

Zope Foundation Membership Agreement

THIS MEMBERSHIP AGREEMENT (the “Agreement”) is effective as of this ___ day of _____, 200__ (the “Effective Date”) by and between Zope Foundation, Inc. (the “Zope Foundation”), a Delaware nonprofit corporation, and _____ (“Member”). Members of the Zope Foundation shall be referred to collectively as the “Membership At-Large”.

WHEREAS, the Zope technology is a vendor-neutral, open development platform supplying frameworks and exemplary, extensible tools (the “Zope Platform”);

WHEREAS, Zope Platform tools are exemplary in that they verify the utility of the Zope frameworks, illustrate the appropriate use of those frameworks, and support the development and maintenance of the Zope Platform itself; Zope Platform tools are extensible in that their functionality is accessible via documented programmatic interfaces;

WHEREAS, the purpose of the Zope Foundation is to advance the creation, evolution, promotion, adoption and support of the Zope Platform and to cultivate both an open source community and an ecosystem of complementary products, capabilities, and services;

WHEREAS, the Zope Foundation has adopted bylaws calling for the creation of Membership Classes, as defined below, and setting forth a governance structure (the “Bylaws”, attached hereto as Exhibit A);

WHEREAS, Member would like to become a member of the Zope Foundation in the Membership Class selected by Member on Exhibit C hereto;

NOW THEREFORE, the Zope Foundation agrees to admit Member on the terms and consideration contained herein, and Member agrees to abide by the terms and conditions contained herein:

1. **MEMBERSHIP CLASSES**. There shall be five (5) classes of membership (“Membership Classes”) in the Zope Foundation representing Members that publicly, but non-exclusively, support the Purposes of the Zope Foundation as specified in the Bylaws:
 - 1.1. **Strategic Developer Members**. Strategic Developer Members shall be entities that agree to abide by the obligations set forth in this Agreement including, without

limitation, the requirements set forth on Exhibit B and C hereto. Strategic Developer Members shall be entitled to Board representation and shall be permitted to vote with the Membership At-Large, as set forth in the Bylaws.

- 1.2. **Strategic Consumer Members.** Strategic Consumer Members shall be entities that agree to abide by the obligations set forth in this Agreement including, without limitation, the requirements set forth on Exhibit C hereto. Each Strategic Consumer Member shall be entitled to Board representation and shall be permitted to vote with the Membership At-Large, as set forth in the Bylaws.
- 1.3. **Solution Provider Members.** Solution Provider Members shall be entities that agree to abide by the obligations set forth in this Agreement including, without limitation, the requirements set forth on Exhibit C hereto. Solution Provider Members shall be entitled to Board representation and shall be permitted to vote with the Membership At-Large, as set forth in the Bylaws.
- 1.4. **Committer Members.** Committer Members shall be individuals that are involved in the development of the Zope Platform but do not fall within any other Membership Class, are selected as “Committers” in accordance with the Committer Member process set forth in Exhibit D, and agree to abide by the obligations set forth in this Agreement. Committer Members shall be entitled to Board representation and shall be permitted to vote with the Membership At-Large, as set forth in the Bylaws.
- 1.5. **Associate Members.** Associate members shall be individuals that do not qualify for membership in other membership classes and have an interest in the success of the Zope Platform and that agree to abide by the obligations set forth in this Agreement. Associate Members shall be entitled to Board representation and shall be permitted to vote with the Membership At Large as set forth in the Bylaws.

2. MEMBERSHIP RIGHTS AND OBLIGATIONS

- 2.1. **Generally.** Member agrees to pay the annual fees established for its Membership Class, if any, as set forth in Exhibit C hereto, as may be amended from time to time in accordance with the Bylaws. Member agrees to abide by other terms relating to the payment of fees, as further specified in Section herein. Any Developers (as defined in Exhibit B) contributed by Member to work on Zope Platform development projects will be fully compensated by Member and not by the Zope Foundation.
- 2.2. **Compliance with Policies.** Member agrees to abide by, and shall have all applicable rights and obligations as set forth in, the Bylaws, the Zope Foundation Intellectual Property Policy (the “IP Policy”), and any and all additional policies

and procedures adopted by the Zope Foundation, as may be amended from time to time in accordance with the Bylaws.

2.3. Compliance with Zope Public License. Member has reviewed, and agrees to abide by, and shall have all rights and obligations as set forth in, the Zope Public License (“ZPL”), as may be amended from time to time in accordance with the Bylaws. Member agrees that the ZPL will serve as both the general contribution license for the Zope Foundation as well as the distribution license unless otherwise agreed to in accordance with the Bylaws and IP Policy.

2.4. Late Fees / Costs and Expenses.

2.4.1. Late Fees. If a Member’s payment of its annual membership dues is not fully paid within thirty (30) days of its invoice due date, a late fee representing one percent (1%) of the delinquent membership dues shall be added to such membership dues, compounding monthly, commencing on the 31st day following invoice date.

2.4.2. Costs and Expenses. Each Member shall bear all of its own costs and expenses related to membership in the Zope Foundation including, but not limited to, compensation payable to Member’s employees and consultants (including, without limitation, Developers assigned to participate in Development Teams) that participate in the Zope Foundation on behalf of Members, and all travel and other expenses associated with Member’s participation in Zope Foundation meetings, conferences, and development projects. Except as otherwise set forth in this Agreement or in the Bylaws, Member understands and agrees that Member has no rights of reimbursement from the Zope Foundation.

2.5. Publicity.

2.5.1. Press Releases. A new Member shall assist the Zope Foundation in publicly announcing such new Member’s membership therein within ninety (90) days of joining the Zope Foundation. A Member may make public announcements or press releases concerning its own activities as a Member. Unless otherwise required by law, any press release concerning a Member made by the Zope Foundation or another Member shall be subject to that Member's prior written consent, which shall not be unreasonably withheld. Once approved, the press release statement may be used by the Zope Foundation and other Members for the purpose of promoting the Zope Foundation (or such purpose as is designated in the Member's consent) and reused for such purpose until such approval is withdrawn with reasonable prior written notice. Any use of a Member's name shall be subject to the applicable usage guidelines of that Member.

2.5.2. Members agree to comply with the then current Zope Foundation Trademark Usage Guidelines.

3. TERM AND TERMINATION

- 3.1. **Term.** The term of this Agreement shall begin on the Effective Date and, except as provided below, shall continue indefinitely subject to the rights of termination set forth in Section .
- 3.2. **Termination.** Member may terminate its membership or be removed there from in accordance with Section 6.16 the Bylaws. Upon termination of Member's membership, this Membership Agreement shall terminate.
- 3.3. **Survival.** In the event of termination under Section the following shall survive and remain in effect: Sections , , and . In addition, Member shall be obligated to pay all costs, expenses and dues that accrued prior to the effective date of termination.

4. GENERAL

- 4.1. **Authority to Execute Agreement.** Member hereby represents, warrants and covenants to the Zope Foundation that (a) it has the authority to enter into this Agreement and to perform its obligations hereunder; (b) the execution and performance of this Agreement does not and will not violate any agreement to which Member is a party or by which it is otherwise bound; and (c) when executed and delivered, this Agreement will constitute a legal, valid and binding obligation of Member, enforceable in accordance with its terms.
- 4.2. **No Other Licenses.** By executing this Agreement, Member neither grants nor receives, by implication, estoppel, or otherwise, any rights under any copyright, patents or other intellectual property rights of the Zope Foundation or another Member.
- 4.3. **No Employment Relationship.** Nothing in this Agreement is intended to give rise to an employer-employee relationship, including, but not limited to the relationship between Developers from Member organizations and the Zope Foundation.
- 4.4. **No Warranty.** THE ZOPE FOUNDATION AND MEMBER EACH ACKNOWLEDGES THAT, EXCEPT AS OTHERWISE AGREED IN WRITING, ALL INFORMATION PROVIDED TO OR BY THE ZOPE FOUNDATION UNDER THIS AGREEMENT IS PROVIDED "AS IS" WITH NO WARRANTIES OR CONDITIONS WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND THE ZOPE FOUNDATION AND

MEMBER EACH EXPRESSLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH INFORMATION.

- 4.5. **Limitation of Liability.** IN NO EVENT WILL EITHER THE ZOPE FOUNDATION OR MEMBER BE LIABLE TO EACH OTHER OR ANY OTHER MEMBER OR THIRD PARTY UNDER THIS AGREEMENT FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOST REVENUE, LOST SALES, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, DIRECT, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES.
- 4.6. **Governing Law.** This Agreement shall be construed and controlled by the laws of the State of Delaware without reference to conflict of laws principles.
- 4.7. **Notices.** All notices or other communications to or upon any party shall be delivered to or at the addresses set forth on the signature page(s) hereto. For purposes of this Section, notice can include notice by written mail, electronic mail or by facsimile and shall be deemed served when sent; provided, however, that notice of a breach of this Agreement and notice of termination of this Agreement shall be given by overnight courier service or certified mail, return receipt requested.
- 4.8. **Complete Agreement; No Waiver.** Except with respect to the Zope Foundation's Bylaws, IP Policy, the ZPL, and any other policies and procedures that may be adopted by the Zope Foundation from time to time in accordance with the Bylaws, this Agreement, including all attachments, sets forth the entire understanding of the Zope Foundation and Member and supersedes all prior agreements and understandings relating hereto, unless otherwise stated in this Agreement. The waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.
- 4.9. **Amendment.** Member shall be given at least thirty (30) days prior written notice of the effective date of an amendment agreed to in accordance with the Bylaws. No amendments, modifications or additions to or deletions from this Agreement shall be binding unless accepted in writing by authorized representatives of the Zope Foundation and Member. If Member does not agree to a modification to this Agreement that was approved in accordance with the Bylaws, this Agreement and Member's membership in the Zope Foundation shall be terminated. Amendments shall be prospective only unless otherwise agreed to by the Member and the Zope Foundation.

- 4.10. **No Rule of Strict Construction.** Regardless of which party may have drafted this Agreement, no rule of strict construction shall be applied against either party. If any provision of this Agreement is determined by a court to be unenforceable, the parties shall deem the provision to be modified to the extent necessary to allow it to be enforced to the extent permitted by law, or if it cannot be modified, the provision will be severed and deleted from this Agreement, and the remainder of this Agreement will continue in effect.
- 4.11. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but collectively shall constitute one and the same instrument.
- 4.12. **Compliance with Laws.** Anything contained in this Agreement to the contrary notwithstanding, the obligations of the Zope Foundation and Member shall be subject to all laws, present and future, of any government having jurisdiction over the Zope Foundation and Member including, without limitation, all export and re-export laws and regulations. It is the intention of the Zope Foundation and Member that this Agreement and all referenced documents shall comply with all applicable laws and regulations.
- 4.13. **Headings.** The Zope Foundation and Member acknowledge that the headings to the sections hereof are for reference purposes only and shall not be used in the interpretation of this Agreement.
- 4.14. **Assignment.** Member may not assign its rights or obligations under this Agreement without the prior written consent of the Zope Foundation or as otherwise set forth in the Bylaws. For purposes of this Agreement, an assignment shall be deemed to include a transfer or sale of all or substantially all of the business of Member, or a merger, consolidation or other transaction that results in a change in control of Member.
- 4.15. **Force Majeure.** Neither the Zope Foundation nor Member shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes or any other cause which is beyond the reasonable control of such party.
- 4.16. **General Construction.** As used in this Agreement, the plural form and singular form each shall be deemed to include the other in all cases where such form would apply. “Includes” and “including” are not limiting, and “or” is not exclusive.
- 4.17. **Independent Contractors.** The relationship of the Zope Foundation and Member established by this Agreement is that of independent contractors. This Agreement does not give either party the power to direct and control the day to day activities

of the other, constitute the parties as partners, joint venturers, co-owners, principal-agent or otherwise participants in a joint or common undertaking, or, except as expressly provided herein, allow either party to create or assume any obligation on behalf of the other for any purpose whatsoever.

4.18. Order of Precedence. Notwithstanding anything else to the contrary in this Agreement or in any other agreement entered into with the Zope Foundation, in the case of the conflict between the terms of this Agreement and any other agreement except for the ZPL, the terms of this Agreement shall control. Notwithstanding anything else to the contrary in this Agreement, in the case of the conflict between the terms of this Agreement and the terms of the ZPL, the terms of the ZPL shall control.

Zope Foundation, Incorporated – Notice Information

EXHIBIT B

STRATEGIC DEVELOPER MEMBERS

Strategic Developer Members agree to maintain two (2) or more full-time Committers (each with Committer rights) on their staff on a regular employment basis.

The Member has sole managerial authority over its employees. Nothing in this Agreement shall be construed as creating an employment relationship by and between any Member and the Zope Foundation.

EXHIBIT C

FEE SCHEDULE AND MEMBERSHIP CLASS SELECTION

All Fees are in US Dollars

| Member Class | Annual Membership Fee | Check to Indicate Desired Level of Membership |
|---------------------|--|---|
| Strategic Developer | <ol style="list-style-type: none"> Ten (10) or fewer employees: \$10,000.00 More than ten (10) and less than one-hundred (100) employees: \$25,000.00 One hundred (100) or more employees: \$100,000.00 | |
| Strategic Consumer | <p>All organizations: \$25,000.00</p> <p>Annual dues for Strategic Consumers will be discounted by \$5,000.00 for each full-time developer (with Committer privileges) that works on Zope. The maximum total discount available is \$15,000.00.</p> | |
| Solution Provider | <ol style="list-style-type: none"> Less than ten (10) employees: \$1,500.00 More than ten (10) and less than one hundred (100) employees: \$5,000.00 One hundred (100) or more employees: \$15,000.00 <p>Payable in a single annual payment or in equal quarterly payments.</p> | |
| Committer | No Dues | |
| Associate | All persons: \$99 | |

The Fees may be amended from time to time in accordance with the Bylaws and shall, from the date of such amendment, replace the previously existing Fees. Any such change shall not require re-execution of this Agreement. If such amendment has been duly approved, Member agrees to payment of such Fees.

Member _____

Signature _____

EXHIBIT D

Committer Member Process

Individuals who give frequent and valuable contributions to a Zope Platform development project, or component of a project (in the case of large projects), can have their status promoted to that of a "Committer" for that project or component respectively, in accordance with the project's corresponding Charter. A Committer has write access to the source code repository for the associated project (or component), and gains rights allowing them to affect the future of the project (or component). In order for an individual to become a Committer, another Committer for the project (or component) must nominate that individual. Once an individual is nominated, the existing Committers for the project (or component) will vote using the process and rules established in the project's corresponding Charter. When a new project is started, the corresponding PMC will nominate an initial set of Committers for approval by the Chairman (or his delegates). Becoming a Committer is a privilege that is earned by contributing and showing discipline and good judgment. It is a responsibility that should be neither given nor taken lightly.

A Committer who is not already employed by a Member company must sign the Zope Foundation Membership Agreement in order to attain the rights and obligations of a Committer Member.