

## CLOUDFOUNDRY.ORG FOUNDATION, INC.

### MEMBERSHIP AGREEMENT

Upon completion in full, please send a signed copy of this agreement in PDF form by email to [membership@cloudfoundry.org](mailto:membership@cloudfoundry.org), and an invoice will be sent to you. A countersigned copy of this application will be returned to you by email for your records when your eligibility for membership has been confirmed.

This Membership Agreement is made effective as of \_\_\_\_\_, 20\_\_ (the “**Effective Date**”) by and between CloudFoundry.org Foundation, Inc. (the “**Foundation**”), a Delaware non-profit corporation, and \_\_\_\_\_, a \_\_\_\_\_ corporation or \_\_\_\_\_, an individual, (the “**Member**”). The Foundation and the Member are collectively referred to herein as the “**Parties**”.

#### APPROVED MEMBERSHIP CATEGORY

Select	Membership Category	Annual Membership Fees <sup>1</sup>
<input type="checkbox"/>	Platinum	\$500,000
<input type="checkbox"/>	Gold	\$100,000
<input type="checkbox"/>	Silver	See Silver Membership Fees <u>Scale</u>
<input type="checkbox"/>	Individual	No fee

<sup>1</sup> All Fee amounts are based in US Dollars.

#### SILVER MEMBERSHIP FEES SCALE

Select	Consolidated Employees	Silver Annual Membership Fees <sup>2</sup>
<input type="checkbox"/>	501 employees and above	\$50,000
<input type="checkbox"/>	Between 151 and 500 employees	\$30,000
<input type="checkbox"/>	Between 51 and 150 employees	\$10,000
<input type="checkbox"/>	Up to 50 employees	\$5,000

**ORGANIZATION INFORMATION**

<b>Organization Name:</b>		
Telephone:		
Address:		
City:	Province/State:	
Postal Code:	Country:	
<b>Organization Representative: primary contact with the Foundation</b>		
Name:		
Telephone:	Mobile Number:	
E-mail:		
Address (if different from above):		
City:	State:	ZIP Code:
<b>Accounts Payable / Billing Contact</b>		
Name:		
Telephone:	Mobile Number:	
E-mail:		
Billing Address (if different from above):		
City:	State:	ZIP Code:
<b>Marketing Contact</b>		

Name:
Telephone:
Email:
<b>Technical Contact</b>
Name:
Telephone:
Email:
<b>Legal Contact</b>
Name:
Telephone:
Email:

## RECITALS

WHEREAS, the Foundation is a not-for-profit corporation, the purposes of which are: to establish and sustain Cloud Foundry as the global industry standard Platform-as-a-Service (“PaaS”) open source technology with a thriving ecosystem; to deliver continuous quality, value and innovation to users, operators, and providers of Cloud Foundry technology and thereby promote the common business interests of such users, operators, and providers; to provide a vibrant agile experience for the community’s contributors that delivers the highest quality cloud- native applications and software at high velocity with global scale; and to engage in any lawful act or activity related to the foregoing for which corporations that are organized as not-for-profit may be organized under the General Corporation Law of Delaware.

WHEREAS, the Foundation is open to all organizations and individuals that want to promote and to improve the ecosystem for the Foundation’s specifications.

WHEREAS, the undersigned hereby agrees to become a Member of Foundation at the membership category shown on the appropriate page to this Agreement, and be subject to the rights and obligations of members set forth in the Foundation’s Bylaws and in this Agreement.

NOW, THEREFORE, THE FOUNDATION AND THE MEMBER AGREE AS FOLLOWS:

1. Membership. There shall be four (4) classes of membership (“**Membership Categories**”) in the Foundation: (1) Platinum Member, (2) Gold Member, (3) Silver Member, and (4) Individual Member. Rights and obligations of members are set forth in the Foundation’s Bylaws to which the Member hereby agrees.
2. Term and Termination.
  - 2.1. Term. From the Effective Date, this Agreement continues in full force and effect for the initial term associated with the applicable Membership Category. For clarity, the initial term for a Platinum Member will be one (1) year from the Effective Date (“**Initial Term**”). Thereafter, this Agreement may be renewed for successive one-year terms (each, a “**Renewal Term**”) unless terminated by the Member or the Foundation thirty (30) days prior to the end of the Initial Term or then-current Renewal Term, as applicable. Such renewal is subject to the Member maintaining its qualifications as a member in good standing as required for its applicable Membership Category.
    - 2.1.1. Membership Category Change for Platinum Members. If the Member hereunder is a Platinum Member, such Member will have the option to, by providing written notice to the Secretary of the Foundation no later than 30 days before the end of the Initial Term or then-current Renewal Term, as applicable, transition as of the beginning of the next Renewal Term from a Platinum Membership to a different Membership Category, in which case, after the date of transition, Member will continue to be bound to this Agreement in the manner applicable to its new membership class. No such Membership Category change will entitle any Platinum Member to any refund of any amounts due and payable for the period prior to such transition.
  - 2.2. Termination. The membership of any Member shall terminate in accordance with any termination event set forth in the Foundation’s Bylaws, upon the membership conditions no longer being met, or upon the Member resigning such Member’s membership. Upon termination of a Member’s membership, this Membership Agreement shall terminate.
  - 2.3. Survival. In the event of termination, the following paragraphs 3.1-3.4 shall survive and remain in effect. The Member shall be obligated to pay all costs, expenses and dues that accrued prior to the effective date of termination.
3. Rights and Obligations.
  - 3.1. Intellectual Property Policy. The Member shall abide by the Foundation’s intellectual property policy (the “**IP Policy**”) available on the Foundation’s website at: [http://cloudfoundry.org/pdfs/CFF\\_IP\\_Policy.pdf](http://cloudfoundry.org/pdfs/CFF_IP_Policy.pdf). Such IP Policy may be amended

from time to time by the Foundation upon reasonable notice and in accordance with the Foundation's Bylaws. If the Member does not wish to abide by an amended IP Policy, the Member may resign such Member's membership prior to the effective date of the amendment of such IP Policy.

- 3.2. Other Policies. The Member agrees to abide by the other Foundation policies as may be adopted or amended from time to time by the Foundation upon reasonable notice and in accordance with the Foundation's Bylaws. If the Member does not wish to abide by any policy adopted or amended by the Foundation, the Member may resign such Member's membership prior to the effective date of the policy or amendment of policy.
- 3.3. Fees, Dues. The Member agrees to pay the annual fees established for its Membership Category, if any, as set forth in the Approved Membership Category above, as the Foundation may amend from time to time. For any Member with a prior relationship with the Foundation, acceptance of any Membership Agreement will be conditioned upon payment in full of any pre-existing obligations due to the Foundation by the applicant on or before the date of the agreement.
- 3.4. Costs and Expenses. Each Member shall bear all of its own costs and expenses related to membership in the Foundation including, but not limited to, compensation payable to Member's employees and consultants and all travel and other expenses associated with Member's participation in the Foundation's activities; provided that the Foundation may reimburse the costs incurred for a Director to travel to and attend Foundation Board of Director meetings.
- 3.5. Use of Names, Publicity. Any Member may disclose and publicize such Member's membership in the Foundation, within guidelines proposed by the Foundation as set forth in the Bylaws. As a new member to the Foundation, Member agrees to publicly announce joining the Foundation and to provide a logo for the Foundation's use in recognizing membership.
- 3.6. Personal Data. Member may provide to Foundation certain Personal Data (as defined below) of its employees, contractors and other personnel in connection with its membership with the Foundation. Member represents and warrants that it has all necessary consents, rights, and permissions to provide such Personal Data to the Foundation. This Agreement constitutes Member's instructions to the Foundation to Process (as defined below) such Personal Data and consent to the transfer of such Personal Data to the United States and other jurisdictions as necessary for Foundation to process memberships and fulfill its obligations under the Agreement. If required by EU Data Protection Law (as defined below), the parties shall enter into applicable Standard Contractual Clauses and other agreements as may be required to transfer such Personal Data. For purposes hereof: "EU Data Protection Laws" means, to the extent in force and applicable from time to time, those laws implementing EU Data Protection Directive (95/46/EC), and the EU General Data Protection Regulation (2016/679) ("GDPR") and any implementing laws in each EU member state; and "Personal Data," "Process," and "Processing" have the meaning given to those terms in the EU Data Protection Laws. Member shall promptly notify Foundation if a data subject makes a

request under EU Data Protection Laws to have access to, amend, or erase that data subject's Personal Data or any other complaint, allegation and/or objection relating to the Processing of Personal Data; and in connection therewith, Member shall cooperate with Foundation in responding and taking such actions as required by EU Data Protection Laws. Member authorizes Foundation to use affiliates and subprocessors to Process Personal Data to the extent necessary to process memberships and perform its obligations under this Agreement, provided such Processing by said affiliates and subprocessors is governed by a written contract including terms which offer at least the same level of protection for Personal Data as those set out in this section and meet the requirements of article 28(3) of the GDPR. Foundation shall in relation to the Personal Data provided to it by Member implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, pseudonymising and encrypting the other party's Personal Data as appropriate, and implementing the measures referred to in Article 32(1) of the GDPR. Member shall defend, indemnify and hold harmless Foundation against any and all claims, liabilities, losses, penalties and expenses (including attorney's fees) arising from any Processing of Personal Data by Foundation in accordance with this provision.

3.7. Non-liability. No Member shall be liable for the debts, liabilities, or obligations of the Foundation by reason of being a Member.

3.8. National Cooperative Research and Production Act: The Foundation may elect to avail itself of certain protections offered by the National Cooperative Research and Production Act of 1993, as amended, which requires disclosure of the names of all members of the Foundation. Accordingly, the undersigned hereby appoints such person who shall be the Chairperson, Vice Chair or Executive Director or acting Chairperson, Vice Chair of the Foundation as the undersigned's true and lawful attorney-in-fact and authorizes him or her to (1) notify government agencies of the undersigned's membership in the Foundation, (2) make, approve the form of, execute and deliver filings with government agencies on behalf of the Foundation and on behalf of the undersigned as a member of the Foundation indicating such membership, (3) receive notifications, including without limitation, notifications pursuant to the National Cooperative Research and Production Act on behalf of the Foundation and on behalf of the undersigned as a member of the Foundation, and (4) authorize and direct other officers of, and/or counsel to the Foundation, to do any of the foregoing acts. The Foundation will forward to the undersigned any notifications that it receives which are other than normal confirmations of filings and other administrative notices relating to all members.

#### 4. Miscellaneous Provisions.

4.1. Authority to Execute. Member hereby represents and warrants to the Foundation that Member has the full right, power and authority to enter into and execute this Agreement, and that Member has taken all actions necessary to authorize it to enter into and perform its obligations under this Agreement.

- 4.2. Entire Agreement. This Agreement, the Exhibits attached hereto, and the documents referred to herein, constitute the entire agreement between the Parties, and supersede all prior agreements, understandings and negotiations, with respect to the subject matter hereof.
- 4.3. Amendment. The Foundation may from time to time modify the terms of this Agreement in accordance with the Bylaws. Amendments shall be prospective only unless agreed to otherwise by the Parties.
- 4.4. Assignment. Neither this Agreement nor any rights hereof, in whole or in part, are assignable by Member without the prior written consent of the Foundation, except upon a change of control or a sale of all or substantially all assets involving Member, or by operation of law.
- 4.5. Relationship of Parties. This Agreement shall not establish any relationship of partnership, joint venture, employment, franchise or agency between the Parties. Nothing in this Agreement shall be construed to prohibit or restrain the entry by any Member into any separate contract or agreement with other Members or third parties on any terms.
- 4.6. Governing Law. This agreement shall be governed by the laws of the state of Delaware without regard to its conflicts of laws principles.
- 4.7. Counterparts. This Agreement may be executed in one or more counterparts, which may be electronic counterparts, each of which shall be deemed to be an original, but collectively shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth below:

**FOUNDATION:**

**MEMBER:**

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_