

DISCLAIMER: This example Participation Agreement is provided as an example of a version of the Participation Agreement used in the CReDo project. It is provided for general information purposes only, and users should seek appropriate legal advice before taking or refraining from taking any action based on the content of this example Participation Agreement.

EXAMPLE

Participation Agreement

1. Parties

This Licence is between:

- (1) [LICENSEE UNDER DATA EXPLORATION LICENCE], Company Registration Number [], whose registered address is at [] (**Authorised Licensor**); and
- (2) [PERMITTED THIRD PARTY UNDER DATA EXPLORATION LICENCE], Company Registration Number [], whose registered address is at [] (**Participant**)

(each a **party** and together the **parties**).

Whereas

- A) The Authorised Licensor is participating in a project known as [NAME OF PROJECT] as further described in Part A of Schedule 1 (the “**Project**”).
- B) The Project delivery is contingent upon certain parties gaining access to datasets to be hosted by [NAME OF DATA HOST IN DATA EXPLORATION LICENCE] (“**Data Host**”) and owned by various data owners (each a “**Data Provider**”) as further described in Schedule 2 (“**Exploration Data**”). The Participant’s access to the Exploration Data is subject to the terms of use set out in Schedule 2
- C) The Authorised Licensor wishes the Participant, and the Participant agrees, to support the delivery of the Project by undertaking a portion of work (the “**Allocated Work**”) as specified in Part B of Schedule 1, subject to the terms of this Agreement and as updated by agreement in writing between the Parties from time to time.

It is hereby agreed as follows:

1. Project

- 1.1. The project will [DESCRIBE INTENDED IMPACT OF PROJECT]. [The learning from the Project (excluding the Exploration Data) will be disseminated widely.]
- 1.2. The Participant’s access to the Exploration Data, if required by the Participant for the purposes of the Project, will be managed by the Authorised Licensor and Data Host and will be subject to and conditional on Participant complying with the terms of use set out in Schedule 2. Participant further undertakes to use and handle the data in accordance with Schedule 2.

2. Participant’s participation in the Project

The Participant shall undertake the Allocated Work

3. Intellectual property:

- 3.1. “**Intellectual Property**” shall mean intellectual property of any description including but not limited to all inventions, designs, information, specifications, formulae, improvements, discoveries, know-how, data, processes, methods, techniques and the intellectual property rights therein, including but

not limited to, patents, copyrights, database rights, design rights (registered and unregistered), trademarks, trade names and service marks, and applications for any of the above.

- 3.2. All Intellectual Property used in connection with the Project which has been generated prior to or outside the scope of the Project ("**Background IP**") shall remain the property of the contributing the same (or of the Data Providers as the case may be). The parties agree that any improvements or modifications to a party's (or the Data Providers') Background IP arising from the Project which are not severable from that Background IP will be deemed to form part of that party's Background IP and be owned by that party. Each party acknowledges and confirms that nothing contained in this Agreement shall give it any right, title or interest in or to the Background IP of the other party (or that of the Data Providers) save as granted by this Agreement.
- 3.3. "**Results**" shall mean all information, data, know-how, results, inventions, software and other Intellectual Property arising through the conduct of the Project. All Results will be owned by Authorised Licensor.
- 3.4. All Results will be made available on an open access basis; software generated under the Project will be made available through a permissible type of licence, free of charge.
- 3.5. Each party grants the other, a non-exclusive, non-transferable, non-sub-licensable (except to its authorised sub-contractor pursuant to clause 12 solely for the purposes of the Participant performing its Allocated Work), royalty-free licence for the duration of the Project to use its Background IP (provided it is free to license the Background IP in question) solely to enable the other party to carry out their Project activities.
- 3.6. the Authorised Licensor grants the Participant, a non-exclusive, non-transferable, non-sub-licensable, royalty-free licence to use the Results for internal non-commercial purposes.

4. Confidentiality

- 4.1. Participation in the Project may involve the parties receiving or participating in Project discussions/presentations concerning Background IP (including for the avoidance of doubt, the Exploration Data), which are confidential to the parties (or the Data Providers as the case may be), and the Results, which are confidential to the Authorised Licensor and the Data Providers (together the "**Confidential Information**").
- 4.2. Subject to clause 5, each party agrees to use reasonable endeavours not to disclose the Confidential Information in any way for the duration of the Project period and 3 years thereafter other than to those of its employees, students, directors, officers, advisors, contractors or representatives who have a need to know such information for the purposes of the Project.
- 4.3. The obligation of non-disclosure above shall not apply to information which:
 - 4.3.1. at the time of disclosure, has already been published or is otherwise in the public domain other than through breach of the terms of this Agreement;
 - 4.3.2. after disclosure to a party, is subsequently published or comes into the public domain by means other than an action or omission on the part of any party;
 - 4.3.3. a party can demonstrate was known to it or subsequently independently developed by it and not acquired as a result of participation in the Project; or
 - 4.3.4. is lawfully acquired from a third party who did not obtain it from any party hereto and is not subject to any obligation of confidentiality.

5. Publication

The Authorised Licensor and the Data Providers (jointly or individually) will publish information about the Project including the Results in the form of reports, conferences presentations provided that if it intends to use any of the Participant's Confidential Information in such publication, it shall anonymise such information and provide the Participant with a copy of the proposed publication for review and comment at least 14 days in advance of submission for publication by the Authorised Licensor and the Data Providers. The Participant may within 7 days of the receipt of the draft publication give written notice to the Authorised Licensor requiring the Authorised Licensor to delay publication for a maximum of 14 days to enable removal of the Participant's Confidential Information as specified in its notice. For the avoidance of doubt, notification is not required for Authorised Licensor's internal meetings.

6. Financial Arrangement

Unless agreed otherwise, each party shall bear its own costs in respect of their activities under this Agreement.

7. Publicity

- 7.1. Neither party shall use the name or any trademark or logo of any other party or the name of any of its staff or students in any press release or product advertising, or for any commercial purpose, without the prior written consent of the other party.
- 7.2. Neither party shall without the prior written consent of the other issue a press release or make a public statement that mentions the activities pursued by the parties under this Agreement unless such statement is required to be made to comply with any statutory or regulatory requirements.

8. Term

- 8.1. This Agreement shall be commence on [START DATE] and shall remain in force until and including [END DATE].
- 8.2. This Agreement shall terminate with immediate effect if:
 - 8.2.1. the licence to the Authorised Licensor of the Exploration Data is terminated; or
 - 8.2.2. the Participant commits a material breach of this Agreement which is not remedied within 14 days of receiving written notice of such breach from Authorised Licensor.
- 8.3. The Participant agrees to implement any reasonable amendments to the terms of this Agreement due to a request of Data Providers, Data Host or the Authorised Licensor relating to the use of Exploration Data; if the Participant is unable to agree to the relevant amendment, either party may terminate this Agreement by notice in writing to the other party, effective two (2) working days from the date of the notice in writing.

9. Governing Law

This Agreement shall be governed and construed in accordance with the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English Courts.

10. Liability

- 10.1. Neither party makes any representation or gives any warranty to the other that any advice or information given by it or any of its employees, students, agents or appointees participating in the Project, will not constitute or result in any infringement of third-party rights or that the Project will achieve any particular results. All implied warranties are excluded to the greatest extent permissible under the law.
- 10.2. Nothing in this Agreement limits or excludes either party's liability for death or personal injury or any fraud or for any sort of liability that, by law, cannot be limited or excluded.

- 10.3. Subject to Clause 10.2, the liability of either party to the other for any breach of this Agreement or negligence or arising in any other way out of the subject matter of this Agreement, (i) will not extend to any loss of profits, data, loss of contracts or opportunity, or to indirect damages or losses; and (ii) shall be limited in the aggregate to £100,000 (one hundred thousand pounds).
- 10.4. The aggregate liability of a party for a breach of the terms set out in Schedule 2 shall be limited in respect of each Data Provider, Data Host and the Authorised Licensor to a maximum of £100,000.

11. Assignment

Neither party will assign this Agreement without the prior written consent of the other party such consent not to be unreasonably withheld, denied or delayed

12. Subcontracting

The Participant may not sub-contract any of its Allocated Work without the prior written consent of the Authorised Licensor not to be unreasonably withheld or delayed. Each party shall require its sub-contractors to comply with the terms and conditions of this Agreement and each party remain primarily liable to the other for the acts and omission of their respective subcontractors.

13. No partnership

Nothing in this Agreement shall create, imply or evidence any partnership or joint venture between the parties or the relationship between them of principal and agent.

14. Notices

All notices under this Agreement shall be sent to:

In the case of the Authorised Licensor: [JOB TITLE]

Email (communications only): [INSERT]

With a copy being sent to: [INSERT]

In the case of the Participant: [JOB TITLE]

Email (communications only): [INSERT]

With a copy being sent to: [INSERT]

15. Third party Right

For the purposes of the Contracts (Rights of Third parties) Act 1999 this Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions, save that each of the Data Providers (insofar as they are not a party to this Agreement) and Data Host may independently and directly enforce the terms of this Agreement in so far as they relate to the Participant's use or handling of the Exploration Data.

AGREED by the parties through their authorised signatories:

Signed for and on behalf of [AUTHORISED LICENSOR] Signed for and on behalf of [PARTICIPANT]

Signature	.....	Signature	.....
Name	.....	Name	.....
Title	.....	Title	.....
Date	.....	Date	.....

Schedule 1

PART A – Project Summary

[INSERT PROJECT SUMMARY]

PART B – Allocated Work

[DESCRIBE WORK WHICH PARTICIPANT WILL CARRY OUT WITH DATA TO FURTHER THE AIMS OF THE PROJECT]

Schedule 2

Names of Data Providers

- [LIST LEGAL NAMES AND ADDRESSES OF DATA PROVIDERS]

Exploration Data

[INSERT DESCRIPTION OF EXPLORATION DATA]

Terms of Use

The Participant's use of the Exploration Data set out above is subject to the following terms:

Definitions

"Data Host Server" means the cloud-based computer, storage and analysis tools for data informatics hosted by the Data Host and made available to users for the purpose of hosting the Exploration Data and facilitating the Allocated Work.

"Permitted Purpose" means the sole purpose of [DESCRIBE PURPOSE OF SHARING DATA WITH PERMITTED THIRD PARTIES – THIS SHOULD BE COPIED FROM THE DATA EXPLORATION LICENCE]

General Terms of Use

Access to the Exploration Data will be controlled by the Data Host.

On registration to the relevant server, the following Acceptable Use Policies (AUP) will need to be accepted by the users:

1. You shall only use the resources/services to perform work, or transmit or store data consistent with the stated goals, policies and conditions of use as defined by the body or bodies granting you access.
2. You shall provide appropriate acknowledgement of support or citation for your use of the resources/services provided as required by the body or bodies granting you access.
3. You shall not use the resources/services for any purpose that is unlawful and not, nor attempt to, breach or circumvent any administrative or security controls.
4. You shall respect intellectual property and confidentiality agreements. You shall protect your access credentials (e.g. private keys or passwords).
5. You shall keep your registered information correct and up to date.
6. You use the resources/services at your own risk. There is no guarantee that the resources/services will be available at any time or that they will suit any purpose.
7. You agree that logged information, including personal data provided by you for registration purposes, may be used for administrative, operational, accounting, monitoring and security purposes.
8. You agree that this logged information may be disclosed to other authorised participants via secured mechanisms, only for the same purposes and only as far as necessary to provide the services.
9. You agree that the body or bodies granting you access and resource/service providers are entitled to regulate, suspend or terminate your access without prior notice and without compensation, within their domain of authority, and you shall immediately comply with their instructions.
10. You are liable for the consequences of your breach of any of these conditions of use, which may include

but are not limited to the reporting of your breach to your employer and, if the activities are thought to be illegal, to appropriate law enforcement agencies.

Special Terms of Use

The parties agree:

11. to use the Exploration Data solely for the Permitted Purpose in accordance with this Agreement and perform the Permitted Purpose in accordance with the standards set out with the requirements set out in the Appendix below and that any party is only granted access to the Exploration Data in accordance with the requirements set out in the Appendix;
12. to restrict access to the Exploration Data to the persons working on the Permitted Purpose for the party licensed to the use the Exploration Data and the individuals working under their direct supervision, and to ensure that those individuals are aware of and comply with this Agreement;
13. to access and use the Exploration Data exclusively on the Data Host Server and not attempt to download, copy (electronically or physically), record, photograph or otherwise remove the Exploration Data in any manner whatsoever;
14. to notify to Data Host as soon as reasonably practicable after becoming aware of any unauthorised or accidental access, use or disclosure of the Exploration Data and to cooperate with any investigation made by the providing Data Provider in connection with such access, use or disclosure;
15. not to reverse engineer or attempt to reverse engineer any part of the Exploration Data for any purpose including to derive or attempt to derive any personal data or otherwise identify any individual from the Exploration Data. to restrict access to the Exploration Data to the individuals working on the Permitted Purpose having been granted access to the Exploration Data by Data Host and under the supervision of Data Host and to ensure that those individuals are aware of and comply with this Agreement;
16. to keep the Exploration Data, including but not limited to, the identity of any [NAME ANY KEY ARTEFACTS WHICH COULD BE ASCERTAINED FROM THE EXPLORATION DATA] referenced in the Exploration Data, confidential within parties to this Agreement, and ensure that only synthetic data created whilst working on the Permitted Purpose is disclosed outside the parties to this Agreement;
17. not to use or copy, and ensure that no subcontractor uses or copies, the Exploration Data other than for the Permitted Purpose or as otherwise set out in this Agreement;
18. not to charge or allow any other person to charge any fee for the use of the Exploration Data without the express written consent of all the Data Providers and payment of such sum as the Data Providers may specify on receipt of a request for permission from the Data Host or the Authorised Licensor; and
19. not to deliberately use any part of the Exploration Data in any manner which may damage the reputation of any of the Data Providers or Authorised Licensor.

Security Standards:

20. Each party handling Exploration Data is responsible for ensuring information security and other provisions for the protection of the Exploration Data.
21. Each party will have in place systems for swiftly and efficiently detecting, investigating and remedying Exploration Data breaches and promptly reporting any such breaches to the Authorised Licensor and Data Host.

The Data Providers, the Authorised Licensor and Data Host may directly enforce the terms of this Schedule 2.

Appendix 1 – Data Security Standards

[INSERT APPROPRIATE DATA SECURITY STANDARDS]