

## PSL Foundation Fiscal Sponsorship Agreement

This Fiscal Sponsorship Agreement (this “Agreement”) is made and entered into effective as of \_\_\_\_\_, 20\_\_ (the “Effective Date”) by and between PSL Foundation, a South Carolina nonprofit corporation located in Columbia, South Carolina, that has applied for 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) (“PSL Foundation”), and TOUUPDATE:-CONTRIBUTOR-NAMES, with a mailing address of \_\_\_\_\_ (the “TOUUPDATE:-SIGNATORIES”) on behalf of the project known as TOUUPDATE:-PROJECT-NAME (the “Project”) (each a “Party”, together, “the Parties”).

### **WHEREAS:**

- A. The organizational purpose and charitable goal of PSL Foundation is to support the Policy Simulation Library and to otherwise advance accessible and reproducible computing in the analysis of public policy.
- B. The purpose of the Project is to produce, distribute, document, and/or improve open source software for modeling public policy, prepare data for public policy analysis or provide other open source software tools for public policy analysis. This will further the exempt purpose of PSL Foundation as being formed for charitable, educational and scientific purposes.
- C. PSL Foundation desires to act as the fiscal sponsor of the Project beginning on the Effective Date to assist the Project in accomplishing its purpose, which PSL Foundation has determined will further the exempt purpose of PSL Foundation as being formed for charitable, educational, and scientific purposes. The TOUUPDATE:-SIGNATORIES desire to manage the Project under the sponsorship of PSL Foundation.
- D. The Board of Directors of PSL Foundation 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 PSL Foundation and all funds received would need to be made to PSL Foundation.

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

**1. Fiscal Sponsorship Relationship.** Any work product of the Project will be made available under an OSI approved license or Creative Commons Public Domain Dedication (CC0) for the public's benefit. PSL Foundation 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 PSL Foundation through the provisions stated forth in this agreement.

**2. Term of Agreement.** As of the Effective Date, the Project becomes a sponsored project of the PSL Foundation, 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. PSL Foundation and the Project agree that any software distributed by the Project will be distributed solely as Open-Source Software.

b. The Project manages its own activities, including the technical and artistic direction. The Board of Directors of PSL Foundation 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. The Project Will Maintain Its Own Branding. The Project can maintain its own independent branding and name recognition. PSL Foundation should be acknowledged as the fundraising agent or sponsor of the Project. TOUPDATE:-SIGNATORIES acknowledge and agree that the names, marks, logos, slogans, and designs by which PSL Foundation is known, identified, and publicized (collectively, the "PSL Marks") are and share remain the sole and exclusive property of PSL Foundation and that, except as expressly consented to in writing by PSL Foundation, TOUPDATE:-SIGNATORIES shall have no right to use the PSL Marks.

**4. Services.** As a supported PSL Foundation project, the Project will have access to specific services from PSL Foundation as outlined (but not limited to) below:

a. Fundraising Events. PSL Foundation will use commercially reasonable efforts to assist with marketing, promotion, and execution of fundraising events both generally (for which the Project may receive benefit) or specifically for the Project as reasonably requested from time to time.

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

c. **Asset Services.** PSL Foundation will hold assets such as domain names, computers, intellectual property, and in-kind donations for and on behalf of the Project as reasonably requested by the Project.

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

e. **Marketing Services.** PSL Foundation will use commercially reasonable efforts to market the Project on its web page.

f. **Disbursement of Project funds (including grants).** PSL Foundation will act as the legal and banking agent writing checks and wiring money as requested by the Project 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 PSL Foundation of administering the restricted fund, PSL Foundation 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 when fundraising on behalf of PSL Foundation. PSL Foundation 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 PSL Foundation's general fund.

Contributions that are transfers of stock or other financial securities will be treated as donations made by check for the purposes of the fees described above.

**6. Taxes.** Notwithstanding the above, the TOUUPDATE:-SIGNATORIES agree that should PSL Foundation 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 PSL Foundation on the Project's behalf, such taxes shall be deducted from the Project Fund.

PSL Foundation 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 PSL Foundation, given PSL Foundation's tax-exempt status.

**7. Project Fund/Variance Power.** Beginning on the Effective Date, PSL Foundation shall place all gifts, grants, contributions, and other revenues received by PSL Foundation 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 TOUUPDATE:-PROJECT-NAME from time to time with the approval of PSL Foundation. PSL Foundation retains the unilateral right to spend such funds so as to accomplish the purposes of the Project as nearly as possible within PSL Foundation'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 PSL Foundation, for both tax purposes and for purposes of PSL Foundation's financial statements. It is the intent of the parties that this Agreement be interpreted to provide PSL Foundation with variance powers necessary to enable PSL Foundation to treat the Project Fund as PSL Foundation'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 PSL Foundation under the terms of this Agreement shall be devoted to the purposes of the Project, within the tax-exempt purposes of PSL Foundation.

The Project agrees not to use its funds or operate in any way which would jeopardize the tax-exempt status of PSL Foundation. 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 PSL Foundation and any revenue source. PSL Foundation 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 Disbursal Request.** The Project may request funding, for a purpose in accordance with the specifications stated in §7, by providing a written request including documentation regarding the purposes for which the funds will be used, including any relevant receipts or other information.

**10. Direct Communication of the Project with PSL Foundation.** Communication between the Project and PSL Foundation will be carried out via a single representative of the Project. The name of the representative and an alternate contact, to be used if at any time PSL Foundation is unable to reach the representative, shall hereby be submitted to PSL Foundation upon the signing of this agreement. The Project may change the designated contact at any time, upon written notice to PSL Foundation.

**11. Outstanding Liabilities.** TOUUPDATE:-PROJECT-NAME represent that any liabilities that may be outstanding in connection with the Project have been disclosed to PSL Foundation.

**12. Termination.** The TOUUPDATE:-PROJECT-NAME or PSL Foundation may terminate this Agreement at any time subject to the following understandings:

a. Either Party may terminate this Agreement at any time by providing the other Party with at least thirty (30) days' prior written notice.

b. If PSL Foundation determines that TOUUPDATE:-SIGNATORIES are in breach of this Agreement, then PSL Foundation may terminate this agreement immediately on written notice to TOUUPDATE:-SIGNATORIES, including, but not limited to, if PSL Foundation believes, in its reasonable discretion, that the Project is in violation of Section 8 of this Agreement.

c. Upon any termination of this Agreement pursuant to Section 12(a) or 12(b), PSL Foundation shall have no further obligations to the Project.

**13. 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 South Carolina. 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.

**14. Indemnification.** To the fullest extent permitted by applicable law, TOUPDATE:-SIGNATORIES share, and do hereby, indemnify, defend, and hold harmless PSL Foundation and its directors, officers, and employees (collectively, the "Indemnitees") from and against any and all claims, losses, liabilities and damages, including, but not limited to, reasonable attorney's fees and court costs, whether incurred at trial, on appeal, or otherwise (collectively, "Losses"), that the Indemnitees, or any of them, may suffer, pay, or incur as a result of: (i) any breach of this Agreement by the Project; or (ii) the negligence or willful misconduct of the Project or its employees, agents, or contractors.

**15. Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PSL FOUNDATION OR ITS DIRECTORS, OFFICERS, OR EMPLOYEES BE LIABLE TO THE PROJECT OR ITS REPRESENTATIVES (A) FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES AS A RESULT OF THE PERFORMANCE OR ANY DEFAULT IN THE PERFORMANCE OF THEIR RESPECTIVE OBLIGATIONS UNDER THIS AGREEMENT; OR (B) IN AN AMOUNT GREATER THAN THE TOTAL DONATIONS RECEIVED BY PSL FOUNDATION THAT ARE SPECIFICALLY ALLOCATED TO THE PROJECT.

**16. Venue; Jurisdiction.** Except for injunctive relief sought by PSL Foundation, which may be brought in a court of competent jurisdiction in any state of the United States of America, or in any foreign country anywhere in the world, all claims, disputes or controversies whatsoever arising out of or related to this Agreement in any way, shall be commenced, filed, and litigated before a court of competent jurisdiction in Richland County, South Carolina, or if the federal court has exclusive jurisdiction in any such claim, dispute, or controversy, it shall be commenced, filed, and litigated in the U.S. District Court for South Carolina, Columbia Division. TOUPDATE:-SIGNATORIES hereby submit to the personal jurisdiction of state and federal courts as herein provided, and any courts of appeal therefrom, and waives any objection (on the grounds of lack of jurisdiction, or forum non conveniens, or otherwise) to the exercise of jurisdiction by any such courts.

**17. Amendments.** This Agreement may not be amended or modified, except in writing and signed by both PSL Foundation and the entirety of the TOUPDATE:-SIGNATORIES.

**18. 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 as of the date first above written.**

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PSL Foundation

Jason DeBacker, Board President

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Date

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TOUPDATE:-SIGNATORY:

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Date

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TOUPDATE:-SIGNATORY:

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Date