

Joint Development Foundation

Background

The Joint Development Foundation provides the corporate and legal infrastructure to enable small groups to quickly establish and operate lightweight collaborations to develop technical specifications and source code. Joint Development Foundation Projects are ideal for small specification development projects or as a place to do incubation projects before taking those projects to a larger standards organization.

By using established Joint Development Foundation legal agreements, groups can establish projects quickly and with minimal legal expense. By operating under the Joint Development Foundation's legal umbrella, Projects can enjoy of the benefits of Joint Development Foundation's existing legal agreements, choice of intellectual property policies, non-profit status, and corporate structure. This enables Projects to more easily establish themselves, collect funds, issue press releases in the Project's name, develop liaison relationships, and hold copyrights, all without negotiating custom agreements and new corporate organizations.

The Joint Development Foundation operates under a freemium-type model, where projects can be established and operated without paying anything. Projects can provide their own infrastructure (websites, email reflectors, conference organization, etc.), or can pay Joint Development Foundation to provide these types of services if they wish. [Getting Started](#)

A Project is the group formed under the Joint Development Foundation and has its own governance, identity, and scope of work. The Joint Development Foundation does not have any involvement in the Project beyond what is required to ensure that the Project's activities are accordance with the Joint Development Foundation's corporate purpose and policies, such as its non-profit status and regulatory guidelines.

To start a Project under the Joint Development Foundation:

- [Project Charter](#). Complete a Project Charter, which establishes the Project, and have it signed by the Project members. The Project Charter includes the governance and legal terms for the Project and the Project's underlying Working Groups.
- [Working Group Charters](#). Each Project may then complete one or more Working Group Charters, which establishes the scope and intellectual property terms for each work stream under the Project.

Joint Development Foundation

Project Charter

This “Project Charter” establishes the Project that will operate under the Joint Development Foundation corporate structure. The Joint Development Foundation’s role in the Project is, unless otherwise requested by the Project, limited to confirming that Projects conduct their activities in accordance with the Joint Development Foundation’s corporate purpose and policies, such as its non-profit status and regulatory guidelines. Projects are otherwise independent. The Joint Development Foundation may provide the Project with value-added and fee-based services at the election of the Project.

1. Project Name. ***Alliance for Open Media***
2. Project Description: ***The Alliance for Open Media will explore and develop media codec, media formats and related technologies. This will include the development of both specifications and code.***
3. Initial Executive Director. ***Gabe Frost, Microsoft***
4. Executive Leadership. The Project will have an Executive Director whose responsibilities will include organizing meetings, organizing voting, identifying new Working Groups, tracking Working Group progress, ensuring Working Group meet their goals, and any other activities authorized by a Supermajority of the Members. Timing of elections to elect a new Executive Director will be determined upon a Supermajority Vote of the Members.
5. Project Listing. ***[Check one box.]***
 - ☒ Joint Development Foundation Listing. The Joint Development Foundation may publicly identify the Project as a Joint Development Foundation Project.
 - ☐ Private. The Joint Development Foundation may not publicly identify the Project as a Joint Development Foundation Project unless specifically authorized by the Project Executive Director in writing.
6. Project Confidentiality vis-à-vis Joint Development Foundation. Projects may designate information it provides to the Joint Development Foundation as “Confidential Information,” and the Joint Development Foundation will treat that information in accordance with its Confidentiality Policy. In addition, Projects may select the option below:
 - ☐ Limited Joint Development Foundation Visibility. All Project information, including Project activities and membership, will be limited to a Project Oversight Committee for that project, the members of which shall be elected by the Board of Directors pursuant to the Bylaws of the Joint Development Foundation. Such Committee will report Project information to the Board of Directors only to the extent which, in the judgment of the Board of Directors, is necessary to allow Directors to exercise their fiduciary duties to the Joint Development Foundation. Such reporting generally need not include membership or activities of the Project.
7. Decision Making.
 - 7.1. Voting. The Project and each Working Group will endeavor to make all decisions by consensus. Where the Project or Working Group cannot reach consensus with respect to a particular decision to be made, the Project or Working Group will make that decision by a Supermajority Vote of the Members or Working Group Participants, as applicable.
 - 7.2. Notifications and Electronic Voting. The Executive Director is responsible for issuing all notifications of meetings and votes of the Members and each Working Group chair is responsible for issuing all notifications of meetings and votes of the Working Group for which it is the chair, in each case subject to the following minimum criteria: (i) in-person meetings require at least 30 days prior written notice, (ii) teleconference meetings require at least 7 days prior written notice (this requirement only applies to the notification of the first meeting of automatically recurring teleconference meetings), (iii) electronic votes require no advance notice but must be made pursuant to a clear and unambiguous ballot with only “yes” and “no” options, and the voting must remain open for no less than 7 days. These notification requirements with respect to the Project or that particular Working Group may be overridden upon unanimous consent

of all Members or all applicable Working Group Participants that have attended and participated in at least 50% of the last 4 meetings of the Project or Particular Working Group.

8. Deliverable Development Process.

- 8.1. Working Groups. The Project may have multiple Working Groups, and each Working Group will operate as set forth in this Section 8 and its Working Group Charter.
- 8.2. Chair. Each Working Group will designate a chair for that Working Group by Supermajority Vote of the Working Group Participants. A Working Group may select a new chair upon a Supermajority Vote of the Working Group Participants of that Working Group.
- 8.3. Working Group Requirements. Each Working Group must be comprised of at least 2 Working Group Participants. No Working Group Participant will be permitted to participate in a Working Group without first notifying the Executive Director in writing of its intent to participate in that Working Group and signing the Working Group Charter.

9. Conditions for Contributions. A Member may not make any Contribution unless that Member is the exclusive copyright owner of the Contribution or has sufficient copyright rights from the copyright owners to make the Contribution under the terms of this Project Charter and applicable Working Group Charter. The Member must disclose the identities of all known copyright owners in the Contribution.

10. Deliverable Development Process.

- 10.1. Pre-Draft. Any Working Group Participant may submit a proposed initial draft document as a candidate Draft Deliverable of that Working Group. The Working Group chair will designate each submission as a “Pre-Draft” document.
- 10.2. Draft. Each Pre-Draft document of a Working Group must first be approved by a Supermajority Vote of the Working Group Participants of that Working Group in order to become a Draft Deliverable. Once the Working Group approves a document as a Draft Deliverable, the Draft Deliverable becomes the basis for all going forward work on that deliverable.
- 10.3. Working Group Approval. Once a Working Group believes it has achieved the objectives for its deliverable as described in the Scope, it will progress its Draft Deliverable to “Working Group Approved” status by a Supermajority Vote of the Participants of that Working Group.
- 10.4. Final Approval. Upon a Draft Deliverable reaching Working Group Approved status, the Executive Director or his/her designee will present that Working Group Approved Draft Deliverable to all Members for approval. Upon a Supermajority Vote of the Members, that Draft Deliverable will be designated a “Final Deliverable.”
- 10.5. Publication and Submission. Upon the designation of a Draft Deliverable as a Final Deliverable, the Executive Director will publish the Final Deliverable in a manner agreed upon by a Supermajority Vote of the Working Group Participants (*i.e.*, Project Member only location, publicly available location, Project maintained website, Project member website, etc.). The publication of a Final Deliverable in a publicly accessible manner must include the terms under which the Final Deliverable and/or source code is being made available under, as set forth in the applicable Working Group Charter.
- 10.6. Submissions to Standards Bodies. Upon the Supermajority Vote of the Members, the Executive Director will submit the applicable Final Deliverable to another standards development organization, and the Working Group Participants that developed that Final Deliverable agree to grant the rights necessary to make those submissions.
- 10.7. Final Deliverable Stalemate Resolution. In the event any Working Group Participant reasonably believes that the Working Group Participants are unable to agree that a Draft Deliverable should be made a Final Deliverable pursuant to the process set forth in Section 10, then that Working Group Participant (“Notifying Working Group Participant”) may deliver written notice to the other Working Group Participants stating such reasonable belief (the “Initial Deliverable Notice”). Within 10 days after receiving that Initial Deliverable Notice, the Executive Director will attempt to resolve with the other Working Group Participants the issue of whether that Draft Deliverable should be made a Final Deliverable. If that issue cannot be resolved within that 10 day period, then the Notifying Working Group Participant may declare that Draft Deliverable a Final Deliverable by sending a follow up written notice to the other Working Group Participants notifying them that the Notifying Working Group Participant has elected to exercise its rights under this Section to declare that Draft Deliverable a Final Deliverable (the “Final Deliverable Notice”). Notwithstanding any other terms of this Project Charter, 30 days after Working Group Participants have received that Final Deliverable Notice,

Working Group Participants may treat that Draft Deliverable that has been declared final by that Notifying Working Group Participant pursuant to the process described in this Section as a “Final Deliverable,” with all of the rights and obligations associated with a Final Deliverable, except that any Working Group Participant that objected in writing to that Draft Deliverable becoming a Final Deliverable (“Objecting Working Group Participant”) will not be obligated to grant the patent rights set forth in the applicable Working Group Charter. Without the written authorization from an Objecting Working Group Participant, no other Working Group Participant will state or imply that the Objecting Working Group Participant endorsed or endorses that Final Deliverable.

11. Membership.

- 11.1. Initial Members. Membership for the initial Members of the Project will become effective for that Member upon execution of this Project Charter, which may be executed in counterparts. The initial Members of the Project are set forth in Annex A
- 11.2. Additional Members. New parties may join the Project upon approval of a Supermajority vote of the Members.

12. Withdrawal and Termination.

- 12.1. Withdrawal. A Member may withdraw from a Working Group or the Project at any time by notifying the Executive Director in writing, and that withdrawal is effective upon receipt of the notice. Upon a Supermajority Vote of all Members (calculated without the vote of the Member in question), a Member may be terminated from the Project or withdrawn from a Working Group.
- 12.2. Termination. Upon a Supermajority Vote of the Members, the Project will cease and terminated as of the effective date designated in that vote. The Executive Director will coordinate with the Joint Development Foundation to facilitate that termination.
- 12.3. Effect of Withdrawal or Termination. Upon a Member’s written withdrawal from a Working Group or upon the termination of its Project membership, all existing commitments and obligations with respect to the Project or Working Group, as the case may be, up to the effective date of withdrawal or termination will remain in effect, but no new obligations will be incurred. Notwithstanding the foregoing, the patent licensing commitments shall continue to apply to any Necessary Claims included in a Draft Deliverable 45 days prior to the effective date of withdrawal or termination, unless otherwise excluded in accordance with the Working Group intellectual property licensing mode.

13. Representations, Warranties and Disclaimers. Member represents and warrants that it is legally entitled to grant the rights and promises set forth in this agreement. IN ALL OTHER RESPECTS THE CONTRIBUTIONS ARE PROVIDED “AS IS.” The entire risk as to implementing or otherwise using a Draft Deliverable or Final Deliverable is assumed by the implementer and user. Except as stated herein, Member expressly disclaims any warranties (express, implied, or otherwise), including implied warranties of merchantability, non-infringement, fitness for a particular purpose, or title, related to the material. IN NO EVENT WILL ANY MEMBER BE LIABLE TO ANY OTHER MEMBER FOR LOST PROFITS OR ANY FORM OF INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER FROM ANY CAUSES OF ACTION OF ANY KIND WITH RESPECT TO THIS AGREEMENT, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT THE OTHER MEMBER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

14. Use of Name or Marks.

- 14.1. Participant Name or Marks. The Project may not use any Member’s name, logo, trademark or service mark on any Draft Deliverable or Final Deliverable without that Member’s express prior written authorization.
- 14.2. Project Identification. Projects may identify themselves as “[Name of Project], a Joint Development Foundation Project.”

15. Non-Confidential, Restricted Disclosure. Information disclosed in connection with the Project and any Working Group activity, including but not limited to meetings, Contributions, and submissions, is not confidential, regardless of any markings or statements to the contrary. Notwithstanding the foregoing, Members and Working Group Participants may not make any public disclosures of that information without a Supermajority Vote of the Members or Working Group, as applicable, authorizing that disclosure, and any distributions of technical information to third parties must include a notice materially similar to the following: “This is a

document made available by [Project Name]. THESE MATERIALS ARE PROVIDED “AS IS.” The contributors expressly disclaim any warranties (express, implied, or otherwise), including implied warranties of merchantability, non-infringement, fitness for a particular purpose, or title, related to the materials. The entire risk as to implementing or otherwise using the materials is assumed by the implementer and user. IN NO EVENT WILL ANY MEMBER BE LIABLE TO ANY OTHER MEMBER FOR LOST PROFITS OR ANY FORM OF INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER FROM ANY CAUSES OF ACTION OF ANY KIND WITH RESPECT TO THIS DELIVERABLE OR ITS GOVERNING AGREEMENT, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT THE OTHER MEMBER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.”

16. Regulatory Intent. The Members acknowledge that they may compete with one another in various lines of business and that it is therefore imperative that they and their respective representatives act in a manner that does not violate any applicable antitrust laws and regulations. Each Member may have similar agreements with others. Each Member may design, develop, manufacture, acquire or market competitive deliverables, products and services, and conduct its business, in whatever way it chooses. No Member is obligated to announce or market any products or services. Without limiting the generality of the foregoing, the Members agree not to have any discussion relating to any product pricing, methods or channels of product distribution, division of markets, allocation of customers or any other topic that should not be discussed among competitors.

17. Definitions.

- 17.1. “Affiliate” means an entity that directly or indirectly controls, is controlled by, or is under common control of that Member.
- 17.2. “Contribution” means any original work of authorship, including any modifications or additions to an existing work, that the Member intentionally submit for inclusion in the Draft Deliverable or Final Deliverable, which is included in the Draft Deliverable or Final Deliverable. For the purposes of this definition, “submit” means any form of electronic, oral, or written communication for the purpose of discussing and improving the Draft Deliverable or Final Deliverable, but excluding communication that the Member conspicuously designate in writing as not a contribution.
- 17.3. “Control” means direct or indirect control of more than 50% of the voting stock or decision-making authority.
- 17.4. “Draft Deliverable” means all versions of a document (except a Final Deliverable) developed by a Working Group for the purpose of creating, commenting on, revising, updating, modifying, or adding to any document that is to be considered for inclusion in the Final Deliverable.
- 17.5. “Final Deliverable” means the final version and contents of any Draft Deliverable approved as a Final Deliverable as set forth in Section 10.4.
- 17.6. “Member” means a party that has signed this Project Charter, and that party’s Affiliates, unless that Member has withdrawn on been terminated from the Project.
- 17.7. “Project” means the name of the Project set forth in Section 1 that is established under this Project Charter.
- 17.8. “Scope” means a description of the deliverables that a given Working Group will develop as set forth in that Working Group’s Charter.
- 17.9. “Supermajority Vote” means an affirmative vote of no less than 3/4 of Members or Working Group Participants, as applicable, that have attended/participated in at least 50% of the last 4 meetings of the group conducting the vote, where each Member or Working Group Participant will receive only 1 vote regardless of how many individuals from that Member participate. To ensure the group is capable of making decisions, the voting requirement for attendance/participation of at least 50% of the last 4 meetings shall be waived if there has not yet been 4 meetings.
- 17.10. “Working Group” means a working group of Working Group Participants established to develop technical Deliverables within the Scope. Each Working Group must have a Scope.
- 17.11. “Working Group Participant” means a Member who has executed the charter for a particular Working Group.

Signed name

Title

Print name

Email address

Date

Company Name

Address

Annex A

Alliance for Open Media initial members

Google, Inc.

Microsoft Corp.