

The Linux Foundation
General Event Sponsorship Terms

Last updated: April 4, 2022

This agreement (the “Agreement”), by and between The Linux Foundation (“Event Operator”) and the sponsor identified in a Sponsorship Form referencing this Agreement (“Sponsor” and, together with Event Operator, the “Parties”), is dated as of the effective date of the first Sponsorship Form (“Effective Date”). Sponsor desires to provide Event Operator with funds to support one or more open source community events operated or organized by or on behalf of the Event Operator, and the Parties desire to set forth the terms and conditions that shall apply to such sponsorships. Accordingly, the Parties agree as follows:

1. The Agreement.

1.1. Structure. The Agreement consists of (A) these General Events Sponsorship Terms (the “Terms”); (B) the Data Protection Addendum attached hereto (the “DPA”); and (C) one or more Event Sponsorship Forms that reference this Agreement and are entered into from time to time hereunder (each, a “Sponsorship Form”).

1.2. Purpose. The Parties intend that from time to time during the Term of this Agreement, Sponsor shall provide funds to Event Operator in order to sponsor one or more open source community events organized, operated and/or supported by Event Operator (each, an “Event”). These Terms sets forth the legal terms that shall govern all such sponsorships. The DPA sets forth the obligations that shall govern the Parties’ transfer and use of personal data of registered attendees at Events. Each Sponsorship Form shall specify the business terms (including Event dates and locations, sponsorship fees, and sponsorship benefits) that apply to one or more Events.

1.3. Order of Precedence. In the event of a conflict between the provisions of the documents comprising this Agreement, the order of precedence shall be the DPA, then the Terms, then the Sponsorship Forms. A provision of a Sponsorship Form shall not take precedence over a conflicting provision in the Terms or the DPA unless it both (a) specifically references the conflicting provision in the Terms or the DPA, including the applicable section number; and (b) explicitly states that it is intended to apply notwithstanding that conflicting provision in the Terms or the DPA.

2. Term and Termination.

2.1. Term. This Agreement shall commence as of the Effective Date and shall continue until terminated as set forth in this Section 2. Each Sponsorship Form shall commence on the date set forth therein and shall continue until the Parties’ obligations set forth therein are fulfilled, except as otherwise set forth in this Section 2.

2.2. Termination for Convenience. Either Party may terminate the Agreement upon 30 days’ written notice to the other Party. Termination pursuant to this Section 2.2 shall not affect either Party’s obligations with regards to Sponsorship Forms entered into prior to the effective date of such termination, and the Agreement shall continue to apply to all Events and all obligations of each Party under such Sponsorship Forms until completed.

2.3. Termination of Sponsorship Form for Cause. Either Party may terminate a Sponsorship Form if the other Party materially breaches its obligations under that Sponsorship Form and fails to cure such breach within 30 days following written notice thereof. Termination pursuant to this Section 2.3(a) shall not affect either Party’s obligations with regards to other Sponsorship Forms or to the Agreement overall.

2.4. Termination of Agreement for Cause. Either Party may terminate the Agreement (including all Sponsorship Forms hereunder) if the other Party materially breaches the Terms or the DPA and fails to cure such breach within 30 days following written notice thereof.

2.5. Suspension during Period of Breach. During any period when Sponsor is in breach of this Agreement and has not yet cured such breach, Event Operator may in its discretion (a) remove Sponsor Marks from the corresponding Events’ websites and other marketing materials and (b) withhold the other benefits corresponding to the applicable sponsorships. Any such suspension shall not affect Sponsor’s obligation to pay the Sponsorship Fees or other obligations set forth in the Agreement. Upon Sponsor’s cure of all such breaches, Event Operator may use reasonable efforts to restore Sponsor Marks and other benefits, but Event Operator shall not be required to do so to the extent Event Operator determines it is impracticable (such as due to a lack of time remaining prior to the applicable Events).

2.6. Survival. Sections 1, 2.6, 3.1, 3.4, and 4-9 of the Terms, and the entirety of the DPA, shall survive termination of this Agreement for any reason. For the avoidance of doubt, Sponsor’s obligations to pay Sponsorship Fees shall survive termination of any Sponsorship Form or of this Agreement by Event Operator pursuant to Sections 2.3 or 2.4.

3. Sponsorships.

3.1. Fees. For each Event set forth in a Sponsorship Form, Sponsor shall pay to Event Operator the fees set forth on the Sponsorship Form (each, a “Sponsorship Fee”).

3.2. Sponsor Benefits. In exchange for the payment of the Sponsorship Fees, and subject to the terms of the Agreement, Sponsor shall receive the corresponding benefits set forth in the applicable Sponsorship Form.

3.3. Sponsor Commitments. Sponsor shall adhere to all Event rules and regulations as outlined in the sponsor fulfillment portal made available by Event Operator and as communicated by Event staff. Sponsor is responsible for submitting deliverables on time within the deadlines communicated by Event staff. Event Operator shall be excused from providing the sponsorship benefits if deliverables required from the Sponsor are received past the deadlines set in the sponsor portal and/or communicated by Event staff.

3.4. Data Privacy. Each party will comply with the DPA. For the avoidance of doubt, Event Operator will only agree to provide Sponsor with contact information for attendees who elect to share their contact details with Sponsor, such as by permitting Sponsor to scan their badges using the lead retrieval device provided by Event Operator or by visiting Sponsor’s “virtual booth” or other similar offering in a virtual event platform. The use of such contact information is subject to the DPA.

Event Operator does not agree to provide Sponsor with attendees' phone numbers in this contact information.

4. Payments.

4.1. Invoices. Event Operator or its designee will submit an invoice to Sponsor. Unless otherwise directed by Sponsor, all PO(s), invoices and payments will be issued through the designated invoice and payment system of Sponsor, which Event Operator will use reasonable efforts to use; provided, that Event Operator shall not be required to accept any requirements not specified in this Agreement in connection with such system, and Event Operator may require the use of an alternative invoice and payment process in its discretion.

4.2. Method of Payment. Sponsor may make payment by wire transfer, check, or credit card, or by any alternative method that is approved by Event Operator. If Sponsor makes payment by credit card, then Event Operator may charge an additional processing fee.

4.3. Taxes. The Event Operator operates as a tax-exempt organization in the United States. Sponsor shall be responsible for the payment of all taxes applicable to the Sponsorship Fees, irrespective of the jurisdiction where such taxes may be levied, excluding only taxes on Event Operator's net income.

4.4. Payment Due Date. Except where otherwise specified in a Sponsorship Form, Sponsor shall pay all invoiced Sponsorship Fees within 30 days following receipt of the invoice. If Sponsor does not pay the Sponsorship Fees prior to the applicable due dates, Event Operator may suspend the corresponding sponsorship benefits as set forth in Section 2.5 above.

4.5. Cancellations and Refunds. Except in the case of the cancellation of an Event by Event Operator voluntarily and not as a result of any reason beyond Event Operator's reasonable control (a "Voluntary Cancellation"), payment of the entire Sponsorship Fee is still due upon the cancellation of the corresponding Event. Event Operator may cancel the Event at any time prior to receipt of payment without further obligation or liability of Event Operator hereunder. If Sponsor has already paid the Sponsorship Fee, Event Operator's sole financial obligation will be to refund the Sponsorship Fee in the case of a Voluntary Cancellation.

5. **Confidentiality.** Neither Party may disclose the specific dollar amounts paid by Sponsor to Event Operator without the specific written authorization from the other Party. This Section 5 shall not prevent disclosure of such amounts to the Party's directors, advisors and other representatives, or disclosure as necessary to perform the Party's obligations hereunder or as may be required by law.

6. Mark Usage.

6.1. Sponsor Marks. As used herein, "Sponsor Marks" means Sponsor's name and logos, including any of Sponsor's names and logo designs that Sponsor makes available to Event Operator in connection with its sponsorship.

6.2. License Grant. Sponsor hereby grants to Event Operator a nonexclusive, non-assignable, royalty-free, worldwide, revocable (as set forth below) right to use the Sponsor Marks for purposes of advertising, promoting and marketing the Events to the public. Any goodwill arising from use of Sponsor Marks shall inure to the benefit of Sponsor.

6.3. Correct Usage. Event Operator shall make good faith efforts (a) to use Sponsor Marks in accordance with any Sponsor's logo use guidelines that Sponsor provides to Event Operator, and (b) to respond in a reasonable time to requests to change any usage to conform to such guidelines. However, Sponsor acknowledges that Event Operator intends to use the logo image files that Sponsor provides via the sponsorship fulfillment portal made available by Event Operator. Accordingly, Event Operator shall not be responsible for ensuring that the logo image files Sponsor uploads are compliant with or conformant to Sponsor's logo usage guidelines, and Event Operator may use such logo image files from Sponsor without obligation to ensure such compliance or conformance.

6.4. Discontinuing Use of Sponsor Marks. Event Operator shall discontinue its use of any Sponsor Mark in a reasonable time upon request of Sponsor; provided, that (a) Event Operator shall not be required to remove any Sponsor Mark from existing materials or websites that have already been prepared for use with the Events; (b) the foregoing shall not prohibit Event Operator from using Sponsor's name to accurately refer to Sponsor's sponsorship of the Events; and (c) Event Operator shall not be required to modify or remove Sponsor Marks from historical archives of materials or websites for previous Events that have already occurred.

7. **Disclaimer.** EVENT OPERATOR MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE SPONSORSHIP, THE EVENTS, OR THIS AGREEMENT, EITHER TO SPONSOR OR TO ANY THIRD PARTY, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

8. **Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE FOR (1) ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR (2) ANY DAMAGES IN AN AMOUNT EXCEEDING THE SPONSORSHIP FEE FOR THE SPECIFIC EVENT TO WHICH THE LIABILITY RELATES, IN EACH CASE WHERE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE SUBJECT MATTER HEREOF. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF EVENT OPERATOR TO SPONSOR AND ALL OTHER PARTIES AFFILIATED WITH SPONSOR RELATING TO OR ARISING FROM THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE EXPENSE OF ANY INDEMNIFICATION OR SIMILAR OBLIGATION, SHALL NOT EXCEED THE AMOUNT INSURED AND ACTUALLY PAID OUT UNDER THE GENERAL COMMERCIAL INSURANCE POLICY OF EVENT OPERATOR. THE FOREGOING LIMITATIONS OF LIABILITY ARE AN ESSENTIAL BASIS OF THE DECISION OF EVENT OPERATOR TO OFFER THE EVENT SPONSORSHIP, AND SHALL APPLY REGARDLESS OF THE LEGAL THEORY UPON WHICH DAMAGES MAY BE CLAIMED, REGARDLESS OF WHETHER A PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER THE FOREGOING LIMITATIONS OF LIABILITY CAUSE ANY REMEDY TO FAIL IN ITS ESSENTIAL PURPOSE.

9. Miscellaneous.

9.1. Entire Agreement; Modifications. Each Party acknowledges that they have read this Agreement, understand it and that it is the complete and exclusive statement of their agreement which supersedes any prior agreement, oral or written, between the Parties regarding the Sponsor's sponsorship of the Events. For the avoidance of doubt, this Agreement does not govern the attendance of Sponsor personnel at the Events. No modification of this Agreement shall be enforceable against either Party unless in writing signed by such Party.

9.2. Counterparts. Sponsorship Forms may be executed in one or more counterparts and may be signed physically or electronically, including via exchange of signed PDF documents. Execution of a Sponsorship Form shall constitute acceptance of this Agreement. Each counterpart shall be an original, but all such counterparts shall constitute a single instrument.

9.3. Relationship of the Parties. For all purposes of this Agreement, each Party shall be and act as an independent contractor and not as a partner, joint venturer, representative or agent of the other. Neither Party has any authority to act on behalf of or to enter into any contract, incur any liability or make any representation or warranty on behalf of the other Party.

9.4. Governing Law and Jurisdiction. This Agreement shall be governed exclusively by the laws of the State of California, without reference to its principles of conflicts of law, the 1980 United Nations Conventions on Contracts for the International Sale of Goods, or other international laws. The Parties consent to the personal and exclusive jurisdiction of the federal and state courts of California.

9.5. Notices. Any notice under this Agreement shall be given in writing delivered (a) if to Sponsor, to the mailing address or email address set forth in any Sponsorship Form hereunder; or (b) if to Event Operator, to The Linux Foundation, 548 Market St., PMB 57274, San Francisco, CA 94104-5401, events@linuxfoundation.org. Any such notice shall be deemed to have been delivered and given either (i) on the delivery date if sent by email or if delivered personally to the Party to whom it is directed; (ii) one business day after deposit with a commercial overnight carrier, with written verification of receipt, or (iii) three business days after being mailed by certified mail, postage prepaid, return receipt requested.

9.6. Waiver. A Party's failure or delay in exercising its rights under the Agreement shall not operate as a waiver of those rights or constitute a waiver of any prior, concurrent, or subsequent breach.

9.7. Severability. If any provision of the Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of the Agreement shall nevertheless remain in full force and effect.

Data Protection Addendum to General Events Sponsorship Terms (controller to controller)

This Data Protection Addendum ("Addendum"), dated as of the Effective Date, forms part of the General Events Sponsorship Terms attached hereto (the "Agreement") between the Sponsor and the Event Operator. The terms used in this Addendum will have the meanings set forth in this Addendum. Capitalized terms not otherwise defined herein will have the meaning given to them in the Agreement.

Categories of Personal Data: Name, company, job function / title, email address, mailing address, and similar contact information

Types of Data Subjects: Registered attendees at Event Operator's events

1. Definitions. In this Addendum, the following terms will have the meanings set out below:

- a) "Controller", "Data Subject", "Personal Data Breach", "Process/Processing", "Processor", and "Special Categories of Personal Data" will have the same meaning as defined in EU Data Protection Laws;
- b) "Affiliate" means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with either Event Operator or Sponsor (as the context allows), where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise;
- c) "Data Subject Request" means a request from a Data Subject to exercise any right under EU Data Protection Laws;
- d) "EEA" means the European Economic Area, and unless otherwise indicated, EEA or Member States of the EEA include the United Kingdom following its exit from the European Union;
- e) "EU Data Protection Laws" means the EU General Data Protection Regulation 2016/679 of the European Parliament and of the Council ("GDPR") and Directive 2002/58/EC (ePrivacy), in each case as transposed into domestic legislation of each Member State of the European Economic Area and in each case as amended, replaced or superseded from time to time, and any data protection laws substantially amending, replacing or superseding the GDPR following the exit by the United Kingdom from the European Union;
- f) "EU Personal Data" means any Personal Data that is disclosed by one party or its Affiliate ("Discloser") to the other party or its Affiliate ("Recipient") in the performance of that party's rights or

- g) "Event Operator Affiliate" means an Affiliate of Event Operator;
- h) "Personal Data" means any personal data, as defined in EU Data Protection Laws;
- i) "Restricted Transfer" means a transfer of EU Personal Data from Discloser to Recipient, to a jurisdiction outside of the EEA which is not deemed to have "adequate safeguards" as set forth under GDPR, Art. 45(1) (or any succeeding legislation of the United Kingdom upon its exit from the European Union);
- j) "Sponsor Affiliate" means an Affiliate of Sponsor;
- k) "Standard Contractual Clauses" means (i) the standard contractual clauses for the transfer of personal data to entities established in third countries as set out in Commission Decision C/2021/3972, with selections for Module One (Transfer Controller to Controller), as updated, amended, replaced or superseded from time to time by the European Commission, or (ii) any other contractual clauses or other mechanism approved by a Supervisory Authority or by Data Protection Laws for use in respect of such Restricted Transfer, as updated, amended, replaced or superseded from time to time by such Supervisory Authority or Data Protection Laws; and
- l) "Supervisory Authority" means (a) an independent public authority which is established by a Member State pursuant to GDPR, Art. 51; and (b) any similar regulatory authority responsible for the enforcement of Data Protection Laws in the United Kingdom upon its exit from the European Union.

2. Controllers. The parties acknowledge that each will act as a separate Controller in relation to the Personal Data which they Process. The parties will each comply with their respective obligations under EU Data Protection Laws in respect of their processing of Personal Data.

3. Disclosing of Personal Data. Where acting as a Discloser, each party will:

- a) only disclose the Personal Data for purposes of enhancing business contact information, facilitating joint-marketing efforts and providing qualified leads to Recipient (“Permitted Purposes”);
- b) ensure that a notice has been made available and will continue to be accessible to the relevant Data Subject(s) informing them that their Personal Data will be disclosed to the Recipient or to a category of third party describing the Recipient;
- c) ensure that it has obtained any necessary consents or authorisations required to permit the Recipient to freely Process the Personal Data for the Permitted Purposes;
- d) not disclose any Special Categories of Personal Data to the Recipient; and
- e) be responsible for the security of any Personal Data in transmission from the Discloser to the Recipient (or otherwise in the possession of the Discloser).

4. Processing of Personal Data. Where acting as a Recipient, each party will:

- a) not Process Personal Data in a way that is incompatible with the Permitted Purposes (other than to comply with a requirement of applicable law to which Recipient is subject);
- b) not Process Personal Data for longer than is necessary to carry out the Permitted Purposes (other than to comply with a requirement of applicable law to which Recipient is subject); and
- c) taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, have in place appropriate technical and organizational security measures to protect the Personal Data against unauthorized or unlawful Processing, or accidental loss or destruction or damage.

5. Personal Data Breaches. The Recipient will notify the Discloser without undue delay following any Personal Data Breach involving the Personal Data. Each party will co-operate with the other, to the extent reasonably requested, in relation to any notifications to Supervisory Authorities or to Data Subjects which are required following a Personal Data Breach involving the Personal Data.

6. Further Co-operation and Assistance. Each party will co-operate with the other, to the extent reasonably requested, in relation to:

- a) any requests from data subjects exercising their rights under European Data Protection Laws (“Data Subject Requests”);
- b) any other communication from a Data Subject concerning the Processing of their Personal Data; and
- c) any communication from a Supervisory Authority concerning the Processing of Personal Data, or compliance with EU Data Protection Laws.

7. Description of Personal Data. The parties acknowledge that the EU Personal Data (a) may include the categories of personal data specified

in the preamble to this Addendum, which do not include any Special Categories of Data (sensitive data); (b) are related to the types of data subjects specified in the preamble to this Addendum, which may include business contacts of former, current and prospective business customers; and (c) are disclosed and transferred for the Permitted Purposes.

8. Restricted Transfers. With respect to any Restricted Transfers to Sponsor, the parties hereby enter into the Standard Contractual Clauses, incorporated by reference into this Addendum as follows:

- a) Event Operator for itself and the relevant Event Operator Affiliates is the “data exporter” and Sponsor and the relevant Sponsor Affiliates are the “data importers”, and Event Operator and Sponsor each have the authority to enter into the Standard Contractual Clauses for themselves and their respective relevant Affiliates.
- b) Clauses 17 (Option 1) and 18 of the Standard Contractual Clauses shall specify Belgium as the selected EU Member State.
- c) Annex I to the Standard Contractual Clauses shall be deemed to be prepopulated with the relevant information in Section 7 of this Addendum, and the following contact information: (a) data exporter: The Linux Foundation, legal@linuxfoundation.org, 548 Market St., PMB 57274, San Francisco, California 94104, United States, Attn: Legal Department; and (b) data importer: the Sponsor contact information set forth in any Sponsorship Form under the Agreement.
- d) Annex II to the Standard Contractual Clauses shall be deemed to be prepopulated with the following: Data importer shall implement at least the same degree of technical and organisational measures to protect the personal data as the data importer implements for its other personal data of a like nature, which shall in any case be a degree of technical and organisational measures sufficient to comply with all applicable laws. Such measures shall include appropriate measures for ensuring the ongoing confidentiality, integrity and availability of the personal data; for protecting the personal data during storage and use; for ensuring that the personal data are only used for the permitted purposes specified herein; and for ensuring that the data subjects have the ability to exercise their rights under applicable laws regarding their personal data.
- e) Although Sponsor and Event Operator intend that this Addendum shall be deemed to include the Standard Contractual Clauses as set forth in this Section 8, upon either Party’s request Sponsor and Event Operator shall execute a separate copy of the Standard Contractual Clauses, with such selections as set forth herein.

9. Governing Law and Jurisdiction. Without prejudice to clauses 17 and 18 of the Standard Contractual Clauses:

- a) the parties to this Addendum hereby submit to the choice of jurisdiction stipulated in the Agreement with respect to any disputes or claims howsoever arising under this Addendum, including disputes regarding its existence, validity or termination or the consequences of its nullity; and
- b) this Addendum and all non-contractual or other obligations arising out of or in connection with it are governed by the laws of the country or territory stipulated for this purpose in the Agreement.