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*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Statutes of Instruct**European Research Infrastructure Consortium****(Instruct-ERIC)**

(2017/C 230/01)

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PREAMBLE

The Kingdom of Belgium

The Czech Republic

The Kingdom of Denmark

The French Republic

The State of Israel

The Italian Republic

The Kingdom of the Netherlands

The Portuguese Republic

The Slovak Republic

The United Kingdom of Great Britain and Northern Ireland

Hereinafter referred to as ‘the Founding Members’

and

The Hellenic Republic

The Kingdom of Spain

The Kingdom of Sweden

The European Molecular Biology Laboratory (EMBL)

Hereinafter referred to as ‘the founding Observers’

- (A) ACKNOWLEDGING that both structural and cell biology are vital, not only for advancing fundamental understanding of how biological systems function, but also for underpinning progress in biomedicine and biotechnology;
- (B) RECOGNISING that Europe's forefront position in structural biology is not only maintained but evolves progressively in parallel with scientific trends, in particular the integration of structural and cell biology, making it essential that the development, access and use of European infrastructure and expertise is maximised, especially through collaborative working;

- (C) BUILDING on the ESFRI Roadmap that identified Instruct as a pan-European distributed infrastructure whose principal task is to facilitate access to state-of-the-art research facilities and expertise across Europe in order to support excellent science that integrates an understanding of biological structure with cellular function;
- (D) TRANSFERRING the pre-existing Instruct operations (including staff contract arrangements, limited assets, and zero debts), founded under the special purpose legal vehicle, Instruct Academic Services Limited into the new Instruct-ERIC legal entity;
- (E) SUPPORTING the participation of the Founding Members and future Members of Instruct-ERIC to strengthen the capability and competitiveness of the structural biology infrastructure and its ability to support excellent research in line with international standards, and delivering impact in research, on innovation and ultimately on health; and
- (F) DEVELOPING the role of Instruct to advise and work with funders and industry on the construction and implementation of a coordinated European strategy for investments in structural biology infrastructure,

HAVE AGREED AS FOLLOWS:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Definitions

1. For purposes of these Statutes, the following defined terms and expressions shall have the following meaning:

'Access Committee' is the body established to manage the review of prospective Users' proposals and applications for access to the tools and services provided by the Instruct-ERIC infrastructure.

'Centres General Forum' is the non-executive body comprising broad representation from all Instruct Centres that acts as a consultative body to identify new topics or issues relevant to Instruct-ERIC and has the ability to put these forward to the Executive Committee for consideration.

'Executive Committee' is the principal executive management committee for Instruct-ERIC, as more fully described in Article 16.

'Founding Members' are the Members of Instruct-ERIC at the date of the Commission Implementing Decision establishing Instruct-ERIC takes effect.

'Host Country' means the Country that hosts the Instruct Hub.

'Independent Scientific Advisory Board' or **'ISAB'** is the scientific and strategic advisory body to the Instruct Council (hereinafter Council), as more fully described in Article 17.

'Instruct Activities' means the provision of and transnational access to Instruct infrastructure and coordination of training courses and workshops as described in Article 4.

'Instruct Centre(s)' means the distributed sites at which Instruct related activities are carried out; principally the provision of infrastructure access and also contributing expertise, data services, technology or facilities, training, networking and cooperation activities with Instruct-ERIC, as more fully described in Article 15.

'Instruct Hub' is the office of Instruct-ERIC's core team responsible for coordinating Instruct operational activities, located principally (but not exclusively) as at the date of these Statutes, in the Host Country at Instruct-ERIC's statutory seat in the University of Oxford, United Kingdom. The Hub shall comprise, inter alia, the elements described in Article 19.

'Internal Rules of Procedure' means the Instruct-ERIC Governance and Implementation policy as approved by the Instruct-ERIC Council (Article 13).

'Intergovernmental Organisation' means those organisations that have been established with a legal personality under international law and recognised as such by the public authorities of the host Member State, and by members of such organisations as defined in Article 23(1) of Directive 92/12/EEC.

'Member' means a member of Instruct-ERIC.

*Article 2***Establishment of Instruct-ERIC**

1. There shall be a European Research Infrastructure called the 'Integrated Structural Biology', hereinafter referred to as 'Instruct'.
2. Instruct shall have the legal form of a European Research Infrastructure Consortium (ERIC) incorporated under the provision of the ERIC Council Regulation (EC) No 723/2009 modified by Council Regulation (EU) No 1261/2013 and be named 'Instruct-ERIC'.

*Article 3***Seat and Working Language**

1. Instruct-ERIC shall have its statutory seat in Oxford, United Kingdom.
2. The working language of Instruct-ERIC shall be English.

*Article 4***Objectives and Activities**

1. The objective of Instruct-ERIC is to establish and operate a distributed pan-European Research Infrastructure called Instruct, specifically:
 - a) to facilitate the advancement of integrative structural cell biology;
 - b) to make available a managed access to state-of-the-art European structural biology facilities and specialist expertise;
 - c) to further the development of the Instruct technology; and
 - d) to provide training in integrative techniques in the field of structural biology.
2. To this end Instruct-ERIC shall undertake and coordinate a variety of activities, including but not limited to:
 - a) those offered by Instruct Centres such as the provision of infrastructure to the structural biology user community and other Instruct training, networking and dissemination activities;
 - b) the creation and operation of the Instruct Hub that provides the central coordinating role for all Instruct Activities offered through Instruct Centres;
 - c) the provision of access to structural biology infrastructure at Instruct Centres using an Instruct web-portal incorporating peer review and scheduling for access reserved for Instruct users by an Instruct Centre;
 - d) the coordination by the Instruct Hub of training courses and workshops on techniques and methods relevant to structural cell biology, enabling the dissemination of expertise, the stimulation for exchange and co-development with industry;
 - e) the coordination by the Instruct Hub of joint programmes between Instruct Centres that support new technical and technological approaches that enable better integration across structural biology technologies;
 - f) the coordination of programmes with companies that develop innovative structural biology technologies enabling their effective uptake by Instruct Centres, making these available for access to academic and industrial researchers in Europe;
 - g) the bridging of structural, cell and systems biology communities by coordinating joint actions including meetings, conferences and workshops;
 - h) any other related action that helps strengthen research in the European Research Area.
3. Instruct-ERIC shall construct and operate on a non-economic basis, in order to further promote innovation as well as transfer of knowledge and technology. Limited economic activities may be carried out provided that they are closely related to its principal mission and that they do not jeopardise the achievements thereof.

*Article 5***Review and Funding of Instruct-ERIC**

1. The past achievements and future plans of Instruct and the effectiveness of the Instruct-ERIC shall undergo a formal review every five years in accordance with Annex 5 to help determining the value and impact of the joint investment, the scale and shape of future funding, and future membership.
2. The Council shall be responsible for approving the requirements and timetable for the review.
3. The Director shall be responsible for preparing and submitting the review report, drawing upon input from the Instruct Centres, the Independent Scientific Advisory Board (ISAB) and others where appropriate. The future investment of Instruct-ERIC and the financial contributions requested of Members as provided for in Article 10 shall be determined by the outcome of these reviews and shall be fixed for periods of five years and shall not be increased in between without unanimous approval by the Council in accordance with Article 13.
4. The Council shall set the review timetable so that the outcome is available to the Members in sufficient time to allow them to decide on their future membership before the next five year funding period starts.

CHAPTER 2

MEMBERSHIP*Article 6***Membership**

1. The following entities may become Members of Instruct-ERIC as set out in the Council Regulation (EC) No 723/2009:
 - a) Member States of the European Union ('Member States');
 - b) Associated Countries of the European Union ('Associated Countries');
 - c) third countries other than Associated Countries ('Third Countries');
 - d) Intergovernmental Organisations.

Conditions for admission of Members and Observers are specified in Article 7.

2. The membership of Instruct-ERIC shall include at least one Member State and two other countries that are either Member States or Associated Countries. Further Member States, Associated Countries, third countries other than Associated Countries and Intergovernmental Organisations may join at any time according to the procedures in Article 7.
3. Member States and Associated Countries shall jointly hold the majority of the voting rights in the Council, in accordance with EU Council amending Regulation (EC) No 723/2009 and Article 13 of the Statutes. The Members, Observers and their Representing Entities are listed in Annex 1.

*Article 7***Admission of Members and Observers**

1. Member States and Associated Countries, third countries other than Associated Countries and Intergovernmental Organisations can apply at any time on equal terms for membership of Instruct-ERIC. The terms for admission of new Members shall be the following:
 - a) applicants for membership shall submit a written application to the Chair of the Council;
 - b) the membership application shall describe how the applicant will contribute to the Instruct-ERIC objectives and tasks described in Article 4 and how it will fulfil the obligations described in Article 10;
 - c) the admission of new Members shall require the approval of the Council in accordance with Article 13; and
 - d) Members shall commit to a minimum of five years of minimum membership period to Instruct-ERIC.

2. Entities listed in Article 6 that wish to contribute to the Instruct-ERIC, but are not yet able to become Members, may apply for Observer status. The terms for admission of Observers shall be the following:
 - a) Observers shall be admitted for a two year period. An Observer may apply for a one year extension of Observer status;
 - b) Candidates for Observer status shall submit a written submission to the Chair of the Council. The submission shall provide a timetable and key steps towards Membership. Observers may apply at any time for Membership.

Article 8

Withdrawal of a Member or Observer

1. A Member may withdraw from Instruct-ERIC at any time upon at least six months prior written notice to the Council, and after a minimum two years of Membership. If notice is served by 30 June in any year, withdrawal comes into effect at the end of the same financial year in which notice has been given, namely on 31st December. If notice is served after 30th June, then the Member is committed to paying membership fees and contributing to Instruct-ERIC activities until withdrawal comes into effect on 31st December the following year. Once membership has been terminated, no further membership fees will be payable.
2. A Member who withdraws shall continue to contribute to Instruct-ERIC activities and Instruct-ERIC budget until withdrawal is effective. Prior to withdrawal, any Instruct-ERIC purchased assets of the withdrawing Member should be identified, ownership clarified and if appropriate returned to the Instruct Hub.
3. Members that withdraw shall neither have right to restitution or reimbursement of any contributions made, nor the right to lay any claim to the assets of Instruct-ERIC.
4. An Observer can withdraw at any time by written notice to the Council.

Article 9

Termination of a Member or Observer

1. The Council shall have the power to terminate the membership of a Member if the following conditions are met in accordance with Article 13:
 - a) the Member is in serious breach of one or more of its obligations under the Statutes; and
 - b) the Member has failed to rectify such breach within a period of six months after notification.
2. The Member shall be given the opportunity to present its position to the Council before a decision is made. A terminated Member shall continue to contribute to Instruct-ERIC activities and Instruct-ERIC budget until withdrawal has become effective.
3. After the termination decision has been made, Members shall neither have right to restitution or reimbursement of any contributions made, nor the right to lay any claim to the assets of Instruct-ERIC.
4. The Council may terminate participation of an Observer in the Council at any time by written notice if the Observer is no longer committed to the objectives of Instruct-ERIC as defined by the Statutes.

CHAPTER 3

RIGHTS AND OBLIGATIONS OF THE MEMBERS AND OBSERVERS

Article 10

Members

1. Rights of Members shall include:
 - a) attendance and voting rights at the Council as defined in Article 13;
 - b) access to the infrastructure at Instruct Centres subject to the access procedure, training courses and workshops, and other activities; and
 - c) use of the Instruct-ERIC brand in accordance with agreed brand guidelines.

2. Each Member shall:
 - a) pay the annual Membership contribution as specified in Annex 2 or calculated under any other mechanism approved by the Council under Article 13;
 - b) appoint up to two delegates who will represent the Member on the Council;
 - c) empower its delegates with the full authority to vote on all issues raised during meetings of the Council and included in the agenda subject to the provision of the one vote per Member rule;
 - d) make best efforts to support an Instruct Centre that it hosts, subject to internal review and investment procedures, to allow it to discharge its commitments as defined when appointed. These commitments shall be set out in detail within a Service Level Agreement between the Instruct Centre's host institution and the Instruct-ERIC;
 - e) acknowledge the expectation that Members should host an Instruct Centre in accordance with Annex 3: Criteria for Reviewing Instruct Centres and as specified in Article 15; and
 - f) adopt harmonised standards in national resources and tools development and implementation.

Article 11

Observers

1. Rights of Observers shall include:
 - a) receipt of Council papers, attendance and the right to speak at meetings of the Council, without voting rights;
 - b) the ability to appoint up to two delegates who may represent the Observer on the Council.
 - c) Observers may apply for Instruct-ERIC access on the same basis as users from outside the Instruct-ERIC Membership as set out in Article 25(5).

Article 12

Third Parties

In order to stimulate the development and implementation of innovative structural biology infrastructures, Instruct-ERIC shall establish links with Third Parties offering specialized expertise or know-how. Partnerships will be based on agreements specifying the provision and delivery of agreed work or services.

CHAPTER 4

GOVERNANCE AND EXECUTION OF ACTIVITIES OF INSTRUMENT-ERIC

Article 13

Council

1. The Council shall be responsible in accordance with the provisions of these Statutes for the overall direction and supervision of Instruct-ERIC. The Council shall be composed of representatives from the Members (Article 6). Each Member shall be entitled to one vote with all votes being of equal value, subject to Article 13(5) Members absent or abstaining from voting shall be counted as not voting.
2. Observers attending Council meetings shall have no right to vote.
3. The Council shall be convened by the Chairperson at least twice per calendar year or at any time at the request of at least three Members.
4. The Council shall be quorate if at least two thirds of Members are present at a meeting and shall use their best efforts to achieve consensus.
5. Member States and associated countries shall at all times jointly hold the majority of the voting rights in the Council. If at any time less than half the Members present and voting are Member States or associated countries, then together those Members shall hold 51 % of the voting rights of Instruct-ERIC, with such voting rights being divided equally between those Members. The remainder of the voting rights shall be divided equally between the other Members present and voting who are not Member States or associated countries. If at any time this arises, then in Article 13(1), the reference to one vote shall refer to the voting rights exercisable by a Member in accordance with this Article 13(5).

6. The following decisions shall require unanimous approval of Members present and voting:
 - a) changes to the model for calculating the financial contributions requested of Members and approval of Member in-kind contributions to support staff within the Instruct Hub as described in Annex 2;
 - b) subject to the requirements of Article 11 of Regulation (EC) No 723/2009, proposals for amending the Statutes of the Instruct-ERIC and submission to the European Commission for approval;
 - c) changes to the financial contributions requested of Members outside the period determined in Article 5.
 - d) setting the contribution made by Intergovernmental Organisations, in accordance with Annex 2.
7. The following decisions shall require an approval of a two thirds majority of Members present and voting, subject to the requirements defined in Article 13(5):
 - a) elect its Chairperson from among the voting Member representatives following nominations;
 - b) appoint and remove the Director;
 - c) admit new Members and Observers;
 - d) expel Members and Observers in accordance with Article 9;
 - e) approve or remove Instruct Centres according to the criteria detailed in Annex 3 to these Statutes;
 - f) wind-up Instruct-ERIC in accordance with Article 30;
 - g) adopt and where necessary amend the Internal Rules of Procedure for operating Instruct-ERIC's governing bodies, subordinate committees and working groups.
8. All other decisions shall require a simple majority of Members present and voting, subject to the requirement defined in Article 13(5). For the avoidance of doubt, a simple majority means more than half of the votes of Members present and voting.

Article 14

Director

1. The Director shall be appointed by the Council following an open competition and may be removed by the Council in accordance with Article 13. The selection of the appointee shall follow the process set out in Annex 4.
2. The Director shall be the legal representative of Instruct-ERIC as required in Article 12 of the ERIC Regulation (EC) No 723/2009 and shall be empowered to conclude contracts and conduct other legal and administrative proceedings as appropriate in accordance with the decisions of the Council. The Director shall be located at the Instruct Hub and carry out the day-to-day management of Instruct-ERIC including the management of the staff of the Hub. The Director shall be responsible for the implementation of the decisions by and report to the Council.
3. The term for the Director shall be five years, renewable, upon agreement of the Council for a further term of five years subject to any lawful earlier termination by the Council.
4. The Director shall be responsible for the development of the strategy and deliver proposals to the Council, drawing on input from the ISAB, Instruct Centres, Centres General Forum and any other suitable source. The Director shall be responsible for preparing and submitting a full report of past achievements and future plans to help inform the overall quality, impact, and productivity of the Instruct-ERIC investment and whether Members should continue to support its activities for five years in advance.
5. The Director shall be responsible for identifying additional sources of funding to support Instruct-ERIC Activities, within the framework of limited economic activities outlined in Article 4.
6. The Director shall appoint staff to the Instruct Hub.
7. In the event of the Director's post falling vacant, the Chairperson of the Council shall represent Instruct-ERIC in civil actions. In such case, the Council may designate a person whose powers and responsibilities it shall determine, to take the place of the Director until a new Director has been appointed.

*Article 15***Instruct Centres and the Centres General Forum**

1. Instruct Centres shall be located within the Member, or legal entity for Intergovernmental Organisations, and provide the infrastructure and expertise to support the tasks and activities of Instruct-ERIC.
2. New Instruct Centres shall be selected by the Council through independent peer review using criteria set by the Council as provided for in Annex 3.
3. Instruct Centres shall be evaluated at least once in each five-year period through independent peer review with input from the ISAB against criteria and key performance indicators established by the Council which shall be updated five-yearly as provided for in Annex 3.
4. Staff from the Instruct Centres, nominated by the Instruct Centre Coordinator to represent access, training and networking activities, are brought together through the Centres General Forum. The Centres General Forum provides a platform for the Centres to discuss issues and provide advice to the Instruct Executive Committee and Council on the development and delivery of Instruct activities. The Centres General Forum has no executive power.
5. The Centres General Forum shall meet at least once per year at the request of the Executive Committee.

*Article 16***Executive Committee**

1. The Council shall appoint an Executive Committee which shall serve to assist the Director in executing his/her responsibilities.
2. The Executive Committee shall comprise no more than ten individuals drawn from Instruct Centres and shall be chaired by the Director. The Council shall call for nominations from both Members and the Centres General Forum for up to two representatives from their respective Instruct Centres. Appointments shall be made by the Council for a term of two years, renewable once, for a further term of two years, subject to earlier lawful termination. The Council shall ensure that membership on the Executive Committee achieves equitable representation of Centres.
3. The Director shall convene and chair all meetings of the Executive Committee. The Executive Committee shall meet at least quarterly each year. Meetings may be face-to-face, by telephone or any other practical means as agreed in advance by the Director. Dates of meetings are set and published in advance for each forthcoming operational year, normally with a minimum of two weeks' notice. The Executive Committee shall be tasked by the Director with delivering the Instruct-ERIC activities, as defined by the Council.
4. The Executive Committee shall be tasked by the Director with all general matters including drawing up proposals for the Council, establishing and modifying annual working plans related to Instruct-ERIC and ensuring consistency, coherence and stability of infrastructure services.
5. The Executive Committee shall also be responsible for:
 - a) providing information to the Director on fulfilment of Instruct-ERIC's policy objectives and the implementation of its delivery plans;
 - b) monitoring the composition of advisory committees. Advisory committee appointments shall be adopted by the Council in accordance with Article 13;
 - c) providing information on performance of the Instruct Hub;
 - d) convening with external parties, forums and conferences and accepting representation from special interest groups as necessary to aid its supporting and reporting role to the Director;
 - e) preparing reports for the Director and to any other body or organisation as required or directed;
 - f) identifying funding opportunities by calls for proposals in order to coordinate the Instruct Centres for the preparation of the proposals to be submitted; and
 - g) implementing Instruct projects that are funded outside of Instruct-ERIC, are consistent with the Instruct strategic objectives and are supported by one or more Instruct Centres. Projects that may shift the focus away from core activities shall require approval from the Council.

*Article 17***Independent Scientific Advisory Board**

1. The ISAB shall be established to advise the Council on any scientific and strategic matters relevant to Instruct-ERIC. The ISAB shall review the performance of the Instruct Centres in order to provide the Council with recommendations of approval or removal of research facilities as Instruct Centres and with advice on progress and future strategic and scientific goals, needs, opportunities, taking account of the global context.
2. The ISAB shall comprise a minimum of five and a maximum of eight scientific and technical experts appointed by the Council. The ISAB shall elect a Chairperson from its members by simple majority. The mandate of the appointed Chairperson shall be automatically extended so that they can fulfil their term in the Chair. The ISAB members shall not be directly involved in the management of Instruct-ERIC, and shall be usually experts from outside Europe. Members of the ISAB may be proposed to the Council by the Director. Any potential conflicts of interest should be declared before consideration by the Council. Members of the ISAB are appointed for a three year term, renewable once, by one to three years. Members of the ISAB shall be required to sign a non-disclosure agreement no later than thirty days after their nomination or before any confidential information is exchanged, whichever date is earlier.
3. The ISAB shall meet at least once per year to assess the overall scientific and strategic progress made by Instruct-ERIC against its scientific vision and other challenges.
4. Members of the ISAB shall be reimbursed by Instruct-ERIC for reasonable travel and accommodation expenses, as directed by the Council.

*Article 18***Instruct Groups**

1. The Council may establish further committees, working groups and advisory boards, if deemed necessary, and define their assignment and mandate.

*Article 19***Instruct Hub and Staff**

1. The Instruct Hub shall be the central management office for daily operations of the Instruct-ERIC. It supports the day-to-day management of the Instruct-ERIC, including assistance to the Council. It shall be set up and managed by the Director as provided for in Article 14.
2. The Instruct Hub shall:
 - a) provide the necessary day-to-day administrative and financial management and report activities via the Director to the Council;
 - b) centrally coordinate Instruct-ERIC activities undertaken by the Instruct Centres and provide support resources to the Instruct Centres as applicable;
 - c) further develop, update and maintain the infrastructure organisation, procedures, documentation, communications and ensure that Instruct-ERIC maintains the capacity to effectively deliver high quality services and activities.
3. Subject to approval of the Council, staff of the Instruct-ERIC Hub may be seconded from personnel of Instruct Centres forming a functional link between the Instruct Hub and the Instruct Centres.

CHAPTER 5

FINANCE

*Article 20***Budgeting Principles and Accounts**

1. The financial year of Instruct-ERIC shall be a calendar year.
2. A yearly forecast and expenditure accounted against forecast within each financial year budget are presented by the Director to the Council.

3. Instruct-ERIC accounts shall be audited by an independent auditing authority in accordance with applicable laws and regulations. The audit reports shall be presented to the Council along with a report on Instruct-ERIC activities and financial management.
4. Instruct-ERIC shall operate within the principles of sound financial management and be subject to the requirements of the applicable law as regards the preparation, filing, auditing and publication of accounts.
5. Instruct-ERIC shall record the costs and revenues of any economic activities separately.

Article 21

Liability

1. Instruct-ERIC shall be liable for its debts.
2. The Members are not jointly liable for the debts of Instruct-ERIC.
3. Each Member's financial liability for Instruct-ERIC's debts and liabilities shall be limited to their respective contributions provided to Instruct-ERIC as set out in Annex 2.
4. Instruct-ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of Instruct-ERIC.

CHAPTER 6

REPORTING TO THE COMMISSION

Article 22

Reporting to the Commission

1. Instruct-ERIC shall produce an annual activity report containing in particular the scientific, operational and financial aspects of its activities. The report shall be prepared by the Director with assistance of the Executive Committee, approved by the Council and transmitted to the Commission and relevant public authorities within six months from the end of the corresponding financial year. After approval, the report shall be made publicly available through the Instruct-ERIC website.
2. Instruct-ERIC shall inform the Commission of any circumstances which threaten to seriously jeopardise the achievement of the Instruct-ERIC tasks or hinder Instruct-ERIC from fulfilling requirements laid down in the ERIC Regulation.

CHAPTER 7

POLICIES

Article 23

General

1. Instruct-ERIC shall hold and update policies covering various procedures and processes related to Instruct-ERIC operations according to Article 10 of Regulation (EC) No 723/2009. Policy documents are held by the Instruct Hub and shall be publicly available on the Instruct-ERIC website.

Article 24

Procurement Policy and Tax Exemption

1. The Council shall approve detailed rules on procurement procedures and criteria which Instruct-ERIC shall be obliged to follow. This procurement policy shall respect the principles of transparency, proportionality, mutual recognition, equal treatment and non-discrimination.
2. VAT and Excise duty exemptions based on Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ and in accordance with Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax ⁽²⁾ and on Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC ⁽³⁾ on the general arrangements for products subject to excise duty, shall be limited to purchases by Instruct-ERIC and by members of Instruct-ERIC of goods and services for the official and exclusive use of Instruct-ERIC and made solely for the non-economic activities of Instruct-ERIC in line with its activities. VAT and Excise duty exemptions shall be limited to purchases exceeding the value of EUR 300.

⁽¹⁾ Articles 143(1)(g) and 151(1)(b) (OJ L 347, 11.12.2006, p. 1).

⁽²⁾ Articles 50 and 51 (OJ L 77, 23.3.2011, p. 1).

⁽³⁾ OJ L 9, 14.1.2009, p. 12.

*Article 25***Access Policy**

1. Each Member hosting one or more Instruct Centre shall provide infrastructure access, subject to the approved access procedure, to successful applicant(s). Each Instruct Centre shall identify the fraction of their infrastructure capacity that is made available for Instruct-approved access projects. Approval of Instruct-ERIC access proposals is granted by the Access Committee based on the international expert review driven by scientific excellence first, also taking account of technical and operational feasibility.
2. The delivery of access services shall be overseen by the Director taking into account:
 - a) the scientific (peer) review of the project;
 - b) the logistic assessment performed by the Instruct Centre(s) involved on the technical feasibility of the project, the expected timeline and scheduling of the work at the Centre; and
 - c) the resources made available, financial and in-kind, by the Instruct Centre and the Instruct Hub to support the requested access, specifically the capacity for Instruct access at the requested Instruct Centre, and sufficient central access funds, managed by the Instruct Hub.
3. Instruct-ERIC shall accept proposals from any user for access to Instruct-ERIC infrastructure.
4. Instruct-ERIC shall ensure open access for researchers from institutions in the Members includes access to data, tools and services offered by Instruct Centres. Member users shall be eligible to apply for Instruct-ERIC funded access to infrastructure, training courses, workshops, attendance at conferences or any other activity offered and supported by Instruct-ERIC. Access to data and tools shall be governed by the Instruct-ERIC Data Management and Biologicals Policies and in the case of collaborative work, agreement between all users, as defined in Article 27.
5. Users from non-Members may apply for access using the proposal system. For academic or pre-competitive research, an academic fee will be charged for access. Academic fees may also be charged to non-commercial users requesting access through an Intergovernmental Organisation and that are not located in one of the Members.
6. Users requesting access to Instruct infrastructure for proprietary research shall be charged a commercial fee for access. In this case, the data arising from access will belong to the user and there shall be no obligation to disclose or publish it.
7. Priority for access shall always be given to the Members.
8. Users of Instruct-ERIC infrastructure for non-proprietary research shall agree to publish the data arising from the access and make the data publicly available.

*Article 26***Dissemination Policy**

1. Instruct-ERIC shall be a facilitator of research and shall as a general rule encourage as free access as possible to research data. Irrespective of this principle Instruct-ERIC shall promote high quality research and shall support a culture of 'best practice' through training activities.
2. Instruct-ERIC shall generally encourage researchers to make their research results publicly available and shall request all users to acknowledge Instruct-ERIC accordingly.
3. The dissemination policy shall describe the various target groups, and Instruct-ERIC shall use several channels to reach the target audiences, such as web portals, newsletter, workshops, presence in conferences, articles in magazines, daily newspapers and social media.
4. Publications arising from Instruct-ERIC supported activities should acknowledge the support of staff and the use of experimental resources of Instruct-ERIC.

*Article 27***Data Management, Intellectual Property and Biologicals Policies**

1. Generally open source and open access principles shall be favoured.

2. All data generated as a result of Instruct-ERIC activities should, in the first case, remain the property of the originating scientist or his/her employing institution. Subject to pre-existing obligations including to various establishments, grant funding agencies or other third parties, Users of Instruct infrastructure may require agreements on intellectual property rights to be in place before work commences. Intellectual property protection for the Users shall be the sole responsibility of the users.
3. Where access to Instruct-ERIC infrastructure is provided for collaborative projects, the users shall agree shared ownership of experimental data or materials prior to commencement of the access work. Shared intellectual property protection for all users in the collaborative work is the responsibility of the users.
4. Instruct-ERIC shall provide guidance in the form of its Data Management and Biologicals Policies to users of Instruct-ERIC infrastructure to ensure that research undertaken using material made accessible through Instruct-ERIC shall be undertaken within a framework that recognizes, to the extent applicable under the laws and regulations of its host country, the rights of data owners and privacy of individuals, and ownership of data and tools generated as a result of Instruct-ERIC activity must be clearly defined.
5. Instruct-ERIC shall ensure that users agree to the terms and conditions governing access and that suitable security arrangements are in place regarding internal storage and handling of data.
6. The Council shall define a process for investigating allegations of security breaches, confidentiality disclosures and other ethical issues regarding research data.
7. Any innovation regarding the experimental technology and resulting from the use of the facility for Instruct activities remains the entire property of the hosting facility provided it is committed to offer this new potential improvement of its experimental capacities to any future user. In the event that a user played a significant role in the development, there should be agreement between the parties on the joint accreditation of the work that could be exploited.

Article 28

Employment Policy

1. Instruct-ERIC may employ staff which shall be appointed and dismissed by the Director.
2. The Council shall approve the staff plan prepared by the Director while approving the workplan.
3. The Director shall provide the Council with information in advance on employment vacancies and the staff plan. The Council shall decide which positions require its approval in terms of selected candidates.
4. The selection procedures for Instruct-ERIC staff positions shall be transparent, non-discriminatory, respect equal job opportunities and affirmative action consistent with the applicable labour laws. Where employment contracts are offered, these shall follow the national laws of the country in which staff are employed.

CHAPTER 8

DURATION, WINDING UP, DISPUTES, SET UP PROVISIONS

Article 29

Duration

1. Instruct-ERIC shall exist for an indefinite period of time. It may be wound-up in accordance with Article 30.

Article 30

Winding up

1. The winding up of Instruct-ERIC shall follow a decision of the Council in accordance with Article 13.
2. Without undue delay and in any event within 10 days after adoption of the decision to wind up Instruct-ERIC and again on closure of Instruct-ERIC, Instruct-ERIC shall notify the European Commission about the decision.
3. Assets remaining after payment of Instruct-ERIC debts shall be apportioned among the Members in proportion to their accumulated annual in-cash contribution to Instruct-ERIC. Liabilities remaining after winding up, including Instruct-ERIC assets, shall be apportioned among the Members in proportion to their accumulated annual in-cash contribution to Instruct-ERIC and not exceeding the amount of one annual contribution.

4. Instruct-ERIC shall cease to exist on the day on which the European Commission publishes the appropriate notice in the *Official Journal of the European Union*.

Article 31

Applicable Law

1. Instruct-ERIC shall be governed, by precedence:
 - a) by European Union law, in particular the ERIC Regulation and the decisions referred to in Article 6(1) and 11(1) of the Regulation;
 - b) by the law of the Host Country in case of a matter not covered (or only partly covered) by European Union law; and
 - c) by these Statutes and implementing rules.

Article 32

Disputes

1. The Members shall as far as possible try to settle by amicable means any disputes which may arise from the interpretation or application of these Statutes.
2. The Court of Justice of the European Union shall have jurisdiction over litigation among the Members in relation to Instruct-ERIC, between Members and Instruct-ERIC and over any litigation to which the EU is a party.

Article 33

Statutes

1. The Statutes shall be kept up to date and made publicly available on the Instruct-ERIC website and at the statutory seat.
2. Any amendment of the Statutes shall be by unanimous decision of the Council in accordance with Article 13 and subject to the provisions laid down in Article 11 of Regulation (EC) No 723/2009 and the procedure followed for its adoption.

Article 34

Setting-up Provisions

1. A constitutional meeting of the Council shall be called by the Host Country as soon as possible but no later than forty-five calendar days after the Commission decision to set up Instruct-ERIC takes effect.
 2. The Host Country shall notify the Founding Members of any specific urgent legal action that needs to be taken on behalf of Instruct-ERIC before the constitutional meeting is held. Unless a Founding Member objects within five working days after being notified, the legal action shall be carried out by a person duly authorised by the Host Country.
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ANNEX 1

List of Members and Observers

In this Annex the Members and Observers, and the entities representing them are listed. Annex 1 shall be updated by the Director after revocation or withdrawal, or after admission of Members or Observers.

Members

Country or Intergovernmental Organisation	Official Representing Entity(ies)
The Kingdom of Belgium	Belgian Federal Science Policy Office (BELSPO)
The Czech Republic	Ministry of Education, Youth and Sports (MSMT)
The Kingdom of Denmark	Danish Agency for Science, Technology and Innovation (DASTI)
The French Republic	Ministère de l'Éducation nationale de l'enseignement supérieur et de la recherche (MENESR)
The State of Israel	Ministry of Science, Technology and Space (MOST)
The Italian Republic	Ministry of Education, Universities and Research (MIUR)
The Kingdom of the Netherlands	Netherlands Organisation for Scientific Research (NWO)
The Portuguese Republic	Instituto de Tecnologia Química e Biológica da Universidade Nova de Lisboa (ITQB-UNL)
The Slovak Republic	Ministry of Education, Science, Research and Sport
The United Kingdom of Great Britain and Northern Ireland	Medical Research Council UK (MRC UK)

Observers

Country or Intergovernmental Organisation	Official Representing Entity(ies)
The Hellenic Republic	Greek General Secretariat for Research and Technology (GSRT)
The Kingdom of Spain	Ministerio de Economía y Competitividad (MINECO)
The Kingdom of Sweden	Swedish Research Council (SRC)
The European Molecular Biology Laboratory (EMBL)	

ANNEX 2

Financial contribution**Principles**

A Financial Model describes the cash income projections for the Instruct-ERIC. For the first five year period of Instruct-ERIC, the principles described below shall be used to calculate the annual cash contribution and record in-kind contributions by the Members. The Council may determine any revision of these principles.

1. The annual contribution for each Member country shall be made up of a membership fee and an in-kind contribution.
2. The amounts of cash contribution shall be proposed by the Director, drawing guidance from the Executive Committee in accordance with Article 16(5) and approved by the Council in accordance with Article 13.
3. The cash contribution shall support the activities in Instruct-ERIC.
4. The in-kind contributions from Members through their Instruct Centre investments, which will not be measured in terms of monetary value, will provide the Instruct Centre facility including its general running costs and the support staff required for Instruct-ERIC activities.
5. Observers of the Instruct-ERIC shall not be required to make a contribution, other than to support their travel to meetings and participate in nominated Instruct-ERIC activities.
6. Observers and Third Parties from outside the membership of Instruct-ERIC may contribute to Instruct-ERIC according to specific agreements approved by Council.
7. Annual contributions must be received by the Instruct-ERIC in each financial year according to a financial schedule laid down by Council.
8. Each Member shall commit to a five year Membership fee, subject to Article 7 and in accordance with the timetable for reviewing Instruct provided for in Annex 3 and agreeing future funding and membership commitments in accordance with Article 10 and Annex 5. Contributions shall include an annual increase of 2 % in order to compensate for inflation. The cash contribution for each Member shall be determined according to its inclusion in one of three tiered contribution groups. The groups (A, B and C) are in turn determined by the number of researchers in Science and Technology (HRST) as a proportion of the total national population of working age⁽¹⁾. The tiered groups are:
 - a. Group A (> 750 000 HRST/country population)
 - b. Group B (100 000-750 000 HRST/country population)
 - c. Group C (< 100 000 HRST/country population)
9. Contributions from Intergovernmental Organisations shall be determined on a case by case basis, as agreed by Council in accordance with Article 13, and shall be no less than the minimum tariff for a Group C member.
10. The cash contributions shall be set according to the Financial Model and in the first five years are: Group A EUR 100 000 pa; Group B EUR 75 000 pa; Group C EUR 50 000 pa with inflation adjustments shown in this annex in the table below.
11. For the recruitment of Instruct Hub staff, Members shall be invited to propose candidates. These will be selected in accordance with Article 28. Full salary costs will either be paid by the Instruct-ERIC or by the Member. In the case of the latter, and with the explicit approval of Council, the *in-kind* contribution shall be subtracted from the annual membership fees.

⁽¹⁾ Eurostat http://appsso.eurostat.ec.europa.eu/nui/show.do?wai=true&dataset=hrst_st_nfieocc (field: science, mathematics and computing; age: 25-64yrs); IL data from www.oecd.org/sti/msti.htm ISCO-3 categories % of total employment.

The calculated cash contributions (kEUR) for each Member for years 1-5 of Instruct-ERIC are shown below:

Member country	total pop (mill)#	Group	HRSTResearchers (25-64y; 2012 (**))	%HRST/m pop	Min cash	extra contribution payable based on Group	Annual cash contribution					5yr cash total
							yr 1 (kEUR)	yr 2 (2 % inf)	yr 3 (2 % inf)	yr 4 (2 % inf)	yr 5 (2 % inf)	
UK	63 495 303	A	1 365 000	2,15 %	50	50	100,00	102,00	104,04	106,12	108,24	520,40
FR	65 276 983	A	930 000	1,42 %	50	50	100,00	102,00	104,04	106,12	108,24	520,40
IT	59 394 207	B	417 000	0,70 %	50	25	75,00	76,50	78,03	79,59	81,18	390,30
BE	11 094 850	B	159 000	1,43 %	50	25	75,00	76,50	78,03	79,59	81,18	390,30
NL	16 730 348	B	152 000	0,91 %	50	25	75,00	76,50	78,03	79,59	81,18	390,30
IL	7 870 000	B	125 920	1,60 %	50	25	75,00	76,50	78,03	79,59	81,18	390,30
CZ	10 505 445	C	91 000	0,87 %	50	0	50,00	51,00	52,02	53,06	54,12	260,20
PT	10 542 398	C	53 000	0,50 %	50	0	50,00	51,00	52,02	53,06	54,12	260,20
DK	5 614 000	C	47 000	0,84 %	50	0	50,00	51,00	52,02	53,06	54,12	260,20
					450		650,00	663	676,26	689,79	703,58	3 382,63

Costs to be included in calculation of the in-kind contribution per country

For each Instruct Centre hosted within your country, calculate the following costs proportionate for the amount of access made available for Instruct users (this is usually between 10-20 %, but you should know your own proportionate access offer)

- maintenance and servicing costs for instrumentation
- staff costs for running/support of facility
- other running costs (basic building facilities costs, electricity, water, in house support services etc)
- the value, in whole or part, of eligible capital items (new purchases) or non-capital items that are essential to provide the Instruct infrastructure service.

Cat A (>750K HRST) = 50K extra; Cat B (>100K to 750K HRST) = 25K extra; Cat C (≤100K HRST) = 0K extra cash contribution

(**) HRST data from Eurostat hrst_st_nfieocc 2012 data

Employed HRST with tertiary education by age, field of education and occupation.

(<http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>) Science, Maths, computing; 25-64yrs; 2012 data

IL data from www.oecd.org/sti/msti.htm ISCO-3 categories %of total employment.

#population numbers: <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&plugin=1&pcode=tps00001&language=en>

ANNEX 3

Criteria for reviewing Instruct Centres

Instruct Centres provide the infrastructure and expertise which defines and forms the core of Instruct-ERIC.

The Council shall consider the establishment of new Centres through proposals from existing Members or through a published call for applications from Members.

The criteria for selection of new Instruct Centres provided by Members are:

- Provide a demonstrable commitment to provide access to technologies and necessary technical support that are central to the vision of Instruct and essential for its success;
- Provide technology/expertise of a world-leading standard, demonstrate a track record of scientific collaboration and a significant contribution to its field of research;
- Add value to existing Centres, e.g. by providing distinctiveness in technology and expertise, or providing enhanced capacity and improved access through geographic location;
- Have a firm commitment to provide access at an agreed level that allows Instruct-ERIC projects to be accommodated;
- Have endorsement from the applicant Centre's country or other funding agency to the commitment required to support Instruct (e.g. through Membership of Instruct-ERIC, agreement to underwrite the fixed running costs of the Centre);
- Have experience of integrative technological approaches, be willing to enter pan-European collaborations (scientific) and to collaborate on projects that drive technical development;
- Be willing to comply with Instruct-ERIC policies for Instruct-ERIC related projects.

The quality of the infrastructure provided through existing Instruct Centres including the Access Policy and Procedures shall be reviewed at least once in each five-year period by independent peer review with input from the ISAB against the criteria below, and upon the request of the Council in accordance with Article 15. The Council shall approve or remove Instruct Centres based on this review in accordance with Article 13 and amend the Access Policy if appropriate.

The criteria for renewal of existing Instruct Centres are:

- Have provided and can continue to provide technology/expertise of a world-leading standard and to demonstrate a track record of scientific collaboration and a significant contribution to its field of research;
 - Have delivered access to technologies that are demonstrably in demand within the scientific community, including the provision of high quality expert support;
 - Have participated in the Instruct training programme and contributed activities that add value to Instruct-ERIC;
 - Have adhered to Instruct-ERIC policies and procedures.
-

ANNEX 4

Appointment of the Director**1. Directors duties and responsibilities**

The Director's duties and responsibilities to Instruct-ERIC shall include:

Strategy

- Strategic leadership to maximise the value of the Instruct partnership;
- Identifying new potential Members and Partners;
- Identifying and securing new funding from external sources (e.g. European Union);
- Developing and presenting the case for future core funding through the membership.

Management

- Overseeing day-to-day management of Instruct;
- Overseeing management and recruitment of staff within the Instruct Hub.

Promotion

- Promoting the work of Instruct across Europe and internationally, and with officials within the European Commission, seeking to ensure that it has a high and positive profile.

Monitoring and reporting

- Reporting to Council on progress, achievements, new opportunities;
- Assessing, prioritising and managing the risks inherent within the operation of Instruct. Implementing appropriate action and seeking input/authority from Council where necessary.

Conflicts

- Declaring any personal or professional interest or appointment that might impinge on or be perceived by others to impinge on, their impartiality and integrity in making judgements on behalf of the Council;

2. Location

The Director shall have an office within the Instruct-ERIC Hub which will form the statutory seat of Instruct-ERIC.

3. Selection and appointment of the Director

Candidates for the post of Director may apply to an open competitive call for applications. Applicants will be shortlisted and interviewed by a Selection panel chosen by the Council. Criteria for selection will be provided by the Council.

The appointment of Director shall be made for a five year term of office renewable. The terms of appointment, review and termination will be set by the Council and included in the Rules of Procedure.

4. Confidentiality

Except regarding matters that are properly in, or come into, the public domain, the Director shall keep confidential any arising intellectual property and any information which the Director receives as a result of Instruct-ERIC activity; and not disclose any such property or information to any person unless otherwise approved by the owner of the information or the Council.

5. Relationship between the Director and the Instruct-ERIC Parties

The Director shall not act as the agent of institutions providing Instruct-ERIC activities through Instruct Centres, nor of the Members and shall not have any authority to act, to conclude any contracts, to incur any binding obligation or liability, or to sign any document on behalf of the members without their specific approval.

ANNEX 5

Assessment of Instruct-ERIC

Towards the end of the funding period, as determined by the Council, the Director shall provide a full report of past achievements and future plans. This will help each Member evaluate the overall quality, impact, and productivity of the Instruct investment and, in good time before the next funding period starts, whether their membership of Instruct should continue. The Council shall be responsible for approving the detailed requirements of the report and the timetable for funding decisions from each of the Members.

The primary ambition of Instruct-ERIC is to facilitate access to state-of-the-art technologies and to drive innovation to support integrative approaches in structural and cellular biology, to enable challenging questions to be tackled that are otherwise not easily addressed. The report will need to allow Members to clearly see delivery against key milestones and be able to fully evaluate whether:

- Instruct-ERIC has strong visibility within the Member research communities (and perhaps beyond) and whether it is playing a key strategic role in supporting the needs of structural biology, including influencing national infrastructure developments;
 - there is demonstrable demand for access to help deliver excellent science and whether this is managed effectively;
 - access is enabling science from across the EU partners – particularly integrative approaches that employ multiple technologies to tackle the major challenges in structural and cell biology and deliver science that would otherwise not occur, or would be hard to deliver without Instruct;
 - there is clear evidence of scientific outputs and impact from this access;
 - Instruct-ERIC has delivered important contributions to key training needs;
 - Instruct-ERIC is effectively engaging with the technology industry to support innovation;
 - Instruct-ERIC is effectively evolving to meet future scientific and training needs;
 - Instruct-ERIC continues to deliver an important and distinctive contribution to the research landscape and whether core investment offers value for money, whether it should continue, and if so, on what scale.
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ANNEX 6

Definition and transfer of assets and staff assignments**1. Assets**

Capital assets: 3 x servers (12 cores, 64GB RAM each with 2 x 1,2TB disk space set in a RAID1 configuration) which serve the Instruct website and ARIA with database storage, including security failover provision. Value is GBP 10 219.

Instruct Trade Mark and Domain name(s): These carry an annual fee of GBP 143 with an additional annual fee of GBP 50 for the related watching service.

Cash from subscriptions (held in both Sterling and Euro accounts): As of August 2016, cash totals approx. EUR 268 000.

2. Debts

Any debts owed by Instruct Academic Services Limited will be transferred to Instruct-ERIC.

Instruct Academic Services Limited currently has no debt.

3. Staff Assignments

Currently the Instruct Hub has 6 employees with costs to Instruct for 4,93 FTE (supplemented by the University of Oxford and grant income). All existing Instruct staff are employed by the University of Oxford with University employment benefits (pensions benefits under the University superannuation scheme) on fixed term contracts. These contracts have terms that are tied either to externally funded grants (e.g. CORBEL, West-Life) or to assured Instruct membership income.

New secondment agreements (to be appended to the current contracts of employment) shall be established between the University of Oxford and Instruct-ERIC to continue with this arrangement for existing staff. New staff may be employed directly by Instruct-ERIC.

Agreements between the University of Oxford (Host institution) and Instruct-ERIC shall be drafted to authorize the purchase and use of services for the purposes of administering Instruct-ERIC, and to permit Instruct activity to be undertaken on premises in which the Instruct Hub is situated.

4. Liabilities

Instruct Academic Services Limited is the beneficiary partner in a number of grants funded externally: iNEXT, CORBEL, West-Life and AARC2.

As of August 2016, the contractual liabilities are delivery of the following tasks against contractual payment on the grants:

Task	Task Description	Month of Delivery
iNEXT		
6.1	Report on demands of the user community	M24
6.2	Report on a model for future structural biology access in Europe	M36
6.3	Report on financial sustainability	M36
6.4	Draft sustainability plan	M48
7.5	Integrated submission system operational	M18
CORBEL		
5.1	Report on existing use access models and regulatory access policies identifying common elements	M20
5.2	Report on common access framework concept	M44

Task	Task Description	Month of Delivery
5.3	Strategy for expanding application of common access model based on feedback from WP3 and WP4 pilots	M48
6.4	Draft sustainability plan	M48
7.5	Integrated submission system operational	M18

West-Life

1.2	Project web pages	M3
1.4	Draft sustainability workplan	M18
1.5	Sustainability report	M36
2.1	Interim report on Task 2.1	M18
2.2	Interim report on Task 2.2	M18
2.3	Summary report of structural biology community engagement	M18
2.4	Report on industrial user engagement	M24
2.6	Engagement report	M36
5.4	Report on activities of the Helpdesk	M18
5.9	Update report on activities of the Helpdesk	M36

AARC2

SA1.1	Results of Pilots with new communities Part 1	M12
SA1.2	Results of Pilots with new communities Part 2	M22
SA1.3	Final results of infrastructures interoperations pilots	M22
SA1.4	Final results of pilots for advanced use-cases and new technologies	M22