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Memorandum of Understanding between DuraSpace and the VIVO Project 2019

Background

Fedora Commons, Inc. d/b/a DuraSpace (“DuraSpace”) is an independent 501(c)(3) not-for-profit organization committed to providing leadership and innovation for open technologies. DuraSpace collaborates with academic, scientific, cultural, technology, and research communities by supporting projects and advancing services to help ensure that current and future generations have access to our collective digital heritage.

VIVO is an open source software and ontology for representing scholarship (“VIVO”). The VIVO Project is an unincorporated community of members and sponsors committed to improving and promoting VIVO around the world to the benefit of scholarship everywhere. The VIVO Project is led and represented by a governance body called the VIVO Leadership Group (the “VIVO Leadership Group”) and its chairperson is elected by its members (the “VIVO Leadership Group Chair”).

DuraSpace and the VIVO Project wish to set forth in this Memorandum of Understanding (this “MOU”) the ways in which they intend to work together (such work on the terms set forth below is referred to in this MOU as the “Agreement”).

The parties acknowledge that this MOU is not a binding agreement under which the parties intend to work in good faith toward a productive Agreement that benefits both DuraSpace and the VIVO Project.

I. Tenets of the Agreement.

The following shall be the guiding tenets of the Agreement:

1. Mission Alignment: DuraSpace and the VIVO Project will promote and advocate for open data, research, and access to make scholarship in all forms more open and easily discoverable.

2. Resources: Each party will bring its member community to the Agreement. DuraSpace will bring a stable financial foundation and proven fundraising track record. The VIVO Project will sustain its efforts through in-kind and financial contributions.
3. Mutual Support: DuraSpace and the VIVO Project will work together for mutual support and advocacy. The success and health of each depends on the other, and both parties will work towards building a strong project and a strong organizational home for the Agreement.

II. DuraSpace Responsibilities.

DuraSpace's responsibilities under the Agreement entail the following:

1. Business Infrastructure: Provide an organizational and legal home for the VIVO Project, including business insurance, vendor/banking relationships, business licenses, legal documents, mail/check deposit management, organizational financial/accounting management, accounting/transaction infrastructure, organizational audit/tax services, and human resources.
2. Executive Support: 4% of one Duraspace FTE to support VIVO governance.
3. Project Infrastructure: Provide tools to facilitate community collaboration, including wiki space, web site, JIRA, OpenVIVO hosting, Zoom, and CRM (Zoho).
4. Technical Coordination, Development and Technical Support:
 - a. Allocate 50% of the time of a DuraSpace FTE to the VIVO Project¹ to provide technical coordination as follows:
 - i. Technical Coordination
 1. Organize and chair meetings of VIVO contributors and coders
 2. Organize and facilitate sprints
 3. Organize development activities at VIVO events
 4. Represent and present on behalf of the VIVO Project at conferences and meetings of other organizations
 5. Develop architecture and other documents for VIVO in collaboration with VIVO Project members
 - ii. Development and Technical Support
 1. Maintain OpenVIVO operations, one upgrade²
5. Project Financial Management: Allocate 2.5% of one Duraspace FTE to coordinate accounting and financial reporting services for the VIVO Project as follows:
 - a. Establish and maintain accounting protocols that segregate the funds, revenues and expenses for the VIVO Project from other DuraSpace books and records (the "VIVO Project Account"), with any surplus funds held in the VIVO Project Account to be used for the advancement of the goals of the Agreement consistent with the budgets approved by the VIVO Leadership Group.

¹ Assumptions include: Tracking hours is an internal responsibility of DuraSpace. DuraSpace will not bill VIVO for excess hours without a change order. VIVO does not track hours of DuraSpace employees. It is the responsibility of DuraSpace employees to discharge their responsibilities within the agreed upon fractional FTE assignment to the VIVO project.

- b. Disburse VIVO Project funds in payment of DuraSpace's Fees (described in Article IV below) and otherwise in accordance with the budgets approved by the VIVO Project (including bills, expense reimbursements)
 - c. Provide VIVO Project income statement bi-monthly and a cash report annually to the VIVO Leadership Group.
 - d. Provide VIVO Project with automated (uncurated) reports from QuickBooks monthly³
 - i. YTD Profit+and+Loss+Transaction+Detail_VIVO
 - ii. YTD+Profit+and+Loss_VIVO
 - iii. Invoices+PaidUnpaid_VIVO
 - e. Collaborate with the VIVO Leadership Group and VIVO Project Steering Committee on annual budget development.
6. Membership Coordination:
- a. Allocate 10% of the time of one DuraSpace FTE to the VIVO Project to provide membership coordination⁴ as follows:
 - i. Lead regular bi-weekly membership meetings
 - ii. Collaborate to develop VIVO membership value proposition membership prospect strategy
 - iii. Provide regular assistance/guidance with specific prospects/issues
 - b. Allocate 2% of one Duraspace FTE to provide membership billing support. Coordinate logistics for VIVO membership renewal process, update billing contact data in ZohoCRM, send renewal notices to current members, invoice members, follow up on invoice collection, track and maintain membership campaign progress. Coordinate logistics for periodic VIVO new prospect mass email effort, provide templates/data for emails and send out prospect emails.
7. International Membership Recruitment/Development:
- a. Allocate 10% of the time of one DuraSpace FTE to international membership engagement and outreach, promotion of VIVO at meetings, conferences and events and to national organizations and institutions around the world aiming at increasing the number of VIVO members.
8. Administrative support:
- a. Allocate 2.5% of one Duraspace FTE to perform b-e below.
 - b. Facilitate Leadership and Steering group elections and manage member contact data in support of annual elections (updating VIVO Liaisons, etc).
 - c. Provide support for webinars
 - d. Provide support for VIVO Conference communications.
 - e. Provide support for VIVO Camp registrations including registration page, managing registrants, serving as event contact and regular registration reporting.
9. Communications, Outreach & Marketing:
- a. Allocate 1% of the time of one Duraspace FTE to distribute monthly newsletters, DuraSpace Digest and the Member Newsletter

³ Sent on the 20th of the month for the prior month YTD results.

⁴ Assumptions include: Tracking hours is an internal responsibility of DuraSpace. DuraSpace will not bill VIVO for excess hours without a change order. VIVO does not track hours of DuraSpace employees. It is the responsibility of DuraSpace employees to discharge their responsibilities within the agreed upon fractional FTE assignment to the

10. Business Development:

- a. Allocate 2% of one Duraspace FTE to perform b-c below.
- b. Provide support to the VIVO Project as they seek new revenue sources.
- c. Provide program management for DuraSpace Service Provider program related to the VIVO Project.

III. VIVO Project Responsibilities.

The VIVO Projects responsibilities under the Agreement entail the following undertakings:

1. Develop and execute a strategic action plan for the VIVO Project, including vision, development roadmap, resources, governance and structure, and community development.
2. Manage the budget on behalf of the VIVO Project, including approving expenditures and financial agreements having to do with the Agreement.
3. Develop the VIVO Project membership strategy, plan and execution.
4. Determine project governance for the VIVO Project, and name representatives of the VIVO Projects to execute the terms of this agreement.
5. Write and post news/blog posts (VIVO Updates), maintain/update website for the VIVO Project, wiki and technical documentation, present/represent the VIVO Project at conferences/mtgs.
6. Plan and organize webinars, training camps, VIVO Conference, VIVO breakouts at the DuraSpace Summit agenda and other events.
7. Collaborate to provide supervision for all DuraSpace fractional employees.
8. Provide written evaluations of the performance of all DuraSpace employees with fractional time assigned to the Agreement.
9. Organize and lead efforts to develop VIVO, its ontology, documentation, and related tools and services.
10. Identify and pursue new revenue sources - consulting work, joint ventures, grants, and new service providers as part of the DuraSpace Service Provider program.

IV. Term and Fees

The term of this MOU shall be the period January 1, 2019 through December 31, 2019. The term shall automatically renew for successive one year periods unless earlier terminated as set forth below.

Of the revenues generated by the Agreement, a fixed amount of \$10,724.42 per month plus 30% overhead (plus any fees for work requested under the Agreement from DuraSpace under "Additional Services" as set forth below or otherwise outside the scope of this Agreement) will be transferred by DuraSpace from the VIVO Project Account to DuraSpace's general operating accounts. Such amount shall be in recognition of the contributions made by DuraSpace to the Agreement pursuant to Articles I above and IV below and shall be deemed "Fees" for purposes of this MOU. The balance of such revenues shall remain in the VIVO Project Account after Fees are withdrawn shall be used to fund initiatives of the Agreement in accordance with budgets and other business initiatives approved by the VIVO Project. For any year of the term

where there is a deficit in the VIVO Project Account, such deficit will be carried forward and applied against the VIVO Project's income in the next fiscal year.

V. Additional Services

In addition to the contributions set forth above, DuraSpace shall provide the Agreement with other services as may be agreed upon from time to time, based on availability. Each of these services will require an additional fee to be agreed upon in advance. Additional Services may include:

1. **Legal Consultation**: Contracting with appropriate attorneys for legal services on behalf of the VIVO Project.
2. **Execution of Contracts**: DuraSpace executive leadership will represent the VIVO Project's interests in the negotiation, execution, and administration contracts consistent with the guidance provided by the VIVO Leadership Group.
3. **Event Support**: Assistance with the logistics related to VIVO events beyond registration and promotion.
4. **Granting Support**: Assistance with the application for and administration of grant funds.

VI. Termination

Because this is a non-binding Memorandum of Understanding, either party may terminate this MOU at any time and for any reason or no reason. Nevertheless, each party acknowledges its present intention to act in good faith and provide the other party with not less than 90 days prior written notice of any termination.

In the event this MOU is terminated or DuraSpace ceases operations, DuraSpace will as promptly as reasonably practicable and to the extent permitted by its Certificate of Incorporation, by-laws and applicable law, use its best efforts to transfer the balance of any VIVO Project funds held in the VIVO Project Account (less any Fees due to DuraSpace as set forth above and any transfer costs) to a not-for-profit entity designated by the VIVO Leadership Group.

In the event that the VIVO Leadership Group does not designate such an entity within ninety (90) days of the effective date of termination or if, on the advice of its legal counsel, DuraSpace determines that it is prohibited by its Certificate of Incorporation, by-laws or applicable law from transferring such funds to the party designated by the VIVO Leadership Group, then unless the VIVO Leadership Group designates a different entity that DuraSpace is permitted to transfer such funds to in compliance with its Certificate of Incorporation, by-laws and applicable law within ninety (90) days of the effective date of termination, DuraSpace may retain such funds and use them for working capital and such other general corporate purposes as DuraSpace determines in its sole discretion to be in its best interests.

VII. Other Terms and Conditions

Nothing in this MOU shall in any way be construed to create a partnership, joint venture or employer-employee relationship between the parties or their representatives. This MOU shall be governed by the laws of the State of New York.

Accordingly, the undersigned parties below acknowledge their present intention to work together in good faith with respect to the Agreement on substantially the terms set forth above.

For DuraSpace

Erin Tripp, Executive Director

ETripp

12/20/2018

Date

For the VIVO Project

JULIA TRIMMER, on behalf of the VIVO Leadership Group

Julia

12/21/2018

Date

Michael Conlon

M. Conlon

12/21/2018

2019 VIVO Preliminary Budget

Revenue (GAAP, based on invoice term dates)		
Project Work	\$0	
Membership	\$216,000	Estimated based on VIVO revenue in 2018 plus new mid-year revenue of \$7.5k (\$15k of full year membership) because we recognize revenue per GAAP there will be no loss in revenue for 2019
Registered Service Provider Fees	\$7,000	Estimated based on VIVO revenue in 2018 (no growth)
Grants	\$0	
Other Income	\$9,000	Camp, conference. Estimated based on VIVO revenue in 2018 (no growth)
Total Income	\$232,000	
Expenses		
Direct Expenses		
Direct Salary & Benefits	\$128,693	Fixed: Andrew/Danny 50%, David 10%, Mic 10%, Erin 6%, Val 4%, Kristi 3%, Carol 1%
Outsourced Services	\$10,000	Variable: Estimated based on VIVO expenses in 2018 for Jeremy Brant (web), Asha Law (admin)
Cloud Storage & Compute	\$1,000	Variable: Estimated based on VIVO expenses in 2018
Office Expenses	\$1,000	Variable: Estimated based on VIVO expenses in 2018 for wire transfers and bank/merchant transaction fees
Travel	\$26,000	Variable: \$20K + \$6K for fly-in
Marketing & Meetings	\$1,000	Variable: Estimated based on VIVO expenses in 2018. Can be used for membership support
Miscellaneous	\$0	
Total Direct Expenses	\$167,693	
Indirect Expenses		
Indirect Common Good Salary & Benefit Allocation		Based on % of Direct Expense; Fixed: Indirect salary & benefit expense for organizational DuraSpace business functions: CEO Leadership, Membership Renewal/Program Logistics, Membership Recruitment/Development, Communications, Outreach & Marketing, Event Coordination, Business Development, Partnerships, Finance, Business Management, Human Resources.
Indirect Common Good Overhead Allocation		Based on % of Direct Expense; Fixed: Shared non-salary organizational overhead, including: external accounting/tax, legal counsel, software & subscriptions, non-project specific travel for CEO and business development/international partnership staff, membership summit, strategic retreats, communication tools, business insurance, postage, etc.
Total Indirect Expenses	\$50,308	30% of Total Direct Expenses
Total Expenses	\$218,001	
Net Income/-Loss	\$13,999	