CHECKLIST FOR THE DISTRIBUTION OF SOFTWARE CODE

Date	
Name of Software Code	
Institute	
Contact	

Find more information and contact persons at https://intranet.fz-juelich.de/en/topics/rse
General contact for **R**esearch **S**oftware **E**ngineering topics at FZJ: rse@fz-juelich.de

	Copyrights and third-party rights *"All copyrights must be held by Forschungszentrum Jülich" and "All authors need to be known".*
☐	All authors of the software code are known and their names can be disclosed.
☐	All authors have developed the software code as employees of Forschungszentrum Jülich and the rights of use are held by Forschungszentrum Jülich. **If not:**
☐	- Third-party institutions are known.
☐	- Forschungszentrum Jülich holds rights of use from these third-party institutions in written form.

	Contractual obligations and restrictions
☐	Funding or grant regulations, cooperation agreements, grant agreements, and employment contracts were reviewed for specifications or restrictions on the publication and dissemination of software code.
☐	It is known if/where the software is included as background in other projects.
☐	In the case of medical software or similar, the limitations are known and respected.
☐	Export control regulations have been reviewed and are complied with where necessary. https://intranet.fz-juelich.de/de/tools/interneregelungen/kenntnistransfer_ein_und_ausfuhr_von_waren_rl_ir_641-1

	Software Compatibility
☐	The software has been written without integration/static linking of pre-existing software parts or libraries. **If not:**

☐	- The license terms of the pre-existing/modified software or the interlinked libraries are known and (in)compatibilities of license terms are respected.
☐	- If a paid developer license for the pre-existing software/library is required for licensing/distributing of your own software, it is on hand.

	Transfer route
☐	It was checked whether the software code has a commercial potential.
☐	The target user group of the software is known.
☐	The interest and aim of the developers is expressed and taken into account.
☐	The future use/handling and accessibility of the software code in the home institute has been addressed and considered.
☐	The approval of the institute has been given for the dissemination and the corresponding internal process has been followed.

	Choice of license
☐	It is understood what kind of access the authors want to give to the software users (source code or object code/executable files).
☐	It has been decided whether the software will be distributed proprietary or as OSS.
☐	**For open source software licenses:** The selected license is one of the "approved licenses" (see page of the Open Source Initiative https://opensource.org/) **If not:**
☐	- UE-I/R-R contact persons have been consulted. https://intranet.fz-juelich.de/en/topics/rse/contact
☐	**For open source software licenses:** The text of the selected license has been read and understood and suits the target audience and the purpose of the dissemination. **If not:**
☐	- UE-I/R-R contact persons have been consulted https://intranet.fz-juelich.de/en/topics/rse/contact

Explanation to the checklist

Basically, two aspects are the main focus from a legal point of view. Existing rights of the Forschungszentrum Jülich to the code before licensing and the rights that a third party is to obtain through licensing.

Before licensing

Before software developed at the Forschungszentrum Jülich can be distributed and thereby licensed, it must be ensured that the Forschungszentrum Jülich holds the copyrights to it.

§ Section 69a of the German Copyright Act (UrhG) protects software in any design, including design material, in all forms of expression (QC, C, EXE, modules). However, ideas and principles underlying the work are not protected.

As soon as the software developers are in an employment relationship with Forschungszentrum Jülich, the rights of use and exploitation automatically belong to Forschungszentrum Jülich. Special arrangements must therefore be made before the start of the project if third parties are to be involved who do not have an employment contract or similar with Forschungszentrum Jülich.

If required, external contributions can be included via a Contributor License Agreement. Forschungszentrum Jülich provides a verified template via the RSE-Portal, which can be submitted to the external contributors.

Rights must also be granted by the author or his employer when using or integrating code whose rights of use are not (exclusively) held by Forschungszentrum Jülich, but by third parties, e.g. cooperation partners (third-party software). In this context, the license conditions of the (open source) software used must also be observed, as non-compliance with these conditions constitutes a breach of contract and may lead to claims for damages. This also applies if only program components or partial sequences are integrated into a company's own software. In this case, an intensive examination is required to determine the extent to which the various licenses of the third-party software to be integrated contain incompatible provisions. This may mean that the own software cannot be published under the intended open source license. In addition, the open source license of the software used may expire if the license conditions are not complied with.

Passing on to third parties

When choosing a license, it is primarily a matter of which rights and obligations the licensee is to be subject to. The spectrum ranges from e.g. MIT (all rights, hardly any obligations) to GPL v3 (limited rights, obligations when passing on).

If it is important in the project that as many partners as possible get uncomplicated and fast access to the code and can collaborate, then a lot speaks for a license with all rights but without obligations.

If however it is to be guaranteed that the code is not taken over by third and further distributed under restrictions, then obligations must be imposed on the licensees (e.g. the passing on of the source code).

However, only a proprietary license offers effective protection against e.g. commercial use (for more information, see the chapter on license selection in the software guideline).

Find more information and contact persons on https://intranet.fz-juelich.de/en/topics/rse

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