



## **INDUSTRY WORKING GROUP PARTICIPATION AGREEMENT**

This PARTICIPATION AGREEMENT (the “Participation Agreement”) is effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 201\_ (the “Effective Date”) by and between Eclipse Foundation, Inc. (“Eclipse” or the “Eclipse Foundation”), a not-for-profit corporation incorporated in the State of Delaware, USA, and \_\_\_\_\_ (“Company”).

WHEREAS, Company has entered into, or desires to enter into, Eclipse’s standard membership agreement (the “Membership Agreement”) to participate in Eclipse;

WHEREAS, Company, desires to participate in one or more Industry Working Groups (the “Working Groups”) as specified in the Exhibits to this Agreement and established under the then-current Eclipse Industry Working Group Process (the “IWG Process”);

NOW THEREFORE, ECLIPSE AND COMPANY AGREE AS FOLLOWS:

1. Definitions
  - (a) “Membership Dues” are those annual fees for membership in the Eclipse Foundation as set forth in the Membership Agreement.
  - (b) “Participation Fees” are those annual fees (if any) for participating in a Working Group, as established by the Working Group’s Steering Committee and set forth in the Working Group’s Charter (a URL link to which is provided in the relevant Exhibit), as adopted and amended from time to time pursuant to the IWG Process. At its discretion, each Working Group Steering Committee may, pursuant to the IWG Process, establish different tiers of participation and associated fees for each organization participating in the Working Group.
  - (c) “Working Group Fees” is the sum of any annual Membership Dues and Participation Fees required by Company to participate in a Working Group.
2. Term.

The term of this Participation Agreement (the “Participation Term”) shall commence as of the Effective Date and, except as provided below, shall continue indefinitely, subject to the rights of termination set forth in Section 9 below.



3. Membership Agreement

(a) Current Members.

If, as of the Effective Date, Company is party to an effective Eclipse Membership Agreement (a “Current Member” and a “Current Membership Agreement”) but is not a Strategic, Enterprise or Solutions Member (as those terms are defined in the Eclipse Membership Agreement), then Company’s current membership status will be amended to that of Solutions Member. If Company is, as of the Effective Date, a Strategic, Enterprise, or Solutions Member, such status shall remain unchanged. Nothing in this Agreement is intended to preclude any Affiliate (as “Affiliate” is defined in the Eclipse Bylaws) of any Current Member from independently entering into this Agreement on its own behalf.

(b) New Members

If, as of the Effective Date, Company is not a Member of Eclipse, then Company accepts and agrees to all of the terms and conditions of the Membership Agreement attached hereto as Exhibit A, at the Strategic, Enterprise or Solutions Member level as stipulated by Company, and all such terms and conditions of the Membership Agreement are incorporated herein by reference and operate in this Participation Agreement as if they were expressly set forth herein.

4. Logo Agreement

If, as of the Effective Date, Company is party to an effective Eclipse Logo Agreement, such agreement will remain in full force and effect. If, as of the Effective Date, Company is not a party to an Eclipse Logo Agreement, Company accepts and agrees to all of the terms and conditions of the Eclipse Logo Agreement attached hereto as Exhibit B, and all such terms and conditions are incorporated herein by reference as if they were expressly set forth herein.

5. Working Groups

Company may elect to participate in one or more Working Groups at Eclipse. Company shall indicate which Working Groups they wish to participate in by executing the relevant Exhibit hereto for each selected Working Group (“Selected Working Groups”). For each Working Group, Company will participate in, and receive the services of, such Working Group commensurate with their Eclipse Foundation Membership level, and the level of Working Group participation selected by Company in the relevant Exhibit. A full description of the Working Group participation levels and services is specified in each Industry Working Group Charter, as defined in the IWG Process.



## 6. Fees

Company agrees to pay Working Group Fees to participate in the Selected Working Groups set forth in the Exhibits hereto. The Working Group Fees for each Working Group shall be shown to include both the minimum Membership Dues (e.g. typically Solutions Member), and the Participation Fees required for each level of participation in the Working Group. Company shall only be required to pay its Membership Dues once annually, regardless of how many Working Groups Company participates in. To the extent that Company is a Current Member at the Solutions, Strategic or Enterprise level, Company shall be required only to pay the Participation Fees for each Selected Working Group. To the extent that Company is not a Current Member, it is understood that Company shall pay the Working Group Fees of one of the Selected Working Groups.

Eclipse shall invoice Company for the Participation Fees for each Selected Working Group, and the Membership Dues if Company is not a Current Member. If a Member's payment of such invoice is not fully paid within sixty (60) days of its invoice date, a late fee representing one percent (1%) of the delinquent amount shall be added to the amounts due an owing, compounded monthly, commencing on the 31<sup>st</sup> day after Effective Date.

## 7. Redistribution

The Steering Committee of the Working Group will be responsible for categorizing the copyrightable material, including without limitation software, documentation, articles, whitepapers, and presentation materials ("Content") that is produced by the Working Group. Categories will include "Working Group Private", "IWG Binary", and others defined by the Steering Committee. The Steering Committee will establish guidelines for the use of these categories of Content.

Any binary code received through the Working Group and categorized as IWG Binary (the "Binary Code") may not be redistributed unless it is integrated into, or updates, a commercial software product, or custom developed software, and is distributed pursuant to an Object Code License ("Re-distributable Binary Code"). As used herein, the term "Object Code License" shall mean a license agreement for the use of object code of commercial software, which includes provisions that prohibits reverse engineering and precludes subsequent licensees from redistribution of the Binary Code unless it is integrated into, or updates, a commercial software product, or custom developed software, and is distributed pursuant to a license with the same prohibitions. The failure of any licensee to restrict distribution of the Binary Code as set forth herein shall be a material breach of the terms of this Agreement. This Section 7 will survive expiration or termination of this Agreement.



8. No Amendments

This Participation Agreement is in no way intended to modify or supersede the Membership Agreement, which is expressly incorporated herein.

9. Termination.

- a) Company may terminate its participation in any Selected Working Group by sending written notice to the Secretary of the Eclipse Foundation directed to the address set forth below.
- b) A termination of the Membership Agreement shall automatically terminate this Participation Agreement and, except as expressly set forth in this Agreement, the Membership Agreement, or in any license granted to software or other content while a Member, no rights shall survive hereunder.
- c) Member shall not be entitled to receive any refund, pro rata or otherwise, of any fee, dues, or assessments under this Agreement for the balance of the year in which the termination is effective.

10. Applicable Law

This Participation Agreement shall be construed and controlled by the laws of the State of New York without reference to conflict of laws principles.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written above.

ECLIPSE FOUNDATION, INC.

COMPANY:

102 Centerpointe Drive  
Ottawa, ON, Canada, K2G 6B1  
membership@eclipse.org

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

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

Name: \_\_\_\_\_  
*(please print)*

Name: \_\_\_\_\_  
*(please print)*

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

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



EXHIBIT A  
MEMBERSHIP AGREEMENT

This Exhibit A is applicable only when Company is not, as of the Effective Date, already an Eclipse Member.



EXHIBIT B

LOGO AGREEMENT

This Exhibit B is applicable only when Company is not, as of the Effective Date, already a signatory of the Eclipse Logo Agreement.



EXHIBIT C

LONG TERM SUPPORT INDUSTRY WORKING GROUP

Company agrees to participate in the Long Term Support Industry Working Group (“LTS IWG”), and to pay the fees specified in the LTS IWG Charter available at [http://www.eclipse.org/org/industry-workgroups/ltsiwg\\_charter.php](http://www.eclipse.org/org/industry-workgroups/ltsiwg_charter.php) for.

Company will participate in the LTS IWG at the following level, as specified in the LTS IWG Charter:

- Participant Member
- Premium Member
- Steering Committee Member  
*(please select one item above)*

LTS Steering Committee membership is provided at no additional charge to Strategic Members paying the maximum level of dues (\$250K)

LTS Premium membership is provided at no additional charge to Strategic Members paying dues in excess of \$100K

**LTS Participant Member Fees**

<b>Turnover</b>	<b>Eclipse Solution Membership</b>	<b>LTS Participant</b>	<b>Total</b>
>\$250 million	\$20,000	\$10,000	\$30,000
>\$100 million <= \$250 million	\$15,000	\$10,000	\$25,000
>\$50 million <= \$100 million	\$10,000	\$7,500	\$17,500
>\$10 million <= \$50 million	\$7,500	\$7,500	\$15,000
<\$10 million	\$5,000	\$5,000	\$10,000
<\$1 million & < 10 employees	\$1,500	\$1,500	\$3,000





LTS Premium Member Fees

Turnover	Eclipse Solution Membership	LTS Premium	Total
>\$250 million	\$20,000	\$20,000	\$40,000
>\$100 million <= \$250 million	\$15,000	\$20,000	\$35,000
>\$50 million <= \$100 million	\$10,000	\$15,000	\$25,000
>\$10 million <= \$50 million	\$7,500	\$10,000	\$17,500
<\$10 million	\$5,000	\$10,000	\$15,000

LTS Steering Committee Member Fees

Turnover	Eclipse Solution Membership	LTS SC	Total
>\$250 million	\$20,000	\$30,000	\$50,000
>\$100 million <= \$250 million	\$15,000	\$30,000	\$45,000
>\$50 million <= \$100 million	\$10,000	\$20,000	\$30,000
>\$10 million <= \$50 million	\$7,500	\$20,000	\$27,500
<\$10 million	\$5,000	\$15,000	\$20,000

IN WITNESS WHEREOF, the parties hereto have executed this Exhibit C as of the \_\_\_\_th day of \_\_\_\_\_, 201\_\_.

ECLIPSE FOUNDATION, INC.

COMPANY:

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

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

Name: \_\_\_\_\_  
(please print)

Name: \_\_\_\_\_  
(please print)

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

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



EXHIBIT D

POLARSYS INDUSTRY WORKING GROUP

Company agrees to participate in the Polarsys Industry Working Group (“Polarsys IWG”), and to pay the fees specified in the Polarsys IWG Charter available at [http://www.eclipse.org/org/industry-workgroups/polarsys\\_charter.php](http://www.eclipse.org/org/industry-workgroups/polarsys_charter.php)

Company will participate in the Polarsys IWG at the following level, as specified in the Polarsys IWG Charter:

- Participant Member
- Steering Committee Member  
*(please select one item above)*

**Polarsys Participant Member Fees**

<b>Turnover</b>	<b>Eclipse Solution Membership</b>	<b>Polarsys Membership</b>	<b>Total</b>
>\$250 million	\$20.000	\$10.000	\$30.000
>\$100 million <= \$250 million	\$15.000	\$10.000	\$25.000
>\$50 million <= \$100 million	\$10.000	\$10.000	\$20.000
>\$10 million <= \$50 million	\$7.500	\$7.500	\$15.000
<\$10 million	\$5.000	\$5.000	\$10.000
<\$1 million & < 10 employees	\$1.500	\$1.500	\$3.000

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**Polarsys Steering Committee Member Fees**

<b>Turnover</b>	<b>Eclipse Solution Membership</b>	<b>Polarsys Membership</b>	<b>Total</b>
>\$250 million	\$20.000	\$30.000	\$50.000
>\$100 million <= \$250 million	\$15.000	\$30.000	\$45.000
>\$50 million <= \$100 million	\$10.000	\$30.000	\$40.000
>\$10 million <= \$50 million	\$7.500	\$20.000	\$27.500
<\$10 million	\$5.000	\$20.000	\$25.000

IN WITNESS WHEREOF, the parties hereto have executed this Exhibit D as of the \_\_\_\_th day of \_\_\_\_\_, 201\_\_.

ECLIPSE FOUNDATION, INC.

COMPANY:

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

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

Name: \_\_\_\_\_  
*(please print)*

Name: \_\_\_\_\_  
*(please print)*

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

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