

Operations Multisig Agreements (Low Trust Forms)

Building on this conceptual framework, lower trust assumption forms are easiest to envision without the need to build and adapt them to additional structure. This means that for purposes of these forms, we assume there are minimal systems of accountability in place and that the multisig participants are a group of disparate actors with a loose association. However, contracts do not operate in a vacuum and as such, in order to maintain broad applicability, these forms (i) could still have significant limitations depending on the use case and (ii) introduce uncertainties given the many unknowns.

These forms are best combined with additional operational cautions and may need to be further adapted to interact with additional structure that exists outside of the contractual arrangement. For instance, as discussed below, greater degrees of trust minimization and game theory-based incentive structures could be implemented operationally, including reputation systems as a risk based framework to develop modular configurations based around standardized trust levels. Additionally further iterations of these forms would need to be created to explore structuring options such as the use of legal wrappers, differing levels of governance and delegated authorities.

As with all form agreements posted to GitHub, I disclaim responsibility for any use of these draft forms. These are intended to be starting places for further iteration and discussion and I strongly encourage review and customization for your particular facts by a competent attorney retained by you. Considering the widely varying practices and purposes of multisigs (including operational multisigs within any given protocol ecosystem), each form is a starting point, rather than an endpoint. Please read this Memo, together with the annotations in the form and consult with legal counsel about how to customize it appropriately.

I. Form Overview.

These forms are iterations of the base LeXpunk Multisig Agreement (Defense),¹ modified for operational use within a protocol ecosystem. The forms have been designed as base version and are intended to be customized for use by participants in an operational multisig which implements a governance vote strictly in accordance with pre-defined parameters. The forms have largely identical specifications (Annex I) but the first (v.1.0) assumes the participants are entering into the agreement without a legal wrapper and the second (v.1.1) assumes an entity serving as coordinator provides a layer of governance in the multisig scheme.

For v.1.1, consider if the Coordinator role is necessary or appropriate for your circumstances as it is a potential point of centralization. There are certainly situations where this makes sense, such as in grant administration, an entity tasked with full time “grant administration” that organizes the group/alerts to actions needing to be taken and the signers are either involved with the grant administration entity (ie. part time reviewers) or independent. If using v1.1, consider ways to mitigate centralization and defection risk, such as: (i) if a team (more than 1 person serves in the Coordinator role); the Coordinator has a representative that is an Active Signer; and there are limits on the number of active Contributors that are Active Signers (ie. a minority) and who receive task-based compensation (as opposed to a stream of comp for serving in a standing capacity). This reduces risk for situations like the Coordinator having the power to add/remove signers on the multisig.

In each case, these forms constitute an initial conceptual structure for an operations team to put into practice as a base case for deploying a set budget and incorporates a number of assumptions: (i) the operational multisig has individual participants (no entities) as Active Signers and acts in accordance with

¹ Form of Defense Multisig Participation Agreement available [here](#).

the Governance Vote; (ii) multisig transactions will be used for previously agreed milestones and MPA parties do not have discretion to determine if these are met outside of the criteria in the Governance Vote; (iii) the form builds in optionality whereby a Governance Vote can set additional parameters to govern the multisig and its participants and (iv) the Governance Vote can also mandate conditions pursuant to which the participants return undeployed funds if certain parameters are present. Parties contemplating use of the form should also think about how to implement the procedural processes that are assumed to take place outside of these forms, including the governance aspects described below in this Memo and the technical specifications of the Multisig Scheme (which are largely open for the parties to design to their needs in the form MPAs).

Due to the many unknowns discussed above, we have included a feature (not a bug) in which the participants may at some point agree that something has broken, that the purpose of the agreement has been irretrievably frustrated, which then invokes an obligation to return funds. See Section “Drafting Point - FN 7 - Frustration of Purpose” below for more detail.

For external roles, a greater degree of trust minimization / game theory (and incentive structures) should be explored operationally and future iterations of this form can be created to explore structuring options such as the use of legal wrappers, differing levels of delegated authorities and reputation systems as a risk based framework to develop standardized trust levels.

II. Form Assumptions.

The form attempts to refrain from being overly prescriptive in order to have a degree of general applicability and be used as a baseline for further customization. Still, within the intended use case for Ecosystem Actors for internal roles,² the form incorporates a number of principles based and operational assumptions. To the extent the following assumptions are not true, conforming edits will need to be made:

- A. **Principles based assumptions.** Consistent with LeXpunkK’s ethos, it incorporates a number of principles based assumptions, including:
 - *Limited Discretion; Qualified Code Deference and Limits on Legal Remedies* - (Sections 2 & 3.1, 3.6, 6.2) limit participant discretion and their role to that of implementing on-chain decision making; assume that multisig participants are willing to stand behind some clearly specified duties while disclaiming broader, more encompassing duties such as fiduciary duties.
 - *Trust Minimization & Neutrality* - (Section 3.2) the duties of the participants are crafted to align with the open-source software, trust-minimization and neutrality goals that echo principles of the broader community and its contributors and users.
 - *No Common Enterprise Among Parties* (Section 6.10 and 3.2.1) - Assume that multisig participants may prefer to be treated as separate individuals rather than a partnership, and provisions are designed to disclaim partnership status and title to multisig assets.
- B. **Operational assumptions.** The form incorporates a number of operational assumptions, including the following:

Base Assumption	Implications from Potential Changes in Assumptions
	Implications

² The form does not cover delegates explicitly. The form assumes a higher level of trust for internal roles and does not include the concept of an auditor.

<p>Funds are sent or streamed to the operational multisig and represent a fixed quantity of funds for a specific budgeted expense.</p>	<p>In reality, funds may come directly from the DAO or can also come indirectly from a budget owner's multisig that has an oversight or audit function. In this case, such a party may play a more active role in the decision making and would need to be folded into the agreement. For instance, the inclusion of an auditor function may involve an additional layer of accountability and checks and balances - it would have implications for the required scope of governance votes as well as the ability to supplement instructions (and validate which are 'legitimate'); the auditor would have a more actionable means of leveraging streaming payments (and the ability to pause or cease payments) as a remedy that can be invoked to stop payment in the case of defection.</p> <p>Our initial draft of the agreement is agnostic as to source of funds but the Active Signers can play a check and balance on the Coordinator role by removing the Coordinator for breach and the Governance Vote can dictate how the vacant position is filled.</p> <p>One option is that a third party designated in the Governance Vote fills it (and if the Coordinator has a representative or is on the Multisig Scheme, there is preplanning needed to provide a means where you can add/remove the Coordinator).</p>
<p>The Active Signers on the multisig are individual participants (not entities).</p>	<p>Signers can be natural or legal persons. If the Active Signers are entities, this will add a layer of complexity because the entity could then appoint an individual rep who is accountable to the entity or choose to perform the responsibilities at the entity level. Thought should be given to how changes might need to be implemented throughout the agreement. For instance, representations should be made as to access to the ETH address for this Active Signer that take into account the address may be accessible by multiple persons. Additionally, conflicts and defections could take place at the individual level or entity level.</p>
<p>Governance Roles External to the MPA</p>	<p>The form assumes the "Coordinator" role is external although they could have a representative on the multisig (with them in turn having the power to add/remove signers on the Multisig).</p> <p>We believe this form of MPA is better without a governance aspect because, among other things, the agreement is non-binding; these are external actors, and we have them playing a custodial/administrative role while seeking to limit negative tax implication.</p>
<p>The multisig acts in accordance with the Governance Vote.</p>	<p>The MPA provides for the Governance Vote to be the sole source of truth and builds in areas where the Governance Vote can be instructive in the case of contingencies.</p> <p>Limiting discretion in the multisig means relying on governance vote instructions, which will need to be detailed. The less authority</p>

	<p>the parties have, the more pre-planning needs to happen outside of the agreement to mitigate against unintended scenarios as well as a willingness to live with a degree of unpredictability.</p> <ul style="list-style-type: none"> - The form builds in optionality whereby a Governance Vote can set strict parameters to act in accordance with vote and to return undeployed funds if certain parameters are present. <p>However, this level of pre-planning is not always possible but if the agreement allows for supplemental instructions outside of the Governance Vote (ie. it is at the discretion of a third party to determine if milestones are met), there is the potential for conflict and a need to assess order of precedence to break a tie in the case of conflict or ambiguity.</p> <p>This is also a design element where the implementation may change based on specific facts and structure - for instance, some of the governance concepts could live within the constructs of the legal wrapper (if one exists).</p>
Multisig transactions will be exclusively for previously agreed milestones and standing funding/expenses.	<p>There is a need for increased granularity in the instructions provided by governance votes in how work gets approved. Generally speaking, the milestones for completion need to be binary in the absence of additional structure. If not, it poses a problem for multisig participants if situations arise that require discretion (see “Frustration of Purpose” feature).</p>

- C. **Trust Assumptions.** Additional drafting choices made, some of which are intended to minimize various risks. Care needs to be taken with the inclusion of terms that add an element of subjectivity absent more guardrails.

Risk	Drafting Choice
Inability to Future Proof Form / Unintended Consequences	<p>The form assumes that the coverage of the agreement for a single allocated budget instead of governing multiple iterations. This is partially out of an acknowledgement that trust minimization in this case means limiting any long-term reliance of all parties on the form (though the parties could enter into substantially the same form in later iterations if no improvements or changes are desired by the parties).</p> <p>Inclusion of the requirement that the Coordinator act within the parameters of the Governance Vote is intended to protect against defection by the Coordinator but may cause an issue if changes need to be made due to unforeseen circumstances, which is another reason why the frustration of purpose clause is included. It can act as an emergency exit as opposed to trying to predict and react to many possible unknowns.</p>

Minimize Single Points of Failure	<p>Single points of failure should be avoided in the multisig and authority scheme. For instance, the power to remove participants from the agreement constitute a check and balance within the agreement but the drafting involves tradeoffs that should be tailored to the specific facts and circumstances.</p> <p>This principle will also need to be implicated in the design of the Multisig Scheme - this is an open point in the MPA for flexibility, including deciding whether all signatures are equal, and if they are not, what situations the Coordinator (or another party acting as a safeguard) might be able to act and intercede.</p>
Minimize Common Enterprise Issues	<p>We have left room for Active Signers to also hold Contributor roles but no Contributors are parties to the agreement in their role as such. This means that the agreement does not have the power to bind contributors not to seek legal remedies outside of the fact that the parties to the agreement are not in a decision making capacity with respect to payment.</p>

III. Drafting Notes. In addition to the above notes on the forms, there will always be a need to customize to your facts. Unfortunately, no form is one size fits all. Participants in any multisig will need to evaluate their own facts to tailor the form on areas such as:

Footnote	Drafting Point
FN 2 - Use of Form by Anons / Pseudonymous Actors	<p>Care should be taken with anons in the MPA, particularly how anons are joined to the MPA – they can choose to dox and include stricter confidentiality (which is a less laughable option if the MPA is accompanied by the entry into a JDA and/or indemnity) or an “opt in” mechanism can otherwise be devised for them (ie. opt-into the terms by providing a wallet address and participating in the Multisig). If desired, the agreement would need additional reps that they are the sole owner of the pseudonym/ ETH address (etc.) and that they will not operate within the Protocol Ecosystem using other additional pseudonyms with the purpose of deceit or obscuring conflicts of interest.</p>
FN 4 - Governance Instructions	<p>The form’s default is trust minimized. However, there may be situations where the participants have more discretion in transaction approval as opposed to implementing when conditions are met. If more discretion is needed (ie. a grant making function), you can include additional fact-specific language, ie. with when deciding whether milestones are met [and approved as further set forth herein in Section [.]] or [and approved as further set forth in the Governance Proposal].</p> <p>You could also broaden the Governance Vote concept to include multiple sources of truth, including an entity charged with</p>

	<p>administering the budget and making decisions on payments to contributors:</p> <p>“Budget Owner” means the party designated in the Governance Vote.</p> <p>“Governance Instructions” means the Governance Vote, as supplemented by the instructions of any supplemental governance vote or Budget Owner; provided that, in the event of a conflict or inconsistency between the Governance Vote and the instructions of a Budget Owner, the Governance Vote shall prevail].</p>
FN 6 - Tax Nexus & Optimization	<p>From a tax perspective, the above the line provision for FN 6 is intended to clarify that the multisig is not the equitable owner of the Designated Ops Budget, which can be helpful in a determination that the multisig is not the recipient of taxable income when (i) the multisig interacts with the Designated Ops Budget or (ii) if and to the extent there are gains from the assets held (i.e., disposition of an appreciated token).</p> <p>Note that this structuring decision may give rise to other uncertainties, such as whether this creates a trustee relationship (despite disclaimers of fiduciary duties) and have other regulatory implications given the custodial nature of the relationship, which are beyond the scope of this exercise. These issues should be looked at in combination with the governing law provision and an analysis of the jurisdictional nexus implicated. It would be optimal if the Coordinator role and multisig (together with any Budget Owner etc) were organized or structured to avoid treatment as a US trade or business, or as foreign trust with US beneficiaries.</p>
FN 7 - Frustration of Purpose	<p>Building upon the above, the agreement contains an implicit requirement to return funds if the agreement breaks (Section 3.2.4) as well as a more explicit requirement if the Multisig Scheme fails (Section 3.7.3).</p>
FN 12 - Indemnification	<p>Indemnification is out of scope under this form as structure/funding would need to be established extrinsically and there could be a hook with a provision that references the availability of indemnification (as an inducement to serve on the multisig / add parameters for standard of conduct for eligibility. If the indemnifying party is added to the agreement, a sample clause that would need to be further tailored is as follows:</p> <p>“Indemnification. [_____] shall indemnify and defend each Party from and against, hold each Party harmless against, and compensate and reimburse each Party for, any all claims, liabilities, damages and losses suffered or incurred, or reasonably likely to be suffered or incurred, by such Party in connection with such Party’s discharge of the duties in accordance with this Agreement, except to the extent arising in connection with such Party’s fraud, gross negligence, or</p>

	<p>willful misconduct. The foregoing shall be supplemental to, and not limit, any other right or remedy any Party may have against [] or any other person under any other contracts or agreements, including any agreements providing for the indemnification or exculpation of service providers. [] is entering into this Agreement solely for purposes of being bound by this Section [] and other provisions of general applicability (e.g., Section 6) and not to participate in the Multisig Scheme as an Active Signer.”</p> <p>See footnotes to form of agreement for some additional areas that would need drafting changes if included.</p>
FN 16 - Governing Law	<p>For the purposes of the form, we have included governing law as an optional clause. While failing to include this clause may introduce uncertainty on how the agreement will be interpreted or enforced, there are also consequences of opting into the laws of a specific jurisdiction (whether the jurisdiction has a discernable nexus to one or more participants or not). Given the specific uncertainties associated with any U.S. jurisdictional nexus, despite the benefit of having more certainty around the enforceability of contract law, we recommend caution before opting into Delaware law. See also FN 6 re Tax.</p>