

## **The PyTorch Foundation Charter**

The Linux Foundation

Effective Date: September 14, 2022

### **1) Mission and Scope of the PyTorch Foundation.**

- a) The purpose of the PyTorch Foundation fund (the “PyTorch Foundation”) is to raise, budget and spend funds in support of the PyTorch Project, established as PyTorch a Series of LF Projects, LLC in accordance with the provisions of this Charter.
- b) The PyTorch Foundation operates under the guidance of a committee of members (the “Governing Board”) and The Linux Foundation (the “LF”), consistent with the Linux Foundation’s tax-exempt status.
- c) The Governing Board manages the PyTorch Foundation.

### **2) Membership.**

- a) The PyTorch Foundation will initially be composed of Premier, General and Associate Members (each, a “Member” and collectively, the “Members”). All Members must be current corporate members of the Linux Foundation (“LF”) in Good Standing, at any level, to participate in the PyTorch Foundation as a member. All Members of the PyTorch Foundation enjoy the privileges and undertake the obligations described in this Charter, which may be amended from time to time by the Governing Board with the approval of the LF. During the term of their membership, all Members will comply with all such policies as the LF and/or the PyTorch Foundation may adopt with notice to Members.
- b) Premier Members will have the right to appoint one representative (each, a “Premier Member Representative”) to the Governing Board and to any committee.
- c) There will be one representative on the Governing Board representing the interests of the General Members (each such representative, a “General Member Representative”) for every ten General Members, up to a maximum of three General Member Representatives. The Governing Board determines the annual nomination process, and each General Member may nominate one employee to be considered by the Governing Board to serve as a General Member Representative. The Governing Board will select the General Member Representative(s) from among these nominees.
- d) The Associate Member category of membership is limited to Associate Members of The Linux Foundation that are non-profits organizations. The Governing Board may set additional criteria for joining the Directed Fund as an Associate Member. If the Associate Member is a membership organization, Associate Membership in the Directed Fund does not confer any benefits or rights to the members of the Associate Member. The Governing Board may allow one representative representing the interests of the Associate

Members (such representative, the “Associate Member Representative”) to join the Governing Board. The Governing Board determines whether it will seat an Associate Member Representative and the annual nomination process. Each Associate Member may nominate one employee to serve as the Associate Member Representative. The Governing Board will select the Associate Member Representative from among these nominees, provided, however, that the Governing Board may at any time – including during or at the conclusion of the nomination process – decline to seat an Associate Member Representative.

- e) Members have the right to:
  - i) participate in PyTorch Foundation general meetings, initiatives, events and any other activities; and
  - ii) identify themselves as Members of the PyTorch Foundation supporting the PyTorch community.
- f) Members may withdraw from membership in the PyTorch Foundation at any time upon ten (10) business days’ written notice delivered to the Governing Board and the Linux Foundation.
- g) Upon any withdrawal of membership of a Member, all related voted rights of such Member shall be terminated; and Member must cease to identify themselves as a Member of the PyTorch Foundation. All membership fees not yet paid at the time of withdrawal shall remain due and payable by such withdrawing Member.

### **3) Governing Board**

- a) The Governing Board will consist of the Premier Member Representatives, the Associate Member Representative and one or more General Member Representatives (collectively, “Named Representatives”).
- b) Conduct of Meetings
  - i) Governing Board meetings will be limited to the Premier Member Representatives, General Member Representatives, the Associate Member Representatives, Invited Guests (defined below), and LF staff.
  - ii) The Governing Board may allow alternate Named Representatives to attend as an alternate to the Named Representative (each, an “Alternate Named Representative”).
  - iii) The Governing Board meetings will be private unless otherwise decided by a majority vote of the Governing Board. The Governing Board may decide by a majority vote to permit a certain number of guests invited by Members (“Invited Guests”) to participate in consideration of specific Governing Board topics; provided, however, that Invited Guests may not participate in any vote on any matter before the Governing Board.

- iv) Meetings of the Governing Board will be held a minimum of two times per year on a date and at a time designated by the Governing Board. Special meetings may be called for any purpose or purposes only by the Chair or any two members of the Governing Board. Members may attend meetings through electronic means of communication that allows Members to communicate with each other during such meetings.
  - i) Written notice, which may be made by electronic means, stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called (“GB Notice”) shall be delivered not less than 36 hours before the date of the meeting, by or at the direction of the Governing Board or the Chair or members of the Governing Board calling the meeting, to each member of the Governing Board.
  - v) The members may participate in a meeting of the Governing Board by, or conduct the meeting through the use of, any means of communication by which all the members of the Governing Board participating in the meeting can hear one another during the meeting. Participation in a meeting by such means shall constitute presence in person at a meeting.
  - vi) Any action that could be taken at a meeting of the Governing Board may be taken without a meeting and without a vote, if one or more written consents setting forth the action to be taken, is approved by the Named Representatives or the Alternate Named Representatives of the Governing Board with the requisite voting authority to approve such action. Action taken by written consent of the Governing Board without a meeting is effective when the number of approvals sufficient to approve or take the action have been established, unless the consent specifies a later effective date.
- c) Officers
- i) The Governing Board may delegate the management of the activities of the PyTorch Foundation to any person or persons, or committees. The officers of the PyTorch Foundation will serve at the discretion of the Governing Board until their resignation or a successor is elected.
  - ii) The chairperson (“Chair”) will (a) preside over meetings of the Governing Board, (b) manage any day-to-day operational decisions, (c) submit minutes for approval by the Governing Board, (d) maintain the PyTorch brand guidelines, (e) identify areas of concern of abuse of PyTorch brand, (f) assist in the preparation of budgets for approval of the Governing Board, (g) monitor expenses against the budget, and (h) authorize expenditures approved in the budget.
- d) The Governing Board will be responsible for overall management and oversight of the PyTorch Foundation, including:
- i) approve a budget directing the use of funds raised from all sources of revenue;
  - ii) nominate and elect Officers of the PyTorch Foundation;

- iii) oversee all PyTorch Foundation business and community outreach matters and cooperate with the LF on any legal matters;
  - iv) adopt and maintain policies, rules, and procedures for the PyTorch Foundation (subject to LF approval);
  - v) oversee the protection, licensing, and legal enforcement of the PyTorch brand, logo, logo lockups, and trademark, including any legal matters that may arise;
  - vi) establish advisory bodies, committees, programs or councils to resolve any particular matter or in support of the mission of the PyTorch Foundation;
  - vii) establish and maintain a website and oversee marketing programs including publishing product feature news updates, and end-user success stories involving any aspect of the PyTorch ecosystem to help inform the technical community;
  - viii) approve procedures for the nomination and election or selection of any persons to the Governing Board and any Officer or other positions created by the Governing Board;
  - ix) vote on all decisions or matters coming before the Governing Board;
  - x) any removal or replacement of the PyTorch Technical Codebase project's lead maintainer by at least four-fifths approval of the Governing Board.
- e) The Governing Board will not be responsible for nor be involved in any technical management of PyTorch Technical Codebase project, including:
- i) establishing or modifying the rules of Technical Governance, including contribution guidelines, and mechanisms for individuals to be added to, removed from, or moved between different contributor or maintainer status levels.
  - ii) establishing or modifying the licenses for the code within PyTorch Technical Codebase project, including the Contribution License Agreement utilized by individuals to contribute code to PyTorch Technical Codebase project, as well as the specific open source software license for end-users to utilize code.

#### **4) Voting**

- a) Quorum for Governing Board and Committee meetings will require members representing at least a majority of the voting power of the Governing Board or Committee, as applicable, be present (whether through Named Representatives or their Alternate Named Representatives) or that such Members be represented by Named Representatives or their Alternate Named Representative. If advance notice of the meeting has been given per normal means and timing in accordance with Section 3.b, the Governing Board may continue to meet even if quorum is not met, but will be prevented from making any decisions at the meeting.

- b) Ideally decisions will be made based on consensus. If, however, any decision requires a vote to move forward, the members of the Governing Board will vote on a one vote per member basis, except as set forth in Section 4.e.
- c) Except as provided in Section 12.a., Section 4.e., Section 3.d.xi or elsewhere in this Charter, decisions by vote at a meeting requires a simple majority, provided Quorum is met. Except as provided in Section 12.a., Section 4.e., Section 3.d.xi or elsewhere in this Charter, decisions by electronic vote without a meeting requires a majority of all voting members.
- d) In the event of an equal vote with respect to an action that cannot be resolved by the Governing Board, the Chair may refer the matter to the LF for assistance in reaching a decision. If there is a tied vote in any Committee that cannot be resolved, the matter may be referred to the Governing Board.
- e) The following voting structure will apply to votes on the Governing Board or any Committee:
  - i) Beginning on the Effective Date for a period of one (1) year, the representative(s) for Meta Platforms Inc. will have that number of votes, rounded to the nearest whole number, equal to the 1.2 times the total of votes held by (a) the Premier Representatives representing other companies, (b) the General Member Representative or General Member Representatives, and (c) the Associate Member Representative. Each other Premier Representative, General Representative and the Associate Representative will have 1 vote.
  - ii) Beginning on the second anniversary of the Effective Date for a period of one (1) year, Meta Platforms Inc. will have that number of votes, rounded to the nearest whole number, equal to the total of votes held by (a) the Premier Representatives representing other companies, (b) the General Member Representative or General Member Representatives, and (c) the Associate Member Representative **multiplied by 0.8**. Each other Premier Representative, General Representative and the Associate Representative Member will have 1 vote.
  - iii) Beginning on the third anniversary of the Effective date all Premier Member Representatives, the General Member Representative or General Member Representatives and the Associate Member Representative will each have 1 vote.

## 5) Subsidiaries and Related Companies

- a) Definitions:
  - i) “Subsidiaries” means any entity in which a Member owns, directly or indirectly, more than fifty percent of the voting securities or membership interests of the entity in question;
  - ii) “Related Company” means any entity which controls or is controlled by a Member or which, together with a Member, is under the common control of a third party, in each

case where such control results from ownership, either directly or indirectly, of more than fifty percent of the voting securities or membership interests of the entity in question; and

iii) “Related Companies” are entities that are each a Related Company of a Member.

- b) Only the legal entity that executed a Participation Agreement and its Subsidiaries will have the rights provided to a Member. A Member and its Subsidiaries will be treated together as a single Member.
- c) If a Member is a foundation, association, consortium, open source project, membership organization, user group or other entity that has members or sponsors, the rights and privileges granted to such Member will extend only to the employee-representatives of such Member, and not to its members or sponsors, unless otherwise approved by the Governing Board.
- d) PyTorch Foundation membership is non-transferable, non-salable and non-assignable, except a Member may transfer its current Membership benefits and obligations to a successor of substantially all of its business or assets, whether by merger, sale or otherwise; provided that the transferee agrees to be bound by this Charter and the Bylaws, available at <https://linuxfoundation.org/bylaws>, and policies required by LF membership.

## **6) Good Standing**

- a) All Members must be in good standing pursuant to The Linux Foundation’s Good Standing Policy, available at <https://www.linuxfoundation.org/good-standing-policy>.

## **7) Trademarks**

- a) Any trademarks relating to the PyTorch Foundation or the PyTorch Technical Codebase project, including without limitation any mark relating to any conformance program, will be transferred to and held by LF Projects, LLC or the Linux Foundation and available for use pursuant to LF Projects, LLC’s trademark usage policy, available at [www.lfprojects.org/trademarks/](http://www.lfprojects.org/trademarks/).

## **8) Antitrust Guidelines**

- a) All Members must abide by The Linux Foundation’s Antitrust Policy available at <http://www.linuxfoundation.org/antitrust-policy>.
- b) All Members must encourage open participation from any organization able to meet the membership requirements, regardless of competitive interests. The Governing Board will not seek to exclude any member based on any criteria, requirements or reasons other than those that are reasonable and applied on a non-discriminatory basis to all members.

## **9) Budget**

- a) The Governing Board will approve an annual budget and never commit to spend in excess of funds raised. The budget and the purposes to which it is applied must be consistent with both (a) the non-profit and tax-exempt mission of The Linux Foundation and (b) the goals of the PyTorch Technical Codebase project. Any unused funds will be rolled over and eligible for the next fiscal year.
- b) The Linux Foundation will provide the Governing Board with regular reports of spend levels against the budget. Under no circumstances will The Linux Foundation have any expectation or obligation to undertake an action on behalf of the PyTorch Foundation or otherwise related to the PyTorch Foundation that is not covered in full by funds raised by the PyTorch Foundation.
- c) In the event an unbudgeted or otherwise unfunded obligation arises related to the PyTorch Foundation, The Linux Foundation will coordinate with the Governing Board to address gap funding requirements.

#### **10) General & Administrative Expenses**

- a) The Linux Foundation will have custody of and final authority over the usage of any fees, funds and other cash receipts.
- b) A General & Administrative (“G&A”) fee will be applied by The Linux Foundation to funds raised to cover membership records, finance, accounting, and human resources operations. The G&A fee will be 9% of the PyTorch Foundation’s first \$1,000,000 of gross receipts each year and 6% of the PyTorch Foundation’s gross receipts each year for gross receipts in excess of \$1,000,000.

#### **11) General Rules and Operations.** The PyTorch Foundation will:

- a) engage in the work of PyTorch Technical Code Base in a professional manner consistent with maintaining a cohesive community, while also maintaining the goodwill and esteem of The Linux Foundation in the open source community;
- b) respect the rights of all trademark owners, including any branding and usage guidelines;
- c) engage or coordinate with The Linux Foundation on all outreach, website and marketing activities regarding the PyTorch Foundation or on behalf of the PyTorch Technical Codebase project that associates the name of the PyTorch Technical Codebase project or The Linux Foundation; and
- d) operate under such rules and procedures as may be approved by the Governing Board and confirmed by The Linux Foundation.

#### **12) Amendments**

- a) This Charter may be amended by a two-thirds vote of the entire Governing Board (in accordance with the voting provisions set forth in Section 4.e.), subject to approval by The Linux Foundation.