

NumFOCUS Comprehensive  
FISCAL SPONSORSHIP AGREEMENT

This Agreement is made by and between NumFOCUS, Inc. (“NumFOCUS”) and FIXME-CONTRIBUTOR-NAMES (the “FIXME-SIGNATORIES”) on behalf of the project known as FIXME-PROJECT-NAME (the “Project”) (each, a “Party”; together, “the Parties”) NumFOCUS is a Texas nonprofit public benefit corporation located in Austin, Texas, which has received recognition of exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code (IRC) and classification as a public charity under IRC Sections 509(a)(1) and 170(b)(1)(A)(vi).

**WHEREAS:**

A. The organizational purpose and charitable goal of NumFOCUS is to promote the use of accessible and reproducible computing in science and technology through educational programs, support of reproducible scientific research, and promotion of open-source software development, collaborative research tools and documentation.

B. The purpose of the Project is to produce, distribute, document, and improve software and/or documentation that can be freely copied, modified and redistributed, and for which modified versions can also be redistributed (“Open Source Software”), and to facilitate and organize its production, improvement and ease of use. This will further the exempt purpose of NumFOCUS as being formed for charitable, educational and scientific purposes.

C. NumFOCUS desires to act as the fiscal sponsor of the Project beginning on the Effective Date (as defined below) to assist the Project in accomplishing its purpose, which NumFOCUS has determined will further the exempt purpose of NumFOCUS as being formed for charitable, educational and scientific purposes. The FIXME-SIGNATORIES desire to manage the Project under the sponsorship of NumFOCUS.

D. The Board of Directors of NumFOCUS have approved the establishment of a fund to receive donations of cash and other property from any funding source earmarked for support of the Project and to make disbursements in furtherance of the Project’s mission (the “Project Fund”). All donations from funding sources including those listed in §A above would be the property of NumFOCUS and all funds received would need to be made to NumFOCUS. Currently, the principal office of the Project is located at: [FIXME- MAILING ADDRESS]

**NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:**

**1. Fiscal Sponsorship Relationship.** In this Comprehensive Fiscal Sponsorship Relationship, the Project becomes a fully integrated program of NumFOCUS who maintains all legal and fiduciary responsibility for the Project and its employees. Any work product will be made available under a OSI approved license for the public's benefit. NumFOCUS assures all funding sources including private foundations, government agencies, individual donors and corporate donors that funds will be used to carry out the tax exempt purposes of NumFOCUS through the provisions stated forth in this agreement.

**2. Term of Agreement.** As of the Effective Date, the Project joins NumFOCUS, which relationship will continue unless and until terminated as set forth below.

**3. Project Management and Activities.**

a. **The Project Will Be Open-Source Software.** NumFOCUS and the Project agree that any software distributed by the Project will be distributed solely as Open-Source Software.

b. **The FIXME-LEADERSHIP-BODY-NAME Will Manage the Project.** Authority to manage the technical and artistic direction of the Project and the program activities of the Project is delegated to the FIXME-LEADERSHIP-BODY-NAME as defined in §10 of this Agreement. The Board of Directors of NumFOCUS will intervene in the program activities only to the extent the Project is not in compliance with §3(a) or §6 of this Agreement.

c. **NumFOCUS Activities on Behalf of the Project.** Subject to §3(b) of this Agreement, all community programs, fundraising events, processing and acknowledgment of cash and noncash revenue items, accounts payable and receivable, negotiation of leases and contracts, disbursement of Project funds (including grants), and other similar activities planned by the Project shall be the ultimate responsibility of NumFOCUS and shall be conducted by NumFOCUS or by the FIXME-LEADERSHIP-BODY-NAME with oversight from the Board. These and other services provided by NumFOCUS are described in §4.

d. **The Project Will Maintain Its Own Branding.** Notwithstanding §3(c), the project can maintain its own independent branding and name recognition. NumFOCUS should be acknowledged as the fundraising agent or sponsor of the project.

e. **The FIXME-LEADERSHIP-BODY-NAME Acting on Behalf of NumFOCUS.** When raising money for the project the FIXME-LEADERSHIP-BODY-NAME is acting on behalf of NumFOCUS and subject to Board of Director oversight.

**4. Services.** As a comprehensively-supported NumFOCUS project, the Project and the FIXME-LEADERSHIP-BODY-NAME will have access to specific services from NumFOCUS as outlined (but not limited to) below:

a. Fundraising Events. NumFOCUS will assist with marketing, promotion, and execution of fundraising events both generally (for which the Project may receive benefit) or specifically for the project as requested.

b. Banking Services. NumFOCUS will maintain a general banking account in order to process cash, check, and wire donations, make and receive payments for and in-behalf of the Project. The accounting records of NumFOCUS will document how much is available in the restricted fund for the Project.

c. Asset Services. NumFOCUS will hold assets such as domain names, computers, intellectual property, and in-kind donations for and in-behalf of the project as requested by the Project.

d. Administrative Services. NumFOCUS will provide accounting services, acknowledgement of cash and non-cash revenue items, and any accounts payable and receivable handling.

e. Limited Liability Protection. The Parties agree that the FIXME-LEADERSHIP-BODY-NAME and other volunteers working for the Project will receive liability protection as volunteers for a US public charity under 42 U.S. Code Secs. 14501 - 14505 (“the Volunteer Protection Act”).

f. Legal Services. NumFOCUS will provide access to the names of competent legal counsel that we have worked with in the past. NumFOCUS will also protect any assets such as domain names and intellectual property donated to NumFOCUS or provide help for other legal matters.

g. Marketing Services. NumFOCUS will market the project on its web page.

h. Negotiation of leases and contracts. NumFOCUS will act as the legal entity for the Project in negotiations and contracts.

i. Disbursement of Project funds (including grants). NumFOCUS will act as the legal and banking agent writing checks and wiring money as requested by the FIXME-LEADERSHIP-BODY-NAME with ultimate oversight by the Board of Directors.

These services will be provided commensurate with the amount of funds collected by the project via fees outlined in §5.

**5. Fees.** In order to defray the costs to NumFOCUS of administering the restricted fund, NumFOCUS shall deduct an administrative charge equal to a percentage of any donation designated for purposes of the Project. The schedule of such administrative charges is as follows:

- a. if less than \$150,000 has been raised across all contributions in total for the purposes of the Project: 7%;
- b. if at least \$150,000 but less than \$500,000 has been raised across all contributions in total for the purposes of the Project: 6% if the donation is made by check or 7% if the donation is made by credit card and/or online;
- c. if at least \$500,000 but less than \$1,000,000 has been raised across all contributions in total for the purposes of the Project: 5% if the donation is made by check or 7% if the donation is made by credit card and/or online;
- d. if \$1,000,000 or more has been raised across all contributions in total for the purposes of the Project: 4% if the donation is made by check or 7% if the donation is made by credit card and/or online.

An administrative charge shall be assessed, recorded, and deducted each time a donation is received into the restricted fund or received by the Project acting as agent for NumFOCUS under the terms of Paragraph 10. NumFOCUS may additionally, at its sole discretion, deduct from the restricted fund any special or unusual costs it incurs in administering the restricted fund (such as bank penalty fees resulting from a Donor's bounced check). Any interest earned on amounts held in the restricted fund shall be retained in NumFOCUS's general fund.

**6. Taxes.** Notwithstanding the above, the FIXME-SIGNATORIES agree that should NumFOCUS be required to pay any taxes (including but not limited to sales taxes and unrelated business taxable income) as the result of any activity of the Project and/or activities undertaken by NumFOCUS on the Project's behalf, such taxes shall be deducted from the Project Fund.

NumFOCUS will monitor any unrelated business taxable income and may require the Project to cease activities generating such income if the overall amounts exceed amounts permissible or prudent for NumFOCUS, given NumFOCUS's tax-exempt status.

**7. Project Fund/Variance Power.** Beginning on the Effective Date, NumFOCUS shall place all gifts, grants, contributions and other revenues received by NumFOCUS and identified with the Project into a Project Fund to be used for the sole benefit of the Project's mission as that mission may be defined by the FIXME-LEADERSHIP-BODY-NAME from time to time with the approval of NumFOCUS. NumFOCUS retains the unilateral right to spend such funds so as to accomplish the purposes of the Project as nearly as possible within NumFOCUS's sole judgment,

subject to any donor imposed restrictions, as to purpose, on the charitable use of such assets. The parties agree that all money, and the fair market value of all property, deposited in the Project Fund be reported as the income of NumFOCUS, for both tax purposes and for purposes of NumFOCUS's financial statements. It is the intent of the parties that this Agreement be interpreted to provide NumFOCUS with variance powers necessary to enable NumFOCUS to treat the Project Fund as NumFOCUS's asset in accordance with Interpretation No. 42 of Statement No. 116 issued by the Financial Accounting Standards Board, while this Agreement is in effect.

**8. Project Fund Management / Performance of Charitable Purposes.** All of the assets received by NumFOCUS under the terms of this Agreement shall be devoted to the purposes of the Project, within the tax exempt purposes of NumFOCUS. The Project agrees not to use its funds or operate in any way which would jeopardize the tax-exempt status of NumFOCUS. No item of revenue shall be earmarked for use in any attempt to influence legislation within the meaning of IRC Section 501(c)(3) and no agreement, oral or written, to that effect shall be made between NumFOCUS and any revenue source. NumFOCUS shall not use any portion of the assets to participate or intervene in any political campaign on behalf or in opposition to any candidate for public office, to induce or encourage violations of law or public policy, to cause any private inurement or improper private benefit to occur, nor to take any other action inconsistent with IRC Section 501(c)(3).

**9. Funding Dispersal Request.** The Project may request funding, for a purpose in accordance to the specifications stated in §7, by filling out a Request for Funding Dispersal form.

**10. Representation of the Project in NumFOCUS.** The FIXME-SIGNATORIES, each a signatory hereto, hereby establish and comprise the initial members of the FIXME-LEADERSHIP-BODY-NAME to carry out the Project's activities as stated in §3. The FIXME-SIGNATORIES acknowledge that the FIXME-LEADERSHIP-BODY-NAME shall be subject to all of the terms of this Agreement. As of the effective date of this Agreement, the FIXME-SIGNATORIES hereby transfer all rights, benefits, obligations, and privileges under this Agreement to the FIXME-LEADERSHIP-BODY-NAME.

The FIXME-LEADERSHIP-BODY-NAME agrees that existing FIXME-LEADERSHIP-BODY-NAME members can be removed from and new members can be added by simple majority vote of the existing FIXME-LEADERSHIP-BODY-NAME. The FIXME-LEADERSHIP-BODY-NAME shall have a minimum of three (3) members. All decisions by the FIXME-LEADERSHIP-BODY-NAME shall be made by simple majority.

**11. Conflict of Interest of the FIXME-LEADERSHIP-BODY-NAME.** A majority of the FIXME-LEADERSHIP-BODY-NAME should not be employed by the same entity or share a common affiliation beyond that of the Project. Since many specific situations may arise, the

FIXME-LEADERSHIP-BODY-NAME should inform the Board of Directors in writing of any possible conflict of interest as soon as such potential conflict is present. The Board of Directors will then determine (by majority vote) whether or not a conflict of interest does exist and may require the FIXME-LEADERSHIP-BODY-NAME to replace members.

**12. Direct Communication of the Project with NumFOCUS.** Communication between the Project and NumFOCUS will be carried out via a single representative of the FIXME-LEADERSHIP-BODY-NAME. The name of the representative and an alternate contact, to be used if at any time NumFOCUS is unable to reach the representative, shall hereby be submitted to NumFOCUS upon the signing of this agreement.

**13. Outstanding Liabilities.** FIXME-LEADERSHIP-BODY-NAME represent that any liabilities that may be outstanding in connection with the Project have been disclosed to NumFOCUS.

**14. Termination.** The FIXME-LEADERSHIP-BODY-NAME or NumFOCUS may terminate this Agreement at any time subject to the following understandings:

**a. Notice and Successor Search.** Either NumFOCUS or the FIXME-LEADERSHIP-BODY-NAME may terminate this Agreement on 60 days' written notice to the other party, so long as a Successor can be found that meets the following requirements:

- i.** the Successor is another nonprofit corporation which is tax exempt under IRC Section 501(c)(3),
- ii.** the Successor is not classified as a private foundation under Section 509(a),
- iii.** the Successor is willing and able to sponsor the Project, and
- iv.** the Successor is approved in writing by both parties by the end of the 60 day period, such approval not to be unreasonably withheld.

**b. Additional Search Periods.** If the parties cannot agree on a Successor to sponsor the Project, the FIXME-LEADERSHIP-BODY-NAME shall have an additional 60 days to find a Successor willing and able to sponsor the Project. Upon written agreement of the parties, the FIXME-LEADERSHIP-BODY-NAME shall have further additional periods in which to find a Successor. Such periods will be of a duration agreed to by the parties.

**c. Transfer to a Successor.** If a Successor is found, the balance of assets in the Project Fund, together with any other assets held or liabilities incurred by NumFOCUS in connection with the Project, shall be transferred to the Successor by the end of the notice period or any extension thereof, subject to the approval of any third parties that may be required. If the Project has formed a new organization qualified as a Successor as set forth in this Section, such organization shall be eligible to receive all such assets and liabilities so long as such organization

has received a determination letter from the Internal Revenue Service, indicating that such qualifications have been met, no later than the end of the notice period or any extension thereof.

**d. Termination Without a Successor.** If no Successor is found, NumFOCUS may dispose of the Project assets and liabilities in any manner consistent with applicable tax and charitable trust laws.

**15. Miscellaneous.** Each provision of this Agreement shall be separately enforceable, and the invalidity of one provision shall not affect the validity or enforceability of any other provision. This Agreement shall be interpreted and construed in accordance with the laws of the State of Texas. This Agreement constitutes the only agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This Agreement may not be amended or modified, except in writing and signed by all parties to this Agreement.

**16. Amendments.** This Agreement may not be amended or modified, except in writing and signed by both NumFOCUS and the entirety of the FIXME-LEADERSHIP-BODY-NAME.

**17. Counterparts / Facsimile.** This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which, when together, shall constitute but one and the same instrument, and shall become effective when one or more counterparts have been signed by each party hereto and delivered to the other party. In lieu of the original, a facsimile transmission or copy of the original shall be as effective and enforceable as the original.

**IN WITNESS WHEREOF, the parties have executed this Fiscal Sponsorship Agreement which will become effective when all the parties have signed it. The date this agreement is signed by the last party (as indicated by the date associated with that party's signature) will be deemed the date of this agreement.**

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NumFOCUS, Inc.  
Andy Terrel, Board President

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Date

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FIXME-SIGNATORY:

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Date

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FIXME-SIGNATORY:

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Date

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FIXME-SIGNATORY:

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Date