



Managed SaaS License Agreement

DATE

[Date]

PARTIES

1. UberEther Inc., a company incorporated in the Commonwealth of Virginia having its registered office at 23465 Rock Haven Way, Ste 150, Sterling, VA 20166 (the "**Provider**"); and
2. The Ordering Activity under GSA Schedule contracts identified in the Order (the "**Customer**").

BACKGROUND

1. Provider is engaging with Customer as a purchaser of the IAM Automated and IAM Orchestrated Hosted Services.
2. *[Explain background from the Customer's perspective.]*
3. The Provider and the Customer therefore wish to enter into a contract in accordance with the provisions of this Agreement.

AGREEMENT

1. Definitions

- 1.1 In this Agreement, except to the extent expressly provided otherwise:

"Acceptance Criteria" means:

- (a) the Platform and Hosted Services conforming in all respects with the Hosted Services Specification; and
- (b) the Hosted Services being free from Hosted Services Defects;

"Acceptance Period" means a period of 10 Business Days following establishment of the network connectivity to the tenant's account, or such other period or periods as the parties may agree in writing;

"Acceptance Tests" means a set of tests designed to establish whether the Hosted Services meet the Acceptance Criteria;

"Access Credentials" means the usernames, passwords and other credentials enabling access to the Hosted Services, including both access credentials for the User Interface and access credentials for the API;

"Affiliate" means an entity that Controls, is Controlled by, or is under common Control with the relevant entity;

"Agreement" means this agreement including any Schedules, and any amendments to this Agreement from time to time;

"Anti-Corruption Laws" means all applicable anti-bribery and anti-corruption laws including the United States Foreign Corrupt Practices Acts;



"Anti-Slavery Laws" means all applicable anti-slavery and anti-human trafficking laws including the 13th Amendment of the U.S. Constitution and Civil Rights Act of 1968;

"Anti-Tax Evasion Laws" means all applicable anti-tax evasion laws including 26 U.S.C. § 7201 TAX EVASION;

"API" means the application programming interface for the Hosted Services defined by the Provider and made available by the Provider to the Customer;

"Business Day" means any weekday other than a bank or public holiday in the state of Virginia;

"Business Hours" means the hours of 09:00 to 17:00 EST on a Business Day;

"CCN" means a change control notice issued in accordance with Clause 17;

"CCN Consideration Period" means the period of 10 Business Days following the receipt by a party of the relevant CCN from the other party;

"Change" means any change to the scope of the Services OR any change to this Agreement

"Charges" means the amounts specified in Section 7 of Schedule 1 (Hosted Services particulars);

"Confidential Information" means the Provider Confidential Information and the Customer Confidential Information;

"Control" means the legal power to control (directly or indirectly) the management of an entity (and **"Controlled"** should be construed accordingly);

"Customer Confidential Information" means:

- (a) any information disclosed by or on behalf of the Customer to the Provider during the Term OR at any time before the termination of this Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure:
 - (i) was marked as "confidential"; or
 - (ii) should have been reasonably understood by the Provider to be confidential; and
- (b) the Customer Data;

"Customer Data" means all data, works and materials: uploaded to or stored on the Platform by the Customer; transmitted by the Platform at the instigation of the Customer; supplied by the Customer to the Provider for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Hosted Services by the Customer (but excluding analytics data relating to the use of the Platform and server log files);

"Customer Indemnity Event" has the meaning given to it in Clause 27.3;

"Customer Personal Data" means any Personal Data that is processed by the Provider on behalf of the Customer in relation to this Agreement;



"Customer Representatives" means the person or persons identified as such in Section 8 of Schedule 1 (Hosted Services particulars), and any additional or replacement persons that may be appointed by the Customer giving to the Provider written notice of the appointment;

"Customer Systems" means the hardware and software systems of the Customer that interact with, or may reasonably be expected to interact with, the Hosted Services;

"Customization" means a customization of the Hosted Services, whether made through the development, configuration or integration of software, or otherwise;

"Data Protection Laws" means the applicable laws relating to the processing of Personal Data;

"Documentation" means the documentation for the Hosted Services produced by the Provider and delivered or made available by the Provider to the Customer;

"Effective Date" means [the date of execution of this Agreement];

"Expenses" means the travel, accommodation and subsistence expenses that are reasonably necessary for, and incurred by the Provider exclusively in connection with, the performance of the Provider's obligations under this Agreement;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, epidemics, pandemics, explosions, fires, floods, riots, terrorist attacks and wars);

"Hosted Services" means *UberEther IAM Advantage Platform*, as specified in the Hosted Services Specification, which will be made available by the Provider to the Customer as a service via the internet in accordance with this Agreement;

"Hosted Services Defect" means a defect, error or bug in the Platform having a material adverse effect on the appearance, operation, functionality or performance of the Hosted Services, but excluding any defect, error or bug caused by or arising as a result of:

- (a) any act or omission of the Customer or any person authorized by the Customer to use the Platform or Hosted Services;
- (b) any use of the Platform or Hosted Services contrary to the Documentation, whether by the Customer or by any person authorized by the Customer;
- (c) a failure of the Customer to perform or observe any of its obligations in this Agreement; and/or
- (d) an incompatibility between the Platform or Hosted Services and any other system, network, application, program, hardware or software not specified as compatible in the Hosted Services Specification;



"Hosted Services Specification" means the specification for the Platform and Hosted Services set out in Section 2 of Schedule 1 (Hosted Services particulars) and in the Documentation;

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"Maintenance Services" means the general maintenance of the Platform and Hosted Services, and the application of Updates and Upgrades;

"Minimum Term" means, in respect of this Agreement, the period of 12 months beginning on the Effective Date;

"Mobile App" means the mobile application known as *mobile application name* that may be made available by the Provider through the *Google Play Store* and the *Apple App Store*;

"Personal Data" means personal data under any of the Data Protection Laws;

"Platform" means the platform managed by the Provider and used by the Provider to provide the Hosted Services, including the application and database software for the Hosted Services, the system and server software used to provide the Hosted Services, and the computer hardware on which that application, database, system and server software is installed;

"Provider Confidential Information" means:

- (a) any information disclosed by or on behalf of the Provider to the Customer during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked or described as "confidential" or should have been understood by the Customer (acting reasonably) to be confidential;

"Provider Indemnity Event" has the meaning given to it in Clause 27.1;

"Provider Representatives" means the person or persons identified as such in Section 5 of Schedule 1 (Hosted Services particulars), and any additional or replacement persons that may be appointed by the Provider giving to the Customer written notice of the appointment;

"Remedy Period" means a period of 90 Business Days following the Customer giving to the Provider a notice that the Hosted Services have failed the Acceptance Tests, or such other period as the parties may agree in writing;

"Schedule" means any schedule attached to the main body of this Agreement;

"Services" means any services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under this Agreement;



"Set Up Services" means the configuration, implementation and integration of the Hosted Services in accordance with Section 1 of Schedule 1 (Hosted Services particulars);

"Support Services" means support in relation to the use of, and the identification and resolution of errors in, the Hosted Services, but shall not include the provision of training services;

"Supported Web Browser" means the current release from time to time of Microsoft Edge, Mozilla Firefox, Google Chrome or Apple Safari, or any other web browser that the Provider agrees in writing shall be supported;

"Tenant" means the single-tenant environment (with a unique dedicated and isolated environment for each tenant purchased by Customer) and deployed in AWS unless specifically agreed otherwise within Schedule 1;

"Term" means the term of this Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

"Third Party Services" means any hosted, cloud or software-based services provided by any third party that are or may be integrated with the Hosted Services by the Provider from time to time in circumstances where the Customer must, in order to activate the integration, have an account with the relevant services provider or obtain activation or access credentials from the relevant services provider;

"Update" means a hotfix, patch or minor version update to any Platform software;

"Upgrade" means a major version upgrade of any Platform software; and

"User Interface" means the interface for the Hosted Services designed to allow individual human users to access and use the Hosted Services.

2. Term

- 2.1 This Agreement shall come into force upon the Effective Date.
- 2.2 This Agreement shall continue in force indefinitely, subject to termination in accordance with Clause 30 or any other provision of this Agreement.

3. Set Up Services

- 3.1 The Provider shall provide the Set Up Services to the Customer.
- 3.2 The Provider shall use all reasonable endeavors to ensure that the Set Up Services are provided in accordance with the timetable set out in Section 1 of Schedule 6 (Hosted Services particulars).
- 3.3 The Customer acknowledges that a delay in the Customer performing its obligations in this Agreement may result in a delay in the performance of the Set Up Services; and subject to Clause 28.1 the Provider will not be liable to the Customer in respect of any failure to meet the Set Up Services timetable to the extent that that failure arises out of a delay in the Customer performing its obligations under this Agreement.
- 3.4 Subject to any written agreement of the parties to the contrary, any Intellectual Property Rights that may arise out of the performance of the Set Up Services by the Provider shall be the exclusive property of the Provider.



4. Acceptance procedure

- 4.1 During each Acceptance Period, the Customer shall carry out the Acceptance Tests.
- 4.2 The Provider shall provide to the Customer at the Customer's cost and expense all such assistance and co-operation in relation to the carrying out of the Acceptance Tests as the Customer may reasonably request.
- 4.3 Before the end of each Acceptance Period, the Customer shall give to the Provider a written notice specifying whether the Hosted Services have passed or failed the Acceptance Tests.
- 4.4 If the Customer fails to give to the Provider a written notice in accordance with Clause 4.3, then the Hosted Services shall be deemed to have passed the Acceptance Tests.
- 4.5 If the Customer notifies the Provider that the Hosted Services have failed the Acceptance Tests, then the Customer must provide to the Provider, at the same time as the giving of the notice, written details of the results of the Acceptance Tests including full details of the identified failure.
- 4.6 If the Customer notifies the Provider that the Hosted Services have failed the Acceptance Tests:
 - (a) if the Provider agrees with the Customer that the Hosted Services have not passed the Acceptance Tests, then the Provider must correct the issue and make available the corrected Hosted Services to the Customer before the end of the Remedy Period for a further round of Acceptance Tests; or
 - (b) otherwise, then the parties must meet as soon as practicable and in any case before the expiry of the Remedy Period and use their best endeavors to agree whether the Hosted have not passed the Acceptance Tests, and if appropriate a plan of action reasonably satisfactory to both parties, and they must record any agreement reached in writing.
- 4.7 Notwithstanding the other provisions of this Clause 4, but subject to any written agreement of the parties to the contrary, the maximum number of rounds of Acceptance Tests under this Clause 4 shall be 3, and if the Acceptance Criteria have not been met by the end of the final round of Acceptance Tests, the Provider shall be deemed to be in material breach of this Agreement.
- 4.8 If the Customer notifies the Provider that the Hosted Services have passed, or are deemed to have passed, the Acceptance Tests under this Clause 4, then subject to Clause 28.1 the Customer will have no right to make any claim under or otherwise rely upon any warranty given by the Provider to the Customer in this Agreement in relation to the specification and performance of the Hosted Services, unless the Customer could not reasonably have been expected to have identified the breach of that warranty during the testing process.

5. Hosted Services

- 5.1 The Provider shall ensure that the Platform will provide, to the Customer upon the completion of the Set Up Services the Access Credentials necessary to enable the Customer to access and use the Hosted Services.



- 5.2 The Provider hereby grants to the Customer a worldwide, non-exclusive license to use the Hosted Services for the internal business purposes of the Customer in accordance with the Documentation during the Term.
- 5.3 The license granted by the Provider to the Customer under Clause 5.2 is subject to the following limitations:
 - (a) the User Interface may only be used through a Supported Web Browser or the Mobile App;
 - (b) the User Interface may only be used by the officers, employees, agents, customers, citizens, and subcontractors of either the Customer or an Affiliate of the Customer;
 - (c) the User Interface must not be used at any point in time by more than the number of users specified in Schedule 1 (Hosted Services particulars), providing that the Customer may add or remove concurrent user licenses in accordance with the license change procedure defined by the Hosted Services; and
 - (d) the API may only be used by an application or applications approved by the Provider in writing and controlled by the Customer.
- 5.4 Except to the extent expressly permitted in this Agreement or required by law on a non-excludable basis, the license granted by the Provider to the Customer under Clause 5.2 is subject to the following prohibitions:
 - (a) the Customer must not sub-license its right to access and use the Hosted Services;
 - (b) the Customer must not permit any unauthorized person or application to access or use the Hosted Services;
 - (c) the Customer must not use the Hosted Services to provide services to third parties;
 - (d) the Customer must not republish or redistribute any content or material from the Hosted Services;
 - (e) the Customer must not make any alteration to the Platform, except as permitted by the Documentation; and
 - (f) the Customer must not conduct or request that any other person conduct any load testing or penetration testing on the Platform or Hosted Services without the prior written consent of the Provider.
- 5.5 The Customer shall implement and maintain reasonable security measures relating to the Access Credentials to ensure that no unauthorized person or application may gain access to the Hosted Services by means of the Access Credentials.
- 5.6 The parties acknowledge and agree that Schedule 3 (Availability SLA) shall govern the availability of the Hosted Services.
- 5.7 The Customer must comply with Schedule 2 (Acceptable Use Policy), and must ensure that all persons using the Hosted Services with the authority of the Customer or by means of the Access Credentials comply with Schedule 2 (Acceptable Use Policy).



- 5.8 The Customer must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.
- 5.9 The Customer must not use the Hosted Services in any way that uses excessive Platform resources and as a result is liable to cause a material degradation in the services provided by the Provider to its other customers using the Platform; and the Customer acknowledges that the Provider may use reasonable technical measures to limit the use of Platform resources by the Customer for the purpose of assuring services to its customers generally.
- 5.10 The Customer must not use the Hosted Services:
 - (a) in any way that is unlawful, illegal, fraudulent or harmful; or
 - (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

- 5.11 For the avoidance of doubt, the Customer has no right to access the software code (including object code, intermediate code and source code) of the Platform, either during or after the Term.

6. Customizations

- 6.1 The Provider and the Customer may agree that the Provider shall design, develop and implement a Customization or Customizations in accordance with a specification and project plan agreed in writing by the parties.
- 6.2 All Intellectual Property Rights in the Customizations shall, as between the parties, be the exclusive property of the Provider (unless the parties agree otherwise in writing).
- 6.3 From the time and date when a Customization is first delivered or made available by the Provider to the Customer, the Customization shall form part of the Platform, and accordingly from that time and date the Customer's rights to use the Customization shall be governed by Clause 5.
- 6.4 The Customer acknowledges that the Provider may make any Customization available to any of its other customers or any other third party at any time after the end of the period of 90 days following the making available of the Customization to the Customer.

7. Scheduled maintenance

- 7.1 The Provider may from time to time suspend the Hosted Services for the purposes of scheduled maintenance to the Platform, providing that such scheduled maintenance must be carried out in accordance with this Clause 7.
- 7.2 The Provider shall where practicable give to the Customer at least 3 Business Days' prior written notice of scheduled maintenance that will, or is likely to, affect the availability of the Hosted Services.
- 7.3 The Provider shall ensure that all scheduled maintenance is carried out outside Business Hours.
- 7.4 The Provider shall ensure that, during each calendar month, the aggregate period during which the Hosted Services are unavailable as a result of scheduled maintenance, or negatively affected by scheduled maintenance to a material degree, does not exceed 8 hours.



8. Support Services

- 8.1 The Provider shall provide the Support Services to the Customer during the Term.
- 8.2 The Provider shall provide the Support Services with reasonable skill and care.
- 8.3 The Provider shall provide the Support Services in accordance with Schedule 5 (Support SLA).
- 8.4 Reserved.

9. Customer obligations

- 9.1 Save to the extent that the parties have agreed otherwise in writing, the Customer must provide to the Provider, or procure for the Provider, such:
 - (a) co-operation, support and advice;
 - (b) information and documentation; and
 - (c) governmental, legal and regulatory licenses, consents and permits, as are reasonably necessary to enable the Provider to perform its obligations under this Agreement.
- 9.2 The Customer must provide to the Provider, or procure for the Provider, such access to the Customer's computer hardware, software, networks, and systems as may be reasonably required by the Provider to enable the Provider to perform its obligations under this Agreement.

10. Customer Systems

- 10.1 The Customer shall ensure that the Customer Systems comply, and continue to comply during the Term, with the requirements of Section 3 of Schedule 1 (Hosted Services particulars) in all material respects, subject to any changes agreed in writing by the Provider.

11. Customer Data

- 11.1 The Customer hereby grants to the Provider a non-exclusive license to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under this Agreement. The Customer also grants to the Provider the right to sub-license these rights to its hosting, connectivity and telecommunications service providers, subject to any express restrictions elsewhere in this Agreement.
- 11.2 The Customer warrants to the Provider that the Customer Data when used by the Provider in accordance with this Agreement will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.
- 11.3 The Provider shall create a back-up copy of the Customer Data at least daily, shall ensure that each such copy is sufficient to enable the Provider to restore the Hosted Services to the state they were in at the time the back-up was taken, and shall retain and securely store each such copy for a minimum period of 30 days.



11.4 Within the period of 3 Business Days following receipt of a written request from the Customer, the Provider shall use all reasonable endeavors to restore to the Platform the Customer Data stored in any back-up copy created and stored by the Provider in accordance with Clause 11.3. The Customer acknowledges that this process will overwrite the Customer Data stored on the Platform prior to the restoration.

12. Integrations with Third Party Services

12.1 The Hosted Services are integrated with certain Third-Party Services; and the Provider may integrate the Hosted Services with additional Third-Party Services at any time.

12.2 Notwithstanding the presence of any Third-Party Services integration, particular Third Party Services shall only be activated with respect to the Hosted Services account of the Customer by:

- (a) the Customer; or
- (b) the Provider with the prior written agreement of the Customer.

12.3 The Provider shall use reasonable endeavors to maintain any integration with Third Party Services that has been activated with respect to the Hosted Services account of the Customer. Subject to this, the Provider may remove, suspend, deactivate, or limit any Third-Party Services integration at any time in its sole discretion.

12.4 The supply of Third-Party Services shall be under a separate contract or arrangement between the Customer and the relevant third party. The Provider does not contract to supply the Third-Party Services and is not a party to any contract for, or otherwise responsible in respect of, the provision of any Third-Party Services. Fees may be payable by the Customer to the relevant third party in respect of the use of Third-Party Services.

12.5 The Customer acknowledges and agrees that:

- (a) the activation of Third-Party Services with respect to the Hosted Services account of the Customer may result in the transfer of Customer Data and/or Customer Personal Data from the Hosted Services to the relevant Third-Party Services and vice versa;
- (b) the Provider has no control over, or responsibility for, any disclosure, modification, deletion or other use of Customer Data and/or Customer Personal Data by any provider of Third-Party Services;
- (c) the Customer must ensure that it has in place the necessary contractual safeguards to ensure that the transfer of Customer Personal Data to, and use of Customer Personal Data by, a provider of Third-Party Services is lawful; and
- (d) the Customer shall ensure that the transfer of Customer Data to a provider of Third-Party Services does not infringe any person's Intellectual Property Rights or other legal rights and will not put the Provider in breach of any applicable laws.

12.6 Additional Charges may be payable by the Customer to the Provider in respect of the activation and/or use of a Third Party Services integration, as set out in Schedule 1 (Hosted Services particulars).

12.7 Subject to Clause 28.1:



- (a) the Provider gives no guarantees, warranties or representations in respect of any Third-Party Services; and
- (b) the Provider shall not be liable to the Customer in respect of any loss or damage that may be caused by Third Party Services or any provider of Third-Party Services.

13. Mobile App

13.1 The parties acknowledge and agree that the use of the Mobile App, the parties' respective rights and obligations in relation to the Mobile App and any liabilities of either party arising out of the use of the Mobile App shall be subject to separate terms and conditions, and accordingly this Agreement shall not govern any such use, rights, obligations, or liabilities.

14. No assignment of Intellectual Property Rights

14.1 Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from the Provider to the Customer, or from the Customer to the Provider.

15. Representatives

15.1 The Provider shall ensure that all instructions given by the Provider in relation to the matters contemplated in this Agreement will be given by a Provider Representative to a Customer Representative, and the Customer:

- (a) may treat all such instructions as the fully authorized instructions of the Provider; and
- (b) must not comply with any other instructions in relation to that subject matter.

15.2 The Customer shall ensure that all instructions given by the Customer in relation to the matters contemplated in this Agreement will be given by a Customer Representative to a Provider Representative, and the Provider:

- (a) may treat all such instructions as the fully authorized instructions of the Customer; and
- (b) must not comply with any other instructions in relation to that subject matter.

16. Management

16.1 The parties shall hold management meetings at each party's offices, by telephone conference or using internet-based conferencing facilities:

- (a) once per calendar month during the Term; and
- (b) at the reasonable request of either party.

16.2 A party requesting a management meeting shall give to the other party at least 10 Business Days' written notice of the meeting.

16.3 Wherever necessary to enable the efficient conduct of business, the Provider shall be represented at management meetings by at least 1 Provider Representative and the Customer shall be represented at management meetings by at least 1 Customer Representative.



17. Change control

- 17.1 The provisions of this Clause 17 apply to each Change requested by a party.
- 17.2 Either party may request a Change at any time.
- 17.3 A party requesting a Change shall provide to the other party a completed CCN in the form specified in Schedule 6 (Form of CCN).
- 17.4 A party in receipt of a CCN may:
 - (a) accept the CCN, in which case that party must countersign the CCN and return it to the other party before the end of the CCN Consideration Period;
 - (b) reject the CCN, in which case that party must inform the other party of this rejection before the end of the CCN Consideration Period; or
 - (c) issue an amended CCN to the other party before the end of the CCN Consideration Period, in which case this Clause 17 will reapply with respect to the amended CCN.
- 17.5 A proposed Change will not take effect until such time as a CCN recording the Change has been signed by or on behalf of each party.

18. Charges

- 18.1 The Customer shall pay the Charges to the Provider in accordance with this Agreement.
- 18.2 If the Charges are based in whole or part upon the time spent by the Provider performing the Services, the Provider must obtain the Customer's written consent before performing Services that result in any estimate of time-based Charges given to the Customer being exceeded or any budget for time-based Charges agreed by the parties being exceeded; and unless the Customer agrees otherwise in writing, the Customer shall not be liable to pay to the Provider any Charges in respect of Services performed in breach of this Clause 18.2.
- 18.3 Provider shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with 552.212-4(k).
- 18.4 Reserved.

19. Expenses

- 19.1 The Customer shall reimburse the Provider in respect of any Expenses in accordance with FAR 31.205-46 and the Federal Travel Regulation (FTR), providing that the Provider must obtain the prior written authorization of the Customer before incurring any Expenses.
- 19.2 The Provider must collect and collate evidence of all Expenses and must retain such evidence during the Term and for a period of 90 days following the end of the Term.
- 19.3 Within 10 Business Days following receipt of a written request from the Customer to do so, the Provider must supply to the Customer such copies of



the evidence for the Expenses in the possession or control of the Provider as the Customer may specify in that written request.

20. Timesheets

20.1 The Provider must:

- (a) ensure that the personnel providing Services, the Charges for which will be based in whole or part upon the time spent in the performance of those Services, complete reasonably detailed records of their time spent providing those Services; and
- (b) retain such records during the Term, and for a period of at least 12 months following the end of the Term.

20.2 Within 20 Business Days following receipt of a written request, the Provider shall supply to the Customer copies of such of the timesheets referred to in Clause 20.1 and in the Provider's possession or control as the Customer may specify in that written request.

21. Payments

21.1 The Provider shall issue invoices for the Charges to the Customer on or after the invoicing dates set out in Section 4 of Schedule 1 (Hosted Services particulars).

21.2 The Customer must pay the Charges to the Provider within the period of 30 days following the issue of an invoice in accordance with this Clause 21.

21.3 The Customer must pay the Charges by debit card, credit card, direct debit, bank transfer or cheque (using such payment details as are notified by the Provider to the Customer from time to time).

21.4 If the Customer does not pay any amount properly due to the Provider under this Agreement, the Provider may:

- (a) charge the Customer interest on the overdue amount at Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations at 5 CFR 1315; or
- (b) Reserved.

22. Confidentiality obligations

22.1 The Provider must:

- (a) keep the Customer Confidential Information strictly confidential;
- (b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions of confidentiality approved in writing by the Customer;
- (c) use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Provider uses to protect the Provider's own confidential information of a similar nature, being at least a reasonable degree of care;
- (d) act in good faith at all times in relation to the Customer Confidential Information.



22.2 The Customer must:

- (a) keep the Provider Confidential Information strictly confidential;
- (b) not disclose the Provider Confidential Information to any person without the Provider's prior written consent, and then only under conditions of confidentiality approved in writing by the Provider;
- (c) use the same degree of care to protect the confidentiality of the Provider Confidential Information as the Customer uses to protect the Customer's own confidential information of a similar nature, being at least a reasonable degree of care;
- (d) act in good faith at all times in relation to the Provider Confidential Information.

22.3 Notwithstanding Clauses 22.1 and 22.2, a party's Confidential Information may be disclosed by the other party to that other party's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Confidential Information that is disclosed for the performance of their work with respect to this Agreement and who are bound by a written agreement or professional obligation to protect the confidentiality of the Confidential Information that is disclosed.

22.4 No obligations are imposed by this Clause 22 with respect to a party's Confidential Information if that Confidential Information:

- (a) is known to the other party before disclosure under this Agreement and is not subject to any other obligation of confidentiality;
- (b) is or becomes publicly known through no act or default of the other party; or
- (c) [is obtained by the other party from a third party in circumstances where the other party has no reason to believe that there has been a breach of an obligation of confidentiality].

22.5 The restrictions in this Clause 22 do not apply to the extent that any Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of either party on any recognized stock exchange. Provider recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

22.6 Upon the termination of this Agreement, each party must immediately cease to use the other party's Confidential Information.

22.7 Following the date of effective termination of this Agreement, and within 15 Business Days following the date of receipt of a written request from the other party following the date of effective termination of this Agreement, the relevant party must:

- (a) irreversibly delete from its media and computer systems all copies of the other party's Confidential Information (and ensure that the other party's Confidential Information is irreversibly deleted from the media and computer systems of all persons to whom the relevant party has directly or indirectly disclosed that Confidential Information);



- (b) ensure that no other copies of the other party's Confidential Information remain in the relevant party's possession or control (or the possession of control of any person to whom the relevant party has directly or indirectly disclosed the other party's Confidential Information);
- (c) certify in writing to the other party that it has complied with the requirements of this Clause 22.7,

subject in each case to any obligations that the relevant party has under this Agreement to supply or make available to the other party any data or information, and providing that the relevant party shall have no obligation under this Clause 22.7 to delete or to cease to possess or control any of the other party's Confidential Information to the extent that the relevant party is required by applicable law to retain that Confidential Information.

22.8 The provisions of this Clause 22 shall continue in force for a period of 7 years following the termination of this Agreement, at the end of which period they will cease to have effect.

23. Publicity

- 23.1 Neither party may make any public disclosures relating to this Agreement or the subject matter of this Agreement (including disclosures in press releases, public announcements and marketing materials) without the prior written consent of the other party.
- 23.2 Nothing in this Clause 23 shall be construed as limiting the obligations of the parties under Clause 22.

24. Data protection

- 24.1 Each party shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.
- 24.2 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with this Agreement.
- 24.3 The Customer shall only supply to the Provider, and the Provider shall only process, in each case under or in relation to this Agreement:
 - (a) the Personal Data of data subjects falling within the categories specified in Section 1 of Schedule 7 (Data processing information); and
 - (b) Personal Data of the types specified in Section 2 of Schedule 7 (Data processing information).
- 24.4 The Provider shall only process the Customer Personal Data for the purposes specified in Section 3 of Schedule 7 (Data processing information).
- 24.5 The Provider shall only process the Customer Personal Data during the Term and for not more than 30 days following the end of the Term, subject to the other provisions of this Clause 24.
- 24.6 The Provider shall only process the Customer Personal Data on the documented instructions of the Customer (including with regard to transfers of the Customer Personal Data to a third country under the Data Protection Laws).



24.7 The Customer hereby authorizes the Provider to make the following transfers of Customer Personal Data:

- (a) the Provider may transfer the Customer Personal Data internally to its own employees, offices and facilities within the United States, providing that such transfers must be protected by appropriate safeguards, namely those outlined within the System Security Plan (SSP);
- (b) the Provider may transfer the Customer Personal Data] to its third-party processors in the jurisdictions identified in Section 5 of Schedule 7 (Data processing information) and may permit its third party processors to make such transfers, providing that such transfers must be protected by any appropriate safeguards identified therein; and
- (c) the Provider may transfer the Customer Personal Data to a country, a territory or sector to the extent that the competent data protection authorities have decided that the country, territory, or sector ensures an adequate level of protection for Personal Data.

24.8 The Provider shall promptly inform the Customer if, in the opinion of the Provider, an instruction of the Customer relating to the processing of the Customer Personal Data infringes the Data Protection Laws.

24.9 Notwithstanding any other provision of this Agreement, the Provider may process the Customer Personal Data if and to the extent that the Provider is required to do so by applicable law. In such a case, the Provider shall inform the Customer of the legal requirement before processing, unless that law prohibits such information on important grounds of public interest.

24.10 The Provider shall ensure that persons authorized to process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

24.11 The Provider and the Customer shall each implement appropriate technical and organizational measures to ensure an appropriate level of security for the Customer Personal Data, including those measures specified in Section 4 of Schedule 7 (Data processing information).

24.12 The Provider must not engage any third party to process the Customer Personal Data without the prior specific or general written authorization of the Customer. In the case of a general written authorization, the Provider shall inform the Customer at least 30 days in advance of any intended changes concerning the addition or replacement of any third-party processor, and if the Customer objects to any such changes before their implementation, then the Provider must not implement the changes. The Provider shall ensure that each third-party processor is subject to the same legal obligations as those imposed on the Provider by this Clause 24.

24.13 As at the Effective Date, the Provider is hereby authorized by the Customer to engage, as sub-processors with respect to Customer Personal Data, the third parties, and third parties within the categories, identified in Section 5 of Schedule 7 (Data processing information).

24.14 The Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organizational measures to assist the Customer with the fulfilment of the Customer's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.



24.15 The Provider shall assist the Customer in ensuring compliance with the obligations relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws. The Provider may charge the Customer for any work performed by the Provider at the request of the Customer pursuant to this Clause 24.15.

24.16 The Provider must notify the Customer of any Personal Data breach affecting the Customer Personal Data without undue delay and, in any case, not later than 72 hours after the Provider becomes aware of the breach.

24.17 The Provider shall make available to the Customer all information necessary to demonstrate the compliance of the Provider with its obligations under this Clause 24 and the Data Protection Laws. The Provider may charge the Customer for any work performed by the Provider at the request of the Customer pursuant to this Clause 24.17, providing that no such charges shall be levied with respect to the completion by the Provider (at the reasonable request of the Customer, not more than once per calendar year) of the standard information security questionnaire of the Customer.

24.18 The Provider shall, at the choice of the Customer, delete or return all of the Customer Personal Data to the Customer after the provision of services relating to the processing, and shall delete existing copies save to the extent that law requires storage of the relevant Personal Data.

24.19 The Provider shall allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer. The Provider may charge the Customer for any work performed by the Provider at the request of the Customer pursuant to this Clause 24.19, providing that no such charges shall be levied where the request to perform the work arises out of any breach by the Provider of this Agreement or any security breach affecting the systems of the Provider.

24.20 If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Data carried out under this Agreement, then the parties shall use their best endeavors promptly to agree such variations to this Agreement as may be necessary to remedy such non-compliance.

25. Warranties

25.1 The Provider warrants to the Customer that:

- (a) the Provider has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement;
- (b) the Provider will comply with all applicable legal and regulatory requirements applying to the exercise of the Provider's rights and the fulfilment of the Provider's obligations under this Agreement; and
- (c) the Provider has or has access to all necessary know-how, expertise and experience to perform its obligations under this Agreement.

25.2 The Provider warrants to the Customer that:



- (a) the Platform and Hosted Services will conform in all material respects with the Hosted Services Specification;
- (b) the Hosted Services will be free from Hosted Services Defects;
- (c) the Platform will be free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs.

25.3 The Provider warrants to the Customer that the Hosted Services, when used by the Customer in accordance with this Agreement, will not breach any laws, statutes or regulations applicable under United States law.

25.4 The Provider warrants to the Customer that the Hosted Services, when used by the Customer in accordance with this Agreement, will not infringe the Intellectual Property Rights of any person in any jurisdiction and under any applicable law.

25.5 If the Provider reasonably determines, or any third party alleges, that the use of the Hosted Services by the Customer in accordance with this Agreement infringes any person's Intellectual Property Rights, the Provider may at its own cost and expense:

- (a) modify the Hosted Services in such a way that they no longer infringe the relevant Intellectual Property Rights; or
- (b) procure for the Customer the right to use the Hosted Services in accordance with this Agreement.

25.6 The Customer warrants to the Provider that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

25.7 All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

26. Acknowledgements and warranty limitations

26.1 The Customer acknowledges that complex software is never wholly free from defects, errors, and bugs; and subject to the other provisions of this Agreement, the Provider gives no warranty or representation that the Hosted Services will be wholly free from defects, errors and bugs.

26.2 The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, the Provider gives no warranty or representation that the Hosted Services will be entirely secure.

26.3 The Customer acknowledges that the Hosted Services are designed to be compatible only with that software and those systems specified as compatible in the Hosted Services Specification; and the Provider does not warrant or represent that the Hosted Services will be compatible with any other software or systems.

26.4 The Customer acknowledges that the Provider will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Hosted Services; and, except to the extent expressly provided otherwise in this Agreement, the Provider does not warrant or represent that



the Hosted Services or the use of the Hosted Services by the Customer will not give rise to any legal liability on the part of the Customer or any other person.

27. Indemnities

27.1 The Provider shall indemnify and shall keep indemnified the Customer against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Customer and arising directly or indirectly as a result of any breach by the Provider of this Agreement.

27.2 The Customer must:

- (a) upon becoming aware of an actual or potential Provider Indemnity Event, notify the Provider;
- (b) provide to the Provider all such assistance as may be reasonably requested by the Provider in relation to the Provider Indemnity Event;
- (c) allow the Provider the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Provider Indemnity Event; and
- (d) not admit liability to any third party in connection with the Provider Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Provider Indemnity Event without the prior written consent of the Provider,

without prejudice to the Provider's obligations under Clause 27.1.

27.3 Reserved.

27.4 The Provider must:

- (a) upon becoming aware of an actual or potential Customer Indemnity Event, notify the Customer;
- (b) provide to the Customer all such assistance as may be reasonably requested by the Customer in relation to the Customer Indemnity Event;
- (c) allow the Customer the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Customer Indemnity Event; and
- (d) not admit liability to any third party in connection with the Customer Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Customer Indemnity Event without the prior written consent of the Customer,

without prejudice to the Customer's obligations under Clause 27.3.

27.5 The indemnity protection set out in this Clause 27 shall be subject to the limitations and exclusions of liability set out in this Agreement.

28. Limitations and exclusions of liability

28.1 Nothing in this Agreement will:



- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

28.2 The limitations and exclusions of liability set out in this Clause 28 and elsewhere in this Agreement:

- (a) are subject to Clause 28.1; and
- (b) govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

28.3 The Provider shall not be liable to the Customer in respect of any losses arising out of a Force Majeure Event.

28.4 The Provider shall not be liable to the Customer in respect of any loss of profits or anticipated savings.

28.5 The Provider shall not be liable to the Customer in respect of any loss of revenue or income.

28.6 The Provider shall not be liable to the Customer in respect of any loss of use or production.

28.7 The Provider shall not be liable to the Customer in respect of any loss of business, contracts or opportunities.

28.8 The Provider shall not be liable to the Customer in respect of any loss or corruption of any data, database or software; providing that this Clause 28.8 shall not protect the Provider unless the Provider has fully complied with its obligations under Clause 11.3 and Clause 11.4.

28.9 The Provider shall not be liable to the Customer in respect of any special, indirect or consequential loss or damage.

28.10 The aggregate liability of the Provider to the Customer under this Agreement in respect of any event or series of related events shall not exceed the greater of:

- (a) \$1,000,000; and
- (b) the total amount paid and payable by the Customer to the Provider under this Agreement in the 3 months period preceding the commencement of the event or events.

29. Force Majeure Event

29.1 In accordance with GSAR Clause 552.212-4(f), If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under this Agreement, that obligation will be suspended for the duration of the Force Majeure Event.



29.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under this Agreement, must:

- (a) promptly notify the other; and
- (b) inform the other of the period for which it is estimated that such failure or delay will continue.

29.3 A party whose performance of its obligations under this Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

30. Termination

30.1 When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Provider shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

30.2 Reserved.

30.3 Reserved.

30.4 Reserved.

30.5 The rights of termination set out in this Agreement shall not exclude any rights of termination available at law.

31. Effects of termination

31.1 Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely):[Clauses 1, 4.8, 5.11, 12.7, 13, 19.2, 19.3, 20, 21.2, 21.4, 22, 23, 24, 27, 28, 31, 32, 33.1, 33.2, 33.4, 33.8, 33.9, 34.1, 34.5, 35.1, 35.5, 38, 39, 40, 41, 42, 43, 44 and 45].

31.2 Except to the extent expressly provided otherwise in this Agreement, the termination of this Agreement shall not affect the accrued rights of either party.

31.3 Within 30 days following the termination of this Agreement for any reason:

- (a) the Customer must pay to the Provider any Charges in respect of Services provided to the Customer before the termination of this Agreement; and
- (b) the Provider must refund to the Customer any Charges paid by the Customer to the Provider in respect of Services that were to be provided to the Customer after the termination of this Agreement,

without prejudice to the parties' other legal rights.

32. Non-solicitation of personnel



32.1 The Customer must not, without the prior written consent of the Provider, either during the Term or within the period of 12 months following the end of the Term, engage, employ or solicit for engagement or employment any employee or subcontractor of the Provider who has been involved in any way in the negotiation or performance of this Agreement, provided that solicitations and subsequent hirings initiated through general newspaper or website advertisements and other general circulation materials not directly targeted at such individuals shall not be deemed solicitations in violation of this sentence.

33. Anti-corruption

33.1 Each party warrants and undertakes to the other that it has complied and will continue to comply with the Anti-Corruption Laws.

33.2 Save to the extent that applicable law requires otherwise, each party must promptly notify the other if it becomes aware of any events or circumstances relating to this Agreement that will or may constitute a breach of the Anti-Corruption Laws (irrespective of the identity of the person in breach).

33.3 The Provider shall use all reasonable endeavors to ensure that all persons that:

- (a) provide services to the Provider (including employees, agents and subsidiaries of the Provider); and
- (b) are involved in the performance of the obligations of the Provider under this Agreement,

will comply with the Anti-Corruption Laws; and the Provider shall maintain written contracts with all such persons, and shall ensure that each of those contracts includes express requirements on the provider of services to comply with the Anti-Corruption Laws, along with express obligations on the provider of services equivalent to the obligations set out in this Clause 33.

33.4 Each party shall create and maintain proper books and records of all payments and other material benefits given by one party to the other, and each party shall promptly following receipt of a written request from the other party supply copies of the relevant parts of those books and records to the other party.

33.5 The Provider must comply with the supply chain anti-corruption and anti-bribery policy of the Customer supplied or made available by the Customer to the Provider before the Effective Date, as it may be updated by the Customer acting reasonably from time to time.

33.6 The Provider warrants that it has in place its own policies and procedures designed to ensure the compliance of the Provider with the Anti-Corruption Laws; and the Provider undertakes to:

- (a) acting reasonably, maintain and enforce those policies and procedures during the Term;
- (b) promptly following receipt of a written request for the same from the Customer, provide copies of the documentation embodying those policies and procedures to the Customer.

33.7 Each party shall provide reasonable co-operation to the other party, at its own expense, in relation to any due diligence exercises, risk assessments,



monitoring programs and reviews conducted by the other party for the purpose of ensuring or promoting compliance with the Anti-Corruption Laws.

- 33.8 Nothing in this Agreement shall prevent either party from reporting a breach of the Anti-Corruption Laws to the relevant governmental authorities.
- 33.9 Any breach of this Clause 33 shall be deemed to constitute a material breach of this Agreement.

34. Anti-slavery

- 34.1 Each party warrants and undertakes to the other that it has complied and will continue to comply with the Anti-Slavery Laws.
- 34.2 The Provider shall ensure that all persons that provide services or supply products to the Provider, where such services or products are used in the performance of the obligations of the Provider under this Agreement, will comply with the Anti-Slavery Laws; and the Provider shall maintain written contracts with all such persons, and shall ensure that each of those contracts includes express requirements on the provider of services or supplier of goods to comply with the Anti-Slavery Laws.
- 34.3 The Provider must comply with the supply chain anti-slavery and anti-human trafficking policy of the Customer supplied or made available by the Customer to the Provider before the Effective Date, as it may be updated by the Customer acting reasonably from time to time.
- 34.4 The Provider warrants that it has in place its own policies and procedures designed to ensure the compliance of the Provider with the Anti-Slavery Laws; and the Provider undertakes to:
 - (a) acting reasonably, maintain and enforce those policies and procedures during the Term;
 - (b) promptly following receipt of a written request for the same from the Customer, provide copies of the documentation embodying those policies and procedures to the Customer.
- 34.5 Any breach of this Clause 34 shall be deemed to constitute a material breach of this Agreement.

35. Anti-tax evasion

- 35.1 Each party warrants and undertakes to the other that it has complied and will continue to comply with the Anti-Tax Evasion Laws.
- 35.2 The Provider shall ensure that all employees, agents and persons that provide services to the Provider, when acting in such capacity in connection with this Agreement, will comply with the Anti-Tax Evasion Laws.
- 35.3 The Provider must comply with the supply chain anti-tax evasion policy of the Customer supplied or made available by the Customer to the Provider before the Effective Date, as it may be updated by the Customer acting reasonably from time to time.
- 35.4 The Provider warrants that it has in place its own policies and procedures designed to ensure the compliance of the Provider with the Anti-Tax Evasion Laws; and the Provider undertakes to:



- (a) acting reasonably, maintain and enforce those policies and procedures during the Term;
- (b) promptly following receipt of a written request for the same from the Customer, provide copies of the documentation embodying those policies and procedures to the Customer.

35.5 Any breach of this Clause 35 shall be deemed to constitute a material breach of this Agreement.

36. Notices

- 36.1 Any notice given under this Agreement must be in writing, whether or not described as "written notice" in this Agreement.
- 36.2 Any notice given by one party to the other party under this Agreement must be:
 - (a) sent by recorded signed-for USPS or UPS post;
 - (b) sent by fax;
 - (c) sent by email; or
 - (d) submitted using recipient party's online contractual notification facility, using the relevant contact details set out in Section 6 of Schedule 1 (Hosted Services particulars).
- 36.3 The addressee and contact details set out in Section 6 of Schedule 1 (Hosted Services particulars) may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 36.
- 36.4 A party receiving from the other party a notice by email must acknowledge receipt by email promptly, and in any event within 2 Business Days following receipt of the notice.
- 36.5 A notice will be deemed to have been received at the relevant time set out below or, where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below:
 - (a) in the case of notices sent by USPS or UPS post, 48 hours after delivery;
 - (b) in the case of notices sent by fax, at the time of the transmission of the fax (providing the sending party retains written evidence of the transmission);
 - (c) in the case of notices sent by email, at the time of the sending of an acknowledgement of receipt by the receiving party; and
 - (d) in the case of notices submitted using an online contractual notification facility, upon the submission of the notice form.

37. Subcontracting

- 37.1 Subject to any express restrictions elsewhere in this Agreement, the Provider may subcontract any of its obligations under this Agreement.



- 37.2 The Provider shall remain responsible to the Customer for the performance of any subcontracted obligations.
- 37.3 Notwithstanding the provisions of this Clause 37 but subject to any other provision of this Agreement, the Customer acknowledges and agrees that the Provider may subcontract to any reputable third-party hosting business the hosting of the Platform and the provision of services in relation to the support and maintenance of elements of the Platform.

38. Assignment

- 38.1 The Customer hereby agrees that the Provider may assign, transfer or otherwise deal with the Provider's contractual rights[and obligations under this Agreement in accordance with the provisions set forth at FAR 42.1204.
- 38.2 Save to the extent expressly permitted by applicable law, the Customer must not assign, transfer or otherwise deal with the Customer's contractual rights and/or obligations under this Agreement without the prior written consent of the Provider, providing that the Customer may assign the entirety of its rights and obligations under this Agreement to any Affiliate of the Customer or to any successor to all or a substantial part of the business of the Customer from time to time.

39. No waivers

- 39.1 No breach of any provision of this Agreement will be waived except with the express written consent of the party not in breach.
- 39.2 No waiver of any breach of any provision of this Agreement shall be construed as a further or continuing waiver of any other breach of that provision or any breach of any other provision of this Agreement.

40. Severability

- 40.1 If a provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect.
- 40.2 If any unlawful and/or unenforceable provision of this Agreement would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.

41. Third party rights

- 41.1 This Agreement is for the benefit of the parties, and is not intended to benefit or be enforceable by any third party.
- 41.2 The exercise of the parties' rights under this Agreement is not subject to the consent of any third party.

42. Variation

- 42.1 This Agreement may not be varied except by means of a written document signed by or on behalf of each party, without prejudice to the requirements of Clause 17.

43. Entire agreement

- 43.1 The main body of this Agreement and the Schedules shall constitute the entire agreement between the parties in relation to the subject matter of this



Agreement, and shall supersede all previous agreements, arrangements, and understandings between the parties in respect of that subject matter.

- 43.2 Neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into this Agreement.
- 43.3 The provisions of this Clause 43 are subject to Clause 28.1.

44. Law and jurisdiction

- 44.1 This Agreement shall be governed by and construed in accordance with the Federal laws of the United States.
- 44.2 Reserved.

45. Interpretation

- 45.1 In this Agreement, a reference to a statute or statutory provision includes a reference to:
 - (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
 - (b) any subordinate legislation made under that statute or statutory provision.
- 45.2 The Clause headings do not affect the interpretation of this Agreement.
- 45.3 References in this Agreement to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.
- 45.4 In this Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

46. Miscellaneous

- 46.1 The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship 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. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a Party at law or in equity. Headings used in this Agreement are provided for convenience only and will not in any way affect the meaning or interpretation of each section. The U.N. Convention on the International Sale of Goods shall not apply to this Agreement.

EXECUTION

The parties have indicated their acceptance of this Agreement by executing it below. This Agreement may be executed in counterparts and/or electronically.

SIGNED BY *[[individual name]]* on *[.....]*, the Provider] OR *[[individual name]]* on *[.....]*, duly authorized for and on behalf of the Provider]:

.....



SIGNED BY [[individual name] on [.....], the Customer] OR [[individual name] on [.....], duly authorized for and on behalf of the Customer]:

.....



FORM OF SCHEDULE 1 INDIVIDUAL CUSTOMER TENANT PARTICULARS

1. Customer Information

Detail	
Customer Name	
Customer Contract Start Date	
Critical Timeline Notes	
Misc Notes for Provider	

2. Specification of Tenant Services

Tenant Authorization Level				
FedRAMP High	<input type="checkbox"/>	Not Applicable		<input type="checkbox"/>

Environments Requested	Quantity	Names (Please List)
Production:		
Non-Production		

Additional Requirements	Description
Service Capacity	
Number of Authentications Per Minute at Peak	
Known Peak Usage Times (By User Category)	



Additional Requirements	Description
Expected Number of External Identity Providers	
Expected Number of Service Providers / Relying Parties	
Any Known Non-Person Entity Requirements	
Any Known Non-Standard Integration Kits Expected	
Other	

3. Baseline Hosted Services Deviations

Reserved.

4. Network Connectivity Expectation

Network Connectivity Options (select all applicable)					
Site-To-Site VPN	<input type="checkbox"/>	Direct Connect	<input type="checkbox"/>	Transit Gateway	<input type="checkbox"/>
Private Link		<input type="checkbox"/>	Other		<input type="checkbox"/>

Additional Details:

5. Baseline Acceptance Tests

Tenant Account Criteria

- GovCloud Account Created
- Initial Tenant Roles Created
- KMS Keys Shared From Customer (Customer responsibility)
- Tenant Infrastructure Deployed
- Tenant Environments Deployed
- Tenant Applications Deployed

Network Attachment Criteria

- Transit Gateway routes configured
- Connection with client established
- Client Connection to Applications Validated

Shared Services Criteria

- Managed Services Security Groups Updated
- Customer Tenant Security Groups updated
- Federated Shared Services Configured with Tenant
- Gitlab Groups Created
- Terraform Deployment Configured
- Application Repositories Staged



Tenant Profiles Created
Parameter Store Values Set
Tenant Specific Runners Created

Security Configuration Criteria

Transit Gateway Routes Configured
Shared S3 Artifact Bucket Generated
Shared S3 Artifact Account Created By Customer (Customer responsibility)
Shared S3 Bucket Permissions Added

Support and Professional Services Criteria

Professional Services Team Members Added to Tenant Specific Roles
Access to Tenant Applications Validated
Access to GitLab Group and Sub-Projects Validated
Access to Tenant Specific Security Dashboard Validated
Ability to Push New Configurations Validated

Customer Specific Controls Requirements

Include if applicable

6. Implementation Services

In addition to the general Set Up Services that are the responsibility of Provider as provided for in the Agreement and its Schedules, in the event that Customer requires further Set Up Services beyond what is provided herein, Provider and Customer will enter into and attach to this Schedule 1 a Statement of Work ("SOW") (negotiated from Provider's template), and Customer shall pay Provider the implementation fee set forth below in accordance with the terms herein.

7. Financial Provisions

Core Payments	Quantity	Invoicing Date(s)
Initial Service Term	X year(s)	
Year 1 Service Fees	\$XX per year	
Year 2 Service Fees	\$XX per year	
Year 3 Service Fees	\$XX per year	

Additional Services	Quantity	Invoicing Date(s)
Additional Set Up Services		One-Time Fee
Travel Costs		Billed at Provider Cost, subject to the Agreement and SOW

Pricing Schedule (initial framework, and discounts for multi-year commitments to be negotiated)



Tenant Size (includes production and non-production)	Workforce/Customer Identities	Maximum Annual Variable Cost Per Tenant Fees

8. Representatives

The Provider Representatives are:

Provider Contacts (repeat sections if necessary)		
Customer Success Manager	Name:	
	Phone Number:	
	Email Address:	

Technical Lead Contact	Name:	
	Phone Number:	
	Email Address:	

The Customer Representatives are:

Customer Contacts (repeat sections if necessary)		
Business Contact	Name:	
	Phone Number:	
	Email Address:	

Security Contact	Name:	
	Phone Number:	
	Email Address:	

Program Manager	Name:	
	Phone Number:	
	Email Address:	

Technical Lead	Name:	
	Phone Number:	



	Email Address:	
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Identity & Access Contact	Name:	
	Phone Number:	
	Email Address:	

Directory Contact	Name:	
	Phone Number:	
	Email Address:	

Networking Contact	Name:	
	Phone Number:	
	Email Address:	

AWS KMS Engineer Contact	Name:	
	Phone Number:	
	Email Address:	

9. Contractual Notices

For Provider:

legal@uberether.com; contracts@uberether.com; and security@uberether.com

For Customer:

[email address]

10. Change Control Process

Should the scope of this document change, the changes will be addressed through a Change Request Form, a copy of which is attached as Schedule 6, provided by the party requesting the change to the other party. Provider will work with Customer to determine the impact to schedule or cost. A Change Request Form will become effective when signed by both parties. Until a Change Request Form is executed, Provider will continue performing Services in accordance with this document. Upon execution of a Change Request Form, resources will be allocated in accordance with the altered scope. A Change Request Form must be completed for every material scope change even if there is no impact on effort, resources, budget, or timeline.

11. Agreement to Individual Tenant Particulars

The parties have indicated their acceptance of this Schedule 1 by signing below.

Customer Approvals



Customer Personnel Name:	
Customer Signature:	
Signature Date:	

Provider Approvals

Provider Personnel Name:	
Provider Signature:	
Provider Signature Date:	



SCHEDULE 2 (ACCEPTABLE USE POLICY)

1. Introduction

- 1.1 This acceptable use policy (the "**Policy**") sets out the rules governing:
 - (a) the use of the IAM Advantage Platform, any successor platform, and the services available on that platform or any successor platform (the "**Services**"); and
 - (b) the transmission, storage and processing of content by you, or by any person on your behalf, using the Services ("**Content**").
- 1.2 References in this Policy to "you" are to any customer for the Services and any individual user of the Services (and "your" should be construed accordingly); and references in this Policy to "us" are to Uberether (and "we" and "our" should be construed accordingly).
- 1.3 By executing an agreement for and using the Services, you agree to the rules set out in this Policy.
- 1.4 We will ask for your express agreement to the terms of this Policy before you authenticate to, upload or submit any Content or otherwise use the Services.
- 1.5 You must be at least 13 years of age to use the Services; and by using the Services, you warrant and represent to us that you are at least 13 years of age.

2. General usage rules

- 2.1 You must not use the Services in any way that causes, or may cause, damage to the Services or impairment of the availability or accessibility of the Services.
- 2.2 You must not use the Services:
 - (a) in any way that is unlawful, illegal, fraudulent, deceptive or harmful; or
 - (b) in connection with any unlawful, illegal, fraudulent, deceptive or harmful purpose or activity.
- 2.3 You must ensure that all Content complies with the provisions of this Policy.

3. Unlawful Content

- 3.1 Content must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law).
- 3.2 Content, and the use of Content by us in any manner licensed or otherwise authorized by you, must not:
 - (a) be libellous or maliciously false;
 - (b) be obscene or indecent;
 - (c) infringe any copyright, moral right, database right, trademark right, design right, right in passing off, or other intellectual property right;
 - (d) infringe any right of confidence, right of privacy or right under data protection legislation;



- (e) constitute negligent advice or contain any negligent statement;
- (f) constitute an incitement to commit a crime, instructions for the commission of a crime or the promotion of criminal activity;
- (g) be in contempt of any court, or in breach of any court order;
- (h) constitute a breach of racial or religious hatred or discrimination legislation;
- (i) be blasphemous;
- (j) constitute a breach of official secrets legislation; or
- (k) constitute a breach of any contractual obligation owed to any person or organization.

3.3 You must ensure that Content is not and has never been the subject of any threatened or actual legal proceedings or other similar complaint.

4. Graphic material

- 4.1 Content must be appropriate for all persons who have access to or are likely to access the Content in question, and in particular for children over 12 years of age.
- 4.2 Content must not depict violence in an explicit, graphic or gratuitous manner.
- 4.3 Content must not be pornographic or sexually explicit.

5. Factual accuracy

- 5.1 Content must not be untrue, false, inaccurate or misleading.
- 5.2 Statements of fact contained in Content and relating to persons (legal or natural) must be true; and statements of opinion contained in Content and relating to persons (legal or natural) must be reasonable, be honestly held and indicate the basis of the opinion.

6. Negligent advice

- 6.1 Content must not consist of or contain any legal, financial, investment, taxation, accountancy, medical or other professional advice, and you must not use the Services to provide any legal, financial, investment, taxation, accountancy, medical or other professional advisory services.
- 6.2 Content must not consist of or contain any advice, instructions or other information that may be acted upon and could, if acted upon, cause death, illness or personal injury, damage to property, or any other loss or damage.

7. Etiquette

- 7.1 Content must be appropriate, civil and tasteful, and accord with generally accepted standards of etiquette and behavior on the internet.
- 7.2 Content must not be offensive, deceptive, threatening, abusive, harassing, menacing, hateful, discriminatory or inflammatory.
- 7.3 Content must not be liable to cause annoyance, inconvenience or needless anxiety.



- 7.4 You must not use the Services to send any hostile communication or any communication intended to insult, including such communications directed at a particular person or group of people.
- 7.5 You must not use the Services for the purpose of deliberately upsetting or offending others.
- 7.6 You must not unnecessarily flood the Services with material relating to a particular subject or subject area, whether alone or in conjunction with others.
- 7.7 You must ensure that Content does not duplicate other content available through the Services.
- 7.8 You must ensure that Content is appropriately categorized.
- 7.9 You should use appropriate and informative titles for all Content.
- 7.10 You must at all times be courteous and polite to other users of the Services.

8. Marketing and spam

- 8.1 You must not without our written permission use the Services for any purpose relating to the marketing, advertising, promotion, sale or supply of any product, service or commercial offering.
- 8.2 Content must not constitute or contain spam, and you must not use the Services to store or transmit spam - which for these purposes shall include all unlawful marketing communications and unsolicited commercial communications.
- 8.3 You must not send any spam or other marketing communications to any person using any email address or other contact details made available through the Services or that you find using the Services.
- 8.4 You must not use the Services to promote, host or operate any chain letters, Ponzi schemes, pyramid schemes, matrix programs, multi-level marketing schemes, "get rich quick" schemes or similar letters, schemes or programs.
- 8.5 You must not use the Services in any way which is liable to result in the blacklisting of any of our IP addresses.

9. Regulated businesses

- 9.1 You must not use the Services for any purpose relating to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.
- 9.2 You must not use the Services for any purpose relating to the offering for sale, sale or distribution of drugs or pharmaceutical.
- 9.3 You must not use the Services for any purpose relating to the offering for sale, sale or distribution of knives, guns or other weapons.

10. Monitoring

- 10.1 You acknowledge that we may actively monitor the Content and the use of the Services.

11. Data mining



11.1 You must not conduct any systematic or automated data scraping, data mining, data extraction or data harvesting, or other systematic or automated data collection activity, by means of or in relation to the Services.

12. Hyperlinks

12.1 You must not link to any material using or by means of the Services that would, if it were made available through the Services, breach the provisions of this Policy.

13. Harmful software

13.1 The Content must not contain or consist of, and you must not promote, distribute or execute by means of the Services, any viruses, worms, spyware, adware or other harmful or malicious software, programs, routines, applications or technologies.

13.2 The Content must not contain or consist of, and you must not promote, distribute or execute by means of the Services, any software, programs, routines, applications or technologies that will or may have a material negative effect upon the performance of a computer or introduce material security risks to a computer.



SCHEDULE 3 (AVAILABILITY SLA)

1. Introduction to availability SLA

- 1.1 This Schedule 3 sets out the Provider's availability commitments relating to the Hosted Services.
- 1.2 In this Schedule 3, "uptime" means the percentage of time during a given period when the Hosted Services are available at the gateway between public internet and the network of the hosting services provider for the Hosted Services.

2. Availability

- 2.1 The Provider shall use all reasonable endeavors to ensure that the uptime for the Hosted Services is at least [99.9% during each calendar month].
- 2.2 The Provider shall be responsible for measuring uptime, and shall do so using any reasonable methodology.
- 2.3 The Provider shall report uptime measurements to the Customer in writing, in respect of each calendar month, within 10 Business Days following the end of the relevant calendar month.

3. Service credits

- 3.1 In respect of each calendar month during which the Hosted Services uptime is less than the commitment specified in Section 2.1, the Customer shall earn service credits in accordance with the provisions of this Section 3.
- 3.2 The service credits earned by the Customer shall be as follows: *[specify conditions and corresponding amounts of service credits earned]*.
- 3.3 The Provider shall deduct an amount equal to the service credits due to the Customer under this Section 3 from amounts invoiced in respect of the Charges for the Hosted Services. All remaining service credits shall be deducted from each invoice issued following the reporting of the relevant failure to meet the uptime commitment, until such time as the service credits are exhausted.
- 3.4 Service credits shall be the sole remedy of the Customer in relation to any failure by the Provider to meet the uptime guarantee in Section 2.1, except where the failure amounts to a material breach of this Agreement.
- 3.5 Upon the termination of this Agreement, the Customer's entitlement to service credits shall immediately cease, save that service credits earned by the Customer shall be offset against any amounts invoiced by the Provider in respect of Hosted Services following such termination.

4. Exceptions

- 4.1 Downtime caused directly or indirectly by any of the following shall not be considered when calculating whether the Provider has met the uptime guarantee given in Section 2.1:
 - (a) a Force Majeure Event;
 - (b) a fault or failure of the internet or any public telecommunications network;



- (c) a fault or failure of the Provider's hosting infrastructure services provider, unless such fault or failure constitutes an actionable breach of the contract between the Provider and that company;
- (d) a fault or failure of the Customer's computer systems or networks;
- (e) any breach by the Customer of this Agreement; or
- (f) scheduled maintenance carried out in accordance with this Agreement.



SCHEDULE 4 (MAINTENANCE SLA)

1. Introduction

- 1.1 This Schedule 4 sets out the service levels applicable to the Maintenance Services.

2. Scheduled Maintenance Services

- 2.1 The Provider shall where practicable give to the Customer at least 3 Business Days' prior written notice of scheduled Maintenance Services that are likely to affect the availability of the Hosted Services or are likely to have a material negative impact upon the Hosted Services, without prejudice to the Provider's other notice obligations under this Schedule 4.
- 2.2 The Provider shall provide all scheduled Maintenance Services outside Business Hours.

3. Updates

- 3.1 The Provider shall give to the Customer written notice of the application of any security Update to the Platform and at least 3 Business Days' prior written notice of the application of any non-security Update to the Platform.
- 3.2 The Provider shall apply Updates to the Platform as follows:
 - (a) third party security Updates shall be applied to the Platform promptly following release by the relevant third party, providing that the Provider may acting reasonably decide not to apply any particular third-party security update;
 - (b) the Provider's security Updates shall be applied to the Platform promptly following the identification of the relevant security risk and the completion of the testing of the relevant Update; and
 - (c) other Updates shall be applied to the Platform in accordance with any timetable notified by the Provider to the Customer or agreed by the parties from time to time.

4. Upgrades

- 4.1 The Provider shall produce Upgrades at least once in each calendar year during the Term.
- 4.2 The Provider shall give to the Customer at least 3 Business Days' prior written notice of the application of an Upgrade to the Platform.
- 4.3 The Provider shall apply each Upgrade to the Platform within any period notified by the Provider to the Customer or agreed by the parties in writing.



SCHEDULE 5 (SUPPORT SLA)

1. Introduction

1.1 This Schedule 5 sets out the service levels applicable to the Support Services.

2. Helpdesk

- 2.1 The Provider shall make available to the Customer a helpdesk.
- 2.2 The Customer may use the helpdesk for the purposes of requesting and, where applicable, receiving the Support Services; and the Customer must not use the helpdesk for any other purpose.
- 2.3 The Provider shall ensure that the helpdesk is accessible by telephone, email and using the Provider's web-based ticketing system.
- 2.4 The Provider shall ensure that the helpdesk is operational and adequately staffed during Business Hours during the Term. In addition, the Provider shall provide a special telephone number for the Customer to report critical issues outside of Business Hours.
- 2.5 The Customer shall ensure that all requests for Support Services that it may make from time to time shall be made through the helpdesk.

3. Response and resolution

- 3.1 Issues raised through the Support Services shall be categorized as follows:
 - (a) critical: the Hosted Services are inoperable, or a core function of the Hosted Services is unavailable;
 - (b) serious: a core function of the Hosted Services is significantly impaired;
 - (c) moderate: a core function of the Hosted Services is impaired, where the impairment does not constitute a serious issue; or a non-core function of the Hosted Services is significantly impaired; and
 - (d) minor: any impairment of the Hosted Services not falling into the above categories; and any cosmetic issue affecting the Hosted Services.
- 3.2 The Provider shall determine, acting reasonably, into which severity category an issue falls.
- 3.3 The Provider shall use all reasonable endeavors to respond to requests for Support Services promptly, and in any case in accordance with the following time periods:
 - (a) critical: 1 Business Hour;
 - (b) serious: 4 Business Hours;
 - (c) moderate: 1 Business Day; and
 - (d) minor: 5 Business Days.
- 3.4 The Provider shall ensure that its response to a request for Support Services shall include the following information (to the extent such information is relevant to the request): an acknowledgement of receipt of the request, where practicable an initial diagnosis in relation to any reported error, and an anticipated timetable for action in relation to the request.



3.5 The Provider shall use all reasonable endeavors to resolve issues raised through the Support Services promptly, and in any case in accordance with the following time periods:

- (a) critical: 4 Business Hours;
- (b) serious: 12 Business Hours;
- (c) moderate: 5 Business Days; and
- (d) minor: 20 Business Days.

4. Provision of Support Services

4.1 The Support Services shall be provided remotely, save to the extent that the parties agree otherwise in writing.

5. Limitations on Support Services

5.1 If the total hours spent by the personnel of the Provider performing the Support Services during any calendar month exceed 20 then:

- (a) the Provider will cease to have an obligation to provide Support Services to the Customer during the remainder of that period; and
- (b) the Provider may agree to provide Support Services to the Customer during the remainder of that period, but the provision of those Support Services will be subject to additional Charges.

5.2 The Provider shall have no obligation to provide Support Services in respect of any issue caused by:

- (a) the improper use of the Hosted Services by the Customer; or
- (b) any alteration to the Hosted Services made without the prior consent of the Provider.



SCHEDULE 6 (FORM OF CHANGE CONTROL NOTE)

Instructions: Please submit one Change Request Form per change request so that they may be approved and managed individually.

Title of Change:

1. Introduction

Request Details	Customer Name:
	Change Request Number:
	Requestor Name:
	Requestor Title:
	Date of Request:
	Priority of Request:
	Change Order #:
	Change Summary:
	Reason for Change:

2. Change details

[Insert full details of proposed Change]

3. Impact of Change

Resource Impact	
Impact Upon Resources:	
Schedule Impact	
Impact Upon Schedule:	
Financial Impact	
Impact Upon Charges:	
Additional Impacts	
Other Effects of Change:	

4. Agreement to Change

The parties have indicated their acceptance of the Change described in this CCN by signing below.

Customer Approvals	
Customer Personnel Name:	



Customer Signature:	
Signature Date:	

Provider Approvals

Provider Personnel Name:	
Provider Signature:	
Provider Signature Date:	



SCHEDULE 7 (DATA PROCESSING INFORMATION)

1. Categories of data subject

Customer's (and its and their affiliates') employees, customers, and other persons whose information is processed by Provider in the course of providing the Hosted Services to the Customer.

2. Types of Personal Data

- Contact information (such as name, address, email address)
- Professional details (such as employer, title, position)
- IAM data and technical information (such as access privileges and customer access criteria, access log information)
- Online and technical data (IP address, device ID and related data, connection data)
- Other types of data related to the data subjects depending upon the specific Customer Software programs utilized and/or as determined by the Customer Software

3. Purposes of processing

Solely to provide the Hosted Services to Customers.

4. Security measures for Customer Data

FedRAMP High Baseline and the Department of Defense Impact Level V Controls (unless lesser levels are set forth in the applicable Schedule 1), and as set forth in the Agreement.

5. Subprocessors of Customer Data

Subprocessor Name	Subprocessor Address	Description of the Services	Location of the Processing (list all)
Amazon Web Services, Inc.	410 Terry Avenue North Seattle, WA 98109, USA	Hosting provider and platform services	United States of America
Design, LLC	Corporation Service Company 251 Little Falls Drive Wilmington DE, 19808, United States	Data Center Operations	United States of America
GOC International LLC	251 Little Falls Drive Wilmington DE, 19808, United States	Service Maintenance Technical Support	United States of America
Google LLC	Corporation Service Company 251 Little Falls Drive	Data Center Operations	United States of America



	Wilmington, DE, United States, 19808	Service Maintenance Technical Support	
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