

**Master Agreement on Participation in a Proficiency Testing Programme
according to IECRE OD-551**

between

MEASNET, a partnership organized under the laws of Spain and registered in the National Register of Associations: Group 1 /Section 1 / national number 597932, with its registered offices in UPM - Campus de Montegancedo EDIFICIO "CIDA", 28223 Pozuelo de Alarcón, Madrid, Spain

- hereinafter referred to as "**Measnet**" -

and

_____ , a company organized under the laws of _____
and registered in the Commercial Register of _____ under docket-no. _____ , with its
registered offices in _____ ,

- hereinafter referred to as "**Participant**" –

RECITALS:

Measnet is an international organization of wind energy institutes cooperating in a wind energy measuring network. The goal of Measnet is to improve and ensure the quality of measurements relating to wind energy technology in order to allow mutual recognition and interchangeability of results and to achieve uniform interpretation of standards and recommendations.

The International Electrotechnical Commission (IEC) has issued the IECR Operational Document regarding the IEC System for Certification to Standards relating to Equipment for use in Renewable Energy applications (IECRE-System) in the wind energy sector of IECRE, and has selected and approved Measnet as Proficiency Testing Provider as defined in the IECR Operational Document. In this course Measnet organizes Proficiency Testing Programmes (round robin or interlaboratory tests) on basis of the IECRE Operational Document. Participants in proficiency testing programmes may be RETLs, applicant RETLs, RECTFs, IECRE member organizations and other organizations approved by SG 551 as Proficiency Testing Provider, such as Measnet.

The Operational Document describes the requirements and the procedure to conduct proficiency tests for proficiency . This Agreement provides for the terms and conditions of a participation of RETLs, applicant RETLs, RECTFs, IECRE member organizations and other organizations approved by SG 551 as Proficiency Testing Provider in a Proficiency Testing Programme, in addition to the terms and conditions of the IECRE Operational Document. It is intended to apply as a framework agreement to all Proficiency Testing Programmes in which the Participant takes part during its term.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties have agreed as follows:

1. Definitions

- 1.1. **Confidential Information** herein shall mean all technical and economical Information concerning the PT disclosed by one Party ("**disclosing Party**") to the other Party ("**Recipient**") or in any other way obtained by a Party in connection with PT, whether disclosed or obtained in writing or orally or in electronic form or in any other way, regardless of whether or not marked as "confidential" or "secret", including any and all copies or electronic or other records or reproductions made thereof, including, without limitation, trade or business secrets of a Party, know-how related to wind energy measurements, wind energy converters or process-, production- or application know-how in connection with equipment related to wind energy generation, product properties, market data or analyses data, test-results, test processes, technical specifications, prices, cost and the existence of this Agreement and its contents and the identity of the Laboratories participating in a PT, except as otherwise provided hereinafter or in the OD, in any case regardless of whether or not such information has been subject to reasonable steps under the circumstances by the disclosing Party to keep it secret.

Laboratories herein shall mean: Each of the companies or entities participating in a PT.

IEC herein shall mean: International Electrotechnical Commission, 3, rue de Varembe, 1211 Geneva 20, Switzerland

OD herein shall mean: The IECRE Operational Document issued by the International Electrotechnical Commission (IEC) regarding the IEC System for Certification to Standards relating to Equipment for use in Renewable Energy applications (IECRE-System) in the wind energy sector of IECRE, as amended from time to time, enclosed herewith in its present form as Annex 1.

PT herein shall mean: Proficiency testing in general is the evaluation of the performance of an entity with specific focus on compliance with the underlying IEC standard by interlaboratory comparison. The scope of a proficiency test may cover all aspects of its underlying standard or certain parameters of a standard (such as methods, procedures etc.) only.

Proficiency Testing Provider herein shall have the meaning as defined in Section 5.1.2 of the OD.

RECTF herein shall mean: Renewable Energy Customer Test Facilities.

RETL herein shall mean: Renewable Energy Testing Laboratories

SG-551 herein shall mean: Test Labs Group as established by IEC.

Services herein shall mean: The Services provided by Measnet as Proficiency Testing Provider in the course of a PT.

- 1.2. All other terms used in this Agreement shall have the meaning as defined in the OD.

2. Scope of the Agreement

- 2.1. In all cases Measnet is selected by IEC as Proficiency Service Provider (as defined in the OD), Measnet will organize and manage PTs and the Participant will participate in PTs, as agreed case by case, subject to the terms and conditions of the OD and this Agreement, and the Participant acknowledges that PTs will only

be carried out subject to the terms and conditions of the OD and this Agreement.

- 2.2. It is understood and agreed that the terms and conditions of this Agreement only apply in addition and supplementary to the OD, in case of a conflict between the OD and this Agreement the terms and conditions of the OD take priority over this Agreement, and nothing contained in this Agreement shall be interpreted or construed as an alteration of the terms and conditions of the OD.
- 2.3. This Agreement shall not constitute a right of the Participant to participate in any PT and shall not limit the right of Measnet, the SG 551 Proficiency Testing Representative, Measnet as Proficiency Testing Provider or any other competent person or entity to disapprove participation of the Participant in a PT or exclude the Participant from a PT, in each case subject to the terms and conditions of the OD.

3. Use of Measnet name, Logo and Trade Marks

- 3.1. It is understood and agreed that participation in a PT will not result in, or be deemed as, accreditation of the Participant by Measnet. The Participant shall refrain from any public statement suggesting or implying in any way whatsoever that he performs measurements approved by Measnet.
- 3.2. It is understood and agreed that no right, license or privilege expressed or implied, is granted to the Participant regarding the name and logo of Measnet and any trade marks, registered designs or utility models owned or controlled by Measnet, and Participant shall not make any use of the logo or stamp of Measnet and any trade marks, registered designs or utility models owned or controlled by Measnet in connection with the PT.

4. Service Fee and Terms of Payment

- 4.1. The fee for to be paid by the Participant to Measnet for the Services will be agreed between the Parties case by case and will be based on general guidance from SG 551 and the budget presented by the PT Representative, as provided for in Section 5.1.1 of the OD. All fees are net plus statutory VAT and local taxes, if any.
- 4.2. Terms of Payment: 30 days after date of invoice net without deduction.
- 4.3. The Participant may offset payment, also if complaints or counter claims are raised, only if the counter claims are legally established or undisputed or accepted by Measnet.

5. Warranty and Liability

- 5.1. Measnet warrants that the Services shall be performed in accordance with the standards of practice customary in the profession for services of a similar nature.
- 5.2. If Measnet is notified by the Participant in writing that the Services provided by Measnet materially fail to conform to the warranty set forth in section 5.1 within ten (10) days after discovery of any such deficiency, and not later than twelve (12) months after the performance of the Services, Measnet shall, at its sole discretion, re-perform those services which fail to so conform provided this is technically and economically feasible or refund the fees paid for the deficient services in proportion which the value of the services free of any deficiency would, at the time when the Agreement was entered into, have had to the actual value.

- 5.3. The warranty set forth here above is exclusive and given by Measnet, and accepted by the Participant, in lieu of any and all other warranties of merchantability and fitness for a particular purpose, whether known to Measnet or not, and all other warranties including, without limitation, accuracy and correctness and absence of deficiencies of the measurements carried out by the Laboratories and the Final Results of PT or compliance with any time schedule, are hereby expressly disclaimed by Measnet and waived by the Participant.
- 5.4. Measnet and its directors, officers, members, partners, subcontractors and representatives disclaim and shall not be liable for any incidental, indirect or consequential loss, damage, cost or expense whatsoever, whether claimed in contract, equity, tort or otherwise, including without limitation loss of profit, loss of production, loss of contract, lost return on investment, increased cost of operation or loss of use or value of any facilities, unless caused intentionally. Furthermore, Measnet and its directors, officers, members, partners, subcontractors and representatives shall not be liable for any acts or omissions of the SG 551 Proficiency Testing Representative, the Technical Coordinator, a Laboratory or any other third party involved in a PT .
- 5.5. It is understood and agreed that this Agreement and the Services provided by Measnet under this Agreement and the OD do not constitute any contractual relationship between the Participant and the members or partners of Measnet, or establish any obligations, whether joint or several, of the members or partners of Measnet in relationship to the Participant.

6. Confidentiality

- 6.1. The Recipient undertakes to use Confidential Information only for the purposes of this Agreement and to keep strictly confidential any and all Confidential Information received from the disclosing Party in connection with this Agreement and not to disclose it to any third Party, not to directly or indirectly commercially exploit the Confidential Information or parts thereof and not to directly or indirectly use the Confidential Information for obtaining industrial property rights. For the avoidance of doubt, it is understood and agreed that the identity of the Laboratories participating in a PT may be disclosed by Measnet and IEC in a list of participants in the Final Reports (Internal Report, Participant Report, External Report) of a PT, as defined in the OD and subject to the terms and conditions of the OD (see section 6.1.6 OD).

In addition to the terms and conditions of the ID and section 6.1.6 (subpara "external report", subsect. 4) of the OD, the Participant agrees that its name may be listed in the list of participants in the External Report not only if the Participant has passed the OD, as provided for in the OD (section 6.1.6 subpara "external report", subsect. 4), but also in case the Participant did not pass the PT, unless Measnet is notified by the Participant in writing that the Participant does not wish to be listed in the list of Participants in the respective external report in case such Participant does not pass, or has not passed, the respective PT. It is understood and agreed that the Participant is free to refuse listing in the external report as aforesaid, at its sole discretion. Such written notification of refusal shall be submitted to Measnet either before start of a PT or at the latest within 10 (ten) working days after receipt of information about its failure from Measnet.

- 6.2. Each Party further agrees to make Confidential Information available only to those of its employees who need to have access to it for the purpose of this Agreement, to limit the disclosure to the extent required for the purpose of this Agreement, to inform such employees about the existence of this Agreement and its confidentiality obligations and to commit such employees to the same extent of confidentiality as provided for herein and, as far as legally permissible, also for the time after their employment. Upon request of the disclosing Party, the Recipient shall provide a list of such employees who have had access to the Confidential Information or parts thereof.

- 6.3. The Recipient shall protect the Confidential Information disclosed by the disclosing Party with at least the same degree of care it employs to protect its own confidential Information but shall, in no event, employ less than reasonable degree of care. The recipient agrees to promptly notify the disclosing Party of any misuse or misappropriation of the Confidential Information.

7. Exceptions to Confidentiality

- 7.1. The confidentiality obligations as mentioned in Section 6 here above shall not apply to such Confidential Information or to any part thereof, for which the Recipient provides evidence that
- a) it was known to the recipient prior to its receipt from a third party other than the disclosing Party, or
 - b) it was in the public domain or generally available to the public prior to its receipt, or
 - c) it became known to the public or generally available to the public subsequent to its receipt without the Recipient being responsible therefore, or
 - d) it was received by the Recipient at any time without any commitment of confidentiality from a third party having a bona fide right to disclose the same to the Recipient, or
 - e) is legally required to be disclosed, in which case such disclosure shall be made, if at all, in accordance with section 7.2 below.
- 7.2. If a Party is required by law to disclose Confidential Information or if disclosure thereof is required by a Party in connection with the assertion of any Claim or defence in any judicial or administrative proceedings involving such Party, such Party may make disclosure thereof provided that the Party making the disclosure thereof shall immediately notify the other Party of the requirement and the terms thereof prior to such disclosure and shall use its best efforts to obtain proprietary or confidential treatment of such Confidential Information by the third party to whom the Confidential Information is being disclosed, and shall, to the extent such remedies are available, seek protective orders limiting the dissemination and use of the Confidential Information.

8. Right of Ownership in Confidential Information

- 8.1. The Recipient agrees that Confidential Information disclosed to it will remain the property of the disclosing Party, and that the Confidential Information or drawings or other written or printed data included therein shall not be copied or reproduced, mechanically, electronically or otherwise, without the prior written consent of the disclosing Party, except for such copies the Recipient requires for internal circulation for the purposes of this Agreement.
- 8.2. It is understood and agreed that no right, license, privilege or immunity, expressed or implied, is granted under any patent / patent application or proprietary rights owned or controlled by either Party.

9. Return of Confidential Information

Upon request of the disclosing Party, at its sole discretion, and in any case at expiry of this Agreement, the recipient shall within 30 (thirty) days return to the disclosing Party all Confidential Information received by the Recipient in written or electronic form or recorded in any other way (including copies, electronic records and transcripts thereof) and any samples or devices, finally delete all electronic records containing Confidential Information from its systems, destroy or finally delete all analyses` and adaptations in written or electronic form, and, upon request of the disclosing Party, confirm the complete return, destruction or deletion in writing.

10. Effective Date and Termination

- 10.1. This Agreement shall come into force on _____ and shall be valid for an indefinite period of time. It may be terminated by either Party by giving one month prior written notice. It is understood and agreed that Services not having been completed prior to expiry of this Agreement will be subject to the terms and conditions of this Agreement also after expiry of this Agreement.
- 10.2. This Agreement may be terminated by Measnet with immediate effect by giving written notice if (i) the number of Laboratories prepared to participate in the PT does not reach the minimum number of 4 Laboratories or (ii) the number of Laboratories during the PT for any reason whatsoever drops below the minimum of 4 Laboratories or (iii) the PT cannot be continued for technical reasons or reasons attributable to the SG 551 Proficiency Testing Provider, the Technical Coordinator or any other third party, or the Participant, without the Participant being entitled to any compensation. In such a case the Service Fee will be refunded in proportion to the value of the Services not already having been rendered by Measnet, except in case the termination is due to reasons attributable, in whole or in part, to the Participant or in case of Force Majeure.

11. Notices

All written communication between the Parties shall be made in English language, and all notices to be given herein shall be effective upon receipt and shall be in writing in English language and delivered to the Parties by registered mail or reputed courier service or telefax to the addresses given in the Registration Form for the PT.

12. Force Majeure

- 12.1. If either of the parties be prevented from performing its obligations under this Agreement due to Force Majeure, such as acts of God, war, riot, insurrection, fire, flood, typhoon, earthquake, epidemics, strike or any other labour dispute, transport delays or major machinery break-down, as well as other cases which are beyond reasonable control of either party (hereinafter referred to as "**Force Majeure**"), regardless of whether occurring to the party or its suppliers, the performance of those obligation shall be extended by a period for which the effect of such cases has continued.
- 12.2. The prevented party shall notify the other party in writing without undue delay of the occurrence of Force Majeure. Under such circumstances, both parties are still under the obligation to use best efforts to take all necessary measures to execute this Agreement.
- 12.3. The prevented party shall inform the other party without undue delay in writing of the termination or elimination of the case of Force Majeure.
- 12.4. If the effect of Force Majeure continues for more than six months, either parties shall be entitled to terminate this Agreement by giving written notice.

13. Governing Law and Place of Jurisdiction

- 13.1. This Agreement shall be governed by and construed in accordance with Spanish Law.
- 13.2. Notwithstanding Section 7 (Conflict Resolution) of the OD, place of jurisdiction shall be Madrid, Spain.

14. Miscellaneous

- 14.1. In case any provision of this Agreement should be held, in whole or in part, invalid or unenforceable, the validity of the remaining provisions shall not be affected thereby. The parties will replace the invalid or unenforceable provision by a valid provision which will pursue most closely the economic intent of the replaced provision.
- 14.2. No part of this Agreement shall be assigned or transferred by any Party without the prior written consent of the other Party, which may be withheld at its sole discretion.
- 14.3. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assignees.
- 14.4. This Agreement constitutes the entire agreement between the Parties regarding the subject matter of this Agreement, and supersedes all prior written or oral agreements, commitments, and understandings between the Parties. Annexes to this Agreement, including without limitation the OD (Annex 1), form an integral part of this Agreement.
- 14.5. No amendment, waiver or consent relating to this Contract shall be effective unless it is in writing and signed by the Parties, including a waiver of this provision.

Executed on

MEASNET

Signature: _____
Name: Monika Krämer
Title: MEASNET Chairwoman

Signature: _____
Name:
Title: