

OPEN COMPUTE PROJECT MEMBERSHIP AGREEMENT

This OPEN COMPUTE PROJECT MEMBERSHIP AGREEMENT (“*Agreement*”) is made as of _____, _____, by and between Open Compute Project Foundation, a Delaware nonprofit nonstock corporation (“*Open Compute*”), and the undersigned Member.

RECITALS

A. Open Compute has been formed to steward the Open Compute Project, whose mission is to create a consumer-led community to further the cooperative development of efficient data center and server technology, to reduce costs and environmental impact of operating data center and server installations.

B. Member wishes to participate in Open Compute on the terms described herein and to further the purposes of Open Compute.

NOW, THEREFORE, the parties agree as follows:

1) **Definitions.**

- a) “*Affiliate*” means any entity that is directly or indirectly controlled by, under common control with or that controls the subject entity. For purposes of this definition control means, direct or indirect ownership of or the right to exercise (a) more than fifty percent (50%) of the outstanding shares or securities entitled to vote for the election of directors or similar managing authority of the subject entity; or (b) more than fifty percent (50%) of the controlling interest representing the right to make the decisions for the subject entity.
- b) “*Effective Date*” means the date upon which Member has duly executed this Agreement and paid the dues required for the membership level chosen by Member and agreed to by Open Compute.
- c) “*Member*” means any member of Open Compute as determined in accordance with the Bylaws that has signed this Agreement. Member includes Affiliates of Member.
- d) “*Bylaws*” are the bylaws adopted by Open Compute (available at <http://www.opencompute.org/assets/Uploads/OCP-Bylaws-5-August-2015-Final.pdf>).

2) **Participation.**

- a) Member will abide by the certificate of incorporation of Open Compute (available at <http://www.opencompute.org/assets/Uploads/OCP-Certificate-of-Incorporation-2.pdf>), the Bylaws, this Membership Agreement, including the Intellectual Property Rights Policy (available at <http://www.opencompute.org/assets/Uploads/Open-Compute-IP-Policy-Final-7-23-15.pdf>) (the “*IPR Policy*”), the Tiered Membership Requirements

and Benefits Policy (available at <http://www.opencompute.org/assets/Uploads/OCP-Tiered-Membership-Policy-OMM-Final-11-June-2015-.pdf>) (the “**Tiered Membership Policy**”), each as they may be modified from time to time in accordance with the Bylaws, and any additional rules and policies adopted by Open Compute in accordance with the Bylaws. Dues for membership will be as determined by Open Compute according to its Bylaws. If the Bylaws call for classes of Membership, Member shall abide by any requirements particular to its class of membership in the Bylaws and the Tiered Membership Policy. No member shall be required to pay any new or increased dues adopted by Open Compute after the effective date of membership until the Member’s anniversary of membership that first follows the change by at least ninety (90) days.

b) Open Compute may require, as a condition to membership for certain tiers, that Member make a contribution to the Open Compute Project on the terms stated in the IPR Policy and the Tiered Membership Policy.

3) **Membership Class.** Member is applying at the following membership class, as set forth in the Bylaws and Tiered Membership Policy, as a (check the appropriate box):

- Executive or
- Non-Executive Member.

4) **Membership Tier (Organization Members Only).** Member is applying at the following membership tier, as set forth in the Tiered Membership Policy (check the appropriate box):

- Community Member,
- Silver Member,
- Gold Member, or
- Platinum Member.

Membership in a particular tier is conditional upon Member meeting the requirements of such tier as set forth in the Tiered Membership Policy. Open Compute may move Member between tiers at any time in accordance with the Tiered Membership Policy. If Open Compute modifies the Tiered Membership Policy in a manner that is materially detrimental to Member, Member may withdraw from membership in Open Compute; provided, however, that Open Compute will not refund any payments made by Member in connection with Member’s membership unless approved by the board of Open Compute in its sole discretion.

5) **Representative.** Member shall appoint a single point of contact to handle any inquiries regarding this Agreement. Member may update such contact from time to time upon written notice to Open Compute.

Representative Contact Information: Name: _____

Address: _____

Email: _____

Phone: _____

- 6) **Confidentiality.** Information disclosed by Members shall not be confidential except as provided in the Bylaws or as otherwise agreed in writing by the recipient of the information.
- 7) **Term.** This Agreement will commence on the Effective Date and continue until termination of Membership in accordance with the Bylaws.
- 8) **Miscellaneous.** This Agreement will bind and inure to the benefit of the parties hereto and their successors and assigns, provided, however, that Member may not assign or transfer this Agreement, including by operation of law through a merger or acquisition, without the written consent of Open Compute. This Agreement will be governed by the laws of the State of Delaware, without reference to conflict of laws principles. This document contains the entire agreement between the parties with respect to the subject matter hereof. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision hereof. This Agreement may not be amended, nor any obligations waived, except by a writing signed by both parties hereto. By signing below, the individual executing this Agreement on behalf of Member warrants that he or she has all requisite signing authority for and on behalf of the entity seeking membership.

Open Compute Project Foundation

Member (Organization Name):

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____