GITHUB SERVICES AND CHANNEL PARTNER PROGRAM TERMS

These GitHub Services and Channel Partner Program Terms together with any referenced exhibits ("Program Terms"), the Program Guide, Partner DPA and NDA collectively constitute the "Agreement" between GitHub, Inc. ("GitHub", "we", "our") and the entity entering into this Agreement ("Company", "you", "your"). The Agreement governs your participation in the GitHub Services and Channel Partner Program ("GHPP").

1. **Definitions.** In these Program Terms:

   a. **"Acceptable Use Policy"** means GitHub's Acceptable Use Policies at https://docs.github.com/en/site-policy/acceptable-use-policies/github-acceptable-use-policies

   b. "**Affiliate**" means an entity that owns, is owned by, or is under common ownership with an entity. Ownership means control of more than 50% of the equity interests of, or the right to direct the management of, an entity for so long as such control exists.

   c. "**Beta Previews**" means Products identified as alpha, beta, preview, early access, or evaluation, or words or phrases with similar meanings.

   d. "**Branding Guideline**s" means GitHub's branding guidelines at https://github.com/logos

   e. **"Claim"** means third party claims, suits, costs, losses, liabilities, demands, damages, judgments, penalties, interest, fines and expenses (including reasonable attorneys' costs and fees).

   f. **"Content"** means the text, artwork, sound, pictures, video, and other audio-visual displays that are subject to a party's IP Rights.

   g. **"Data Protection Law"** means any and all Laws applicable to Company or GitHub, relating to data security, protection, privacy, or the processing of Personal Data, including, but not limited to, (where applicable) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to processing of Personal Data and the free movement of that data ("GDPR"), and any implementing, derivative or related legislation, rule, regulation, and regulatory guidance, as amended, extended, repealed and replaced, or re-enacted.

   h. **"End Customer"** means the final purchaser or licensee that has acquired Products or Professional Services for its own internal use and not for resale.

   i. **"IP Rights"** means any and all intellectual property rights throughout the world, whether existing under statute or at common law or equity, now and hereafter in force or recognized, including rights in and to (1) patents, patent disclosures, and inventions (whether patentable or not), (2) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, and other similar designations of source or origin, together with the goodwill symbolized by any of the foregoing, (3) copyrights and works of authorship (whether copyrightable or not), computer programs and rights in data and databases, and "moral rights", (4) trade secrets, know-how, and other confidential or proprietary information, and (5) all other intellectual property, in each case whether registered or unregistered, and including all registrations and applications for such rights and renewals or extensions thereof, and all similar or equivalent rights or forms of protection.

j. **“Joint Offering”** means an integrated solution that combines Company solutions with GitHub Products and Professional Services.

k. **“Laws”** means any and all applicable international, national, and local laws (including regulations and binding judicial law) as amended, extended, repealed and replaced, or re-enacted.

l. **“Marks**” means trademarks and service marks, trade dress, trade names, corporate names, designs, slogans, domain names, proprietary logos or indicia, and other source or business identifiers.

m. **“NDA”** means the non-disclosure agreement entered into between the parties.

n. **“Offer”** means GHPP offers, incentives, campaigns, and programs

o. **“Partner DPA”** means the GitHub Channel Partner Data Processing Addendum available at https://partner.github.com/legal/channel-partner-data-processing-agreement/.

p. **“Personal Data”** has the meaning given to it in the GDPR.

q. **“Products**” means all software, online services and additional products and features that GitHub offers, including updates, patches, bug fixes and support provided by GitHub, but excluding Beta Previews.

r. **“Professional Services”** means training, consulting or implementation services provided in connection with the Products.

s. **“Program Guide”** or “**Guide”** means the GitHub Services and Channel Partner Program Guide available at https://files.ziftone.com/p/e3eafffea911419fb0a78ab12bce159c/GitHub+Services+and+Channel+Partner+Program+Guide+%283%29.pdf

t. **“Partner Portal**” means https://portal.github.partners and related websites through which GitHub may provide Company with access to tools, documents, and communications related to the GHPP

u. **“Partner Tier”** means the level of Company’s participation in the GHPP, including Growth and Strategic.

v. **“Policies”** means policies, procedures, training requirements related to the GHPP, and guidelines described in the Agreement or made available to Company by GitHub.

w. “**Zift Terms**” means the third party provider terms and conditions applicable to Company’s use of the Partner Portal, available at https://ziftsolutions.com/legal/partner-terms-of-service/.

2. General

a. **GHPP Eligibility Criteria.** To participate in the GHPP, you must continue to maintain compliance with the Agreement, including without limitation the Program Requirements as set out in the Program Guide.

b. **Non-compliance with Eligibility Criteria.** If you no longer meet the eligibility criteria for

participation in the GHPP or an Offer, we will notify you and you will have 30 days to remedy any lapse in eligibility ("Remedy Period"). We may elect to suspend the applicable Offer or GHPP benefits such as incentive payments, during the Remedy Period. If you fail to remedy the lapse in eligibility within the Remedy Period, your eligibility will be suspended and you will not be entitled to participate in the GHPP or Offer, as applicable. For clarity, your failure to meet or comply with the GHPP Eligibility Criteria will constitute a breach of the Agreement.

c. **Partner Portal.**

i. We will administer the GHPP and its benefits through the Partner Portal. Your access to and use of the Partner Portal is subject to the Zift Terms, which are hereby incorporated by reference into this Agreement. You agree to indemnify, defend, and hold harmless GitHub from and against any and all claims, liabilities, damages, losses, and expenses (including reasonable attorneys' fees) arising out of or related to your use of the Partner Portal, including, without limitation, any breach of the Zift Terms.

ii. You consent to GitHub communicating with you via various channels, including but not limited to email, webinars, newsletter and in-portal notifications: (1) to administer the GHPP; (2) provide information about the GHPP, including but not limited to, sending promotional information about events and training opportunities; and (3) invite you to participate in surveys and research.

iii. The Partner Portal may contain features that allow you to post, submit, or publish information about you ("Profile"). You agree that any information you provide in your Profile will be truthful and accurate. By providing your Profile, you grant to GitHub the right to use, reproduce, display, distribute and otherwise disclose your Profile to third parties for purposes relating to the GHPP. GitHub may: (1) remove your Profile if GitHub deems it necessary or appropriate; and (2) disclose your Profile information to law enforcement pursuant to lawful process.

d. **Changes to GHPP or Offers**. We may update, change or remove any portion of the GHPP or an Offer, and may cancel the entire GHPP or Offer. We will use commercially reasonable efforts to provide you with 30 days' notice of such update or change, and 90 days' notice of cancellation of the GHPP or an Offer. Your continued participation in the GHPP or Offer following an update or change confirms your acceptance of such update or change.

e. **Separate Agreements.** The parties have entered into or will enter into and will maintain under their terms separate agreements, as applicable, in order to help carry out the purpose of the Agreement, including: (a) licensing agreements for your purchase and use of GitHub products and services; (b)agreements to govern your participation in any GHPP incentive or funding programs; and (c) any other agreements agreed to by the parties to help effect the activities contemplated under the Agreement (the "Separate Agreements"). Nothing in the Agreement shall serve to amend or modify any terms in the Separate Agreements. In addition, nothing in any of the Separate Agreements shall serve to amend or modify any terms of the Agreement. In the event of any conflict between the Agreement and the terms of any Separate Agreement, the terms of the Separate Agreement will control with respect to the subject matter of the Separate Agreement.

3. Compliance

a. **Compliance with Policies.** Company represents and warrants that it will, and will contractually

obligate its employees, subcontractors and agents to, comply with the Policies, including without limitation:

i. the most current GitHub Anti-Bribery Statement located at: http://help.github.com/en/articles/github-anti-bribery-statement and the most current GitHub Statement Against Modern Slavery and Child Labor located at: https://help.github.com/en/articles/github-statement-against-modern-slavery-and-child-labor;

ii. all physical, privacy and data protection and information security Policies made available to Company by GitHub, including without limitation, the GitHub Data Protection Addendum accessible at http://Company.github.com/legal and the GitHub Privacy Statement, available at: https://help.github.com/en/articles/github-privacy-statement, and

iii. all other Policies provided by GitHub during the term of the Agreement.

GitHub may change or promulgate new Policies. Changes and new Policies will be effective 30 days after GitHub makes them available to Company, unless otherwise agreed in writing.

b. **Compliance with Laws**. Each party will conduct its respective business activities under the Agreement in full compliance with all applicable Laws. Without limiting the foregoing, each party will:

i. comply with all applicable import and export laws and regulations, including but not limited to, trade laws such as the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and sanctions regulations administered by the U.S. Office of Foreign Assets Control ("trade laws"). Company will not take any action that causes GitHub to violate trade laws. GitHub may suspend or terminate the Agreement immediately to the extent that GitHub reasonably believes that continued performance would violate trade laws or put it at risk of becoming subject to sanctions or penalties under trade laws;

ii. comply with Laws that govern and protect the other party's IP Rights;

iii. comply with Laws that govern labor practices, human rights, and health and safety;

iv. obtain and maintain any required local government approvals, each at its own expense; and

v. provide timely information, assistance, and cooperation (at the requesting party's commercially reasonable request and expense) as necessary to comply with Laws.

c. **Confidentiality.** The Agreement and the information shared under the Agreement are Confidential Information (as defined in the NDA). The terms and conditions of the NDA control and are incorporated herein by reference.

d. **Data Protection.** Each party will comply with the Data Protection Laws and the Partner DPA.

e. **Consequences of Breach**. GitHub retains the right to suspend or terminate the Agreement immediately upon written notice if GitHub believes, in good faith, that Company has breached this section 3.

4. Proprietary Rights and Licenses

a. **Intellectual Property.** Each party owns and retains all IP Rights in and to its own respective

intellectual and other property, and neither party grants such rights to the other party except as expressly granted in the Agreement or separate written agreement between the parties.

b. **Marks.** The parties grant to each other a non-exclusive, non-transferable, royalty-free, non-sublicensable, limited license during the term of the Agreement, to the respective Marks provided to the other party in connection with the GHPP. Your use of GitHub Marks must comply with the Branding Guidelines and any other written restrictions made available to you by GitHub. As between the parties, all goodwill associated with Company Marks shall inure to the benefit of Company, and all goodwill associated with GitHub Marks shall inure to the benefit of GitHub. Upon notice from either party, the receiving party will make commercially reasonable efforts to correct any misuse of the other party's Marks. Neither party will (1) imply the other party's endorsement, sponsorship, or affiliation except as allowed by the Agreement; (2) remove alter or tamper with any proprietary right notice appended to the Marks; (3) use the Marks to disparage, tarnish, or diminish the other party's image, reputation, or the reputation of its products or services; or (4) knowingly do anything inconsistent with the other party's ownership of its Marks, including registering or attempting to register the other party's Marks.

c. **Content License.** Except as otherwise provided in the Agreement, each party grants to the other a non-exclusive, non-transferable, royalty free, non-sublicensable, limited license to use any Content provided to the other party solely for the business purposes contemplated under the GHPP. Any use of GitHub Content must comply with the Acceptable Use Policies, Branding Guidelines and any other applicable terms. Any Content License granted to Company by GitHub under the Agreement will terminate automatically in the event that Company ceases to be a GitHub partner. GitHub may further deactivate or remove your access to GitHub Content at any time in GitHub's sole discretion and without notice to you. Neither party will remove any copyright, trademark, patent, or similar notices from the other party's Content.

d. **Content Use Restrictions.** Except as expressly permitted in the Agreement, you shall not:

   i. share GitHub Content with third parties outside your organisation;

   ii. sell, license, lease, or otherwise commercialise GitHub Content;

   iii. claim ownership over GitHub Content or any version thereof;

   iv. modify GitHub Content;

   v. remove, alter, or obscure any Marks, or copyright or other proprietary rights notices, contained in or affixed to GitHub Content; or

   vi. use, or allow others to use, GitHub Content in violation of applicable Laws, the Acceptable Use Policy or any third party right.

5. Warranties and Disclaimers

a. **Company Warranties to End Customers**. Company is solely responsible for any warranties, representations or other offers it makes to End Customers in respect of any Products or Professional Services included in the Joint Offerings.

b. **NO IMPLIED WARRANTIES OR REPRESENTATIONS.** EXCEPT AS EXPRESSLY OTHERWISE PROVIDED IN THE AGREEMENT, ALL PRODUCTS, PROFESSIONAL

SERVICES AND CONTENT, INCLUDING ANY CONTENT MADE AVAILABLE THROUGH THE PARTNER PORTAL, ARE PROVIDED TO COMPANY “AS IS.” THE FOREGOING “AS IS” WARRANTY, AND ANY WARRANTIES EXPRESSLY SET FORTH IN THE AGREEMENT, ARE THE ONLY WARRANTIES MADE BY EITHER PARTY TO THE OTHER. NEITHER PARTY MAKES ANY OTHER WARRANTIES, REPRESENTATIONS, CONDITIONS OR GUARANTEES TO THE OTHER RELATED TO THE AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY DISCLAIMS ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

c. **Beta Terms Disclaimers**. Except as otherwise set forth in the Agreement, GitHub will have no liability arising out of or in connection with Beta Previews. You may choose to use Beta Previews in your sole discretion and at your own risk. For purposes of clarification, the provisions of this section are in addition to the warranty disclaimers set forth in Section 5.b. above.

6. Limitation of Liability

a. **NO INDIRECT DAMAGES**. EXCEPT WITH RESPECT TO EITHER PARTY’S (I) FRAUD OR FRAUDULENT MISREPRESENTATION, (II) BREACH OF ITS CONFIDENTIALITY, PRIVACY AND DATA PROTECTION OBLIGATIONS UNDER THE AGREEMENT; AND (III) VIOLATIONS OF THE OTHER PARTY’S IP RIGHTS AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING FOR LOSS OF PROFITS, REVENUE, OR DATA) ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, HOWEVER CAUSED, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b. **LIMITATIONS OF TOTAL LIABILITY.** EXCEPT WITH RESPECT TO EITHER PARTY’S (I) FRAUD OR FRAUDULENT MISREPRESENTATION, (II) BREACH OF ITS CONFIDENTIALITY, PRIVACY AND DATA PROTECTION OBLIGATIONS UNDER THE AGREEMENT; AND (III) VIOLATIONS OF THE OTHER PARTY’S IP RIGHTS AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY’S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY EXCEED [USD25,000]. FOR PRODUCTS AND PROFESSIONAL SERVICES THAT ARE PROVIDED FREE OF CHARGE, GITHUB’S LIABILITY IS LIMITED TO DIRECT DAMAGES UP TO $5,000.00 USD. FOR BETA PREVIEWS, GITHUB’S LIABILITY IS LIMITED TO DIRECT DAMAGES UP TO $500.00 USD.

7. Term and Termination

a. **Term.** The Agreement will take effect when you accept these Program Terms, and the individual who accepts these Program Terms represents that they are authorized to enter into the Agreement on behalf of Company.

b. **Termination Without Cause.** Either party may terminate the Agreement at any time without cause by giving the other party not less than thirty (30) days’ prior written notice.

c. **Termination for Cause.** If a party breaches any term of the Agreement, the breaching party shall have thirty (30) days' following written notice of such breach by the non-breaching party to cure the breach if the breach is curable. If the breaching party fails to cure the breach within such thirty-day period, unless otherwise mutually agreed, the non-breaching party may terminate the Agreement upon written notice to the breaching party. If the breach is not curable, then the non-breaching party may terminate the Agreement immediately upon written notice to the breaching party.

d. **Effect of Termination.** If the Agreement is terminated:

i. your enrolment in the GHPP will end;

ii. all licenses granted under the Agreement will be terminated;

iii. you must immediately cease use of GitHub Products and Content granted to you under the Agreement; and

iv. you will immediately cease to identify yourself or hold yourself out as a GitHub partner.

GitHub will have no obligation to make any payments for activities that are not completed prior to the effective date of termination, including applicable incentive payments. All provisions survive termination of the Agreement except those requiring performance only during the term of the Agreement.

8. Miscellaneous

a. **Non-Exclusive relationship.** The parties are working together on a non-exclusive basis. Engagements between the parties will not be interpreted to limit either party's right to obtain, promote, or distribute products or services from other sources, and will not restrict either party's freedom to set prices for its products or services.

b. **Independent contractors.** Any use of the term "partner" is for reference purposes only. The parties are independent contractors and do not intend to create an employer-employee relationship, partnership, joint venture, agency relationship, or fiduciary relationship. Neither party nor any of its representatives may make any representation, warranty or promise on behalf of the other party.

c. **Costs.** Each party will bear its own costs of performance under the Agreement, unless otherwise specified.

d. **Publicity.** Except as otherwise required by applicable Laws or as otherwise expressly authorized under the Agreement, neither party will issue any press release, publicity, or other disclosure in any form that relates to the terms of the Agreement or to a party's relationship with the other party, including in client presentations or client lists, without the other party's prior written approval.

e. **Governing Law.** The Agreement will be governed by and construed in accordance with the laws of the state corresponding to the location of Company's principal office as set forth in the below table ("Governing Law"). Any legal action or proceeding will be brought exclusively in the courts of the venue corresponding to the applicable Company Principal Office location as set forth in the below table ("Venue of Disputes"). The parties consent to personal jurisdiction and venue there.

Company Principal Office	Governing Law	Venue of Disputes
The Americas	State of California and the United States	San Francisco County and Northern District of California
Europe, United Kingdom, Middle East and Africa	Ireland	Dublin
Asia-Pacific region	Singapore	Singapore

The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply to the Agreement. Notwithstanding anything to the contrary in the foregoing, either party may bring a claim for equitable relief in any court with proper jurisdiction.

f. **No waiver.** Failure to enforce any provision of the Agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.

g. **Assignment.** Neither the Agreement nor any rights or obligations under the Agreement will be assigned by a party without the other's prior written consent, such consent not to be unreasonably withheld or delayed. Any attempted assignment will be void and of no effect.

h. **Severability.** If any part of the Agreement is held to be unenforceable, the rest of the Agreement will remain in full force and effect.

i. **Order of Precedence.** In the event of a conflict of terms, the Agreement documents will take precedence in the following order: the terms of the DPA, the Program Guide, and the Program Terms.

j. **Notices.**

i. Notices to GitHub may be submitted via email to legal-support@github.com. If Company wishes to formally service notice on GitHub, it must be made through GitHub's registered agent:

GitHub, Inc.
c/o Corporation Service Company
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833-3505

ii. Notices must be in writing and will be treated as delivered on the date received at the address, date shown on the return receipt, email transmission date, or date on the courier confirmation of delivery.

iii. GitHub may communicate with you via the email address, phone number, or physical address we have on record for you or through the Partner Portal.