OPEN SOURCE DEVELOPMENT AGREEMENT

This **OPEN SOURCE DEVELOPMENT AGREEMENT** ("**Agreement**") is entered into as of May 28, 2018 ("**Effective Date**") by and between Mozilla Corporation, located at 331 E. Evelyn Ave., Mountain View, CA 94041 ("**Mozilla**") and GitMate UG (haftungsbeschränkt), located at Harburger Schloßstraße 6-12, 21079 Hamburg, Germany ("**Developer**") (each a "**Party**" and collectively referred to as the "**Parties**").

	Mozilla Contact	Developer Contact
Name:	Mehan Jayasuriya	Naveen Kumar Sangi
Title:	Program Manager	Backend Web Developer
Email:	mehan@mozillafoundation.org	naveenkumarsangi@pm.me
Phone:	+44 (0) 7742 946199	+91 8670 300 541
Email for legal notices:	legal-notices@mozilla.com	sebastian@gitmate.io
Exhibits:	Exhibit A - Project Terms	

Mozilla promotes the development of code and content for the open web. In connection with this goal, Mozilla has created the "Mission Partners" track of the Mozilla Open Source Support program ("MOSS") to pay for the further development of open source software which aligns with Mozilla's mission and goals.

Developer is the developer of open source software.

The Parties desire for Developer to further develop and/or port certain software as described in this Agreement and Exhibit A.

Therefore, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. **TOOL DEVELOPMENT & LICENSES**

    1.1. Development. Developer will develop and/or port the software identified in Exhibit A ("**Software**") in accordance with the specifications and schedule set forth in Exhibit A (the "**Project**").

    1.2. Subcontractors. Mozilla acknowledges that Developer may, with prior written permission from Mozilla, engage subcontractors in the performance of parts of the Project. Developer acknowledges that (i) the use of subcontractors shall not release it from its obligations under this Agreement, (ii) it shall be responsible for all work and activities of its subcontractors, including compliance with the terms of this Agreement, and (iii) it shall be responsible for all payments and legal obligations to its subcontractors.

    1.3. Compliance with Law. Developer shall comply with all laws that are applicable to Developer's development, distribution, publication and offering of the Software, including but not limited to data protection, export, age ratings and content laws. If requested by Mozilla, Developer will provide reasonable documentation related to Developer's compliance with the foregoing.

2. **COMPENSATION**

    2.1. Fees. Mozilla will pay Developer as set forth in Exhibit A to support the Project.

    2.2. Acceptance. The elements of the Project described in Exhibit A shall be submitted to Mozilla as completed for Mozilla's review. If Mozilla identifies deficiencies, it will report such deficiencies to

Developer. In such case, Developer shall correct the deficiencies and resubmit the completed Project element(s) to Mozilla for its review and acceptance.

2.3. <u>Payments</u>. Developer must submit an invoice in order to receive payment. Invoices should be submitted to Mozilla@bill.com with a cc to accounting@mozilla.com. If fees have been paid in advance and this Agreement is terminated by Developer for convenience or by Mozilla for cause, Developer shall refund any amounts owed, as set forth in section 10.5.

2.4. <u>Taxes</u>. Aside from this Agreement, Developer is not affiliated with Mozilla and is in particular not an employee, agent, or representative of Mozilla. Developer is not economically dependent on Mozilla, and is not subject to the direction or control of Mozilla except to the limited extent set forth herein. Developer acknowledges and agrees that Developer is obligated to report as income all compensation received by Developer pursuant to this Agreement. Developer is responsible for all employment, social security, workers compensation, and other taxes, fines, penalties or other liability to any federal, state, province, or local jurisdiction with taxing authority. Developer agrees to indemnify, defend, and hold Mozilla harmless from any claim of liability of any kind by any taxing authority as a result of the payments made under this Agreement.

3. CONFIDENTIALITY

3.1. <u>Definition</u>. The Parties agree that the terms of this Agreement shall be considered "Confidential Information."

3.2. <u>Obligations</u>. The Parties agree: (i) to hold and maintain in strict confidence the Confidential Information and not to disclose it to any third party other than their employees and subcontractors who have a need to know and have executed confidentiality agreements with the Party that are no less protective of the Confidential Information than this section; and (ii) to protect the Confidential Information from disclosure with the same degree of care they use to protect their own proprietary information similar in nature, but in no event less than a reasonable degree of care.

3.3. <u>Court Order</u>. Notwithstanding the foregoing, either Party may disclose the Confidential Information in response to a valid order of a court or other governmental body, but only to the extent of and for the purposes of such order.

4. OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS & LICENSES

4.1. <u>IP Ownership</u>. Developer and Mozilla agree that, as between Developer and Mozilla, Developer owns all work product Developer creates in the course of the Project ("Work Product"), including all intellectual property rights therein, except for any proprietary information or materials owned by any third party that are incorporated into the Work Product ("Third-Party Materials").

4.2. <u>License to Mozilla</u>. Developer hereby provides Mozilla with a nonexclusive, permanent, worldwide, sublicenseable, royalty-free license to all Work Product. Such license shall include rights to distribute, display, perform, modify, create derivative works from, copy, and otherwise use such intellectual property in carrying out Mozilla's programs. This license shall extend to Third-Party Materials but may be limited to the extent necessary to be consistent with Developer's rights to license the Third-Party Materials. Mozilla reserves the right to use the license granted hereunder to make the Work Product and any Third-Party Materials available to the public if for any reason Developer fails to do so. For the avoidance of doubt, the licenses granted herein do not in any way change Developer's ownership of the Work Product or limit Developer's own rights to use the Work Product.

4.3. <u>Open License</u>. Developer agrees to make all Work Product available under the same open source license as the Software being further developed/ported as part of the Project. If the

Software is being created under and does not predate this Agreement, then the open source license for the Work Product shall be determined in consultation with Mozilla.

5. TRADEMARK LICENSE

Subject to this Agreement, Developer hereby grants to Mozilla a non-exclusive, worldwide, royalty-free, non-sublicensable and non-transferable license to use Developer's trademarks, trade names and logos ("**Developer Marks**") solely in connection with this award and promotion of the MOSS awards program, if any.

6. PRESS RELEASES

Neither Party will issue any press releases regarding this Agreement or relationship without the prior review by and written approval of the other Party.

7. REPRESENTATIONS AND WARRANTY

Developer represents and warrants: (i) it has the full corporate power and right to enter into this Agreement and to grant the licenses granted by it hereunder; (ii) in carrying out the Project, it will comply with all applicable laws and regulations; (iii) has no outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement, or that would preclude Developer from complying with the provisions hereof; (iv) the Work Product and the use thereof will not infringe the copyright, trade secret, or any other Intellectual Property (excluding patent) rights of any third party; (v) the Work Product and the use thereof will not, to the knowledge of Developer, infringe any patent right of any third party; (vi) Developer will not incorporate any proprietary information, materials owned by any third party, or any source code licensed under an open source license into any Work Product unless it has all necessary rights to do so; (vii) the Work Product will not be obscene, libelous, or violate the right of privacy or publicity of any third party; and (viii) the Work Product will not contain any virus, trap door, worm, malware, spyware, or any other device that is injurious or damaging to software or hardware used in conjunction with the Work Product. For purposes of clarification, subsections (iv) and (viii) do not include any third party open source code that is incorporated into the Work Product (except and to the extent Developer has knowledge of breach of such warranties by any such third party open source code).

8. INDEMNIFICATION

If any third party brings a claim against Mozilla related to Developer's Software or other Work Product or related to Developer Marks, Developer shall indemnify, defend and hold Mozilla harmless from and against all damages, losses, and expenses of any kind (including reasonable legal fees and costs) related to such claim. Mozilla may, at its expense and option, cooperate in the defense of or response to such claim.

9. LIMITATION OF LIABILITY

To the extent permitted by applicable law, (a) neither Party will be liable for any indirect, special, incidental, punitive or consequential damages or lost profits in connection with this Agreement and (b) each Party's total liability arising out of this agreement will not exceed the greater of (i) $5,000 or (ii) the total amounts paid or payable by Mozilla to Developer hereunder. For clarity, nothing in this section shall affect indemnification obligations hereunder.

10. TERM AND TERMINATION

10.1. <u>Term</u>. This Agreement will commence on the Effective Date and will continue for a period of one year unless terminated earlier under this Agreement.

10.2. <u>Termination for Convenience</u>. Either Party may terminate this Agreement without cause upon giving 30 days prior written notice thereof to the other Party.

10.3. <u>Termination for Cause</u>. Either Party may terminate this Agreement immediately upon notice if the other Party refuses to or is unable to perform under this Agreement or is in breach of any material provision of this Agreement. Additionally, Mozilla may terminate this Agreement upon five days' written notice in the event Mozilla deems the services untimely, unprofessional, or unsatisfactory.

10.4. <u>Consequences of Termination</u>. If the Agreement is terminated by Developer without cause or if the Agreement is terminated by Mozilla for cause, Developer shall refund to Mozilla any amounts not yet earned, as set forth in section 10.5. Except as provided herein, neither Party shall be liable to the other for damages of any kind solely as a result of terminating this Agreement in accordance with its terms.

10.5. <u>Survival</u>. Upon such termination, all rights and duties of the parties toward each other will cease except: (a) if Developer terminates pursuant to section 10.2 or if Mozilla terminates pursuant to section 10.3, Developer shall reimburse to Mozilla, within 30 days after the effective date of termination, all prepaid amounts for Project work not completed or not accepted by Mozilla prior to the termination date; and (b) Sections 3 (Confidentiality), 4 (Ownership), 8 (Indemnification), 9 (Limitation of Liability), 10.5 (Survival), and 11 (Miscellaneous) will survive termination of this Agreement.

11. MISCELLANEOUS

This Agreement, including any Exhibits referenced herein, sets forth the entire understanding of the Parties and supersedes all prior agreements and understandings relating hereto. No modifications or additions to or deletions from this Agreement shall be binding unless accepted in writing by an authorized representative of both Parties. This Agreement will be governed by the laws of the state of California, U.S.A., excluding its conflict of law provisions. Any suit hereunder may be brought in the federal or state courts of the County of Santa Clara, California, and both Parties hereby agree to submit to the jurisdiction thereof. If any part of this Agreement is held invalid or unenforceable, that part will be construed to reflect the Parties' original intent, and the remaining portions will remain in full force and effect. A waiver by either Party of any term or condition of this Agreement or any breach thereof, in any one instance, will not waive such term or condition or any subsequent breach thereof. Neither Party may assign or transfer this Agreement. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which will constitute one and the same document upon execution by both Parties. The Parties will be entitled to rely upon an email of a signed copy of this Agreement as if it were an original signed counterpart. Any notice required or permitted by this Agreement will be in writing and may be delivered by registered mail or email. All notices must be sent to the address and to the attention of the other Party's Contact identified on the cover page of this Agreement (which may be updated by following this notice procedure), and for Mozilla should be delivered via email to legal-notices@mozilla.com in addition to delivery by any other method.

An authorized representative of each Party has read, understood, and agreed to the terms and conditions of this Agreement.

Accepted by:

MOZILLA CORPORATION: **DEVELOPER:**

Signature: _Mitchell Baker_   Signature: _S. ﻌ_

Name: Mitchell Baker   Name: Sebastian Latacz

Title: Exec Chairwoman   Title: CEO

Approved
SW
By Legal

Name of Software to be further developed/ported:
GitMate

Description of Project:
Building out a GitHub app and aggressive caching for the GitMate software

Milestone 1: GitMate deployed as a GitHub app
Milestone 2: IGitt aggressive caching deployed

Payment terms:

Mozilla shall pay Developer a fee of $3538.00 to be paid in two installments: (1) $1769 upon Mozilla acceptance of Milestone 1; and (2) $1769 upon Mozilla acceptance of Milestone 2. For the avoidance of doubt, total payments by Mozilla to Developer under this Agreement shall not exceed this amount.