

VMware Tanzu Software Support Services Terms & Conditions

These VMware Tanzu Software Support Services Terms and Conditions (the **"Agreement"**) set forth the terms governing the provision of Support Services by VMware to Licensee. The terms herein supplement the terms and conditions of VMware's End-User License Agreement, master agreement, or other applicable signature-bearing agreement that references/incorporates this Agreement (**"EULA"**). As used herein, **"VMware"** and **"Licensee"** mean, respectively, the applicable licensor and licensee that entered into the EULA. Capitalized terms not defined herein shall have the same meaning as defined in the EULA. In the event of a conflict between the terms of this Agreement and those of the EULA, the terms set forth in the EULA shall supersede and control.

1. Definitions

Error means a failure in the Software to materially conform to the specifications described in the Documentation.

Modified Code means any modification, addition and/or development of code scripts deviating from the predefined product code tree(s)/modules developed by VMware for production deployment or use. Modified Code excludes customizable Software options for which VMware offers Support Services on the applicable VMware price list.

Severity is a measure of the relative impact an Error has on the use of the Software, as defined by VMware, and assigned by Licensee when opening a Support request.

Severity One means Licensee's production server or other mission critical system(s) are down and no workaround is immediately available and (i) all or a substantial portion of Licensee's mission critical data is at a significant risk of loss or corruption; (ii) Licensee has had a substantial loss of service; or (iii) Licensee's business operations have been severely disrupted.

Severity Two means that major functionality is severely impaired such that (i) operations can continue in a restricted fashion, although long-term productivity might be adversely affected; (ii) a major milestone is at risk; ongoing and incremental installations are affected; or (iii) only a temporary workaround is available.

Severity Three means a partial, non-critical loss of functionality of the Software such that: (i) the operation of some component(s) is impaired but allows the user to continue using the Software; or (ii) initial installation milestones are at minimal risk.

Severity Four means general usage questions and cosmetic issues, including errors in the Documentation.

Software Release means any subsequent version of the Software provided by VMware after initial delivery of the Software, but does not include new Software products or services (as determined by VMware).

Major Release, also known as an **"Upgrade"**, means a generally available release of the Software that (i) contains functional enhancements and extensions, (ii) fixes for high severity and high priority bugs, and (iii) is designated by VMware by means of a change in the digit to the left of the first decimal point (e.g., Software 5.0 >> Software 6.0).

Minor Release means a generally available release of the Software that (i) introduces a limited amount of new features, functionality and minor enhancements; (ii) fixes for high severity and high priority bugs identified in the current release, and (iii) is designated by VMware by means of a change in the digit to the right of the decimal point (e.g., Software 5.0>>Software 5.1).

Maintenance Release means a generally available release of the Software that typically provides maintenance corrections only or high severity bug fixes, designated by VMware by means of a change in the digit to the right of the second decimal point (e.g. Software 5.0 >> Software 5.0.1), or for certain Software, by means of a change in the digit of the Update number (e.g. Software 5.0 Update 1).

Technical Support Services means the provision of telephone or web-based technical assistance by VMware to Licensee's technical contact(s) with respect to installation, Errors and technical product problems, at the corresponding Support Services level purchased by Licensee.

Third Party Materials means materials, including tools that are used to deliver the Support Services, that are not owned or created by VMware and that are not open source software.

2. Service Terms

2.1 Provision of Support Services. Subject to the terms of this Agreement, VMware shall, during the Subscription Period, provide Licensee

with the Support Services at the applicable Support Services level purchased, commencing upon the Effective Date. Support Services includes VMware Premium Support Services offering described at <https://tanzu.vmware.com/support/offerings>.

2.2. End of Support Life. Software has reached its End of Support Life when it is no longer supported by VMware (“**End of Support Life**”). VMware shall publicly post notice of End of Support Life of the affected Software and the timeline for discontinuing support in the VMware Tanzu Support Lifecycle Policy and the VMware Product Support Lifecycle Matrix, both available at https://tanzu.vmware.com/support/lifecycle_policy, which are subject to updates by VMware from time to time. VMware shall have no obligation to provide Support Services for Software after the End of Support Life.

2.3 Purchase Requirements

(a) Except as otherwise set forth in the applicable Order or Quote, Licensee may purchase Support Services only for the most current, generally available release of the Software.

(b) Licensee must purchase and/or renew Support Services at the same level of Support for all of the licenses for a particular Software product or suite that has been installed in a given environment, such as test, development, QA, or production (i.e. Licensee cannot purchase Premium Support for only one license of Software in its lab and purchase another level support for other Software licenses in that environment).

(c) This Agreement will automatically update to VMware’s then-current Support Services terms and conditions set forth at <https://tanzu.vmware.com/support/> upon Licensee’s renewal of Support Services.

2.4 Exclusions

(a) Support Services do not cover problems caused by the following:

(i) Unusual external physical factors such as inclement weather conditions that cause electrical or electromagnetic stress or a failure of electric power, air conditioning or humidity control; neglect; misuse; operation of the Software with any other software, hardware, technology, data, or other materials not in accordance with the manufacturer’s specifications; or causes other than ordinary use;

(ii) Use of the Software that deviates from any operating procedures as specified in the Documentation;

(iii) Third Party Materials, other than the interface of the Software with the Third Party Materials;

(iv) Modified Code;

(v) Issues relating to Software offered as a Service (“SaaS”), or other “X”aaS offerings;

(vi) Any customized deliverables, including diagnostic tools, created by VMware, VMware partners or third-party service providers specifically for Licensee as part of consulting services; or

(vii) Use of the Software with unsupported tools (i.e., Java Development Kit (JDK); Java Runtime Environment (JRE)), APIs, interfaces or data formats other than those included with the Software and supported as set forth in the Documentation.

Licensee may request assistance from VMware for such problems, for an additional fee.

(b) In the event that VMware suspects that a reported problem may be related to Modified Code, VMware, may, in its sole discretion, (i) request that the Modified Code be removed, and/or (ii) inform Licensee that additional assistance may be obtained by Licensee directly from various product discussion forums or by engaging VMware’s consulting services group for an additional fee.

2.5 Licensee Responsibilities. VMware’s obligations regarding Support Services are subject to the following:

(a) Licensee agrees to receive from VMware communications via e-mail, telephone, web, and other formats, regarding Support Services (such as communications concerning support coverage, Errors or other technical issues and the availability of new releases of the Software and training options).

(b) Licensee’s technical contact shall cooperate to enable VMware to deliver the Support Services.

(c) Licensee is solely responsible for the use of the Software by its personnel and Third Party Agents, and shall properly train its personnel and Third Party Agents in the use and application of the Software.

(d) Licensee shall promptly report to VMware all problems with the Software, and shall implement any corrective procedures provided by VMware promptly after VMware’s provisioning thereof.

(e) Licensee is solely responsible for protecting and backing up the data and information stored on the computers on which the Software is used and should confirm that such data and information is protected and backed up in accordance with any internal or regulatory requirements as applicable, before contacting VMware for Support Services. VMware is not responsible for lost data or information in the event of errors or other malfunction of the Software or computers on which the Software is used.

(f) Licensee will have dedicated resources available to work on a 24x7 basis on Severity One Errors.

3. Support Service Offerings and Fees

3.1 Support Service Fee Terms. Fees for Support Services are specified in the applicable Quote or Order, and are non-refundable.

3.2 Advanced Support Service Offerings. Certain Support Services, including the VMware Tanzu Technical Adoption Management offering available at <https://tanzu.vmware.com/tam>, require that Licensee also purchases the Premium Support Service for that offering.

3.3 Open Source Licenses. Support Services for components of Software that are subject to open source licenses may be subject to additional policies set forth in the VMware Open Source Software Support terms available at <https://tanzu.vmware.com/support/oss>.

4. Data Collection and Usage. VMware may collect, use, store and transmit technical and related information regarding Licensee's use of the Software, solely to facilitate VMware's provisioning of Support Services to Licensee. Any correspondence and log files generated in conjunction with a request for Support Services should not contain any sensitive, confidential or personal information.

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