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## Agreement between Samvera Community and DuraSpace- 2019

### Memorandum of Understanding

#### 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 that promote durable, persistent access to digital data. 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.

Samvera is an open source repository solution for digital content (“Samvera”). Samvera supports a flexible set of open source software (OSS) applications that work in conjunction with the Fedora repository software, one of DuraSpace’s open technology platforms.

Samvera software is free and open source, available under an Apache 2 license. It offers flexible and rich user interfaces tailored to distinct content types on top of a robust back end – giving adopters the best of both worlds. Samvera is based around a framework that combines four major components:

- the Fedora repository software providing a robust, durable digital repository layer for persisting and managing digital objects.
- Solr indexes, providing fast access to information about an institution’s resources.
- Blacklight, a discovery interface that sits above Solr and provides faceted searching, browsing and tailored views on objects.
- Samvera gems, a series of components built using the Ruby on Rails programming language that integrate the building blocks to form the basis of complete, flexible and extensible digital repository solutions.

The combination of the components is consciously modular to enable individual solutions to make use of alternatives if they so wish.

The Samvera Community is an unincorporated community of partners and users committed to advancing Samvera. The Samvera Community is represented by a governance body called a Steering Group.

DuraSpace and the Samvera Community each believes that there are multiple synergies between their existing communities and technologies and they wish to set forth in this Memorandum of Understanding (this "MOU") the ways in which they intend to collaborate in forging a strong community between them regarding Samvera (such collaboration 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 but instead a statement of the guiding principles under which the parties intend to work in good faith toward a productive Agreement that benefits both DuraSpace and the Samvera Community.

### **I. Tenets of the Agreement.**

The following shall be the guiding tenets of the Agreement:

1. **Mission Alignment:** DuraSpace and the Samvera Community share a commitment to provide enduring access to the world's digital heritage, create and sustain a world where information is shared, preserved, and used.
2. **Resources:** Each party will bring its member community to the Agreement. DuraSpace will bring a stable organization, financial foundation, and proven fundraising track record. The Samvera Community will sustain its efforts through in-kind and financial contributions.
3. **Mutual Support:** DuraSpace and the Samvera Community 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 strong communities and a strong organizational home for the Agreement.

### **II. Duraspace Responsibilities.**

DuraSpace's contributions to the Agreement entail the following undertakings as well as other contributions that the parties may from time to time agree upon:

1. **Business Infrastructure:** Provide a organizational and legal home for the 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. In addition, DuraSpace will:
  - a. Accept copyright assignment from University of California system institutions and any other Institutions requiring assignment be given to a third party.

2. Community Infrastructure: Provide tools to facilitate community collaboration, including wiki space, website maintenance, support, and hosting (Samvera.org), JIRA, and CRM (Zoho).
3. Executive Leadership: Executing contracts for services. Executive staff will represent Samvera's interests to negotiate and administer contracts and to identify resources, if required.
  - a. Hold, on behalf of Samvera, Contributor License Agreements and appropriate code licenses / copyright grants.
  - b. Negotiation and contracting with appropriate attorneys for trademarks.
4. Community Financial Management: Provide Samvera-specific financial services per the following:
  - a. Maintain the Samvera Community funds in a separate business unit, only to be used for the community
  - b. Disburse the Samvera Community funds at the direction of the Samvera Steering Group or its designee (including bills, expense reimbursements)
  - c. Provide community income statement bi-monthly and cash report annually to the Financial Subcommittee of the Samvera Steering Group
5. Fundraising Coordination: Coordinate logistics for fundraising including sending contributor solicitation, invoicing, managing the annual contributor renewal process (renewal notices and renewal invoices), tracking and maintaining contributor campaign progress, and invoice collection. Reporting to the Financial Subcommittee of the Samvera Steering Group.

### **III. Samvera Community Responsibilities.**

The Samvera Community's contributions to the Agreement entail the following undertakings:

1. A strategic action plan for the Samvera Community, including vision, development roadmap, resources, governance and structure, and community development.
2. Oversight of budgets by the Financial Subcommittee of the Samvera Steering Group on behalf of the Samvera Community, including approving expenditures and financial agreements having to do with the Agreement.
3. A Samvera Community fundraising strategy, plan, and execution.
4. Governance for the Samvera Community, and identification of named representatives of the Samvera Community to execute the terms of this agreement.
5. Ongoing development of Samvera, its documentation, and related tools and services.

### **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 agreed fees for the year as set out in the Appendix (plus any fees for work requested by the Samvera Community from DuraSpace under "Additional Services" as set forth below or otherwise outside the scope of this Agreement) will be transferred by DuraSpace from the Samvera Community 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 II above and V below and shall be deemed "Fees" for purposes of this MOU. Such Fees may be used by DuraSpace for working capital and such other general corporate purposes (which may or may not relate to the Agreement) as DuraSpace determines in its sole discretion to be in its best interests. The balance of such revenues shall remain in the Samvera Community 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 Samvera Steering Group. For any year of the term where there is a deficit in the Samvera Community Account, such deficit will be carried forward and applied against the Samvera Community'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 Samvera Community.
2. Execution of Contracts: DuraSpace executive leadership will represent the Samvera Community's interests in the negotiation, execution, and administration contracts consistent with the guidance provided by the Samvera Steering Group.
3. Event Support: Assistance with the logistics related to Samvera events.
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 Samvera Community funds held in the Samvera Community Account (less any Fees due to DuraSpace as set forth above and any transfer costs) to an not-for-profit entity designated by the Samvera Community Steering Group.

In the event that the Samvera Community Steering 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 Samvera Community Steering Group, then unless the Samvera Community Steering 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 the terms set forth above.

Erin Tripp, Executive Director,  
DuraSpace.



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Date January 2, 2019

Richard Green, on behalf of the  
Samvera Community Steering  
Group



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Date January 7th, 2019

**Appendix: 2019 Samvera Budget**

	2019 Proposed - Full Year		
	fixed costs*	time based/actual costs	total
DuraSpace Fixed Fee			
Affiliate fee	\$3,000	\$0	\$3,000
Technical Resources: fixed-wiki, sys admin	\$2,098	\$0	\$2,098
DuraSpace Variable Fee			
Fundraising: fixed-Zoho CRM; time based/actuals-hours for Erin & Val)	\$260	\$1,800	\$2,060
Financial Management: fixed-external accountant & systems; time based/actuals-hours for Erin & Val, wire transfer/Paypal fees	\$4,670	\$3,800	\$8,470
	<b>\$10,028</b>	<b>\$5,600</b>	<b>\$15,628</b>
Other Direct Expenses: actuals-attorney, website, consultants, etc.	\$0	as necessary	as necessary
	<b>\$10,028</b>	<b>\$5,600</b>	<b>\$15,628</b>
Where charges will be booked for 2019:			
charged to alloc o/h			\$3,000
indirect common good sal			\$2,098
indirect common good sal			\$4,670
indirect common good sal			\$260
split staff			\$5,600