

Collaboration Agreement - Code Refinery Sustainability Phase

THIS COLLABORATION AGREEMENT is made on March 1st, 2022, hereinafter referred to as the Effective Date

BETWEEN:

NeIC represented by NordForsk (NO ID: 971 274 255), Stensberggata 25, NO 0170 Oslo, Norway – hereafter referred to as the “Project Owner” and

Aalto – Aalto University School of Science (Science-IT project), PO Box 15400, FI-00076 Espoo, Finland,

Aarhus University, **CHCAA** - Center for Humanities Computing Aarhus -, (CVR: 311 19 103, EAN: 5798000555297)Denmark, Jens Chr. Skous Vej 4, Building 1483, 3rd floor, DK - 8000 Aarhus C.

CLAAUDIA - Aalborg University, (CVR:, EAN:), Fredrik Bajers Vej 7K, DK - 9220 Aalborg Øst.

CSC – IT Center for Science Ltd, (FI ID: 0920632-0), P.O.Box 405, FI 02101 Espoo, Finland,

DeiC – Danish e-infrastructure cooperation, (CVR : 30 06 09 46, EAN: 5798000430686), DTU, Anker Engelunds Vej 1, DK 2800 Kgs. Lyngby,

ENCCS - EuroCC National Competence Center Sweden, Teknikringen 31, 114 28 Stockholm, Sweden

ETAIS - Estonian Scientific Computing Infrastructure - University of Tartu, Ülikooli 18a, 51014, Tartu, Estonia, acting as Lead Partner of ETAIS,

SNIC - The Swedish National Infrastructure for Computing, represented by Uppsala University (Organisation registration number: 202100-2932) P.O. Box 256, SE-751 05 Uppsala, Sweden,

Sigma2 AS, (NO ID: 887 625 352) Abels gate 5 – Teknobyen, Trondheim, Norway,

USIT - University Center for Information Technology, University of Oslo, Gaustadalléen 23A, 0373 Oslo, Norway.

hereinafter, jointly or individually, referred to as “Parties” or “Party”

relating to the Project entitled

Code Refinery Sustainability Phase

in short

Code Refinery 3

hereinafter referred to as “Project”

The Parties HEREBY AGREE AS FOLLOWS:

1. Section: Definitions

1.1 Definitions

“**Background**” means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that is:

- held by a Party before it accedes to the Agreement and
- needed to implement the Project or exploit the Results.

“**Defaulting Party**” means a Party which the Steering Group has identified to be in breach of this Collaboration Agreement as specified in Section 4.4 of this Collaboration Agreement.

“**Open Source**” is software and materials made available under a copyleft license, such as Creative Commons CC BY 4.0 or similar.

“**Steering Group**” is the decision-making authority defined in Section 6.

“**Project directive**” is a mandatory steering document for the project work and serves as project description until approval of the **Project Plan**. The purpose of the project directive is to provide a basis and pre-conditions for starting the project, and setting time and cost frameworks for the preparation work. The project directive is approved by the Steering Group. In the absence of a project directive, the **Project proposal** serves as the project directive.

“**Project manager**” carries out the project and its result within the framework of the project directive or the Project Plan. Responsibilities include ensuring that the organisation and working methods are suitable, documented and clear; maintaining an active requirements dialogue with reference groups; providing regular progress reports for the project; and leading project work toward deliveries and successful completion.

“**Project Plan**” is an agreement between the Project Manager and the Project Owner, covering the execution of the project. The Project Plan is drafted by the Project Manager and approved by the Steering Group. Once approved by the Steering Group it replaces the Project Proposal (Attachment 1) as the valid project description.

“**Project proposal**” means the proposal submitted under proposal number #108705 CodeRefinery (sustainability phase)

“**Publication**” The public disclosure of the Results, expected benefits and results by appropriate means, other than resulting from protecting or exploiting the Results, including by scientific publications in any medium.

“**Results**” means all work, outcomes, outputs and intellectual property in relation to the Project that has been created, discovered or brought into existence by a person employed with or allocated by a Party to the Project as a result of or in connection with the Project.

“**Software**”: Background or Results, which may enjoy protection as software under the generating Party’s law and not protected as an invention.

Third Party: An individual or entity other than the Parties.

2. Section 2: Purpose

The purpose of this Collaboration Agreement is to specify with respect to the Project the relationship amongst the Parties, in particular concerning the organisation of the work between the Parties, the management of the Project and the rights and obligations of the Parties concerning inter alia liability and dispute resolution.

3. Section 3: Entry into force, duration and termination and withdrawal

3.1 Entry into force

An entity becomes a Party to this Collaboration Agreement upon signature of this Collaboration Agreement by a duly authorised representative.

The Collaboration Agreement shall have effect from the Effective Date identified at the beginning of this Collaboration Agreement.

3.2 Duration and termination

This Collaboration Agreement shall continue in force and effect until complete fulfilment of all obligations undertaken by the Parties under this Collaboration Agreement.

However, the participation of one or more Parties to it may be terminated in accordance with the terms of this Collaboration Agreement, as follows:

- A Party may terminate its involvement in this Agreement if another Party commits a material breach of the obligations set out in the Agreement, by giving a written notice to the other Parties of the intention to terminate. The notice shall include a detailed statement describing the nature of the breach. If the breach is remedied within a period of 30 – thirty – days after delivery of the notice, the termination shall not take effect. The decision as to whether the breach is remedied is to be taken by the Steering Group upon consultation of the Project Owner.
- The Parties' compliance with funding requirements in Attachment 2 requires that the Parties receive the necessary funds from their respective authorities. A Party that cannot comply can terminate this agreement with a 3 – three – months' written notice.

The Project Owner may terminate the agreement with a 3 – three – months' written notice based on a decision of termination by the Steering Group.

3.3 Withdrawal

If any Party considers it necessary to withdraw its participation, it will promptly, and with a notice of no less than three (3) months prior to the effective date of the withdrawal, notify the other Parties and the matter will be subject to immediate consultation among the Parties to enable them to fully evaluate the consequences.

The withdrawing Party will continue its participation financial and otherwise, until the effective date of withdrawal.

At the request of the other Parties, the withdrawing Party will take all the necessary actions within its control to ensure that the project can be continued by the remaining Parties.

4. Section 4: Responsibilities of Parties

4.1 General principles

Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfill, promptly and on time, all of its obligation under this Collaboration Agreement as may be reasonably required from it.

Each of the Parties shall perform the activity, if any, that the Party in question has undertaken pursuant to the Project Description, and/or provide the financial support specified in Attachment 2.

Each Party undertakes to notify promptly, in accordance with the governance structure of the Project, any significant information, fact, problem or delay likely to affect the Project.

Each Party shall promptly provide all information and documentation reasonably required by the Steering Group, the Project Owner or the Project Manager to carry out its tasks. Each Party shall take all reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

All research activities conducted in the framework of this Agreement shall be done in compliance with all applicable national laws, regulations, and guidelines of the countries and institutions in which the research is conducted. The Parties agree and understand that each of the Parties may be subject to internal policies.

For the avoidance of doubt, each Party is solely responsible for the planning and conduction of the research work allocated to it in the Project in accordance with said Party's internal rules.

4.2 Conflict of Interest

The Parties shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Project is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest or research misconduct ('Conflict of Interests'). In case a Steering Group member becomes or is made aware of any circumstances constituting or likely to lead to a Conflict of Interest in the Project, the Project Manager and the Parties shall be notified without delay. The Parties shall then immediately take all the necessary steps to rectify this situation.

4.3 Involvement of Third Parties

With the approval of the Steering Group, a Party may assign parts of the activity for which it is responsible to an appropriate subcontractor. A Party that enters into a subcontract or otherwise involves a Third Party in the Project remains responsible for carrying out its relevant part of the Project and for such Third Party's compliance with the provisions of this Collaboration Agreement. It has to ensure that the involvement of Third Parties does not affect the rights and obligations of the other Parties under this Collaboration Agreement, and the relevant Party must ensure the necessary transfer of intellectual property rights if and to the extent it is possible under applicable law of the generating Party.

4.4 Financial obligations

The Parties' financial obligations are specified in Attachment 2. The Project Owner will remind the other Parties about their funding obligations if needed. Money streams are following the budget (Attachment 2) and eventual transferred responsibilities. Payments between the Parties are made once per three or per four months as agreed between the relevant Parties.

In accordance with the Attachment 2, each Party shall defray own costs for its own work and no Party shall pay a financial contribution to the other.

4.5 Breach

In the event that the Steering Group identifies a breach by a Party of its obligations under this Collaboration Agreement, the Project owner will give formal notice to such Party requiring that such breach will be remedied within 30 calendar days from the date of receipt of the written notice by the Party.

If such breach is substantial and is not remedied within that period or is not capable of remedy, the Steering Group may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof which may include termination of the Defaulting Party's participation.

5. Section 5: Liability towards each other

5.1 No warranties

In respect of any Background or Results supplied by one Party to another under the Project, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties. Therefore, the recipient Party shall in all cases be entirely and solely liable for the use to which it puts such information and materials.

5.2 Limitations of contractual liability

The parties have no liability towards each other for damages or losses of any kind related to this Collaboration Agreement, unless the damages were caused by wilful conduct or gross negligence. Each Party shall be solely liable for any loss, damage or injury to Third Parties resulting from its actions under this Collaboration Agreement or from its use of a Result.

The terms of this Collaboration Agreement shall not be construed to amend or limit any Party's statutory liability.

6. Section 6: Governance structure

6.1 General structure

The organisational structure of the Collaboration shall comprise the following Bodies: Steering Group and Project Manager.

The project is governed by a Steering Group appointed by the Parties in accordance with provision 6.4 in this Agreement, with authority to make decisions on behalf of the Parties within the project.

The Project Owner appoints a Project Manager. The Project Manager reports to the Steering Group.

6.2 Responsibilities of the Project Manager

The Project Manager is responsible for managing the project and its resources in accordance with this Collaboration Agreement and the guidelines given by the Steering Group.

The Project Manager carries out the project and its result within the framework of the Project Proposal or the Project Plan. Responsibilities include ensuring that the organisation and working methods are suitable, documented and clear; maintaining an active requirements dialogue with reference groups; providing regular progress reports for the project; and leading project work toward deliveries and successful completion.

6.3 Responsibilities of the Steering Group

The Steering Group has the following responsibilities:

Ensure the success of the project, by

- Understanding and communicating the expected benefit.
- Ensuring that the results contribute to the expected benefit.
- Making decisions in Steering Group meetings.
- Making decisions regarding issues where project management has no authority.
- Deciding on the formulation of the Project Plan, changes to the project and related infrastructure
- Monitoring the project with regard to the Project Plan
- Receiving and deciding on approval of reports, deliveries and transfers of deliverables to operations.
- Understanding the responsibilities associated with the task and reserve sufficient time to execute them.
 - In the event that a responsible Party does not perform the agreed activity in a satisfactory manner, as well as on request by a Party who expects to be unable to perform in such a way in the future, the Steering Group may decide to transfer responsibility for the work in whole or in part to one or more of the other Parties, based on specified terms and conditions, given consent of the Party or Parties to whom the responsibility is transferred.
 - In order to render more concrete and follow up the measures in the Project Proposal, a Project Plan shall be adopted by the Steering Group within 6 months of project start-up. The Project Plan stipulates the obligations of the various Parties. The revised annual Project Plan also forms the basis for reports to be submitted to the Project Owner.

Being the formal link between Project and operations, by

- Identifying changed prerequisites in operations.
- Taking care of effects in home organisations.
- Priorities and connections to other projects and activities.
- Securing outer dependencies of the Project, outer prerequisites outside the authority of project management.
- Ensuring formal personnel issues are handled.
- Communicating the expected benefits and results of the project.

Actively supporting the Project Manager, by

- Marketing the project and acting as its ambassador.
- Being available, and acting as a “sounding board” between Steering Group meetings.
- Staying constantly informed about the project’s status.

Ensure availability, competencies and quality for the resource categories concerned.

6.4 Members of the Steering Group

Each of the Parties is entitled to appoint one member to the Steering Group (hereinafter referred to as Steering Group Member). The Parties may unanimously agree to appoint additional members of the Steering Group, including a major stakeholder, who agree to deliver something to the project. One Steering Group Member may represent several Parties by formal power of attorney.

The chair of the Steering Group is assigned by the Project Owner unless the Steering Group unanimously appoint another chairperson. The Project Manager may partake in the Steering Group meetings, but do not have a vote.

Each Steering Group Member shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters related to the Project on behalf of the Party or Parties it represent.

6.5 Representation in meetings

Any Steering Group Member

- should be present or represented at any meeting
- may appoint a substitute or a proxy to attend and vote at any meeting

and shall participate in a cooperative manner in the meetings.

6.6 Preparation and organisation of meetings

The Project Manager will summon the Steering Group to meetings with reasonable notice, usually no less than two weeks prior to the meeting date. The convening letter should be accompanied by an agenda and the documentation needed to deal with the items on the agenda. Decisions, recommendations and discussions of the meetings are recorded in proceedings that are made available to the Parties.

The Steering Group chair chairs the meeting, but can delegate the chairing of the whole meeting or particular agenda items to another person being present. If the Steering Group chair is not present, the Steering Group selects a meeting chair among the ones being present.

6.7 Voting rules and quorum

The Steering Group shall not deliberate and decide validly unless one half ($1/2$) of its Members are present or represented (quorum). If the quorum is not reached, the chair of the Steering Group or the Project Manager shall convene another meeting within due time. If in this meeting the quorum is not reached once more, the chairperson shall convene an extraordinary meeting which shall be entitled to decide even if less than the quorum of Members are present or represented.

Each Party present or represented in Steering Group meeting shall have one vote.

Decisions shall be taken by a majority of two-thirds ($2/3$) of the votes cast. Voting rules may be refined and approved unanimously by the Steering Group.

The Parties agree to abide by all decisions of the Steering Group. A Party, which can show that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely affected by a decision of a Consortium Body, may exercise a veto with respect to the corresponding decision or relevant part of the decision for said Party.

7. Section 7: Human resources, personal data and publication

7.1 Responsibility for human resources and agreements with employees and other affiliated Parties, including data processors

The Parties will sign necessary agreements with owners, employees (including individuals with dual employment), Parties, sub-contractors, and others that are required to fulfill the relevant Party's obligations under this agreement, including measures to ensure the necessary transfer of intellectual property rights.

The national laws and regulations on general data protection apply. NeIC adheres to NordForsk's data protection policy. Some of the offered services or surveys might list separate privacy policies. Where necessary, the Parties shall conclude a separate data processing, data sharing and/or joint controller agreement before any data processing or data sharing takes place

7.1 Publication of Results

The Parties must publish their Results as soon as feasible, in a publicly available format, subject to any restrictions due to the protection of intellectual property, security rules or legitimate interests. Publication and authorship shall follow the rules laid down in the Vancouver Protocol. Substantial contributions to the work shall always be disclosed accordingly. Each Party is entitled to comment on the academic contents of the draft as well as suggest specific amendments, provided, however, that each authoring Party alone shall decide the final wording and content of its own text

Publishing of the Results owned solely by another Party shall require that Party's consent. Results jointly owned by two or more Parties can be published jointly by the Parties, or, in the case that one Party does not wish to participate in the publication, the other Party/ Parties as the case may be shall be entitled to publish on its/their own.

A Party who wishes to publish Results generated under this Agreement shall notify the other relevant Parties its results must give at least 15 days advance notice to the other Parties (unless agreed otherwise), together with sufficient information on the results it will disseminate.

Any other Party may object within (unless agreed otherwise) 15 days of receiving notification, if it can show that its legitimate interests in relation to the Results or Background would be significantly harmed. If no objection is made within the time limit stated above, the publication is permitted.

8 Section 8: Results and Access Rights

8.1 Ownership of Results

Results are owned by the Party, or its employee(s) if applicable, that generates them.

8.2 Joint ownership

Two or more Parties, or its employees if applicable, own Results jointly if:

- (a) they have jointly generated them and
- (b) it is not possible to:
 - (i) establish the respective contribution of each Party, or
 - (ii) separate them for the purpose of applying for, obtaining or maintaining their protection

Unless otherwise agreed:

- each of the joint owners shall be entitled to use their jointly owned Results for non-commercial research and teaching activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s), and
- each of the joint owners shall be entitled to otherwise Exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), if the other joint owners are given:
 - (a) at least 45 calendar days advance notice; and
 - (b) Fair and Reasonable compensation.

8.3 Access rights

In Attachment 3, the Parties have identified and agreed on the Background for the Project and have also, where relevant, informed each other that [Access](#) to specific Background is subject to legal restrictions or limits.

During the term of the Project, the Parties shall grant each other a non-exclusive, non-transferable, fully paid-up, royalty-free access right to use their respective Background and Results that is strictly required for completing the Project and for no other reason. For the avoidance of doubt, such access shall not extend to any commercial work or any work for the benefit of a for-profit organization, and shall cease with the Project unless the Background is not deemed confidential information, and is not otherwise protected by applicable law of the generating Party.

The Parties shall have a non-exclusive right to utilize, free of charge, any Result exchanged during the Project not constituting Software or covered by other specific legislation about intellectual property rights during and after the Project.

Project results, including reports, Results and Software, will be made openly available to the public as Open Source. A request for access may be made by another Party up to twelve months after the end of the Project or after the termination of a Party's participation in the Project.

9. Section 9: Miscellaneous

9.1 Attachments, inconsistencies and severability

This Collaboration Agreement consists of this core text and

Attachment 1: The Project Proposal or the Research Plan

Attachment 2: The Parties' obligation to perform activity and/or provide financial resources to the Project.

Attachment 3: Background included

In case of conflicts between the attachments to this Collaboration Agreement and the core text, the latter shall prevail.

Should any provision of this Collaboration Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Collaboration Agreement. In such a case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated that fulfils the purpose of the original provision.

9.2 No representation, partnership or agency

Except as otherwise provided in this Agreement, no Party shall be entitled to act or to make legally binding declarations on behalf of any other Party or of the consortium. Nothing in this Collaboration Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

9.3 Mandatory national law

Nothing in this Collaboration Agreement shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating.

9.4 Language

This Collaboration Agreement is drawn up in English, which language shall govern all documents, notices, meetings, arbitral proceedings and processes relative thereto.

9.5 Applicable law

This Collaboration Agreement shall be construed in accordance with and governed by the laws of defending Party excluding its conflict of law provisions.

9.6 Settlement of disputes

The Parties shall endeavour to settle their disputes amicably. Any dispute arising out of or in connection with this Collaboration Agreement, which cannot be solved amicably, shall be finally settled by a competent court of the defending Party, unless otherwise agreed between the Parties.

This agreement has been prepared in ten (10) counterparts, of which each Party keeps one (1).

For and on behalf of Aalto

Place/Date: