

CloudBees Ecosystem Integrated Partner Agreement

THIS CLOUDBEES ECOSYSTEM INTEGRATED PARTNER AGREEMENT ("AGREEMENT"), ENTERED INTO BETWEEN CLOUDBEES, INC. AND THE PERSON OR ENTITY AGREEING TO THE TERMS OF THIS AGREEMENT ("INTEGRATED SERVICES PARTNER"). IF YOU ARE ACTING ON BEHALF OF AN ENTITY, THEN YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY. IF INTEGRATED SERVICES PARTNER DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN YOU MUST NOT ACCEPT THE TERMS IN THIS AGREEMENT. THE EFFECTIVE DATE IS THE DATE THAT THE TERMS OF THIS AGREEMENT ARE ACCEPTED BY INTEGRATED SERVICES PARTNER.

1. Marketing.

1.1 Integrated Services Partner agrees to list the Integrated Service on the CloudBees Ecosystem Platform. The Integrated Service will include branding as generally displayed for other Integrated Services Partners on the CloudBees Ecosystem Platform. During the Term, Integrated Services Partner hereby grants to CloudBees a limited, non-exclusive, royalty-free license to use the Integrated Services Partner Marks in order to (i) display the Integrated Service on the CloudBees Ecosystem Platform; and (ii) promote the Integrated Service in connection with the CloudBees Ecosystem Platform.

1.2 Integrated Services Partner agrees that CloudBees may from time to time identify Integrated Services Partner as a CloudBees Integrated Services Partner in or on CloudBees' website, sales and marketing materials, or press releases.

1.3 The parties may engage in additional joint marketing activities to promote the Integrated Service offering on the CloudBees Ecosystem Platform. Except as mutually agreed in writing, each party will pay its own costs and expenses for its marketing activities.

2. Integration Partners.

2.1 In addition to listing the Integrated Service on the CloudBees Ecosystem Platform, Integrated Services Partner may integrate the Integrated Service with the CloudBees Service and offer the Integrated Service to Users via the CloudBees Ecosystem Platform.

2.2 The parties will cooperate, mutually agree on, and jointly implement the integration of the Integrated Service with the CloudBees Service. The obligations of each party will include, without limitation, making available the necessary APIs, providing any required technical documentation, and appointing an individual with the requisite expertise to serve as the technical development contact.

2.3 Integrated Services Partner will provide access to the Integrated Service to CloudBees for the purpose of testing internally at CloudBees and with select Users at no charge. The evaluation period will be a limited period of time mutually agreed upon by the parties in writing. Integrated Services Partner and CloudBees agree to share feedback from Users, if permitted, on the testing and the parties will work together to determine what changes or improvements need to be made prior to public launch of the Integrated Service on the CloudBees Service. If CloudBees approves the Integrated Service, CloudBees will launch the Integrated Service with the CloudBees Service.

2.4 Integrated Services Partner hereby appoints CloudBees as an authorized distributor of the Integrated Service as part of the CloudBees Ecosystem Platform. Integrated Services Partner hereby grants to CloudBees a worldwide, non-exclusive, royalty-free license during the Term to: (a) allow Users to access and use the Integrated Service purchased via the CloudBees Ecosystem Platform, and (c) access the Integrated Service via the API for the purpose of providing Frontline Support for the Integrated Service to Users via the CloudBees Ecosystem Platform. Integrated Services Partner will provide the Integrated Services Partner APIs and host and maintain the Integrated Service.

2.5 If Integrated Services Partner requires a User to agree to an End User License Agreement (EULA) or Terms of Service (TOS), Integrated Services Partner will include the EULA or TOS with the Integrated Service and will also provide a copy of such agreements to CloudBees. Integrated Services Partner may change the EULA or TOS by providing CloudBees with at least thirty (30) days prior written notice. Each party will immediately notify the other party if it becomes aware of any breach of any such agreement.

2.6 CloudBees will provide Users with all Frontline Support for the Integrated Service. Integrated Services Partner will be responsible for performing all User Backline Support for the Integrated Service. CloudBees may permit Users to submit trouble tickets for the Integrated Service to the CloudBees Service, and transmit such trouble tickets to Integrated Services Partner. Integrated Services Partner will provide such Backline Support promptly, in a manner consistent with good industry practice, and during at least the same hours and at the same or better service levels as Integrated Services Partner provides support for the Integrated Service.

2.7 CloudBees will pay Integrated Services Partner seventy percent (70%) of the List Price for the Integrated Service hereunder (the "Revenue Share"). No more than once per year, upon at least ninety (90) days prior written notice, Integrated Services Partner may amend the List Price by no more than the lesser of three percent (3%) per year or the amount that Integrated Services Partner raises its list pricing for all other customers. CloudBees and Integrated Services Partner may negotiate a different Revenue Share upon mutual written consent of both parties. CloudBees will pay the Revenue Share due to Integrated Services Partner within thirty (30) days after the end of the calendar month in which payment from the User is received. No later than the Revenue Share payment due date, CloudBees will make available to Integrated Services Partner a report itemizing the receipts and any permitted deductions thereto comprising the Net Subscription Revenues.

3. Ownership.

3.1 CloudBees acknowledges and agrees that, as between Integrated Services Partner and CloudBees, Integrated Services Partner owns all right, title, and interest in and to the Integrated Service, Integrated Services Partner Marks, the Integrated Services Partner API, and the Intellectual Property Rights therein, and nothing in this Agreement will confer on CloudBees any right of ownership or interest in the Integrated Service or Integrated Services Partner Marks.

3.2 Integrated Services Partner acknowledges and agrees that, as between Integrated Services Partner and CloudBees, CloudBees owns all right, title, and interest in and to the CloudBees Ecosystem Platform (excluding the Integrated Service and Integrated Services Partner Marks), the CloudBees API, CloudBees Marks, and the Intellectual Property Rights therein, and nothing in this Agreement will confer on the Integrated Services Partner any right of ownership or interest in the CloudBees Ecosystem Platform, API, or CloudBees Marks.

3.3 Each party acknowledges that it obtains no intellectual property rights or licenses by this Agreement except for those licenses expressly granted.

4. Term of Agreement.

4.1 Term. This Agreement is effective as of the Effective Date and will continue for a period of one (1) year and will automatically renew for additional one (1) year periods ("Term") unless either party gives written notice to the other of its intention not to renew the Agreement at least thirty (30) days prior to the expiration of the then-current Term. Either party may terminate this Agreement 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 operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such party (and not dismissed within 60 days thereafter). Termination is not an exclusive remedy and the exercise by either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise.

4.2 Effects of Termination. Upon expiration or termination of this Agreement for any reason: (a) Integrated Services Partner will cease any and all use of the CloudBees Ecosystem Platform; (b) each party will return to the other party or destroy the Confidential Information of the other party that it obtained during the course of this Agreement; and (c) upon written request, each party must certify in writing to the other party that it has returned or destroyed all of the other party's Confidential Information.

4.3 Survival. Sections 3 (Ownership), 4 (Term of Agreement), 5.2 (Warranty Disclaimer), 6 (Limitation of Remedies and Damages), 7 (Indemnification), 8 (Confidential Information), 10 (General), and 11 (Definitions) will survive any termination or expiration of this Agreement.

5. Representations and Warranties.

5.1 Each party represents and warrants that (a) it is a corporation duly organized and validly existing under the laws of the state set forth in the preamble above; (b) the execution, delivery, and performance by such party of this Agreement are within the corporate powers of the party, have been duly authorized by all necessary corporate action on the part of the party, and will not

violate any law, statute, or other governmental regulation that is applicable to the party's business, or any other agreement or instrument to which the party is a party; and (c) it has obtained or will obtain and maintain during the Term all rights, licenses, consents and authorizations necessary to perform its obligations as set forth in this Agreement. Integrated Services Partner further represents and warrants that the Integrated Service and Integrated Services Partner Marks do not and will not violate any applicable laws, rules or regulations or infringe the rights, including without limitation Intellectual Property Rights, of any third party.

5.2 THE CLOUDBEES ECOSYSTEM PLATFORM IS PROVIDED "AS IS". CLOUDBEES DOES NOT WARRANT THAT THE NETWORK OR CLOUDBEES ECOSYSTEM PLATFORM WILL OPERATE UNINTERRUPTED OR BE FREE FROM DEFECTS OR THAT THE CLOUDBEES ECOSYSTEM PLATFORM IS DESIGNED TO MEET INTEGRATED SERVICES PARTNER'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, OR THAT ACCESS TO ITS NETWORK WILL BE UNINTERRUPTED.

6. Limitation of Remedies and Damages.

6.1 CLOUDBEES WILL 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.

6.2 CLOUDBEES' TOTAL AGGREGATE LIABILITY AND INTEGRATED SERVICES PARTNER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER ARISING HEREUNDER, WILL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY CLOUDBEES' SOLE NEGLIGENCE IN AN AMOUNT NOT TO EXCEED THE AMOUNT OF PAYMENTS MADE UNDER THIS AGREEMENT IN THE TWELVE MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

6.3 The provisions of this Section allocate risks under this Agreement between Integrated Services Partner and CloudBees.

7. **Indemnification.** Integrated Services Partner will indemnify, defend and hold harmless CloudBees and its officers, directors, consultants, employees, successors and permitted assigns from and against any damages, losses, and expenses (including reasonable attorneys' fees), as a result of any third-party claim, demand or action (collectively, a "Claim") arising from any breach of any of the representations, warranties, or covenants made by Integrated Services Partner hereunder. CloudBees will promptly notify Integrated Services Partner in writing of any such Claim; provided that the failure to provide such notice will not relieve Integrated Services Partner of its indemnification obligations hereunder except to the extent of any material prejudice directly resulting from such failure. Integrated Services Partner will bear full responsibility for, and will have the right to solely control, the defense (including any settlements) of any such Claim; provided, however, that (i) Integrated Services Partner will keep CloudBees informed of, and consult with CloudBees in connection with the progress of such litigation or settlement and (ii) Integrated Services Partner will not settle any such Claim in a manner that does not unconditionally release CloudBees without CloudBees' written consent, not to be unreasonably withheld or delayed.

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") constitute the confidential property 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. Confidential Information excludes information that: (i) was in the public domain at the time it was disclosed or has become in the public domain through no fault of the Receiving Party; (ii) was known to the Receiving Party, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (iii) is disclosed with the prior written approval of the Disclosing Party; (iv) was independently developed by the Receiving Party without any use of Confidential Information of the Disclosing Party; or (v) becomes known to the Receiving Party, without restriction, from a source other than the Disclosing Party. Any software, documentation or technical information provided by CloudBees (or its agents) that has not been released to the CloudBees community, performance information relating to the CloudBees Ecosystem Platform, and the terms of this Agreement will be deemed Confidential Information of CloudBees without any marking or further designation. The Receiving Party will not: (i) disclose any Confidential Information to any third party, except as otherwise expressly permitted herein; (ii) make any use of Confidential Information except: (a) to exercise its rights and perform its obligations under this Agreement; or (b) in connection with the parties' ongoing business relationship; or (iii) make Confidential

Information available to any of its employees or consultants except those that have agreed to obligations of confidentiality at least as restrictive as those set forth herein and have a "need to know" such Confidential Information. The Receiving Party is liable for all acts and omissions of its employees and consultants to the extent that such act or omission would be a breach of this Agreement if done by Receiving Party. The Receiving Party will be held to the same standard of care as it applies to its own information and materials of a similar nature, and no less than reasonable care. The Receiving Party may disclose the other party's Confidential Information to the extent such disclosure is required by order or requirement of a court, administrative agency, or other governmental body, but only if the Receiving Party provides prompt written notice thereof to the Disclosing Party to enable the Disclosing Party to seek a protective order or otherwise prevent or restrict such disclosure. The Receiving Party will protect Confidential Information in the manner provided herein for five (5) years after receipt thereof, unless such obligation ceases earlier pursuant to this Section; provided that, to the extent the Confidential Information constitutes a trade secret under law, the Receiving Party agrees to protect such information for so long as it qualifies as a trade secret under applicable law. Notwithstanding anything to the contrary herein, neither party will disclose the terms and conditions of this Agreement to any third party, without the prior written consent of the other party. Notwithstanding the foregoing each party may disclose the terms and conditions of this Agreement without the prior written consent of the other party: (a) as required by any court or other governmental body; (b) as otherwise required by law; (c) to legal counsel of the parties; (d) in confidence, to accountants, banks, and financing sources and their advisors; (e) in connection with the enforcement of this Agreement or rights under this Agreement; or (f) in confidence, in connection with an actual or proposed merger, acquisition, or similar transaction. Notwithstanding the foregoing, each party hereby grants to the other party a perpetual, irrevocable, worldwide, sublicensable, transferable, royalty-free, fully-paid, right and license to use and exploit in any manner and for any purpose, all Feedback provided by a party hereunder.

9. Insurance. Integrated Services Partner will maintain throughout the term of this Agreement (i) commercial general liability insurance, written on an occurrence basis, on a combined single limit of US \$1,000,000 per occurrence for bodily injury or property damage/US \$2,000,000 annual aggregate, which insurance will include broad form property damage and contractual liability endorsements; (ii) professional liability (errors and omissions) insurance in an amount not less than US \$2,000,000 per occurrence and (iii) statutory workers' compensation insurance (unless the Integrated Services Partner is a sole proprietorship) with Employers' Liability limits of US \$500,000 per occurrence, written by insurance companies with a Best's rating no less than A-VII. Integrated Services Partner will provide certificate(s) of insurance evidencing the required coverages to CloudBees, Inc., 16192 Coastal Highway, Lewes, DE 19958. The certificates will name CloudBees as an additional insured with respect to the commercial general liability coverage and provide that CloudBees be given thirty (30) days' prior notice of any material amendment, cancellation or termination.

10. General.

10.1 Severability. If any provision of this Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in effect.

10.2 Governing Law; Jurisdiction and Venue. This Agreement will be governed by the laws of the State of New York and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods or the Uniform Computer Information Transactions Act (UCITA). The jurisdiction and venue for actions related to the subject matter hereof will be the New York state and United States federal courts located in New York, New York, and both parties irrevocably consent to such personal jurisdiction of such courts and waive all objections thereto.

10.3 Notices and Reports. Any notice or report hereunder will be in writing to the party's corporate headquarters, Attention: Chief Financial Officer and will be deemed given upon delivery if sent by: (i) personal delivery; (ii) certified or registered U.S. mail (return receipt requested); or (iii) overnight commercial delivery service.

10.4 Amendments; Waivers. No supplement, modification, or amendment of this Agreement will be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. 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.

10.5 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 subject matter of this Agreement. No amendment, modification or waiver of any provision of this Agreement will be effective unless in writing and signed by both parties.

10.6 Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

10.7 Force Majeure. Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement if the delay or failure is due to events which are beyond the reasonable control of such party, including but 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 of a license by a government agency.

10.8 Assignment. Neither party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party, which will not be unreasonably withheld, and any such assignment in violation of this Section will be void, except that the transfer of this Agreement or rights granted hereunder to a successor entity in the event of a merger, corporate reorganization, or acquisition will not constitute an assignment for purposes of this Section. This Agreement will inure to the benefit of and be binding upon the parties hereto, and their successors and permitted assigns.

10.9 Headings. The headings in this Agreement are for purposes of reference only and will not in any way limit or affect the meaning or interpretation of any of the terms hereof.

11. Definitions.

API means the application program interfaces to interface the Integrated Service with the CloudBees Ecosystem Platform.

Backline Support means the provision of: (i) a diagnosis of problems, performance deficiencies, functionality or operation of the Integrated Service, (ii) support in connection with User's development, implementation and maintenance activities involving the Integrated Service, and (iii) a resolution of problems or performance deficiencies of the Integrated Service that is not resolved with Frontline Support.

CloudBees Ecosystem Platform means the CloudBees online partner platform.

CloudBees Service means the CloudBees online platform as a service offering for application development and deployment.

Confidential Information means all code, inventions, know-how, business, technical and financial information provided by either party that is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential due to the nature of the information disclosed and the circumstances surrounding the disclosure.

Disclosing Party means the party disclosing Confidential Information.

EULA means the end user license agreement included by Integrated Services Partner with the Integrated Service.

Feedback means, without limitation any feedback regarding the Integrated Service or CloudBees Ecosystem Platform, including but not limited to, any functionality issues, and errors, flaws, failures, or faults in the Integrated Service or CloudBees Ecosystem Platform via an online or other method.

Frontline Support means the provision of helpdesk support for the Integrated Service.

Integrated Service means the Integrated Services Partner's tools provided online for access and use by Users.

Intellectual Property Rights means all rights in, to, or arising out of: (i) any U.S., international or foreign patent or any application therefore and any and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) inventions (whether patentable or not in any country), invention disclosures, improvements, trade secrets, proprietary information, know-how, technology and technical data; (iii) copyrights, copyright registrations, mask works, mask works registrations, applications, moral rights, trademarks, and rights of personality, privacy and likeness, whether arising by operation of law, contract, license or otherwise; and (iv) any other similar or equivalent proprietary rights anywhere in the world.

List Price means the Integrated Services Partner's listing pricing for the Integrated Service.

Marks mean all trademarks, service marks, trade dress, trade names, domain names, corporate names, brand names, proprietary logos, symbols, artwork, all other indicia of origin, all applications to register and registrations for the foregoing, and any renewals therefore, under which a Party offers its products or services.

Net Subscription Revenues means all revenues actually received by CloudBees for the sale of Subscriptions attributable to the Integrated Service less (i) the actual costs incurred by CloudBees in selling the Subscriptions, including but not limited to transaction costs related to credit card processing (ii) any rebates, credits, charge backs, refunds or similar offsets actually issued by CloudBees for the Subscriptions; and (iii) any taxes that CloudBees is required to collect in connection with the sale of Subscriptions.

Receiving Party means the party receiving Confidential Information.

Subscription means a User subscription to use the Integrated Service.

Terms of Service (TOS) means any terms of service included by Integrated Services Partner with the Integrated Service.

User means an individual or entity that accesses the Integrated Service via the CloudBees Ecosystem Platform.