

CONFERENCE PARTICIPATION AGREEMENT

This Conference Participation Agreement (this “Agreement”) is made by and between XY – The Persistent Company, a Delaware corporation with offices at 1133 Columbia Street, Suite 205 San Diego, CA 92101 (“XY”), and the individual attendee or participant (“you” or “your”) of the conference, seminar or other event hosted by XY (the “Conference”). This Agreement governs your attendance and participation at the Conference Devzilla 2019 on June 5-7, 2019. By registering to attend the Conference, you hereby agree to all of the terms and conditions set forth in this Agreement.

- 1. Registration and Responsibilities.** You must register and pay all applicable entrance fees in order to gain admission to the Conference. You are solely responsible for all costs incurred by you in attending the Conference, including travel and accommodations, and for securing any required travel visas in advance of the Conference date. You will not be entitled to any refunds of registration fees or any reimbursement for amounts lost as a result of your failure to meet any of your responsibilities or obligations under this Agreement, and XY shall have no liability for any such losses.
- 2. Communications.** Confirmation of your Conference registration and other important information about the Conference may be sent to you via email, and you expressly consent to receive such communications from XY. Please ensure that any email address provided by you is valid and correct, and that your email spam filters have not misdirected Conference related emails into your junk email folder.
- 3. Conference Scheduling and Content.** XY reserves the right in its sole discretion to change or modify any aspect of the Conference at any time and without liability, including the theme, topic, content, program, speakers, venue and time.
- 4. Security Badge.** You may be required to wear a security badge while attending the Conference, and provide identification in order to receive your security badge and Conference materials. You may be charged a fee to replace any lost security badge.
- 5. Personal Belongings.** Your personal belongings such as briefcases, backpacks, purses, coats, laptops or mobile phones should not be left unattended during the Conference. XY is not responsible and shall have no liability for any of your personal items that may be lost or stolen during the Conference.
- 6. Fees.** Payment is due at the time of registration. XY may refuse your entry to the Conference without liability if your payment is insufficient or declined for any reason. Any promotional discounts used by you without proper authorization or qualification may be voided by XY in its sole discretion at any time, and in such event, you hereby authorize XY to charge your credit card for the difference.
- 7. Cancellation and Substitution.** We can proceed refunds of any registration cost up to May 17th, 2019. Any refunds after this date will result a \$50 cancellation fee. No refunds will be provided in the event of your cancellation after June 1st, 2019. XY may, in its sole discretion, accommodate your timely request to substitute another attendee in your stead.
- 8. Prohibited Conduct; Indemnification.** XY reserves the right to remove you from the Conference if XY, in its sole discretion, determines that your presence or behavior is disruptive or otherwise interferes with the enjoyment of the Conference by other attendees. You agree not to share, sell or misuse your Conference badge. Attendees found using expired or counterfeit badges, or badges belonging to other attendees, will be ejected from the Conference. You also agree to comply with any rules or policies provided by XY at the Conference. You agree to defend, indemnify and hold harmless XY from and against any liabilities, losses, costs and expenses (including reasonable attorneys’ fees) resulting from any claim, demand, lawsuit or proceeding related to the breach of any of your covenants or obligations hereunder.

9. **Consent to Photograph and Record; Release of Claims.** You authorize XY and its employees and contractors to photograph, film and record your attendance and participation at the Conference, including your name, likeness, image, voice, presentation and performance, as well as any interviews, statements or endorsements made by you (collectively, the “Content”). You hereby grant to XY, and its subsidiaries, affiliates, successors, assigns, licensees, employees, agents and representatives, a perpetual, irrevocable, royalty-free right and permission to use, copy, modify, edit, display, distribute, publish, broadcast and disseminate the Content or any portion thereof in any manner, on or through any form of media, now known or later developed, anywhere in the world, including XY’s website and social media channels. You further acknowledge that XY owns all rights to the Content at all times, and you have no right to pre-approve any use of the Content or receive any payment for such use. You hereby unconditionally and forever release, discharge and hold harmless XY and its officers, directors, shareholders, subsidiaries, affiliates, successors, assigns, licensees, employees, agents and representatives, from and against any and all claims, actions, losses, liabilities or damages arising from or related to the use and enjoyment of the Content and rights granted hereunder, including, without limitation, any claims of defamation or infringement of publicity, privacy or “moral” rights.
10. **Intellectual Property.** All intellectual property rights in and to the Conference, as well as any materials or content distributed at or in connection with the Conference, are owned by XY and its licensors. You may not use or reproduce any such materials, including any trademarks or trade names appearing at the Conference. Nothing contained in this Agreement shall be construed as granting or conferring any rights in or to any such intellectual property to you.
11. **DISCLAIMER OF WARRANTIES.** THE CONFERENCE AND ALL RELATED MATERIALS AND INFORMATION ARE PROVIDED “AS-IS” AND WITHOUT ANY WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED. IN PARTICULAR, XY MAKES NO REPRESENTATION OR WARRANTY REGARDING ANY INFORMATION MADE AVAILABLE AT THE CONFERENCE, OR THAT SUCH INFORMATION WILL BE ACCURATE, USEFUL OR RELIABLE.
12. **LIMITATION OF LIABILITY.** IN NO EVENT WILL XY BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO THE CONFERENCE OR THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF XY HAS BEEN ADVISED OR IS AWARE OF SUCH POSSIBILITY. FURTHER, XY’S MAXIMUM LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE CONFERENCE, WHETHER IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY, SHALL NOT EXCEED TWO TIMES THE TOTAL AMOUNT PAID BY YOU TO XY TO ATTEND THE CONFERENCE. NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS IN THIS SECTION WILL NOT APPLY TO ACTS OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.
13. **Entire Agreement.** This Agreement is the complete and exclusive agreement of the parties with respect to the subject matter hereof, and supersedes and merges all prior or contemporaneous representations, discussions, proposals, negotiations, conditions, communications and agreements, whether written or oral, between the parties relating to the subject matter hereof.
14. **Modification and Waiver.** This Agreement may only be modified by a separate written amendment signed by the parties. No waiver of any breach of this Agreement or of any right or remedy hereunder will be effective unless it is in writing and signed by the party waiving such breach, right or remedy. The waiver of any breach, right or remedy will not operate or be construed to waive any other breach, right or remedy hereunder, whether or not similar, nor will any such waiver operate or be construed as a continuing waiver, unless the writing so specifies.

15. **Governing Law and Jurisdiction.** This Agreement, and all claims or disputes related to this Agreement or the Conference, shall be governed by the laws of the State of California as such laws apply to contracts between residents of such state and performed entirely within such state. Any action or proceeding arising from or related to this Agreement, the Conference, or the business relationship of the parties shall be brought in federal or state court in San Diego County, California, and each party irrevocably submits to the exclusive jurisdiction and venue of such court in any such action or proceeding.
16. **Relationship of the Parties.** The parties are independent contractors. Nothing in this Agreement shall be construed to create an employment relationship or to imply a partnership or joint venture relationship between the parties. Neither party shall have any right, power or authority to create any obligation, express or implied, on behalf of the other in connection with this Agreement.
17. **Headings and Interpretation.** Headings used in this Agreement are for reference purposes only and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect the meaning or interpretation of any provision in this Agreement. The words “hereby,” “herein,” “hereof,” and “hereunder” and words of similar import refer to this Agreement as a whole and not merely to the specific section, paragraph, or clause in which such word appears. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.” Likewise, the items following the term “such as” or any term of similar import shall be deemed to be non-exclusive examples only, and shall not be deemed or construed to imply or set any limitation.
18. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
19. **Assignment.** This Agreement may not be assigned by you without the prior written consent of XY. XY may freely assign this Agreement without the need to obtain your prior consent. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.
20. **Force Majeure.** XY shall not be responsible for any delays or failure to perform caused by any act, omission or condition beyond its reasonable control, whether or not foreseeable, including Acts of God, strikes, lockouts, riots, war, governmental regulations, explosions, fires, power failure, earthquakes, severe weather or other natural disaster, or any failure of software, hardware or communications equipment.