

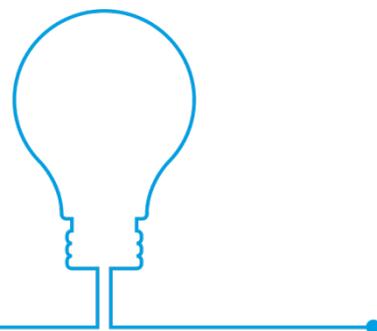


Department for  
Business, Energy  
& Industrial Strategy

# Non Domestic Smart Energy Management Innovation Competition

(An SBRI Competition: TRN 1396/11/2017)

Invitation to Tender



December 2017

# Non Domestic Smart Energy Management Innovation Competition

## Non Domestic Smart Energy Management Innovation Competition

NON DOMESTIC SMART ENERGY MANAGEMENT

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# NON DOMESTIC SMART ENERGY MANAGEMENT INNOVATION COMPETITION SBRI – GUIDANCE AND APPLICATION FORM

# 1 Introduction

This Call for Proposals Guidance document sets out the context, scope, application process and assessment criteria for the Non-Domestic Smart Energy Management Innovation Competition (NDSEMIC).

This Competition focuses on energy management products and services based on data analytics using smart meter<sup>1</sup> data, for smaller non-domestic sites. Its aim is to develop the market for, and maximise the overall uptake and impact of, such products and services, in order to help secure energy demand reduction within target segments of the non-domestic sector.

The total potential value of the Competition is up to £8.8m (up to £7.3m for the Competition and up to £1.5m for a research and evaluation contractor), although BEIS may allocate less than this depending on the quality of the applications. The Competition will be delivered in three main phases:

**Phase 1** – Feasibility studies and developing smart meter software/data tools. A maximum of £1.8m will be available in total for Phase 1 feasibility studies, with a maximum expected value of £200k per project (or more if proposals cover more than one target segment/strand).

**Phase 2** – Initial testing with customer organisations and development/testing of supporting energy advice. Approximately £50-100k per project will be available for initial feasibility testing (a maximum of £675k will be available in total for Phase 2).

**Phase 3** - Roll out/further testing of the tools, with supporting energy management advice and engagement approaches. A maximum of £4.825m will be available in total for the Phase 3 projects).

**Research and Evaluation Contractor (REC)** – A research and evaluation contractor will be procured by BEIS to conduct research and undertake evaluation, working hand-in-hand with Competition participants.

Note: All applications must be received electronically by BEIS by 12 noon on the 09 February 2018. See Section 4 (application process) of this document for details of how to apply.

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<sup>1</sup> References to smart meters and smart meter data in this document may also include advanced metering and advanced meter data, unless otherwise clear from the context.

## 1.1 Context

### **BEIS and the Smart Metering Implementation Programme**

The Department of Business, Energy and Industrial Strategy (BEIS) works to ensure that the country has secure energy supplies that are reliable, affordable and clean; ensuring that the UK remains at the leading edge of science, research and innovation; and tackling climate change.

Smart meters are the next generation of gas and electricity meters. They are being rolled out under the Smart Metering Implementation Programme (SMIP) by the end of 2020. The roll-out is expected to play an important role in the transition to a low-carbon economy and help us meet some of the long-term challenges we face in ensuring an affordable, secure and sustainable energy supply.

Smart meters are expected to bring significant benefits to both domestic and non-domestic consumers, by delivering improved information on their energy consumption to help them control energy use, save money and reduce emissions and by bringing an end to estimated billing, and enabling smoother and faster switching between suppliers. Information from smart metering is also expected to support other measures to improve efficient use of energy, e.g. new tariffs to shift demand to periods of lower cost, and improved information to support the provision of energy services and investment decisions.

The smart meter roll-out<sup>2</sup> covers over two million non-domestic sites, the majority of which are occupied by microbusinesses and SMEs. There will be a range of routes and processes by which non-domestic consumer benefits will be realised (e.g. services and activities may be delivered by energy suppliers or by third party providers) for different types of user.

Over the last few years BEIS has carried out a number of research activities to help to better understand how these consumers manage energy; how the market is developing and delivering new products and services; and how to maximise benefits, in particular energy-saving (demand reduction) which forms a significant element in the Programme Business Case.

This Competition builds on this evidence base. It aims to drive a significant increase in the level of benefits which will be delivered, initially by targeting a number of priority segments (retail, hospitality and schools) and developing new approaches to facilitating and supporting energy management which are tailored to the particular needs of these segments. It thereby seeks to achieve earlier and greater levels of energy management activity in these segments, and to develop and strengthen the market in energy management products and services for smaller business and public-sector sites.

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<sup>2</sup> Supply licence conditions require energy suppliers to install smart metering systems (or in some circumstances, advanced meters) at premises whose average annual gas consumption is below 732 MWh per year and at all premises in electricity Profile Classes 1-4.

## Smart and advanced metering

Both “smart” and “advanced” meters<sup>3</sup> have been installed in non-domestic sites mandated under SMIP to date<sup>4</sup>. From a customer perspective, the most obvious difference between smart and advanced meters are that smart meter customers have the ability to access real time consumption data, electricity consumption data at a greater level of granularity than that offered by an advanced meter, or services that make use of either of these types of data. Smart meters will establish a wireless ‘Home Area Network’ in the consumer’s premises. This will be a local ZigBee wireless network which gas and electricity smart meters and (in the case of domestic and some non-domestic premises) in-home displays will use to exchange data. Consumers will be able to pair other devices that operate the ZigBee Smart Energy Profile to this network to access data; such devices are typically known as Consumer Access Devices (CADs). Users of the Data Communications Company can also access data, subject to the provisions of the smart metering Data Access and Privacy Framework.

It is estimated that there are around 2.1-2.3 million electricity meters and over 700,000 gas meters covered by the mandate in the non-domestic sector. To date, the majority of meters installed have been advanced meters rather than SMETS compliant smart meters, however overall it is expected that the majority of the roll-out will be SMETS compliant. The proportion of smaller sites with SMETS meters is likely to increase over time, as some non-SMETS compliant meters will need to be replaced by SMETS meters once they reach the end of their operational life.

## Composition of the mandated population

The population of sites and organisations covered by the smart metering mandate is very varied: they range from small shops to chain stores, from small industrial units to schools and other small public and third sector organisations.

This variation affects how they will respond to smart metering. Our research has found that organisational size (in particular the difference between single-site, independent businesses, and chains which are able to carry out energy management across a portfolio of sites) and energy intensity were key to understanding an organisation’s approach to energy management. This is discussed further in the next section.

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<sup>3</sup> The functionality of a “smart meter” is defined by the Smart Metering Equipment Technical Specifications (SMETS). “Advanced meters” can vary widely in functionality, but must, at a minimum, be able to provide half-hourly electricity or hourly gas data to which the customer can have timely access and which is remotely accessible by a supplier.

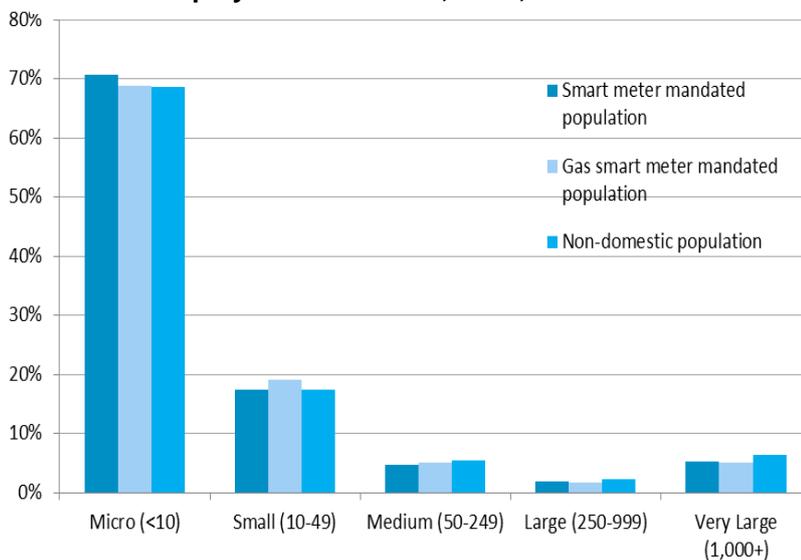
<sup>4</sup> In the non-domestic market, energy suppliers were already required to ensure that by April 2014, energy supplied to larger electricity sites (within profile classes 5-8) and larger gas sites (consumption above 732 MWh per annum) is measured by an advanced meter. The smart meter roll-out for the non-domestic sector focusses on the remaining, smaller sites – those in electricity profile classes 3 and 4, and those with gas consumption below 732 MWh per annum. The smart metering mandate requires that suppliers install SMETS compliant smart meters in all of these sites by the end of 2020. There is an exception to this mandate that allows large suppliers to install advanced meters at non-domestic sites until January 21st 2018 and small suppliers to do the same until May 21st 2018. (Dates accurate at time of publication).

Chains of sites under central management will range in size from small businesses with a handful of sites, up to large or very large organisations. In general, we have found that large or very large organisations are more likely to have already adopted energy management approaches, often using advanced metering although other technologies such as sub-metering are also used. Such organisations may have a mix of sites with meters covered by the smart metering mandate, and ones with advanced metering installed under the earlier (2014) advanced metering mandate (see footnote 4).

These organisations are already benefitting from an existing market in energy management services. In recognition of this, and that large organisations may prefer to operate a single metering solution across all of its sites, BEIS has proposed that these consumers should have an explicit choice between an advanced and a smart meter at their lower energy consuming sites that are covered by the smart metering mandate<sup>5</sup>.

Through data matching we have estimated that the large majority of businesses at mandated sites are SMEs<sup>6</sup> or small public-sector organisations, although nearly 10% of sites are occupied by large or very large organisations. See Figure 1 below (data based on matching using Non-Domestic NEED<sup>7</sup> data for England and Wales (E&W) held by BEIS).

**Figure 1 Proportion of the smart meter mandated population by business employment size band, E&W, 2012-3 data.**



We do not have quantitative data on the numbers and sizes of chains in different sectors (retail, hospitality etc.), however anecdotally we know that there is a diverse range, from businesses with only a few sites (which may be micro-businesses), through medium-sized businesses

<sup>5</sup> See: <https://www.gov.uk/government/consultations/non-domestic-smart-metering-policy-proposals-and-draft-legal-text>

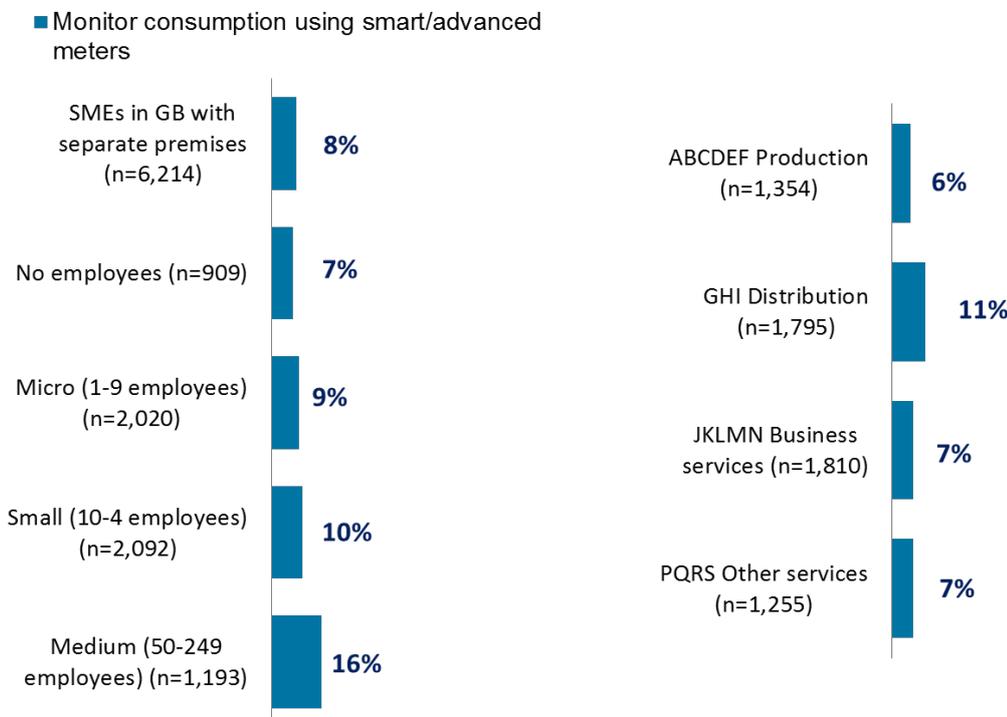
<sup>6</sup> All references to SMEs are intended to include microbusinesses.

<sup>7</sup> See <https://www.gov.uk/government/statistics/non-domestic-national-energy-efficiency-data-framework-energy-statistics-2006-12>

(defined as having 50 to 249 employees), up to very large organisations with thousands of employees and sites.

We have evidence on the frequency of SME energy management activities using smart / advanced metering data from the BEIS Longitudinal Small Business Survey Year 2 (2016) results<sup>8</sup>. See Figure 2 below, giving frequency distributions of SMEs with separate premises monitoring energy consumption, broken down by business size (left hand) and activity (right hand).

**Figure 2 Proportion of sites monitoring energy consumption using smart or advanced metering**



*BIS 2016 SME survey by BMG Research  
SMEs in GB with separate premises, unweighted bases in brackets*

Within this SME survey, the frequency of energy management activity, while generally low, was highest among medium-sized organisations, and in the ‘distribution’ group of sectors which includes wholesale/retail, transport and accommodation/food. While there is no hard data, larger organisations may be more likely to undertake more, and more effective energy management activity.

<sup>8</sup> See: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/624580/small-business-survey-2016-sme-employers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/624580/small-business-survey-2016-sme-employers.pdf). A caveat is that since this survey was based on self-reporting by the organisations that were surveyed, there may be positive bias in terms of the proportion of organisations claiming to carry out energy management activity.

## Evidence on how to promote energy management by non-domestic organisations

BEIS has undertaken extensive social research to improve our understanding of the consumer context into which smart meter data will be introduced, and how benefits could be maximised. Specifically, a large qualitative study was undertaken into the ways in which organisations currently use and manage energy, the role of smart meter data in energy management, and the pathways, enablers and barriers to energy-saving via the use of such data.

This research, published<sup>9</sup> alongside this Competition, was conducted by Accent and Creative Research<sup>10</sup> in 2015 and 2016. It involved 41 case studies of sites, most of which had smart/advanced meters installed. Each case study consisted of a site visit and one or more face-to-face interviews with key individuals from, or associated with, the organisation to which the site belonged. In addition 91 telephone interviews were conducted with decision-makers across a range of clusters to add breadth to the findings.

The extent to which organisations were taking positive steps to manage energy varied considerably across the different types of sites studied. A range of factors were associated with this variability, including the size of organisations, energy intensity, the importance of reputational drivers, the availability of skilled staff to undertake energy management, and cost-effective access to trusted specialist advice.

The research found that smaller businesses rarely (if ever) had staff dedicated to energy management and energy-related decisions were generally taken by the owner/director. Approaches to energy efficiency were basic, often being based on turning equipment down/off when not in use. Barriers to engaging with energy efficiency included lack of management time or access to external expertise. Very little evidence was found at the time of the research<sup>11</sup> of active engagement in energy management, including the use of smart or advanced meter data, amongst this group. In most cases, non-use of data tended to coincide with a lack of awareness that it was available at this stage of the roll-out. Even if awareness was improved, smaller organisations indicated that they would still struggle to proactively monitor energy data on a regular basis; new (free or low-cost) products and services which “push” alerts or recommendations to users or identify the running costs of individual equipment, are seen as likely to be more useful for this group.

The research showed that smart/advanced meter data has the potential to prompt organisations into taking action provided they know how to interpret it within the context of their own operations and a cost effective solution is available. It also highlighted the importance of the way organisations are engaged prior to, during and after smart meter installation.

Solutions will depend on organisation size and structure, premises (e.g. types of heating and lighting installed) and other equipment, however may include the following activities:

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<sup>9</sup> <https://www.gov.uk/government/publications/smart-metering-in-non-domestic-premises-early-research-findings>

<sup>10</sup> We also acknowledge the advisory inputs of expert evaluation advisers Elliot Stern and Avril Blamey, and of the National Energy Foundation who contributed to the early stages of the research.

<sup>11</sup> Fieldwork began in Summer 2015.

### Behavioural

- **Changing behaviour:** involving exhorting staff to turn things off or down, staff being trained or incentivised through peer-to-peer comparisons (e.g. league tables or comparable benchmarking data) to save energy or controlling settings centrally (e.g. through 'last man out' switches.)
- **Changing production processes** e.g. in restaurants only using extraction equipment when grills were in use.
- **Servicing equipment:** having key items of equipment serviced on a regular basis.

### Investment

- **Undertaking an energy-efficient fit-out** when opening a new or refurbishing existing premises.
- **Purchasing new or upgrading equipment:** e.g. more energy efficient fridges and chillers, rather than just replacing equipment when it was no longer cost-effective to have it repaired.
- **Improvements to heating/cooling systems:** installing/using heating controls, thermostats and timers; also Building Management Systems (but these are often not cost effective for smaller sites).
- **Improvements to lighting systems:** using more energy efficient forms of more traditional lighting; or using sensors to ensure lights were only used when needed. The main observed activity here related to switching to LED lights.
- **Fuel switching** e.g. from electricity to gas to take account of lower costs for an alternative fuel.

The research highlighted the value of complementary interventions being undertaken in parallel:

- raising awareness of smart metering and tackling barriers to accessing and interpreting data, particularly for smaller organisations
- developing appropriate products and services and helping organisations understand their energy use and identify practical ways to save energy
- signposting sources of information and advice and promoting peer-to-peer learning, possibly facilitated by not-for-profit organisations e.g. local authorities, or trade and professional bodies
- seeking synergies with broader policies and arrangements affecting energy decision-making.

The findings also emphasise how the smallest organisations (independents) face additional challenges around skills and capacity – for them, products and services which simplify the involvement required, and that focus on what they can achieve within their own context, will be particularly important.

As described further in section 2, Phases 2 and 3 of the Competition will involve developing and piloting packages of complementary interventions such as those outlined above, alongside the data tools developed in Phase 1. These packages will be tailored to the individual segments and designed to maximise the overall uptake and impact of smart meter-based energy management

solutions and energy efficiency measures. Earlier this year we held an expert workshop<sup>12</sup> which developed ideas on how to engage four different sectors and whose report may be a useful reference.

### **Technological focus of the Competition**

There is an established market for energy management services using smart (primarily advanced) meter data, however this primarily serves large or very large organisations which have greater organisational capacity and higher potential for savings. For smaller non-domestic users including micro-businesses, SMEs and small public-sector bodies, there is no requirement for suppliers to provide equivalents of the mandatory domestic in-home displays (IHDs), and suppliers are primarily offering passive, self-serve online platforms.

In 2015, SMIP published a Forward Look by the Carbon Trust into smart meter-enabled innovation for non-domestic customers<sup>13</sup>, which identified five key innovation areas that could be enabled before 2020 by the smart meter roll out for non-domestic customers, including automated building performance evaluation, analytics and pattern recognition, and device disaggregation.

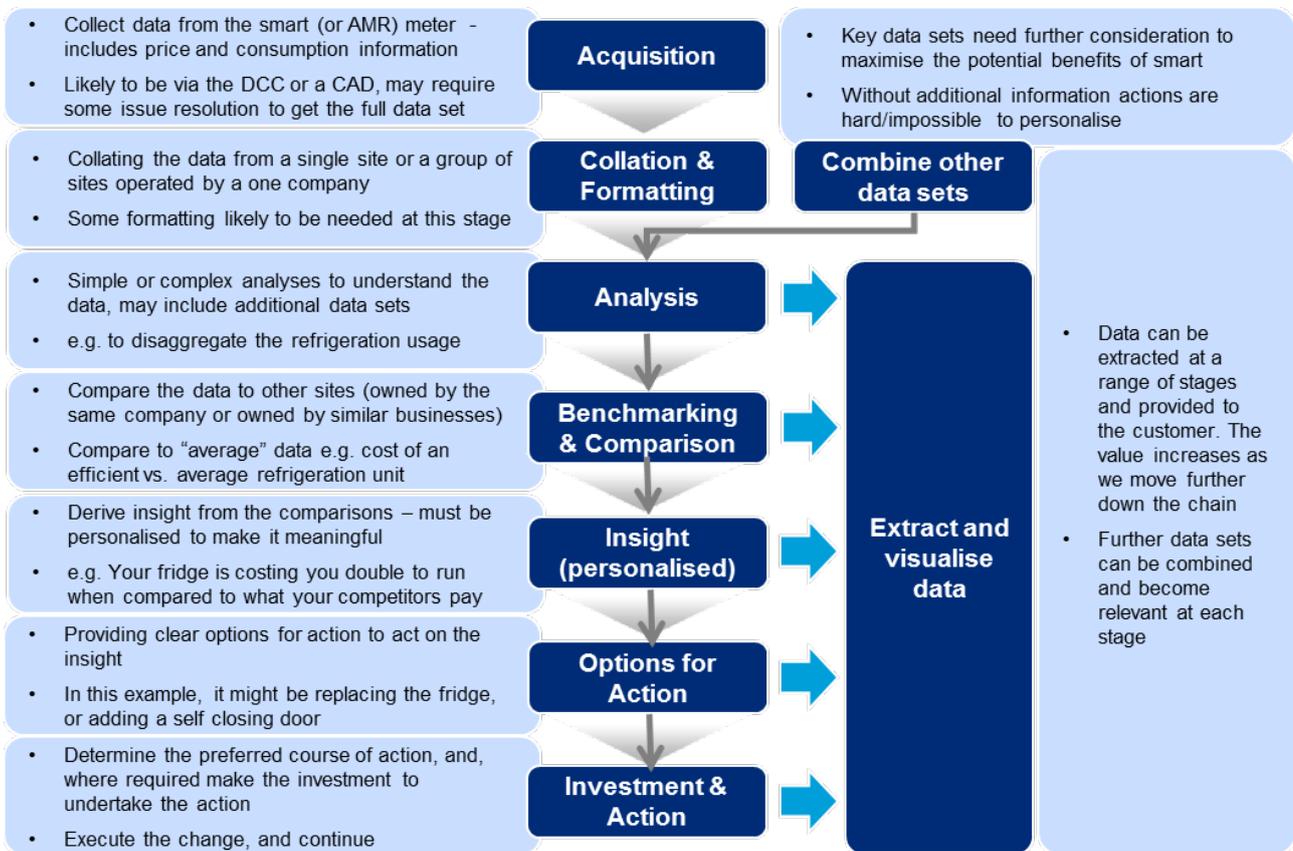
In early 2017, we assessed the development and uptake of smart energy management solutions in the non-domestic market (in particular SME and micro-businesses) in more detail. Most of the companies we spoke to saw significant value in detailed consumption data combined with price information, but almost all did more than just provide this information back to the consumer in an easily comprehensible format – this was just step one. This is illustrated in Figure 3 below.

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<sup>12</sup> <https://www.gov.uk/government/publications/smart-metering-in-non-domestic-premises-early-research-findings>

<sup>13</sup> <https://www.gov.uk/government/publications/smart-metering-enabled-innovation-in-energy-management-in-the-non-domestic-sector>

**Figure 3 Maximising the information value of energy data**



We have concluded from this work that there is the technical and market potential for innovative products and services using smart meter data, which could be ‘pushed’ to smaller organisations without placing great time demands on them. For example, products or services might automatically benchmark site and equipment consumption within portfolios of outlets or against comparable businesses, or identify unexpected spikes in demand or equipment failure.

However, there is currently a market failure, in terms of both third party and energy utility market offerings, for products and services based on data analytics to provide such actionable information for SMEs (single and multi-site organisations). The Competition addresses this market failure. However as described in section 1.3, innovative solutions for larger organisations occupying sites covered by the smart metering mandate are also potentially eligible.

We are seeking diverse ideas on how smart meter data could be used, within organisations, to achieve energy savings. The examples given above are simply examples, and there may be entirely new ways of using data, either within existing or new platforms.

Phase 1 of the Competition focuses on development of smart meter data based software tools (energy analytics). Our research has shown that energy analytics and visualisation also require complementary interventions in the form of targeted information and advice, to help customers improve energy management practices. Phases 2 and 3 of the Competition is focused on

development of such complementary interventions alongside software tools to form a package of solutions, which can be rolled out and tested with customers.

The types of complementary interventions which are likely to be effective may vary considerably across target segments, but are likely to include tailored information and advice linked to outputs from the software tools including:

- Information to engage customers (e.g. estimations of financial costs/savings)
- Information and advice on actions which can reduce energy demand and costs (e.g. heating controls, lighting, energy using products advice etc.), alongside information on pathways to take action
- Tailored messages designed to encourage uptake of advice and sustained behaviours.

A toolkit of information and advice has been developed for the domestic sector, which may give some ideas as to the types of interventions which were deemed applicable for that sector<sup>14</sup>. Similar approaches might be suitable for certain types of independent businesses (e.g. retail).

### **Research and evaluation contractor**

The Competition provides an opportunity to improve the evidence base around what types of interventions help achieve desired outcomes, in what circumstances they work and why. This is particularly challenging in the small non-domestic sector, where organisations are highly variable and one size does not fit all. As such, a programme of research and evaluation will be undertaken alongside the Competition (this will be procured separately, alongside the Competition).

The purpose of this work will be to:

- Help successful Competition applicants to improve the tools and supporting information and advice – by working with applicants, conducting research with them and customers, and providing feedback at key points
- Inform smart metering policy development and implementation, and broader Government innovation and small non-domestic energy policy.

In order to support Competition project development and for Competition participants to derive direct value from research and evaluation activities during the Competition, it has been decided to extend the scope of this work beyond standard Government evaluation objectives. It is envisaged that the research and evaluation contractor (REC) will work closely with each Competition participant, providing them with opportunities to participate in research activities which will support the development of successful solutions and feedback during each phase of the Competition. This may involve:

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<sup>14</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/587307/Toolkit\\_25.11.16\\_v27\\_high\\_quality\\_PRINT.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/587307/Toolkit_25.11.16_v27_high_quality_PRINT.pdf)

- Embedding members of the REC team into Competition project teams from the start of their projects.
- Organising and facilitating solutions design and networking events, drawing on expertise in the energy management and energy advice fields.
- Enabling the REC to deliver research activities (e.g. customer research, user testing) to support project development at each phase, working with Competition participants.
- The REC acting as a 'critical friend' through undertaking discussion and feedback sessions with Competition participants.

Further details of how Competition participants and the research and evaluation contractor are proposed to work together will be available in due course within the tender documents for that procurement. In addition, further information will be provided to successful participants in phase 1 of the Competition.

## 1.2 Small Business Research Initiative

The Small Business Research Initiative (SBRI) is a quick, simple and well-established process that enables the development of innovative products and services in response to specific challenges faced by government departments and public sector bodies. Successful business partners receive finance to develop their innovative ideas, generating new business opportunities and routes to market. More detail on the SBRI can be found here<sup>15</sup>.

## 1.3 The challenge

The aim of the Competition will be to develop the market for, and maximise the overall uptake and impact of, energy management products and services based on data analytics for smaller non-domestic sites in order to help secure energy demand reduction within target sectors of the non-domestic sector.

### Objectives

The objectives of the Competition are to:

1. Develop innovative and easy-to-use data tools which are tailored for the requirements of the target sectors (see below) to add value to smart meter data and facilitate user engagement, use and understanding;
2. Develop packages of supporting complementary interventions (e.g. advisory and training materials, case studies, methods for peer-to-peer learning) tailored for the requirements of the target segments which drive the uptake and effective use of data tools;

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<sup>15</sup><https://www.gov.uk/government/collections/sbri-the-small-business-research-initiative>.

3. Secure earlier and greater levels of energy management activity within the five non-domestic segments to be targeted (schools, hospitality and retail chains<sup>16</sup>, independent hospitality and retail businesses) leading to reduced energy costs and carbon emissions (contributing to the Clean Growth Plan and Industrial Strategy) and greater investment in energy efficiency and flexibility, whilst also maximising the benefits of transferable learning to other segments;
4. Develop and strengthen the market for energy management products and services for smaller non-domestic consumers by reducing the barriers to, and stimulating the market for, companies developing products; and
5. Support the implementation of energy management within the target segments through enabling increased and more effective activity by partner organisations (e.g. Smart Energy GB, energy suppliers, devolved administrations and others).

The Competition covers both gas and electricity meters in non-domestic premises within the scope of the Smart Metering Implementation Programme (SMIP).

### **Geographic scope**

The geographic scope of the Competition covers energy users within Great Britain, in line with the scope of SMIP.

### **Sectoral focus of the Competition**

The Competition will target five segments of the population covered by the smart meter mandate, across three broader non-domestic 'strands', detailed below.

#### Strand 1 - Chains

1. Chains of restaurants/pubs (hospitality sector)
2. Chains of shops (retail sector)

#### Strand 2 - Independents

3. Independent restaurants/pubs (hospitality sector)
4. Independent shops (retail sector)

#### Strand 3 Small public sector

5. Schools

These segments have been chosen as they represent a significant proportion of the numbers of sites and energy consumption of the total non-domestic rollout; also taking account of ease of engagement. Significant cost-effective energy efficiency potential exists within these segments,

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<sup>16</sup> Chains of multiple small sites.

but there are significant barriers to energy efficiency especially amongst SMEs, with take up lagging behind larger organisations and the residential sector<sup>17</sup>.

Further reasons for focusing on these segments are detailed in the primary research reports published alongside the Competition<sup>18</sup>, but in summary these include:

- The majority of the population covered by the smart meter mandate is private sector and it is dominated by shops and offices.
- Estimates of total energy consumption by sub-sector (business activity) show that offices, restaurants and shops come out highest. Offices are numerically a very large group, but they are complex to engage due to landlord/tenancy arrangements, hence we have decided to focus on restaurants/pubs and shops.
- Independents or microbusinesses make up a substantial part of the non-domestic population in terms of number of premises, so it is important to consider the needs of these smallest businesses. As a result, it is intended that this Competition focus on not only chains of restaurants/pubs and shops, but small, independent businesses within these sectors too.
- For the public sector - health centres, MoD premises and schools are all significant in terms of number of premises. In terms of energy consumption, schools come out highest: this is partly driven by the number of school premises but it also appears that average energy consumption (per premise) is relatively high for schools, compared with other public sector premises. We have therefore included schools as a target segment.

As already described, as well as microbusinesses, SMEs and small public and third sector organisations, the non-domestic roll-out also covers a minority of large, multi-site energy consumers. While the primary market failure we have identified is for products and services for SMEs (single and multi-site organisations) operating at sites with meters covered by the smart metering mandate, innovative proposals which benefit larger, multi-site organisations occupying a portfolio of such sites are also eligible and will be assessed on an equivalent basis (see section 8, evaluation criteria).

## 1.4 Structure of the Competition

The Competition will be managed by BEIS, who will establish an internal project board to oversee it and approve decisions. BEIS also intends to establish an external advisory board including sectoral stakeholder representatives and technical experts to provide strategic input/ advice.

The two main components of the Competition are:

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<sup>17</sup> The BEES surveys identified 34% of energy use as cost effective energy abatement potential within the small ND sector.

<sup>18</sup> These findings are based on BEIS internal analysis of Non Domestic NEED and BEES data see <https://www.gov.uk/government/statistics/non-domestic-national-energy-efficiency-data-framework-energy-statistics-2006-12> and <https://www.gov.uk/government/publications/building-energy-efficiency-survey-bees> for data sources.

- 1) Competition projects. Up to nine innovation projects will be funded through the Competition (two to four projects across each of the target strands<sup>19</sup>). The Competition will be phased, initially developing smart meter software/data tools (phase 1), followed by initial testing with customer organisations (Phase 2) and roll out/further testing of the tools, with supporting energy management advice and engagement approaches (Phase 3). Further details on the activities and timescales of the phases are provided below.

Successful Competition applicants will also be encouraged to include their own research as part of the Competition to inform the efficacy of their interventions, and to inform routes to market – working closely with BEIS’s research co-ordinator (see below). The rationale for a phased approach is to facilitate the innovation process, allowing time for partnership to develop, providing the range of skills necessary to deliver successful projects, which have greater success of commercial success after the Competition ends. BEIS will facilitate this process (e.g. by holding ‘match-making’ events) during the Competition.

- 2) Research and Evaluation Contractor (REC) – as described above, a research and evaluation contractor is being procured alongside the Competition to work with and support Competition participants through provision of research and feedback, as well as to evaluate the Competition.

Sectoral focus: Evidence shows that the presentation of data insights and behavioural prompts need to be tailored to individual non-domestic segments: one size does not fit all. For these reasons, Competition applications must focus on the target non-domestic strands and segments noted above.

As there is little evidence available on the precise type(s) of data tools and supporting information and advice which will be effective for each segment, BEIS envisages funding multiple projects per strand (two to four per strand up to a maximum of 9 projects in total). Strands 1 and 2 (chains and independents) are anticipated to be more diverse in terms of energy end-use, organisational structures, cultures and attitudes. This may mean that higher numbers of projects will be funded in these strands, to allow for corresponding diversity in data tools.

However, it is also possible for applications to cover more than one of the segments within and/or across strands. For example, restaurants in strands 1 and 2 will operate similar types of energy using equipment and processes, so some analytical tools could serve both.

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<sup>19</sup> Depending on the quality of applications, BEIS may choose to only progress competitions in a sub-set of strands and/or segments.

## 2 Activities and timescales

Details of the activities and timescales for each of the three Competition phases are described below. This provides details on phase 1 activities and high level details on anticipated activities for phases 2 and 3<sup>20</sup>. Further details and requirements for phases 2 and 3 will be made available to successful participants early in phase 1.

Successful participants will deliver a report at the end of each phase, which will include an application for subsequent phase(s) of funding.

### 2.1 Phase 1 (design of software) March – August 2018

As described above, the focus of phase 1 is to develop software/tools and other necessary elements needed to build the tools described in objective 1 (see section 1.3), which will subsequently be tested and rolled out to energy users during phases 2 and 3. Phase 1 should also include some basic testing to ensure the integrity of the software using test data, but will not necessarily include any ‘real-world’ testing with non-domestic organisations.

In addition to tools design and development, it is envisaged that Competition participants will also:

1. Develop plans for phases 2 and 3 activities (see sections 2.2, 2.3), including:
  - a. Feasibility testing of the tools with users
  - b. Development of broader energy advice/ engagement activities which support the data tool(s) to drive and encourage user take up and effective use, to deliver energy bill savings.
  - c. Formal and informal dissemination activities (formal dissemination will be facilitated by the research and evaluation contractor – see below for further details).
2. Work with the research and evaluation contractor (REC) to contribute to the development of a research programme (delivered by the REC) to help inform successful design and development of solutions. As described above, Competition participants will have access to the REC from the start, and should view them as a valuable resource to help inform the design and development of solutions. In phase 1, participants will be introduced to the contractors’ team(s) and start to discuss how they will work together. To facilitate this, and maximise benefits to participants, we are proposing the REC will undertake an initial programme of work, which includes development of research plans to help inform the development of solutions. Specific activities will be devised early in phase 1, when the REC is in place, but activities envisaged at this stage include:
  - a. Discussion and feedback sessions – between Competition partners and the REC to assist with problem solving and exploring solutions

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<sup>20</sup> This is because latter phases are subject to change depending on the successful projects funded in phase 1.

- b. Exploratory design events – providing access to and input from various experts, including energy management specialists and behaviour change specialists, among others.
- c. Initial market research in target segments – to inform key issues associated with engagement and take up of solutions.
- d. Networking/matchmaking events – to facilitate collaborations/partnerships necessary for delivery in phases 2 and 3. For example, with:
  - i. Sector based organisations - which may facilitate engagement with target segments, including customer recruitment and tools design
  - ii. Energy management and/or behaviour change specialists – which may facilitate tool design and energy advice provided to encourage improved energy management among target customers.

Note – the REC will have a dedicated amount of resource available to deliver these activities. Competition participants will be expected to propose how they will embed contractor personnel within their teams in order to make the most of this resource.

3. Alongside the above, it is proposed that the REC will undertake light-touch evaluation activities for BEIS, delivered in such a way as to minimise burden on Competition participants. Phase 1 activities which will require participation from Competition participants may include:
  - a. Participating in in-depth interviews
  - b. Informing evaluation plans for phases 2 and 3, which is likely to include:
    - i. Access to user smart meter and other data. This will be required in order to evaluate outcomes (i.e. energy demand and bills outcomes before and after testing of solutions). Both participants and the evaluator need this data, and it requires customer permissions, which will be a challenge (see challenges section below). It should therefore make sense for participants and the REC to work together on this issue together, drawing on combined knowledge and expertise.
    - ii. Design of evaluation activities to fit in with Competition activities, mitigating burden on Competition participants and target customers.
4. Participate in a dissemination event organised by BEIS to demonstrate the prototype data tools and any early learning associated with them<sup>21</sup>.

There are some key challenges BEIS envisages applicants will need to consider at this stage, and make plans for within their applications.

## Key challenges

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<sup>21</sup> The event will be facilitated by the research and evaluation contractor.

1. **Obtaining smart (or advanced) meter consumption and /or tariff data to enable effective data tool development.** Whilst large-scale access to representative customer energy management data may not be essential in phase 1, access to appropriate smart meter data is expected to be required for development of tools. BEIS may be able to provide assistance in phase 1, e.g. through encouraging support by industry parties, but applicants should consider and propose how they will access data needed to support development of the smart meter based tools in phase 1.
2. **Gaining access to appropriate energy users and their data for feasibility testing of the tools and broader engagement/advice in phases 2 and 3.** There are three aspects to this:
  - a. Finding users with appropriate meters from which real-time data can be retrieved may be challenging<sup>22</sup>.
  - b. There are data protection requirements and customer permissions required to obtain smart meter data.
  - c. Testing of the tools will require significant time and involvement of users to usefully test the tools to develop learnings (noting that both the Competition partners and the REC research team will need access to them).
3. **Developing complementary interventions, including tailored energy advice and information.** This is likely to require skills and experience from energy management and/or behaviour change specialists and insights into the organisational and other characteristics of specific segments, which may require bringing on additional partners for phases 2 and 3.
4. **Development of consortia/partnerships:** BEIS envisages that phase 1 applicants who are experts in data-tool development may not also have, in-house, the necessary skills and experience required to deliver requirements across all three phases of the Competition (e.g. energy advice and information expertise). Without wishing to prescribe the nature and structure of interventions designed by applicants, we can see that the following types of organisations may be helpful:
  - a. Sector based organisations - trade bodies, or organisations which currently provide related services, which may provide an accessible customer base may provide useful routes to recruit users to test solutions with within phases 2 and 3.
  - b. Energy management specialists – in other sectors (e.g. large, energy intensive organisations) there are existing energy management specialists who may be able to bring expertise and experience to inform the design and delivery of solutions
  - c. Energy advice and behaviour change specialists – there are individuals and organisations who specialise in encouraging behaviour change to reduce energy consumption and bills, who may help inform the design of solutions to improve energy management within target segments.
  - d. Energy industry parties are likely to be able to help facilitate access to customer data, in particular for SMETS compliant meters<sup>23</sup>.

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<sup>22</sup> <https://www.gov.uk/government/statistics/statistical-release-and-data-smart-meters-great-britain-quarter-2-2017>

<sup>23</sup> Note that they cannot supply without customer consent, and currently they could charge for customer data if they so wished.

Because of this, the Competition has been designed such that applicants can use phase 1 to help develop such relationships if needed. As described above, the REC will work with BEIS to facilitate some networking and matchmaking events to help facilitate this. Such activities will be designed in discussion with successful phase 1 participants to ensure they meet needs and add value where required. BEIS recognises that applicants may well (and are encouraged to) develop such relationships during the application phase before the Competition commences, which may mitigate the need for such activities.

Phase 1 outputs: Outputs proposed will include a report and presentation to BEIS, which also form the application for subsequent phases of funding. At this stage, participants need to set out their full bid covering both phases 2 and 3 of the funding. BEIS will assess progress including evidence from the feasibility and initial testing studies at the end of phase 2 in order to inform decisions on proceeding with funding for phase 3, and this may include updating plans for phase 3. However it is envisaged that the main assessment for funding for phases 2 and 3 will occur at the end of phase 1.

It is envisaged this phase 1 report will include, in addition to full details of the solution design and customer interface:

1. Feasibility and initial testing outputs and associated learnings.
2. Approach to developing broader engagement tools/energy advice and how this will be integrated into the project design in phases 2 and 3.
3. Approach to working with the REC – including participation in research (based on plans developed with the contractor), research with customers and process for taking on board research feedback to improve outputs in phases 2 and 3.

Further details on the report/application for phase 2 and assessment criteria will be made available early during phase 1. The reports will be assessed to decide which projects will progress to phase 2.

Funding scope: Applicants should note that BEIS will not fund:

1. Applicant time to participate in research and evaluation activities. BEIS expects that by enabling the research and evaluation contractor to provide assistance and feedback to participants from the start of the Competition, participants will see the value in working with them to help enable development and delivery of effective solutions.
2. Development of plans (e.g. consortia building and development of reports to apply for phase 2 and 3 funding).

See section 9 for further details on eligible and ineligible costs.

The next sections provide high level details of phases 2 and 3. As described above, more detail will be made available to successful participants during phase 1.

## 2.2 Phase 2 feasibility and initial testing (Sept 2018 – Jan 2019)

Phase 2 will focus on undertaking ‘real-world’ testing of the data tools in a small number of non-domestic organisations. This will provide early learnings on the value of the tool(s) through the

experience of implementation with users, which can inform wider roll out and development of broader engagement approaches/supporting energy advice delivered in phase 3.

It will also provide valuable early feedback on the process of finding suitable participants, obtaining user participation and data permissions, and any key risks and mitigation approaches needed for phase 3 roll out. As described in section 2.1, this element will involve close working with the REC, who will also wish to obtain access to customers for research and evaluation purposes.

Other activities are likely to also include:

1. Working with the REC to deliver the research programme designed in phase 1. This will include revision and updating to develop a final plan for phase 3.
2. Participation in evaluation activities – building on activities delivered in phase 1. Activities could include:
  - a. Project partners participating in interviews and possibly in-depth/site visits to customers involved in early stage testing.
  - b. Working with the REC to develop approaches to a) collect/analyse smart meter data b) participate in customer research in Phase 3.
3. Dissemination/ consultation with wider target customers/ sector stakeholders as necessary.
4. Delivery of and/or participation in formal and informal dissemination activities (formal activities will be facilitated by the REC).

Phase 2 outputs: Outputs proposed will include a report and presentation, which also form the application for phase 3 funding. It is envisaged this will include:

- Feasibility and customer testing report – covering issues such as tool functionality, customer usability, salience and relevance.
- Approach to working with research and evaluation contractor during phase 3 to further adapt and improve the tools/services until the end of the project.

Further details on the report/application for phase 3 and assessment criteria (likely to be based on a mixture of technical, project delivery and commercial criteria) will be made available early during phase 2. The reports will be assessed to decide whether projects will progress to phase 3.

## 2.3 Phase 3 (Feb 2019 – Jan 2020)

Successful applicants going forward to phase 3 will be funded to build and implement the full package of proposed solutions, rolling them out and testing them with energy users, working alongside the REC to capture learnings during delivery.

The scale and nature of roll out and testing with users is up to Competition participants to propose, depending on what is believed to be most effective to inform final development of the solutions in the relevant segment(s). However it is anticipated the scale of roll-out could range from around 20 to potentially hundreds of users.

Planned broader engagement activities and energy management advice outputs should be fully developed in the early stages of phase 3, to ensure they are available for roll out with users.

Other activities are likely to also include:

1. Dissemination/ consultation with wider target customers/ sector stakeholders as necessary.
2. Delivery of and/or participation in formal and informal dissemination activities (formal activities will be facilitated by the REC).
3. Working with the REC to deliver the research programme designed in phases 1 and 2.
4. Participation in evaluation activities, working with the REC. Types of activities could include:
  - a. Participating in/conducting interviews and possibly in-depth/site visits to customers involved in early stage testing.
  - b. Possibly facilitating wider research with a larger sample of similar customers who may not have the intervention (or only the data tools) to use as comparison groups.

Final outputs: Outputs are likely to include:

1. Results, outputs and / or specifications for processes and activities encompassed by the data tool and broader engagement approaches/energy advice.
2. A final project report detailing design and development of the data tool and supporting engagement activities.
3. Recommendations for disseminating learning from the programme.
4. Plans for taking forward and commercialising approaches developed in the programme.

## 2.4 Summary of key dates

<b>Phase 1 – design of software</b>	
Competition opens	27 <sup>th</sup> November
Briefing and industry engagement event	30 <sup>th</sup> November
Deadline for Phase 1 applications	09 February 2018
Phase 1 interviews (if required)	w/c 19 February 2018
Notification of phase 1 results	w/c 26 February 2018
Phase 1 Start / Finish	w/c 05 March 18 – 31 August 2018
<b>Phase 2 – feasibility and initial testing</b>	
Phase 2/3 application deadline	31 August 2018
Phase 2 interviews (if required)	w/c 10 September 2018

Notification of phase 2/3 assessment	w/c 17 September 2018
Phase 2 Start / Finish	w/c 24 September 2018 – 25 January 2019
<b>Phase 3 – full deployment and research testing</b>	
Phase 3 application deadline	25 January 2019
Notification of phase 3 assessment	w/c 04 February 2019 (if required)
Phase 3 Start / Finish	w/c 11 February 2019 – January 2020

### 3 Competition process

BEIS is seeking proposals to demonstrate the feasibility of developing smart meter data tools and supporting broader engagement and advice to improve energy management within small non-domestic organisations, in order to help achieve energy bill savings and other associated benefits.

Contracts will be awarded on a competitive basis to the highest quality proposals that address the challenges set out in this guidance.

The Competition will proceed as follows.

- Briefing event in London on 30<sup>th</sup> November 2017
- Competition documents released 01<sup>st</sup> December 2017
- Interested companies submit applications that are assessed against defined criteria
- Phase 1 contracts are awarded to the highest ranking proposals; however, where several applications suggest the same or a similar approach, BEIS may also choose to allocate the budget to lower scoring projects proposing different approaches to develop and test a wider range of potential solutions;
- Assessment of phase 1 outputs to decide which projects will progress to Phase 2;
- Phase 2 contracts are awarded to undertake feasibility and initial testing;
- Assessment of Phase 2 outputs to decide which projects will progress to Phase 3;
- Phase 3 contracts are awarded to further develop and fully test through trials and research
- Successful companies can further develop and exploit products or services, offer it to other customers and take it to market (complying with intellectual property requirements – see section 10.4).

The three phases are described further below.

Phase	Dates
1 – Initial software and tools development	05 March 18 – 31 Aug 2018
2 - Feasibility and initial testing	24 Sept 2018 – 25 Jan 2019
3 – Further development and research testing	February 2019 – January 2020

## 4 Application Process

The call for applications will open on 01<sup>st</sup> December 2017. Applicants will be asked to complete a standard application form detailing their proposed technologies. **Applications will focus on phase 1 activities. Applications may also include details of plans for phases 2 and 3 – these will be useful to have sight of, but will not be assessed<sup>24</sup>.**

The deadline for applications is **12 noon on 09 February 2018**.

Applications will be assessed against the eligibility and evaluation criteria detailed in sections 5 and 8. Projects will be selected for funding based on their position in a ranked list and with a minimum threshold of 60% of marks against the evaluation criteria.

As part of the assessment process BEIS may request applicants to attend interviews in London in the week commencing 19 February 2018. Applicants will be informed of the outcome of the assessment by 02 March 2018.

Phase 1 contracts are expected to be awarded by 02 March 2018. Feedback to applicants will be provided on request after contracts have been awarded. BEIS's decision on project funding is final.

The application form can be found at Annex 05 – Application Form.

Completed application forms should be submitted electronically in pdf format and emailed to [smartenergymanagement@beis.gov.uk](mailto:smartenergymanagement@beis.gov.uk) with '**Smart Energy Management Innovation Competition**' in the subject line. The maximum size email you can send is 10 MB. If your application is larger than 10MB break the submission down into smaller sizes and ensure the subject line of each additional email takes the following format '**Smart Energy Management Innovation Competition**' (name of lead applicant) – email x of y'.

You should endeavour to answer all of the questions on the application in full. Incomplete applications and any containing incorrect or false information will very likely be rejected although BEIS may, at its discretion, request clarification or additional data before making a final decision.

All answers should be contained within the application form. Any appendices that support the answers in the application form must be appended to the end of the form. The application form must list all appendices and supporting documents.

Any applications or supporting documentation received after the application deadline will not be considered.

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<sup>24</sup> As described in the application form, this may be information which is appropriate to provide as an appendix to the main application form if relevant.

## 5 Eligibility criteria

BEIS expects to deliver the proposed Competition as an SBRI competition: a form of pre-commercial procurement which is aimed at organisations working on research and development (R&D) of an innovative process, material, device, product or service *prior to commercialisation*. Funding is available for pre-commercial R&D activities only. Projects requesting funding for commercialisation activities are not eligible.

SBRI competitions are ***open to all organisations*** that can demonstrate a route to market for their solution.

The sharing of risks and benefits is an important aspect to the SBRI approach. Projects receive financial support and retain any intellectual property generated, with certain rights of use retained by BEIS. Project outputs are expected to be shared publicly. Applicants should clearly state where cost savings are being provided compared to exclusive development contracts<sup>25</sup>.

Proposals will be assessed for eligibility prior to proceeding to full evaluation. Eligible proposals must:

1. Be at a pre-commercial stage of development (see section 6, call scope);
2. Address the call scope (see section 6);
3. Describe all phases of the project (see 'Competition Process', section 2 and 'Activities and Timescales, section 2);
4. Clearly indicate the cost savings provided to BEIS in line with SBRI requirements (see financial information section 10.1);
5. Be led by a single organisation with evidence of strong collaboration across consortia (if a consortium bid is proposed)

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<sup>25</sup> Exclusive development means that the public purchaser reserves all the results and benefits of the development (including Intellectual Property Rights or IPRs) exclusively for its own use.

## 6 Call scope

This call will support proposals in Phase 1 that can develop, demonstrate and pilot energy management products and services for smaller non-domestic sites within the SMIP mandate that are based on data analytics using smart meter data within the timescales indicated. As such, BEIS would expect to fund projects at Technology Readiness Levels (TRLs) between 6 and 9, although projects at an earlier stage of development will be considered if they demonstrate particularly strong innovation or benefit and a clear route to demonstration and deployment. Further information on TRLs can be found at Annex 1 – Technology Readiness Levels (TRLs).

Funding is available for pre-commercial development activities (TRL6-9), including solution exploration design, prototyping, field testing, trials and demonstrations. Funding is not available for commercial development activities such as quantity production.

The target strands and segments for the Competition are detailed in section 1.3. We anticipate that solutions will be designed to take full account of how organisations in these target segments operate, and their resulting ways of operating, capabilities and priorities. The segmented approach to the Competition reflects that these vary widely, and therefore need tailored solutions.

Innovation can include new technologies (components, materials, techniques etc.), using smart meter data for the purposes of improving energy management activities within target non-domestic segments. Solutions could serve purposes broader than solely energy management, although a primary design purpose must be to achieve energy saving.

Types of innovations that BEIS expects to see coming forward include those that will be able to use near real time data, that can be retrieved almost instantaneously from the meter. This is the functionality that SMETS compliant meters are designed to deliver. However, the use of advanced metering to provide innovative data analytics solutions is also within the scope of the Competition.

The Competition is intended to have a relatively broad scope to encourage innovative ideas. As a guide, products and services might include (but are not limited to):

- Smart meter data tools and services. Approaches can cover electricity and/or gas meters.
- Associated energy management advice and broader engagement activities, delivered in combination with (and drawing off outputs from) smart meter data tools.

## 7 Deliverables

It should be noted that SBRI contracts require that project outputs are shared publicly. See 'further information' in section 10.

### **Phase 1**

Phase 1 projects will be expected to deliver a feasibility report containing a detailed description of outputs detailed in section 2.1.

BEIS will supply guidance for report writing prior to projects commencing. The Phase 1 report will be used to assess which projects will go forward to Phases 2 and 3. As such, the report should contain sufficient information to enable assessment and we reserve the right to request any further details beyond those provided to aid us in our assessment.

Additional information: Alongside the report, participants will need to deliver fully accessible copies of any other relevant documentation or outputs used in delivery of phase 1, with appropriate explanations of the analysis undertaken and raw data used.

### **Phases 2 and 3**

Further to detail provided in section 2, BEIS will provide additional guidance during phases 1 and 2.

## 8 Evaluation Criteria - Phase 1

Eligible proposals will be assessed using the following criteria. A total of 5 points is available against each sub-criterion, and the weighting to be applied to each sub-criterion is given in brackets:

### 1. Technical approach / Innovation (Total score 40)

- a. *Clear description of the proposed solution and how it addresses the challenges as set out in this guidance document (weighting x 1);*
- b. *Clear description on the particular innovative step(s) being proposed and how they will build on the smart metering platform and non-domestic roll out (weighting x 2);*
- c. *Current and proposed stage of development. Please refer to TRLs (see Annex 1) and provide an indication and justification of current, and proposed TRL (weighting x 1);*
- d. *Description and evidence of proposed solution's potential to improve energy management activities in targeted organisations operating at sites covered by the smart metering mandate, which lead to bill savings, carbon emissions reductions and other desired benefits (weighting x3).*
- e. *Potential for reduced complexity / standardisation presented by the technology (weighting x 1).*

### 2. Project Plan (Total score 20)

- a. *Detailed description of work packages and associated timelines (include a Gantt chart) (weighting x 1);*
- b. *List of milestones and deliverables with associated dates and invoice values (weighting x 1);*
- c. *Resource management plan, including:*
  - i. *Team structure*
  - ii. *Management of sub-contractors and other stakeholders*
  - iii. *Requirements for external support e.g. help with access to smart meter data, and/or customers, suppliers and/or other needs (weighting x 1);*
- d. *Key risks and dependencies of the project, including mitigation plans. Risks should be presented in the table provided in the application form (weighting x 1).*

### 3. Skills and Expertise (Total score 15)

- a. *Understanding of smart meter technologies, data-tools development, use of data to inform data tools (either smart meter data, or other data) (weighting x 1);*
- b. *Evidence that the team has relevant skills and expertise to undertake the project (weighting x 1);*
- c. *Evidence of appropriate networks across the smart meter and energy management sectors, and the supply chain (weighting x 1).*

### 4. Market Potential and Business Case (Total score 15)

- a. *Assessment of market potential, including costings (products and services, installation, customer acquisition, including potential for scaling within the mandated sector of non-domestic sites and meters (weighting x 1);*

- b. *Indication of how the product(s)/services can/will be scaled-up, and potential exploitation across GB (weighting x 1);*
- c. *Business case for roll out and commercialisation. The proposal should demonstrate how the product will achieve credibility in the market place through product proving and accreditation (weighting x 1);*

#### 5. Cost (Total score 10)

- a. *Cost breakdown using the table provided in the application form (weighting x 2).*

Applicants should clearly state where cost savings are being provided compared to exclusive development contracts.

Price will be marked proportionately to the lowest bid. The lowest bid will receive maximum marks for the price elements and then all other bids will be marked proportionately to that bid. Where contractors indicate options, they should clearly indicate their preferred approach, which the cost and other criteria will be scored against.

#### Scoring Method

Each question will be scored from 1 to 5. The following illustrates the meaning of each score:

Score	Description
1	Not Satisfactory: Proposal contains significant shortcomings and does not meet the required standard
2	Partially Satisfactory: Proposal partially meets the required standard, with one or more moderate weaknesses or gaps
3	Satisfactory: Proposal mostly meets the required standard, with one or more minor weaknesses or gaps.
4	Good: Proposal meets the required standard, with moderate levels of assurance
5	Excellent: Proposal fully meets the required standard with high levels of assurance

*Phase 1 contracts are awarded to the highest ranking proposals, which achieve a minimum pass mark of 60%, in order of ranking (based on the total score), however, the number of phase 1 projects funded depends on the range of solutions proposed and the quality of the proposals and BEIS may allocate less than the total budget depending on the quality of the applications.*

Selection for Phase 2 will be based on the outputs from Phase 1, and Phase 3 from Phase 2 outputs (if deemed necessary).

## 9 Support available

The total value of the Competition is £8.8m, although BEIS may allocate less than the total budget depending on the quality of the applications.

Phase 1: A maximum of £1.8m will be available for Phase 1 feasibility studies, with a maximum expected value of £200k per project (or more if proposals cover more than one target segment/strand). The number of phase 1 projects funded depends on the range of solutions proposed and the quality of the proposals.

During Phase 1, BEIS plans to help identify suitable organisations with additional skills and resources to help deliver phases 2 and 3, notably through 'match-making' activities in phase 1. However, applicants will be encouraged to develop their own relationships and partner to form consortia according to their perceived needs to deliver the objectives of the Competition.

Phases 2: Feasibility and initial testing – approximately £50-100k per project for initial feasibility testing (up to £675k available in total for phase 2).

Phase 3 Full roll out and testing – up to £4.825m across all funded projects.

Funding under this Competition will only be **available until January 2020**. All payments need to be completed by this date. All costs should include VAT, where applicable.

*Note: Nothing in this funding call requires BEIS to award any applicant a contract of any particular amount or on any particular terms. BEIS reserves the right not to award any contracts, in particular if BEIS is not satisfied by the proposals received or if the funding assigned to the scheme is required for other, unforeseen, purposes. BEIS will not, under any circumstances, make any contribution to the costs of preparing proposals and applicants accept the risk that they may not be awarded a contract.*

# 10 Further information

## 10.1 Financial information

Applicants are requested to provide a fixed price quotation for the work. A detailed cost breakdown is required to enable assessment of value for money.

Financial information should include costs for all phases of the project, detailing labour (including manpower rates), material and capital equipment costs, and any travel and subsistence requirements. Financial information should clearly indicate the cost savings / discount applied compared to an exclusive development contract<sup>26</sup>.

## 10.2 Publication of results

SBRI involves a high degree of risk – benefit sharing. In return for provision of funding and non-financial support during demonstration activities, BEIS expects to be able to use and share the results and outputs of the demonstration activities with other Government Departments, industry and other stakeholders to further understanding and progress technology development and deployment.

BEIS also wishes to publicise details of the award recipients. Therefore, on or after issuing a SBRI contract, BEIS will publish the following information:

- Identity of the participant and its partners;
- Project summary information including aims and expected outcomes of the project and technology area;
- Total award value.

Following completion of the funded projects, BEIS will publish on its website a summary of the funded activities and the outcomes achieved. This will include a final summary report from each project detailing technical approach, key achievements and recommendations. BEIS may also revisit projects at a later date and publish research and/or evaluation reports for the scheme as a whole.

BEIS however recognise the need to maintain confidentiality of commercially sensitive information. BEIS will consult applicants regarding the nature of information to be published, in order to protect commercially sensitive information.

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<sup>26</sup> Exclusive development means that the public purchaser reserves all the results and benefits of the development (including Intellectual Property Rights or IPRs) exclusively for its own use.

### 10.3 Reporting, evaluation and knowledge sharing requirements

There will be a number of requirements on contractors during the course of the project, including after the final payment milestone. These are described in more detail in section 2, but for clarity, these will at a minimum include:

- **Reporting:** to track project progress and ensure payments are made according to a schedule of milestones to be agreed with selected projects. This reporting will be in confidence to BEIS and will not be published. Any changes to schedules or project plans will need to be discussed with BEIS and applicants should expect significant interaction with the team during the project;
- **Research and evaluation of the scheme:** Successful applicants will be expected to participate in research and evaluation activities of the scheme during and after final contract payments, to assess the impact of the scheme including value for money. A part of this programme of work includes a programme of research support, which will be available to participants to design and deliver research and in-depth support to help inform the successful development of Competition solutions.
- **Knowledge sharing:** to improve understanding of this technology and share lessons learned there will be an obligation on successful applicants to undertake knowledge sharing activities. We will expect applicants to share useful data and experience through relevant industry forms.

### 10.4 Intellectual Property

Suppliers will retain the intellectual property generated from the project, and will be expected to identify and protect patentable knowledge within 3 years of its creation. Costs associated with securing intellectual property arising from or associated with this project are not eligible for reimbursement and cannot be included within the contract price.

BEIS requires a UK wide, irrevocable, royalty-free, non-exclusive licence, together with the right to grant sub-licences, to use or publish information, data, results, outcomes or conclusions which are created in performing the project, for its internal non-commercial purposes.

The detailed arrangements for intellectual property rights and exploitation of IPR are set out in the standard T&Cs for this Competition available within 2 weeks of the Competition launch.

### 10.5 Ownership of Demonstration Devices

Chosen suppliers will retain responsibility and ownership for the technologies and related equipment developed and used during the delivery of the contracts.

### 10.6 Decommissioning Costs

Chosen suppliers will have responsibility for decommissioning demonstration equipment when the project has been completed. When bidding, suppliers need to include any decommissioning costs, at fair market value, in the total cost of their bid.

# 11 Annex 1 – Technology Readiness Levels (TRLs)

Technology readiness levels are an indication of the maturity stage of development of particular technology on its way to being developed for a particular application or product. Below are some broad definitions of the TRLs Research.

TRL 1 – Basic Research	Scientific research begins to be translated into applied research and development.
TRL 2 – Applied Research	Basic physical principles are observed, practical applications of those characteristics can be 'invented' or identified. At this level, the application is still speculative: there is not experimental proof or detailed analysis to support the conjecture
<b>Applied research and development</b>	
TRL 3 – Critical Function or Proof of Concept Established	Active research and development is initiated. This includes analytical studies and laboratory studies to physically validate analytical predictions of separate elements of the technology. Examples include components that are not yet integrated or representative.
TRL 4 – Laboratory Testing/Validation of Component(s)/Process(es)	Basic technological components are integrated - Basic technological components are integrated to establish that the pieces will work together.
TRL 5 – Laboratory Testing of Integrated/Semi-Integrated System	The basic technological components are integrated with reasonably realistic supporting elements so it can be tested in a simulated environment.
<b>Demonstration</b>	
TRL 6 – Prototype System Verified	Representative model or prototype system, is tested in a relevant environment.
TRL 7 – Integrated Pilot System Demonstrated	Prototype near or at planned operational system, requiring demonstration of an actual system prototype in an operational environment.
<b>Pre-commercial deployment</b>	
TRL 8 – System Incorporated in Commercial Design	Technology is proven to work - Actual technology completed and qualified through test and demonstration.
TRL 9 – System Proven and Ready for Full Commercial Deployment	Actual application of technology is in its final form - Technology proven through successful operations.

# 12 Annex 2 - Eligible and Ineligible Costs

## 12.1 Eligible Costs

### Directly incurred costs:

These are costs that are specific to the project that will be charged to the project as the amount actually spent, fully supported by an audit record justification of a claim. They comprise:

- Labour costs for all those contributing to the project broken down by individual
- Material costs (including consumables specific to the project)
- Capital equipment costs
- Sub-contract costs
- Travel and subsistence

### Indirect costs

Indirect costs should be charged in proportion to the amount of effort deployed on the project. Applicants should calculate them, using their own cost rates. They may include:

General office and basic laboratory consumables

- Library services / learning resources
- Typing / secretarial
- Finance, personnel, public relations and departmental services
- Central and distributed computing
- Cost of capital employed
- Overheads

## 12.2 Ineligible Costs

Under no circumstances can costs for the following items be claimed:

- Commercialisation activities
- Protection of IPR
- For activities of a political or exclusively religious nature;
- In respect of costs reimbursed or to be reimbursed by funding from other public authorities or from the private sector;
- In connection with the receipt of contributions in kind (a contribution in goods or services as opposed to money);
- To cover interest payments (including service charge payments for finance leases);
- For the giving of gifts to individuals, other than promotional items with a value no more than £10 a year to any one individual;
- For entertaining (entertaining for this purpose means anything that would be a taxable benefit to the person being entertained, according to current UK tax regulations);
- To pay statutory fines, criminal fines or penalties; or
- In respect of VAT that you are able to claim from HM Revenue and Customs.

# 13 Annex 4 – Example Contract Terms & Conditions

## 13.1.1 Phase 1 Design of Software

BEIS proposes to use its Short Form Contract as the basis of the contract for the Phase 1 Design of Software for this Competition; the current Terms and Conditions for the Short Form contract are attached below for information.

### BEIS Short Form Contract: Terms and Conditions of Contract for Services

#### 1 Interpretation

1.1 In these terms and conditions:

“Agreement” means the contract between (i) the Customer acting as part of the Crown and (ii) the Supplier constituted by the Supplier’s countersignature of the Award Letter;

“Award Letter” means the letter from the Customer to the Supplier printed above these terms and conditions;

“Central Government Body” means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:

- (a) Government Department;
- (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
- (c) Non-Ministerial Department; or
- (d) Executive Agency;

“Charges” means the charges for the Services as specified in the Award Letter;

“Confidential Information” means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;

“Customer” means the person named as Customer in the Award Letter;

“DPA” means the Data Protection Act 1998;

“Expiry Date” means the date for expiry of the Agreement as set out in the Award Letter;

“FOIA” means the Freedom of Information Act 2000;

“Information” has the meaning given under section 84 of the FOIA;

“Key Personnel” means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Supplier in writing;

“Party” means the Supplier or the Customer (as appropriate) and “Parties” shall mean both of them;

“Personal Data” means personal data (as defined in the DPA) which is processed by the Supplier or any Staff on behalf of the Customer pursuant to or in connection with this Agreement;

“Purchase Order Number” means the Customer’s unique number relating to the supply of the Services;

“Request for Information” has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);

“Services” means the services to be supplied by the Supplier to the Customer under the Agreement;

“Specification” means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;

“Staff” means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;

“Staff Vetting Procedures” means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer’s procedures for the vetting of personnel as provided to the Supplier from time to time;

“Supplier” means the person named as Supplier in the Award Letter;

“Term” means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;

“VAT” means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;

1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;

1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;

1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and

1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

## **2 Basis of Agreement**

2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.

2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Supplier on receipt by the Customer of a copy of the Award Letter countersigned by the Supplier within [7] days of the date of the Award Letter.

## **3 Supply of Services**

3.1 In consideration of the Customer's agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.

3.2 In supplying the Services, the Supplier shall:

3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;

3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;

3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;

3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;

3.2.5 comply with all applicable laws; and

3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.

3.3 The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier.

## **4 Term**

4.1 The Agreement shall take effect on the date specified in Award Letter and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.

4.2 The Customer may extend the Agreement for a period of up to 6 months by giving not less than 10 Working Days' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.

## **5 Charges, Payment and Recovery of Sums Due**

5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

5.2 The Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.

5.3 In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.

5.4 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.

5.5 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.

5.6 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.

5.7 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

5.8 The Authority shall suspend, reduce or cease payment, or, where payment has already been made, be able to recover that sum together with interest, in the case of a decision of the European Commission relating to state aid or pursuant to any court order.

## **6 Premises and equipment**

6.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Supplier or the Staff shall be at the Supplier's risk.

6.2 If the Supplier supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the

Customer's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Supplier or any Staff, other than fair wear and tear.

6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.

6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.

6.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.

6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.

6.7 The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

## **7 Staff and Key Personnel**

7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:

7.1.1 refuse admission to the relevant person(s) to the Customer's premises;

7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or

7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,

and the Supplier shall comply with any such notice.

7.2 The Supplier shall:

7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;

7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and

7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.

7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.

7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

## **8 Assignment and sub-contracting**

8.1 The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.

8.2 Where the Supplier enters into a sub-contract for the purpose of performing its obligations under the Agreement, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.

8.3 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.

8.4 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

## **9 Intellectual Property Rights**

9.1 All intellectual property rights in any materials provided by the Customer to the Supplier for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.

9.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).

9.3 The Supplier hereby grants the Customer:

9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and

9.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:

(a) any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and

(b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services, including any modifications to or derivative versions of any such intellectual property rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.

9.4 The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

## **10 Governance and Records**

10.1 The Supplier shall:

10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and

10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

## **11 Confidentiality, Transparency and Publicity**

11.1 Subject to clause 11.2, each Party shall:

11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:

11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

11.2.2 to its auditors or for the purposes of regulatory requirements;

11.2.3 on a confidential basis, to its professional advisers;

11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

11.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and

11.2.6 where the receiving Party is the Customer:

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;
- (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 11.

11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

11.4 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

## **12 Freedom of Information**

12.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:

12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;

12.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and

12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.

12.2 The Supplier acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

### **13 Protection of Personal Data and Security of Data**

13.1 The Supplier shall, and shall procure that all Staff shall, comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.

13.2 Notwithstanding the general obligation in clause 13.1, where the Supplier is processing Personal Data for the Customer as a data processor (as defined by the DPA) the Supplier shall:

13.2.1 ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA;

13.2.2 provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA;

13.2.3 promptly notify the Customer of:

(a) any breach of the security requirements of the Customer as referred to in clause 13.3; and

(b) any request for personal data; and

13.2.4 ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer's obligations under the DPA.

13.3 When handling Customer data (whether or not Personal Data), the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Supplier from time to time.

### **14 Liability**

14.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful

misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.

14.2 Subject always to clauses 14.3 and 14.4:

14.2.1 the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier; and

14.2.2 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Supplier be liable to the Customer for any:

- (a) loss of profits;
- (b) loss of business;
- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); and/or
- (f) any indirect, special or consequential loss or damage.

14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

14.3.1 death or personal injury caused by its negligence or that of its Staff;

14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or

14.3.3 any other matter which, by law, may not be excluded or limited.

14.4 The Supplier's liability under the indemnity in clause 9.4 and 18.3 shall be unlimited.

## **15 Force Majeure**

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

## **16 Termination**

16.1 The Customer may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.

16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:

16.2.1 (without prejudice to clause 16.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;

16.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;

16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;

16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;

16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17; or

16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction.

16.3 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause 16.2.4 or any potential such change of control.

16.4 The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.

16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 14, 16.6, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.

16.6 Upon termination or expiry of the Agreement, the Supplier shall:

16.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Services; and

16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

## **17 Compliance**

17.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Supplier in the performance of its obligations under the Agreement.

17.2 The Supplier shall:

17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and

17.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

17.3 The Supplier shall:

17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Supplier from time to time; and

17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by all Staff.

17.4 The Supplier shall supply the Services in accordance with the Customer's environmental policy as provided to the Supplier from time to time.

17.5 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

17.5.1 the Official Secrets Acts 1911 to 1989; and

17.5.2 section 182 of the Finance Act 1989.

## **18 Prevention of Fraud and Corruption**

18.1 The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

18.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

18.3 If the Supplier or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:

18.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or

18.3.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

## **19 Dispute Resolution**

19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the "Mediator") chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.

19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

## **20 General**

20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.

20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.

20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.

20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.

20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.

20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

## **21 Notices**

21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 21.3, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:

21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to

occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.

21.3 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

## **22 Governing Law and Jurisdiction**

The validity, construction and performance of the Agreement, and all contractual and non contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

### 13.1.2 Phase 2 Feasibility & Initial Testing

BEIS proposes to use its Pre-Commercial Procurement Contract as the basis of the contract for the Phase 2 Feasibility and Initial Testing for this Competition; the current Terms and Conditions for the Pre-Commercial Procurement Contract are attached below for information.

#### Illustrative Terms and Conditions for Phase 2 Demonstration Phase contracts:

##### 1. Definitions and Interpretation

(1) In these terms and conditions of contract for services (“Conditions”):

“Arising Intellectual Property” means the Intellectual Property Rights which are created as a result of the Contractor’s performance of the Services;

“Authority” means the Secretary of State for Energy and Climate Change;

“Authority’s Premises” means land or buildings owned or occupied by the Authority;

“Background Intellectual Property” means Intellectual Property Rights owned, controlled or used by either of the Parties at the date of this Contract or which shall at any time thereafter become so owned, controlled or used otherwise than as a result of the performance of the Services under this Contract;

“the Charges” means the price agreed in respect of the Services, excluding Value Added Tax;

“Confidential Information”:

- a) means all information obtained by the Contractor from the Authority or any other department or office of Her Majesty’s Government relating to and connected with the Contract and the Services; but
- b) does not include the Contract itself and the provisions of the Contract where, or to the extent that, the Authority publishes them by virtue of Condition 40;

the “Contract” means the agreement concluded between the Authority and the Contractor for the supply of Services, including without limitation these Conditions (to the extent that they are not expressly excluded or modified), all specifications, plans, drawings and other documents which are incorporated into the agreement;

the “Contractor” means the person who agrees to supply the Services and includes any person to whom all or part of the Contractor’s obligations are assigned pursuant to Condition 4;

“Data” means information collected or used for the purposes of performing the Services, which can be processed manually, electronically or by other means;

“DECC” means the Department of Energy and Climate Change;

“Full Contract Price” means the price quoted by the Contractor for all phases within the Proposal;

“Government Property” means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Authority, including but not limited to documents, papers, data issued in electronic form and other materials;

“Intellectual Property Rights” means patents, trade marks, service marks, design rights (whether

registrable or not), applications for any of those rights, copyright, database rights, trade or business names and other similar rights or obligations, whether registrable or not, in any country, including but not limited to, the United Kingdom;

“Purchase Order” means the document so described by the Authority to purchase the Services which makes reference to the Conditions;

“Proposal” means the response to the Authority’s invitation to tender for the provision of a Heat Network Demonstrator Small Business Research Initiative (SBRI), submitted by the Contractor on 28<sup>th</sup> November 2014 explaining how it would provide the services required, a copy of which is set out in Schedule 2;

“Reports” means reports provided to the Authority by the Contractor in performing the Services and in accordance with the Specification;

the “Services” means the services to be supplied under the Contract, namely delivery of the Phase 1 activities described in the Specification and the Proposal.

the “Specification” means the guidance notes attached at Annex 1, and any further guidance published by the Authority in accordance with that document.

- (2) The interpretation and construction of the Contract shall be subject to the following provisions:
- (a) a reference to any statute, enactment, order, regulation or similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
  - (b) the headings in these Conditions are for ease of reference only and shall not affect the interpretation or construction of the Contract;
  - (c) references to “person”, where the context allows, includes a corporation or an unincorporated association.

## **2. Acts by the Authority**

Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either expressly or impliedly, by the Authority to take or do that decision, act or thing.

## **3. Service of Notices and Communications**

Any notice or other communication that either party gives under the Contract shall be made in writing and given either by hand, first class recorded postal delivery, facsimile transmission or via e-mail to [megan.cooper@decc.gsi.gov.uk](mailto:megan.cooper@decc.gsi.gov.uk). Notice given by hand shall be effective immediately, notice given by recorded postal delivery shall be effective two working days after the date of posting, notice given by facsimile transmission shall be effective the working day after receipt by the notifying party of a transmission slip showing that the transmission has succeeded and notice given by email shall be effective on the day of receipt (or the next working day if received on a day that is not a working day) unless a delivery error notice is received.

## **4. Assignment and Sub-contracting**

- (1) The Contractor shall not give, bargain, sell, assign, sub-contract or otherwise dispose of the Contract or any part thereof without the previous agreement in writing of the Authority
- (2) The Contractor shall not use the services of self-employed individuals in connection with the Contract without the previous agreement in writing of the Authority.

(3) If the Contractor uses a sub-contractor for the purpose of performing the Services or any part of it, the Contractor shall include in the relevant contract a provision which requires the Contractor to pay for those goods or services within 30 days of the Contractor receiving a correct invoice from the sub-contractor.

(4) The Contractor shall be responsible for the acts and omissions of his sub-contractors as though they were his own.

(5) The Authority shall be entitled to assign any or all of its rights under the Contract to any contracting authority as defined in Regulation 2(1) of the Public Services Contracts Regulations 2006, provided that such assignment shall not materially increase the burden of the Contractor's obligations under the Contract.

## **5. Entire Agreement**

The Contract constitutes the entire agreement and understanding between the parties and supersedes all prior written and oral representations, agreements or understandings between them relating to the subject matter of the Contract provided that neither party excludes liability for fraudulent misrepresentations upon which the other party has relied.

## **6. Waiver**

(1) The failure by either party to exercise any right or remedy shall not constitute a waiver of that right or remedy.

(2) No waiver shall be effective unless it is communicated to the other party in writing.

(3) A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

## **7. Severability**

If any Condition or provision of the Contract not being of a fundamental nature is held to be unlawful, invalid or unenforceable by a court or tribunal in any proceedings relating to the Contract, the validity or enforceability of the remainder of the Contract shall not be affected. If the court finds invalid a provision so fundamental as to prevent the accomplishment of the purpose of the Contract, the parties shall immediately commence negotiations in good faith to remedy the invalidity.

## **8. Confidentiality**

(1) The Contractor agrees not to disclose any Confidential Information to any third party without the prior written consent of the Authority. To the extent that it is necessary for the Contractor to disclose Confidential Information to its staff, agents and sub-contractors, the Contractor shall ensure that such staff, agents and sub-contractors are subject to the same obligations as the Contractor in respect of all Confidential Information.

(2) Condition 8(1) shall not apply to information which:

- (a) is or becomes public knowledge (otherwise than by breach of these Standard Terms or a breach of an obligation of confidentiality);
- (b) is in the possession of the Contractor, without restriction as to its disclosure, before receiving it from the Authority or any other department or office of Her Majesty's Government;
- (c) is required by law to be disclosed;
- (d) was independently developed by the Contractor without access to the Confidential Information.

(3) The obligations contained in this Condition shall continue to apply after the expiry or termination of the Contract.

(4) The Contractor shall not handle or examine any document or thing bearing a Government security classification of “Confidential”, “Secret” or “Top Secret” other than in a Government establishment and the Contractor shall not remove any such document or thing from such Government establishment without the prior written consent of the Authority.

(5) The Contractor shall not communicate with representatives of the general or technical press, radio, television or other communications media, with regard to the Contract, unless previously agreed in writing with the Authority.

(6) Except with the prior consent in writing of the Authority, the Contractor shall not make use of the Contract or any Confidential Information otherwise than for the purposes of carrying out the Services.

## 9. Freedom of Information

(1) The Contractor acknowledges that the Authority is subject to the requirements of the Freedom of Information Act 2000 (“FOIA”) and the Environmental Information Regulations SI 2004 No. 3391 (“EIR”) and shall assist and cooperate with the Authority, at the Contractor’s expense, to enable the Authority to comply with these information disclosure requirements.

(2) In this Condition:-

“Information” has the meaning ascribed to it in section 84 of the FOIA;

“Request for Information” has the meaning ascribed to it in section 8 of the FOIA, or any apparent request for information under the FOIA or EIR.

(3) The Contractor shall (and shall procure that its subcontractors shall):-

(a) Transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within two working days;

(b) Provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five working days (or such other period as the Authority may specify) of the Authority requesting that Information;

(c) Provide all necessary assistance as reasonably requested by the Authority to enable it to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.

(4) The Authority shall be responsible for determining, at its absolute discretion, whether any Information:-

(a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIR;

(b) is to be disclosed in response to a Request for Information.

In no event shall the Contractor respond directly to a Request of Information unless expressly authorised to do so in writing by the Authority.

(5) The Contractor acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs’ Code of Practice on the discharge of public authorities’ functions under Part 1 of the FOIA (issued under section 45 of the FOIA in November 2004), be obliged under the FOIA or the EIR to disclose Information unless an exemption applies. The Authority may at its discretion consult the Contractor with regard to whether the FOIA applies to the Information and whether an

exemption applies.

(6) The Contractor shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

(7) The Contractor acknowledges that any lists or schedules provided by it outlining information it deems confidential or commercially sensitive are of indicative value only and that the Authority may nevertheless be obliged to disclose information which the Contractor considers confidential in accordance with Conditions 9(4) and (5).

## **10. Amendments and Variations**

Subject to Condition 18(7) no amendment or variation to the terms of the Contract shall be valid unless previously agreed in writing between the Authority and the Contractor.

## **11. Invoices and Payment**

(1) The Contractor shall submit invoices at times or intervals agreed by the Authority in the Contract or otherwise. The Contractor shall ensure that any invoice it submits sets out the Authority's Purchase Order or contract number, the Charges and, where not all of the Services have been completed, the relevant part of the Charges with an appropriate breakdown of time worked, the part of the Services (if all the Services have not been completed) and period to which the invoice relates, and its confirmation that the Services (or relevant part of the Services referred to on the invoice) have been fully performed.

(2) In consideration of the provision of the Services by the Contractor, the Authority shall pay the Charges plus VAT after receiving a correctly submitted invoice as set out in Condition 11(1). Such payment shall normally be made within 30 days of receipt of the correctly submitted invoice.

(3) The Contractor shall not be entitled to charge for the provision of any services that are not part of the Services agreed within the Contract, unless the Contract has been properly varied in advance in accordance with Condition 10.

(4) The Authority may reduce payment in respect of any Services that the Contractor has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the Authority. The Authority shall suspend, reduce or cease payment, or, where payment has already been made, be able to recover under condition 13(1) that sum together with interest, in the case of a decision of the European Commission relating to state aid or pursuant to any court order.

(5) If the Contractor believes that payment for a correctly submitted invoice is overdue, he should, in the first instance, speak to the named contact on the face of the Contract. In the event that the problem is not resolved to his satisfaction, he should write to the Head of Procurement at the Department of Energy and Climate Change setting out his case. The Head of Procurement shall ensure that the complaint is dealt with by an official who is independent of the main contact and that the Contractor is not treated adversely in future for having made a complaint.

(6) For the purpose of calculating any statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998, the relevant date for the payment of the debt shall be deemed to be the last day of a period of 30 days commencing on the day when the Authority received the invoice, or, if the Contractor had not completed the Services (or the part of the Services to which the invoice relates) before submitting the invoice, the last day of a period of 30 days commencing on the day when the Contractor completed the Services, (or the part of the Services to which the invoice relates).

## **12. Accounts**

- (1) The Contractor shall keep full and proper accounts, records and vouchers relating to all expenditure reimbursed by the Authority and all payments made by the Authority in respect of the Services.
- (2) The Contractor shall permit the Authority acting by its officers, servants and agents or independent auditor on request and at all reasonable times to examine all accounts, records and vouchers at the offices of the Contractor or at such other places as the Authority shall direct, and to take copies of such accounts, records and vouchers and the Contractor shall provide the Authority or its independent auditor with such explanations relating to that expenditure as the Authority may request.
- (3) The Contractor shall ensure that the said accounts, records and vouchers are available for a period of six years after termination or expiry of the Contract.

### **13. Recovery of Sums Due**

- (1) Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, such sum may be deducted from any amount then due, or which at any time thereafter may become due, to the Contractor under this Contract or any other agreement or arrangement with the Authority or with any other department or office of Her Majesty's Government.
- (2) Any over-payment by the Authority to the Contractor whether in respect of the Charges or Value Added Tax shall be a sum of money recoverable from the Contractor pursuant to Condition 13(1) above or otherwise.

### **14. Value Added Tax**

- (1) Value Added Tax is included in the value of the Services provided in accordance with the Contract.
- (2) Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if he is a taxable person, be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the Value Added Tax Act 1994.
- (3) The Contractor shall, if so requested by the Authority, furnish such information as may reasonably be required by the Authority relating to the amount of Value Added Tax chargeable on the Services.

### **15. Provision of Services**

- (1) The Contractor shall provide the Services in accordance with and as specified in the Contract to the satisfaction of the Authority whose decision shall be final and conclusive. The Authority shall have the power to inspect and examine the performance of the Services at the Authority's Premises at any reasonable time or, provided that the Authority gives reasonable notice to the Contractor, at any other premises where any part of the Services is being performed.
- (2) If the Authority informs the Contractor that the Authority considers any part of the Services to be inadequate or in any way differing from the Contract, and this is other than as a result of default or negligence on the part of the Authority, the Contractor shall at his own expense re-schedule and perform the work correctly within such reasonable time as may be specified by the Authority.
- (3) The Authority may at any time demand that the Contractor suspend the provision of the Services. If the Authority exercises such right to suspend the provision of the Services or any part of them, or if the Contractor is delayed in proceeding with the provision of the Services by the Authority (otherwise than as a consequence of a breach of the Contract, or a breach of duty or fault or negligence on the part of the Contractor), the Authority shall be responsible for loss incurred by the Contractor as a result of such suspension or delay. Subject to the Contractor taking reasonable steps to mitigate its loss, the Contractor

will be able to recover from the Authority under this Condition only for those losses which:

- (a) were reasonably foreseeable by the Authority as arising as a direct result of the suspension or delay; and
- (b) relate to the cost of any commitments entered into by the Contractor which cannot be met as a result of the suspension or delay and in respect of which the Contractor cannot obtain a refund (where the Contractor has already paid in relation to the commitment) or is obliged to pay (where the Contractor has not already paid in relation to the commitment).

The provisions of this Condition shall not apply where the reason for the suspension of the Services arises from circumstances beyond the control of the Authority.

(4) If the performance of the Contract by the Contractor is delayed by reason of any act on the part of the Authority or by industrial dispute (other than by an industrial dispute occurring within the Contractor's or its sub-contractor's organisation) or any other cause which the Contractor could not have prevented then the Contractor shall be allowed a reasonable extension of time for completion. For the purposes of this Condition, the Contractor shall be deemed to have been able to prevent causes of delay that are within the reasonable control of the Contractor's staff, agents and sub-contractors.

(5) Timely provision of the Services shall be of the essence of the Contract, including in relation to commencing the provision of the Services within the time agreed or on a specified date.

(6) The Contractor warrants that it shall provide the Services with all due skill, care and diligence, and in accordance with good industry practice and legal requirements.

(7) Without prejudice to the provision of Condition 13(1), the Contractor shall reimburse the Authority for all reasonable costs incurred by the Authority which have arisen as a direct consequence of the Contractor's delay in the performance of the Contract which the Contractor had failed to remedy after being given reasonable notice by the Authority.

## **16. Progress Report**

(1) Where formal progress reports are required by the Contract, the Contractor shall render such reports at such time and in such form as may be specified by the Authority, or as otherwise agreed between the Contractor and the Authority.

(2) The submission and acceptance of progress reports shall not prejudice any rights of the Authority under the Contract.

(3) Any Reports to which this clause relates shall be owned by the Authority.

(4) To the extent that any Reports to which this clause relates contain Arising Intellectual Property or Background Intellectual Property, the Authority shall consult the Contractor as to the version of the relevant report it decides to publish on its website.

## **17. Contractor's Personnel**

(1) The Authority reserves the right to refuse to admit to the Authority's Premises any person employed by the Contractor or its sub-contractors, whose admission would be undesirable in the opinion of the Authority.

(2) If and when requested by the Authority, the Contractor shall provide a list of the names and addresses of all persons who may at any time require admission in connection with the performance of the Services to the Authority's Premises, specifying the role in which each such person is concerned with the Contractor and giving such other particulars as the Authority may require.

- (3) If and when requested by the Authority, the Contractor shall procure from each person identified by the request, a signed statement that he understands that the Official Secrets Acts 1911 to 1989 applies to him both during the carrying out and after expiry or termination of the Contract and that he will comply with the provisions of those Acts in so far as they apply to the work he is performing under the Contract.
- (4) If and when requested by the Authority the Contractor agrees that it will submit any person employed by the Contractor or its sub contractors to the Authority's security vetting procedure. The Contractor further agrees that any individual who refuses to submit to such vetting procedure or does not attain the clearance it affords will not carry out any work on the Contract which the Authority certifies as suitable only for people who have passed its security vetting procedure.
- (5) If the Contractor fails to comply with paragraph (2) (3) or (4) of this Condition and the Authority decides that such failure is prejudicial to its interests, the Authority may immediately terminate the Contract by notice in writing to the Contractor, provided that such termination shall be without prejudice to any accrued rights of, or to any rights that shall accrue thereafter to, the Authority.

## **18. Indemnities and Insurance**

- (1) The Contractor shall hold harmless and indemnify the Authority on demand from and against all claims, demands, proceedings, actions, damages, costs (including legal costs), expenses and any other liabilities arising from claims made by the Authority's staff or agents, or by third parties, in respect of any death or personal injury, or loss or destruction of or damage to property, or any other loss, destruction or damage, including but not limited to financial losses which are caused by the breach of contract or breach of duty (whether in negligence, tort, statute or otherwise) of the Contractor, its employees, agents or sub-contractors.
- (2) The Contractor shall be liable to the Authority for any loss, damage, destruction, injury or expense (and including but not limited to loss or destruction of or damage to the Authority's property, which includes data) arising from the Contractor's breach of contract or duty (whether arising in negligence, tort, statute or otherwise).
- (3) The Contractor shall effect with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor in respect of the indemnities provided under the Contract, which in any event shall not be less than £1,000,000, and shall at the request of the Authority produce the relevant policy or policies together with receipt or other evidence of payment of the latest premium due there under.
- (4) Nothing in these Conditions nor in any part of the Contract shall impose any liability on any member of the staff of the Authority or its representatives in their personal capacity.
- (5) The Contractor shall indemnify the Authority against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third party's Intellectual Property Rights used by or on behalf of the Contractor for the purpose of the Contract, providing that any such infringement or alleged infringement is not knowingly caused by, or contributed to, by any act of the Authority.
- (6) The Authority shall indemnify the Contractor against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third party's Intellectual Property Rights used at the request of the Authority by the Contractor in the course of providing the Services, providing that any such infringement or alleged infringement is not knowingly caused by,

or contributed to by, any act of the Contractor.

- (7) Except in relation to death or personal injury as referred to in Condition 18(1), and subject to Conditions 18(5) and 30(6) the amount of the Contractor's liability to the Authority arising out of or in connection with this Contract shall be limited to a sum of £1,000,000 or twice the contract value, whichever is the greater, or such other sum as may be agreed in writing between the Head of Procurement on behalf of the Authority and the Contractor.

## **19. Termination for Insolvency or Change of Control**

(1) The Contractor shall notify the Authority in writing immediately upon the occurrence of any of the following events:

- a) where the Contractor is an individual, if a petition is presented for his bankruptcy, or he makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage his affairs; or
- b) where the Contractor is not an individual but is a firm or a number of persons acting together, if any event in Condition 19(1)(a) or (c) occurs in respect of any partner in the firm or any of those persons, or if a petition is presented for the Contractor to be wound up as an unregistered company; or
- c) where the Contractor is a company or limited liability partnership, if the company or limited liability partnership enters administration or passes a resolution to wind up or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge; or
- d) the Contractor undergoes a change of control, where "control" has the meaning given in Section 416 of the Income and Corporation Taxes Act 1988.

(2) After receipt of the notice under paragraph (1) above or earlier discovery by the Authority of the occurrence of any of the events described in that paragraph, the Authority may, by notice in writing to the Contractor, terminate the Contract with immediate effect without compensation to the Contractor and without prejudice to any right or action or remedy which may accrue to the Authority thereafter. The Authority's right to terminate the Contract under Condition 19(1)(d) will exist until the end of a period of three months starting from receipt of the notice provided by the Contractor pursuant to Condition 19(1), or such other period as is agreed by the parties.

## **20. Termination for Breach of Contract**

If either party commits a material breach of the Contract which is either not capable of remedy, or, if it is capable of remedy, he fails to remedy such breach within 28 days of being notified by the other party in writing to do so, that other party shall be entitled to terminate the Contract with immediate effect by notice in writing to the party that committed the material breach and without prejudice to any other rights or remedies of either party in respect of the breach concerned or any other breach of the Contract.

## **21. Cancellation**

(1) The Authority shall be entitled to terminate the Contract, or to terminate the provision of any part of the Services, by giving to the Contractor not less than 28 days' notice in writing to that effect. Once it has given such notice, the Authority may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided by the Contractor during the period of extension.

(2) On termination in accordance with conditions 19, 20 or 21, the Authority shall pay to the Contractor a reasonable amount in respect of the Services properly carried out by the Contractor prior to the date of termination where payment has not already been made by the Authority including, without limitation, amounts properly due and owing to the Sub-Contractor under its Sub-Contract and/or any other parties engaged by the Contractor in respect of which the Contractor has, prior to the date of termination properly and irrevocably entered into a commitment to make payment for goods or services relating to the Contract (whether or not such amounts have already been paid by the Contractor).

## **22. Dispute Resolution**

(1) The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.

(2) If the parties cannot resolve the dispute pursuant to paragraph (1) of this Condition, the dispute may, by agreement between the parties, be referred to mediation pursuant to paragraph (4) of this Condition.

(3) The performance of the Services shall not cease or be delayed by the reference of a dispute to mediation pursuant to paragraph (2) of this Condition.

(4) If the parties agree to refer the dispute to mediation:

(a) in order to determine the person who shall mediate the dispute (the “Mediator”) the parties shall by agreement choose a neutral adviser or mediator from one of the dispute resolution providers listed by the Office of Government Commerce on its website or in its printed guidance on dispute resolution within 30 days after agreeing to refer the dispute to mediation;

(b) the parties shall within 14 days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from the Office of Government Commerce to provide guidance on a suitable procedure;

(c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;

(d) if the parties reach agreement on the resolution of the dispute within 60 days of the Mediator being appointed, or such longer period as may be agreed between the parties, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by both the Authority and the Contractor;

(e) failing agreement within 60 days of the Mediator being appointed, or such longer period as may be agreed between the parties, either of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both parties.

(5) If the parties do not agree to refer the dispute to mediation, or if the parties fail to reach agreement as to who shall mediate the dispute pursuant to Condition 22(4)(a) or if they fail to reach agreement in the structured negotiations within 60 days of the Mediator being appointed or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the courts.

### **23. Corrupt Gifts and Payments of Commission**

- (1) The Contractor shall not:
- a) offer or give, or agree to give, to any person employed by or on behalf of the Authority any gift or consideration of any kind as an inducement or reward for doing, or having done, or not doing, any act in relation to the obtaining or execution of this Contract or any other contract with the Authority, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority;
  - b) enter into the Contract or any other contract with the Authority or any other department or office of Her Majesty's Government in connection with which commission has been paid, or agreed to be paid by him or on his behalf, or to his knowledge, unless, before the Contract is made, particulars of any such commission and the terms and conditions of any agreement for the payment thereof, have been disclosed in writing to any person duly authorised by the Authority to act as its representative for the purpose of this Condition.

Nothing contained in this Condition shall prevent the Contractor paying such commission or bonuses to his own staff in accordance with their agreed contracts of employment.

- (2) Any breach of this Condition by the Contractor, or by anyone employed by him or acting on his behalf (whether with or without his knowledge), or the commission of any offence by the Contractor or by anyone employed by him or acting on his behalf under the Prevention of Corruption Acts 1889-1916, in relation to this Contract or any other contract with the Authority, shall entitle the Authority to terminate the Contract with immediate effect and recover from the Contractor the amount of any loss resulting from such termination and the amount of the value of any such gift, consideration or commission as the Authority shall think fit.

- (3) Where the Contract has been terminated under paragraph (2) of this Condition there shall be deemed to be a failure to commence the provision of the Services, enabling the Authority to terminate the Contract with immediate effect and the Authority will not be obliged to pay the Charges.

- (4) In any dispute, difference or question arising in respect of:
- a) the interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under paragraph (2) of this Condition in respect of any loss resulting from such determination of the Contract); or
  - b) the right of the Authority to determine the Contract; or
  - c) the amount or value of any gift, consideration or commission,

the decision of the Authority shall be final and conclusive.

### **24. Official Secrets**

The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911 to 1989. The Contractor shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed in connection with the Contract have notice that these statutory provisions apply to them and will continue so to apply after the expiry or earlier termination of the Contract.

### **25. Special Provisions**

In the case of any conflict or inconsistency between these Standard Terms and any specific terms of the Contract, the latter shall prevail.

### **26. Conflict of Interest**

(1) The Contractor shall ensure that there is no conflict of interest as to be likely to prejudice his independence and objectivity in performing the Contract and undertakes that upon becoming aware of any such conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) he shall immediately notify the Authority in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the Authority may reasonably require.

(2) Where the Authority is of the opinion that the conflict of interest notified to it under paragraph (1) above is capable of being avoided or removed, the Authority may require the Contractor to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:

- a) if the Contractor fails to comply with the Authority's requirements in this respect; or
- b) if, in the opinion of the Authority, it is not possible to remove the conflict,

the Authority may terminate the Contract immediately and recover from the Contractor the amount of any loss resulting from such termination.

(3) Notwithstanding Condition 26(2), where the Authority is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Contractor of due diligence and ought to have been disclosed as required by the tender documents pertaining to it, the Authority may terminate the Contract immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Contractor the amount of any loss resulting from such termination.

## **27. Intellectual Property Rights**

- (1) Subject to Condition 27(4), all Background Intellectual Property used or supplied under this Contract in connection with the Services shall remain the property of the Party introducing the same and nothing contained in this Contract or any licence agreement pertaining or pursuant to the Contractor's performance of the Services shall affect the rights of either Party in its Background Intellectual Property.
- (2) Subject to Conditions 27(3) and 28(5), any Arising Intellectual Property shall belong to the Contractor.
- (3) The Contractor hereby grants to the Authority a worldwide, irrevocable, royalty-free, non-exclusive licence at no cost to the Authority, together with the right to grant sub-licences, to use or publish any Arising Intellectual Property, Data, results, outcomes or conclusions which are created in performing the Services, for such purposes as the Authority in its absolute discretion deem fit.
- (4) The Contractor hereby grants to the Authority a worldwide, irrevocable, royalty-free, non-exclusive licence at no cost to the Authority, to use any Background Intellectual Property used in the performance of the Services, that is essential to the functioning and use of the Arising Intellectual Property.
- (5) The Contractor shall procure for the Authority any worldwide, irrevocable, royalty-free licence, at no cost to the Authority, from any third party, to use any Intellectual Property Rights that are essential to the functioning and use of the Arising Intellectual Property.
- (6) Under clauses 27(3), 27(4) and 27(5) the Authority shall only grant sub-licences to third parties if, after three years from the date of this Contract, the Arising Intellectual Property has not been commercially exploited by the Contractor.

## **28. Exploitation of Intellectual Property**

- (1) The Contractor shall inform the Authority of any Arising Intellectual Property, Data, results, outcomes or conclusions which are created in performing the Services and which are capable of exploitation whether patentable or not.
- (2) The Contractor shall, as appropriate, devise, publish, implement and maintain procedures for the management of Arising Intellectual Property and in particular, but without limitation, shall use its best endeavours to ensure that:
  - a) the Data which constitutes Arising Intellectual Property is identified, recorded and carefully distinguished from the outputs of other research;
  - b) prior to any publication of materials created in the course of performing the Services, patentable inventions comprised within the Arising Intellectual Property are identified, duly considered for patentability and, where it is reasonable so to do, patent applications in respect thereof are filed at the British or European Patent Office; and
  - c) all such patent applications are diligently executed having regard to all relevant circumstances.
- (3) The Contractor shall permit the Authority to monitor the operation and effectiveness of the Contractor's procedures for the management of Intellectual Property Rights in such a way as the Authority considers reasonably necessary.
- (4) Consistent with the good management of Intellectual Property Rights and the continued agreement of the Authority, the Contractor shall use its best endeavours to:
  - a. promote the dissemination of the Arising Intellectual Property; and
  - b. once the Contractor has performed the Services to the satisfaction of the Authority, Commercially Exploit any Arising Intellectual Property to generate either capital or revenue or both.
- (5) If, within three years of its creation, any Arising Intellectual Property has not been commercially exploited by the Contractor the Contractor shall if requested by the Authority assign the Arising Intellectual Property to the Authority.
- (6) The Contractor shall not transfer ownership of the Arising Intellectual Property without the consent of the Authority.
- (7) The Authority may, at its absolute discretion, require the Contractor to licence the Arising Intellectual Property to third parties nominated by the Authority. Should the Authority choose to exercise its discretion under this clause, it will notify the Contractor in accordance with clause 3.

**29. Rights of Third Parties** It is not intended that the Contract, either expressly or by implication, shall confer any benefit on any person who is not a party to the Contract and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.

### **30. Government Property**

- (1) All Government Property shall remain the property of the Authority and shall be used in the execution of the Contract and for no other purpose whatsoever except with the prior agreement in writing of the Authority.
- (2) All Government Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless he notifies the Authority to the contrary within 14 days or such other time as is specified in the Contract.
- (3) The Contractor undertakes to return any and all Government Property on completion of the Contract or on any earlier request by the Authority.

(4) The Contractor shall, except as otherwise provided for in the Contract, repair or replace or, at the option of the Authority, pay compensation for all loss, destruction or damage occurring to any Government Property caused or sustained by the Contractor, or by his servants, agents or sub-contractors, whether or not arising from his or their performance of the Contract and wherever occurring, provided that if the loss, destruction or damage occurs at the Authority's Premises or any other Government premises, this Condition shall not apply to the extent that the Contractor is able to show that any such loss, destruction or damage was not caused or contributed to by his negligence or default or the neglect or default of his servants, agents, or sub-contractors.

(5) Where the Government Property comprises data issued in electronic form to the Contractor (including personal data as defined in Condition 31(1) below) the Contractor shall not store, copy, disclose or use such electronic data except as necessary for the performance by the Contractor of its obligations under the Contract (including its obligation to back up electronic data as provided in Condition 30(6) below) or as otherwise expressly authorised in writing by the Authority.

(6) The Contractor shall perform secure back ups of all such electronic data in its possession and shall ensure that an up to date back up copy is securely stored at a site other than that where any original copies of such electronic data are being stored.

(7) The Contractor shall, and shall procure that its sub-contractors, agents and personnel, shall observe best practice when handling or in possession of any such electronic data. By way of example if the Contractor removes any such data or information from a Government establishment, or is sent such data or information by the Authority it shall ensure that the data and any equipment on which it is stored or is otherwise being processed is kept secure at all times. The Contractor shall impress on any of its sub-contractors, agents and personnel who are required to handle or have possession of such electronic data that they must safeguard it all times, and shall not place it in jeopardy for example by leaving it unattended in a vehicle or on public transport or by transmitting or posting it by insecure means.

(8) If at any time the Contractor suspects or has reason to believe that such electronic data has or may become corrupted, lost, destroyed, altered (other than to the extent that the Contractor alters it by lawful processing in accordance with its obligations under this contract) or so degraded as a result of the Contractor's default so as to be unusable then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

(9) The Contractor shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith arising from the corruption, loss, destruction, alteration (other than by lawful processing permitted by this Contract) or degradation of electronic data which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor or sub-contractors, agents and personnel and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in such corruption, loss or degradation.

### **31. Data Protection**

(1) In this Condition references to "personal data", "data subjects" and "data processor" are to be interpreted as defined in the Data Protection Act 1998 ("the Act"). The Contractor shall comply with all relevant provisions of the Act and do nothing which causes, or may cause, the Authority to be in breach of its obligations under the Act. In particular, to the extent that the Contractor acts as a data processor in respect of any personal data pursuant to the Contract, the Contractor shall only process such personal data as is necessary to enable it to fulfil its obligations under this Contract.

(2) The Contractor warrants that it has appropriate technical and organisational measures in place to

protect any personal data it is processing on the Authority's behalf against any unauthorised or unlawful processing and against any accidental loss, destruction or damage and undertakes to maintain such measures during the course of this Contract. The Contractor shall also take all reasonable steps to ensure the reliability of its staff having access to any such personal data.

(3) Upon reasonable notice the Contractor shall allow the Authority access to any relevant premises owned or controlled by it to enable the Authority to inspect its procedures described at Condition 31(2) above and will upon the Authority's request from time to time prepare a report for it on the technical and organisational measures it has in place to protect the personal data it is processing on the Authority's behalf.

(4) The Contractor shall at its own cost, at the Authority's request, assist the Authority to comply with any requests for access to personal data under Section 7 of the Act and in particular shall respond to any such request promptly to enable the Authority to comply with its obligations under the Act. When requested by the Authority the Contractor shall at its own cost promptly provide it with any personal data relating to this Contract.

(5) If the Contractor fails to comply with any provision of this Condition, the Authority may terminate the Contract immediately in which event the provisions of Condition 20 shall apply.

(6) The Contractor shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith, made or brought against the Authority by any person in respect of the Act or equivalent applicable legislation in any other country which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor or its sub-contractors and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in the Authority being in breach of its obligations under the Act or equivalent applicable legislation in any other country.

(7) The Contractor warrants that it has submitted, pursuant to Section 18(1) of the Act, a notification to the Information Commissioner and shall keep that notification up to date.

(8) The Contractor shall not transfer any personal data outside the European Economic Area unless authorised in writing to do so by the Authority.

(9) Upon the termination of this Contract for whatever reason the Contractor shall, unless notified otherwise by the Authority or required by law, immediately cease any processing of the personal data on the Authority's behalf and as requested by the Authority destroy or provide the Authority with a copy on suitable media.

(10) The Contractor shall promptly carry out any request from the Authority requiring it to amend, transfer or delete the personal data or any part of the personal data.

(11) Where the Contractor is required to collect any personal data on behalf of the Authority, it shall ensure that it provides the data subjects from whom the personal data are collected with a data protection notice in a form to be agreed with the Authority.

### **32. Non-discrimination**

The Contractor shall not unlawfully discriminate within the meaning and scope of the anti-discrimination legislation within the UK in relation to the provision of the Services or otherwise and shall take all reasonable steps to ensure that all servants, employees or agents of the Contractor and all sub-contractors employed in the execution of the Contract do not unlawfully discriminate.

### **33. Disability Equality Scheme**

The Authority is subject to the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005. The Authority has published a Disability Equality Scheme, which is set out on the Authority's website. The Contractor shall, and shall procure that its sub-contractors, agents and personnel, comply with both the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005 and the Authority's Disability Equality Scheme. Upon the Contractor breaching either the applicable law or the Authority's Disability Equality Scheme the Authority shall be entitled to terminate the Contract with immediate effect by notice in writing to the Contractor and without prejudice to any other rights or remedies of either party in respect of the breach concerned or any other breach of the Contract.

### **34. Race Equality Scheme**

The Authority is subject to the Race Relations (Amendment) Act 2000. The Authority has published a Race Equality Scheme, which is set out on the Authority's website. The Contractor shall, and shall procure that its sub-contractors, agents and personnel, comply with both the Race Relations (Amendment) Act 2000 and the Authority's Race Equality Scheme. Upon the Contractor breaching either the applicable law or the Authority's Race Equality Scheme the Authority shall be entitled to terminate the Contract with immediate effect by notice in writing to the party Contractor and without prejudice to any other rights or remedies of either party in respect of the breach concerned or any other breach of the Contract.

### **35. Sustainable Procurement**

- (1) The Contractor shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services. Without prejudice to the generality of the foregoing, the Contractor shall promptly provide all such information regarding the environmental impact of the Services as may reasonably be requested by the Authority.
- (2) The Contractor shall meet all reasonable requests by the Authority for information evidencing compliance with the provisions of this clause by the Contractor.
- (3) All written outputs, including reports, produced in connection with the Contract shall (unless otherwise specified) be produced on recycled paper containing at least 80% post consumer waste and used on both sides where appropriate.

### **36. Other Legislation**

The Contractor shall, and shall procure that its sub-contractors, agents and personnel, comply with all other applicable law.

### **37. Contractor Status**

Nothing in the Contract shall create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the Authority and the Contractor.

### **38. Transfer of Services**

- (1) Where the Authority intends to continue with services equivalent to any or all of the Services after termination or expiry of the Contract, either by performing them itself or by the appointment of a replacement contractor, the Contractor shall use all reasonable endeavours to ensure that the transition is undertaken with the minimum of disruption to the Authority.
- (2) The contractor shall co-operate fully during the transition period and provide full access to all data, documents, manuals, working instructions, reports and any information, whether held in electronic

or written form, which the Authority considers necessary.

### **39. Law and Jurisdiction**

The Contract shall be governed by and construed in accordance with English Law and shall be subject to the exclusive jurisdiction of the courts of England and Wales.

### **40. Transparency**

- (1) The title and description of the project will be published on the Authority's website.
- (2) Where the Authority considers that any such exemption applies, the Authority will redact the relevant documents to the extent that the Authority considers the redaction is necessary to remove or obscure the relevant material, and those documents will be published on the designated web site subject to those redactions.
- (3) Where the Parties later agree changes to the contract, the Authority will publish those changes, and will consider any redaction, on the same basis.

### **41. Monitoring and Management Information**

- (1) Where requested by the Authority, the Contractor shall supply to the Authority and to the Office of Government Commerce (OGC) such information and advice relating to the management of the Contract as the Authority or OGC may require.
- (2) The information and advice referred to in Condition 41(1) may include, but is not limited to, the following: Line Item Amount, Invoice Line Description, Invoice Line Number, Currency Code, Order Date, VAT Inclusion Flag, VAT Rate, List Price, Number of Items, Unit of Purchase Quantity, Price per Unit, Supplier Service Code, Service description and/or name, UNSPSC Code, Taxonomy Code and/or Name, Geographical, Project Code, Project description, Project Start Date, Project Delivery Date (Estimate and Actual), Total project cost and Project Stage.
- (3) The information referred to in Condition 41(1) shall be supplied in such form and within such timescales as the Authority or OGC may reasonably require.
- (4) The Contractor agrees that the Authority may provide OGC with information relating to the Services procured and any payments made under the Contract.
- (5) Upon receipt of the information supplied by the Contractor in response to a request under Condition 41(1) or receipt of information provided by the Authority to OGC under Condition 41(4) the Authority and the Contractor hereby consent to OGC:
  - (a) storing and analysing the information and producing statistics; and
  - (b) sharing the information or any statistics produced using the information, with any other Contracting Authority.
- (6) In the event that OGC shares the information provided under Condition 41(1) or 41(3) in accordance with Condition 41(5) b), any Contracting Authority (as defined in regulation 3 of the Public Contracts Regulations 2006) receiving the information shall be informed of the confidential nature of that information and shall be requested not to disclose it to anybody which is not a Contracting Authority (unless required by law).
- (7) The Authority may make changes to the type of information which the Contractor is required to supply and shall give the Contractor at least one calendar month's written notice of any such changes.



# 14 Annex 5 – Application form



Department of Business, Energy and Industrial Strategy

# Non Domestic Smart Energy Management Innovation Competition SBRI

Application form

Closing Date : 09 February 2018

(Insert name of lead applicant)

(Insert project name)

(Insert date)

# Contact for enquiries

The contact for enquiries is:

**Smart Meters Stewardship Team, Department of Business, Energy and Industrial Strategy (BEIS)**

**Email:** [smartenergymanagement@beis.gov.uk](mailto:smartenergymanagement@beis.gov.uk)

## **Possible disclosure of information provided in response to this Competition**

The Freedom of Information Act 2000 (“FOIA”) and the Environmental Information Regulations 2004 (“EIR”) apply to the Department. You should be aware of the Department’s obligations and responsibilities under FOIA or EIR to disclose, on written request, recorded information held by the Department. Information provided in connection with this procurement exercise, or with any contract that may be awarded as a result of this exercise, may therefore have to be disclosed by the Department in response to such a request, unless the Department decides that one of the statutory exemptions under the FOIA or the exceptions in the EIR applies. If you wish to designate information supplied as part of this response as confidential, or if you believe that its disclosure would be prejudicial to any person’s commercial interests, you must provide clear and specific detail as to the precise information involved and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. Such designation alone may not prevent disclosure if in the Department’s reasonable opinion publication is required by applicable legislation or Government policy or where disclosure is required by the Information Commissioner or the First-tier Tribunal (Information Rights).

Additionally, the Government’s transparency agenda requires that tender documents (including ITTs such as this) are published on a designated, publicly searchable web site. The same applies to other tender documents issued by the Department (including the original advertisement and the pre-qualification questionnaire (if used)), and any contract entered into by the Department with its preferred supplier once the procurement is complete. By submitting a tender you agree that your participation in this procurement may be made public. The answers you give in this response will not be published on the transparency web site (but may fall to be disclosed under FOIA or EIR (see above)). Where tender documents issued by the Department or contracts with its suppliers fall to be disclosed the Department will redact them as it thinks necessary, having regard (inter alia) to the exemptions/exceptions in the FOIA or EIR.

BEIS is also subject to the Data Protection Act 1998. Personal data held and processed by BEIS will be managed in accordance with this Act.

# Application

**Applicants are urged to read the Competition Guidance Notes (sections 1 and 2 of this document) carefully before completing this form and are asked to ensure that they provide sufficient information to demonstrate compliance with the Eligibility Criteria and the Evaluation Criteria.**

**Applicants are encouraged to write self-contained responses, using the guidance provided to limit the size of the application. Applicants may annex additional material if it is relevant to the evaluation criteria and materially strengthens the application. Applicants are requested to maintain the structure of the application form.**

**Applications should detail plans across all phases of the Competition.**

This application has the following sections:

1. Summary Information
2. Proposal details
3. Declarations

**(a) Summary Information**

<b>Summary Information</b>	<b>(not assessed)</b>
<b>Project Title</b>	
<b>Project summary</b>	Referring to the guidance document, please provide a brief summary of your proposed solution, clearly demonstrating that the proposal is in scope, and the key outputs of the project.
<b>List of Annexes / Appendices</b>	
<b>Contract Duration</b>	
<b>Total Contract Cost (£) excl VAT</b>	
<b>Proposed Start Date</b>	
<b>Company Details:</b>	
Registered Company Name	
Registered Company Address	
Company Registration Number	
VAT Registration Number	
Company Website	
<b>Contact Details:</b>	
Name	

<b>Summary Information</b>	<b>(not assessed)</b>
Position	
Organisation	
Address	
Telephone	
Email	

**(b) Proposal Details**

**1. Technical Approach and Innovation**

<b>Total score 40</b>	<b>Word limit – 10,000</b>
-----------------------	----------------------------

- a) Clear description of the proposed solution and how it addresses the challenges as set out in this guidance document (weighting x 1);
- b) Clear description on the particular innovative step(s) being proposed and how they will build on the smart metering platform and non-domestic roll out (weighting x 2);
- c) Current and proposed stage of development. Please refer to TRLs (see Annex 1) and provide an indication and justification of current, and proposed TRL (weighting x 1);
- d) Description and evidence of proposed solution’s potential to improve energy management activities in targeted organisations operating at sites covered by the smart metering mandate, which lead to bill savings, carbon emissions reductions and other desired benefits (weighting x3).
- e) Potential for reduced complexity / standardisation presented by the technology (weighting x 1).

Current TRL	TRL following project

## 2. Project plan

<b>Total score 20</b>	<b>Word limit 4000</b>
-----------------------	------------------------

- a) Detailed description of work packages and associated timelines (include a Gantt chart) (weighting x 1);
- b) List of milestones and deliverables with associated dates and invoice values (weighting x 1);
- c) Resource management plan, including:
  - i. Team structure
  - ii. Management of sub-contractors and other stakeholders
  - iii. Requirements for external support e.g. help with access to smart meter data, and/or customers, suppliers and/or other needs (weighting x 1);
- d) Key risks and dependencies of the project, including mitigation plans. Risks should be presented in the table provided in the application form (weighting x 1).

**Risks:**

This table can be presented outside of this box section and in landscape orientation if required.

Ref	Risk description	Likelihood (H/M/L)	Impact (H/M/L)	Mitigation

### 3. Skills and Expertise

Total score 15	Word limit 5000
<ul style="list-style-type: none"><li>a) Understanding of smart meter technologies, data-tools development, use of data to inform data tools (either smart meter data, or other data) (weighing x 1);</li><li>b) Evidence that the team has relevant skills and expertise to undertake the project (weighting x 1);</li><li>c) Evidence of appropriate networks across the smart meter and energy management sectors, and the supply chain (weighting x 1).</li></ul>	

#### 4. Market Potential and Business Case

Total score 15	Word limit 5000
<ul style="list-style-type: none"><li>a) Assessment of market potential, including costings (products and services, installation, customer acquisition, including potential for scaling within the mandated sector of non-domestic sites and meters (weighting x 1);</li><li>b) Indication of how the product(s)/services can/will be scaled-up, and potential exploitation across GB (weighting x 1);</li><li>c) Business case for roll out and commercialisation. The proposal should demonstrate how the product will achieve credibility in the market place through product proving and accreditation (weighting x 1);</li></ul>	

## 5. Cost

<b>Total score 10</b>	<b>Word limit n/a</b>
-----------------------	-----------------------

a. Cost breakdown using the table provided in the application form (weighting x 2).

Applicants should clearly state where cost savings are being provided compared to exclusive development contracts.

Price will be marked proportionately to the lowest bid. The lowest bid will receive maximum marks for the price elements and then all other bids will be marked proportionately to that bid. Where contractors indicate options, they should clearly indicate their preferred approach, which the cost and other criteria will be scored against.

### Phase 1

Labour costs:	*Grade/level of staff	Daily rate (ex VAT)	No. days	Total price per staff member
<b>Labour costs Sub total</b>				£

Equipment / Material costs:	Item	No. of items	Price per item (ex VAT)	Total price

<b>Equipment / Material Sub total</b>				£
<b>Travel &amp; Subsistence:</b>	<b>Journey required and reason</b>	<b>No. journeys</b>	<b>Cost per journey</b>	<b>Total price</b>
<b>T&amp;S Sub total</b>				£
<b>Other costs</b>	<b>Detail</b>	<b>No.</b>	<b>Cost per item</b>	<b>Total price</b>
<b>Other Sub total</b>				£
<b>TOTAL Phase 1 COST (excl. VAT)</b>				£
<b>SBRI cost savings:</b>				
<b>Total price for exclusive development contract*</b>	<b>Total price for SBRI project (= Total Cost for Phase 1)</b>		<b>Cost saving (A-B)</b>	
<p>* Exclusive development means that the public purchaser reserves all the results and benefits of the development (including Intellectual Property Rights or IPRs) exclusively for its own use.</p>				

## Scoring Method

Each question will be scored from 1 to 5. The following illustrates the meaning of each score:

Score	Description
1	Not Satisfactory: Proposal contains significant shortcomings and does not meet the required standard
2	Partially Satisfactory: Proposal partially meets the required standard, with one or more moderate weaknesses or gaps
3	Satisfactory: Proposal mostly meets the required standard, with one or more minor weaknesses or gaps.
4	Good: Proposal meets the required standard, with moderate levels of assurance
5	Excellent: Proposal fully meets the required standard with high levels of assurance

## **(c) Declarations**

### **Contents**

<b>Declaration 1: Statement of non-collusion .....</b>	<b>84</b>
<b>Declaration 2: Form of Tender .....</b>	<b>85</b>
<b>Declaration 3: Conflict of Interest.....</b>	<b>87</b>
<b>Declaration 4: Questions for tenderers.....</b>	<b>89</b>

**Declaration 1: Statement of non-collusion**

To: The Department of Business Energy and Industrial Strategy

1. We recognise that the essence of competitive tendering is that the Department will receive a bona fide competitive tender from all persons tendering. We therefore certify that this is a bona fide tender and that we have not fixed or adjusted the amount of the tender or our rates and prices included therein by or in accordance with any agreement or arrangement with any other person.

2. We also certify that we have not done and undertake not to do at any time before the hour and date specified for the return of this tender any of the following acts:

- (d) communicate to any person other than the Department the amount or approximate amount of our proposed tender, except where the disclosure, in confidence, of the approximate amount is necessary to obtain any insurance premium quotation required for the preparation of the tender;
- (e) enter into any agreement or arrangement with any other person that he shall refrain for submitting a tender or as to the amount included in the tender;
- (f) offer or pay or give or agree to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person doing or having done or causing or having caused to be done, in relation to any other actual or proposed tender for the contract any act, omission or thing of the kind described above.

3. In this certificate, the word “person” shall include any person, body or association, corporate or unincorporated; and “any agreement or arrangement” includes any such information, formal or informal, whether legally binding or not.

.....

Signature (duly authorised on behalf of the tenderer)

.....

Print name

.....

On behalf of (organisation name)

.....

Date

**Declaration 2: Form of Tender**

To: The Department of Business, Energy and Industrial Strategy

1. Having considered the invitation to tender and all accompanying documents

(including without limitation, the terms and conditions of contract and the Specification) we confirm that we are fully satisfied as to our experience and ability to deliver the goods/services in all respects in accordance with the requirements of this invitation to tender.

2. We hereby tender and undertake to provide and complete all the services required to be performed in accordance with the terms and conditions of contract and the Specification for the amount set out in the Pricing Schedule.

3. We agree that any insertion by us of any conditions qualifying this tender or any unauthorised alteration to any of the terms and conditions of contract made by us may result in the rejection of this tender.

4. We agree that this tender shall remain open to be accepted by the Department for 8 weeks from the date below.

5. We understand that if we are a subsidiary (within the meaning of section 1159 of (and schedule 6 to) the Companies Act 2006) if requested by the Department we may be required to secure a Deed of Guarantee in favour of the Department from our holding company or ultimate holding company, as determined by the Department in their discretion.

6. We understand that the Department is not bound to accept the lowest or any tender it may receive.

7. We certify that this is a bona fide tender.

.....  
Signature (duly authorised on behalf of the tenderer)

.....  
Print name

.....  
On behalf of (organisation name)

.....

Date

**Declaration 3: Conflict of Interest**

I have nothing to declare with respect to any current or potential interest or conflict in relation to this research (or any potential providers who may be subcontracted to deliver this work, their advisers or other related parties). By conflict of interest, I mean, anything which could be reasonably perceived to affect the impartiality of this research, or to indicate a professional or personal interest in the outcomes from this research.

Signed .....

Name .....

Position .....

**OR**

I wish to declare the following with respect to personal or professional interests related to relevant organisations\*;

- X
- X

*Where a potential conflict of interest has been declared for an individual or organisation within a consortia, please clearly outline the role which this individual or organisation will play in the proposed project and how any conflict of interest has or will be mitigated.*

- X
- X

Signed .....

Name .....

Position .....

Please complete this form and return this with your application form - Nil returns **are** required.

\* These may include (but are not restricted to);

- A professional or personal interest in the outcome of this research
- For evaluation projects, a close working, governance, or commercial involvement in the project under evaluation
- Current or past employment with relevant organisations
- Payment (cash or other) received or likely to be received from relevant organisations for goods or services provided (Including consulting or advisory fees)
- Gifts or entertainment received from relevant organisations
- Shareholdings (excluding those within unit trusts, pension funds etc) in relevant organisations
- Close personal relationship or friendships with individuals employed by or otherwise closely associated with relevant organisations

***All of the above apply both to the individual signing this form and their close family / friends / partners etc.***

If your situation changes during the project in terms of interests or conflicts, you must notify BEIS straight away.

A DECLARATION OF INTEREST WILL NOT NECESSARILY MEAN THE INDIVIDUAL OR ORGANISATION CANNOT WORK ON THE PROJECT; BUT IT IS VITAL THAT ANY INTEREST OR CONFLICT IS DECLARED SO IT CAN BE CONSIDERED OPENLY.

#### Declaration 4: Questions for tenderers

In some circumstances the Department is required by law to exclude you from participating further in a procurement. If you cannot answer 'no' to every question in this section it is very unlikely that your application will be accepted, and you should contact us for advice before completing this form.

Please state 'Yes' or 'No' to each question.

<b>Has your organisation or any directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?</b>	<b>Answer</b>
(a) conspiracy within the meaning of <a href="#">section 1</a> or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA;	
(b) corruption within the meaning of <a href="#">section 1</a> (2) of the Public Bodies Corrupt Practices Act 1889 or <a href="#">section 1</a> of the Prevention of Corruption Act 1906; where the offence relates to active corruption;	
(c) the offence of bribery, where the offence relates to active corruption;	
(d) bribery within the meaning of section 1 or 6 of the Bribery Act 2010;	
(e) fraud, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities, within the meaning of:	
(i) the offence of cheating the Revenue;	
(ii) the offence of conspiracy to defraud;	
(iii) fraud or theft within the meaning of the <a href="#">Theft Act 1968</a> , the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;	
(iv) fraudulent trading within the meaning of <a href="#">section 458</a> of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;	

(v) fraudulent evasion within the meaning of section 170 of the <a href="#">Customs and Excise Management Act 1979</a> or section 72 of the <a href="#">Value Added Tax Act 1994</a> ;	
(vi) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;	
(vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;	
(viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or	
(ix) making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of the Fraud Act 2006;	
(f) money laundering within the meaning of section 340(11) of the Proceeds of Crime Act 2002;	
(g) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996; or	
(h) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or	
(i) any other offence within the meaning of Article 45(1) of Directive 2004/18/EC as defined by the national law of any relevant State.	

Information on the latest innovation calls can be found here:

<https://www.gov.uk/guidance/energy-innovation>



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