

SETTER PLATFORM TERMS OF USE

Last Modified: October 22, 2018

1. Introduction

Setter, Inc. is a company incorporated under the laws of Canada, with its head office located at 204-360 Dufferin St., Canada (“Setter”, “we”, “us”, “our”). Setter, through its locally licensed affiliates and contractors (“Setter Contractors”), offers home maintenance and repair services (the “Setter Services”) facilitated through: (i) the Setter website, www.setter.com (the “Website”); (ii) the Setter mobile application (the “Setter App”); (iii) phone, text messaging and email correspondence; and (iv) other platforms as Setter may make available from time to time ((i) to (iv), collectively, the “Setter Platform”). The Setter Services and Setter Platform are, collectively, the “Setter Solution”.

Setter affiliate Setter Technologies, Inc., a Delaware corporation, provides Setter Services in California. Setter Technologies, Inc. is a licensed California contractor holding a CSLB License Number [LIC#]. Setter Technologies, Inc. executes home maintenance, repair, remodel, or other home improvement services (“Home Improvement Services”) in California through duly authorized and, where and as required by law, licensed subcontractors.

2. Acceptance of Terms of Use

(a) Acceptance. These terms of use (the “Terms of Use” or these “Terms”) form an agreement between the person visiting, browsing, accessing, downloading, or otherwise using or receiving (the term “use” and “using” will refer to any of the foregoing as the context requires) the Setter Services or Setter Platform (such person, “you”, “your” or “Owner”), and Setter, and for all projects in California, Setter Technologies, Inc.

BY VISITING, BROWSING, ACCESSING, DOWNLOADING OR USING THE SETTER PLATFORM, OR BY CLICKING “ACCEPT” OR “AGREE” TO THE TERMS OF USE WHEN THIS OPTION IS MADE AVAILABLE TO YOU, YOU ACCEPT AND AGREE TO BE BOUND BY AND COMPLY WITH THESE TERMS OF USE, OUR PRIVACY POLICY, AND ANY OTHER TERMS POSTED ON OUR WEBSITE, HEREIN INCORPORATED BY REFERENCE. IF YOU ARE USING THE SETTER PLATFORM ON BEHALF OF ANOTHER PERSON OR ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND SUCH PERSON OR ENTITY TO THESE TERMS OF USE. IF YOU DO NOT WANT TO AGREE TO THESE TERMS OF USE OR THE PRIVACY POLICY, YOU MUST NOT ACCESS OR USE THE SETTER PLATFORM.

(b) Permitted Use. The Setter Platform is provided solely to (i) enable you to view, access and browse maintenance services provided by Setter Contractors; (ii) enable you to place orders and pay for maintenance and other Home Improvement Services (each an “Maintenance Order”); and (iii) enable you to post comments and User Submissions (as described below) (collectively, (i) through (iii) are the “Permitted Use”). Any Maintenance Order placed through the Setter Platform will be subject to the terms accompanying such Maintenance Order, which are hereby incorporated by this reference into these Terms of Use.

(c) Services Performed in California. Refer to Paragraph 25 below for additional terms and conditions for Home Improvement Services to be performed in California.

3. Changes

(a) Changes to Terms of Use. Except where prohibited by applicable law, we may revise

(a) Changes to Terms of Use. Except where prohibited by applicable law, we may revise and update these Terms of Use from time to time in our sole discretion. We will notify you of any material changes we make to these Terms of Use by email to the primary email address specified in your account, through a notice on the Setter Website home page, or through the Setter App. All changes are effective immediately when we post them, and apply to all access to and use of the Setter Platform thereafter. Your continued use of the Setter Platform and this Website following the posting of revised Terms of Use means that you accept and agree to the changes. You are responsible for ensuring we have an up-to-date active and deliverable email address for you, and for periodically visiting this page so you are aware of any changes, as they are binding on you.

(b) Changes to the Setter Platform. Setter reserves the right to change the Setter Platform and any information, material or content (including, but not limited to, price, features, availability of Setter Services) contained on the Setter Platform (the “Content”) at any time, from time to time, and without notice to you. We may modify the Setter Platform, including without limitation updates to the Content on the Setter Platform, from time to time, but are under no obligation to do so. Content is not necessarily complete or up-to-date. Any of the materials on the Setter Platform may be out of date at any given time, and we are under no obligation to update such material.

4. Accessing the Setter Platform and Account Security

(a) We will not be liable if for any reason all or any part of the Setter Platform is unavailable at any time or for any period. From time to time, we may restrict access to some part of the Setter Platform, or the entire Setter Platform, including to registered users.

(b) You are responsible for:

(i) Making all arrangements necessary for you to have access to the Setter Platform, including for example, procuring any hardware, software, communications services, and internet service subscriptions.

(ii) Ensuring that all persons who access the Setter Platform through your internet connection or account are aware of these terms and comply with them.

(c) To access the Setter Platform or some of the resources it offers, you may be asked to provide certain registration details or other information and sign up for a user account (the “Customer Account”) using the available interfaces on the Setter Platform. It is a condition of your use of the Setter Platform that all the information you provide on the Website or through the Setter Platform is correct, current, and complete. You agree that all information you provide to register with the Website or otherwise use the Setter Platform, including but not limited to through the use of any interactive features offered through the Website or the Setter Platform, is governed by our Privacy Policy, and you consent to all actions we take with respect to your information consistent with our Privacy Policy.

(d) If you choose, or are provided with, a user name, password, or any other information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to the Website, the Setter Platform, or portions of it using your user name, password, or other security information. You agree to notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

(e) We have the right to disable any user name, password, or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if in our opinion you have violated any provision of these Terms of Use.

including it, in our opinion, you have violated any provision of these Terms of Use.

5. Using the Setter Solution

(a) Access. To access the Setter Platform or some of the resources it offers, you may be asked to provide certain registration details or other information and sign up for a Customer Account using the available interfaces on the Setter Platform. It is a condition of your use of the Setter Platform that all the information you provide on the Setter Platform is correct, current, and complete. You agree that all information you provide to register with the Website or otherwise use the Setter Platform, including but not limited to through the use of any interactive features offered through the Setter Platform, is governed by our Terms of Use and Privacy Policy. Additional terms and conditions may also be applicable to specific portions, services, or features of the Setter Platform. All such additional terms and conditions are hereby incorporated by reference into these Terms. You consent to all actions we take with respect to your information consistent with these policies.

(b) The Setter App.

(i) License Grant. Setter grants you a personal, revocable, limited, non-exclusive, and non-transferable license to download, install, and use the Setter App for your personal, non-commercial use on a single mobile device owned or otherwise controlled by you (“Mobile Device”) strictly in accordance with the license and terms of use included in documentation provided in connection with the Setter App.

(ii) License Restrictions. You shall not:

(1) copy the Setter App, except as expressly permitted by the license granted under this Agreement;

(2) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Setter App;

(3) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Setter App or any part thereof;

(4) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Setter App, including any copy thereof;

(5) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Setter App, or any features or functionality of the Setter App, to any third party for any reason, including by making the Setter App available on a network where it is capable of being accessed by more than one device at any time; or

(6) remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Setter App.

(iii) Reservation of Rights. You acknowledge and agree that the Setter App is provided under license, and not sold, to you. You do not acquire any ownership interest in the Setter App under these Terms, or any other rights thereto other than to use the Setter App in accordance with the license granted, and subject to all terms, conditions, and restrictions, under this Agreement. Setter and its licensors and service providers reserve and shall retain their entire right, title, and interest in and to the Setter App, including all copyrights, trademarks, and other intellectual property rights therein or relating thereto, except as expressly granted to you under these Terms.

(iiii) Collection and Use of Your Information. You acknowledge that when you download, install, or use the Setter App, Setter may use automatic means (including, for

example, cookies and web beacons) to collect information about your Mobile Device and about your use of the Setter App. You also may be required to provide certain information about yourself as a condition to downloading, installing, or using the Setter App or certain of its features or functionality, and the Setter App may provide you with opportunities to share information about yourself with others. All information we collect through or in connection with the Setter App is subject to our Privacy Policy and by downloading, installing, using, and providing information to or through the Setter App, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

(v) Updates. Setter may from time to time in its sole discretion develop and provide Setter App updates, which may include upgrades, bug fixes, patches, other error corrections, and/or new features (collectively, including related documentation, "Updates"). Updates may also modify or delete in their entirety certain features and functionality. You agree that Setter has no obligation to provide any Updates or to continue to provide or enable any particular features or functionality. Based on your Mobile Device settings, when your Mobile Device is connected to the internet either:

(1) the Setter App will automatically download and install all available Updates; or

(2) you may receive notice of or be prompted to download and install available Updates.

(3) You shall promptly download and install all Updates and acknowledge and agree that the Setter App or portions thereof may not properly operate should you fail to do so. You further agree that all Updates will be deemed part of the Setter App and be subject to all terms and conditions of this Agreement.

(c) Requesting Services.

(i) Once you been issued a Customer Account, you may select individual Setter Services from our list of maintenance and repair services available on the Setter Platform and then add them to your cart.

(ii) For many of the Setter Services available for selection on the Setter Platform and through the Setter Solution, you will be asked to provide a clear and accurate description of the maintenance services you are seeking. You are solely responsible for confirming the accuracy of all information you provide to us, including the work to be performed and the dates, times, and location at which the work is to be performed (such location, your "Premises").

(iii) Your cart may be edited at any time prior to the creation of a Maintenance Order. Once you have made your selection, you may check out the selected Setter Services. At this time you will have the opportunity to review items in your cart. After your review and confirmation that the items and information in your cart are correct, you may click "Submit" to checkout, and a Maintenance Order will be created and a copy sent to your email address on file with us.

(iii) By submitting the items in your cart, you approve and:

(1) authorize us to charge the payment method on file with us in the amount shown on the Maintenance Order;

(2) grant us, our employees, contractors, and subcontractors the right to access the Premises to perform the applicable Setter Services described in your Maintenance Order;

(3) acknowledge and agree that you cannot edit or change your cart items once a Maintenance Order has been created, and that your payment will be refunded if Setter

rejects the Maintenance Order;

(4) acknowledge that dependent on various conditions, many of the Setter Services may require additional Maintenance Orders to achieve the desired outcome of the services requested;

(5) acknowledge and agree that Setter's overhead and profit is to be included in the cost of each item selected, or as an individual item.

(d) Cancelling or Modifying Services.

(i) If you wish to amend or cancel your Maintenance Order with a total or partial refund of your Maintenance Order's price, you must get in touch with us via email: hello@setter.com, or the Setter support phone line (415) 969-3334 (Bay Area) or (647) 503-5390 (Toronto). Setter will use reasonable efforts to make the changes you request but does not guarantee that refunds or amendments will be effected unless we are notified of the cancellation of your Maintenance Order at least 14 days in advance of the earliest delivery date of Setter Services identified in such Maintenance Order. Our ability to make changes to a Maintenance Order with less than a 14 day prior notice depends on the context of the specific Maintenance Order and whether preparations have already been made to fulfill the Maintenance Order for which you are requesting amendments.

(ii) Our email confirmation of payment for the Maintenance Order does not indicate that the Maintenance Order has been accepted. It is possible that we will be unable to complete your Maintenance Order as requested, and in such a case, we will use reasonable efforts to notify you of this. If we have charged you for a Maintenance Order that is unable to be completed, Setter will provide you with a refund of the price of your Maintenance Order within 14 days after communicating to you the cancellation of your Maintenance Order.

You agree that Setter will have no liability to you for Maintenance Orders that have not been accepted or otherwise rejected.

(e) Acts or Omissions. If Setter's performance of its obligations under these Terms is prevented or delayed by any act or omission by you or your agents, subcontractors, consultants, or representatives, Setter shall not be deemed in breach of its obligations under these Terms or otherwise liable for any costs, charges, or losses sustained or incurred by you, in each case, to the extent arising directly or indirectly from such prevention or delay.

6. Subscription Fees and Payment; Fees for Maintenance Orders

(a) Fees. You will pay to Setter (the "Fees"):

(i) the applicable monthly subscription fees, if any, described on the Setter Platform (the "Subscription Fees") during the Term in accordance with the payment terms set out herein;

(ii) the applicable fee for any accepted Maintenance Order pursuant to these Terms (the "Maintenance Order Fees");

(iii) any additional required costs incurred by Setter to facilitate the service that you have selected pursuant to an accepted Maintenance Order; and

(iiii) the applicable fee for any visit made by a Setter staff member to the Premises.

(b) Invoicing. From time-to-time, Setter will prepare and send to you, at the then-current contact information on file with Setter, an invoice for any Fees that have become due and payable. Unless otherwise expressly stipulated in an invoice, you will pay (or, if you are paying through a credit card, you authorize Setter to charge to your credit card) all invoiced amounts

within 30 calendar days of the invoice date. For greater certainty, if you have subscribed to an ongoing subscription, then such subscription will automatically renew at its expiry for the same period of time, at the then-current subscription rate described on the Setter Platform, and Setter will invoice or charge you on a recurring basis.

(c) Disputed Invoices or Charges. If you believe Setter has charged or invoiced you incorrectly, you must contact Setter no later than 30 days after having been charged by Setter or receiving such invoice in which the error or problem appeared in order to receive an adjustment or credit. In the event of a dispute, you agree to pay any disputed amounts in accordance with the payment terms herein, and the parties will discuss the disputed amounts in good faith in order to resolve the dispute.

(d) Late Payment. You may not withhold or “setoff” any amounts due under this Agreement. Setter reserves the right to suspend your access to the Setter Services until all due amounts are paid in full. Any late payment will be increased by the costs of collection (if any) and will incur interest at the rate of one and a half percent (1.5%) compounded monthly (19.56% annually), or the maximum legal rate (if less) per month or fraction thereof, plus all expenses of collection, until fully paid.

(e) Certain Taxes. The Subscription Fees described on the Setter Platform do not include applicable sales, use, gross receipts, value-added, GST or HST, personal property or other taxes, and all applicable duties, tariffs, assessments, export and import fees or similar charges (including interest and penalties imposed thereon) on the transactions contemplated in connection with this agreement, and you will pay, indemnify and hold harmless Setter and its affiliates from same, other than taxes based on the net income or profits of Setter.

(f) Payment Processing Services. Setter may use a payment processing service provider such as Stripe or Quickbooks, or other payment processing service provider that we may designate from time to time (collectively referred to herein as the “Payment Processing Services Provider”). You hereby authorize Setter to share with the Payment Processing Services Provider that financial information, banking details and transaction information related to your use of the payment processing services and the Setter Platform and Setter Services. You agree that Setter is not responsible for the use or misuse of such financial information, banking details and transaction information by the Payment Processing Services Provider or any third party.

7. Term and Termination

These Terms of Use will commence on the day you first use the Setter Platform and will continue into force until terminated by either party in accordance with the terms and conditions herein (the “Term”). These Terms of Use may be terminated as follows: (a) Setter may terminate these Terms of Use at any time and with immediate effect by giving notice to you, at Setter’s sole discretion, by email (at your current email address on file with Setter) or through the Setter Platform; (b) you may terminate these Terms of Use at any time and with immediate effect by requesting (by email or through any then-available interfaces on the Setter Platform) that your Customer Account be deleted, ceasing use of the Website, the Setter Services and uninstalling and removing all local software components thereof, if any.

8. User Submissions

The Setter Platform may contain profiles, bulletin boards, or other interactive features that allow you to post, publish, display, or transmit and make otherwise available to other users or persons (collectively, “User Submissions”) on or through the Setter Platform.

You grant Setter and its affiliates, a worldwide, nonexclusive, royalty-free, perpetual, transferable, irrevocable and fully sublicenseable right to (i) use, reproduce, modify, adapt, translate, distribute, publish, create derivative works from and publicly display and perform such User Submissions throughout the world in any media, now known or hereafter devised; and (ii) use the name that you submit in connection with such User Submission. You acknowledge that

See the name that you submit in connection with each User Submission. You acknowledge that Setter may choose to provide attribution of your User Submission (for example, listing your name and city on a review that you submit) at Setter's sole discretion, and that such submissions may be shared publicly. You acknowledge and agree that User Submissions are non-confidential and non-proprietary.

You understand and acknowledge that you are responsible for any User Submissions you submit or contribute, and you, not Setter, have full responsibility for such content, including its legality, reliability, accuracy, and appropriateness. You represent and warrant that you own or control all rights in and to the User Submissions and have the right to grant the license granted above to us and our affiliates and service providers, and each of their and our respective licensees, successors, and assigns. Setter has no obligation to implement or post your User Submissions and reserves the right in its absolute discretion, to determine which User Submissions are published on the Setter Platform. You acknowledge that we may exercise its rights (e.g. use, publish, delete) to use any User Submissions without any notice to you.

We have the right to:

- Disclose your identity or other information about you to any third party who claims that material posted by you violated their rights, including their intellectual property rights or their right to privacy.
- Take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Setter Platform.
- Terminate or suspend your access to all or part of the Setter Platform for any or no reason, including without limitation, any violation of these Terms of Use.

Without limiting the foregoing, we have the right to cooperate fully with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Setter Platform. YOU WAIVE AND HOLD HARMLESS SETTER AND ITS AFFILIATES, LICENSEES, AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING, OR TAKEN AS A CONSEQUENCE OF, INVESTIGATIONS BY EITHER SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES.

However, we cannot review all material before it is posted on the Setter Platform, and cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, we assume no liability for any action or inaction regarding transmissions, communications, or content provided by any user or third party. We are not responsible or liable to any third party for the content or accuracy of any User Submission posted by you or any other user of the Setter Platform, or to anyone for performance or nonperformance of the activities described in this section.

9. Intellectual Property Rights; Ownership

The Setter Platform and its contents, features, and functionality (including but not limited to all information, text, designs, infrastructure graphics, pictures, displays, images, illustrations, software, artwork, video, music, sounds, names, words, titles, phrases, logos, and the design, selection, and arrangement thereof) are owned or licensed by Setter, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

These Terms of Use permit you to use the Setter Platform for your personal, non-commercial use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any of the material on the Setter Platform, except as may be stored incidentally by your device in accessing and viewing those

materials.

You must not:

- (a) Modify copies of any materials available on the Setter Platform.
- (b) Delete or alter any copyright, trademark, or other proprietary rights notices from copies of materials available on the Setter Platform.
- (c) Use or access for any commercial purpose any part of the Setter Services or any services or materials available through the Setter Platform.

If you print, copy, modify, download, or otherwise use or provide any other person with access to any part of the Setter Platform in breach of the Terms of Use, your right to use the Setter Platform will stop immediately. No right, title, or interest in or to the Setter Platform or any content available through the Setter Platform is transferred to you, and all rights not expressly granted are reserved by Setter. Any use of the Setter Platform not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark, and other laws.

Setter expressly reserves all rights in the Setter Platform and all materials provided by Setter in connection with these Terms of Use that are not specifically granted to you. You acknowledge that all right, title and interest in the Setter Platform, all materials provided by Setter in connection with these Terms of Use (including the Content), and any update, adaptation, translation, customization or derivative work thereof, and all intellectual property rights therein will remain with Setter (or third party suppliers, if applicable), and that the Setter Platform and all materials provided by Setter hereunder are licensed and not “sold” to you.

All contents of the Setter Platform are: © 2018 Setter Inc.

10. Privacy Policy

All information we collect through the Setter Platform is subject to our Privacy Policy. Please [click here](#) to review Setter’s current Privacy Policy, which contains important information about Setter’s practices in collecting, storing, using and disclosing Personal Information, and which is hereby incorporated into and forms a part of these Terms of Use. “Personal Information” means any information about an identifiable individual or information that is subject to applicable privacy or data protection laws.

11. Prohibited Uses

You may use the Setter Platform only for lawful purposes and in accordance with these Terms and the Permitted Use. Without limiting the generality of the foregoing, you will not (and will not attempt to), and will not permit anyone else (or attempt to): (a) “frame”, “mirror” or otherwise incorporate the Setter Platform or the Content or any part thereof on any website; (b) access, monitor or copy any part of the Setter Platform or the Content using any robot, spider, scraper or other automated means; (c) violate the restrictions in any robot exclusion headers on the Content or the Setter Platform or bypass or circumvent other measures employed to prevent or limit access to the Setter Platform; (d) take any action that imposes, or may impose, in Setter’s discretion, an unreasonable or disproportionately large load on the Setter Platform; (e) remove any watermarks, labels or other legal or proprietary notices included in the Setter Platform or the Content; (f) modify the Setter Platform or the Content, including any modification for the purpose of disguising or changing any indications of the ownership or source of the Setter Platform or the Content; (g) attempt to, assist, authorize or encourage others to circumvent, disable or defeat any of the security features or components, such as digital rights management software or encryption, that protect the Setter Platform or the Content; (h) copy, reproduce, modify, distribute, transfer, sell, publish, broadcast, perform, transmit, publish, license or circulate in any form any part of the Setter Platform or the Content; (i) create derivative works based on the Setter Platform or the Content, in whole or in part, or decompile, disassemble,

based on the Setter Platform or the Content, in whole or in part, or decompile, disassemble, reverse engineer or other exploit any part of the Setter Platform or the Content; (j) use of access the Setter Platform or the Content in a manner that violates the rights (including, but not limited to intellectual property rights) of any third party; or (k) upload to or transmit through the Setter Platform any information, images, text, data, media or other content that is offensive, hateful, obscene, defamatory or violates any laws, in each case as determined by Setter in its sole discretion.

12. Online Purchases and Other Terms and Conditions

All purchases through the Setter Platform or other transactions for the sale of services formed through the Setter Platform or resulting from visits made by you are governed the terms accompanying such Maintenance Order, which are hereby incorporated into these Terms of Use. Additional terms and conditions may also apply to specific portions, services, or features of the Setter Platform. All such additional terms and conditions are hereby incorporated by reference into these Terms of Use.

13. Third Party Websites; Reliance on Information Posted.

The Setter Platform may provide links to third party websites. Setter does not endorse the information contained on those web sites or guarantee their quality, accuracy, reliability, completeness, currency, timeliness, non-infringement, merchantability or fitness for any purpose. The content in any linked web site is not under Setter control, and if you choose to access any such website, you do so entirely at your own risk.

The information presented on or through the Setter Platform is made available solely for general information purposes. We do not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Setter Platform, or by anyone who may be informed of any of its contents.

14. Communications Not Confidential

Setter does not guarantee the confidentiality of any communications made by you through the Setter Platform. Although Setter generally adheres to the accepted industry practices in securing the transmission of data to, from and through the Setter Platform, you understand, agree and acknowledge that Setter cannot and does not guarantee the security of data transmitted over the Internet or public networks in connection with your use of the Setter Platform.

15. Customer Warranties

(a) Legal Obligation. You represent and warrant that you are 18 years of age or older and possess the legal authority to create a binding legal obligation.

(b) Access to Premises. You represent and warrant that you have the authority to grant us, our employees and contractors, as well as our subcontractors access to the Premises to perform the applicable Setter Services and will be present at the Premises or will have a representative who is 19 years old or older at the Premises at all times while the Setter Services are being performed.

(c) Personal Information. You represent and warrant that any data, information, or materials that you upload or transmit to the Setter Platform or otherwise provide to Setter will only contain Personal Information in respect of which you have provided all notices and disclosures, obtained all applicable third party consents and permissions, and otherwise have all authority, in each case as required by applicable laws, to enable us to make available the Setter Platform and to provide the Setter Services.

16. Disclaimer of Warranties

(a) General Disclaimer. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, THE OR OTHERWISE REQUIRED BY APPLICABLE LAW, THE SETTER SOLUTION (OR ANY PART THEREOF), AND ANY OTHER PRODUCTS AND SERVICES PROVIDED BY SETTER TO YOU ARE PROVIDED “AS IS” AND “AS AVAILABLE”.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, SETTER HEREBY DISCLAIMS ALL EXPRESS, IMPLIED, COLLATERAL OR STATUTORY WARRANTIES, REPRESENTATIONS AND CONDITIONS, WHETHER WRITTEN OR ORAL, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, MERCHANTABLE QUALITY, COMPATIBILITY, TITLE, NON-INFRINGEMENT, SECURITY, RELIABILITY, COMPLETENESS, QUIET ENJOYMENT, ACCURACY, QUALITY, INTEGRATION OR FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ANY WARRANTIES OR CONDITIONS ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE.

SETTER DOES NOT WARRANT THAT THE SETTER PLATFORM (OR ANY PART THEREOF) WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE, OR THAT ALL ERRORS CAN OR WILL BE CORRECTED. WITHOUT LIMITING THE GENERALITY OF ANY OF THE FOREGOING, SETTER EXPRESSLY DISCLAIMS ANY REPRESENTATION, CONDITION OR WARRANTY THAT ANY DATA OR INFORMATION PROVIDED TO YOU IN CONNECTION WITH YOUR USE OF THE SETTER PLATFORM (OR ANY PART THEREOF) IS ACCURATE, OR CAN OR SHOULD BE RELIED UPON BY YOU FOR ANY PURPOSE WHATSOEVER.

(b) Safety Disclaimer. WHILE SETTER PERFORMS DUE DILIGENCE ON THE INDIVIDUALS THAT PERFORM THE SETTER SERVICES ON YOUR PREMISES, YOU SHOULD NEVERTHELESS EXERCISE DUE DILIGENCE, CAUTION AND COMMON SENSE TO PROTECT YOUR PERSONAL SAFETY AND PROPERTY.

(c) Platform. You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Setter Platform will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE SETTER PLATFORM OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE SETTER PLATFORM OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

(d) Setter Solution. EXCEPT AS REQUIRED BY APPLICABLE LAW OR AS SPECIFICALLY COMMUNICATED TO YOU IN WRITING ON THE SETTER PLATFORM:

(i) SETTER MAKES NO WARRANTIES OR REPRESENTATIONS REGARDING THE PROVISION OF THE HOME IMPROVEMENT SERVICES (INCLUDING ANY WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY, RELIABILITY, COMPLETENESS OR QUALITY OF THE SETTER SERVICES) OR THE ACCEPTANCE OR REJECTION OF ANY QUOTES OR MAINTENANCE ORDERS.

(ii) SETTER MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE WORKMANSHIP, TIMELINESS, INTEGRITY, ABILITY OR SKILL OF THE INDIVIDUALS THAT PERFORM THE SETTER SERVICES. WITHOUT LIMITING THE FOREGOING, SETTER DOES NOT REPRESENT OR WARRANT THAT THE INDIVIDUALS PERFORMING THE SETTER SERVICES HOLD ANY QUALIFICATION, CERTIFICATION, LICENCE, SCHOOLING, TRAINING, OR INSURANCE REQUIRED TO PROVIDE THE SETTER SERVICES.

(iii) SETTER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

YOUR USE OF THE SETTER PLATFORM, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE SETTER PLATFORM IS AT YOUR OWN RISK. THE SETTER PLATFORM, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE SETTER PLATFORM ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE COMPANY NOR ANY PERSON ASSOCIATED WITH THE COMPANY MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE WEBSITE. WITHOUT LIMITING THE FOREGOING, NEITHER SETTER NOR ANYONE ASSOCIATED WITH SETTER REPRESENTS OR WARRANTS THAT THE SETTER PLATFORM, ITS CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE SETTER PLATFORM WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE SETTER PLATFORM OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE SETTER PLATFORM WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, SETTER HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

17. Limitation of Liability

The parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk and form an essential basis of the bargain and will survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy:

(a) **Type.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL SETTER BE LIABLE TO YOU OR ANY USER FOR ANY: (I) SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, (II) LOST SAVINGS, PROFIT, DATA, USE, OR GOODWILL; (III) BUSINESS INTERRUPTION; OR (IV) ANY COSTS FOR THE PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, REGARDLESS OF CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE, GROSS NEGLIGENCE, FUNDAMENTAL BREACH, BREACH OF A FUNDAMENTAL TERM) OR OTHERWISE AND EVEN IF NOTIFIED IN ADVANCE OF THE POSSIBILITIES OF SUCH DAMAGES.

(b) **Amount.** EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE LAW, IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF SETTER IN CONNECTION WITH OR UNDER THIS AGREEMENT EXCEED THE AMOUNT OF FEES PAID BY YOU AND RECEIVED BY SETTER IN THE PRIOR 12 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM. FOR GREATER CERTAINTY,

THE EXISTENCE OF ONE OR MORE CLAIMS UNDER THIS AGREEMENT WILL NOT INCREASE THIS MAXIMUM LIABILITY AMOUNT. IN NO EVENT WILL SETTER'S THIRD PARTY SUPPLIERS HAVE ANY LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT.

18. Indemnification

You agree to defend, indemnify and hold harmless Setter and all of its officers, directors, employees and agents from and against any claims, causes of action, demands, recoveries, losses, damages, fines, penalties or other costs or expenses of any kind or nature including but not limited to reasonable legal and accounting fees, brought in connection with or as a result of:

(a) your breach of any of your warranties, representations or obligations under these Terms of Use, any Maintenance Order, or any documents referenced herein;

(b) misrepresentation, criminal behavior or gross negligence on your part;

(c) your violation of any law or the rights of a third party (including, without limitation, intellectual property rights); and

(d) your use of the Setter Platform and the Setter Services contrary to these Terms of Use, any documents referenced herein, or any policies or guidelines available on the Setter Platform.

19. Geographical Restrictions

Not all of the Setter Services are available in all jurisdictions. Furthermore, nothing on the Setter Platform or the Setter Services constitutes an offer or solicitation to buy or sell any product or service to anyone in any jurisdiction in which such an offer or solicitation is prohibited by law. Access to and use of the Setter Platform may not be legal by certain persons or in certain jurisdictions. Your access to the Setter Platform is on your own initiative and you are responsible for compliance with local laws.

20. Force Majeure

Setter will not be liable to you for any failure of or delay in the performance of its obligations under these Terms of Use for the period that such failure or delay is due to causes beyond Setter's reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event.

21. Governing Law and Jurisdiction; Binding Arbitration

(a) Except as provided herein and/or restricted by applicable law, these Terms of Use will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein. These laws apply to your access to or use of the Setter Platform or the Content, notwithstanding your domicile, residency or physical location. The Setter Platform and the Content are intended for use only in jurisdictions where they may lawfully be offered for us.

(b) Except as provided herein and/or restricted by applicable law, you hereby consent to the exclusive jurisdiction and venue of courts in Toronto, Ontario, Canada in all disputes arising out of relating to the use of the Setter Platform or the Content.

22. Limitation on Time to File Claims

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE SETTER PLATFORM MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

23. Entire Agreement; Waiver and Severability

(a) These Terms of Use constitute the entire agreement between Setter and you pertaining to the subject matter hereof and supersede all prior or contemporaneous communications and proposals, whether electronic, oral or written, between you and Setter with respect to the Setter Platform. A printed version of these Terms of Use and of any notice given in electronic form will be admissible in judicial or administrative proceedings based upon or relating to these Terms of Use to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

(b) Setter may, in its sole discretion, provide any notices to you in connection with these Terms of Use through the Setter Platform or by email at then-current email address for you on file with Setter. You may provide notices to Setter by writing to the following address: 360 Dufferin Street, Suite 204, Toronto, ON Canada M6K 3G1 or by email at: hello@setter.com. Setter may change its notice contact information from time to time by posting updated contact details on the Website or through the Setter Platform.

(c) Setter's failure to insist upon or enforce strict performance of any provision of these Terms of Use will not be construed as a waiver of any provisions of right.

(d) If any of the provisions contained in these Terms of Use are determined to be void, invalid or otherwise unenforceable by a court of competent jurisdiction, such determination will not affect the remaining provisions contained herein.

(e) It is the express wish of the parties that these Terms of Use and all related documents be drawn up in English. *C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.*

24. Customer Care

The Website and the Setter Platform are operated by Setter, Inc., 360 Dufferin Street, Suite 204, Toronto, ON Canada M6K 3G1.

If you have any problems, questions, or suggestions with respect to the Setter Services, the Setter Platform, or your Maintenance Order, please contact Setter's customer care team via email: hello@setter.com, the Setter support phone line (415) 969-3334 (Bay Area) or (647) 503-5390 (Toronto), or through your Customer Account via the Setter Platform.

25. FOR CALIFORNIA HOME IMPROVEMENT AND MAINTENANCE SERVICES

(a) **CALIFORNIA LAW APPLIES.** For California, Maintenance Orders are placed with and Home Improvement Services are performed by Setter Technologies, Inc. ("Contractor") and/or its subcontractors, and California law shall apply as to each of such orders and services.

(b) ADDITIONAL TERMS FOR CALIFORNIA.

(i) These Terms of Use do not establish a contract for Home Improvement Services. You must receive an email or other written communication from the Contractor, confirming acceptance of the agreed scope of work, price, start date and approximate completion date (the "Order Confirmation") before any work may be started. These Terms of Use are incorporated in and made a part of the Maintenance Order with Contractor's issuance of the Order Confirmation.

(ii) The down payment for any Home Improvement Services may not exceed \$1,000 or ten (10) percent of the agreed price, whichever is less.

(iii) It is against the law for a contractor to collect for work not yet completed, or for materials not yet delivered. However, a contractor may require a down payment.

(iiii) Any changes in the previously agreed upon scope of a Home Improvement

(iii) Any changes in the previously agreed upon scope of a Home Improvement Order shall require an additional Home Improvement Order agreed upon by Owner and Contractor, prior to the commencement of any such change. ALL CHANGES MUST BE IN WRITING PRIOR TO COMMENCEMENT OF THE CHANGE.

(v) To the extent that Home Improvement Services are ordered by a tenant of the Premises upon which the Home Improvement Services are to be performed, tenant represents and warrants that all work to be performed has been approved by the Owner of the Premises prior to placement of the Maintenance Order.

(vi) Contractor warrants all equipment, materials, supplies and work against defective construction or workmanship for a period of one (1) year following completion of the Maintenance Order.

(c) **LIEN WAIVERS.** Upon satisfactory payment being made for any portion of the Home Improvement Services performed, the contractor, prior to any further payment being made, shall furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any potential lien claimant claim or mechanics lien authorized pursuant to Sections 8400 and 8404 of the Civil Code for that portion of the Home Improvement Services for which payment has been made.

(d) CALIFORNIA HOME IMPROVEMENT NOTIFICATIONS

(i) **CALIFORNIA CSLB MECHANIC'S LIEN WARNING.** California requires the following notice regarding Mechanic's Liens:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics lien on your property. A mechanics lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics liens and sue you in court to foreclose the lien.

If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a 'Preliminary Notice.' This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project.

Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then

work and when these suppliers deliver goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Internet Web site at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe.

(ii) **BONDS.** For California Maintenance Orders and Home Improvement Services, the Owner has the right to require the Contractor to have a performance and payment bond. In the event that Contractor is required to obtain either such bond, Owner agrees to pay Contractor's actual costs of the bond(s), plus 15% overhead and profit.

(iii) **NOTICE REGARDING COMMERCIAL GENERAL LIABILITY INSURANCE.** This Contractor carries commercial general liability insurance written by _____. You may call (the insurance company) at _____ to check the contractor's insurance coverage.

(iii) **NOTICE REGARDING WORKERS COMPENSATION INSURANCE.** All Contractors providing Home Improvement Services carry workers' compensation insurance for all employees.

(v) **INFORMATION ABOUT THE CONTRACTORS' STATE LICENSE BOARD (CSLB).** CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's Internet Web site at www.cslb.ca.gov

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826.

(vi) **NOTICE REGARDING 3 DAY RIGHT TO CANCEL.** California law requires that Contractor give you notice explaining your right to cancel your Maintenance Order

for Home Improvement Services:

You, the Owner, have the right to cancel a contract for Home Improvement Services within three business days after the receipt of Contractor's Order Confirmation. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the Contractor at the Contractor's place of business by midnight of the third business day after your receipt of Contractor's Order Confirmation, which establishes the contract that includes this notice. Include your name, your address, and the date you received the Order Confirmation and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.

(vii) **FORM OF NOTICE OF CANCELLATION.** The following form may be used to cancel under the 3-Day Right to Cancel:

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| <p>Notice of Cancellation</p> <p><i>Please note:</i></p> <p>You may cancel your contract for California Home Improvement Services, without any penalty or obligation, within three business days from the Order Confirmation date.</p> <p>If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the Contractor of your cancellation notice, and any security interest arising out of the transaction will be canceled.</p> <p>If you cancel, you must make available to the Contractor at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the Contractor's expense and risk.</p> <p>If you do make the goods available to the Contractor and the Contractor does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the Contractor, or if you agree to return the goods to the Contractor and fail to do so, then you remain liable for performance of all obligations under the contract.</p> <p>To cancel this transaction, mail, deliver or email a signed and dated copy of this cancellation notice, or other written notice to:</p> |
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Setter Technologies, Inc.
Attention: Adam Sgrenci
1526 Stafford St
Suite A
Redwood City, CA 94063

Email: adam.sgrenci@setter.com

I hereby cancel this transaction.

Dated: _____

Owner Name: _____

Premises Address: _____

Owner's Signature

(e) **BINDING ARBITRATION.** Any claim or dispute arising under a Maintenance Order for California Home Improvement Services shall be subject to binding arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Maintenance Order, conducted in California. A demand for arbitration shall be made in writing, delivered to the other party to the Maintenance Order, and filed with the American Arbitration Association. The party filing the demand for arbitration shall assert all claims then known to that party on which arbitration is being demanded. The award rendered by the arbitrator shall be final, and judgment may be entered upon the award in accordance with applicable law in any court having jurisdiction thereof.

BY VOLUNTARILY AGREEING TO HAVE ANY DISPUTE ARISING FROM A HOME MAINTENANCE ORDER DECIDED BY NEUTRAL ARBITRATION, YOU ARE GIVING UP ANY RIGHT YOU MAY HAVE TO HAVE THE DISPUTE LITIGATED IN COURT OR BY A JURY TRIAL. BY AGREEING TO ARBITRATE, YOU ARE GIVING UP YOUR RIGHT TO DISCOVERY AND APPEAL. IF YOU REFUSE TO SUBMIT TO ARBITRATION, YOU MAY BE COMPELLED TO ARBITRATE UNDER APPLICABLE CALIFORNIA LAW.

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