

**Service Agreement on the Use of Analytical Research Facilities entered into
between
[NAME OF ANALYTICAL RESEARCH FACILITY WHICH WILL BE IN CHARGE OF
CARRYING OUT THE MEASUREMENTS]**

- hereinafter referred to as 'ARF' -
and

[NAME OF COMPANY]
- hereinafter referred to as 'client' -
and

[NAME OF DESIGNATED INDUSTRIAL RESEARCH CENTER]
- hereinafter referred to as 'IReC' -

Each may also be referred to as 'Party' and -collectively- as 'Parties'.

Preamble

1. The key aim of the Baltic TRAM project is to link Analytical Research Facilities with industrial enterprises in the Baltic Sea region.
2. As part of Baltic TRAM, industrial research centres (IReC) have been set up in Finland, Denmark, Estonia, Latvia, Sweden, Germany and Poland. These centres will create a network offering contractual research services to industrial customers. For the duration of the Baltic TRAM project, the contractual research services will be provided free-of-charge to companies whose research applications are approved as part of a call for applications.
3. An ARF owns and operates analytical research laboratories and equipment and has staff expert in using these laboratories and equipment which it assigns, having due regard to the rules set out in the Terms of Reference of the TRAM Call for Applications and to the availability of measuring time, to support the client in the performance of experiments to solve their research needs.
4. The client is interested in the results of experiments carried out at the ARF.
5. The ARF is prepared to provide the necessary laboratories/equipment and staff support to complete the necessary experiments.
6. The IReC is interested in the successful completion of experiments and in a professional collaboration between the client and ARF. It is likewise interested in promoting this new form of collaboration. One of the means of promotion is an open data pilot repository, an online open data platform for making available selected raw or processed data from the experiments to stimulate greater interest among potential industrial users to cooperate with Analytical Research Facilities.

NOW, THEREFORE, the Parties agree as follows:

1. DESIGN OF EXPERIMENT

Mutual obligations

- 1.1. The ARF shall endeavor to accommodate the research needs of the client as expressed in the Baltic TRAM Application Form. The design of the entire experiment shall be clarified with the client prior to signing this Service Agreement. The design of the experiment will be summarized in the Outline of Experiment document (Annex 2 to this Agreement). Further elaboration of the Outline of Experiment document will be subject of communication between the client and ARF. It should be noted that the information provided in Annex 2 is baseline information and all timeframes provided therein are estimates, which are subject to change. Delays may arise which are due to the specificity of the experiment.
- 1.2. The client is obligated to deliver to ARF the desired number of samples and - when requested by ARF - provide details such as desired environment.
- 1.3. ARF shall assign service personnel to carry out preparation and execution of the measurements

as well as for the assessment of the results of the experiments. The contact information of the assigned ARF personnel is listed in Annex 2 to this Service Agreement.

2. EXECUTION OF EXPERIMENT, DATA ANALYSIS AND REPORTING

Services provided by ARF

- 2.1. ARF shall assign service personnel to execute the measurements and conduct an assessment of the results. The contact information of the assigned ARF personnel is listed in Annex 2 to this Service Agreement.
- 2.2. If present and/or involved in any way in the execution of the experiment, the client and the persons acting on its authority shall undergo general orientation and safety training at ARF. ARF furthermore reserves the right to issue more extensive instructions to the client for safety or other justified reasons.
- 2.3. ARF shall be responsible for drawing up the assessment report, which will contain a review of the experiment from design onwards, analysis of the data obtained and conclusions, and which will be delivered to the client without delay.
- 2.4. After completion of the experiment, ARF shall be responsible for returning the samples to the client. Further, ARF shall return to the client all originals, copies, and summaries of documents, materials, and other tangible manifestations of confidential information in the possession or control of ARF.
- 2.5. All incurred costs for the use of ARF's experimental facilities and for support in the planning, performance and assessment of the experiments by the ARF's staff will be paid from the budget of the Baltic TRAM Project. All these costs will be counted as de minimis aid . ARF will be responsible for keeping track of costs and delivering to IReC a cost statement with all necessary documentation.
- 2.6. The ARF shall provide the services to the client in a timely manner and in keeping with relevant professional standards.
- 2.7. The ARF shall deliver to the IReC a cost statement reflecting all expenses relevant to the services rendered to the client within the scope of this agreement.

Services provided by IReC

- 2.8. IReC shall follow all stages of the experiment and maintain working contacts with the client and the ARF to ensure work is done in a professional and timely fashion.
- 2.9. IReC shall present to the client a customer feedback survey which it will use to gauge the level of the client's satisfaction at the completion of the experiment. The IReC may also provide a customer feedback survey during the course of the actual experiment to identify and assess early on possible areas where there is room for improvement.
- 2.10. IReC shall calculate the value of de minimis aid granted to the client on the basis of the cost statement provided by ARF. IReC shall inform the client of the value of de minimis aid granted. If the Member State where the client has its tax residence has a central register of de minimis aid granted, IReC shall inform the appropriate agency of that Member State about the value of the de minimis aid granted.

3. INTELLECTUAL PROPERTY, DATA MANAGEMENT AND CONFIDENTIALITY

Ownership of experiment results

- 3.1. Due to the industrial nature of the experiment performed under this Service Agreement, experiment results obtained under this agreement at ARF's facilities and communicated to the industrial user by ARF shall be owned by the client.

Use of experiment results and measurements by ARF for research purposes

3.2. Due to the fact that the measurements performed and services rendered by ARF are publicly funded as part of the TRAM project, if the ARF indicates in writing to the client an interest in using the experiment results to publish a scientific article - as long as the client is not intending to publish a scientific article themselves - the client shall grant ARF a non-exclusive and non-transferable right of use free of charge of the experiment results for this express purpose, provided there is no breach of IPR or trade secrets. To ensure the latter, if ARF plans to publish a scientific article, ARF is obligated to provide a copy of the said article in advance to the client. Co-authorship which would include client is a possibility. Alternatively, if client intends to publish a scientific article, co-authorship involving ARF is a possibility. If the client has any objections it is obligated to respond in writing and state what data it objects to publishing, making clear reference to intellectual property rights or trade secrets that would be infringed upon should this data be published. By definition, confidential information as set forth in this agreement cannot be included in the article (see Annex 1 to this agreement).

Use of experiment results by IReC

3.3. Baltic TRAM project is tasked with organizing an open data pilot based on the experiments performed, benefitting both the research and business communities. The open data pilot is making a direct contribution to the European Commission's Open Science Initiative (<http://ec.europa.eu/research/openscience/>), specifically the Objective: Need to foster stronger relation between science and society as well as science and business actors to accelerate innovation, and required action: Better network societal, entrepreneurial and scientific actors through e.g. 'knowledge coalitions'. Due to this, the industrial user shall grant IReC the right to process and upload non-confidential information to the open data pilot in the form of both metadata (see Annex 1 of this agreement) and access to measurement data

3.4. Due to the fact that the experiment performed and services rendered as part of this Agreement are publicly funded as part of the Baltic TRAM project, the IReC is obligated to make available to the general public a summary report of the experiments, either in the form of online or printed material, and to this end the client shall grant the IReC a non-exclusive and non-transferable right of use free of charge of the experiment results for this express purpose. The summary report shall be understood to mean a report which provides a short background on the company, highlights the process of carrying out the experiments, and provides a brief overview of the results and their relevance to the client. The summary report, prior to publication, will be supplied to the client. By definition, confidential information as set forth in this agreement cannot be included in the summary report (see Annex 1 of this Agreement).

4. LIABILITY

4.1. Except in case of gross negligence or willful misconduct, each Party shall bear its own loss and damage in connection with this agreement. It is understood however that no Party shall be liable to the other Party for any indirect or consequential loss or damage.

4.2. The Parties provide no warranty that the knowledge, experiment results and similar materials made available in the course of this Agreement are correct, utilizable, complete, financially exploitable or free of third-party rights.

5. CONCLUDING PROVISIONS

5.1. This agreement will become effective upon signature by all Parties and will terminate upon completion of the experiment at [Date].

5.2. Changes to the present agreement and all amendments and appendices thereto have to be agreed upon in writing and shall be signed by the Parties.

5.3. This contract is governed by and constructed in accordance with the laws of [here name of your Member State where client or ARF is headquartered]. The place of jurisdiction shall be in [here capital

of Member State where client or ARF is headquartered].

- 5.4. Should any provision of this agreement subsequently be determined to be invalid, illegal or unenforceable, said provision shall at that time be deemed severed from this agreement, but only to the specific extent of its invalidity, illegality or unenforceability, and such reformed provision as well as other provisions of this agreement shall be unaffected and shall continue in full force and effect.

**NAME OF ARF
NAME OF AUTHORISED
REPRESENTATIVE**

TITLE
SIGNATURE
DATE OF SIGNATURE

**NAME OF CLIENT
NAME OF AUTHORISED
REPRESENTATIVE**

TITLE
SIGNATURE
DATE OF SIGNATURE

**NAME OF IReC
NAME OF
AUTHORISED
REPRESENTATIVE**

TITLE
SIGNATURE
DATE OF SIGNATURE

Annex 1: Non-disclosure agreement

1. For the duration of this agreement, ARF and IReC may have access to client's technical and/or commercial information relating to client's respective businesses, facilities, products, techniques and processes, which information is proprietary ("confidential information"). Likewise, the client may have access to the ARF's technical information as it relates to its facilities, research practices, methodologies, which information is proprietary. As used in this agreement, the term "confidential information" means any technical or business information furnished by one party to the other in connection with the Baltic TRAM project, regardless of whether such information is in written, oral, electronic, or other form. Confidential information may include, without limitation: trade secrets, know-how, inventions, technical data or specifications, testing methods, business or financial information, research and development activities, product and marketing plans, and customer and supplier information.. Confidential information is considered as such only if clearly marked as confidential at the time it is disclosed. In case it is orally communicated, the party communicating the confidential information is obliged to notify in writing the receiving party within 30 days of the oral communication as to which information communicated is confidential information.
2. During this agreement and three (3) years thereafter, all parties to this Agreement shall
 - i. maintain all confidential information in strict confidence, except that the individual parties may disclose or permit the disclosure of any confidential information to its directors, officers, employees, consultants, and advisors who are obligated to maintain the confidential nature of such confidential information and who need to know such confidential information for the purposes set forth in this agreement;
 - ii. use all confidential information solely for the purposes set forth in this Agreement; and
 - iii. allow its directors, officers, employees, consultants, and advisors to reproduce the confidential information only to the extent necessary to effect the purposes set forth in this Agreement, with all such reproductions being considered confidential information.
 - iv. The obligations of the parties under this section shall not apply to the extent that a party can demonstrate that certain confidential information:
 - (a) was in the public domain prior to the time of its disclosure under this agreement;
 - (b) entered the public domain after the time of its disclosure under this agreement through means other than an unauthorised disclosure resulting from an act or omission by any party;
 - (c) was independently developed or discovered by the party without use of the confidential information;
 - (d) is or was disclosed to the party at any time, whether prior to or after the time of its disclosure under this agreement, by a third party having no fiduciary relationship with either party to this Agreement and having no obligation of confidentiality with respect to such confidential information; or
 - (e) is required to be disclosed to comply with applicable laws or regulations, or with a court or administrative order, provided that the party to this Agreement receives prior written notice of such disclosure and that the disclosing party takes all reasonable and lawful actions to obtain confidential treatment for such disclosure and, if possible, to minimise the extent of such disclosure.
3. The parties to this Agreement acknowledge that all and any confidential information disclosed between them and all patent, copyright, trademark, trade secret, and other intellectual property rights in, or arising from, such confidential information is solely owned by the disclosing party. No option, license, or conveyance of such rights to the party given

access to the confidential information is granted or implied under this agreement. If any such rights are to be granted to one of the parties to this Agreement, such grant shall be expressly set forth in a separate written instrument.

4. The parties acknowledge that the party disclosing and sharing confidential information makes no representations and gives no warranties of any kind regarding the confidential information disclosed and shall have no liability with respect to any such confidential information under this agreement.
5. After termination of the experiment:
 - (a) the obligations set forth in this section shall remain in effect with respect to confidential information disclosed pursuant to this agreement prior to such termination; and
 - (b) the obligation to return confidential information shall remain in effect until they have been fully performed.
6. The parties agree that any breach of their obligations under this agreement may cause irreparable harm to the party disclosing the confidential information; therefore, the party that has disclosed the confidential information shall have, in addition to any remedies available at law, the right to obtain equitable relief to enforce this agreement.

Annex 2: Outline of experiment

Main contact person from ARF: [full name], [position], [phone number], [email address]
Staff from ARF assigned to project: [full name], [position], [phone number], [email address]
Main client contact person: [full name], [position], [phone number], [email address]
Staff from client assigned to project: [full name], [position], [phone number], [email address]
IReC contact person: [full name], [position], [phone number], [email address]

Summary description of 4-5 stages of experiment [will change depending on number of stages we decide on, compare also Terms of Reference]

