

CloudBees, Inc. Software Subscription Agreement

This Software Subscription Agreement shall govern Customer's purchase of CloudBees software products from a GSA Multiple Award Schedule (MAS) Contract. The GSA MAS Contractor, acting on behalf of CloudBees, provides the software products ("Products") listed on an Order Form on a subscription basis (each, a "Subscription") to the Customer. The term of each Subscription is designated in the applicable Order Form (each, a "Subscription Term").

"Customer" means the Government Customer (Agency) who, under GSA Schedule Contracts, is the "Ordering Activity" which is defined as "an entity authorized to order under GSA Schedule Contracts" as defined in GSA Order OGP 4800.21, as may be amended from time to time.

There is no privity of contract between Customer and CloudBees and Customer does not contemplate CloudBees being a third-party beneficiary of this Agreement or the contract entered into by Customer and the GSA MAS Contractor.

As part of each Subscription, CloudBees provides the support services described in Exhibit A attached hereto.

1. **Grant of License.** Subject to all of the terms and conditions of this Agreement, during the Subscription Term, CloudBees grants to Customer a non-transferable, non- sublicenseable, non-exclusive, limited license to install the Products specified in an Order Form to use the Products for Customer's own internal use, but only in accordance with (i) the Documentation, (ii) this Agreement, and (iii) the Subscription Term and other restrictions set forth in the applicable Order Form. Customer shall not, on its own or through any parent, subsidiary, Affiliate, agent or other third party:

(a) sell, lease, license, distribute, sublicense or otherwise transfer in whole or in part, any of the Products or the Documentation to a third party; (b) decompile, disassemble, translate, reverse engineer or otherwise attempt to derive source code from the Products, in whole or in part, nor will Customer use any mechanical, electronic or other method to trace, decompile, disassemble, or identify the source code of the Products or encourage others to do so; (c) allow access or permit use of the Products by any users other than authorized users, or any use which violates the terms of this Agreement; or (v) modify or create derivative works based upon the Products.

2. **Subscription Term and Renewals.** The length of the Subscription Term shall be designated in the Order Form.

3. **Warranty Disclaimer.** THE PRODUCTS AND SUPPORT ARE PROVIDED "AS IS." CLOUDBEES DOES NOT WARRANT THAT THE PRODUCTS AND SUPPORT PROVIDED TO CUSTOMER UNDER THIS AGREEMENT WILL OPERATE UNINTERRUPTED, THAT THEY WILL BE FREE FROM DEFECTS, OR THAT THE PRODUCTS ARE DESIGNED TO MEET CUSTOMER'S BUSINESS REQUIREMENTS. NEITHER CLOUDBEES NOR ITS SUPPLIERS MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE LIMITED WARRANTY PERIOD. CUSTOMER ACKNOWLEDGES THAT THE PRODUCTS ARE NOT INTENDED FOR USE IN CONNECTION WITH ANY HIGH RISK OR STRICT LIABILITY ACTIVITY (INCLUDING, WITHOUT LIMITATION, AIR OR SPACE TRAVEL, POWER PLANT OPERATION, OR LIFE SUPPORT OR EMERGENCY MEDICAL OPERATIONS) AND THAT CLOUDBEES MAKES NO WARRANTY AND SHALL HAVE NO LIABILITY IN CONNECTION WITH ANY USE OF THE PRODUCTS OR CLOUD SERVICES IN SUCH SITUATIONS.

4. **LIMITATION OF REMEDIES.** CLOUDBEES SHALL NOT BE LIABLE FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

5. **LIMITATION OF LIABILITY.** CLOUDBEES' TOTAL AGGREGATE LIABILITY FOR CLAIMS ARISING HEREUNDER SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY CLOUDBEES IN AN AMOUNT NOT TO EXCEED THE AMOUNT PAID BY CUSTOMER TO CLOUDBEES DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM GIVING RISE TO THE CLAIM. The provisions of this Section allocate risks under this Agreement between Customer and CloudBees.

6. **Amendments; Waivers.** No supplement, modification, or amendment of the terms of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each the GSA Contracting Officer and the GSA MAS Contractor. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived.

7. **Entire Agreement.** 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 CloudBees Jenkins Platform subscription.

8. **Governing Law and Jurisdiction.** This Agreement shall be governed by the federal laws of the United States. The United Nations Convention on the International Sale of Goods or the Uniform Computer Information Transactions Act (UCITA) shall not apply.

9. **Survival.** Sections 2 (Term of Agreement), 3 (Warranty Disclaimer), 4 (Limitation of Remedies), 5 (Limitation of Liability), shall survive any termination or expiration of this Agreement.

EXHIBIT A

CloudBees Support and Maintenance Terms & Conditions

1. If the GSA MAS Contractor acting on behalf of CloudBees and Customer have entered into a separate written support agreement ("**Support Agreement**") incorporating these CloudBees Support and Maintenance Terms & Conditions ("**Support Terms**"), then these Support Terms govern the delivery of Support Services provided by CloudBees to Customer.

2. If Customer and the GSA MAS Contractor acting on behalf of CloudBees have entered into a separate written agreement that incorporates these Support Terms and Conditions and licenses certain CloudBees Products identified on an Order Form ("**Software Subscription Agreement**"), then these Support Terms and Conditions govern Support Services for the Products identified in the Order Form.

3. Any capitalized terms not defined in these Support Terms shall have the meanings set forth in the Support Agreement or Software Subscription Agreement between CloudBees and Customer, as applicable. The terms and conditions of the applicable Support Agreement or Software Subscription Agreement shall prevail over any conflicting terms or conditions in these Support Terms. The terms and conditions of the Product-Specific Support Terms shall prevail over any conflicting terms or conditions in these Support Terms.

4. Definitions

- a. "**Maintenance Services**" means the bug fixes to correct issues affecting the functionality, reliability, stability, availability or security of Supported Products.
- b. "**Standard Business Hours**" means 8 AM until 6 PM in a time zone designated by the Customer in an Order Form, Support Agreement or Subscription Agreement. Any single time zone can be designated.
- c. "**Supported Products**" means the Products identified as Supported Products on an Order Form.
- d. "**Support Services**" are defined as CloudBees' response to Customer requests for diagnosis and resolution of issues with Customer's Jenkins LTS deployment, and to Customer questions regarding Jenkins features. CloudBees' obligations to provide the Support Services as set forth in these Support Terms depends on the applicable Support Level (e.g., Gold or Platinum) specified on the Customer's Order Form.

5. Support Levels and Response Times

- a. All Customer requests for Support Services ("**Support Request**") by Customer will be logged, after which CloudBees will perform an initial diagnosis and determine as far as reasonably practical the source of any problem which may have led to the Support Request.
- b. For Support Requests that are logged during non-standard hours, all response and resolution times shall commence at the beginning of the next business day.
- c. The below table defines Support Request Priority Levels and the Guaranteed Response Times for the applicable Priority and Support Level for Support Requests. These Committed Response and Resolution Times apply only to Support Levels Defined as including Committed Response and Resolution Times.

6. Support Request Priority Levels and Response Times

	Community (evaluation/trial software) Support Level	Gold Support Level	Platinum Support Level
Hours of coverage	As available	Standard business hours	Standard business hours (24x7 for Severity 1)
Support channel	Web & Email	Web & Email	Web & Email
Number of Cases	Unlimited	Unlimited	Unlimited
Guaranteed Response times	No guaranteed response	Initial and ongoing response	Initial and ongoing response
Severity 1	Best efforts	4 business hours	2 hours
Severity 2	Best efforts	4 business hours	4 business hours

	Community (evaluation/trial software) Support Level	Gold Support Level	Platinum Support Level
Severity 3	Best efforts	8 business hours	8 business hours
Severity 4	Best efforts	2 business days	2 business days

To provide Customer with 24x7 coverage, Customer must identify a dedicated point of contact who will be available to CloudBees until the Support Request is resolved.

7. Severity Levels Defined

Severity 1 (Urgent)	Proven error of the Product in a production environment. The Product software is unusable, halts, crashes, or is inaccessible, resulting in a critical impact on the operation. No workaround is available.
Severity 2 (High)	The Product will operate but due to an Error in a production environment, its operation is severely restricted. No workaround is available.
Severity 3 (Normal)	The Product will operate with limitations due to an Error in a production environment that is not critical to the overall operation. For example, a workaround forces a user and/or a systems operator to use a time-consuming procedure to operate the system, or removes a non-essential feature.
Severity 4 (Low)	Due to an Error in a production environment, the Product can be used with only slight inconvenience. In addition, all product feature requests and general questions regarding product usage fall into this support level.

8. Bug Fixing:

- a. CloudBees will investigate incident reports concerning suspected problems with supported Products provided that (a) Customer sends CloudBees a written report, which includes evidence of the suspected Issue, and (b) the incident can be reproduced or reasonably confirmed by CloudBees ("**Confirmed Issue**").
- b. CloudBees will use commercially reasonable efforts to promptly correct the Confirmed Issue or provide a workaround to permit Customer to use the Product substantially in conformance with the applicable Documentation.
- c. CloudBees may request that the Customer run diagnostic scripts provided by CloudBees to determine whether their current deployment of supported Products conforms to documented system requirements for the supported Product.
- d. If Customer does not follow the diagnostic procedure specified for the supported Product, CloudBees has no further obligation to diagnose or fix the Confirmed Issue. If the Customer follows such procedures and CloudBees determines that there is an issue with the Customer's configuration, CloudBees support may recommend corrective action that the Customer must perform before CloudBees has any further obligation to diagnose or fix the Confirmed Issue.
- e. If CloudBees suspects the Confirmed Issue results from interaction with another vendor's software or hardware product, CloudBees can require the Customer to open a support case with that vendor. If the Customer does not open the support case with the vendor, CloudBees has no further obligation to diagnose or fix the Confirmed Issue.
- f. If Customer is not satisfied with the handling of the Confirmed Issue, Customer may pursue escalation procedures set forth in these Support Terms.

9. RFEs (Requests for Enhancement)

- a. Any Customer request for functionality currently not documented as supported functionality of the Product will be classified by CloudBees as a Request for Enhancement ("**RFE**").
- b. All issues classified by CloudBees as RFEs will be forwarded to product management for triage.
- c. CloudBees will review all incoming RFEs and triage them as soon as possible. Triage involves classifying the RFE as relating to a specific area of Product functionality and assigning it to a specific product manager responsible for that area.
- d. Updates will be made to the Customer RFE to indicate when triage has been performed.
- e. Product managers will routinely review trends in RFEs in their assigned areas and use that as input to identifying priorities for design and development.

- f. RFEs will not be closed unless the product manager determines that the functionality already exists, in which case they will update support and support will ensure that the customer is notified.
- g. RFEs may remain open for extended periods in areas that are not yet prioritized for active design or development.
- h. Customers under platinum support may request a review with product management of their open RFEs.
- i. There is no obligation on CloudBees' part to implement functionality requested through an RFE.
- j. CloudBees may determine that there is a different solution to satisfy the underlying problem driving an RFE, in which case the Customer will be notified when that solution is delivered and their case will be considered resolved unless the Customer does not accept the solution and reopens the case.
- k. CloudBees product management may contact customers with open RFEs in an area which they are scoping for potential design or development to get additional detail on the customers' needs or review potential solution. This is on a best efforts basis only.

10. Escalation Procedures:

- a. Customer may escalate a Confirmed Issue by contacting escalations@cloudbees.com or requesting an escalation via the support portal. For escalated Confirmed Issues, an action plan will be developed by the CloudBees support team and communicated to Customer.
- b. When an escalated Confirmed Issue has been resolved, the request for assistance will be considered closed upon the mutual agreement of the parties, such agreement not to be unreasonably withheld, delayed or conditioned. A Confirmed Issue of Severity 1 - 3 will not be considered resolved until one of the following activities has been completed:
 - i. a resolution to the Confirmed Issue is obtained to Customer's reasonable satisfaction;
 - ii. a computer software code change in the form of a patch or a new revision that corrects the Confirmed Issue without causing additional problems has been delivered to Customer, successfully installed and is working;
 - iii. a short term workaround is delivered and accepted by Customer, though such acceptance shall not absolve CloudBees from any obligation to provide a long term solution if required; or
 - iv. an engineering commitment is made, upon Customer's agreement, to correct the Confirmed Issue in a future release of the CloudBees Software.

11. Excluded Services:

- a. CloudBees has no obligation to fix Customer Issues or problems except for those expressly set forth in the foregoing Sections of this Support Agreement. Customer Issues or problems that CloudBees has no obligation to fix include the following situations without limitation:
 - i. Customer is using an unsupported distribution, version or configuration of an open source package for which Customer has support;
 - ii. Customer has a Support Agreement for a CloudBees Product only and the Confirmed Issue is with a deployment of an open source software distribution independently of the CloudBees Product;
 - iii. The CloudBees Product is not used for its intended purpose;
 - iv. The CloudBees Product has been altered, damaged, modified or incorporated into other software in a manner not approved by CloudBees;
 - v. The CloudBees Product is a release that is no longer supported by CloudBees;
 - vi. The software component is not listed as a supported component in the product documentation;
 - vii. The Confirmed Issue is caused by Customer's or a third-party's software or equipment or by Customer's negligence, abuse, misapplication, or use of the CloudBees Products other than as specified in the Documentation; or
 - viii. Fixing the Confirmed Issue would require changes to Customer's infrastructure or operating platform.
- b. If CloudBees determines that it has no obligation to fix the Confirmed Issue for one of the reasons stated above, the parties may, in their discretion, enter into a separate agreement authorizing CloudBees to provide professional services at a rate that is mutually agreed by the Parties.

12. End of Life Policy:

a. Customer acknowledges that new features may be added to or removed from the CloudBees Products based on market demand and technological innovation. Accordingly, as CloudBees develops enhanced versions of its Products, CloudBees may cease to maintain and support older versions or specific features of its Products. CloudBees will use commercially reasonable efforts to notify Customer in advance of a Product version or feature undergoing the transition from supported to unsupported status.