

# Software Maintenance and Support Agreement

**THIS SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT STATES THE TERMS AND CONDITIONS UPON WHICH LINK22 AB ("LINK22") IS WILLING TO PROVIDE SUPPORT AND MAINTENANCE ("SERVICES") TO LICENSEES OF CERTAIN LINK22 SOFTWARES ("CUSTOMER"). IF YOU DO NOT AGREE TO THIS AGREEMENT, YOU MUST NOT USE THE SERVICES.**

This Software Maintenance and Support Agreement (the "Agreement"), as of the date that You accept this Agreement ("Effective Date"), is hereby entered into and agreed upon by you ("You" or "Customer"), either an individual or an entity, and link22 AB ("link22") for the Services.

## 1 DEFINITIONS

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For the purpose of this Agreement,

- a. **"Agreement"** has the meaning set forth in the preamble.
- b. **"Business Hours"** means 8.00 to 16:00 CET Monday - Friday excluding Swedish holidays.
- c. **"Trade secret"** means any non-public information in any form and however transmitted, whether orally, visually, in writing, or by electronic communication, that both Parties reasonably and in good faith deem to be confidential or proprietary protected by secrecy. Trade secrets includes, but is not limited to, technological disclosures, ideas, concepts, know-how, business operations, plans, strategies, customer information, pricing information, and any other information that the disclosing Party is contractually or otherwise bound to keep confidential. Trade secrets may, but is not obligated to be designated, marked, or otherwise identified as "confidential." See exclusions in the section titled "CONFIDENTIALITY" below.
- d. **"Customer"** means the company or organization whose name is licensed with a Software from link22 and are eligible to the Services specified in this agreement.
- e. **"Customer's Authorized Support Contact"** means identified Customer personnel who are familiar with Customer's software environment and will coordinate all technical Support with link22.
- f. **"Documentation"** means any and all manuals, instructions, and other end user materials that link22 provides as part of a Software license agreement describing the software's functionality, components, technical specifications, capabilities, requirements, or limitations. Documentation may include, but is not limited to, aspects of the software that are of practical importance, such as instructions on installation, configuration, integration, operation, use, support, or maintenance.
- g. **"Effective Date"** has the meaning set forth in the preamble. It is the start date for this Agreement where all rights and obligations herein become operational and enforceable.
- h. **"End of Service Announcement"** means an announcement from link22 that a particular version of a Software will become a Retired Release.
- i. **"General Availability Announcement"** means an announcement from link22 that a new version becomes generally available for Customers.
- j. **"Intellectual Property Rights"** means any and all registered and unregistered rights to plans, ideas, designs, or other intangible assets. Such rights are granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, right of publicity, other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- k. **"Initial Term"** is the initial period for this Agreement. The period begins on the date of the receipt of the Software and remains in effect for a period as stated in order.
- l. **"Maintenance"** shall mean the services specified in clause 2.1.
- m. **"Maintenance Release"** means any update or other adaptation or modification of the Software or Documentation that link22 may optionally and periodically provide to Customer during the Term. Such release may include, but is not limited to, error corrections, enhancements, improvements, or other changes to the Software's functionality, compatibility, capabilities, performance, efficiency, user interface, or quality.
- n. **"Party"** means the Customer or link22 individually.
- o. **"Parties"** means the Customer or link22 collectively.
- p. **"Renewal Term"** means the time period for a renewal of this Agreement.
- q. **"Retired Release"** means a version of software that is no longer supported.

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- r. **"Software"** means the link22 software licensed to Customer pursuant to a link22 software license agreement and for which the Customer has paid the applicable annual support fee(s) , Maintenance Releases thereto, and any Documentation provided by link22
- s. **"Services"** shall mean Maintenance as Support.
- t. **"Support"** shall mean the services specified in clause 2.2.
- u. **"Support Request"** shall mean a request for information with respect to the Software placed in accordance with this Agreement.
- v. **"Term"** has the meaning set forth in the Term section.

## 2 SERVICES

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### 2.1 Maintenance

The Customer is entitled to Maintenance Releases related to the Software covered by this Agreement.

### 2.2 Support

link22 will provide technical support, including troubleshooting support and assistance with general advice and actions related to the Software.

link22 will;

- a. use good-faith, commercially reasonable efforts to aid in the diagnosis of, and correct, errors in the Software; and
- b. provide advice on how to use the Software by way of telephone, e-mail, and web-based technical assistance.

link22 will acknowledge each Support Request by providing a Support Registration Number, to be referred to in all further communication between the Customer and link22. All Support Requests will be confirmed with an e-mail. If a confirmation e-mail is not received within two working days, it is expected of the Customer to contact link22. The response commitment does not include bug fixes or Software modifications. Such actions must be scheduled as separate activities. Third party applications are not supported by link22.

#### 2.2.1 Releases excluded from support

Support for any Retired Releases are excluded.

#### 2.2.2 Customer's authorized Support Contact

Support will be provided solely to the Customer's authorized Support Contacts.

### 2.3 Limitation of Service

Services provided by link22 under this Agreement are limited to the covered Software and are contingent upon the Customer's proper use of the Software in the application for which it was designed. link22 will not be obligated to provide any Service or to correct any malfunction, damage or other problem if the Software;

- a. has been altered, except by link22 or a link22 designated representative or in accordance with link22 instructions,
- b. has not been installed, operated, repaired, or maintained in accordance with link22 instructions,
- c. has been subjected to abnormal physical or electrical stress, misuse, negligence or accident,
- d. has been operated outside of the environmental specifications for the Software; or
- e. is related to configuration of Customer's network beyond that necessary to the use or installation of the Software.

## 3 CUSTOMER OBLIGATIONS

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### 3.1 Customer's Authorized Support Contact

To help speed up the support process, the Customer shall provide information about personnel that acts as Customer's Authorized Support Contact and will contact link22 with support requests. The minimum information required is; Name, Company name/Organization, phone and e-mail.

Customer's authorized Support Contacts must have English or Swedish language communication skills and the relevant technical knowledge necessary to assist link22 in performing the Services contemplated under this Agreement. link22 strongly recommend that Customer's Authorized Support Contacts be trained on the Software.

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## 3.2 Support Requests

link22 acknowledges that certain data relevant for resolving support request are not disclosable to link22. What is considered disclosable is subject to Customer's approval, however less data provided may have an impact on the Services provided by link22. Relevant data may include, but is not limited to, log files, database dumps, program scripts, descriptions of the hardware and software environment, examples of inputs, and expected and actual outputs.

## 3.3 System Backups

The Customer agrees to maintain up-to-date backups of relevant configurations that can be used to restore the Software, if necessary.

## 4 TERM

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The original purchase of a Software license from link22 includes an Initial Term of the Agreement that begins on the date of receipt of the Software and shall remain in effect for a period as stated in original order.

### 4.1 Automatic renewal

This Agreement automatically renews for the same length as the current Term unless either party provides written notice of termination within thirty (30) days prior to the end of the current Term. This Agreement may be terminated for non-payment or material breach. A decision to terminate the Agreement or otherwise not renew the Agreement will not terminate the applicable Software licenses.

The customer will be invoiced in writing 30 days prior to the end of the current Term. Payment for the renewal of the Agreement is due on the last day of the current Term. If payment is not received the Agreement will not be renewed. The price of renewing the Agreement will be based on the current price list.

Fees paid or due are non-refundable unless link22 has materially breached this agreement and has failed to cure the breach after 30 days written notice.

### 4.2 Service Reinstatement

If Customer wishes to reinstate a lapsed Agreement, the Customer agrees to pay a reinstatement fee as well as the maintenance fee.

For Software that is licensed on a perpetual basis, if Customer had elected not to renew Services and later wishes to re-enroll in the Services, Customer must pay: (i) the applicable maintenance fees for the current Term; (ii) the amount of maintenance fees that would have been paid for the period of time that Customer was not enrolled in the Services, and (iii) a twenty percent (20%) reinstatement fee on the sum of the maintenance fees in (i) and (ii).

## 5 CONFIDENTIALITY

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### 5.1 Secrecy or Classified Information

In connection with this Agreement, each Party may disclose or make available to the other Party Trade secrets which includes, but is not limited to, the Licensed Software, Documentation, and any terms of this Agreement.

Classified information or secrecy protected information disclosed by Licensee shall be protected as follows by a protective security agreement.

### 5.2 Exclusions and Exceptions

Trade secrets excludes information that;

- a. was rightfully and lawfully known to the recipient without any restrictions on use or disclosure prior to disclosure by disclosing Party in connection with this Agreement;
- b. was or becomes part of the public domain by means other than by the recipient or any of the recipient's representatives' violations of this Agreement;
- c. was or is received by the recipient on a non-confidential basis from a third party that was not, or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or
- d. was or is independently developed by the recipient without reference to or use of any Trade secrets.

### 5.3 Protection of Trade Secrets

As a condition of receiving any Trade secret, the recipient will, for three years,

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- e. only access or use Trade secrets if absolutely necessary to exercise the recipient's rights or perform the recipient's obligations under this Agreement;
- f. except when compelled by Law, not disclose or permit access to Trade secrets.

## 6 TERMINATION

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This Agreement may be terminated at any time;

- a. by either Party for the other Party's material breach of this Agreement that is incurable or uncured by breaching party for 30 days after being served with notice of breach and demand for cure, effective on written termination notice to the breaching Party;
- b. by link22, effective immediately irrespective of written notice, if Customer
  - i. is dissolved or liquidated or takes any corporate action for such purposes;
  - ii. becomes insolvent or is generally unable to pay its debts as they become due;
  - iii. becomes the subject of any bankruptcy proceedings, voluntary or involuntary, under any domestic or foreign bankruptcy or insolvency Law;
  - iv. makes or seeks to make a general assignment for the benefit of its creditors; or
  - v. applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property; and
- c. by both Parties upon mutual written agreement.

link22 may terminate this Agreement upon the occurrence of any event which would permit link22 to terminate the Software license agreement. The confidentiality obligations mentioned in this Agreement shall survive the termination of the present Agreement for a period of three (3) years.

## 7 TERMINATION OR EXPIRATION EFFECTS

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Upon early termination or the natural expiration of this Agreement the Services will terminate.

All amounts payable of any kind under this Agreement are immediately due and payable effective on the expiration date or early termination date. link22 will promptly refund Customer any prepaid amount by Customer for any period after the termination date.

## 8 PAYMENT

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### 8.1 Late Payment

If any payment to link22 is delinquent, then in addition to all other remedies available to link22,

- a. link22 may charge interest on the past due amount at a rate no higher than the highest rate permitted under applicable Law; and
- b. if payment delinquency continues for five business days following three written notices or demand for payment, link22 may exercise any or all of the following remedies: (1) technologically disable Customer's use of the Services; and (2) terminate this Agreement pursuant to the Termination section.

## 9 MUTUAL REPRESENTATIONS AND WARRANTIES

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Each Party represents, warrants, and covenants to the other Party that

- a. it is duly established, validly existing, and in good standing to conduct business as a sole proprietorship, partnership, company, corporation, trust, organization, or any other valid entity under the Laws of its jurisdiction;
- b. it has the full right, power, and authority to enter into this Agreement;
- c. it is capable of performing its obligations and granting any licenses, rights, and authorizations specified under this Agreement;
- d. the executing representative for each Party is duly authorized to represent each Party in this Agreement by all necessary business formalities and organizational actions; and
- e. this Agreement is legal, valid, binding on, and enforceable against each Party when fully and mutually executed and delivered.

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## 10 LIMITED WARRANTIES

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### 10.1 Warranty

Except for the warranties specifically contained herein, link22 disclaims any and all warranties with respect to the Services and the Software. The sole liability of link22 arising out of the warranty contained herein shall be exclusively limited to the breach of those warranties.

link22 warrants that;

1. services will be performed with reasonable care and skill; and
2. services and material provided by link22 under this Agreement will, according to link22s knowledge, not violate any intellectual property rights or other rights of any third party.

link22 shall have no obligation to investigate or correct problems (including Errors) that cannot be reproduced by link22 based on information provided by Customer; or that are due to a breach by Customer of the terms of the Software license agreement.

Customer acknowledges that link22 cannot guarantee that every question, problem, issue or Error reported by Customer can or will be resolved. Nothing in this Agreement shall expand or add to any warranty for the Software set forth in the Software license agreement or any other agreement with link22 governing the use of the Software

### 10.2 Disclaimer of Warranties

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND FOR THE EXPRESS LIMITED WARRANTIES HEREIN, ALL LICENSED SOFTWARE, DOCUMENTATION, MAINTENANCE RELEASE, PRODUCTS, INFORMATION, MATERIAL, AND SERVICES PROVIDED BY LINK22 ARE PROVIDED "AS IS, WHERE IS," WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, STATUTORY, OR ARISING FROM ANY COURSE OF DEALING, USAGE, OR TRADE PRACTICE. LINK22 SPECIFICALLY AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS TO THIRD PARTIES, PATENT VALIDITY, OPERATION WITHOUT INTERRUPTION, ACHIEVEMENT OF CUSTOMER'S REQUIREMENTS OR INTENDED RESULTS, OR COMPATIBILITY WITH ANY OTHER GOODS, SERVICES, TECHNOLOGIES, OR MATERIALS EXCEPT AS EXPRESSLY SET FORTH IN THE DOCUMENTATION. FURTHERMORE, AND WITHOUT LIMITING THE FOREGOING, LINK22 MAKES NO WARRANTY OF ANY KIND THAT THE LICENSED SOFTWARE OR DOCUMENTATION IS OR WILL BE SECURE, ACCURATE, COMPLETE, OR FREE OF HARMFUL CODE OR ERROR. ALL OPEN-SOURCE COMPONENTS AND OTHER THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. ANY OPEN-SOURCE COMPONENTS OR THIRD-PARTY REPRESENTATION OR WARRANTY IS STRICTLY LIMITED TO CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF SUCH OPEN-SOURCE COMPONENTS AND THIRD-PARTY MATERIALS AND UNRELATED TO LINK22.

## 11 LIMITATION OF LIABILITY

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EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, UNDER NO CIRCUMSTANCE, INCLUDING WHERE PARTIES WERE ADVISED THAT LOSSES OR DAMAGES WERE POSSIBLE OR FORESEEABLE, WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY: COST INCREASE; BUSINESS, PRODUCTION, REVENUES, OR PROFITS LOST; VALUE DIMINUTION; REPUTATIONAL LOSS; DAMAGED GOOD WILL; USE, INABILITY TO USE, DELAY, INTERRUPTION, LOSS, OR RECOVERY OF ANY LICENSED SOFTWARE, OPEN-SOURCE COMPONENTS, OR ANY THIRD-PARTY MATERIALS; DATA OR SYSTEM SECURITY BREACH, CORRUPTION, DAMAGE OR RECOVERY; REPLACEMENT COST OF GOODS, SOFTWARE, OR SERVICES; OR SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, ENHANCED, OR PUNITIVE DAMAGES UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, TORT, NEGLIGENCE, AND STRICT LIABILITY.

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## 12 FORCE MAJEURE

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Neither Party will be liable to the other by reason of failure or delay in the performance of this Agreement if the failure arises out of any circumstance beyond such Party's reasonable control, including acts of God, flood, fire, natural disaster, war, terrorism, invasion, riot, civil unrest, embargos, national or regional emergency, strikes, labor disruptions, Law changes, or power or telecommunication interruptions or shortages. The Party failing or delaying in performance of this Agreement due to circumstances beyond their control must give prompt written notice to the other Party stating the estimated length of time the occurrence is expected to continue. Either Party may terminate this Agreement if such uncontrollable circumstance continues for longer than 30 days.

## 13 GENERAL PROVISIONS

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### 13.1 Relationship of the Parties

Nothing contained in this Agreement shall be construed as creating any agency, partnership, or any other form of joint enterprise, employment, or fiduciary relationship between the Parties. Neither Party shall have the authority to bind the other in any manner.

### 13.2 Notices

Notices will be deemed effectively given when received if delivered by hand; when received if sent by a nationally recognized courier with required signature upon receipt; when sent if delivered by email with transmission confirmation and sent during receiving party's normal business hours; and on the next business day if delivered by email with transmission confirmation and sent after normal business hours. Any notice, request, consent, claim demand, waiver, or other communication under this Agreement must be in writing and addressed to:

**link22 AB**  
**Teknikringen 8**  
**583 30 Linköping, Sweden**  
**Email: sales@link22.se**

### 13.3 Publicity

Each Party agree to seek express permission and written consent before using the other Party's trademarks, service marks, trade names, logo, domain names, or other indicia of source, association, or sponsorship for any purpose but specifically relating to publicity, marketing, or commercial materials.

### 13.4 Governing Law

This Agreement is governed by and construed in accordance with the Laws of Sweden. Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce. The seat of arbitration shall be Linköping, Sweden.

### 13.5 Further Assurances

The Parties will cooperate with each other, execute and deliver such documents or instruments, and take all further actions as may be reasonably requested by the Parties from time to time in order to carry out, evidence, or confirm their rights or obligations or as may be reasonably necessary or helpful to give full effect to this Agreement.

### 13.6 Amendment and Modifications

This Agreement may be supplemented, amended, or modified only by mutual and written agreement of all Parties. No amendment, modification, rescission, or termination is effective unless it is in writing and executed by all Parties or their authorized representatives.

### 13.7 Waiver

No Party to this Agreement is deemed to have waived any of their rights, powers, remedies, or privileges under this Agreement unless such waiver is expressly set forth in writing and signed by the waiving Party. Except as otherwise set forth in this Agreement, the failure to exercise or enforce any rights, powers, remedies, or privileges under this Agreement will in no way be construed as a present or future waiver of such rights, powers, remedies, or privileges.

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## **13.8 No Third-Party Beneficiaries**

This Agreement is made and entered into for the sole benefit of the Parties. Nothing in this Agreement, express or implied, is intended to or shall confer on or create to any other person or entity any legal or equitable right, benefit, or remedy of any kind whatsoever.

## **13.9 Severability**

If any provision of this Agreement or the application thereof is held to be invalid or unenforceable for any reason and to any extent, then that provision will be considered removed from this Agreement. However, the remaining provisions will continue to be valid and enforceable according to the intentions of all Parties and to the maximum extent permitted by Law. If it is held that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

## **13.10 Entire Agreement**

This Agreement, together with any other documents incorporated herein by reference, constitutes the sole, entire, and final agreement of the Parties with respect to the subject of this Software Maintenance and Support Agreement. This Agreement supersedes all prior and contemporaneous understandings, representations, agreements, and warranties, whether written, oral, or implied. Should any inconsistency occur between statements made in the body of this Agreement, any related exhibits, schedules, attachments, and appendices, and any other documents incorporated herein by reference, the following order of precedence governs: (i) this Agreement, excluding any exhibits, schedules, attachments, appendices, or any other documents incorporated herein by reference; (ii) this Agreement's exhibits, schedules, attachments, and appendices, if any; and (iii) any other documents incorporated in this Agreement by reference.

## **13.11 Intellectual Property Rights**

Ownership of any intellectual property right (including, but not limited to any copyrights, patents, trademarks and other proprietary rights) in relation to the Software and Services, or improvements thereof, existing at the time of execution of this Agreement or originating in the course of this Agreement or other Agreements, is and shall remain solely and exclusively with link22. Nothing in this Agreement shall be construed as a transfer or assignment of any intellectual property rights from link22 to the Customer.

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## 14 SUPPORT LEVEL

Unless stated otherwise in order or any other binding agreement link22 offers Support as more fully described below. Support will be provided as selected, provided that Customer remains current on all applicable fees.

### 14.1 Priority Levels

| PRIORITY      | DESCRIPTION  |
|---------------|--|
| <b>High</b>   | Customer's use of the Software is stopped or so severely impacted that Customer cannot reasonably continue work. Customer experience a complete loss of service. The operation is mission critical to the business and the situation is an emergency.        |
| <b>Medium</b> | Customer experience a severe loss of service. Important features are unavailable with no acceptable workaround; however, operations can continue in a restricted fashion.  |
| <b>Low</b>    | Customer requests information, an enhancement, or documentation clarification regarding the Software but there is no impact on the operation of the Software. Customer experiences no loss of service. The result does not impede the operation of a system. |

*Table 1 Priority Levels.*



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## 14.2 Support Availability and Response Time

| COVERAGY   | DETAILS  |
|--|--|
| <b>Software Maintenance</b><br><i>Includes maintenance releases.</i> | <b>Yes</b>   |
| <b>Customer Portal</b>   | <b>Yes</b>   |
| <b>Telephone Support</b>   | <b>Business Hours</b><br><i>Calls received out of Business Hours will be forwarded to mobile phone and best effort will be made to answer the call, however there will be a backup answer phone service.</i> |
| <b>Email Support</b>   | <b>Business Hours</b><br><i>E-mails outside of hours above will be collected, however no action can be guaranteed until next working day.</i>  |
| <b>Response Times</b>  | <b>High:</b> 6 hours (during Business Hours).<br><b>Medium:</b> Within 1 working day.<br><b>Low:</b> Within 3 working days.  |

*Table 2 Support Availability.*