

# OpenID Foundation Member Agreement

This Member Agreement (“**Agreement**”) is entered into by and between the OpenID Foundation, an Oregon nonprofit public benefit corporation (“**OpenID Foundation**”) and the member identified on the signature page of this Agreement (“**Member**”) as of the later of the two signature dates below (“**Effective Date**”).

## 1. Group Membership; Control Group.

Member hereby agrees that Member and its Control Group shall, in their activities within the OpenID Foundation, comply with all obligations imposed on Member under this Agreement and all other agreements between the OpenID Foundation and Member. For purposes of this Agreement, “**Control Group**” means all corporations or other entities that are Controlled by Member, that Control Member, or that are Controlled by the corporation or other entity Controlling Member; and “**Control**,” “**Controlled**,” and “**Controlling**” shall mean: (i) the ownership of more than 50% of the total voting securities of another entity, or (ii) in the case of unincorporated entities, the ownership of more than 50% of the ownership interest representing the right to make decisions for such unincorporated entity.

## 2. Membership; Adherence to OpenID Foundation Regulations.

2.1 “**OpenID Foundation Regulations**” means the bylaws, policies, and procedures of the OpenID Foundation as adopted, amended, restated, and established from time to time by the OpenID Foundation, including without limitation the OpenID Intellectual Property Rights Policy (“**IPR Policy**”) and the OpenID Process Document. The OpenID Foundation agrees to provide Member with the OpenID Foundation Regulations or to publish and maintain on its official website (<http://openid.net>) (the “**OpenID Foundation Site**”), the OpenID Foundation Regulations that are in effect from time to time. Member represents that it has reviewed the OpenID Foundation Regulations as of the date hereof. Member agrees to, in its activities within the OpenID Foundation, be bound by and adhere to the OpenID Foundation Regulations and all other agreements (including this Agreement) between the OpenID Foundation and Member, and Member acknowledges and agrees that Member’s membership in the OpenID Foundation is conditioned upon Member’s agreement to be so bound. The OpenID Foundation shall promptly provide to Member (or promptly publish on the OpenID Foundation Site and promptly provide email notice to Member) any new and/or revised OpenID Foundation Regulations adopted by the OpenID Foundation from time to time (the date of such publication, the “**New Regulation Publication Date**”). Member shall be bound by duly adopted and/or revised OpenID Foundation Regulations unless Member elects to terminate this Agreement and its membership in the OpenID Foundation no later than 30 days following the New Regulation Publication Date (unless, and solely as applied to amendments to an existing OpenID Foundation Regulation, such existing OpenID Foundation Regulation, in its pre-amended form, prescribes a different timeline before a member is bound by an amendment). In the event of termination by Member, Member shall remain obligated to pay all outstanding dues, fees, and assessments for the calendar year in which termination is effective.

2.2 Membership; Membership Dues; Late Fees. Member shall submit a payment of its membership dues for the first year of membership with this Agreement. Member’s membership

in the OpenID Foundation will automatically renew on each anniversary of admission as a member of the OpenID Foundation, unless Member provides written notice of non-renewal to the OpenID Foundation on or before the 30<sup>th</sup> day preceding the expiration of Member's annual membership ("**Termination Notice**"). The OpenID Foundation will invoice Member for annual membership dues at least 60 days prior to each anniversary of admission as a member of the OpenID Foundation. The Member shall pay in full all undisputed amounts specified on all invoices on or before the anniversary of admission; provided, however, that Member shall not be liable for annual membership dues if the Termination Notice is properly and timely provided to and received by the OpenID Foundation. If Member fails to pay in full the minimum amount due on an invoice on or before 90 days after such anniversary, the membership of Member will terminate automatically without further notice to Member, effective as of such anniversary date (and the OpenID Foundation's invoice will include a prominent notice regarding such automatic termination). The terminated Member will remain bound by applicable portions of the OpenID Foundation Regulations, notwithstanding such termination, and may reapply for membership at any time as provided in the then-current OpenID Foundation Regulations.

2.3 Costs and Expenses. Member shall bear all of its own costs and expenses related to its membership in the OpenID Foundation including, but not limited to, compensation payable to Member's employees and consultants that participate in the OpenID Foundation on behalf of Member, and all travel and other expenses associated with the Member's participation in OpenID Foundation meetings and conferences. Member understands and agrees that Member has no right of reimbursement from the OpenID Foundation.

2.4 Selected Rights. Member's rights and privileges as may be expressly set forth in this Agreement or in any OpenID Foundation Regulations or any other agreements between Member and the OpenID Foundation (e.g., but without limitation, licenses to trademarks, service marks, logos, and certification marks, which may be set forth in a separate OpenID Trademark License), which may include without limitation, participation in technical or marketing committees, working groups or study groups, and access to the "Members Only" section of the OpenID Foundation Site, if any, shall extend to Member only for so long as Member is a member of the OpenID Foundation (unless the applicable OpenID Foundation Regulation or agreement provides otherwise). Member acknowledges that to become a Contributor and to participate in any OpenID Foundation Work Groups (defined in the IPR Policy), Member must execute an appropriate "Contribution Agreement" (in the then-current form provided or made available by the OpenID Foundation).

2.5 Publicity. The OpenID Foundation shall not use Member's name, and Member shall not use the name of any other members of the OpenID Foundation, in any form of publicity without receiving the prior written permission of the applicable member. Notwithstanding the foregoing sentence, Member may publicly disclose and identify its own membership in the OpenID Foundation (without using any OpenID logo or stylized trademark, unless Member has obtained rights under a separate agreement to do so) in documentation, press releases, brochures and other materials and venues, and the OpenID Foundation (unless otherwise requested in writing by Member) may publicly disclose and identify Member as a member of and participant in the OpenID Foundation in documentation, press releases, brochures, on the OpenID Foundation Site, and in any other materials of the OpenID Foundation or venues in which the OpenID Foundation provides such information, provided that in both cases all such references

are truthful and accurate, and provided that in any such release only the name of the Member or the OpenID Foundation, as the case may be, is used (unless, in the case of a Member, otherwise consented to by Member prior thereto). Notwithstanding the foregoing, nothing herein shall preclude the OpenID Foundation or Member from complying with an order from a court of competent jurisdiction or with applicable law requiring further or different disclosure.

2.6 Compliance with Communications Policies. All publicity related to the OpenID Foundation whether promulgated by the OpenID Foundation or by Member, shall be in compliance with the policies and procedures adopted by the OpenID Foundation from time to time.

### 3. Termination of Membership.

The following provisions shall apply in the event of the termination of the membership of Member, whether by voluntary withdrawal or expulsion or otherwise as provided in this Agreement:

3.1 Termination “At-Will”. At any time, Member may give notice of its intent to terminate its Membership in the OpenID Foundation by filing a written notice with the OpenID Foundation.

3.2 Termination for Cause. Each party shall have the right to terminate this Agreement for cause upon written notice to the other party if the other party materially breaches any provision of this Agreement, and does not cure such breach, if capable of cure, within thirty (30) days following written notice thereof from the non-breaching party, or, if such breach is not capable of cure, the breaching party has not initiated and/or not diligently pursued actions to correct the breach as soon as reasonably practicable; or if the other party ceases business operations, becomes insolvent, or is subject to any bankruptcy or other similar legal process or proceeding.

3.3 No Refund of Dues. A Member shall have no right to a refund of any dues, fees, or assessments paid prior to the termination of its Membership. Moreover, Member shall remain fully liable for any dues, fees, or assessments then due and owing at time of termination.

3.4 Obligations for Assessments. In the event that Member’s participation in the OpenID Foundation terminates within 90 days after the passage of a resolution imposing a fee or assessment, Member shall not have any liability for payment of such fee or assessment. After such 90-day period expires, Member shall be responsible for the applicable assessment(s), even if Member’s participation is subsequently terminated.

3.5 Survival. Applicable portions of the IPR Policy, and any other provisions of this Agreement or any OpenID Foundation Regulations that by their nature would survive termination or expiration, will survive any termination or expiration of this Agreement. Furthermore, any OpenID Foundation Regulations that contain specific survival provisions following termination shall not be affected by this Section 3.5 and shall survive pursuant to their terms.

4. Disclaimer of Warranties. Except as may otherwise be provided in the IPR Policy, all documents, software, and any other materials and information submitted under this Agreement by a Member to the OpenID Foundation, or to another member, or by the OpenID Foundation to Member or any other member, are provided on an "AS IS" basis, and NEITHER MEMBER NOR THE OPENID FOUNDATION MAKES ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT OF ANY THIRD PARTY, MEMBER, OR THE OPENID FOUNDATION, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER MEMBER NOR THE OPENID FOUNDATION WARRANTS OR ASSUMES ANY LIABILITIES IN CONNECTION WITH: (I) THE RIGHTS GRANTED, OR THE ACTIONS ANTICIPATED OR TAKEN, UNDER THIS AGREEMENT, OR (II) THE OPENID FOUNDATION OR A MEMBER'S PARTICIPATION IN THE OPENID FOUNDATION.

5. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE OPENID FOUNDATION, OR ANY MEMBER BE LIABLE TO ANY OF THE OTHER MEMBERS OR TO THE OPENID FOUNDATION, AS APPLICABLE, FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OF DATA, INTERRUPTION OF BUSINESS, OR FOR INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, ARISING OUT OF, RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT OR MEMBERSHIP IN THE OPENID FOUNDATION EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. MOREOVER, THE TOTAL AGGREGATE LIABILITY OF ANY MEMBER TO ANY OTHER MEMBER, TO THE OPENID FOUNDATION, OR TO ANY THIRD PARTY (OR OF THE OPENID FOUNDATION TO ANY MEMBER OR TO ANY THIRD PARTY), PURSUANT TO ALL CLAIMS RELATED TO THIS AGREEMENT, WILL BE LIMITED TO US\$50. ALL CLAIMS (FOR DAMAGES, CONTRIBUTION, OR OTHER COMPENSATION) THAT, INDIVIDUALLY OR IN THE AGGREGATE, EXCEED THIS AMOUNT ARE DEEMED WAIVED. THE LIMITATIONS IN THIS SECTION 5 SHALL NOT, HOWEVER, APPLY TO ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF THE OPENID FOUNDATION OR OF OPENID FOUNDATION MEMBERS.

6. General.

6.1 Relationship. This Agreement does not create a joint venture, partnership, or other form of business association between or among Member, any other members, and/or the OpenID Foundation nor an obligation to develop, make available, use, license, buy, sell or provide any information, product, services, or technology (except to the extent such obligations may be expressly stated in the OpenID Foundation Regulations, as updated from time to time).

6.2 Amendment. Any amendment or other modification of any provision of this Agreement will be effective only if in writing and signed, on behalf of the OpenID Foundation, by a member of the OpenID Foundation Board of Directors, and on behalf of Member, by an authorized representative of Member.

6.3 Headings. The headings in this Agreement are for reference only. They will not affect the meaning or interpretation of this Agreement.

6.4 Non-transferability of Membership. Except as otherwise provided by the OpenID Foundation's bylaws, as the same are in effect from time to time, Member may not transfer its membership in the OpenID Foundation or the rights granted hereunder (except to the extent otherwise provided in applicable OpenID Foundation Regulations). Such prohibition on transfers shall apply to transfers within the Member's Control Group.

6.5 Waiver. No approval, consent, or waiver will be enforceable unless signed by the granting party. Failure to insist on strict performance or to exercise a right when entitled does not prevent a party from doing so later for that breach or a future one.

6.6 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

6.7 Integration; Severability. This Agreement and all other agreements and documents incorporated herein by reference (including without limitation the OpenID Foundation Regulations) constitute the entire agreement between Member and the OpenID Foundation concerning the subject matter of this Agreement. The provisions of this Agreement are severable. If any provision of this Agreement or its application is held invalid, the invalidity shall not affect other obligations, provisions, or applications of this Agreement that can be given effect without the invalid provision or application.

6.8 Governing Law; Forum; and Attorney Fees. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Oregon. In the event of any suit or action to interpret or enforce this Agreement, the prevailing party shall be entitled to its reasonable attorney fees, costs, and out-of-pocket expenses, at trial and on appeal. The exclusive jurisdiction for any action to interpret or enforce this Agreement shall be the State of Oregon.

6.9 Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been delivered, given, and received for all purposes (i) on the third business day following posting, if sent by email (provided such email is not returned as undeliverable), or (ii) when the same is actually received, if sent by first class mail, registered, or certified mail, or by overnight courier, postage and charges prepaid. Either party may change its address by notice to the other party given in the manner set forth in this Section.

6.10 Force Majeure. No party shall bear any responsibility or liability for any losses arising out of any delay or interruption of its performance of obligations under this Agreement due to any act of God, act of governmental authority, or due to war, flood, civil commotion, labor difficulty, severe or adverse weather conditions, lack or shortage of electrical power, malfunctions of equipment or software programs, or any other cause beyond the reasonable control of the party delayed.

6.11 Entire Agreement. This Agreement, including all of the policies referenced herein (including without limitation the OpenID Foundation Regulations), which are hereby incorporated herein by this reference, constitutes the entire agreement between Member and the OpenID Foundation concerning this subject matter. This Agreement supersedes, and its terms

govern, all prior or contemporaneous understandings, term sheets, memoranda of understanding, agreements, representations, summaries, proposals, or other communications between the parties, oral or written, regarding such subject matter. For avoidance of doubt, however, this Agreement will neither merge nor supersede any Contribution Agreement signed by Member, and any such Contribution Agreement will neither merge nor supersede this Agreement.

The parties agree any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) is an original.

In Witness Whereof, the parties have executed this Agreement as of the Effective Date.

*Signature page follows*

ACCEPTED AND AGREED TO:

OpenID Foundation

Member: \_\_\_\_\_

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

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

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

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

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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Email: \_\_\_\_\_

OpenID: \_\_\_\_\_