



U.S. Public Sector Amendment

The Agreement consists of this U.S. Public Sector Amendment (“Amendment”) (which may be updated), the General Terms that Customer accepted and any additional terms GitHub or its Affiliates present when an order is placed. If Customer is a Government Entity, then the following terms apply.

- 1. Purpose.** In compliance with applicable laws and regulations, GitHub and Customer acknowledge that the Products and Professional Services are for the sole benefit and use of Customer and not provided for the personal use or benefit of any individual government employee.
- 2. Government subcontractors.** If Customer is entering into this Agreement as a subcontractor of a Government Entity, then Customer represents and warrants that (i) it has complied and will comply with all applicable government procurement laws and regulations; (ii) it is authorized to enter into this Agreement; (iii) this Agreement satisfies all applicable procurement requirements; and (iv) this Amendment applies in Customer’s capacity as a subcontractor of a Government Entity.
- 3. Products provided at no charge.** GitHub waives any and all entitlement to compensation from Customer for Products and Professional Services that are provided at no charge to Customer.
- 4. Access and use.** GitHub acknowledges that Customer’s use of the Online Services may energize significant citizen engagement. The Agreement is modified to reflect that GitHub may unilaterally modify or discontinue service, temporarily or permanently, refuse or remove any Content, or terminate Customer’s account only for breach of Customer’s obligations under the Agreement, Customer’s material failure to comply with GitHub site policies, or if GitHub ceases to operate the Online Services generally. GitHub will provide Customer with a reasonable opportunity to cure its breach of the Agreement.
- 5. Defense of third party claims.** Notwithstanding anything to the contrary, GitHub’s rights set forth in the Third Party Claims section of the Agreement (and the rights of the third party claiming infringement) shall be governed by the provisions of 28 U.S.C. § 1498.
- 6. Limitation of liability.** To the extent required by law, Customer’s liability under the Agreement shall be determined under the Federal Tort Claims Act or other governing authority. GitHub’s liability under the Agreement, shall be determined by applicable federal or state law. The Parties agree that nothing in the Limitation of Liability clause or elsewhere in the Agreement grants GitHub a waiver from, release of, or limitation of liability pertaining to, any violation of federal law. This clause shall not impair Customer’s right to recover for fraud or crimes arising out of or related to Agreement under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.
- 7. Federal government disclosure.** The Products were developed solely with private funds and are considered “Commercial Computer Software” and “Commercial Computer Software Documentation” as described in Federal Acquisition Regulations 12.212 and 27.405-3, and Defense Federal Acquisition Regulation Supplement 227.7202-3. The Products are licensed to the Federal Government end user as restricted computer software and limited rights data. No technical data or computer software is developed under this Agreement. Any use, disclosure, modification, distribution, or reproduction of the Products or documentation by the Federal Government or its contractors is subject to the restrictions set forth in this Agreement. All other use is prohibited.



- 8. Freedom of Information Act (“FOIA”).** The parties acknowledge that Customer may be subject to the United States Freedom of Information Act (5 U.S.C. § 552) and may disclose information in response to a valid request in accordance with FOIA. Should Customer receive a request under FOIA for GitHub’s Confidential Information, Customer agrees to give GitHub adequate prior notice of the request and before releasing GitHub’s Confidential Information to a third party, to allow GitHub sufficient time to seek injunctive relief or other relief against such disclosure.
- 9. Third-party advertisements.** GitHub agrees not to serve or display any third-party commercial advertisements or solicitations on any pages within the GitHub site displaying content created by or under the control of Customer. This exclusion shall not extend to house ads, which GitHub may serve on such pages in a non-intrusive manner. The foregoing obligations are contingent upon the email address designated on Customer’s account details page ending in .gov, .mil, or .fed.us.
- 10. No endorsement.** Except for pages under Customer’s control or links to or promotion of such pages, GitHub may not use Customer’s seal, name or logo in any advertising or marketing materials without Customer’s permission. GitHub may list Customer’s name in a publicly available customer list so long as the name is not displayed in a more prominent fashion than that of any other third-party name.
- 11. Applicable law and venue.** The Agreement will be governed by and construed in accordance with the applicable federal laws of the United States. Any legal action or proceeding will be brought exclusively in the appropriate United States federal or state courts. The parties consent to personal jurisdiction and venue there. To the extent permitted by law, the laws of the State of California will apply in the absence of federal or state law stating otherwise.
- 12. Further amendment and order of precedence.** This Amendment may be further amended only upon written agreement executed by both Parties. If there is any conflict between this Amendment and the Agreement, or between this Amendment and other GitHub site policies, this Amendment shall prevail.
- 13. Posting and availability of this amendment.** The parties agree this Amendment contains no confidential or proprietary information, and either party may release it to the public at large.
- 14. Definitions.**

 - “Federal Agency” means a bureau, office, agency, department or other entity of the United States Government.
 - “Government Contract” means the Government Entity’s contract with you, which incorporates this Agreement.
 - “Government Entity” means a Federal Agency, State or Local Entity, or Tribal Entity acting in its governmental capacity.
 - “State or Local Entity” means an office, agency, department or other entity of a state or local municipality in the United States.
 - “Tribal Entity” means a federally-recognized tribal entity performing tribal governmental functions and eligible for funding and services from the U.S. Department of Interior by virtue of its status as an Indian tribe.