Rights.** Copado hereby grants Customer a worldwide, royalty-free, non-exclusive right to access and use the Services for Customer's internal purposes and otherwise in accordance with the Documentation and applicable Order Form. Except for the limited access and use rights granted herein, Copado retains all rights, title, and ownership (including all intellectual property rights) in and to its Confidential Information, the Services, Documentation, and any modifications, improvements, and derivative works to them (including any such materials that incorporate any ideas, feedback, or suggestions of Customer). Copado reserves all rights and/or interests not expressly granted to Customer in this Agreement.

**4.5. Customer Responsibilities.** Access to the Services may be subject to usage limits specified in Order Forms or Documentation. All licenses must be assigned to a named user and sharing User credentials across multiple individuals is strictly prohibited. If Customer exceeds a contractual usage limit, Copado may work with Customer to seek to reduce Customer's usage so that it conforms to that limit. If, notwithstanding Copado's efforts, Customer is unable or unwilling to abide by a usage limit, Customer will execute an Order Form for additional quantities of the applicable subscription promptly upon Copado's request or pay any invoice for excess usage in accordance with Section 2 above. Customer acknowledges that Copado support is only available for the latest two major releases of the Services.

**4.6 Security.** Copado will maintain industry standard administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Customer Materials processed in the Services. The safeguards will include measures designed to prevent unauthorized access, use, modification, or disclosure of such Customer Materials. Copado may modify the Services, including removing or suspending features that may pose a security risk, provided that Copado shall not materially degrade the core functionality of the Services during the subscription term. Customer is responsible for maintaining the security of equipment used to access the Services and its User accounts and passwords.

## **5.Warranties**

**5.1 Limited Warranty.** Copado warrants that during the applicable Order Form term: (i) the Services shall perform materially in accordance with its Documentation and the Agreement, (ii) the functionality of the Services will not be materially decreased during a subscription term as specified in the Order Form, and (iii) the Services shall be performed in a professional and workmanlike manner. For purposes of this Section 5 (Limited Warranty), "Services" shall not include items that Customer has elected to use on a no charge or evaluation basis. In the event Customer notifies Copado of a breach of warranty, Copado shall either (a) correct the non-conforming Services at no additional charge to the Customer; or (b) if Copado is unable to correct such deficiencies after good-faith efforts, Customer may terminate the applicable subscription and shall be entitled to a pro-rata portion of any unused and prepaid fees for the defective subscription. The remedies set forth in this subsection shall be Customer's sole remedy and Copado's sole liability for a breach of these warranties. EXCEPT FOR THE FOREGOING WARRANTY, ALL SERVICES ARE PROVIDED "AS IS" AND COPADO EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED, OR

STATUTORY, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

**5.2 Mutual Warranty.** Each party represents and warrants that it (i) has validly entered into this Agreement and has the legal power to do so and (ii) shall comply with all applicable local, state, national, international, or foreign law or regulation in connection with its performance under this Agreement.

**6. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY WILL BE LIABLE FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, LOST PROFITS, OR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR DAMAGES CAUSED BY GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, OR INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE PARTIES AGREE THAT THE LIMITATIONS SPECIFIED IN THIS SECTION 6 WILL APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. THE FOREGOING LIMITATION OF LIABILITY DOES NOT APPLY TO CUSTOMER'S UNAUTHORIZED USE OF THE SERVICES OR PAYMENT OBLIGATIONS IN AN ORDER FORM OR OTHER ORDERING DOCUMENT.

## **7. Mutual Indemnification.**

**7.1. Indemnification by Copado.** Copado shall defend Customer against any claim, demand, suit, or proceeding made or brought against Customer by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party (a "Claim Against Customer"), and shall indemnify Customer for any damages, attorney fees, and costs finally awarded against Customer as a result of, and for the amounts paid by Customer under a judgment, or court approved settlement of, a Claim Against Customer; provided that Customer (a) promptly gives Copado written notice of the Claim Against Customer; (b) gives Copado sole control of the defense and settlement of the Claim Against Customer (provided that Copado may not settle any Claim Against Customer unless the settlement unconditionally releases Customer of all liability); and (c) provides to Copado all reasonable assistance, at Copado's expense. In the event of a Claim Against Customer, or if Copado reasonably believes the Services may infringe or misappropriate a third party's intellectual property rights, Copado may, in its sole discretion and at no cost to Customer: (i) modify the Services so that they no longer infringe or misappropriate, which shall not be considered a breach of this Agreement, (ii) obtain a license for continued use of the Services in accordance with this Agreement, or (iii) terminate access for such Services upon thirty (30) days written notice and refund to Customer any prepaid fees covering the remainder of the term of such subscriptions after the effective date of such termination. Copado shall have no liability or obligation hereunder with respect to any claim based upon (a) use of any Services in violation of the Acceptable Use Policy or Documentation; (b) modifications, alterations, combinations or enhancements of the Services not created by or for Copado; (c) Customer's continuing allegedly infringing activity after being notified thereof, or its continuing use of any version after being provided modifications that would have avoided the alleged infringement; or (d) any intellectual property right in which Customer or any Customer Affiliates has an interest.

**7.2. Indemnification by Customer.** Customer will defend Copado and its Affiliates against any claim, demand, suit, or proceeding made or brought against Copado by a third party (a) alleging that the combination of a third-party application or configuration provided by Customer and used with the Services, infringes or misappropriates such third party's intellectual property rights, or (b) arising from Customer's use of the Services in an unlawful manner or in violation of the Agreement (each a "Claim Against Copado"), and shall indemnify Copado for any damages, attorney fees and costs finally awarded against Copado as a result of, or for any amounts paid by Copado under a judgment, or court-approved settlement of, a Claim Against Copado; provided that Copado (a) promptly gives Customer written notice of the Claim Against Copado; (b) gives Customer sole control of the defense and settlement of the Claim Against Copado (provided that Customer may not settle any Claim Against Copado unless the settlement unconditionally releases Copado of all liability); and (c) provides to Customer all reasonable assistance at Customer's expense.

This Section 7 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section.

**8. Confidential Information.** Each party agrees that all code, inventions, know-how, business, technical and financial information it obtains ("Receiving Party") from the disclosing party ("Disclosing Party") constitutes the confidential information of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. The Services and any updates, upgrades, modifications, derivatives, specifications, technical guides, other software, or other documentation provided by Copado (or

its agents) shall be deemed Confidential Information of Copado without any marking or future designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information. The Receiving Party's nondisclosure obligation shall not apply to information which the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; (iv) is independently developed by employees of the Receiving Party who had no access to such information; or (v) is required to be disclosed pursuant to the regulation, law, or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone may not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law. Upon termination or expiration of this Agreement, if Copado is in possession of any Customer Materials, Copado shall delete, return, or make available to Customer all Customer Materials then in its possession. Upon request by Customer within thirty (30) days after any expiration or termination of the applicable Order Form, Copado will either make Customer Materials available to Customer through the Services on a limited basis solely for the purposes of data retrieval or will reasonably assist Customer with such retrieval. After such thirty (30) day period, Copado will have no obligation to maintain or provide any Customer Materials and, unless legally prohibited, may delete all Customer Materials. Customer acknowledges that certain Copado Services do not store or maintain Customer Materials.

**9. Export.** Customer acknowledges that the Services may be subject to export restrictions by the US government and import restrictions by certain foreign governments. Customer shall not remove or export from the US or allow the export or re-export of any part of the Services in violation of any US export law or regulation to a US-embargoed country. Customer warrants that it is not named on any US government denied-party list.

**10. Survival.** Sections 2 (Payment), 4 (Access and Ownership), 6 (Limitation of Liability), 7 (Indemnification), 8 (Confidential Information), 9 (Export), 10 (Survival), 11 (Third Party Websites), and 14 (Miscellaneous) and any other provisions which by their nature and intent should survive the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

**11. Third Party Websites/Non-Copado Applications.** If Services are used to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites then Customer does so solely at its own risk. Copado makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered by the Customer, with any such third-party. Copado does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services. Copado Labs or third parties may make available (for example, through a DevOps Exchange or app store) third-party products and/or services, including integrations, scripts, extensions, templates, or functions ("Non-Copado Applications"). Any download or use of Non-Copado Applications by Customer is at the Customer's sole risk and liability, and Copado does not warrant nor support Non-Copado Applications, products, or services. For purposes of clarity, integrations, extensions, templates, or functions published and/or provided by Copado, Inc. (excluding Copado Labs) are supported by Copado and governed by the terms of this Agreement.

**12. Assignment.** Neither party shall assign this Agreement without the written consent of the other party, except that either may assign this Agreement to an Affiliate or in connection with a merger, reorganization, acquisition or other transfer of all or part of the party's assets or voting securities. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

**13. Notice.** Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, or (c), except for notices of termination or an indemnifiable claim ("Legal Notices"), which shall clearly be identifiable as Legal Notices, the day of sending by email. Billing-related notices to Customer will be addressed to the relevant billing contact designated by Customer. All other notices to Customer will be addressed to the relevant Services system administrator designated by Customer. Notice to Copado shall be addressed to the attention of its General Counsel with a copy by email at [legal@copado.com](mailto:legal@copado.com).

**14. Miscellaneous.** The parties are independent contractors. This Agreement does not create a partnership, joint venture, agency, fiduciary, or employment relationship between the parties. There are no third-party beneficiaries to this Agreement. Neither party shall make any commitment by contract or otherwise, binding upon the other or represent that it has any authority to do so. Any waiver by either party of any breach of this Agreement, whether express or implied, will not constitute a waiver of any other subsequent breach. No provision of the Agreement will be waived by any act, omission or knowledge of a party or its agents or employees except by an instrument in writing expressly waiving such provision and signed by a duly authorized officer of the waiving party. Copado may use Customer's name and logo in its marketing and promotional materials. Customer may revoke the use of its name and logo at any time at Customer's sole discretion. Both parties shall

comply with any applicable anti-corruption, anti-bribery, anti-money laundering, and sanction laws. If any provision of this Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect. Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to events which are beyond the reasonable control of such party, including not limited to any strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or of telecommunications or data networks or services, or refusal of approval or a license by a government agency. This Agreement shall be deemed to have been made in and shall be construed pursuant to the laws of the state of Illinois without regard to its conflicts of laws provisions. The jurisdictions and venue for actions related to this Agreement shall be the state and federal courts located in Cook County, Illinois and both parties hereby submit to the personal jurisdiction of such courts. The United Nations Convention on Contracts for the International Sale of Good and any conflicts of law principles will not apply. Copado may collect and analyze usage data and other information relating to the provision, use, and performance of the Services and related systems and technologies (including, without limitation, information concerning Customer Materials and data derived therefrom), and Copado will be free (during and after the term hereof) to: (i) use such information and data to improve and enhance the Services and for other development, diagnostic, and corrective purposes in connection with the Services and other Copado offerings; and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. Any waivers or amendments shall be effective only if made in writing signed by a representative of the respective parties authorized to bind the parties. Any terms and conditions in a Customer purchase order (excluding the Order Form) or other Customer order documentation is void and shall be for administrative purposes only. Notwithstanding any language to the contrary therein, in the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) Order Form (or scope of services for Professional Services), (2) any exhibit, schedule, or addendum to this Agreement, and (3) this Agreement. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement.

**15. Addenda.** Services-specific addenda are found at <https://www.copado.com/company-legal-agreements>. If Professional Services, OEM Licenses, or AI Services are listed as a line item in this Order Form, then the applicable addendum (found at the link above) shall apply and is incorporated into the Agreement. In the event of a conflict between an addendum and the Agreement, the addendum shall govern. AI Services means Copado Scale Edition, AI Platform, CopadoGPT, and CopadoAI Companion. "Professional Services" means work performed by Copado, its Affiliates, or its or their respective permitted subcontractors under a scope of services ("SOS") or Order Form.