

## THE LINUX FOUNDATION

### CLOUD FOUNDRY FOUNDATION

#### Participation Agreement

Thank you for your interest in joining the Cloud Foundry Foundation (the “CFF”), a directed fund project of The Linux Foundation (the “LF”). The purpose of the CFF is to raise, budget and spend funds in support of various open source projects relating to development of a Platform-as-a-Service (PaaS) open source technology, including infrastructure and support initiatives related thereto (each such project, a “PMC”). The governance for the CFF will operate pursuant to the CFF Charter (the “Charter”), set forth as Exhibit B, and as amended in the future by the CFF’s Governing Board with the approval of the LF. **Please note** that you must be a member of the LF to be eligible to participate as a member of the CFF. For further information, visit the Corporate Membership page at the LF web site.

Participants will enjoy the privileges and undertake the obligations described in the Charter and will comply with all such policies as the LF Board of Directors and/or the CFF’s Governing Board may from time to time adopt with notice to members. The LF reserves the right to refuse any Participation Agreement submitted by a member who has payment obligations outstanding to the LF or to any other LF directed funds. Technical oversight governance for any PMC is set forth in the applicable technical charter for such PMC.

Please have this Participation Agreement (the “Agreement”) executed by an authorized representative of the member company named below (“Member”). If not using an e-signature system, please send a copy in PDF form by email to [membership@linuxfoundation.org](mailto:membership@linuxfoundation.org). A countersigned copy will be returned to you by email for your records when your eligibility for membership has been confirmed and an invoice will be emailed to you for payment of applicable membership fees. Note that this is not an indication of interest; execution of this Agreement creates an irrevocable, binding obligation for the member company to make the payments provided for and to otherwise perform in accordance with its terms.

**Contact Information:** If you are an existing LF Member, all legal, billing and financial notices from the LF relating to your participation will be sent to the individuals already on file with the LF under those categories unless you designate a different individual in Exhibit A.

**Membership Fees:** The membership fees are defined in Exhibit C.

#### **Silver Membership Fee Scale:**

In calculating the appropriate annual fee for Silver membership, please indicate your current consolidated employee headcount in the membership level selected. Solely for purposes of calculating fees, Consolidated Employees include all employees of Related Companies (as defined in the Charter), which include any direct and indirect parent companies, and all sister and subsidiary entities. Employees do not include third party contractors.

## **Membership Terms:**

Membership requires an annual membership term. One year's fees are due on acceptance as a member. At the anniversary of membership, if membership is not canceled at least thirty days prior to the anniversary of membership, a prorated amount of the applicable fees for the remainder of that calendar year (a "stub period") will be invoiced (and membership will proceed on a calendar-year based renewal cycle thereafter).

For all levels of membership, an initial full year's payment of fees is due upon receipt and acceptance of an executed membership agreement and payable within thirty days of the date of invoice from the LF. Agreements signed before the 15th of the month will be invoiced as if active on the first of the month of signature. Agreements signed on or after the 15th will be invoiced as if active on the 1st of the following month. All fee amounts are irrevocable and non-refundable commitments based in US Dollars. We reserve the right to refuse your Participation Agreement if you have outstanding obligations to the LF or any other LF projects. In no event will fees be refunded, upon a Member's resignation or otherwise.

Each Member acknowledges that the LF and other members of the CFF depend upon reliable participation renewal information to budget effectively, and that the LF's ability to provide services to the CFF would suffer in the event of nonpayment of participation fees. Each Member acknowledges The Linux Foundation's Good Standing Policy, available at <https://www.linuxfoundation.org/good-standing-policy>.

Notice of any increase in participation fees for the following calendar year will be given on or before October 15 in the current calendar year. Member's participation for each calendar year and any stub period, and its obligation to pay participation fees for the following calendar year or stub period, as applicable, will renew annually for successive one-year terms, unless the applicant delivers written notice of non-renewal to the LF on or before December 1 of the current membership year.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**Name of Member Company:** \_\_\_\_\_

**Membership Level** (*see Exhibit C*): \_\_\_\_\_

**Consolidated Employees** (*if applicable*): \_\_\_\_\_

**PR/Logo Usage:** Do we have your permission to:

...display your logo on the Directed Fund's website (Yes or No)? \_\_\_\_\_

...announce your participation via press release (Yes or No)? \_\_\_\_\_

**Preferred method(s) for receiving invoices** (*PDF or Hard Copy*): \_\_\_\_\_

**Is a Purchase Order (PO) required** (*Yes or No*)? \_\_\_\_\_

If Yes, please provide the following details:

Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

By signing below, the Member acknowledges and agrees that, when signed and accepted by the LF, this Agreement represents a binding contract between the parties and commits the applicant to these terms and obligations:

Authorized Representative of Member:

Accepted:

THE LINUX FOUNDATION

\_\_\_\_\_  
(Print Member Name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **Exhibit A**

### **Primary Contact**

*(for all notices, including voting)*

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Phone No: \_\_\_\_\_  
E-mail: \_\_\_\_\_

### **Primary Technical Contact**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Phone No: \_\_\_\_\_  
E-mail: \_\_\_\_\_

### **Primary Marketing Contact**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Phone No: \_\_\_\_\_  
E-mail: \_\_\_\_\_

### **Primary PR Contact**

*(For approving press releases or quotes with respect to the Project)*

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Phone No: \_\_\_\_\_  
E-mail: \_\_\_\_\_

### **Legal Contact**

*(This contact should be your primary in-house attorney for open source matters with respect to the Project. If you do not have in-house counsel, please leave this blank.)*

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Phone No: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**Billing Address**

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**Billing Contact**

*(All invoices will be sent to this e-mail address unless the Member directs otherwise)*

Name: 

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Title: 

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Phone No: 

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E-mail: 

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SAMPLE

## **Exhibit B**

### **The Cloud Foundry Foundation Charter**

The Linux Foundation  
Effective January 1, 2021

#### **1) Mission and Scope of the Cloud Foundry Foundation.**

- a) The purpose of the Cloud Foundry Foundation (the “CFF”) is to raise, budget and spend funds in support of various open source, open data and/or open standards projects relating to development of a Platform-as-a-Service (PaaS) open source technology, including infrastructure and support initiatives related thereto, including infrastructure and support initiatives related thereto (each such project, a “PMC”). The governance of each PMC is as set forth in the applicable charter for each PMC.
- b) The CFF supports the PMCs. The initial PMCs supported at inception include Cloud Foundry Application Runtime, Cloud Foundry Extensions, Cloud Foundry BOSH, and Open Service Broker API. The CFF operates under the guidance of the Governing Board of the CFF (the “Governing Board”) and The Linux Foundation (the “LF”) as may be consistent with The Linux Foundation’s tax-exempt status.
- c) The Governing Board manages the CFF. The CFF will also have an Outreach Committee, Project Management Committees Council, Budget Committee, Legal Committee and other working groups, councils, committees and similar bodies (collectively, “Committees”) that may be established by the Governing Board. These committees report to the Governing Board.

#### **2) Membership.**

- a) The CFF will be composed of Platinum, Gold, Silver and Associate Members (each, a “Member” and, collectively, the “Members”) in Good Standing. All Members must be current corporate members of the LF (at any level) to participate in the CFF as a member. All participants in the CFF, enjoy the privileges and undertake the obligations described in this Charter, as from time to time amended by the Governing Board with the approval of the LF. During the term of their membership, all members will comply with all such policies as the LF Board of Directors and/or the CFF may adopt with notice to members.
- b) Platinum Members will be entitled to appoint a representative to the Governing Board and receive the most prominent placement in any listing of members.
- c) Gold Members, acting as a class, will be entitled to annually elect two representatives to the Governing Board (each a “Gold Member Representative”). The Governing Board determines the election process.
- d) The Associate Member category of membership is limited to Associate Members of The Linux Foundation. The Governing Board may set additional criteria for joining the CFF as an Associate Member. If the Associate Member is a membership organization,

Associate Membership in the CFF does not confer any benefits or rights to the members of the Associate Member.

- e) Members will be entitled to:
  - i) participate in CFF general meetings, initiatives, events and any other activities; and
  - ii) identify themselves as members of the Cloud Foundry Foundation supporting the Cloud Foundry community.

### **3) Governing Board**

- a) The Governing Board voting members will consist of:
  - i) one representative appointed by each Platinum Member;
  - ii) the elected Gold Member Representatives; and
  - iii) the PMCC Representative
- b) Only one Member that is part of a group of Related Companies (as defined in Section 9) may appoint, or nominate for a membership class election, a representative on the Governing Board. No single Member, company or set of Related Companies will be entitled to: (i) appoint or nominate for Membership class election more than one representative for the Governing Board, or (ii) have more than two representatives on the Governing Board.
  - i) Please note that it will be acceptable for one Member to appoint or nominate a representative to the Governing Board and have another of its employees, or an employee of one of its Related Companies, serve as the PMCC Representative on the Governing Board.
- c) Conduct of Meetings
  - i) Governing Board meetings will be limited to the Governing Board representatives, the Outreach Committee Chair, invited guests and LF staff.
  - ii) Governing Board meetings follow the requirements for quorum and voting outlined in this Charter. The Governing Board may decide whether to allow named representatives (one per Member per Governing Board and per Committee) to attend as an alternate.
  - iii) The Governing Board meetings will be private unless decided otherwise by the Governing Board. The Governing Board may invite guests to participate in consideration of specific Governing Board topics (but such guest may not participate in any vote on any matter before the Governing Board).
- d) Officers

- i) The officers (“Officers”) of the CFF as of the first meeting of the Governing Board will be a Chairperson (“Chair”), Executive Director, and a Treasurer. Additional Officer positions may be created by the Governing Board.
- ii) The Executive Director of the Directed Fund will be responsible for managing any day-to-day operational decisions of the Directed Fund.
- iii) The Chair will preside over meetings of the Governing Board, will submit minutes for Governing Board approval, and may manage any day-to-day operational decisions of the Directed Fund if the Executive Director is unavailable or the position is unfilled.
- iv) The Treasurer will assist in the preparation of budgets for Governing Board approval, monitor expenses against the budget and authorize expenditures approved in the budget.
- e) The Governing Board will be responsible for overall management of the CFF, including:
  - i) approve a budget directing the use of funds raised by the CFF from all sources of revenue;
  - ii) nominate and elect Officers of the CFF;
  - iii) approve, update and maintain the various operational policies of the Directed Fund including the Development Operations Policy and the Development Governance Policy;
  - iv) oversee all CFF business and community outreach matters and work with the LF on any legal matters that arise;
  - v) adopt and maintain policies or rules and procedures for the CFF (subject to LF approval);
  - vi) establish advisory bodies, committees, programs or councils to resolve any particular matter or in support of the mission of the CFF and/or its PMCs including in support of end-users and ambassadors for the project;
  - vii) establish any conformance programs and solicit input (including testing tools) from the applicable governance body of any PMC for defining and administering any programs related to conformance with any PMC (each, a “Conformance Program”);
  - viii) publish use cases, user stories, websites and priorities to help inform the ecosystem and technical community;
  - ix) establish and maintain an Individual Supporter program for individuals to show their support for the Cloud Foundry Foundation and its PMCs.
  - x) approve procedures for the nomination and election of any representative of the Gold



Members to the Governing Board and any Officer or other positions created by the Governing Board; and

- xi) vote on all decisions or matters coming before the Governing Board.

#### **4) Outreach Committee**

- a) The Outreach Committee will include one appointed voting representative from each Member choosing to participate.
- b) The Outreach Committee will be responsible for the design, development and execution of community outreach efforts on behalf of the Governing Board. The Outreach Committee is expected to coordinate closely with the Governing Board and technical communities to maximize the outreach and visibility of the projects throughout the industry.
- c) The Governing Board may appoint a chairperson of the Outreach Committee or delegate responsibility for selecting a chairperson to the Outreach Committee. The Outreach Committee chairperson will be responsible for reporting progress back to the Governing Board. The Outreach Committee chairperson may attend meetings of the Governing Board, but, unless the Outreach Committee chairperson is a member of the Governing Board, the Outreach Committee chairperson will not attend as a voting member of the Governing Board.

#### **5) Legal Committee**

- a) The Legal Committee will consist of members of the Governing Board that wish to participate on the Legal Committee together with their legal counsel. Participation on the Legal Committee is voluntary, and the makeup of the Legal Committee will be determined annually or as otherwise directed by the Governing Board.
- b) The responsibilities of the Legal Committee include the creation of recommendations to the Governing Board in response to questions submitted to the Legal Committee by the Governing Board or the PMCC.
- c) The Legal Committee will select, from among those Governing Board representatives that are participating on the Legal Committee, a chairperson of the Legal Committee who will call meetings, drive the agenda and communicate findings or recommendations of the Legal Committee to the Governing Board.

#### **6) Budget Committee**

- a) The Budget Committee will consist of representatives of the Governing Board that volunteer to be a named participant on the Budget Committee.
- b) The responsibilities of the Budget Committee include:

- i) assisting the Treasurer in preparation of annual budgets that adhere to the principles and guidelines established by the Governing Board;
  - ii) developing and reporting metrics for the allocation of budget in relation to meeting the priorities of the Governing Board;
  - iii) reviewing the progress of the CFF against the annual budget;
  - iv) preparing forecasts for future financial needs of the CFF; and
  - v) such other matters related to finance and the financial operation of the CFF as may be directed to the Budget Committee by the Governing Board.
- c) The Treasurer shall be chairperson of the Budget Committee.

## 7) **Project Management Committees Council (“PMCC”)**

- a) The role of the PMCC is to facilitate communication and collaboration among the PMCs. The PMCC will be responsible for:
  - i) coordinating collaboration among PMCs, including development of an overall technical vision for the community;
  - ii) making recommendations to the Budget Committee of resource priorities for PMCs;
  - iii) electing annually a chairperson to preside over meetings, set the agenda for meetings, ensure meeting minutes are taken and who will also serve on the Governing Board as the PMCC’s voting representative (the “PMCC Representative”);
  - iv) creating, maintaining and amending project lifecycle procedures and processes, including the Development Governance Policy and Development Operations Policy, subject to the approval of the Governing Board; and
  - v) such other matters related to the technical role of the PMCC as may be communicated to the PMCC by the Governing Board.
- b) The members of the PMCC consist of:
  - i) the project lead of each PMC; and
  - ii) the Executive Director of the Directed Fund on a non-voting basis.
- c) One representative of any Member may observe meetings of the PMCC. Any committers from a PMCC Project may observe meetings of the PMCC. The PMCC may change this at any point in time, including: (a) opening meetings to a broader community; (b) holding closed meetings; and (c) holding meetings open to the public.
- d) At the start of the CFF, the PMCs are those PMCs listed as such on the CFF’s web site.

- e) The PMCC will operate as provided under the Development Governance Policy.
- f) The PMCC representatives will elect a chair to preside over meetings, ensure minutes are taken and drive the PMCC agenda with input from the PMCC representatives.

## **8) Voting**

- a) Quorum for Governing Board and Committee meetings will require at least fifty percent of the voting representatives. If advance notice of the meeting has been given per normal means and timing, the Governing Board may continue to meet even if quorum is not met, but will be prevented from making any decisions at the meeting.
- b) Ideally decisions will be made based on consensus. Consensus is defined as the lack of sustained objection. If, however, any decision requires a vote to move forward, the representatives of the Governing Board or Committee, as applicable, will vote on a one vote per voting representative basis.
- c) Except as provided in Section 16.a. or elsewhere in this Charter, decisions by vote at a meeting will require a simple majority vote, provided quorum is met. Except as provided in Section 16.a. or elsewhere in this Charter, decisions by electronic vote without a meeting will require a majority of all voting representatives.
- d) In the event of a tied vote with respect to an action that cannot be resolved by the Governing Board, any member of the Governing Board may refer the matter to the LF for assistance in helping the Governing Board reach a decision. If there is a tied vote in any Committee that cannot be resolved, the matter may be referred to the Governing Board.

## **9) Subsidiaries and Related Companies**

- a) Definitions:
  - i) “Subsidiaries” means any entity in which a Member owns, directly or indirectly, more than fifty percent of the voting securities or membership interests of the entity in question;
  - ii) “Related Company” means any entity which controls or is controlled by a Member or which, together with a Member, is under the common control of a third party, in each case where such control results from ownership, either directly or indirectly, of more than fifty percent of the voting securities or membership interests of the entity in question; and
  - iii) “Related Companies” are entities that are each a Related Company of a Member.
- b) Only the legal entity which has executed a Participation Agreement and its Subsidiaries will be entitled to enjoy the rights and privileges of such Membership; provided, however, that such Member and its Subsidiaries will be treated together as a single Member.

- c) If a Member is itself a foundation, association, consortium, open source project, membership organization, user group or other entity that has members or sponsors, then the rights and privileges granted to such Member will extend only to the employee-representatives of such Member, and not to its members or sponsors, unless otherwise approved by the Governing Board in a specific case.
- d) CFF Membership is non-transferable, non-salable and non-assignable, except a Member may transfer its current Membership benefits and obligations to a successor of substantially all of its business or assets, whether by merger, sale or otherwise; provided that the transferee agrees to be bound by this Charter and the Bylaws and policies required by LF membership.

## **10) Good Standing**

- a) The Linux Foundation's Good Standing Policy is available at <https://www.linuxfoundation.org/good-standing-policy> and will apply to Members of this CFF.

## **11) Trademarks**

- a) Any trademarks relating to the CFF or the PMC, including without limitation any mark relating to any Conformance Program, must be transferred to and held by LF Projects, LLC or the Linux Foundation and available for use pursuant to LF Projects, LLC's trademark usage policy, available at [www.lfprojects.org/trademarks/](http://www.lfprojects.org/trademarks/).

## **12) Antitrust Guidelines**

- a) All Members must abide by The Linux Foundation's Antitrust Policy available at <http://www.linuxfoundation.org/antitrust-policy>.
- b) All Members must encourage open participation from any organization able to meet the membership requirements, regardless of competitive interests. Put another way, the Governing Board will not seek to exclude any member based on any criteria, requirements or reasons other than those that are reasonable and applied on a non-discriminatory basis to all members.

## **13) Budget**

- a) The Governing Board will approve an annual budget and never commit to spend in excess of funds raised. The budget and the purposes to which it is applied must be consistent with both (a) the non-profit and tax-exempt mission of The Linux Foundation and (b) the aggregate goals of the PMCs.
- b) The Linux Foundation will provide the Governing Board with regular reports of spend levels against the budget. Under no circumstances will The Linux Foundation have any expectation or obligation to undertake an action on behalf of the CFF or otherwise related to the CFF that is not covered in full by funds raised by the CFF.

- c) In the event an unbudgeted or otherwise unfunded obligation arises related to the CFF, The Linux Foundation will coordinate with the Governing Board to address gap funding requirements.

#### **14) General & Administrative Expenses**

- a) The Linux Foundation will have custody of and final authority over the usage of any fees, funds and other cash receipts.
- b) A General & Administrative (G&A) fee will be applied by The Linux Foundation to funds raised to cover membership records, finance, accounting, and human resources operations. The G&A fee will be 9% of the CFF's first \$1,000,000 of gross receipts each year and 6% of the CFF's gross receipts each year over \$1,000,000.

#### **15) General Rules and Operations.** The CFF activities must:

- a) engage in the work of the project in a professional manner consistent with maintaining a cohesive community, while also maintaining the goodwill and esteem of The Linux Foundation in the open source community;
- b) respect the rights of all trademark owners, including any branding and usage guidelines;
- c) engage or coordinate with The Linux Foundation on all outreach, website and marketing activities regarding the CFF or on behalf of any PMC that invoke or associate the name of any PMC or The Linux Foundation; and
- d) operate under such rules and procedures as may be approved by the Governing Board and confirmed by The Linux Foundation.

#### **16) Amendments**

- a) This Charter may be amended by a two-thirds vote of the entire Governing Board, subject to approval by The Linux Foundation.

### **Exhibit C**

The membership levels and associated fees are listed below.

Membership Class	Annual Membership Fees
Platinum Member	\$350,000
Gold Member	\$100,000
Silver Member	See Fee Scale
Associate Member (pre-approved non-profits, open source projects, and government entities)	\$0

The annual fee for Silver membership is determined according to the following table, based on your current consolidated employee headcount:

Consolidated Employees	Annual Silver Membership Fees
3,000 and above	\$30,000
Between 1,000 and 2,999	\$20,000
Between 500 and 999	\$10,000
Between 50 and 499	\$5,000
Under 50	\$2,000

**Linux Foundation Membership Information.** Your organization will need to be a current member of the LF. If your organization is already a member of the LF, there is no need to do anything. If you are not a member of the LF, there are three tiers of LF membership available. The fees associated with each level of LF membership are included below for non-members to easily reference. Please visit the Corporate Membership page at the LF web site for full details:

- LF Platinum: \$500,000
- LF Gold: \$100,000
- LF Silver: Under 100 employees: \$5,000; 100-499 employees: \$10,000; 500-4,999 employees: \$15,000; 5,000 or more employees: \$20,000.
- LF Associate membership is available for non-profit, open source, and government entities at no cost.