

The OpenSolaris Charter

0. Whereby Sun Microsystems, Inc. (Sun) has granted license to a certain subset of its Solaris Operating System, known henceforth as OpenSolaris, to all under terms compatible with Open Source ideals, and whereby open and constructive development and dissemination of this code base is desired by all, Sun does by the execution of this charter all of the following: First, establish an OpenSolaris Governing Board (OGB) to manage and direct an OpenSolaris community in its efforts to improve upon and advocate in favor of OpenSolaris, so that the community may long endure. Second, grant to the OGB certain powers and rights as are necessary to discharge its duties. Third, assign to the OGB a suitable initial membership. Last, establish a time at which this initial OGB shall have discharged its responsibilities and ceded to its successor the powers and rights granted herein.

1. The OGB shall be comprised of natural persons of number and nature to be defined by the Constitution, but in no event shall they be fewer than three in number at any time. The Board shall be selected and shall conduct its affairs in accordance with democratic principles and shall represent the interests of the OpenSolaris community.

1.1. Should the OGB number fewer than three persons at any time, Sun shall, at its sole discretion, appoint to the OGB additional natural persons sufficient in number to increase the OGB's membership to three. Those appointees shall serve only until processes to elect their replacements can be carried out.

2. The OGB shall construct and maintain a Constitution defining all of the following:

2.1. A process by which the Constitution may be amended from time to time.

2.2. Methods and processes by which the OGB's membership shall be determined. These must at all times ensure satisfaction of the constraints imposed by this charter, including but not limited to those described in Section 1.

2.3. The roles recognized within the community.

2.4. The rights and responsibilities associated with each role.

2.5. The intended methods of communication between the OGB and Sun.

2.6. Methods and processes by which disputes and disagreements among OpenSolaris community members might be resolved in a fair and just manner. OpenSolaris community members are to receive equal treatment during the resolution of a dispute or disagreement, without reference to any personal attribute or affiliation.

2.7. Regulations applicable to the OpenSolaris community as it finds beneficial to its development and growth.

2.8. The establishment and operation of, and delegation of appropriate powers and rights to, any associate governing bodies which it shall deem appropriate to the execution of any part of the Constitution or this Charter. In all cases, disputes not resolvable within those delegated bodies may be appealed to the OGB.

3. The OGB shall define and implement a process for its ratification of the Constitution, in a manner consistent with democratic principles. This process shall at a minimum involve members of the OpenSolaris community in addition to the membership of the OGB.

4. The initial Constitution shall be operable when ratified by both the OGB and Sun.

5. The OGB shall be the supreme and final arbiter of all matters pertaining to the OpenSolaris Constitution.

6. All powers and rights are granted to the OGB which are required for the execution of this Charter or the properly ratified Constitution and which are not inconsistent with applicable law or regulation.

However, nothing in this charter shall be construed so as to confer to the OGB: (a) any title or right under copyright, patent, trademark, or other intellectual property law; (b) control of or interest in any asset, tangible or intangible, of Sun Microsystems, Inc. or any of its subsidiaries; (c) control of or interest in Sun Microsystems, Inc. or any of its subsidiaries.

7. All members of the Community Advisory Board (CAB) shall be initial members of the OGB. The initial OGB may select additional initial members as it may require to discharge its duties.

8. No initial OGB member may retain his or her membership beyond 30 June 2006, or after such time as the first OGB members selected in accordance with the terms of a properly ratified Constitution take office, whichever occurs first. However, if an initial member shall be so selected, he or she may serve as he or she otherwise would.

9. Notwithstanding any part of provisions 7 and 8, the CAB and the initial OGB shall be dissolved on 30 June 2006.

10. If the initial OGB shall be dissolved before an initial Constitution is properly ratified, Sun shall appoint a new set of initial OGB members in any manner it shall deem appropriate, and the terms of this Charter shall be applied to those replacement members with the following exceptions:

10.1. Provision 7 shall be inoperable.

10.2. Provision 8 shall be altered such that the termination date shall be extended by 6 months.

10.3. Provision 9 shall be altered such that the reference to the CAB is removed and the dissolution date shall be extended by 6 months.

11. This Charter may be amended if both the OGB and Sun agree. If an agreement on amendment cannot be reached, or if the OGB fails to approve an amended Charter, the previous version of the Charter remains in force.

11.1. To request that the Charter be amended, the OGB must affirm a motion by a supermajority vote consisting of at least two-thirds of the current OGB members.

11.2. To approve an amendment to the Charter, the OGB must affirm a motion by a supermajority vote consisting of at least two-thirds of the current OGB members.

11.3. Notwithstanding any part of provisions 11, 11.1, or 11.2, the initial OGB shall have no power to alter any provision of this Charter.

On 8 February 2006, the Community Advisory Board met to adopt the Charter.

MOTION

To adopt Charter

It was moved by PHIPPS “that the Charter be adopted for use as the terms of reference for the OpenSolaris Governing Board”. Seconded by TEER. Motion carried unanimously (In favor: DIK, FIELDING, HOPPER, PHIPPS, TEER).

On 10 February 2006, Sun Microsystems agreed to use the Charter as the basis for creating the OpenSolaris Governing Board. On behalf of Sun,

GLENN WEINBERG,
Vice President, Operating Platforms Group,
Sun Microsystems, Inc.