



Service Level Agreement between Masaryk University

and

Instruct-ERIC

for

**The provision of Structural Biology Services by an Instruct Centre to
Instruct-ERIC**

1. INTRODUCTION

This Service Level Agreement (SLA) describes the level of service that Instruct-ERIC will receive from the Masaryk University Instruct-ERIC Centre. This SLA should be read in conjunction with the Instruct-ERIC Statutes (2017/C 230/01).

Definitions and Interpretations

For purposes of this Agreement, the following capitalised terms and expressions in this Agreement shall have the following meanings:

“Instruct-ERIC members” are certain States of the European Union, Associated Countries, countries other than Associated Countries and intergovernmental organizations, who are signatories to the Instruct-ERIC statutes.

“Instruct-ERIC Centre, or “Centre” is the Centre located in an Instruct-ERIC member state to which this Service Level Agreement refers, and which may comprise more than one Institution.

“Institutions” are the legal entity or entities within an Instruct-ERIC Centre to which this Service Level Agreement belongs.

“Access Proposal” means a request for access to structural biology research infrastructures located at Instruct Centres submitted to Instruct-ERIC.

“Access Cost” means the cost of access provided by the Instruct-ERIC Centre calculated according to the rules approved by the Executive Committee.

“Access Committee” means the Instruct-ERIC committee created to monitor Access Proposals from Users to Instruct-ERIC Centres.

“Proposal team” means the principal investigator named in an Access Proposal and all employees, students, agents or appointees of a User working on an Access Proposal;

“Executive Committee” means Instruct-ERIC’s principal operational committee.

“Instruct-ERIC Council” means the principal governing body of Instruct-ERIC.

“Instruct-ERIC services” means the technology, expertise and training that Instruct-ERIC Centres will make available for Users and included in the Instruct online catalogue.

“Users” mean those [academic and commercial] researchers who are eligible to apply for access.

“Instruct-ERIC Hub” refers to the administrative offices of Instruct-ERIC whose role is to coordinate the provision of infrastructure access.

2. PURPOSE

Instruct-ERIC provides access to technology, expertise and training for advanced structural biology methods to the scientific communities of Instruct-ERIC members through Instruct Centres. The present Service Level Agreement sets out the availability of services that Instruct-ERIC should expect to receive from the Centre. It aims to enable the Centre and Instruct-ERIC to work together effectively and meet the needs of the user community.

3. SCOPE

Parties

Instruct-ERIC (offices at Oxford House, Parkway Court, John Smith Drive, Oxford, OX4 2JY)

AND

Masaryk University (offices at Žerotínovo nám. 617/9, 601 77 Brno, Czech Republic)

Date and review

This agreement is made on June 18th, 2019 and runs for five years. It may be reviewed at any point by mutual agreement.

4. SERVICES COVERED

- 4.1 The services provided by the Instruct-ERIC Centre are set out in the Appendix of this agreement;
- 4.2 The priorities and allocation of the actual use of its Instruct-ERIC related Facilities is at the Centre's discretion in order to accommodate other demands on the use of Facilities and avoid conflicts of interest that may arise;
- 4.3 Instruct-ERIC services offered through the Instruct-ERIC catalogue can be changed by a Centre;
- 4.4 The cost of the Instruct-ERIC services provided by the Centre is specified in Appendix and will be reviewed every two years by the Instruct-ERIC Centre;
- 4.5 Following approval of their application by Instruct-ERIC and before accessing the services of the Centre, the Proposal Team must agree to the specific terms and conditions of the Instruct-ERIC Centre for accessing its services.

5. INSTRUCT CENTRE RESPONSIBILITIES

- 5.1 The Centre commits to make available services to Instruct-ERIC as detailed in the Appendix;
- 5.2 The Centre will advise Instruct-ERIC of any changes to its Instruct-ERIC services, including changes in cost. The Appendix to this agreement and the online catalogues will be updated accordingly;
- 5.3 The Centre will advise Instruct-ERIC as soon as possible of significant down time (greater than six months) of any of its equipment required for the provision of Instruct-ERIC services due to repairs or routine maintenance;
- 5.4 The Centre will provide any basic training it deems necessary in the use of any of its equipment which the User is authorised to use as part of the research described in the Access Proposal;
- 5.5 The Centre is responsible for the compliance of users with all the Centre's requirements for accessing the Instruct-ERIC services provided by the Centre, including but not limited to local health and safety rules and procedures. Any sanctions for breaching local rules by users are the responsibility of the Centre;
- 5.6 The Centre shall appoint a contact [REDACTED] [REDACTED]@ceitec.muni.cz) who will liaise with the Instruct-ERIC Hub and be the Centre's representative for the purpose of receiving invoices, reports and other notices; above mentioned representatives can be changed upon communicating the new ones to Instruct-ERIC Hub;
- 5.7 The Centre will use the project management system adopted by Instruct-ERIC;
- 5.8 The Centre will play an active role in the other Instruct-ERIC activities for the wide user community for example participating in Instruct training courses or internships;
- 5.9 The Centre will comply with the Instruct-ERIC Access, IPR and Data Management policies, as approved by the Executive Committee and the Council and kept updated by the Executive Committee and made public on the Instruct-ERIC Web site.

6. INSTRUCT-ERIC RESPONSIBILITIES

- 6.1 The process whereby Users can access the services provided by the Instruct-ERIC Centre and the Access Costs are detailed in the Instruct-ERIC Access Policy;
- 6.2 The Instruct-ERIC Hub will liaise with the Centre in all requests for the use of all or any part of the Centre's Instruct-ERIC services and facilitate User access to the Centre's Instruct-ERIC services;

- 6.3 The Instruct-ERIC Hub's representative for the purpose of receiving payments, reports and other notices shall until further notice be: [REDACTED] Instruct-ERIC Hub Coordinator;
- 6.4 The Instruct-ERIC Hub will monitor complaints about Users made by the Centre and *vice versa* and inform the Access Committee if action is required;
- 6.5 Instruct-ERIC will evaluate the Centre at least once every five years through independent peer review against the criteria set out in Annex 3 of the Instruct-ERIC Statutes;

7. TERMINATION

- 7.1 Either party may terminate this Agreement by giving at least six months' notice in writing to the other;
- 7.2 The agreement will be terminated by Instruct-ERIC at the end of the period of membership if the Instruct member hosting the Centre cancels their membership of Instruct-ERIC;
- 7.3 In the event of Centre receiving a poor evaluation and if after a period of twelve months any deficiencies had not been addressed, the agreement with the Centre will be terminated by the Instruct-ERIC council;

8. GENERAL

- 8.1 Clause headings are inserted in this Agreement for convenience only, and they shall not be taken into account in the interpretation of this Agreement;
- 8.2 If the performance by either party of any of its obligations under this Agreement (other than an obligation to make payment) shall be prevented by circumstance beyond its reasonable control, then such party shall be excused from performance of that obligation for the duration of the relevant event;
- 8.3 No-one except a party to this Agreement has any right to prevent the amendment of this Agreement or its termination; and no-one except a party may enforce a benefit conferred by this Agreement, unless this Agreement expressly provides otherwise;
- 8.4 Nothing in this Agreement shall create, imply or evidence any partnership or joint venture between Instruct-ERIC and the Centre or the relationship between them of principal and agent;
- 8.5 Neither party shall use the name or any trademark or logo of the other in any press release or product advertising, or for any other commercial purpose, without the prior tangible consent of the other;

- 8.6 In case of inconsistency between any provision of this Agreement and the provisions of the statutes of Instruct-ERIC, the latter shall prevail;
- 8.7 The liability of any party for any breach of this Agreement, or arising in any other way out of the subject matter of this Agreement, will not extend to loss of business or profit, or to any indirect or consequential damages or losses.
- 8.8 The maximum liability of the Instruct-ERIC Centre to Instruct-ERIC under or otherwise in connection with this Agreement shall not exceed the value of the payments received by the Instruct-ERIC Centre under this Agreement. For the avoidance of doubt, nothing in this clause shall be deemed to exclude or limit in any way the Instruct-ERIC Centre's liability for intentional wrongdoing or its statutory liability in respect of death or personal injury caused to any person as a result of the Instruct-ERIC Centre's negligence.
- 8.7 This Agreement constitutes the entire agreement between the parties. Any variation shall be in writing and signed by authorised signatories for both parties;
- 8.8 Parties to this Agreement shall as far as possible try to settle by amicable means any disputes which arise from the interpretation or application of this Agreement and the Instruct-ERIC Council may be called on to aid this process before resorting to legal challenge. In the event of any matter or dispute which cannot be settled through said amicable discussion, the parties agree to consider the Courts of the defendant;
- 8.9 This Agreement may be executed in any number of counterparts, each of which when executed will constitute an original of this Agreement, but all counterparts will together constitute the same agreement. No counterpart will be effective until each Party has executed at least one counterpart;

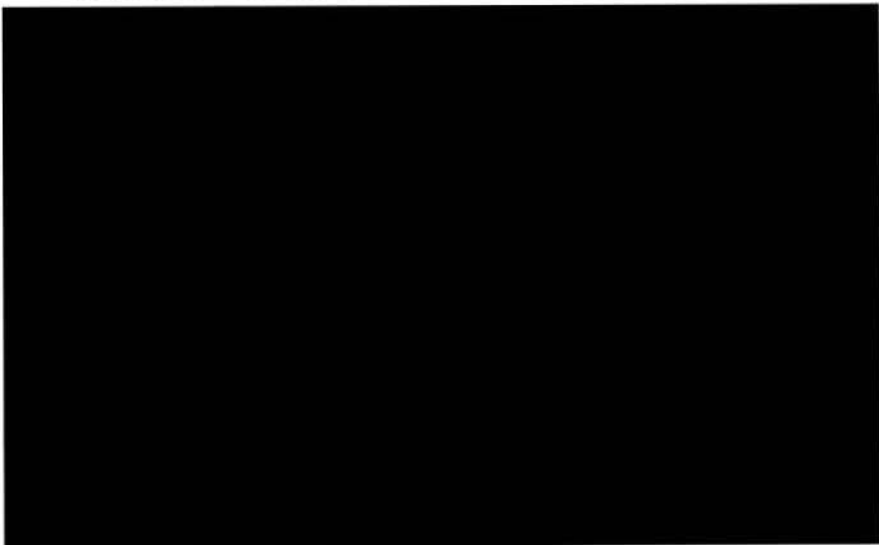
Agreement between the Institution hosting the Instruct-ERIC Centre and Instruct-ERIC – signature page

Agreed and signed on this day by the following representative on behalf of Institution hosting the Instruct-ERIC Centre:

Mikuláš Bel - rector

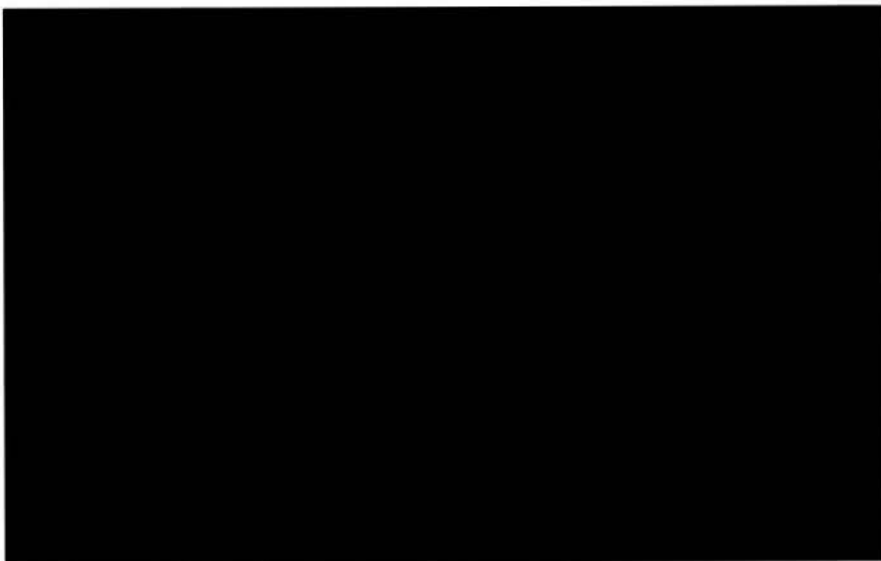
16.7.2019

Date



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Agreed and signed on this day by:



29 Aug 2019

Date

Appendix: service technologies provided by the Centre

Centre name	Institution	Services available to Instruct-ERIC ¹	No of days access available to Instruct-ERIC per year	Cost of service for academic users from Instruct member countries ²
Instruct-CZ	CEITEC	Electron Microscopy	50	1353,35 EUR
Instruct-CZ	CEITEC	Solution NMR	50	711,15 EUR
Instruct-CZ	CEITEC	Macromolecular Crystallisation	30	283,65 EUR
Instruct-CZ	CEITEC	Molecular Biophysics	30	283,65 EUR
Instruct-CZ	CEITEC	Nanobiotechnology	50	264,05 EUR
Instruct-CZ	CEITEC	Proteomic Mass Spectrometry	20	534,85 EUR
Instruct-CZ	CEITEC	X-ray Diffraction and Bio-SAXS	50	210,24 EUR

¹ Categories of service technologies grouped according to type:

Group

3D Structural Analysis

Biomolecular analysis

Sample preparation

Type

Electron Microscopy
Magnetic Resonance Techniques
X-Ray Techniques

Molecular Biophysics
Mass Spectrometry
Imaging

Crystallisation
Nanobody Discovery
Protein Production

² Costs can include a contribution (up to 100%) to the infrastructure running costs (maintenance, energy power and water supplied for a specific instrument, staff time), and resources required specifically for the User project according to EC Decision C(2013) 8199 final. Costs shall be independently verifiable and auditable.

Instruct-ERIC Access policy

– with relation to Instruct activities involving academic and commercial users

Date: 16th July 2018
Version: 2.3
Circulation: Instruct-ERIC Council, Instruct-ERIC Executive Committee
Author: [REDACTED]

1. Introduction

The aim of Instruct-ERIC is to encourage the integrative use of technology and methodologies in structural biology. Access may be requested by users for series of services/technologies necessary for their project. However, applications for individual Instruct-ERIC services/technologies are also encouraged when the user's local facilities can provide the other techniques required. User access is one of the key activities of Instruct-ERIC and access regulations are collected in this Instruct-ERIC access policy (according to Art. 25 of the Statutes).

In managing the Access provision for Instruct-ERIC, there are three main levels of organisation and responsibility:

1. The role of the **Executive Committee** with respect to User access is to consider the Access Policy as prepared by the Access Committee and forward to Instruct-ERIC Council for approval.
2. The role of the **Access Committee** with respect to User access is to define the Access Policy, to approve access proposals, to supervise the review process performed by Instruct-ERIC moderators and reviewers, to resolve issues arising between centres and users with respect to Access provision, and monitor Access metrics.
3. The role of the **Instruct-ERIC Hub** with respect to User access is to implement the Access Policy to manage the peer review process, collect metrics and to provide support to users and facilities.

Key functions are performed by Moderators and Reviewers who receive and handle the Instruct-ERIC user access proposals. Involvement of Moderators and Reviewers in the review process is managed by Instruct-ERIC Hub with oversight of the Access Committee.

1. The **Moderators** comprise experienced scientists from Instruct Centres. They receive the proposals through ARIA, decide whether it is suitable for scientific review and, if so, send it to three reviewers for assessment. The Moderators make a recommendation to approve or reject access proposals based upon the reviewer's scores using predefined scoring thresholds (Annex 3) and provide a comment for the user incorporating the Reviewers' comments. The activity of the Moderators is overseen by the Access Committee who monitor acceptance and rejection rates and assist in discussions of problematic proposals when necessary.
2. The **Reviewers** are experts in their discipline who are registered in ARIA and allocated to a list visible to the Moderator. They review projects against predefined criteria and provide quantitative scores and a comment (see Annex 3).

2. Definition of access

Types of Access: Access typically involves the **visit** of a User to single or multiple services/technologies present at single or multiple Instruct-ERIC centres (referred to in the Statutes as “Instruct Centres”), as detailed in the Instruct-ERIC catalogue; this catalogue comprises a structured hierarchical presentation of the machines and methods available to users at each centre and is accessible on the Instruct-ERIC website. In some cases, **remote access** is possible whereby a User sends samples to a facility and then performs experimental steps via the network or receives results (e.g. images) following an experiment or discusses results with the service/technology staff.

Access Unit definition: The standard Unit of Access is defined as one day of work at the service/technology. Deviations from this definition are discouraged in order to unify metrics for reporting. If alternative Unit definitions are used locally, these should be converted to day-equivalents for reporting purposes.

3) Eligibility for access

Instruct-ERIC accepts proposals from any user for access to Instruct-ERIC infrastructure. Resources made available, financial and in-kind, by the Instruct Centre and the Instruct Hub to support the requested access vary depending on the different kind of user. Each Centre has the final decision on whether to accept an Instruct-approved user.

Academic and pre-competitive research

- **Users from an Instruct-ERIC Member state:** Instruct-ERIC will contribute to the access costs for academic users from Instruct-ERIC member for academic and pre-competitive research that will be published. Users from teams in the same locality as the service/technology (e.g. centre, institute, city) may submit proposals for funded access, but no User travel costs will be refunded. Users from the same group/team running the service/technology are not eligible. In case of financial support, results of access projects must be published
- **Users from outside the Instruct-ERIC Member countries:** Users from non-member states will not receive Instruct-ERIC funding unless specifically agreed otherwise through an MOU or other agreement, and may be charged an academic fee for access by the Instruct-ERIC Centre for academic or pre-competitive research according to their local rules. Academic fees may also be charged to non-commercial users requesting access through an Intergovernmental Organisation that is not located in one of the Members. Under normal circumstances, non-member affiliates (e.g. those established under MOUs) are expected to pay for their user travel and subsistence costs.

Proprietary research

- **Academic and industry researchers:** For **Proprietary research** where Users own the outcome of the work and there is no requirement to publish a commercial fee will be charged. Any agreements or contracts necessary for the service will be established between the user and the Instruct-ERIC Centre according to local Institutional rules.

4. Financing of User Access

Instruct-ERIC contributes to the “**Access Cost**” of user projects to a predefined limit as stated in Annex 1 (“**Access Cost Cap**”) where no other support is available. The Access Cost has two components:

- “**Support Cost**”: This is reimbursed from Instruct-ERIC funds administered through the Instruct Hub to the Instruct centre upon invoice and covers the direct costs of the machine/method used during the access. Typically, this is a contribution towards consumables and daily instrument costs. The amount of the Support Cost is detailed in Annex 1.
- “**User Travel Costs**”: This is reimbursed from Instruct-ERIC funds administered through the Instruct Hub to the user upon production of valid receipts once all reporting steps have been completed. Typically, this is a contribution towards travel and accommodation during the user visit to the Instruct centre. The amount of the User Travel Cost is detailed in Annex 1.

Multiples (and fractions) of units may be scheduled and can be charged accordingly. In all cases, the amount of funding available from Instruct-ERIC is defined before work commences according to the Instruct-ERIC Access Cost (Annex 1); in cases where the costs of access required by the Instruct-ERIC Centre are in excess of the Instruct-ERIC support available (for academic users), the user may be asked to cover the extra costs by the centre concerned or may request Extended Access.

Disclosure of Access Costs: The cost of a standard Unit of Access for each machine/method for academic users from member countries will be stated in the appendix to the Service Level Agreement. For users performing proprietary research, commercial (non-academic) rates will be applied. These will not be published and should be discussed on a case-by-case basis with the individual centre providing access.

Procedure for financing of Support costs: To receive Instruct-ERIC funds for access, each Centre should invoice Instruct-ERIC for the costs of access as stated in the Appendix to the Service Level Agreement up to the Access Cost Cap. Instruct-ERIC may ask for justification for costs claimed. Where the Support Costs exceed the Instruct-ERIC contribution (see Annex 1), the Centre can decide to recover the difference directly from the user via its own mechanisms.

Procedure for financing of User travel costs: Users should book and pay for their own travel and accommodation for access visits. Costs will be reimbursed by providing Instruct-ERIC with the completed reimbursement form and receipts up to the maximum value (see Annex 1). Reimbursements will be issued only upon submission of the User Report via ARIA.

5. Responsibilities

Online presentation: The Instruct-ERIC Centres agree to maintain an up-to-date profile in ARIA including the catalogue of services/technologies and machines/methods therein. The Instruct Access Committee should be notified of Substitutions/additions of the machines/methods offered in the catalogue.

Instrumentation status: The Instruct-ERIC Centres agree to communicate with the Instruct-ERIC Hub on long term breakdown of instrumentation that affects access provision.

Health and safety: Health and safety issues are the responsibility of the Instruct-ERIC Centre hosting the access (complying with its Institutional rules). The Centre is responsible for workplace insurances, safety training and sample authorisation (e.g. handling of hazardous samples, clearance for working with genetically modified organisms or samples). The User is responsible for all necessary personal insurances and should comply with all local rules and regulations.

Ethical considerations: Ethical issues are the responsibility of the Instruct-ERIC Centre (complying with its Institutional rules). The user is required to declare in the project proposal if there are ethical concerns that should be considered. The Centre must then decide whether it is able to perform the requested access taking into account local rules and regulations.

Handling of Users' personal data: Each Centre is required to manage its Instruct-ERIC user data in a manner compliant with all necessary regulations, including those of the General Data Protection Regulation (GDPR). The Instruct Hub will be responsible for additional user data collected during proposal handling and user reporting.

Reporting: Instruct-ERIC Centres are committed to keep a track record of access provision and to report/keep updated access provision data in the access management system adopted by Instruct-ERIC (ARIA). They commit also to maintain updated access provision, and to use the management system adopted by Instruct-ERIC in order to allow the Access Committee to monitor the access provision through metrics/statistics.

User satisfaction: In order to evaluate the quality of access provision, users are required to fill in a post-access online questionnaire detailing their experience and the outcome of the access visit(s). The Centre is also required to complete the online report

on the access visit(s). These will be reviewed by the Access Committee and by the Hub with the aim of maintaining and/or improving the level of service.

Publications and dissemination: Instruct-ERIC has a policy to publish data arising from non-proprietary research undertaken using Instruct-ERIC infrastructure. In published material, the User should acknowledge the use of Instruct-ERIC infrastructure, expertise and resource contributions using the following text: "The authors acknowledge the support and the use of resources of Instruct-ERIC".

6. Revision of this access policy

The Access Policy will be reviewed by the Access Committee annually with matters arising being communicated to the Executive Committee for consideration and action.

7. Annexes

1. Reimbursement amounts for academic and pre-competitive research

A cap on **Access Costs**: Instruct-ERIC funding for Access to each service/technology (at the academic rate) is capped at **1500 € per visit**. This can be split between the following costs:

- **Support Costs** (direct consumable and daily instrument costs): Up to **1100 €** per access visit or project (which will comprise a specified number of access units to achieve an agreed experimental outcome).
- **User Travel Costs** covering travel and accommodation: Up to **400 € within mainland Europe** and **600 € for Israel** (within this limit, eligible accommodation costs are capped at 80 € per person per night). No subsistence costs will be reimbursed.

Extended Access Cost: Instruct-ERIC will accept some flexibility in the costs claimed per access (for example, where travel costs can be covered by other means or no travel is required, the total amount of Instruct-ERIC support funds (1500 €) may be claimed against support costs, with justification).

In the case of exceptionally expensive services/technologies (as described in their unit cost) Instruct-ERIC support may be extended to 3000 € requiring the user to request this through the ARIA messaging system, with approval by the Instruct Moderator who may consult with the Access Committee or Instruct Hub if necessary. A second access visit ID (VID) is created together with a 1500 € Access Cost allocation.

2. Application procedure

The user is required to submit his/her proposal through the ARIA system. This comprises sequential steps:

- **Selection of Platforms:** In this step the applicant builds the research plan by selecting the service technologies from the Instruct-ERIC catalogue which will be required to undertake the research.
- **Context and Objectives:** Describes the background and rationale to the project as well as the expected impact of the research.
- **Research Programme and Methodology:** Describes the work planned which should have elements that are ambitious and innovative or tackle difficult problems with a fresh approach. Routine service access is not normally acceptable.
- **Ethical considerations:** Are there ethical considerations to declare that may impact the ability of the Instruct-ERIC centre to perform the requested access (yes/no).
- **Safety considerations:** Are there safety considerations to declare that may impact the ability of the Instruct-ERIC centre to perform the requested access (yes/no).
- **Background and current results:** Proposal should contain sufficient preliminary data to show that the experiments work is feasible: e.g. that material is of sufficient quality and quantity for requested technologies; that there is data supporting the scientific approach; that there are no safety or ethical issues preventing access.
- **Relevant publications:** The publications should provide information on potential impact of the work and the likelihood of success, i.e. provide preliminary data or information that allows the reviewers to judge if the work is feasible and of a suitable scope.
- **Research Team:** Choose which scientists will be involved in the proposal. This includes any scientist who will be performing a visit. The user profile in ARIA will be the reviewer's main source of information about the applicant and the team.
- **Principal Investigator (PI):** Instruct-ERIC consider principal investigator to a scientist eligible by their institution to apply for grants. The system will send an automatic message to the PI for authorisation of the proposal.
- **Team members:** In addition to the applicant indicate other members of the home institution that will be part of the research. Only scientists mentioned in this session will be eligible to access the Instruct-ERIC centres if the proposal is approved.
- **Excluded Reviewers:** Reviewers that may have conflict of interest can be named and will be excluded from review requests.

3. Evaluation procedures:

- A moderator assesses the proposal for scientific eligibility based upon its alignment with Instruct-ERIC's mission of integrated structural biology.

Proposals are then evaluated by three reviewers and must be accepted by the facility(ies) nominated in the proposal.

- A decision by the Access Committee, based upon the recommendation of its Moderator, on the acceptance of a proposal is without prejudice to the right of a facility to decline access. All facilities have a local right of veto for access without justification.
- **Evaluation criteria:** Reviewers score each proposal according to the following criteria and score guides:
- **Field and scope of research** (score 1= suitable field of study; 0 = not suitable for Instruct-ERIC: threshold = 1/1). The subject category of the proposal should fall within structural cell biology. This may include some functional work that may or may not be undertaken at an Instruct-ERIC Centre.
- **Impact of the research** (score 3 = high impact; 2 = moderate impact; 1 = low impact; 0 = not worthy of Instruct-ERIC support; where impact score = 1: threshold=2/3). In many cases, the work proposed will be part of an existing experimental project which has been scientifically peer-reviewed by an external national or international funding body. It is not the intention of Instruct-ERIC to duplicate this review process. However, an evaluation of the impact of the proposed work will help to prioritise proposals in cases where facility capacity or funding might be limited.
- **Preliminary data and Plan B** (score 3 = good preliminary data available and plan B in place; score 2 = some further data needed, plan B in place; score 1 = some further data needed and no plan B; score 0 = data not provided or not sufficient: threshold = 2/3). Proposals should contain sufficient preliminary data to show that the experimental work is feasible: e.g. that material is of sufficient quality and quantity for requested technologies; that there is data supporting the scientific approach; that there are no safety or ethical issues preventing access. Where a multi-visit project is proposed, some flexibility in the approach to take account of poor outcome should be included. The Reviewer should make a judgement about whether the nominated facility location(s) is optimal for the objectives and may offer advice on other choices.
- **Strengths and weaknesses** (score 1 = balance on strengths; score 0 = balance on weaknesses: threshold = 1/1) The strengths and weaknesses of the proposal should be evaluated, including a judgement on whether the facility requested are optimal for achieving the best experimental outcome. Suggestions on other facilities or approaches may be made.
- **Approval or Rejection of proposal.** Maximum score = 8; Threshold score for acceptance = 6; Revision required = scores 3-5; Rejected = scores 0-2. The Moderator will make the reviewers' comments available to the proposer when feedback on the decision is given.
- **Proposal Approval:** The Instruct Moderator makes his/her recommendation on whether the proposal is rejected or approved based upon the scores from the reviewers. The user receives the Moderator's recommendation via the ARIA system together with edited comments from the reviewers.

In the absence of intervention by the Access Committee, this recommendation forms the decision of Instruct-ERIC. The Access Committee monitors the Access metrics, and discusses issues arising with individual proposals when requested by the Moderator.

Instruct-ERIC Data Management Policy

Date: 2nd November 2018
Version: 2.1
Circulation: Instruct-ERIC Council, Instruct-ERIC Executive Committee
Committee that prepared original Instruct DMP ([REDACTED]),
[REDACTED],
Author: [REDACTED]

1. Introduction

The purpose of this policy is to provide Users conducting Instruct-ERIC Access projects with information and guidance on Experimental Data ownership, storage, access and management and to ensure that Experimental Data is managed and used in ways that maximises public benefit following FAIR principles (Findability, Accessibility, Interoperability, and Reusability). This policy should be read in conjunction with the Instruct-ERIC Statutes (2017/C 230/01).

The Structural Biology community has had a historical commitment to make the processed data and the structural models available to the public via the PDB, the oldest biological data archive. In a continuation of this tradition, and in line with perspective of the European Commission that data from publicly funded research projects is public data [COM(2011) 882 final], Instruct-ERIC encourages experimental data sharing and reuse.

2. Policy applicability

This policy applies to Users of facilities at Instruct-ERIC Centres, which conduct Instruct-ERIC Access projects and produce Experimental Data. Experimental Data arising from Proprietary Research is not covered by this policy and is subject to separate contractual arrangements.

3. Policy responsibility

The Instruct-ERIC Council has overall responsibility for this policy. Any queries or suggestions relating to this policy should be sent to the Instruct-ERIC Director.

4. Definitions

Terms and phrases in this policy shall have the meanings ascribed to them below.

“Access Proposal (or Access project)”: A research proposal describing a limited work programme that requests access to one or more Instruct-ERIC infrastructure facilities through Instruct-ERIC. Access is granted on approval of the proposal via the Centre and peer review;

“Analysed Data”: All data resulting from the manual or automated evaluation of Raw Data and Metadata through analytical and logical reasoning;

“Establishment”: The User’s employer;

“Experimental Data”: Raw Data, Analysed Data and associated Metadata arising from use of Instruct-ERIC Centre facilities;

“Instruct-ERIC”: a structural biology distributed infrastructure and member of the ESFRI Roadmap;

“Instruct-ERIC Centre”: An Institution recognized as a Centre by Instruct-ERIC

providing Users with access to its experimental facilities, scientific skills and/or online resources in the context of an Access project;

“Instruct-ERIC facilities”: All facilities made available at Instruct-ERIC Centres through Instruct-ERIC access procedures;

“Metadata”: Information pertaining to Experimental or Analysed Data collected as a result of use of Instruct-ERIC Centre facilities and shall include (but shall not be limited to) the context of the experiment, the experimental team, experimental conditions and other logistical information;

“Proprietary Research”: Commercially confidential research using Instruct-ERIC Centre facilities and for which there is no obligation to publish the Results;

“Raw Data”: Data produced as a result of use of Instruct-ERIC Centre facilities, excluding Analysed Data and Metadata;

“Results”: Any inventions, designs, information, know-how, specifications, formulae, Experimental Data, processes, methods, techniques and other technology arising out of peer reviewed research or activities;

“Structural data”: We refer to experimentally-derived data such as, structure factors, structural maps, list of atomic coordinates, or information on interacting protein residues and inter-atomic distances, among many others;

“Supporting data”: We refer to the data necessary to reproduce the published conclusions, including but not limited to original electron micrographs or particle images entering in the 3D reconstruction process, raw (time-domain) or processed (frequency-domain) NMR spectral data, diffraction data or other data arising from the use of X-ray sources;

“Users”: Users shall include the following persons making use of Instruct-ERIC Centres through Instruct-ERIC access procedures: scientists and engineers from academia, research councils and charitable institutions, researchers from commercial and non-commercial organisations;

5. Data to which this policy applies

This policy applies to Experimental Data, Supporting Data and Structural data.

6. Data ownership

- 6.1 Centres will not claim any usage or IP rights on the Experimental Data that they produce.
- 6.2 Users explicitly agree that their data may be made publicly available under the CC-BY license after no more than three years since the end of the Access project (see also 6.3).

- 6.3 Subject to pre-existing obligations including to various establishments, grant funding agencies or other third parties, and as a general rule, the Establishment(s) to which the User belongs while conducting Instruct-ERIC Access projects may have the exclusive use of data acquired in the course of the Access project during a certain embargo period, currently defined as 3 years, which may be extended under request in exceptional circumstances upon request to Instruct-ERIC Executive Committee. Intellectual Property protection for these Establishments and Users will be their sole responsibility.
- 6.4 If the Experimental Data reveals problems or flaws in the technology used to acquire it, in the data processing procedures, or indicates that improved service and quality of service could be obtained, then, subject to agreement with the Instruct-ERIC Centre User, the data may be used by the Instruct-ERIC Centre for the sole purpose of correcting these problems or flaws, or to improve the service.
- 6.5 In those cases in which the delivery of User Access requires a significant change or adaptation of otherwise standard Facility procedures, demanding substantial involvement of Facility staff, data ownership and IP will be shared between Users' Institutions and Facility. The details of this sharing should be discussed at the time the modified Access protocols were designed, and the Facility will present the User's Establishment a concrete proposal for discussion.

7. Data archiving

- 7.1 Subject to the pre-existing obligations above, storage of data is the responsibility of the User/Establishment to whom it belongs. Unless the Instruct-ERIC Centre explicitly offers a data archive service, Users are responsible for copying and making arrangements for the long-term storage of the Experimental Data. In this latter case the facility will collect and maintain an accountable proof of the transfer of the data to the user, for verification purposes.
- 7.2 Subject to future developments in the context of the European Open Science Cloud (EOSC) and of the approval of the appropriate Instruct-ERIC internal protocols of actions, and if in the future the EOSC initiative will provide the opportunity to store all, or a subset, of the experimental data acquired at Instruct-ERIC Centres in the course of Instruct-ERIC Access projects, then Instruct-ERIC will implement the necessary actions to take full advantage of such an opportunity. These data will be appropriately labelled using, for instance, Digital Object Identifiers (DOI).

8. Data sharing

- 8.1 Structural Data and models obtained in the course of the research conducted within an Instruct-ERIC Access project must be deposited in an appropriate public database. In particular, Structural Data must be either deposited in PDB/EMDB or, as an exception, to be made otherwise available within one year after publication of the results, or within five years after the visit, whichever came first.

- 8.2 It is the responsibility of the user to assure that Supporting Data is deposited in a public database or, in the absence of an appropriate such database, made otherwise available within one year after publication of the results, or within five years after the visit, whichever came first.

9. Data confidentiality

Instruct-ERIC, and Instruct-ERIC Centres, shall have procedures/guidelines in place to ensure confidentiality, both internally & externally, of Experimental Data during the embargo period, as well as to use these procedures to ensure that access to Experimental Data will be restricted to the Users of Instruct-ERIC Access projects to which the Experimental Data relates and the appropriate Instruct-ERIC support staff. Users of Instruct-ERIC facilities are responsible for meeting any third party data management or transfer obligations that may be applicable.

Instruct-ERIC IPR Policy and Guidelines

– With relation to Instruct-ERIC activities involving academic and commercial users

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1. Introduction

Instruct-ERIC (European Research Infrastructure Consortium) is an international infrastructure that brings together leading European structural biology centres (www.Instruct-eric.eu). Through access to the facilities of Instruct-ERIC centres, research and development awards and sponsored internships, Instruct-ERIC supports the provision of advanced structural biology techniques and expertise to the scientific (academic and industrial) communities of its member states (UK, Denmark, France, Italy, Czech Republic, Israel, Slovakia, Netherlands, Belgium, Portugal).

Instruct-ERIC is an independent legal entity and may, in particular, acquire, own and dispose of intellectual property, conclude contracts and be a party to legal proceedings.

This policy sets out the approach of Instruct-ERIC to intellectual property (IP) rights (IPR) arising from Instruct-ERIC activities including but not limited to the provision of services, technology and expertise to users from academia and industry and should be read in conjunction with the Instruct-ERIC Statutes (2017/C 230/01).

2. Principles

Instruct-ERIC seeks to allocate IPR associated with its activities in a manner that advances the Instruct-ERIC mission and encourages innovation and future participation in Instruct-ERIC activities.

Instruct-ERIC seeks to ensure that IP is protected and exploited in a manner that recognises the contributions of individual inventors, their organisations and those of any other parties.

Instruct-ERIC disclaims all representations and warranties of any kind related to the use of any products and/or intellectual property resulting from Instruct-ERIC activities.

3. Definitions

Terms and phrases in this policy shall have the meanings ascribed to them below.

“Academic and Research Purposes” means research, teaching or other scholarly use which is undertaken for one of an academic User’s/Establishment’s principal objects of the advancement of learning by teaching and research and its dissemination by any means;

“Background IP” means any IP which is owned by any User, Establishment or Centre prior to the commencement of a Research Programme or any other activity under the Instruct-ERIC project;

“Confidential Information” means all information in whatever form or mode of transmission, which is disclosed in accordance with clause 7 of the IPR Policy set out below;

“Co-workers of the Research Programme” means researchers and students actively engaged in the design, execution or analysis of, and working on, a Research Programme;

“Disclosing Party” means any individual or entity participating in Instruct-ERIC in any capacity who discloses Confidential Information;

“Establishment” means the User’s employer;

“Exercising Party” means any researcher requesting the use of Background IP from another party in order to use its Programme IP for Academic and Research Purposes;

“Funder” means any entity which provides financial support for the whole or significant part of any Research Programme;

“IP” means all copyright, database rights, rights in designs, rights in trademarks and service marks, rights in inventions, rights to apply for patents, rights in patent applications and granted patents, rights in and in relation to patents, topography rights, semi-conductor rights, rights in plant varieties; and any rights of similar kind in any jurisdiction, in all cases whether registered or not, and whether or not capable of registration; all rights in relation to know-how, techniques and results;

“Other Party” means the owner of Background IP to whom a request has been made to use their Background IP for Academic and Research Purposes;

“Project IP” means any IP developed in connection with a Research Project excluding any IP which would, if exploited commercially, infringe a User, Establishment or Centre’s Background IP;

“Receiving Party” means any individual or entity participating in Instruct-ERIC in any capacity who receives Confidential Information from a Disclosing Party;

“Research Programme” means a set of related research activities with a particular long-term aim;

“Research Project” means a project to be undertaken by a User, in the course of which it will use Instruct-ERIC-Related Facilities and in relation to which a proposal to use Instruct-ERIC-Related Facilities has been approved by Instruct-ERIC;

“Users” means those applicants including the Principal Investigator and Co-workers of the Research Programme whose proposal to use Instruct-ERIC-related Facilities for a Research Project has been accepted by Instruct-ERIC;

4. Background IP

- 4.1 All “Background IP” used in connection with any “Research Programme” shall remain the property of the party introducing the same. No party will make any representation or do any act which may be taken to indicate that it has any right, title or interest in or to the ownership or use of any of the Background IP of other parties. Any improvements or modifications to a party’s Background IP arising from a Research Programme which are not severable from that Background IP will be deemed to form part of that party’s Background IP.
- 4.2 If an Exercising Party requires the use of Background IP belonging to the Other Party in order to use its Project IP for Academic and Research Purposes the Other Party will grant the Exercising Party a royalty-free, non-exclusive licence to use any of its Background IP for such purposes, provided that the Other Party is free to license the Background IP in question.
- 4.3 If the Exercising Party requires the use of Background IP belonging to the Other Party in order to exploit commercially its Project IP then, provided the Other Party is free to license the Background IP in question, the Other Party will not unreasonably refuse or delay granting a licence on reasonable commercial terms to the Exercising Party so that the Exercising Party may use such Background IP for the purpose of exploiting commercially its Project IP.

5. Project IP

- 5.1 Each User will own any Project IP arising from its conduct and that of its Co-workers of the Research Project, subject to any Funders’ rights in such Project IP and any policies or regulations of the Establishment.
- 5.2 In the event that a User exploits commercially any of its Project IP it will negotiate with the Centre and/or any other User a fair and reasonable royalty, based upon the value of any products or processes it exploits commercially, but only in the event that: i) those products or processes commercially exploited incorporate, embed or otherwise contain any of the Centre’s and/or other User’s Background IP or Project IP, and/or ii) the Centre and/or other User (as the case may be) can show by written record that they have made a contribution to the development of the User’s Project IP. Furthermore, in determining the royalty rate, if any, the parties shall take into consideration the expenses incurred in securing intellectual property protection of the User’s Project IP and the costs of its commercial exploitation.
- 5.3 A User and a Centre may agree that, taking into consideration the contribution made to a Research Project by employees, students, agents or appointees of a Centre,

The Project IP should be owned jointly by the User and the Centre, upon such Terms to be agreed by the User and the Centre.

- 5.4 These licensing provisions shall not apply to the extent that they conflict with a User's obligations under any relevant agreement with a Funder.

6. Third Party IP

- 6.1 Before beginning an Instruct-ERIC activity, Users in a Research Project of any sort must disclose any knowledge of an IP claim that may be infringed by the proposed work. This includes knowledge of infringed patents, trademarks and copyrights. This obligation does not require participants to perform searches of IP rights, including patent, trademark and copyright searches.
- 6.2 If an Instruct-ERIC activity, involves the use of Third Party IP, Users must ensure that they have the necessary rights to do so and that any obligation imposed by using the Third Party IP is consistent with the Principles in section 2.

7. Confidentiality

- 7.1 All information relating to an Instruct-ERIC proposal and the subsequent Research Project undertaken as Instruct-ERIC access including reports arising from the access will be considered confidential unless otherwise agreed by all parties or until any element of Clause 8.1 applies. The Disclosing Party will ensure that this is confirmed as understood by all parties and as far as possible mark all documents as confidential.
- 7.2 The Receiving Party will not use Confidential Information otherwise than for the purpose for which it was disclosed.
- 7.3 The Receiving Party will ensure that internal distribution of Confidential Information shall take place on a strict need-to-know basis.
- 7.4 The Receiving Party return to the Disclosing Party on demand all Confidential Information which has been supplied to or acquired by it including all copies thereof and delete all information stored in a machine readable form. If needed for the recording of ongoing obligations, the Receiving Party may keep a copy for archival purposes only.
- 7.5 The Receiving Party will disclose Confidential Information only to its Co-workers who have a need to know such information for the performance of future work with respect to the Research Programme and who have been notified that such information is confidential.

- 7.6 The Receiving Party will apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Research Programme as with its own confidential and/or proprietary information, but in no case less than reasonable care.
- 7.7 Term of obligations in respect of Confidential Information shall continue in force for a period not exceeding 5 years.

8. Disclosure

- 8.1 The provisions of Clause 7 shall not apply to disclosure or use of Confidential Information if and in so far as the Receiving Party can show that:
- The Confidential Information becomes publicly available by means other than a breach of the Receiving Party's confidentiality obligations;
 - The Disclosing Party subsequently informs the Receiving Party in writing that the Confidential Information is no longer confidential;
 - The Confidential Information is communicated to the Receiving Party without any obligation of confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party;
 - The information equivalent to all or part of the Confidential Information was at any time developed by the Receiving Party completely independently of any such disclosure by the Disclosing Party; or
 - The Confidential Information was already known to the Recipient prior to disclosure; or the Receiving Party is specifically required to disclose the Confidential Information pursuant to a law or order of any court of competent jurisdiction subject to any exceptions that apply under that law.
- 8.2 The Receiving Party will promptly advise the Disclosing Party in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.
- 8.3 If the Receiving Party becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure notify the Disclosing Party, and comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the Confidential Information.

9. Publication

- 9.1 Instruct-ERIC subscribes to the principle of open science for publicly funded research and expects that the results of all non-commercial Instruct-ERIC activity are made available through public events such as conferences and public data depositories and publications, taking into account the requirement to protect any IP arising from Instruct-ERIC activity.

- 9.2 Instruct-ERIC activity should be acknowledged and in published material by the following statement: "The authors acknowledge the support and the use of resources of Instruct-ERIC."