

## FUNDING AGREEMENT

between

### THE UNIVERSITY OF STUTTGART

established in Keplerstr. 7, 70174 Stuttgart, Germany,  
represented by its Chancellor Jan Gerken, (“**the University**”)

and

«**PARTNER\_LEGAL\_NAME**»

established in «legal address»  
represented by «», (“**the Partner**”);

and

«**PARTNER\_LEGAL\_NAME**»

established in «legal address»  
represented by «», (“**the Partner**”);

each a “**Party**” and together “**the Parties**”.

### RECITALS:

- A. The University is the Coordinator of a multi-partner project entitled “HPC INNOVATION FOR EUROPEAN SMEs, (“FF4EuroHPC””, which project, pursuant to the Grant Agreement number 951745 between the European High-Performance Computing Joint Undertaking (“**the JU**”) and the partners participating in the FF4EuroHPC, (“**the FF4EuroHPC Partners**”), has been funded under the European Community’s HORIZON 2020 Programme;
- B. Under, and as a project goal of FF4EuroHPC, there is reserved an amount of grant funding to be distributed to eligible projects which have applied for and been awarded funding pursuant to open calls issued in the name, and pursuant to the project goals, of FF4EuroHPC;
- C. The Partners are part of a consortium of partners, (collectively “**the Consortium**”, and individually, each a “**Consortium Partner**”), which Consortium has submitted a proposal responding to the second open call, entitled “**FF4EUROHPC CALL-2**”, requesting funding for/towards the project entitled “«**Experiment\_name**»“, (“**the Experiment**”), which Experiment, having been approved in accordance with the internal management process of FF4EuroHPC, is now subject to receipt of an award of funding pursuant to this Funding Agreement, (“**the Award**”);

D. It is a requirement of the Award that the Partners, as members of the Consortium, shall enter into this Funding Agreement in order to obtain Funding from FF4EuroHPC for the purposes of conducting the Experiment.

## ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

### 1. DEFINITIONS

- 1.1 The terms already defined above shall be deemed to have been incorporated into this Funding Agreement. In addition, the terms below shall be interpreted as follows:

**“Experiment”** means the project described above, as more particularly detailed in the Proposal, (as defined hereunder), being a discrete, business-relevant sub-project activity designed to solve a business challenge, using advanced HPC services and technologies to be undertaken by the Consortium.

**“FF4EuroHPC Consortium Agreement”** means the agreement concluded in writing amongst the FF4EuroHPC Partners, detailing their respective right and obligations regarding implementation of FF4EuroHPC;

**“Proposal”** shall mean the proposal submitted by the Consortium to FF4EUROHPC CALL-2, seeking an award of funding, which Proposal is attached to this Funding Agreement as Part 1 of the Annex;

**“Funding”** shall mean the funding, as more particularly detailed in the Proposal, payable by the University to the Partners under and in accordance with this Funding Agreement;

**“Annex”** shall mean the Annex, in 3 Parts, annexed to, and which shall be deemed incorporated into, this Funding Agreement.

**“Grant Agreement”** means the Agreement between the European High-Performance Computing Joint Undertaking (“JU”) and the University for the project “HPC INNOVATION FOR EUROPEAN SMEs (“FF4EuroHPC”). The provisions necessary for the Funding are attached to this Agreement as Part 3 of the Annex.

### 2. THE EXPERIMENT

- 2.1 The Partners agree to undertake the Experiment as the same has been specified in the Proposal and in accordance with the requirements of this Funding Agreement. Any and all changes to proposed work or budget as described in the Proposal need a prior technical evaluation by the FF4EuroHPC management and written consent of the University.
- 2.2 An excerpt from the FF4EuroHPC Consortium Agreement is attached to this Funding Agreement as Part 2 of the Annex. The Partners shall comply with the terms of the Funding Agreement, as if the Project (as referred to in the FF4EuroHPC Consortium Agreement), was the Experiment, and as if the Partners were the original signatories of the FF4EuroHPC Consortium Agreement, so that the Consortium Partners shall, in relation to the Experiment be bound *mutatis mutandis* in the same terms as are the FF4EuroHPC Partners in relation to FF4EuroHPC. In case of contradictions between the Funding Agreement and the FF4EuroHPC Consortium Agreement excerpt, the Funding Agreement takes precedence over the FF4EuroHPC Consortium Agreement excerpt.

Although the Consortium Partners shall have no direct contractual relationship with the JU, by virtue of this Funding Agreement and specifically this Clause 2.2, they shall be

deemed bound to the University in the same way as the FF4EuroHPC Partners are bound to the JU by virtue of their direct accession to the Grant Agreement, in order that there are equivalent and consistent provisions in place in relation to the expenditure of JU grant funding.

### 2.3 Publicly available results

2.3.1 The Partners agree that all results covered by section 2.3.2 will be made publicly available.

2.3.2 The Partners commit and agree to the provision of information and data required for the production of public success stories relating to the application experiment covered by this agreement. Such information and data includes, but is not limited to, the following:

- a) Content/text of success stories written using tailored/dedicated document templates provided by the FF4EuroHPC Partners
- b) Media content: at least four images relating to the work and results of the application experiment in high resolution – min. 1200x800 px, .jpg or .png format (such as team image, technical images)
- c) Information about the organisations involved in the application experiment, including: role of experiment partners (end-user, Software provider, domain or HPC expert, HPC provider), country of end-user, name of the software used, name of the industrial sector, suitable high-resolution logos, trademarks, short company description and names/functions of key persons.

The Partners consent to the use of all information and data for the purpose of project dissemination on a wider level, also beyond the project framework and lifetime, in different kinds of publications, newspapers, magazines and other print media, or electronic media (including the Internet), and/or in mailings for educational and awareness purposes.

2.4 The Partners allow the University to forward the Proposal to the members of FF4EuroHPC Work Package 3 “Experiment Oversight” (being employees of the FF4EuroHPC Partners CINECA and CESGA). The purpose is to facilitate the effective support and management of experiments and to ensure that the experiments proceed according to their objectives during the execution of the experiment’s work plan.

2.5 The Partners will duly submit their financial reports at month 9 and at the end of the experiment to the University, using the template provided. In addition, experiment partners will submit technical progress reports to the FF4EuroHPC management at month 4, month 9 and at the end of the experiment, and an additional technical progress report by month 12 should the progress up to month 9 be assessed as unsatisfactory. A template will be provided, and the technical progress reports will cover results, challenges, risks and data management.

2.6 The Experiment will commence on March 1<sup>st</sup>, 2022 or once the Funding Agreement has come into effect (pursuant to clause 6.4), whichever point in time is later. The experiment will run for 15 months or until the end of the FF4EuroHPC term, whichever point in time is earlier.

## 3. THE FUNDING

- 3.1 It is a condition of the Award, and consequently any payment of Funding, that each Consortium Partner shall have signed this Funding Agreement. The University shall be under no obligation to the Partner or to the Consortium unless and until this Funding Agreement has been signed in accordance with the requirements stipulated by the University.
- 3.2 While Funding may not be used for the payment of services or access to computing resources provided by FF4EuroHPC project beneficiaries (FF4EuroHPC Partners), it is possible for access to HPC resources to be otherwise provided by FF4EuroHPC beneficiaries up to the amount specified in the estimated budget for the Experiment in the Proposal.
- 3.3 The budget for the Experiment has been included within the Proposal, along with the allocation amongst the Consortium Partners. The maximum amount of the Funding may not exceed EUR 150 000 for each Partner. The payment of the Funding shall be deemed a grant and accordingly no VAT or other purchase/sales or other tax shall be payable. The Funding is a maximum commitment and in no circumstances shall any further amount be payable, other than as expressly approved in advance, in writing, by the University. In case that it subsequently turns out that the Funding was subject to taxation, the Partners bear the tax liability.
- 3.4 The Partners shall be accountable to the University in relation to the Funding. The University shall be entitled to seek a breakdown of expenditure incurred and for which payment has been made by the Partners, to ascertain/ensure, (as the University shall determine in its sole discretion, although acting reasonably and in good faith), that the Partners has expended all Funding in accordance with the Proposal and the requirements of, or as are referred to in, this Funding Agreement.
- 3.5 The Funding will be paid by the University to the Partners, (which will provide the University with appropriate banking details to enable electronic transfer), in five tranches, each of 20% of the total funding amount. The first tranche of 20% shall be paid within thirty (30) days of the Partners signature of this Funding Agreement, provided that, as aforesaid, all Consortium Partners shall have signed this Funding Agreement. The second payment will be done in the 4th Month after Experiment commencement, the third instalment in the 8th Month and the fourth instalment in the 12th month after Experiment commencement. The last tranche shall be paid within thirty (30) days of the Partners having provided appropriate evidence, (as the University shall determine in its sole discretion, although acting reasonably and in good faith), that the Consortium Partners have properly provided the deliverables required for the full completion of the Experiment as specified in the Proposal.

#### **4. OBLIGATIONS UNDER THE GRANT AGREEMENT**

- 4.1 The Partners have to comply with the rules regarding grant and eligible and ineligible costs according to Articles 5 and 6 of the EuroHPC JU Model Grant Agreement.
- 4.2 The Partners are subject to the audit rights of the JU, the European Commission/Agency, the European Court of Auditors (ECA) and the European Anti-

Fraud Office (OLAF). They have the right to carry out checks, reviews, audits and investigations on the Partners according to Article 22 of the Grant Agreement.

- 4.3 The JU and the European Commission/Agency shall have the right to carry out interim and final evaluations of the impact of the action at the Partner`s according to Article 23 of the Grant Agreement.
- 4.4 As regulated in Article 35 of the Grant Agreement the Partners have the obligation to avoid conflict of interests.
- 4.5 The Partners are bound by the confidentiality provisions as mentioned in Article 36 of the Grant Agreement.
- 4.6 The Partners have to comply with the obligations resulting from Article 38 of the Grant Agreement.
- 4.7 The liability provisions in Article 46 of the Grant Agreement also apply for the Partners.
- 4.8 The University is entitled to verify compliance with the provisions of this section 4 in conjunction with the relevant Articles of the Grant Agreement. In case of breach of these obligations, the University may take appropriate action to reduce the Funding or terminate the participation of the Partners.

## **5. TERMINATION**

- 5.1 This Funding Agreement or the participation of one or more Partners may be terminated: (i) with immediate effect by the University, by the provision of notice in writing to the affected Partner(s), in the event that the Funding shall not be used for the purposes of the Experiment, (as the University shall in its sole discretion determine, acting at all times reasonably and in good faith); or (ii) at the expiry of any reasonable period of notice, (as the University shall in its sole discretion determine, acting at all times reasonably and in good faith), provided in writing by the University to the affected Partner(s), within which notice the University shall have required that the Partner rectify any deficiency in the provision of the Experiment and which deficiency shall not have been so rectified to the reasonable satisfaction of the University; or (iii) at the expiry of period of notice of two weeks, provided in writing by the University to the affected Partner(s), within which notice the University shall have required that the Partner(s) rectify any violations of the provisions of sections 2.3.1 and 2.3.2 of this Funding Agreement and which violation shall not have been so rectified according to the provisions of this Funding Agreement.
- 5.2 For the avoidance of doubt, the Consortium Partners are jointly and severally liable for technical completion of the Experiment, and therefore the technical responsibilities of each Consortium Partner cannot be seen in isolation. Accordingly, (and again for the avoidance of doubt), where the University shall terminate the participation of any one Consortium Partner within the Experiment, although this Funding agreement remains in force and the other Consortium Partners shall be entitled to request that the Experiment continue on the basis that it can be completed in accordance with the Proposal and within funding budget, the University nevertheless reserves the right to voluntarily terminate this Funding Agreement where in the opinion of the University, (as the

University shall in its sole discretion determine, acting at all times reasonably and in good faith), the continuance of the Experiment no longer remains feasible.

- 5.3 In the event of termination of this Funding Agreement or the participation of one or more Partners pursuant to Clause 5.1 or 5.2, the University shall be entitled to recover from the Partners any part of the Funding which has not been spent or which the University shall, acting reasonably and in good faith as aforesaid, deem to have been misspent by the Partners.

Further, where this Funding Agreement shall be terminated in any circumstance above listed, the University shall reimburse the Consortium Partners for any costs and/or expenses, properly incurred and which would have been reimbursable had this Funding Agreement not been so terminated.

## **6. MISCELLANEOUS**

- 6.1 This Funding Agreement may be amended only by written agreement between the Parties.
- 6.2 Neither Party shall be entitled to assign any of its rights or obligations under this Funding Agreement without the prior written consent of the other.
- 6.3 Any reference in this Funding Agreement to the provision of a notice in writing shall include the provision of a hard copy notice and the provision of notice by electronic mail, (provided proof of despatch to an appropriate address), with, in either case, clear reference to this Funding Agreement and the Experiment.
- 6.4 This Funding Agreement becomes effective when signed by the University and the Partners. An electronic version of the signature is acceptable.
- 6.5 This Funding Agreement shall be interpreted in accordance with the law of Germany. The place of jurisdiction for any dispute arising out of or in connection with the Funding Agreement shall be Stuttgart, Germany.

## **7. Potential use FF4EuroHPC Partners' resources**

- 7.1 In case the Partners use computing resources of CESGA, CINECA or HLRS, then the Partners have the sole obligation to meet use requirements of CESGA, CINECA and HLRS. The University and the FF4EuroHPC Partners are exempted from all liabilities arising from such use.
- 7.2 The Partners agrees that the computing resources of CESGA, CINECA or HLRS that are made available to him  
are only permitted for  
a) non-commercial activities

b) open research and development purposes as covered by section 2.3.2

c) peaceful and lawful purposes and for an ethical use of the allocated resources

7.3 Furthermore, the Partners undertake to pay for the computing resources provided by CESGA, CINECA or HLRS that were used for the Experiment in the event of violating the provisions of sections 7.2 of this Funding Agreement.

**IN WITNESS WHEREOF this Funding Agreement has been executed by the Parties as follows:**

**On behalf of the University of Stuttgart**

(Signature) \_\_\_\_\_ (Authorised signatory)

((Name) \_\_Jan Gerken, Chancellor\_\_\_\_\_

(Date) \_\_\_\_\_



**On behalf of «Partner\_legal\_name»**

(Signature) \_\_\_\_\_ (Authorised signatory)

((Name) \_\_\_\_\_

(Date) \_\_\_\_\_

**On behalf of «Partner\_legal\_name»**

(Signature) \_\_\_\_\_ (Authorised signatory)

((Name) \_\_\_\_\_

(Date) \_\_\_\_\_

## **ANNEX**

**This is the Annex, in 3 Parts, referred to in the foregoing Funding Agreement between the University of Stuttgart and «Partner\_legal\_name».**

### **Part 1 – The Proposal**

## Part 2 – Excerpt of the FF4 EuroHPC Consortium Agreement

## Part 3 – Excerpt of the FF4 EuroHPC Grant Agreement