



EUROPEAN  
OPENSOURCE & FREE  
SOFTWARE LAW EVENT

4<sup>th</sup> Edition

Barcelona  
4 November 2011

# Contracting with Free Software Communities

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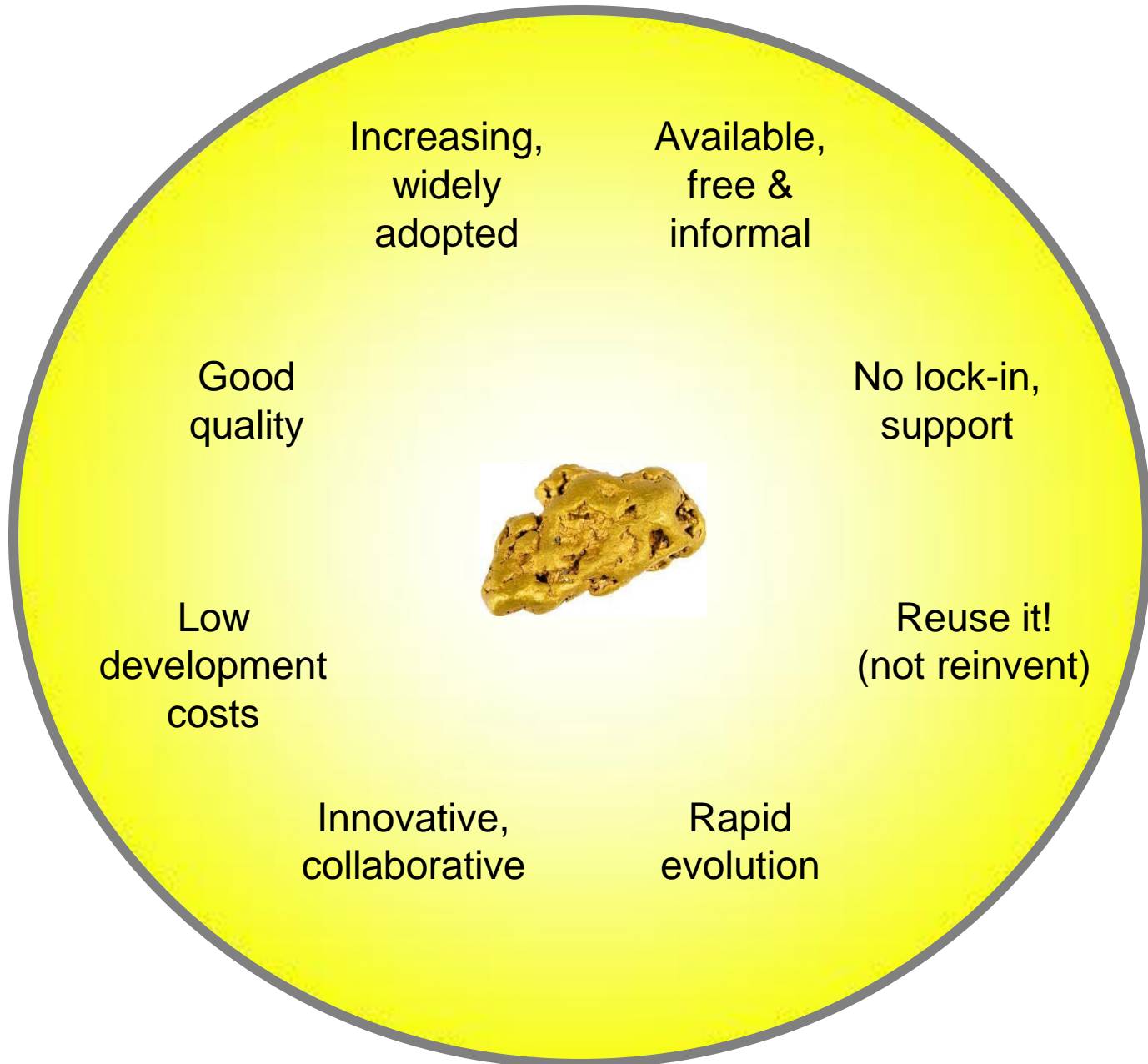
# What is this presentation about ?

How bridging the gap between Free Software Communities and Business / Administration ?

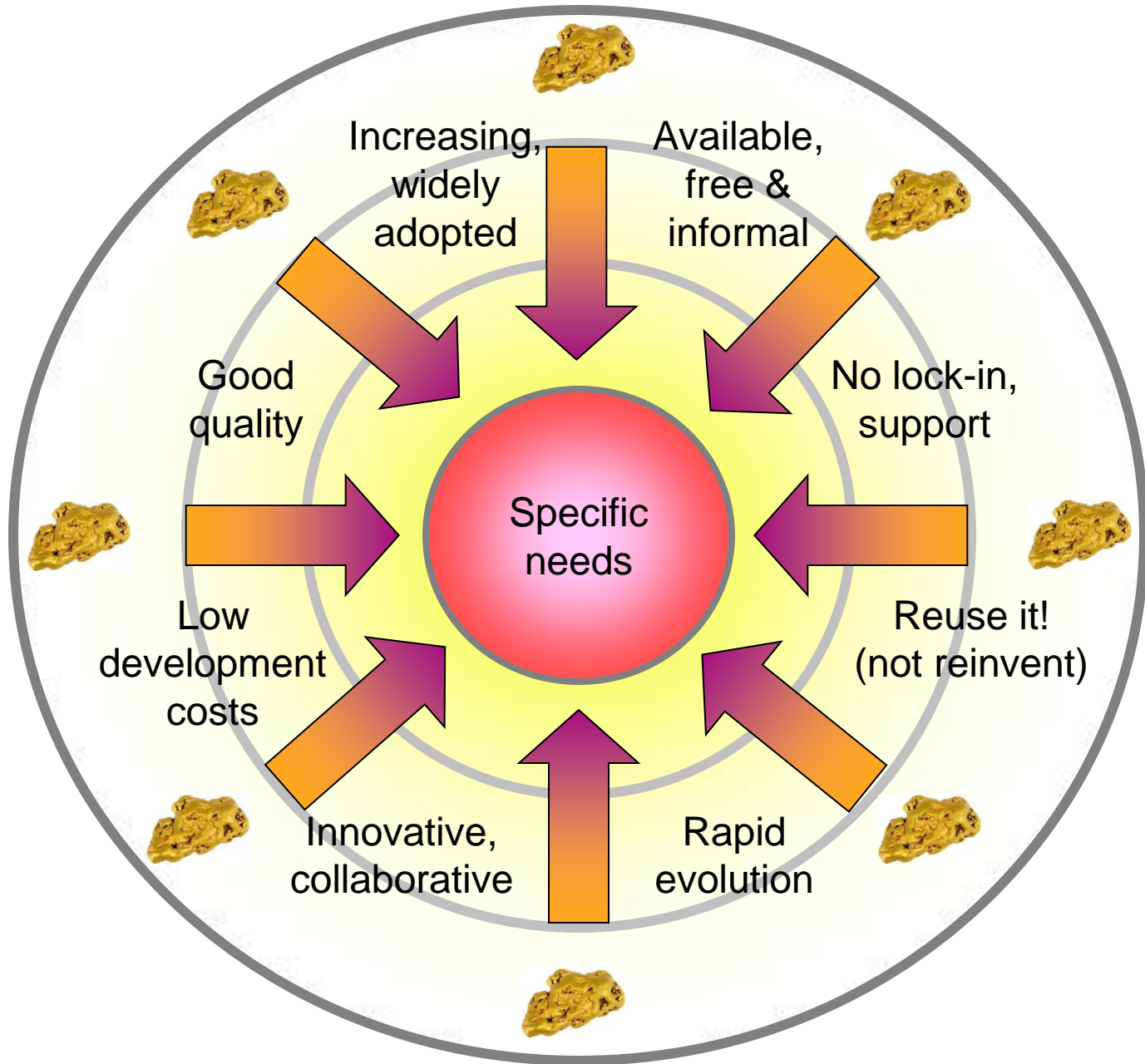
How to Contract with a Free Software Community?

Basic overview of the legal framework

# Free Software is like a gold mine...



# That many organisations are dreaming to catch



# But... Procurement is as follows:



Especially in Public Sector / EU Institutions etc.,

- Bureaucracy, limited communication during tendering process (formalist questions / answers)
- No communication alliance / « coopetition » between tenderers (except in jointly liable consortium / subcos)
- High administrative requirements (legal personality, financial capacity, turnover, profit during at least X years)
- High staff requirements (full time employees)
- Reference requirements ( $n$  contracts, in the field, more than 250.000€, during the last 3 years)
- High risks → High contingency → High prices

# And contracts are as follows:



- Large, multi-year framework contracts – and/or Specific agreements or “One shot”
- One winner (or a cascade of 3 – or a limited group)
- No role/team merging » between contractor & awarding authority (one-way roles developer/business)
- Liability (unlimited) and penalties (for late delivery)
- Other legal issues (exclusivity, confidentiality etc.)
- Large payments – few milestones
- No or reduced freedom to enter / to leave / to stop
- Strict timing (kick-off – end – warranty – maintenance)
- « No change request » policy (because very expensive)

# While Free Software looks totally different:



- Hacker attitude, individualism
- Meritocracy (build projects around motivated individuals)
- Freedom to come, and to leave
- No pre-defined timing (frequent releases)
- « Agile » for change request acceptance (continuous re-design)
- Self-organisation
- Need money (yes), but works for fun

Is it possible to combine  
the best of both world ?

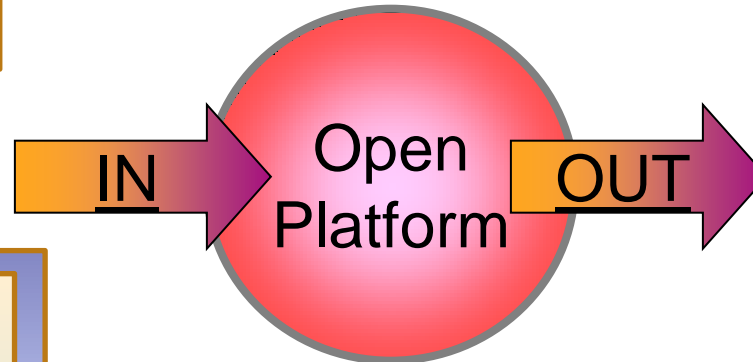
# Open development platform (legal framework)

Gen terms of use

To be accepted in the Project registration process

Definition & revocation of developers' rights

Role: Create/accepts - suspends - deletes projects



**Distribution Licence(s)**

licensing scheme

**+ Interoperability**  
(FLOSS exceptions)

**Project Agreement**

**Contributor Agreement**

NDA (if applicable)

**Other information:**

- Notice: owner / privacy
- Disclaimer
- Definitions, FAQs, Documents
- Support (legal questions)

**Downloading:**

Recipient registration & acceptance process



# Project (Governance) agreement =



Project specifications  
Technical framework (platform / standards)  
Incentives / payment for each milestone  
Development Governance / roles  
Quality control / Arbitration

## (Individual) contributor agreement =

Copyright licence & assignment  
Patent licence  
“Possible” Distribution licence(s) – list/options  
Moral rights (waive of, no obligation to include)  
Exclusion of warranty / liability

# The role of the “Funding org”



- Set up the technical platform
- Set up the legal framework + trademarks, IPR
- Define global architecture, standards, project roadmap
- Establish project design, functionalities, components
- Publish detailed specifications
- Provide resources (Business experts / co-developers)
- Provide funding and administrative support
- Committing code to the project
- Quality control (after testing) and Quality assurance
- Operational release management (to end users)

# The Project agreement



- Detail functionalities in small blocks
- No liabilities & penalties, but incentives & payments in small units
- Coopetition in open forum (discussion / clarification between tenderers)
- Pre-selection of multiple candidates (not only one, or a cascade of 3): the best personalities and/or organisations
- Implement a « mixed » project governance: Authority + Community (elected chair / coordinator)
- Merge internal / external resources (cross fertilisation)
- Set up basic rules & internal arbitration (sole way to solve conflicts, work breakdown, payment issues)

# The Project agreement(2)



- Defines roles: PM, groups, committer, contributor...)
- Include a contributor agreement (clarifying roles, assigning rights to the contracting authority, but granting free software distribution of the work)
- Simple process to welcome « new members »
- Set up a simple process allowing contributors to leave, voluntary (or automatically, if non active)
- Support project governance (meetings, forums, assembly) i.e. taking advantage of wider FS events
- Valorize quality control / bug reporting
- Valorize developers' reputation
- Long term action (as long the project is living / maintained)

# Conclusions



- Agile development with the support of free software communities could bring radical improvements in efficiency and costs (this is still an assumption).
- Current procurement process is not adapted at all.
- Contracting with free software communities would represent a revolution in current procurement process.
- The requested legal framework is not limited to the “Free software licence”, but includes other components and agreements
- A new type of « project development agreement » should be proposed to Free software communities (and individuals) in counterpart of funding.
- New open development platforms present opportunities.



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This presentation reflects the author's personal opinions and does not commit Unisys, the European Commission or any other stakeholder.

## Thank you.

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