

General Terms and Conditions of Sale for Systems

1. Applicability

- 1.1. These General Terms and Conditions of Sale ("**GTCS**") shall apply to all sales of Systems by Aquaporin A/S, Nymøllevej 78, 2800 Kongens Lyngby, Denmark, Danish CVR No. 28315694 ("**AQP**") to its customers (the "**Customer**"). AQP and the Customer may be referred to herein collectively as the "**Parties**" and each individually as a "**Party**".
- 1.2. The GTCS are an integral and substantial part of every Contract to which they are attached. In case of discrepancy between these GTCS and the Offer, the Offer shall prevail. The Customer's acceptance of the Contract shall be deemed as acceptance of these GTCS.
- 1.3. Any terms or conditions submitted by the Customer to AQP which are inconsistent with, different than, or additional to these GTCS are hereby rejected by AQP, unless otherwise explicitly agreed in writing between the Parties.

2. Contract, Offers, Orders and Order Confirmations

- 2.1. "**Contract**" means a written agreement between the Parties for the sale of the System by AQP. "**System(s)**" means the system(s) or customized system(s) as has been the subject of a Contract. The Contract comprises an Offer, including its Exhibits, and these GTCS. "**Exhibit(s)**" means

the documents referred to as such in the Contract. The Contract shall be deemed conclusive and binding upon the Parties when the Offer is accepted by signing the Offer.

- 2.2. "**Offer**" means a document containing, but not limited to, project data, technical description, vendor list, spare parts list, prices and pertinent Exhibits. AQP reserves the right to cancel its Offer at any time, as long as it has not been accepted according to clause 2.1. When the validity period of the Offer lapses, AQP is not bound by the Customer's acceptance.
- 2.3. AQP shall, within seven (7) Days after receipt of an order, notify the Customer of its acceptance or rejection of such order and, if accepted, of the estimated date of delivery. "**Day**" means a business day on which AQP and the Customer are open, but excluding Saturdays, Sundays and days on which commercial banks in the countries of AQP and the Customer are closed. No orders shall be binding until accepted in writing by AQP. AQP shall communicate to the Customer the name of a technical contact within its personnel for purposes of managing the submitted order.

3. Sales Price and Terms of Payment

- 3.1. The sales price shall remain in force for the period of validity of the Offer. In the event that this period is not specified, the period of validity shall be understood as ninety (90) Days.

- 3.2. Unless otherwise established, the sales price refers exclusively to the System as specified in the Offer. In particular, the sales price excludes all taxes, accessories, optional materials, and additional services.
- 3.3. The sales price is fixed, unless otherwise explicitly agreed between the Parties.
- 3.4. If not otherwise agreed in writing, all prices are stated, and all payments to AQP shall be made in EUR by bank transfer against invoice. Payment shall not be deemed to have been credited before AQP's account has been fully and irrevocably credited.
- 3.5. Each Party shall pay its own transaction fees pertaining to such payment, including any applicable bank charges and fees.
- 3.6. In the event of delay in payment of over than seven (7) Days, AQP shall be entitled to receive daily default interest at the rate of 8% per year for every Day's delay commencing from the last Day valid for making payment, without it being necessary for AQP to request a summons to pay. This shall be in addition to, and not in limitation of, any other rights or remedies to which AQP is or may be entitled at law. The Customer shall be responsible for all costs and expenses incurred by AQP as a result of pursuing past-due amounts.
- 3.7. In the event of delays in payments, AQP shall be entitled to suspend the performance of its own contractual obligations until it is in receipt of payment and the relative interest, after giving due written notice to the Customer.
- 3.8. If the Customer delays the payment of any of the instalments described in the Contract for a period of more than two (2) months, AQP shall be able to rescind the Contract, without prejudice to its right to compensation for damage incurred, which in all cases shall be within the limits of the sales price. In this case, AQP shall remain entitled to retain the sums, however received from the Customer, for an amount corresponding to the entity of the damage sustained.
- 3.9. All amounts due under these GTCS shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law), without the prior written approval of AQP.

4. Terms of Delivery

- 4.1. All deliveries of System will be made on delivery terms specified in the Offer. The passing of risk in the System shall be regulated in accordance with the specified delivery term.
- 4.2. AQP shall endeavor to deliver the System on the date of delivery according to clause 2.3. If AQP anticipates that it will not be able to deliver the System on the said date, AQP shall forthwith notify the Customer hereof, stating the reason of the delay and, if possible, provide the Customer with a new estimated date of delivery.

- 4.3. AQP shall notify the Customer in advance of the readiness for Shipment and a point of Shipment. "**Shipment**" means that the System is packed and ready for pickup.
- 4.4. In the event of delay in Shipment occasioned for reasons of Force Majeure (as specified in section 19) or acts or omissions of the Customer, including non-payment of part of the sales price, the Shipment shall be deferred for a reasonable period, having due regard to the circumstances of the case.
- 4.5. The Customer shall communicate in advance, in writing, if it is not in a position to receive the System on the agreed date, indicating the reasons, and, if possible, the new date for performing the pickup. In this case, AQP shall, at all events, have the right to receive the payments agreed upon as if the pickup had taken place on the originally agreed date. AQP will make provision for the custody of the System and, if requested, for its insurance, which shall be at the Customer's account and risk.
- 4.6. With the exception of cases of Force Majeure, AQP shall be able to request the pickup of the System within a reasonable term. If, for reasons not attributable to AQP, the Customer refuses to receive the System according to the foregoing term, AQP shall have the right to rescind the Contract, wholly or in part. AQP shall have the right to compensation for damage deriving from the non-pickup of the System for that part of the Contract already performed, in the maximum limit of the agreed upon sales price.

5. Reservation of Title

- 5.1. The System shall remain the property of AQP until the full payment of the sales price is made, as defined in the present GTCS. Until such payment is received, the Customer shall ensure that the System: (i) remains under the Customer's exclusive control; (ii) is clearly marked as belonging to AQP; and (iii) is not incorporated into any other goods or transformed in any manner.
- 5.2. The reservation of title shall have no consequences upon the transfer of the risks to be borne by the Customer, as regulated by clause 4.1.

6. Inspection and Acceptance

- 6.1. The Customer shall, within five (5) Days of the arrival of the System at Customer's premises or other location where the System is to be delivered ("**Customer location**"), inspect the System at its own cost and notify AQP in writing of any defect in System or any other matter by reason of which the Customer alleges that the System delivered does not comply with this Contract, and which should be apparent on inspection.
- 6.2. The Customer is deemed to have accepted the System delivered unless written notice of rejection as specified in clause 6.1 is received by AQP.

7. Handling, Conservation and Installation Premises

- 7.1. The Customer recognises that the System requires particular care in handling and storage and that the premises where the installation shall take place needs an unencumbered area and adequate ventilation for the dispersion of heat. Therefore, the Customer undertakes to observe the indications specifically set forth in the technical report and/or the system operating manual that accompany the System. Any flue gases or vapours dangerous for people and/or corrosive for the System must be eliminated by the Customer before installation operations are undertaken. The System shall also be placed in an environment appropriate for its functioning and which will permit the installation personnel to operate in safe conditions. If these conditions are not complied with, any damage shall be for the account of the Customer.

8. Additional Services

- 8.1. The additional services can comprise installation and commissioning if AQP and the Customer have agreed on it.
- 8.2. If the installation and/or commissioning are to be undertaken by the Customer, the latter must carry out both operations in a workmanlike manner, meeting the standards of quality for such work. Further, the Customer shall comply strictly with the system operating manual and other instructions received from the personnel of AQP. The installation and/or the commissioning shall be performed at the Customer's sole risk, cost, and expense.
- 8.3. If the installation and/or commissioning are undertaken by AQP, the compensation for such additional services to be agreed upon with respect to each such occasion as it arises.
- 8.4. If the additional services are undertaken by AQP, the Customer shall ensure that AQP's personnel will enjoy appropriate conditions to perform their work during ordinary working hours and in compliance with the timescale agreed upon. The Customer shall also make available the vehicles necessary for handling and lifting the System as well as utility services such as water mains supply, electricity, compressed air and whatever else may be necessary.
- 8.5. The Customer undertakes to furnish the responsible personnel with all the information necessary for the installation and/or commissioning operations, and within the timescale requested, including the names of reference contacts, layout, blueprints, working hours, access permits, the characteristics of the service and process networks. The Customer shall also furnish all the information necessary and relevant on the question of safety at work and in good time, which must also include the safety plan in force for the place of installation and/ or commissioning.
- 8.6. In the event that the Customer fails to provide the information or the means necessary within the agreed timescale or if it is necessary for the Customer to carry out preparatory work or improvements to the installation and/

or commissioning area and such work is not performed within the agreed timescale, the installation and/or commissioning may be delayed or suspended, because the agreed timescale cannot be complied with. In this case the Customer shall not suspend the payments to be made in the manner and at the times agreed upon. Any cost increases due to delays, non-performance or the unworkmanlike execution of work by the Customer, shall be charged by AQP at the completion of the work.

- 8.7. Upon the successful completion of the additional services, AQP and the Customer shall sign an acceptance certificate which shall be a conclusive proof, as between AQP and the Customer, that each part of the additional services has been completed and satisfactory to the Customer in all respects.

9. Site Acceptance Test

- 9.1. The purpose of "Site Acceptance Test" is to verify that the System operates correctly. The Site Acceptance Test is defined in the documents accompanying the System.
- 9.2. The Site Acceptance Test shall entail the final acceptance of the System by the Customer and is conducted in the presence of both Parties and under the responsibility of the duly authorized representative of the Customer. The Customer's duly authorized representative shall sign a Site Acceptance Test certificate confirming such acceptance.
- 9.3. If not otherwise specified, the Site Acceptance Test shall be conducted at the completion of the installation and commissioning operations.
- 9.4. After the lapse of four (4) weeks from agreed date without it being possible to undertake the Site Acceptance Test, unless for causes attributable to AQP or causes of Force Majeure, the System shall be deemed automatically accepted without any further reserve. If the causes are attributable to the Customer, AQP shall not be liable for any defects in the System.
- 9.5. The Customer undertakes to provide all the assistance necessary, through its own personnel and whatever material or service shall be required, for the performance of the Site Acceptance Test in the time period agreed upon. Any cost increases due to delays, non-performance or the unworkmanlike execution of work by the Customer, shall be charged by AQP at the completion of the work.
- 9.6. Unless otherwise specified, the Customer is not authorised to use the System prior to the completion of the Site Acceptance Test. If the Customer violates this prohibition, it shall be held responsible for all the damage that may ensue and any System warranty given by AQP shall automatically lapse.
- 9.7. If the function recorded during the Site Acceptance Test phase is significantly different from the specifications set out in the Contract, the Customer will allow AQP to make an adequate technical compliance assessment to understand the reasons for the non-compliance. If non-compliance is due to causes attributable or ascribable

to AQP, the latter undertakes to provide the Customer with proposals for alternative solutions to work out the problems. If such solutions are not acceptable by the Customer as the functioning of the System would be compromised, the provisions set forth under section 12 "Limited Warranty" shall apply.

10. Changes to Systems

10.1. AQP reserves the right to improve or modify any System and to change the technical specifications, design or performance of any System or any part thereof at any time before delivery and in any manner. If any such change is made, AQP shall, to the extent reasonably practicable, inform the Customer hereof.

11. Compliance with Specifications, CE Mark

11.1. AQP guarantees that the System complies with the specifications contained in the Offer, its pertinent Exhibits and conform with applicable directives and regulations for goods intended for use in the European Union, unless otherwise specified in the Contract. This compliance is attested by the CE mark and the declaration of compliance attached to the system operating manual.

12. Limited Warranty

12.1. A warranty period for the System is two (2) years from delivery of the relevant System to the Customer. The foregoing doesn't apply to membrane modules. The warranty applicable for such modules is specified in other relevant documents.

12.2. During the warranty period, AQP warrants that the System is free from any defect in materials or workmanship under normal use, provided that the Customer without undue delay notifies AQP of any such defect which comes to the Customer's knowledge. Failure to notify AQP of said defect, within thirty (30) calendar days from the date on which the defect is noticed or could have been noticed, shall mean that the Customer loses the right to have the defect remedied. Further, the Customer is responsible for documenting use within the specifications of the System by adequate logging of operational data and providing AQP with such data together with the written notice.

12.3. AQP's sole obligation, and the Customer's sole remedy under this warranty, shall be repair or replacement of the defective System, at AQP's discretion. The Customer shall handle the returns and replacements of defective Systems in accordance with AQP's instructions. Repaired or replacement Systems will be warranted under the terms set forth herein for the remainder of the original warranty period or ninety (90) calendar days, whichever is longer. When the System or part thereof is replaced, all Systems or parts thereof that are replaced shall become the property of AQP.

12.4. The warranty set forth in this section 12 is contingent upon proper warehousing, shipment and use of the Systems, and AQP shall not be liable for defects attributable to

(a) modifications to or alterations of the Systems by any party other than AQP, (b) faulty maintenance, incorrect installation or faulty repair by any party other than AQP, (c) use of the Systems for a purpose for which they were not designed or intended, (d) normal wear and tear or deterioration, (e) misuse, abuse, negligence or accidents. In addition hereto, the warranty does not apply if the rating plate containing the serial number and the reference date of the System has been altered, defaced or removed.

12.5. THE WARRANTY SET FORTH IN THIS SECTION 12 IS THE ONLY WARRANTY APPLICABLE BETWEEN THE PARTIES WITH RESPECT TO THE SYSTEMS AND NO OTHER WARRANTIES OF ANY KIND SHALL APPLY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AQP DISCLAIMS AND EXCLUDES ALL WARRANTIES OTHER THAN THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 12, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

13. System Liability

13.1. In the event any third party claims, suits or actions are brought against the Customer during the warranty period, alleging bodily injury (including death) or damage to property caused by defects in the Systems, AQP agrees to indemnify and hold the Customer harmless for any and all claims, costs, damages, expenses (including the reasonable fees of attorneys and other professionals), liabilities and other responsibilities incurred or sustained by the Customer, provided that:

- a) the defect is attributable to the negligence of AQP and existed at the time the System was delivered by AQP to the Customer and, consequently, is not attributable to (i) an accident, (ii) faulty and/or improper use, installation, maintenance, service, repair or alteration contrary to AQP's technical specifications, documentation or written instructions, (iii) normal wear and tear or deterioration, (iv) designs, specifications, instructions provided by parties other than AQP, (v) improper environmental conditions (including, but not limited to, electrical surges, water damage, and heat exposure), (vi) the negligence of the Customer or any third party, or (vii) lack of responsible care;
- b) no System or rating plate modifications have been made;
- c) the Customer is liable for such bodily injury or property damage under the relevant laws; and
- d) the Customer promptly notifies AQP in writing of any notice or claim of such injury or damage and of the commencement of any suit or action for injury or damage received by or brought against the Customer.

13.2. AQP shall have the right, but not be obligated to, assume the defence of any claim made in accordance with clause 13.1 at AQP's own cost and expense and the Customer shall in such case, at AQP's cost and expense, provide such information, cooperation, and assistance to AQP as

may be reasonably necessary to assist AQP in its defence against any such claim. The Customer may not settle or otherwise enter into any agreement with any claimant, nor make any admission which may be prejudicial to the interest of AQP, without AQP's prior written consent.

13.3. Notwithstanding anything to the contrary in these GTCS, the liability of AQP under this section 13 shall only apply and be limited to what is payable from the product liability insurance taken out and maintained by AQP.

13.4. THE FOREGOING PROVISIONS OF THIS SECTION 13 SET FORTH THE SOLE, EXCLUSIVE AND ENTIRE LIABILITY OF AQP AND THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIMS, SUITS, OR ACTIONS RELATED TO BODILY INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE.

14. Indemnification by the Customer

14.1. The Customer shall be fully liable for, and shall keep AQP indemnified and held harmless against any and all losses, claims, liabilities, damages, costs and expenses (including the reasonable fees of attorneys and other professionals) of every nature and kind incurred or sustained by AQP or otherwise arising out of or relating to the Customer's sale, promotion and marketing of the Systems, including any misrepresentations or false statements made by the Customer to its customers regarding the Systems. In addition hereto, should the Customer, by act or omission, be in breach of a Contract, the Customer shall assume full liability for any loss or damage incurred by AQP as a result of such breach by the Customer.

14.2. The indemnity shall apply regardless of where the occurrence giving rise to the claim took place or where the claim is asserted. AQP shall give the Customer notice of any claim and of any legal proceedings within the scope of the indemnity and shall give the Customer the right to conduct the negotiations of any such claim and the defence of any such legal proceeding, subject to the right of AQP to be associated with such negotiation or defence.

15. Intellectual Property Rights

15.1. All intellectual property rights or other proprietary rights in and to the Systems or related to the Systems, including but not limited to their formula, design, packaging and know-how, and any modifications or developments thereto, as well as the trademarks and trade names under which the Systems are marketed shall remain the sole and exclusive property of AQP and the Customer acquires no rights, title, or license beyond those expressly granted for the use of the System.

15.2. The Customer undertakes not to copy, decompile, reverse engineer, reproduce the Systems or disclose to third parties the technical information, designs, models, prototypes, formulas and knowledge received from AQP. The Customer acknowledges that this information is confidential and undertakes to use it solely for the purpose for which it was divulged.

16. Intellectual Property Rights Infringement

16.1. If any System, as delivered hereunder, is held to infringe a third party's patent, utility model, design, trademark or other intellectual property right and the Customer is enjoined from using same, AQP may, at its option and expense, (a) modify the System without impairing in any respect the functionality, capacity or performance, so that it is non-infringing; (b) procure for the Customer the right to continue to use and sell the System; (c) replace the System with an equally suitable, non-infringing system; or d) procure the System with a price reduction in a proportion of 20% per year.

16.2. THE FOREGOING PROVISION OF THIS SECTION 16 SET FORTH THE SOLE, EXCLUSIVE AND ENTIRE LIABILITY OF AQP AND THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS.

17. Limitation of Liability

17.1. EXCEPT FOR EITHER PARTY'S BREACH OF SECTION 18 "CONFIDENTIALITY" AND THE CUSTOMER'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 14 "INDEMNIFICATION BY THE CUSTOMER" AND SECTION 16 "INTELLECTUAL PROPERTY RIGHTS", IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT, LIABILITY (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY, OR UNDER ANY OTHER LEGAL THEORY, SHALL EITHER PARTY WITH RESPECT TO ANY MATTERS RELATING TO THESE GTCS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR INDIRECT LOSSES OR DAMAGES INCLUDING LOSS OF DATA, LOSS OF PROFIT, REVENUE OR PRODUCTION, INTEREST ON INVESTMENTS, LOSS OF GOODWILL, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COSTS OR CLAIMS OF CUSTOMERS REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME. THIS LIMITATION SHALL BE DEEMED INDEPENDENT OF, AND SHALL SURVIVE, ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY UNDER ANY WARRANTY, THE TERMS AND CONDITIONS OF THESE GTCS AND/OR A CONTRACT.

17.2. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE GTCS, AQP'S TOTAL AND AGGREGATE LIABILITY FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH OR RESULTING FROM A CONTRACT AND THESE GTCS SHALL BE LIMITED TO AND IN NO CASE EXCEED THE PURCHASE PRICE FOR THE SYSTEM.

17.3. The foregoing limitations shall not apply in case of gross negligence or wilful misconduct of the defaulting Party.

18. Confidentiality

18.1. Each Party undertakes, and shall cause all officers, employees, sub-contractors and other persons concerned by the GTCS and other documents of the Contract to

undertake, to keep secret all information received from the other Party and not to use the same except to the extent necessary to fulfil its rights and obligations under the GTCS and other documents of the Contract.

19. Force Majeure

19.1. “**Force Majeure**” means the occurrence of an event or circumstance that prevents or impedes a Party from performing one or more of its contractual obligations under these GTCS, if and to the extent that the affected Party proves: (a) that such impediment is beyond its reasonable control; and (b) that it could not reasonably have been foreseen at the time of the conclusion of these GTCS; and (c) that the effects of the impediment could not reasonably have been avoided or overcome by the affected Party.

19.2. In the absence of proof to the contrary, the following events affecting a Party shall be presumed to fulfil conditions (a) and (b) under clause 19.1: (i) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilization; (ii) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy; (iii) currency and trade restriction, embargo, sanction; (iv) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalization; (v) plague, epidemic, natural disaster or extreme natural event; (vi) explosion, fire, destruction of equipment, prolonged break-down of transport, telecommunication, information system or energy, supply shortages by sub-contractors; (vii) general labour disturbance such as boycott, strike and lock-out, go-slow, occupation of factories and premises.

19.3. A Party successfully invoking this section 19 is relieved from its duty to perform its obligations under these GTCS and from any liability in damages or from any other contractual remedy for breach of these GTCS, from the time at which the impediment causes inability to perform, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other Party.

Where the effect of the impediment or event invoked is temporary, the above consequences shall apply only as long as the impediment invoked impedes performance by the affected Party. Where the duration of the impediment invoked has the effect of substantially depriving the Parties of what they were reasonably entitled to expect under these GTCS, either Party has the right to terminate these GTCS by notification within a reasonable period to the other Party. Unless otherwise agreed, the parties

expressly agree that these GTCS may be terminated by either Party if the duration of the impediment exceeds one hundred twenty (120) calendar days.

20. Publicity

20.1. No press release or public announcement of any kind, nor issuing of any promotional material, relating to an order or a Contract or its contents shall be made by the Customer without AQP's written approval.

21. Assignment

21.1. The Customer may not assign or transfer its right and obligations, whether in whole or part, without the prior written consent of AQP.

22. Severability

22.1. If any provision or part of a provision of these GTCS is or is held by any court of competent jurisdiction to be unenforceable or invalid, such unenforceability or invalidity shall not affect the enforceability of any other provision.

23. Waiver

23.1. The waiver by AQP of the exercise of its rights in the event of the non-performance by the other Party pursuant to the terms of these GTCS, shall not be construed as the waiver for any successive cases of non-performance, and nor shall it limit the right of AQP to enforce its rights under the term or condition of these GTCS at a later date.

24. Governing Law and Arbitration

24.1. These GTCS shall be governed and construed in accordance with the laws of Denmark without regard to the provisions of the United Nations Convention on contracts for the International Sale of Goods.

24.2. Any and all disputes between the Parties arising out of or in connection with these GTCS or the breach, termination or invalidity hereof shall – in the absence of an amicable solution to the dispute – be finally settled by Arbitration in accordance with the Rules of Procedure of the Danish Institute of Arbitration (Voldgiftsinstituttet). The arbitration tribunal shall be composed of one arbitrator selected and appointed by the institute. The Place of Arbitration shall be Copenhagen. The language of the proceedings shall be English. Such arbitrations proceedings including any evidence exchanges as well as the contents of any award shall be confidential.

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