

THE LINUX FOUNDATION

Open Mainframe Project Participation Agreement

Thank you for your interest in participating in the Open Mainframe Project (the “Project”). Project participants will enjoy the privileges described in the Project Charter, [Exhibit A](#), as from time to time amended by the Governing Board with the approval of The Linux Foundation (“LF”). **Please note** that (in the case of Platinum, Platinum End-User and Silver Memberships) you must be a Corporate Member of the LF to be eligible to participate as a member of the Project. For further information, visit the [Corporate Membership](#) page at the LF Web Site.

Participation in the Project:

Linux Foundation members must sign this Participation Agreement to participate in the Project. On completion in full of this agreement, please sign and send a copy of this agreement in PDF form by email to membership@linuxfoundation.org, and an invoice will be sent to you. In each case, a countersigned copy of this application will be returned to you by email for your records when your eligibility for membership has been confirmed. Membership rights and privileges will not commence until payment in full of membership fees have been received by the LF.

Contact Information: All legal, billing, financial and technical notices from the LF relating to your participation in the Project will be sent to the individuals already on file with the LF under those categories unless you designate a different individual at the end of this application:

Platinum Membership Term

Platinum Membership involves a 2-year membership commitment. Platinum End-User Membership requires approval by the Project Governing Board for acceptance.

An initial full year’s payment of fees is due upon Membership. In the case of Members with a two-year initial commitment, at the first anniversary of membership the second full year’s payment is due, and at the second anniversary of membership a pro-rated amount of fees for the remainder of that calendar year will be invoiced (and membership will proceed on a calendar-year based renewal cycle thereafter). In the case of Silver members, at the first anniversary of membership, a pro-rated amount of fees for the remainder of that calendar year will be assessed (and membership will proceed on a calendar-year based renewal cycle thereafter).

All Fee amounts are based in US Dollars. In no event will fees be refunded, upon a Member’s resignation or otherwise.

1. Silver Membership Term and Fee Scale:

In calculating the appropriate fee for Silver membership, please indicate your current consolidated employee headcount in the membership level selected. Solely for

purposes of calculating fees, Consolidated Employees do not include third party contractors.

For Silver Members, at the first anniversary of membership, if membership is not canceled at least thirty days prior to the first anniversary of membership, a pro-rated amount of fees for the remainder of that calendar year will be assessed (and membership will proceed on a calendar-year based renewal cycle thereafter).

Membership Terms:

1. The Member will make payment of the annual participation fee within thirty days of date of invoice from the LF. Notice of any increase in participation fees for the following calendar year will be given on or before November 15 in the current calendar year.
2. The Member's participation for each calendar year, and its obligation to pay Project participation fees for the following calendar year, will renew annually, unless the Member delivers written notice of non-renewal to LF on or before December 1 of the current Project membership year. The Member acknowledges that LF and other Project members depend on reliable participation renewal information to budget effectively, and that the LF's ability to provide services to Project members will suffer in the event of nonpayment of Member's participation fees. The Member may cancel its membership in the Project at any time upon written notice to the Linux Foundation but no refunds for any membership fees will be provided and the Member will remain liable for payment of any and all fees owed to the Linux Foundation as of the date of such notice of cancellation to the Linux Foundation.
3. The Member will comply with all such policies as the LF Board of Directors and/or the Project may from time to time adopt with notice to Project members, including, but not limited to those described in Exhibit A. For the avoidance of doubt, the Member agrees that any contributions to the Project by its employees (or, in the case of a member who is an Individual Member, by himself or herself) will be governed by an applicable license, as referenced in Exhibit A, between Member and the Linux Foundation, including any patent rights addressed in that license.

[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 Project 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

Billing Contact

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

Name: _____

Title: _____

Phone No: _____

E-mail: _____

NOT FOR EXECUTION

Exhibit B

Open Mainframe Project Charter The Linux Foundation Effective February 10, 2021

1. Mission of the Open Mainframe Project (the “Project”).

2.

- a. Create an open source, technical community to benefit the ecosystem of Linux and open source software on the mainframe.
- b. Include participation of leading members of this ecosystem, including end users, solution providers, application developers and systems administrators.
- c. Host the infrastructure for the open source project, establishing a neutral home for community meetings, events and collaborative discussions and providing structure around the business and technical governance of the Project.
- d. Partner with the academic community in order to increase the number of mainframe-focus academic programs and to equip students with industry-relevant mainframe skill sets.

2. Membership.

- a. The Project shall be composed of Platinum, Platinum End-User, Silver, Academic Institution, and Associate Members. All Platinum, Platinum End-User and Silver members must be current corporate members of The Linux Foundation at any level to participate in the Project.
- b. In order to qualify as a Platinum End-User Member, the applicant must either be approved by the Governing Board as a Platinum End-User, or, if the Governing Board sets criteria for joining as a Platinum End-User, meet such criteria.
- c. The Academic Institution Member category of membership is limited to academic institutions, as such may be classified and defined by the Governing Board. These institutions will be expected, in exchange for their membership in the Project, to host infrastructure, technical projects or otherwise support the community with resources, such as staffing resources.
- d. The Associate Member category of membership is limited to non-profits and open source projects, and requires approval by the Governing Board, or, if the Governing Board sets criteria for joining as an Associate Member, the meeting of such criteria.
- e. Individual Members will be required to agree that any contribution to the Project will be done pursuant to the terms of the Membership Agreement and this Charter and that his or her employer, if any, will have full knowledge of, and will have approved of, the Individual Member’s participation in the Project.
- f. Platinum Members, Platinum End-User Members, Silver Members, Academic Institution and Associate Members shall be entitled to:

- i. participate in Project meetings, initiatives, events and any other activities; and
 - ii. identify their company as a member of, or participant in, the Project.
- g. Platinum and Platinum End-User Members shall be entitled to appoint a representative to the Governing Board, the Marketing Committee and any other committees established by the Governing Board.

3. Governing Board

- a. Composition – the Governing Board voting members shall consist of:
 - i. one representative appointed from each Platinum Member;
 - ii. one representative appointed from each Platinum End-User Member;
 - iii. one Silver Member representative (rounded down to the nearest whole number, but at least one at any time there is at least one Silver Member of the Project) elected annually by the Silver Members for every 10 Silver Members; with no more than three Silver Member representatives;
 - iv. one Academic Institution Member representative (rounded down to the nearest whole number, but at least one at any time there is at least one Academic Institution Member of the Project) elected annually by the Academic Institution Members for every 10 Academic Institution Members; with no more than three Academic Institution Member representatives; and
 - v. the TAC Chair.
- b. Responsibilities:
 - i. approve a budget directing the use of funds raised from all sources of revenue;
 - ii. elect a Chair of the Project to preside over meetings, authorize expenditures approved by the budget and manage any day-to-day operations; and
 - iii. vote on decisions or matters before the Governing Board.

4. Technical Advisory Council (“TAC”)

- a. Composition – the TAC voting members shall consist of:
 - i. one appointed representative from each Platinum Member and each Platinum End-User Member; and
 - ii. a representative from each TAC top-level project, as appointed by the top-level project; anyone can participate on the TAC by contributing to the technical community and becoming a maintainer.
- b. Top-level projects are expected to establish governance procedures and policies to ensure that participation is open to all.
- c. The TAC will establish work flow procedures for the submission, approval and closure/archiving of top-level projects by the TAC subject to approval by the Governing Board.
- d. IBM has agreed to make available, as a technical resource to the TAC, a technical “fellow” resource (the “CTO”) who will be available to help the technical

community focus, plan and execute TAC projects. The CTO shall be a non-voting (except as voting rights may be provided by operation of Section 4.a.) representative on the TAC.

- e. The TAC shall appoint a TAC Chair, who will be a voting member of the Governing Board.
- f. Responsibilities: The TAC shall be responsible for:
 - i. coordinating the technical direction of the Project;
 - ii. overseeing top-level projects and the project lifecycle of top-level projects;
 - iii. communicating with external and industry organizations concerning Project technical matters;
 - iv. appointing representatives to work with other open source or open standards communities.

5. Marketing Committee

- a. Composition – the Marketing Committee voting members shall consist of:
 - i. one appointed representative from each Platinum Member and each Platinum End-User Member; and
 - ii. one representative elected by the Silver, Academic Institution and Associate Members as a class.
- b. Responsibilities: The Marketing Committee shall be responsible for designing, developing and executing marketing efforts on behalf of the Governing Board.

6. Voting

- a. While it is the goal of the project to operate as a consensus based community, if any decision requires a vote to move forward, the representatives of the Governing Board, TAC, or Marketing Committee, as applicable, shall vote on a one vote per representative basis.
- b. Decisions by vote shall be based on a majority vote, provided that at least sixty percent (60%) of the Governing Board, TAC, Marketing Committee or other committee representatives, as applicable, must be either present or participating electronically or by written action in order to conduct a valid vote.
- c. In the event of a tied vote with respect to an action by the Governing Board, TAC, Marketing Committee or other committee created by the Governing Board, the chair of such board or committee shall be entitled to submit a tie-breaking vote.

7. Antitrust Guidelines

- a. All members shall abide by The Linux Foundation Antitrust Policy available at <http://www.linuxfoundation.org/antitrust-policy>.
- b. All members shall encourage open participation from any organization able to meet the membership requirements, regardless of competitive interests. Put another way, the Governing Board shall not seek to exclude members based on any criteria, requirements or reasons other than those used for all members.

8. Code of Conduct

- a. All participants agree to abide by The Linux Foundation Code of Conduct available at <http://events.linuxfoundation.org/code-of-conduct>.

9. Budget

- a. The Governing Board shall approve an annual budget and never commit to spend in excess of funds raised. The budget shall be consistent with the non-profit mission of The Linux Foundation.
- b. The Linux Foundation shall provide regular reports of spend levels against the budget.

10. General & Administrative Expenses

- a. The Linux Foundation shall 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 Finance, Accounting and operations. The G&A fee shall equal 9% of the Project's first \$1,000,000 of gross receipts and 6% of the Project's gross receipts over \$1,000,000.

11. General Rules and Operations. The Governing Board shall:

- a. demonstrate plans and the means to coordinate with the open source project's developer community, including on topics such as branding, logos, and other collateral that will represent the community;
- b. engage 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 software community;
- c. respect the rights of all trademark owners, including any branding and usage guidelines;
- d. engage The Linux Foundation for all press and analyst relations activities;
- e. upon request, provide information regarding project participation, including information regarding attendance at project-sponsored events, to The Linux Foundation;
- f. engage The Linux Foundation for any websites directly for the Project; and
- g. operate under such rules and procedures as may from time to time be approved by the Project's Governing Board and confirmed by The Linux Foundation.

12. Intellectual Property Policy. Except with respect to any top-level projects supported by the Project that operate under individual technical charters (which charters will contain the technical governance for such top-level projects):

- a. All new inbound kernel level code contributions to the Project shall be made under the GNU General Public License, version 2 ("GPLv2", available at <http://www.gnu.org/licenses/old-licenses/gpl-2.0.en.html>) accompanied by a Developer Certificate of Origin sign-off (<http://developercertificate.org/>) that is

submitted through a Board-approved contribution process which will bind the authorized contributor and, if not self-employed, their employer to the licenses expressly granted in the GPLv2 license, only with respect to such contribution, with no limitation, estoppel or effect on any other member of the Project;

- b. All outbound kernel level code will be made available under the **GPLv2**;
- c. All new inbound non-kernel level code contributions to the Project shall be made under the **Apache License, Version 2.0** (available at <http://www.apache.org/licenses/LICENSE-2.0>) accompanied by a Developer Certificate of Origin sign-off (<http://developercertificate.org>) that is submitted through a Board-approved contribution process which will bind the authorized contributor and, if not self-employed, their employer to the licenses expressly granted in the Apache License, Version 2.0, only with respect to such contribution, with no limitation, estoppel or effect on any other member of the Project;
- d. All outbound non-kernel level code will be made available under the **Apache License, Version 2.0**.
- e. All documentation will be received and made available by the Project under the Creative Commons Attribution 4.0 International License (available at <http://creativecommons.org/licenses/by/4.0/>).
- f. If an alternative inbound or outbound license is required for compliance with the license for a leveraged open source project or is otherwise required to achieve the Project's mission, the Governing Board may approve the use of an alternative open source license (as defined <https://opensource.org/osd-annotated>) for inbound or outbound contributions on an exception basis. Please email board@openmainframeproject.org to obtain exception approval.

13. Amendments

- a. This charter may be amended by a super majority vote of all Governing Board members, subject to approval by The Linux Foundation. A super majority vote is defined as a vote in favor by 70% of the Governing Board, ignoring any abstentions.

4.

Exhibit C

Membership Levels

The membership levels and associated fees are listed below.

Membership Class	Annual Membership Fees
Platinum	\$100,000
Platinum End-User	\$10,000
Silver	See Fee <u>Scale</u>
Academic Institution	\$0
Associate	\$0

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

Consolidated Employees	Silver Fees
5,000 employees and above	\$30,000
Between 2,000 and 4,999	\$20,000
Between 1,000 and 1,999	\$15,000
Between 500 and 999	\$10,000
Less than 500	\$5,000

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.