

**DevNation Federal**  
**Event Terms and Conditions**

**1. ACCEPTANCE BY ORGANIZER.**

Organizer is defined as Marketing Matters, Inc. and Sponsor is defined as Red Hat, Inc. Participating Company ("Company") involvement in the DevNation Federal ("Event") is subject to Organizer's approval. No contract is created unless and until the DevNation Federal Event Contract (the "Agreement") contained within the DevNation Federal Event Application ("Application") is signed (either manually or electronically) by Company and is accepted by Organizer. Organizer may withdraw its acceptance at any time by refunding the total fee paid if Organizer determines, in its sole discretion, that Company or its product(s) is objectionable, unsuitable, or inconsistent with the goals of the Event. Organizer makes no warranties regarding the number of persons who will attend the Event. Event dates, hours, and venue may be modified by information provided to Company in writing.

**2. USE OF MARKETING PROMOTIONAL OPPORTUNITIES.**

*The following terms will apply if a marketing promotional opportunity (MPO) is requested.*

- a. Benefits. Organizer will provide the marketing promotional opportunity (the "MPO") to Company as set forth on the Application. Company must provide each finished MPO requirement (e.g., graphics for banner, kiosk, panel, etc.) to Organizer by the deadline date and in conformance with the Event MPO production agenda. Finished MPO requirement must meet the exact specifications set forth in the MPO Description, which is incorporated into this Agreement by reference.
- b. Use. Each MPO is for Company's use only, and Company may not assign or sublease any portion of any MPO (including to an affiliated company) without Organizer's prior written consent. MPOs must be directly related to Company's normal business activities. Company shall comply with the DevNation Federal Online Trademark and Logo requirements as defined in the MPO. Organizer may refuse permission to exhibit any materials Organizer, in its sole discretion, deems objectionable or unsuitable.
- c. Approval. All finished MPOs are subject to Organizer's approval. Organizer reserves the right to reject finished MPOs.
- d. Late Fee. Company must provide finished MPO requirements (e.g., graphics for banner, kiosk, panel, etc.) to Organizer by the MPO deadline date stated in the Event MPO production schedule. If MPO requirements are submitted after the MPO deadline date, a late fee of 10% of the total MPO Fee must be paid by Company to Organizer.
- e. Cancellation of MPO. If Company cancels an MPO order prior to the MPO deadline date stated in the Event MPO production schedule then Company owes Organizer 15% of total MPO Fee as a penalty fee. If Company cancels an MPO order after the MPO deadline date stated in the Event MPO production agenda, the MPO Fee is deemed fully earned and nonrefundable. Cancellation of MPO by Company must be in writing via email to [jratliff@redhat.com](mailto:jratliff@redhat.com) and will be effective upon receipt by Organizer.

**3. THIRD-PARTY CONTRACTORS.**

Organizer may require Company to use designated third-party contractors to provide certain services ("Required Contractors"), and Company must then use only the Required Contractors for such services and enter into separate contracts with them as needed. Information on such Required Contractors is available in the Sponsor and Exhibitor Event Manual (the "Manual"), which will be provided to Company after this Agreement is executed by Company and accepted by Organizer, or prior by request from Company to Organizer. Notwithstanding such designation, Required Contractors and third-party vendors listed in the Manual act solely as independent contractors, and Organizer is not responsible for their performance, acts, or omissions. Company is responsible for all amounts due to such Required Contractors.

**4. OTHER EVENTS AND MARKETING.**

Company agrees that it may not use Event to leverage any other event in which Company is a sponsor or participant, and therefore agrees that it may not, during the period from two days before until two days after the Event, conduct, promote, endorse, or sponsor any functions, classes, seminars, exhibits, or similar marketing activities within 50 miles/80 kilometers of the Event; other than (i) Company's participation in the Event under this Agreement, or (ii) functions approved in writing by Organizer. During the Event, Company may not promote its products or organization within 500 yards/450 meters of any Event locations, except (a) in advertising contained in periodicals or similar regularly published media, or (b) as permitted by this Agreement or by Organizer in writing.

**5. COMPLIANCE WITH LOCAL LAWS AND RULES; INSURANCE.**

- a. Laws and Rules. Company must comply with (i) all applicable federal, state and local laws and regulations in connection with its participation in the Event, including but not limited to laws and rules regarding access for the disabled, the venue and any relevant labor union, and construction of the Exhibit, and (ii) the terms, conditions, and rules issued by Organizer from time to time in connection with the Event. Company's conduct and the use of names and lists captured at the Event or provided by Organizer are subject to guidelines set forth in the Manual.
- b. Third-Party Proprietary Rights. Company hereby represents and warrants to Organizer and Sponsor that it will not violate or infringe any proprietary rights of third parties in connection with its participation in the Event, including but not limited to the performance, distribution, or posting of copyrighted material without a license, assignment, or other legally effective permission. Company shall indemnify, defend and hold Organizer and Sponsor harmless from and against any claim, loss, liability, or damages caused to Organizer and/or Sponsor as a result of Company's alleged or actual infringement of any third party's proprietary rights.
- c. Taxes and Licenses. Company is solely responsible for obtaining any licenses and permits, and payment of all taxes (including sales and use taxes), license fees, or other charges applicable to its participation in the Event, including taxes collected by Organizer.

**6. CANCELLATION OR TERMINATION.**

- a. Cancellation. Organizer may cancel all or any part of the Event for any reason, including but not limited to natural or public disaster, acts of God, epidemic, acts of terrorism, venue construction, insufficient participation, market fluctuations, government regulation, or similar reasons, in which case Organizer will refund to Company the Space Fees and MPO Fee already paid to Organizer if such cancellation occurs prior to the commencement of the Event. If such cancellation occurs after the commencement of the Event, Organizer will refund to Company a pro rata portion of the Space Fees and MPO Fees already paid to Organizer based on when the Event which was cancelled (e.g., if the Event is 3 days long and is cancelled after 2 days, Organizer would refund 33.33% of the Space Fees and MPO Fees). Once Organizer has provided the applicable refund to Company, Company will have no further recourse against Organizer. A change in the name, dates, hours, or venue of the Event does not constitute a cancellation by Organizer.
- b. Termination by Company. Once Agreement is signed (either manually or electronically by Company) and accepted by Organizer a fifty percent (50%) refund will be given for any cancellation received prior to Saturday, June 5, 2021. All Space Fees are deemed fully earned and nonrefundable on or after Saturday, June 5, 2021. MPO Fees are deemed fully earned and nonrefundable as set forth in Section 2.e. Termination by Company must be in writing via email to [pj.bate@mktg-matters.com](mailto:pj.bate@mktg-matters.com) and will be effective upon receipt by Organizer. Upon receipt of cancellation by Organizer, Company has thirty (30) days from date of cancellation notice to remit payment to Organizer. Company acknowledges the difficulty in determining a precise value for services rendered and expenses incurred by Organizer for the Event, and of ascertaining damages incurred by Organizer if Company terminates this Agreement or Company's participation in the Event; the full amount due from Company under this Agreement belongs to Organizer and represents an agreed measure of compensation and are not to be deemed or construed as a forfeiture or penalty.
- c. Termination by Organizer. Organizer may take possession of the Space and terminate Company's participation in the Event upon Company's failure to meet any obligations under the Agreement, including but not limited to Company's failure to (i) make payment of any amounts when due hereunder, (ii) set up its Exhibit, (iii) maintain all exhibited products in good working order, (iv) staff the Space fully and in a timely manner, (v) violate Organizer's standards of conduct or (vi) failure to comply with the terms and

conditions of this Agreement (including, without limitation, the Manual). Any such termination is treated as a termination by Company under this Agreement, and all fees are deemed fully earned and nonrefundable.

#### **7. DEVNATION FEDERAL MATERIALS.**

The Manual and any other methodologies or planning materials distributed to Company related to the planning or execution of the Event ("DevNation Federal Materials") are owned exclusively by and are confidential information of Organizer. Organizer grants to Company a nontransferable, nonexclusive license, on an "AS IS" basis, to use such DevNation Federal Materials solely in connection to Company's participation in the Event. Company is responsible for obtaining the Manual from Organizer. Upon completion of the Event or earlier termination of this Agreement, Company promptly must return the DevNation Federal Materials to Organizer upon Organizer's written request. Company may use but may not sell lists of Event exhibitors or attendees that have been provided by Organizer's lead retrieval agency without Organizer's prior written permission.

#### **8. PAYMENT.**

Company's payment is due upon the earlier of (i) thirty (30) days from date the Agreement is accepted by Organizer, (ii) seven days prior to Event. All payments must be received in full by Organizer by Tuesday, June 1, 2021 in order to participate or exhibit in Event. Organizer reserves the right to decline or terminate Company's Agreement if payment is not received within the parameters stated above.

#### **9. LIMITATION OF LIABILITY; INDEMNITY.**

a. Under no circumstances is Organizer or Sponsor, the venue at which the Event is held, or any of their respective parents, affiliates, shareholders, employees, agents, officers, directors, successors, and assigns (the "Event Providers") liable for lost profits or other indirect, incidental, consequential, special, or other exemplary damages for any of their acts or omissions in connection with the Event, whether or not such Event Provider has been apprised of the possibility of such damages or lost profits. In no event will Organizer or Sponsor's liability hereunder, or otherwise in connection with the Event, exceed the amount actually paid to it by Company for the Space. Organizer or Sponsor is not liable for any errors in any listing or descriptions or for omitting Company from the Event Show Guide or other materials.

b. None of the Event Providers are liable to Company for any damage, loss, harm, or injury to the person, property, or business of Company, or any of its visitors, officers, agents, employees, invitees, licensees or other representatives, resulting from theft, fire, earthquake, water, unavailability of the venue or intermediate staging facilities, insufficient participation, accident, or any other reason in connection with the Event or any planning, meetings, demonstrations, or staging, except to the extent such liability arises directly from the willful misconduct of the Event Provider against whom liability is sought to be assessed.

c. Company agrees to defend, indemnify, and hold harmless the Event Providers and those lawfully in the venue from and against any claim, loss, liability, or damage suffered due to (i) Company's construction or maintenance of an unsafe Exhibit, and/or (ii) the negligence or misconduct of Company, or its agents, or (iii) Company's breach of this Agreement (including any representation, warranty or commitment made hereunder). Company must maintain proper insurance coverage for its property and liability, and represents and warrants that it has obtained adequate insurance per Section 6 above to cover its potential liability hereunder.

d. Company acknowledges and agrees that the terms and conditions of this Agreement are subject and subordinate to the terms and conditions of Organizer's agreement with the venue at which the Event is held.

#### **10. RELEASE.**

Company acknowledges that the Event may be recorded and reproduced in any form (including but not limited to digital formats), and hereby authorizes Organizer and its designees to record, transcribe, modify, reproduce, publicly perform, display, distribute, redistribute, and transmit in any form, in any media and for any purpose any such recording of the Event in perpetuity, and agrees to execute any additional release presented by Organizer, its licensees, or permittees, in connection with such activity or to give effect to this provision. Company hereby releases Organizer and its designees from and waives all claims it or its employees or agents may possess, now or in the future, in connection with such activities, and specifically waives any statutory restriction on waivers of future claims or moral rights. Company acknowledges that Organizer or its designees or assignees shall be the sole and exclusive owner of such recording.

#### **11. MISCELLANEOUS.**

When signed (either manually or electronically by Company) and accepted by Organizer, this Agreement will constitute the entire agreement between Company and Organizer concerning its subject matter and may only be modified in writing signed by the parties. Organizer's rights under this Agreement are not deemed waived except as specifically stated in writing and signed by an authorized representative. If any term of this Agreement is declared invalid or unenforceable, the remainder continues in full force and effect. Organizer may assign this Agreement or its responsibilities to any other party. Any action arising out of this Agreement or the Event must be brought in the State of California and governed by the law in the State of California, exclusive of the choice of law rules of such jurisdiction. Company hereby consents to the jurisdiction of such courts. Organizer is entitled to recover reasonable attorneys' fees and costs in any action to enforce this Agreement. Company may not assign this Agreement to any other party, including a successor in interest in the event of a merger or sale of assets, without the prior written consent of Organizer, in which event Company must guarantee performance of the assigned obligations. This Agreement is binding upon the permitted heirs, successors, and assigns of Company. This Agreement shall enter into legal effect once signed by the authorized representative of Company and accepted by Organizer, and shall remain in effect until the Event is completed or otherwise terminated in accordance with the provisions hereof. This Agreement shall be executed in the English language. Sections 4, 5, 6, 7, 8, 10, and 11 shall survive the expiration or earlier termination of this Agreement.