
Foundation-in-a-Box Operating Rules

Description:

Defining corporate and legal infrastructure and fiscal agency services that allows groups to form and run their own Foundations

This version of the OASIS HOST LLC Operating Rules was approved by the OASIS Board of Directors on 20 July 2018 and became effective immediately.

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1. Establishment of Host LLC.

OASIS Open, a global open consortium organized as a not-for-profit Pennsylvania corporation ("OASIS"), has organized the OASIS Open Development Foundation LLC, a Delaware not-for-profit Series Limited Liability Company (the "**Host LLC**"), as an independent hosting structure for prospective not-for-profit technical projects to develop and promote open standards, open source, and other shared information technology outputs that wish to run as a separate, freestanding development entity, hosted with OASIS assistance, but with separate brand identity.

2. Host LLC Governance and Administration.

The Host LLC shall be governed by the terms of its Certificate of Formation and a Limited Liability Company Agreement prepared by OASIS counsel and approved by the OASIS Board (as defined below). Those company documents shall provide that: (a) OASIS is the sole member of the Host LLC, with authority to appoint the Managers of the Host LLC; (b) the OASIS Board initially shall appoint three Managers for the Host LLC; (c) the administration of the Host LLC shall be performed by OASIS staff under a master service contract with the

Host LLC as described below; and (d) the operations and purposes of the Host LLC are limited to not-for-profit activities. The Host LLC shall be a not-for-profit subsidiary controlled by, but distinct from OASIS, so that the operations, accounts, assets, contracts and liabilities of the Host LLC, and those of any Foundation (as defined below) hosted by the Host LLC, are isolated and separate from the operations, accounts, assets, contracts and liabilities of OASIS.

OASIS as the sole member of the Host LLC delegates day-to-day management of the Host LLC to the Host LLC's Managers. The Host LLC Managers shall be appointed from time to time by the OASIS Board of Directors ("**OASIS Board**"), and may be removed or replaced at any time by the OASIS Board as well. All or a majority of the Host LLC's Managers shall be persons acting under the direction of OASIS as the Host LLC's sole member, though OASIS may elect to appoint as Managers a minority of one or more persons outside OASIS' control, from such other stakeholders as it may deem appropriate. The Host LLC Managers shall act as the stewards for the Host LLC, and shall review the administrative work performed for the Host LLC by OASIS staff under the Master Contract (as defined below), but shall defer to each Foundation Board (as defined below) on matters of that Foundation's activities and expenditures so long as they conform to applicable laws and the rules, budgets and procedures described herein.

The Host LLC shall enter into a master administrative services contract with OASIS (the "**Master Contract**"), under which OASIS staff shall provide to the Host LLC, and (by arrangement with the Host LLC) to each Foundation, administrative assistance, and operational and financial control services including those described below, in return for compensation to be agreed between OASIS and the Host LLC. The Host LLC also must comply with the OASIS conflict of interest, anti-trust, whistleblower, and document retention and destruction policies and the OASIS privacy statement.

3. Host LLC Financial Controls.

The financial activities and budget of the Host LLC itself shall be administered on a day-to-day basis by OASIS staff under the Master Contract. Those administrative actions shall be reviewed and subject to approval by the Host LLC Managers appointed by OASIS. The funds of the Host LLC shall be deposited in, and its expenses paid from, deposit and other accounts separate from those of OASIS, capable of being separately audited and, if OASIS so elects, subject to separate tax identification numbers. However, OASIS as the sole member of the Host LLC reserves the right to report its activities for tax purposes as a consolidated entity with the Host LLC, and to perform any independent audit of the separate accounts of the Host LLC, or any series, or as a part of a consolidated audit or review, all at its sole option.

The Host LLC's annual budget shall include income items for (a) an administrative fee ("**Hosting Fee**") collected from the Foundation Dues paid by each Foundation, based on a percentage scale or as otherwise set by the Host LLC, and (b) projected income and costs from administrative services provided to each Foundation.

All accounting controls and policies employed by OASIS, including all rules relating to non-profit status and appropriate legal purposes, also shall be applied to the operations and expenditures of the Host LLC, as managed by OASIS staff under the Master Contract. The operations, projections and financial results of the Host LLC (and summary Foundation reporting) shall be reported to, and included within the monthly operating reports and regular financial reporting provided by, OASIS.

4. Initiation of a Foundation.

Each prospective not-for-profit technical project that wishes to be hosted by the Host LLC shall be established,

if accepted, as a new, distinct series (company sub-entity) of the Host LLC, described as a "**Foundation.**" Acceptance of each new proposed Foundation occurs as described in the procedures set forth below. The Host LLC shall review proposals for Foundations from parties who commit to join as the Foundation's initial members. The Host LLC shall review each Foundation proposal for economic feasibility, appropriate non-profit status, and suitability to the Host LLC, based on examination of its proposed:

- Charter (as defined below),
- budget, including pro forma projected financial statements for the first full year,
- membership size and type (e.g., corporation, individual, etc.),
- dues schedule,
- service contracts (whether with OASIS or third-party providers),
- independent contractor or employment contracts, if any,
- planned activities,
- prior operational history of any predecessor program, if any,
- projected minimum aggregate annual income, and
- such other matters as the Host LLC in its judgment may determine are relevant,

as provided by the proposers (collectively, the "**Foundation Proposal**"). The Host LLC's review shall apply criteria and administrative guidelines provided by OASIS staff.

The OASIS staff who provide administrative services to the Host LLC shall prepare a confidential feasibility summary for each new proposed Foundation, including pro forma financials, for review by the Host LLC Managers. The conclusions of the Host LLC Managers, the feasibility summary, and the Foundation Proposal documentation (the "**Review Package**"), shall be transmitted to the OASIS Board, on a confidential basis. Projects that are not recommended for approval by the Host LLC are reported to the OASIS Board for information but require no further action. If the Host LLC recommends its approval, but two or more OASIS Board members object to the Review Package within 15 days, in writing to the Host LLC Managers, then the OASIS Board may act within 30 days after that objection is delivered to accept or reject the proposal, or place conditions on the proposal, communicated to the proposers and the Host LLC Managers together with its reasoning, or else the Host LLC may form the Foundation and proceed as above. If the Host LLC recommends its approval, and no such objection to the Review Package is sent, the Host LLC shall accept the proposal, open a new company series (as described below) and initiate the proposed Foundation. Acceptance by the Host LLC and initiation of a Foundation must be consistent with the statements in the Review Package and comply with any conditions imposed by the OASIS Board.

Review of proposals for Foundations by OASIS and the Host LLC are intended to confirm feasibility, not as an assessment or critique of a proposed Foundation's technical merits or goals, so long as they conform to applicable laws, the stated purposes of OASIS and the Host LLC, and the requirements and procedures described in these Operating Rules.

Successful initiation of a Foundation shall be evidenced by execution of the Foundation Charter (defined below) by the Host LLC, indicating acceptance.

5. Foundation Operation, Charter and Governance.

Each not-for-profit technical project which is accepted by the Host LLC as a Foundation shall be hosted in a distinct company series, established by the Host LLC in the manner provided by the Host LLC's governing documents and these Operating Rules. Once initiated, Foundations are subject to the continuing budgeting,

feasibility and termination requirements described in these Operating Rules. The procedural and technical work rules under which a Foundation and its members shall operate shall be set forth in its "**Foundation Charter**", using a mandatory form established by the Host LLC, which includes some mandatory rules, and provides for certain structured options and rule selections by the proposers.

A consistent, completed Foundation Charter, must be executed by each proposed initial member of the Foundation and proposed initial member of the Foundation Board (as defined below), as well as the Host LLC. After a Foundation is initiated, new members may join the Foundation (subject to the eligibility rules that it may establish in its Foundation Charter) by executing and delivering a copy of that same Foundation Charter to the Host LLC, and paying the required Foundation Dues (as defined below).

The mandatory terms of each Foundation Charter include (a) the manner of creation and maintenance of a Foundation Board of Directors ("**Foundation Board**"), (b) an initial annual budget, (c) an annual schedule of Foundation dues to be paid by its members ("**Foundation Dues**"), (d) the person to serve as initial Executive Director, (e) the person to serve as initial Treasurer, (f) the Foundation's intellectual property policies, (g) the expected transparency and public visibility of the Foundation and access to its outputs, and (h) its expected relationship if any to OASIS open standards or open source projects. The Foundation Charter also must confirm the Foundation's adherence to OASIS conflict of interest, anti-trust, and whistleblower policies.

Once a Foundation's initial Charter has been approved, subsequent changes require the agreement of all members of the Foundation (each of which is a signatory to the Charter) as well as the approval of the Host LLC (which also is a signatory). Changes to the Foundation Charter shall be notified to the OASIS Board, and reviewed and subject to the same objection and consent procedure as applies to the initial Charter.

6. Foundation Financial Controls.

Under its Master Contract with the Host LLC, OASIS shall provide staff or subcontractor support for the management of the distinct accounts, assets, contracts and liabilities of each Foundation, and day-to-day administration of its costs, expenses and budget. As part of that support, OASIS shall provide or arrange for regular financial reporting to each Foundation Board, as well as the Host LLC Managers, on a schedule similar to that presently employed by OASIS for other dedicated funds.

That day-to-day administration of a Foundation's financial activity shall be reviewed and approved by that Foundation's Treasurer (or its Executive Director if no Treasurer is presently appointed), and shall be periodically reviewed by its Foundation Board, all subject to the requirements of its Foundation Charter and these Operating Rules.

Each Foundation's Board must each year approve in advance an annual budget, for review by the Host LLC, which shall include:

- a projection of expected Foundation Dues from participants, consistent with the Foundation Charter,
- allocation for the Hosting Fee, at the rate established by the Host LLC, from Foundation Dues revenue,
- the contracted or otherwise projected costs of any OASIS services provided to the Foundation,
- the projected costs and any income for the activities of the Foundation,
- the costs of any third-party services to be provided to the Foundation, and
- all other elements of a budget required by the accounting policies, controls and practices employed by OASIS for its own operations.

The methods and schedule for assessment and collection of Foundation Dues, as provided in in a Foundation's Charter and budget, must be conducted as determined by OASIS staff providing administrative support under the Master Contract, so as to regularize the Foundation's and Host LLC's accounting, permit consolidation of reporting, and ensure for the adequate provision of sufficient resources for Foundation expenses.

The first fiscal year for each Foundation shall end at the same time as the then-current fiscal year of the Host LLC as directed by OASIS. However, the Foundation Board and the Host LLC in consultation with OASIS may mutually agree to set different fiscal year anniversaries and commensurate deadlines. Each Foundation must propose and obtain approval of its annual budget for each new fiscal year, and should propose its annual budget at least 60 days before the expiry of its prior fiscal year. If a Foundation's annual budget for the next year has not been finally approved by the Host LLC by the 30th day prior to the prior fiscal year end, the Host LLC may suspend that Foundation's financial activity, and decline to incur or make any further payments of that Foundation's expenses, at the end of that fiscal year (that is, 30 days later).

The Host LLC and OASIS reserve the right to limit, decline or suspend action on any expenses incurred, paid or planned by a Foundation Board, if at any time the existing and projected revenues do not appear to the Host LLC Managers or OASIS staff to adequately provide for those expenses. Neither the Host LLC nor OASIS has any responsibility for a Foundation's liabilities caused by or relating to shortfalls in a Foundation's budget or assets.

All accounting controls and policies employed by OASIS, including rules relating to non-profit status and appropriate legal purposes, also shall be applied to the operations and expenditures of each Foundation, as managed by OASIS staff providing administrative support under the Master Contract. The operations, projections and financial results of the Foundation also may be reported in consolidated form to, and shall be included within the monthly operating reports and regular financial reporting provided by, OASIS.

7. Foundation Contract Administration.

A Foundation may contract separately for the provision of services, including promotional, support, event, publishing or technical services that the Foundation Board wishes to obtain, consistent with these Operating Rules, so long as those activities are consistent with these Operating Rules, its Foundation Charter and its approved budget. However, such contracts, and any other legal contracts entered into by the Foundation, are subject to the right of the Host LLC and OASIS staff to approve the form, purposes and tenor of each contract. In its review and approval of proposed contracts, the Host LLC may require such additional terms or conditions as are necessary in its judgment to assure adherence to the Foundation's budget and the financial controls described in these Operating Rules.

For the benefit of each Foundation Board, OASIS shall maintain information regarding the services that are available by contract to the Foundation from OASIS ("**Contracted Services**") (beyond the minimum administrative services provided through the Master Contract in return for the Hosting Fee), as well as information regarding potential suggested external service resources.

A Foundation, as a legal series of the Host LLC, cannot enter into mergers, acquisitions, asset dispositions or similar agreements that substantially change its nature or company structure, except to the extent such a change is (a) recommended by its Foundation Board, (b) approved by the Host LLC, (c) consistent with applicable law, (d) approved by the OASIS Board, and then (e) duly executed by the Host LLC.

8. Foundation Inactivity or Termination.

If a Foundation Board either (a) fails to timely adopt an approved budget, (b) fails to maintain the minimum required number of Foundation Board members specified in its Foundation Charter, or (c) no longer has an Executive Director, then the Host LLC reserves the right to declare the Foundation dormant, by notifying its remaining Foundation Board members, and may indicate that status change in its communications, and decline to make any further payments or commitments or perform further services until the condition that causes its dormancy is corrected.

If a Foundation has been declared dormant for more than 60 days, the Host LLC reserves the right in its sole discretion at any time thereafter to terminate the Foundation and wind up its existence as a company series in a manner consistent with applicable law. If a Foundation, one or more members of its Foundation Board, one or more of its members, its Executive Director or its Treasurer act in violation of applicable laws, or act in a manner that materially violates these Operating Rules or endangers assets of the Host LLC or OASIS, then the Host LLC reserves the right at any time in its sole discretion to (a) remove the entity so acting from its position within the Foundation, or (b) terminate the Foundation and wind up its existence as a company series in a manner consistent with applicable law, or (c) take such other steps as may be necessary to protect the assets of the Host LLC or OASIS, or (d) any combination of the foregoing.

A Foundation's Board may also voluntarily, by a written vote of a majority of its currently-seated members (or such other minimum number as its Charter may specify), terminate and wind up its affairs, in which case the Host LLC shall administer its asset disposition and winding up as a company series in a manner consistent with applicable law, over such period of time as the Host LLC may in its sole discretion agree.

In the event of any termination or wind-up of a Foundation, its data assets and remaining intellectual property rights shall be handled as described in these Operating Rules below.

9. Foundation Data Availability.

Each Foundation shall set its own policies regarding the degree of availability of the Foundation's documents and technical resources to the public and its own members, during its existence, consistent with its Charter.

The Host LLC shall retain its administrative, governance, budget and operating records for each Foundation, for the period of time provided for that class of records in the OASIS Document Retention and Destruction Policy. During that period, the Host LLC shall take reasonable steps to cooperate with appropriate requests for access to that data, from parties entitled to access, at the cost of the requesting party.

Any obligation of the Host LLC, OASIS or another contractor to retain, maintain or support continued public availability of a Foundation's e-mail, web content, technical work documents or similar data shall only exist to the extent specified and agreed in a written agreement for Contracted Services.

Any technical or similar work associated with an OASIS Technical Committee, an OASIS Open Project or under other OASIS activities shall be subject to the separate availability rules provided by those other programs.

However, notwithstanding any other term of these Operating Rules or any service agreement, neither the Host LLC nor OASIS, nor either of their assigns, shall be obligated to: (a) perpetually maintain its own existence, nor (b) provide for the perpetual existence of a website or other public means of accessing such material, nor (c)

maintain any material which it is legally required to remove from publication.

10. Foundation Visibility and Branding.

OASIS and the Host LLC each reserve the right to disclose its hosting affiliation with any Foundation. Foundation self-descriptive materials must include the caption "hosted by OASIS Open Development Foundation LLC." Foundations otherwise only may use the OASIS logo or the name of OASIS as may be approved in advance in writing by OASIS staff and in third-party references as consistent with the OASIS Trademark Policy.

11. Changes to these Operating Rules.

These Operating Rules were approved by the Board of Directors of OASIS, the sole member of the Host LLC. OASIS reserves the right to amend these Operating Rules in the future.

Dates

Approved:

Fri, 2018-07-20

Effective:

Fri, 2018-07-20

Attachment

Size

[HOST LLC Operating Rules v7a APPROVED.pdf](#) [1] 131.8 KB

Links:

[1] <https://www.oasis-open.org/node/4101/host-llc-operating-rules-v7a-approved.pdf>