



Department for
Business, Energy
& Industrial Strategy

THE SMART ENERGY SAVINGS (SENS) INNOVATION COMPETITION:

COMPETITION GUIDANCE NOTES – APPENDIX 2

EXAMPLE GRANT AGREEMENT TERMS AND CONDITIONS AND OFFER LETTER

BEIS proposes to use its Template Grant Agreement as the basis of the agreement of this Competition; the current Terms and Conditions for the grant agreement are attached below for information.

Illustrative Terms and Conditions for the Smart Energy Savings Competition Grant Agreement

[DEPARTMENT FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY]

and

[THE GRANT RECIPIENT]

GRANT FUNDING AGREEMENT FOR SMART ENERGY SAVINGS COMPETITION PHASE 1

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This Grant Funding Agreement is made on [insert date of signature]

Between:

- (1) **Department for Business, Energy and Industrial Strategy**, whose principal address is at 1 Victoria Street, London, SW1H 0ET, United Kingdom (the “**Authority**”)
- (2) [INSERT THE NAME OF THE GRANT RECIPIENT], [RELEVANT DETAILS OF LEGAL STRUCTURE] whose principal address is at [ADDRESS] (the “**Grant Recipient**”).

In relation to:

Project Name: Smart Energy Savings

Project Number:

BACKGROUND

- (A) The Grant is made pursuant to section 5 of the Science and Technology Act 1965. If the payment of the Grant is subject to the satisfaction of conditions, those conditions precedent and the date for satisfaction are set out in the Grant Funding Letter.
- (B) The Authority ran a competition for grant applications in respect of Smart Energy Savings
- (C) The Grant Recipient was successful under that competition and the Authority awarded it a grant to deliver []
- (D) The Authority will provide the Grant to the Grant Recipient as provided for in this Grant Funding Agreement; and
- (E) the Grant Recipient will use the Grant for the Funded Activities

1. INTRODUCTION

- 1.1. This Grant Funding Agreement sets out the conditions which apply to the Grant Recipient receiving the Grant from the Authority up to the Maximum Sum.
- 1.2. The Authority and the Grant Recipient have agreed that the Authority will provide the Grant up to the Maximum Sum as long as the Grant Recipient uses the Grant in accordance with this Grant Funding Agreement.
- 1.3. The Authority makes the Grant to the Grant Recipient on the basis of the Grant Recipient’s grant application a copy of which is attached at Annex 1 Part B for the provision of [the purpose of the grant].
- 1.4. The Parties confirm that it is their intention to be legally bound by this Grant Funding Agreement.

2. DEFINITIONS AND INTERPRETATION

- 2.1. Where they appear in these Conditions:

Annex means the annexes attached to these Conditions which form part of the Funding Agreement;

Asset means any assets that are to be purchased or developed using the Grant including equipment or any other assets which may be a Fixed Asset or Major Asset as appropriate in the relevant context, and **Assets** will be construed accordingly;

Asset Owning Period means the period during which the Assets are recorded as Assets in Grant Recipient's accounts;

Authority Personal Data means any Personal Data supplied for the purposes of, or in connection with, the Funding Agreement by the Authority to the Grant Recipient;

Bribery Act means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning this legislation;

Capital Grants means the sum or sums of money provided by an grant making body to the a grant recipient for items such as buildings, equipment, land or machinery;

Commencement Date means the date on which the Funding Agreement comes into effect, being the **[Insert commencement date]**;

Confidential Information means any information (however conveyed, recorded or preserved) disclosed by a Party or its personnel to another Party (and/or that Party's personnel) whether before or after the date of the Funding Agreement, including but not limited to:

- (a) any information that ought reasonably to be considered to be confidential (whether or not it is so marked) relating to:
 - (i) the business, affairs, customers, clients, suppliers or plans of the disclosing Party; and
 - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing Party; and
- (b) any information developed by the Parties in the course of delivering the Funded Activities;
- (c) the Authority Personal Data;
- (d) any information derived from any of the above.

Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure (otherwise than by breach of paragraph 11 of these Conditions;
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a Third Party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information."

Contracting Authority means any contracting authority (other than the Authority) as defined in regulation 3 of the Public Contracts Regulations 2015 (as amended);

Controller and Processor take the meaning given in the GDPR;

Change of Control means the sale of all or substantially all the assets of a Party; any merger, consolidation or acquisition of a party with, by or into another corporation, entity or person, or any change in the ownership of more than fifty percent (50%) of the voting capital stock of a party in one or more related transaction.

Crown Body means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

Disposal means the disposal, sale, transfer of the Grant or any interest in any Asset and includes any contract for disposal;

Data Protection Legislation means (i) the GDPR, and any applicable national implementing Law as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to the processing of Personal Data and privacy (iii) all applicable Law about the processing of Personal Data and privacy;

DPA 2018 means the Data Protection Act 2018;

Domestic Law means an applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation which replaces EU law as a consequence of the UK leaving the European Union;

Domestic Successor means:

- (a) a body that takes over the functions of the EU Commission in the UK on the date the UK withdraws from the European Union; or
- (b) the relevant courts in England/Wales/Scotland/Northern Ireland which take over the functions of the Court of Justice of the European Union in England/Wales/Scotland/Northern Ireland on the date the UK withdraws from the European Union

Duplicate Funding means funding provided by a Third Party to the Grant Recipient which is for the same purpose as the Grant, but has not been declared to the Authority;

Eligibility Criteria mean the Authority's selection criteria used to determine who should be grant recipients including the Grant Recipient;

Eligible Expenditure means the payments made by the Grant Recipient during the Funding Period for the purposes of delivering the Funded Activities which comply in all respects with the eligibility rules set out in paragraph 5 of these Conditions;

EIR means the Environmental Information Regulations 2004;

Event of Default means an event or circumstance as defined by paragraph 25.3;

Financial Year means from 1 April to 31 March;

Fixed Assets means any Asset which consists of land, buildings, plant and equipment acquired, developed, enhanced, constructed in connection with the Funded Activities;

FOIA means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

Funded Activities means the activities set out in Annex 2 of these Conditions;

Funding Period means the period for which the Grant is awarded starting on the Commencement Date and ending on **[Insert end date of funded activities]**.

General Data Protection Regulations and GDPR means (Regulation (EU) 2016/679);

Grant means the sum or sums the Authority will pay to the Grant Recipient in accordance with paragraph 4 of these Conditions and subject to the provisions set out at paragraph 25.

Grant Claim means the payment request claim form (included in Appendix 1 of the Grant Offer Letter) submitted by the Grant Recipient to the Authority for payment of the Grant;

Grant Funding Agreement means these Conditions together with its annexes and schedules including but not limited to the Annex 1 Grant Funding Letter;

Grant Funding Letter means the letter the Authority issued to the Grant Recipient dated [], a copy of which is set out in Annex 1;

Grant Manager means the individual who has been nominated by the Authority to be the single point of contact for the Grant Recipient in relation to the Grant;

HRA means the Human Rights Act 1998 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

Ineligible Expenditure means expenditure which is not Eligible Expenditure and as set out in paragraph 5 of these Conditions;

Information Acts means the Data Protection Legislation, FOIA and the EIR, as amended from time to time;

Intellectual Property Rights or IPRs means copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and any modifications, amendments, updates and new releases of the same and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

IPR Material means all material produced by the Grant Recipient or its Representatives during the Funding Period (including but not limited to, materials expressed in any form of report, database, design, document, technology, information, know how, system or process);

Instalment Period means the intervals set out in Annex 3 when the Authority will release payment of the Grant to the Grant Recipient during the Funding Period;

Joint Controllers means where two or more Controllers jointly determine the purposes and means of processing;

Law mean any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation;

Losses means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties

whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and **Loss** will be interpreted accordingly;

Major Asset means an Asset being used for the Funded Activities which is not a Fixed Asset but has a value as at the date of this funding Agreement of at least £10,000.

Match Funding means any contribution to the Funded Activities from a Third Party to the Grant Recipient to meet the balance of the Eligible Expenditure not supported by the Grant;

Maximum Sum means the maximum amount of the Grant the Authority will provide to the Grant Recipient for the Funded Activities subject to paragraph 25;

Party means the Authority or Grant Recipient and **Parties** shall be each Party together;

Personal Data has the meaning given to it in the Data Protection Legislation as amended from time to time;

Procurement Regulations means the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Defence Security Public Contracts Regulations 2011 and the Utilities and Contracts Regulations 2016 together with their amendments, updates and replacements from time to time;

Prohibited Act means:

- (a) directly or indirectly offering, giving or agreeing to give to any servant of the Authority or the Crown any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Funding Agreement; or
 - (ii) showing or not showing favour or disfavour to any person in relation to the Funding Agreement;
- (b) committing any offence:
 - (iii) under the Bribery Act;
 - (iv) under legislation creating offences in respect of fraudulent acts; or
 - (v) at common law in respect of fraudulent acts in relation to the Funding Agreement; or
- (c) defrauding or attempting to defraud or conspiring to defraud the Authority or the Crown;

Remedial Action Plan means the plan of action submitted by the Grant Recipient to the Authority following an Event of Default pursuant to the Rectification Plan process set out in paragraphs 25.6 to 25.11;

Representatives means any of the Parties' duly authorised directors, employees, officers, agents, professional advisors and consultants;

Special Payments means ex gratia expenditure by the Grant Recipient to a third party where no legal obligations exists for the payment and/or other extra-contractual expenditure. Special Payments may include, but is not limited to, out-of-court settlements, compensation or additional severance payments to the Grant Recipient's employees;

State Aid Law means the law embodied in Article 107- 109 of section 2, Title VII of the Common Rules on Competition, Taxation and Approximation of Laws – Consolidated Versions of the Treaty on European Union and the Treaty for the Functioning of the European Union or any Domestic Law which replaces such State Aid Law following the UK's exit from the European Union;

Third Party means any person or organisation other than the Grant Recipient or the Authority;

Unspent Monies means any monies paid to the Grant Recipient in advance of its Eligible Expenditure, which remains unspent and uncommitted at the end of the Financial Year, the Funding Period or because of termination or breach of these Conditions;

VAT means value added tax chargeable in the UK;

Working Day means any day from Monday to Friday (inclusive) which is not specified or proclaimed as a bank holiday in England and Wales pursuant to section 1 of the Banking and Financial Dealings Act 1971 including Christmas Day and Good Friday.

2.2. In these Conditions, unless the context otherwise requires:

- (1) the singular includes the plural and vice versa;
- (2) reference to a gender includes the other gender and the neuter;
- (3) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
- (4) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- (5) the words "including", "other", "in particular", "for example" and similar words will not limit the generality of the preceding words and will be construed as if they were immediately followed by the words "without limitation";
- (6) references to "writing" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing will be construed accordingly;
- (7) references to "representations" will be construed as references to present facts, to "warranties" as references to present and future facts and to "undertakings" as references to obligations under the Grant Funding Agreement;
- (8) references to "paragraphs" and "Annexes" are, unless otherwise provided, references to the paragraphs and annexes of these Conditions and references in any Annex to parts, paragraphs and tables are, unless otherwise provided, references to the parts, paragraphs and tables of the Annex in which these references appear; and
- (9) the headings in these Conditions are for ease of reference only and will not affect the interpretation or construction of these Conditions.

2.3. Where there is any conflict between the documents that make up this Grant Funding Agreement the conflict shall be resolved in accordance with the following order of precedence:

- 2.3.1. the Conditions set out within this Grant Funding Agreement;
- 2.3.2. Schedule 1 – The Authority's Grant Award Letter;

3. DURATION AND PURPOSE OF THE GRANT

3.1. The Funding Period starts on [] (the **Commencement Date**) and ends on [xx Month 20xx] unless terminated earlier in accordance with this Grant Funding Agreement.

- 3.2. The Grant Recipient will ensure that the Funded Activities start on [xx Month 20xx] but where this has not been possible, that they start no later than 1 month after the Commencement Date.
- 3.3. The Grant Recipient shall use the Grant solely for the delivery of the Funded Activities. The Grant Recipient may not make any changes to the Funded Activities.
- 3.4. If the Authority wants to make a change to the Funded Activities (including for example reducing the Grant or removing some of the Funded Activities from the Grant) it may do so on one calendar month written notice to the Grant Recipient.

4. PAYMENT OF GRANT

- 4.1. Subject to the remainder of this paragraph 4 the Authority shall pay the Grant Recipient an amount not exceeding **[total Grant amount in words and pound sterling]**. The Authority shall pay the Grant in pound sterling (GBP) and into a bank located in the UK.
- 4.2. The Grant Recipient must complete and sign the Confirmation of Bank Details and Signatories (Annex 4) as part of their acceptance of the Grant. No payment can be made in advance of receipt of a correctly completed and signed form.
- 4.3. The signatory must be the CFO or someone with proper delegated authority. Any change of bank details must be notified immediately on the same form, signed by an approved signatory. Any change of signatory must be notified to the Authority for approval, as soon as known.
- 4.4. The Grant represents the Maximum Sum the Authority will pay to the Grant Recipient under the Funding Agreement. The Maximum Sum will not be increased in the event of any overspend by the Grant Recipient in its delivery of the Funded Activities.
- 4.5. The Authority will only pay the Grant to the Grant Recipient in respect of Eligible Expenditure incurred by the Grant Recipient to deliver the Funded Activities. The Authority will not pay the Grant until it is satisfied that the Grant Recipient has paid for the Funded Activities set out in the relevant Milestone in full and the Funded Activities have been delivered during the Funding Period.
- 4.6. The Grant Recipient will provide the Authority with evidence of the costs/payments, which are classified as Eligible Expenditure in paragraph 5.2, which may include (but will not be limited to) receipts and invoices or any other documentary evidence specified by the Authority.
- 4.7. The Grant Recipient shall declare to the Authority any Match Funding which been approved or received, before the Commencement Date. If the Grant Recipient intends to apply for, is offered or receives any further Match Funding during the Funding Period, the Grant Recipient shall notify the Authority before accepting or using any such Match Funding. On notifying the Authority of the Match Funding the Grant Recipient shall confirm the amount, purpose and source of the Match Funding and the Authority shall confirm whether it is agreeable to the Grant Recipient accepting the Match Funding. If the Authority does not agree to the use of Match Funding the Authority shall be entitled to terminate the Grant Funding Agreement in accordance with paragraph 25.3.8 and where applicable, require all or part of the Grant to be repaid.
- 4.8. Where the use of Match Funding is permitted the Grant Recipient shall set out any Match Funding it receives in the format required by Annex 3 and send that to the Authority. This is so the Authority knows the total funding the Grant Recipient has received for the Funded Activities.

- 4.9. The Grant Recipient agrees that:
- 4.9.1. it will not apply for or obtain Duplicate Funding in respect of any part of the Funded Activities which have been paid for in full using the Grant;
 - 4.9.2. the Authority may refer it to the police should it dishonestly and intentionally obtain Duplicate Funding for the Funded Activities;
 - 4.9.3. The Authority will not make the first payment of the Grant and/or any subsequent payments of the Grant unless or until, the Authority is satisfied that:
 - (i) The Grant Recipient will use the Grant payment for Eligible Expenditure only; and
 - (ii) if applicable, any previous Grant payments have been used for the Funded Activities or, where there are Unspent Monies, have been repaid to the Authority.
- 4.10. The Grant Recipient shall submit by the **tenth** Working Day of the month following the end of the relevant Instalment Period the Grant Claim together with a copy of Annex 5 of these Conditions (Eligible Expenditure) and any other documentation as prescribed by the Authority, from time to time.
- 4.11. Unless otherwise stated in these Conditions, payment of the Grant will be made within 30 days of the Authority approving the Grant Recipient's Grant Claim.
- 4.12. The Authority will have no liability to the Grant Recipient for any Losses caused by a delay in the payment of a Grant Claim howsoever arising.
- 4.13. The Authority reserves the right not to pay any Grant Claims not submitted within the period set out in paragraph 4.10 or Grant Claims which are incomplete, incorrect or submitted without the full supporting documentation.
- 4.14. The Grant Recipient shall promptly notify and repay immediately to the Authority any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where the Grant Recipient is paid in error before it has complied with its obligations under the Grant Funding Agreement. Any sum, which falls due under this paragraph 4.14, shall fall due immediately. If the Grant Recipient fails to repay the due sum within 30 working days the sum will be recoverable summarily as a civil debt.
- 4.15. The Grant will be paid into a separate bank account in the name of the Grant Recipient which must be an ordinary business bank account. All cheques from the bank account must be signed by at least two individual Representatives of the Grant Recipient.
- 4.16. Where the Grant Recipient enters into a contract with a Third Party in connection with the Funded Activities, the Grant Recipient will remain responsible for paying that Third Party. The Authority has no responsibility for paying Third Party invoices.
- 4.17. Onward payment of the Grant and the use of sub-contractors shall not relieve the Grant Recipient of any of its obligations under the Grant Funding Agreement, including any obligation to repay the Grant.
- 4.18. The Grant Recipient may not retain any Unspent Monies without the Authority's prior written permission.

- 4.19. If at the end of the relevant Financial Year there are Unspent Monies, the Grant Recipient shall repay such Unspent Monies to the Authority no later than 30 days of the Authority's request for repayment.

5. ELIGIBLE AND INELIGIBLE EXPENDITURE

- 5.1. The Authority will only pay to the Grant in respect of Eligible Expenditure incurred by the Grant Recipient to deliver the Funded Activities and the Grant Recipient will use the Grant solely for delivery of the Funded Activities (as set out in Annex 2 of these Conditions).
- 5.2. The following costs/payments will be classified as Eligible Expenditure if incurred for the purposes of the Funded Activity:
- 5.2.1. Fees charged or to be charged to the Grant Recipient by the external auditors/accountants for reporting/certifying that the grant paid was applied for its intended purposes.
 - 5.2.2. giving evidence to Parliamentary Select Committees;
 - 5.2.3. attending meetings with government ministers or civil servants to discuss the progress of a taxpayer funded grant scheme;
 - 5.2.4. responding to public consultations, where the topic is relevant to the objectives of the Funded Activities. To avoid doubt, Eligible Expenditure does not include the Grant Recipient spending the Grant on lobbying other people to respond to any such consultation (unless explicitly permitted in the Grant Funding Agreement);
 - 5.2.5. providing independent, evidence based policy recommendations to local government, departments or government ministers, where that is the objective of a taxpayer funded grant scheme, for example, 'What Works Centres'; and
 - 5.2.6. providing independent evidence based advice to local or national government as part of the general policy debate, where that is in line with the objectives of the Grant.
- 5.3. The Grant Recipient may not in any circumstance claim the following non-exhaustive list as Eligible Expenditure: The list below does not override activities which are deemed eligible in these Conditions:
- 5.3.1. Paid for lobbying, which means using the Grant to fund lobbying (via an external firm or in-house staff) in order to undertake activities intended to influence or attempt to influence Parliament, government or political activity; or attempting to influence legislative or regulatory action;
 - 5.3.2. using the Grant to directly enable one part of government to challenge another on topics unrelated to the agreed purpose of the grant;
 - 5.3.3. using the Grant to petition for additional funding;
 - 5.3.4. expenses such as for entertaining, specifically aimed at exerting undue influence to change government policy;
 - 5.3.5. input VAT reclaimable by the grant recipient from HMRC;;
 - 5.3.6. payments for activities of a political or exclusively religious nature;

- 5.4. Other examples of expenditure, which are prohibited, include the following:
- 5.4.1. contributions in kind;
 - 5.4.2. interest payments or service charge payments for finance leases;
 - 5.4.3. gifts;
 - 5.4.4. statutory fines, criminal fines or penalties civil penalties, damages or any associated legal costs;
 - 5.4.5. payments for works or activities which the grant recipient, or any member of their Partnership has a statutory duty to undertake, or that are fully funded by other sources;
 - 5.4.6. bad debts to related parties;
 - 5.4.7. payments for unfair dismissal or other compensation;
 - 5.4.8. depreciation, amortisation or impairment of assets owned by the Grant Recipient ;
 - 5.4.9. the acquisition or improvement of Assets by the Grant Recipient (unless the Grant is explicitly for capital use – this will be stipulated in the Grant Offer Letter); and
 - 5.4.10. liabilities incurred before the commencement of the Grant Funding Agreement unless agreed in writing by the Authority.

6. GRANT REVIEW

- 6.1. The Authority will review the Grant in July 2019. It will take into account the Grant Recipient's delivery of the Funded Activities against the agreed outputs set out in Annex 6 of this Grant Funding Agreement. As part of the review the Authority will review the reports produced by the Grant Recipient in accordance with paragraph 7.2 of these Conditions.
- 6.2. The review may result in the Authority deciding that (for example a non-exclusive list includes):
- 6.2.1. the Funded Activities and the Grant Funding Agreement should continue in line with existing plans;
 - 6.2.2. there should be an increase or decrease in the Grant for the subsequent Milestones;
 - 6.2.3. the outputs should be re-defined and agreed;
 - 6.2.4. the Grant Recipient should provide the Authority with a draft remedial action plan setting out the steps the Grant Recipient will take to improve delivery of the Funded Activities;
 - 6.2.5. the Authority should recover any Unspent Monies;
 - 6.2.6. the Grant be terminated in accordance with paragraph 25.17 of these Conditions.
- 6.3. If the Grant Recipient is required to submit a draft remedial action plan in accordance with paragraph 6.2.4 the Remedial Action Plan process set out in paragraph 25.6 to 25.11 shall apply.
- 6.4. The Grant Recipient may make representations to the Authority regarding the Authority's decision made in accordance with paragraph 6.2. The Authority is not however obliged to take such representations into account when making its decision as any such decision will be final and at the Authority's absolute discretion.

7. MONITORING AND REPORTING

- 7.1. The Grant Recipient shall closely monitor the delivery and success of the Funded Activity throughout the Funding Period to ensure that the aims and objectives of the Funded Activity are achieved.

- 7.2. The Grant Recipient shall provide the Authority with all reasonable assistance and co-operation in relation to any ad-hoc information, explanations and documents as the Authority may require, from time to time, so the Authority may establish if the Grant Recipient has used the Grant in accordance with the Grant Funding Agreement. As well, the Grant Recipient shall also provide the Authority with a report at intervals to be determined by the Authority on:
 - 7.2.1. the progress made towards achieving the agreed outputs, KPIs and Milestones and the defined longer term outcomes set out in Annex 6 of this Grant Funding Agreement. Where possible, the report will quantify what has been achieved by reference to the Funded Activities' targets; and
 - 7.2.2. if relevant, provide details of any Assets either acquired or improved using the Grant.
- 7.3. The Grant Recipient will permit any person authorised by the Authority reasonable access, with or without notice, to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Grant Recipient's fulfilment of its obligations under the Grant Funding Agreement and will, if so required, provide appropriate oral or written explanations to such authorised persons as required during the Funding Period.
- 7.4. The Grant Recipient will record in its financial reports the amount of Match Funding it receives together with details of what it has used that Match Funding for.
- 7.5. The Grant Recipient will notify the Authority as soon as reasonably practicable of:
 - 7.5.1. any actual or potential failure to comply with any of its obligations under the Grant Funding Agreement, which includes those caused by any administrative, financial or managerial difficulties; and
 - 7.5.2. actual or potential variations to the Eligible Expenditure set out in Annex 5 of these Conditions and/or any event which materially affects the continued accuracy of such information.
- 7.6. The Grant Recipient represents and undertakes (and shall repeat such representations on delivery of any report):
 - 7.6.1. that the reports and information it gives pursuant to this paragraph 7 are accurate;
 - 7.6.2. that it has diligently made full and proper enquiry of the matter pertaining to the reports and information given; and
 - 7.6.3. that any data it provided pursuant to an application for the Grant may be shared within the powers conferred by legislation with other organisations for the purpose of preventing or detecting crime.

8. AUDITING AND ASSURANCE

- 8.1. Within six months of the end of each Financial Year the Grant Recipient will provide the Authority with independent assurance that the Grant has been used for delivery of the Funded Activities. To satisfy this requirement the Grant Recipient will provide a statement showing that the Grant has been certified by an independent and appropriately qualified auditor. Accompanied by the Grant Recipient's annual audited accounts.
- 8.2. The Authority may, at any time during and up to six years after the end of the Grant Funding Agreement, conduct additional audits or ascertain additional information where the Authority

considers it necessary. The Grant Recipient agrees to grant the Authority or its Representatives access, as required, to all Funded Activity sites and relevant records. The Grant Recipient will ensure that necessary information and access rights are explicitly included within all arrangements with and sub-contractors.

- 8.3. If the Authority requires further information, explanations and documents, in order for the Authority to establish that the Grant has been used properly in accordance with the Grant Funding Agreement, the Grant Recipient will, within 5 Working Days of a request by the Authority, provide the Authority, free of charge, with the requested information.
- 8.4. The Grant Recipient shall:
 - 8.4.1. identify separately the value and purpose of the Grant Funding in its audited accounts and its annual report; and
 - 8.4.2. maintain a record of internal financial controls and procedures and provide the Authority with a copy if requested.

Retention of documents

- 8.5. The Grant Recipient shall retain all invoices, receipts, accounting records and any other documentation (including but not limited to correspondence) relating to the Eligible Expenditure and all income generated by the Funded Activity during the Funding Period, and retain all accounting records relating to that expenditure and income for a period of ten years from the date on which the Funding Period ends.
- 8.6. The Grant Recipient shall ensure that all its sub-contractors retain each record, item of data and document relating to the Funded Activity for a period of ten years from the date on which the Funding Period ends.
- 8.7. The Grant Recipient will promptly provide revised forecasts of income and expenditure:
 - 8.7.1. when these forecasts increase or decrease by more than 15 % of the original expenditure forecasts; and/or
 - 8.7.2. at the request of the Authority.

[ADDITIONAL OPTIONAL PROVISIONS- COMPLIANCE REQUIREMENTS FOR REGISTERED COMPANIES AND CHARITIES

- 8.8. *Where the Grant Recipient is a company registered at Companies House, the Grant Recipient must file their annual return and accounts by the dates specified by Companies House.*
- 8.9. *Where the Grant Recipient is a registered charity, the Grant Recipient must file their charity annual return by the date specified by the Charity Commissioner.*
- 8.10. *The Grant Recipient shall provide the Authority with copies of their annual return, accounts and charity annual return (as applicable) within five days of filing them at Companies House and/or the Charity Commissioner. If a Grant Recipient fails to comply with paragraphs [] of these Conditions the Authority may suspend funding or terminate the Grant Funding Agreement in accordance with paragraph 25 of these Conditions.]*

9. FINANCIAL MANAGEMENT AND PREVENTION OF BRIBERY, CORRUPTION, FRAUD AND OTHER IRREGULARITY

- 9.1. The Grant Recipient will at all times comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act.

- 9.2. The Grant Recipient must have a sound administration and audit process, including internal financial controls to safeguard against fraud, theft, money laundering, or mismanagement in connection with the administration of the Grant. The Grant Recipient shall require that the internal/external auditors report on the adequacy or otherwise of that system.
- 9.3. All cases of fraud or theft (whether proven or suspected) relating to the Funded Activities must be notified to the Authority as soon as they are identified and explain to the Authority what steps are being taken to investigate the irregularity and keep the Authority informed about the progress of such investigation. The Authority may then request their referral (which the Grant Recipient is obliged to carry out) to external auditors or other third parties as required.
- 9.4. The Authority will have the right, at its absolute discretion, to insist that Grant Recipient take additional to address any actual or suspected fraud, theft or other financial irregularity and/or to suspend future payment of the Grant to the Grant Recipient. Any grounds for suspecting financial irregularity includes what the Grant Recipient, acting with due care, should have suspected as well as what it actually proven.
- 9.5. The Grant Recipient agrees and accepts that it may become ineligible for grant support and be required to repay all or part of the Grant if it engages in tax evasion or aggressive tax avoidance in the opinion of HMRC.
- 9.6. For the purposes of paragraph 9.4 “financial irregularity” includes (but is not limited to) potential fraud or other impropriety, mismanagement, and the use of the Grant for any purpose other than those stipulated in the Grant Funding Agreement. The Grant Recipient may be required to provide statements and evidence to the Authority or the appropriate organisation as part of pursuing sanctions, criminal or civil proceedings.

10. CONFLICTS OF INTEREST

- 10.1. Neither the Grant Recipient nor its Representatives shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to the Grant Funding Agreement.
- 10.2. The Grant Recipient must have and will keep in place adequate procedures to manage and monitor any actual or perceived bias or conflicts of interest.

11. CONFIDENTIALITY

- 11.1. Except to the extent set out in this paragraph 11 or where disclosure is expressly permitted, the Grant Recipient shall treat all Confidential Information belonging to the Authority as confidential and shall not disclose any Confidential Information belonging to the Authority to any other person without the prior written consent of the Authority, except to such persons who are directly involved in the provision of the Funded Activities and who need to know the information.
- 11.2. The Grant Recipient gives its consent for the Authority to publish the Grant Funding Agreement in any medium in its entirety (but with any information which is Confidential Information belonging to the Authority or the Grant Recipient redacted), including from time to time agreed changes to the Grant Funding Agreement.
- 11.3. Nothing in this paragraph 11 shall prevent the Authority disclosing any Confidential Information obtained from the Grant Recipient:

11.3.1. for the purpose of the examination and certification of the Authority's accounts; or pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources; or

11.3.2. to any government department, consultant, contractor or other person engaged by the Authority, provided that in disclosing information under the Authority only discloses the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate;

11.3.3. where disclosure is required by Law, including under the Information Acts.

11.4. Nothing in this paragraph 11 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of its obligations under the Grant Funding Agreement in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.

12. TRANSPARENCY

12.1. The Authority and the Grant Recipient acknowledge that, except for any information, which is exempt from disclosure in accordance with the provisions of the Information Acts, the content of the Grant Funding Agreement is not confidential.

13. STATUTORY DUTIES

13.1. The Grant Recipient agrees to adhere to its obligations under the Law not limited to the Information Acts and the HRA.

13.2. The Grant Recipient hereby acknowledges that the Authority is subject to requirements under the Information Acts. Where requested by the Authority, the Grant Recipient will provide reasonable assistance and cooperation to the Authority to assist the Authority's compliance with its information disclosure obligations.

13.3. On request from the Authority, the Grant Recipient will provide the Authority with all such relevant documents and information relating to the Grant Recipient's data protection policies and procedures as the Authority may reasonably require.

13.4. The Grant Recipient acknowledges that the Authority, acting in accordance with the codes of practice issued and revised from time to time under the Information Acts, may disclose information concerning the Grant Recipient and the Grant Funding Agreement without consulting the Grant Recipient.

13.5. The Authority will take reasonable steps to notify the Grant Recipient of a request for information to the extent that it is permissible and reasonably practical for it to do so. Notwithstanding any other provision in the Grant Funding Agreement, the Authority will be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the Information Acts.

14. DATA PROTECTION, PUBLIC PROCUREMENT AND STATE AID

Data Protection

14.1. The Grant Recipient and the Authority will comply at all times with its respective obligations under Data Protection Legislation.

- 14.2. The Parties agree that for the purposes of the Data Protection Legislation the Grant Recipient is a Joint Data Controller and the Authority is the Joint Controller unless otherwise specified in Annex 9 of these Conditions.
- 14.3. The only processing that the Processor is authorised to do under this Grant Funding Agreement will be determined by the Controller and is set out in Annex 9 of these Conditions.
- 14.4. The Grant Recipient agrees that it is the Controller of any Personal Data processed by it pursuant to the Funded Activities and shall comply with the provisions set out in this paragraph 14 and Part 3 of Annex 9.
- 14.5. To the extent that the Grant Recipient and the Authority share any Personal Data for the purposes of this Grant Funding Agreement, the Parties accept that they are each a separate independent Controller in respect of such Personal Data. Each Party:
- (i) shall comply with the applicable Data Protection Legislation in respect of their processing of such Personal Data;
 - (ii) will be individually and separately responsible for its own compliance; and
 - (iii) do not and will not Process any Personal Data as Joint Controllers.
- 14.6. Each Party shall, with respect to its processing of Personal Data as independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.

Public Procurement

- 14.7. The Grant Recipient will ensure that any of its Representatives involved in the Funded Activities will, adopt such policies and procedures that are required in order to ensure that value for money has been obtained in the procurement of goods or services funded by the Grant.
- 14.8. Where the Grant Recipient is a Contracting Authority within the meaning of the Procurement Regulations the Grant Recipient will comply, as necessary, with the Procurement Regulations when procuring goods and services in connection with the Grant Funding Agreement and the Authority shall not be liable for the Grant Recipient's failure to comply with its obligations under the Procurement Regulations.

State aid

- 14.9. The Grant Recipient will make sure the Funded Activities are structured so they are compatible with State Aid Law.
- 14.10. The Grant Recipient will maintain appropriate records of compliance with the State Aid Law and will take all reasonable steps to assist the Authority to comply with State Aid Law requirements and respond to any investigation(s) instigated by the European Commission (or its Domestic Successor) into the Funded Activities or any equivalent regulatory body as the case may be.

14.11. The Grant is awarded under the EU State Aid General Block Exemption Regulation (“GBER”)¹ and is subject to the conditions in Annex 10 of these Conditions.

15. INTELLECTUAL PROPERTY RIGHTS

15.1. Intellectual Property in all IPR Material will be the Property of the Grant Recipient. Other than as expressly set out in these Conditions, neither Party will have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

15.2. The Grant Recipient grants to the Authority a non-exclusive irrevocable and royalty-free, sub-licensable, worldwide licence to use the public project report as detailed in Annex 6, for the purpose of supporting other projects.

15.3. The authority may request a license to use the IPR Material (other than the public project report referred to in 15.2) for the purpose of supporting other projects and the Grant Recipient shall grant such license on such terms as the parties agree are reasonable.

15.4. Ownership of Third Party software or other IPR necessary to deliver Funded Activities will remain with the relevant Third Party.

15.5. The Grant Recipient must ensure that they have obtained the relevant agreement from the Third Party proprietor before any additions or variations are made to the standard ‘off-the-shelf’ versions of any Third Party software and other IPR. The Grant Recipient will be responsible for obtaining and maintaining all appropriate licences to use the Third Party software.

16. ENVIRONMENTAL REQUIREMENTS

16.1. The Grant Recipient shall perform the Funded Activity in accordance with the Authority's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

16.2. The Grant Recipient shall pay due regard to the use of recycled products, so long as they are not detrimental to the provision of the Funded Activity or the environment, to include the use of all packaging, which should be capable of recovery for re-use or recycling.

16.3. The Grant Recipient shall take all possible precautions to ensure that any equipment and materials used in the provision of the Funded Activity do not contain chlorofluorocarbons, halons or any other damaging substances, unless unavoidable, in which case the Authority shall be notified in advance of their use. The Grant Recipient shall endeavour to reduce fuel emissions wherever possible.

17. ASSETS

Inventory of the Assets

¹ Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.06.14, p.1).

- 17.1. The Grant Recipient must keep a register of all Fixed Assets acquired or improved at a cost exceeding £10,000, wholly or partly using the Grant provided under the Grant Funding Agreement. Where the cost of purchasing or improving the Fixed Asset(s) exceeds £100,000 prior written approval must be obtained from the Authority and the Asset should be recorded on the fixed asset register.
- 17.2. Assets purchased with Grant funding must only be used for delivery of the Funded Activities.
- 17.3. For each entry in the register the following particulars must be shown where appropriate:
 - 17.3.1. date of acquisition or improvement;
 - 17.3.2. description of the Asset;
 - 17.3.3. cost, net of recoverable VAT;
 - 17.3.4. location of the Asset;
 - 17.3.5. serial or identification numbers;
 - 17.3.6. location of the title deeds;
 - 17.3.7. date of any Disposal;
 - 17.3.8. depreciation/amortisation policy applied;
 - 17.3.9. proceeds of any Disposal net of VAT; and
 - 17.3.10. the identity of any person to whom the Asset has been transferred or sold.
- 17.4. The Authority reserves the right to require the Grant Recipient to maintain the above particulars as set out in 17.3.1-17.3.10 for any additional items which the Authority considers material to the overall Grant.

Disposal of Asset

- 17.5. Where the Grant Recipient uses any of the Grant to develop, improve or purchase any Assets, the Grant Recipient must ensure that the Assets are maintained in good condition over the Asset Owning Period.
- 17.6. Assets purchased or improved using the Grant shall be owned by the Authority until ownership is transferred disposed or is otherwise agreed in writing by the Authority. The Authority reserves the right to determine the outcome of any Asset created as a result of the Funded Activities or purchased with the Grant.
- 17.7. The Grant Recipient must not dispose of any Assets that have been totally or partly bought, restored, conserved (maintained or protected from damage) or improved with the Grant without the prior written consent of the Authority. If the Authority grants consent to the Disposal, such consent may be subject to satisfaction of certain conditions, to be determined by the Authority.

- 17.8. If the Grant Recipient disposes of any Asset without the prior written consent of the Authority, the Grant Recipient must use all reasonable endeavours to achieve the market price for the Assets and must pay to the Authority a proportion of the proceeds of such sale, equivalent to the proportion of the purchase or development costs of the Assets that was funded by the Grant, provided that the Authority may at its discretion allow the Grant Recipient to keep all or a part of the relevant proceeds where:
- 17.8.1. the sale of the Assets takes place after the end of the Asset Owning Period;
 - 17.8.2. the proceeds of sale are to be applied directly to the purchase by the Grant Recipient of assets that are equivalent to or replacements for the Assets; or
 - 17.8.3. the Authority is otherwise satisfied that the Recipient will apply those proceeds for purposes related to the Funded Activities.
- 17.9. The Grant Recipient shall hold the proceeds from the Disposal of any Asset on trust for the Authority.

Charging of any Asset

- 17.10. The Grant Recipient shall not create any charge, legal mortgage, debenture or lien over any Asset without the prior written consent of the Authority.

18. INSURANCE

- 18.1. The Grant Recipient will during the term of the Funding Period and for 6 years after termination or expiry of these Conditions, ensure that it has and maintains, at all times adequate insurance with an insurer of good repute to cover claims under the Grant Funding Agreement or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with the Funded Activities or the Grant Funding Agreement
- 18.2. The Grant Recipient will upon request produce to the Authority its policy or policies of insurance or where this is not possible, a certificate of insurance issued by the Grant Recipient's insurance brokers confirming the insurances are in full force and effect together with confirmation that the relevant premiums have been paid.
- 18.3. [Where the Grant Recipient receives more than 10 per cent of the Grant Recipient's total income from public funds, the Grant Recipient will notify the Authority. The Authority will review the nature of the control of Grant Recipient's organisation to determine any resulting requirement for reclassification which may in turn change the insurance requirements under the Grant Funding Agreement].

19. ASSIGNMENT

- 19.1. The Grant Recipient will not transfer, assign, novate or otherwise dispose of the whole or any part of the Grant Funding Agreement or any rights under it, to another organisation or individual, without the Authority's prior approval.
- 19.2. Any approval given by the Authority will be subject to a condition that the Grant Recipient has first entered into a Grant Funding Agreement, authorised by the Authority, requiring the Grant Recipient to work with another organisation in delivering the Funded Activities.

20. SPENDING CONTROLS – MARKETING, ADVERTISING, COMMUNICATIONS AND CONSULTANCY

- 20.1. The Grant Recipient must seek permission from the Authority prior to any proposed expenditure on advertising, communications, consultancy or marketing either in connection with, or using the Grant.
- 20.2. The Grant Recipient should provide evidence that any marketing, advertising, communications and consultancy expenditure carried out in connection with, or using the Grant will deliver measurable outcomes that meet government objective to secure value for money.

21. LOSSES, GIFTS AND SPECIAL PAYMENTS

- 21.1. The Grant Recipient must obtain prior written consent from the Authority before:

- 21.1.1. writing off any debts or liabilities;
- 21.1.2. offering to make any Special Payments; and
- 21.1.3. giving any gifts.

in connection with this Grant Funding Agreement.

- 21.2. The Grant Recipient will keep a record of all gifts, both given and received, in connection with the Grant or any Funded Activity.

22. BORROWING

- 22.1. In accordance with paragraph 17.10 and this 22, the Grant Recipient must obtain prior written consent from the Authority before:

- 22.1.1. borrowing or lending money from any source in connection with the Grant Funding Agreement; and
- 22.1.2. giving any guarantee, indemnities or letters of comfort that relate to the Grant Funding Agreement, or have any impact on the Grant Recipient's ability to deliver the Funded Activities set out in the Grant Funding Agreement.

23. PUBLICITY

- 23.1. The Grant Recipient gives consents to the Authority to publicise in the press or any other medium the Grant and details of the Funded Activities using any information gathered from the Grant Recipient's initial Grant Application or any monitoring reports submitted to the Authority in accordance with paragraph 7.2 of these Conditions.
- 23.2. The Grant Recipient will comply with all reasonable requests from the Authority to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Authority in its promotional and fundraising activities relating to the Funded Activities.
- 23.3. The Authority consents to the Grant Recipient carrying out any reasonable publicity about the Grant and the Funded Activities as required, from time to time.
- 23.4. Any publicity material for the Funded Activities must refer to the programme under which the Grant was awarded and must feature the Authority's logo. If a Third Party wishes to use the Authority's logo, the Grant Recipient must first seek permission from the Authority.
- 23.5. The Grant Recipient will acknowledge the support of the Authority in any materials that refer to the Funded Activities and in any written or spoken public presentations about the Funded

Activities. Such acknowledgements (where appropriate or as requested by the Authority) will include the Authority's name and logo (or any future name or logo adopted by the Authority) using the templates provided by the Authority from time to time.

- 23.6. In using the Authority's name and logo, the Grant Recipient will comply with all reasonable branding guidelines issued by the Authority from time to time.

24. CHANGES TO THE AUTHORITY'S REQUIREMENTS

- 24.1. The Authority will notify the Grant Recipient of any changes to their activities, which are supported by the Grant.

- 24.2. The Grant Recipient will accommodate any changes to the Authority's needs and requirements under these Conditions.

25. CLAWBACK, EVENTS OF DEFAULT, TERMINATION AND RIGHTS RESERVED FOR BREACH AND TERMINATION

- 25.1. Without prejudice to the Authority's other rights and remedies, if the Grant Recipient fails to comply with any of its obligations in the Grant Funding Agreement the Authority may in preference to the standard notice period set out in paragraph 25.17 and at its discretion, reduce, suspend, or terminate payments of Grant, or require any part or all of the Grant to be repaid.

- 25.2. Where the Authority requires any part or all of the Grant to be repaid in accordance with paragraph 25.1 above, the Grant Recipient shall repay this amount no later than 30 days of the date it received the demand for repayment. If the Grant Recipient fails to repay the Grant within 30 days of a demand from the Authority for payment, the sum will be recoverable summarily as a civil debt.

- 25.3. The Authority may exercise its rights set out in paragraph 25.1 if, in particular, any of the following events occurs:

25.3.1. the Grant Recipient uses the Grant for a purpose other than the Funded Activities or fails to comply with any of the other obligations of the Grant Funding Agreement;

25.3.2. the delivery of the Funded Activity does not start within one month of the Commencement Date and the Grant Recipient has failed to provide the Authority with a satisfactory explanation for the delay, or failed to agree a new Commencement Date with the Authority;

25.3.3. the Grant Recipient uses the Grant for ineligible expenditure;

25.3.4. the Grant Recipient fails, in the Authority's opinion, to make satisfactory progress with the Funded Activity and in particular, with meeting the Agreed Outputs set out in Annex 6 of these Conditions and has failed;

25.3.5. the Grant Recipient fails to:

(i) submit an adequate Remedial Action Plan to the Authority following a request by the Authority pursuant to paragraph 6.2.4; or

(ii) improve delivery of the Funded Activity in accordance with the Remedial Action Plan approved by the Authority;

25.3.6. the Grant Recipient is, in the opinion of the Authority, delivering the Funded Activities in a negligent manner (in this context negligence includes but is not limited to failing to prevent or report actual or anticipated fraud or corruption);

25.3.7. the Grant Recipient fails to declare Duplicate Funding;

- 25.3.8. the Grant Recipient obtains Match Funding or funding from a Third Party which, in the opinion of the Authority, undertakes activities that are likely to bring the reputation of the Funded Activities or the Authority into disrepute;
- 25.3.9. the Grant Recipient provides the Authority with any materially misleading or inaccurate information and/or information any of the information provided in their grant application or in any subsequent supporting correspondence is found to be incorrect or incomplete to an extent which the Authority considers to be significant;
- 25.3.10. the Grant Recipient commits or committed a Prohibited Act or fails to report a Prohibited Act to the Authority, whether committed by the Grant Recipient or a Third Party, as soon as they become aware of it;
- 25.3.11. the Authority determines (acting reasonably) that any director or employee of the Grant Recipient has:
 - (i) acted dishonestly or negligently at any time during the term of the Grant Funding Agreement and to the detriment of the Authority; or
 - (ii) taken any actions which unfairly bring or are likely to unfairly bring the Authority's name or reputation and/or the Authority into disrepute. Actions include omissions in this context;
 - (iii) transferred, assigns or novates the Grant to any Third Party without the Authority's consent;
 - (iv) ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
 - (v) become Insolvent as defined by section 123 of the Insolvency Act 1986, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due;
 - (vi) incurred expenditure on activities that breach the Law;
 - (vii) the European Commission (or a Domestic Successor) or the Court of Justice of the European Union (or Domestic Successor) requires any Grant paid to be recovered by reason of a breach of State Aid Law or the Grant Recipient fails to comply with the provisions of the exemption or scheme under State Aid Law that applies to the Funded Activity and the Grant;
- 25.3.12. The Grant Recipient breaches the Code of Conduct for Grant Recipients (the **Code of Conduct**) and/or fails to report an actual or suspected breach of the Code of Conduct by the Grant Recipient or its Representatives in accordance with paragraph 30.2.

Rights reserved for the Authority in relation to an Event of Default

- 25.4. Where, the Authority determines that an Event of Default has or may have occurred, the Authority may by written notice to the Grant Recipient take any one or more of the following actions:
 - 25.4.1. suspend the payment of Grant for such period as the Authority shall determine; and/or
 - 25.4.2. reduce the Maximum Sum in which case the payment of Grant shall thereafter be made in accordance with the reduction and notified to the Grant Recipient; and/or
 - 25.4.3. cease to make payments of Grant to the Grant Recipient under the Grant Funding Agreement and (in addition) require the Grant Recipient to repay the Authority the whole or any part of the amount of Grant previously paid to the Grant Recipient. Such sums shall be recovered as a civil debt; and/or
 - 25.4.4. terminate the Grant Funding Agreement.

Opportunity for the Grant Recipient to remedy an Event of Default

- 25.5. If the Authority gives written notice to the Grant Recipient pursuant to paragraph 25.4 to suspend payment of Grant, such notice shall specify the relevant Event of Default and give the Grant Recipient an opportunity to rectify the relevant Event of Default by submitting a Draft Remedial Action Plan for approval by the Authority.
- 25.6. Where the Grant Recipient is required to submit a draft Remedial Action Plan in accordance with paragraph 25.4.1, the draft Remedial Action Plan shall be submitted to the Authority for approval, within 5 Working Days of the Grant Recipient receiving notice from the Authority.
- 25.7. The draft Remedial Action Plan shall set out:
- 25.7.1. full details of the Event of Default; and
 - 25.7.2. the steps which the Grant Recipient proposes to take to rectify the Event of Default including timescales for such steps.
- 25.8. On receipt of the draft Remedial Action Plan and as soon as reasonably practicable, the Authority will submit its comments on the draft Remedial Action Plan to the Grant Recipient.
- 25.9. The Authority shall have the right to accept or reject the draft Remedial Action Plan. If the Authority rejects the draft Remedial Action Plan, the Authority shall confirm, in writing, the reasons why they have rejected the draft Remedial Action Plan and will confirm whether the Grant Recipient is required to submit an amended Remedial Action Plan to the Authority.
- 25.10. If the Authority directs the Grant Recipient to submit an amended draft Remedial Action Plan, the Parties shall agree a timescale for the Grant Recipient to amend the draft Remedial Action Plan to take into account the Authority's comments.
- 25.11. If the Authority does not approve the draft Remedial Action Plan the Authority may at its absolute discretion terminate the Grant Funding Agreement.
- 25.12. The Authority shall not by reason of the occurrence of an Event of Default which is, in the opinion of the Authority, capable of remedy, exercise its rights under either paragraph 25.4.3 or 25.4.4 unless the Grant Recipient has failed to rectify the default pursuant to paragraph 25.5 to the satisfaction of the Authority.

Change of Control

- 25.13. The Grant Recipient shall notify the Authority immediately in writing and as soon as the Grant Recipient is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control and provided such notification does not contravene any Law.
- 25.14. The Grant Recipient shall ensure that any notification made pursuant to paragraph 25.13 shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.
- 25.15. If the Authority, acting reasonably, considers that:
- 25.15.1. the Change of Control will be materially detrimental to the Funded Activities and/or;
 - 25.15.2. the new body corporate cannot continue to receive the Grant because they do not meet the Eligibility Criteria used to award the Grant to the Grant Recipient;
 - 25.15.3. the Authority believes that the Change of Control would raise national security concerns and/or;

25.15.4. the new body corporate intends to make fundamental change(s) to the purpose for which the Grant was given;

the Authority shall be entitled to exercise its rights under paragraph 25.1 of these Conditions to reduce, suspend, or terminate payments of Grant, require any part or all of the Grant to be repaid and/or terminate the Grant Funding Agreement by providing the Grant Recipient with notification of its proposed action in writing within three (3) months of:

- (i) being notified in writing that a Change of Control is anticipated or is in contemplation or has occurred; or
- (ii) where no notification has been made, the date that the Authority becomes aware that a Change of Control is anticipated or is in contemplation or has occurred,

25.16. The Authority shall not be entitled to terminate where an Approval was granted prior to the Change of Control.

General Termination rights

25.17. Notwithstanding the Authority's right to terminate the Grant Funding Agreement pursuant to paragraph 25.4.4 above, either Party may terminate the Grant Funding Agreement at any time by giving at least 3 months written notice to the other Party.

25.18. If applicable, all Unspent Monies (other than those irrevocably committed in good faith before the date of termination, in line with the Grant Funding Agreement and approved by the Authority as being required to finalise the Funded Activities) shall be returned to the Authority within 30 days of the date of receipt of a written notice of termination from the Authority.

25.19. If the Authority terminates the Grant Funding Agreement in accordance with paragraph 25.17 the Authority may choose to pay the Grant Recipient's reasonable costs in respect of the delivery of the Funded Activities performed up to the termination date. Reasonable costs will be identified by the Grant Recipient and will be subject to the Grant Recipient demonstrating that they have taken adequate steps to mitigate their costs. For the avoidance of doubt, the amount of reasonable costs payable will be determined solely by the Authority.

25.20. The Authority will not be liable to pay any of the Grant Recipient's costs or those of any contractor/supplier of the Grant Recipient related to any transfer or termination of employment of any employees engaged in the provision of the Funded Activities.

26. EXIT PLAN

26.1. Where the Authority requires the Grant Recipient to prepare an Exit Plan to allow the cessation or seamless transfer of the Funded Activities, the Grant Recipient shall prepare the Exit Plan within three (3) months of the signing of the Grant Funding Agreement and shall comply with the exit provisions set out in Annex 9 of these Conditions.

27. DISPUTE RESOLUTION

27.1. The Parties will use all reasonable endeavours to negotiate in good faith, and settle amicably, any dispute that arises during the continuance of the Grant Funding Agreement.

27.2. All disputes and complaints (except for those which relate to the Authority's right to withhold funds or terminates the Grant Funding Agreement) shall be referred in the first instance to the Parties Representatives.

- 27.3. If the dispute cannot be resolved between the Parties Representatives within a maximum of 2 months, then the matter will be escalated to formal meeting between the Grant Manager and the Grant Recipient's chief executive (or equivalent).

28. LIMITATION OF LIABILITY

- 28.1. The Authority accepts no liability for any consequences, whether direct or indirect, that may come about from the Grant Recipient running the Funded Activities, the use of the Grant or from withdrawal, withholding or suspension of the Grant. The Recipient shall indemnify and hold harmless the Authority, its Representatives with respect to all actions, claims, charges, demands Losses and proceedings arising from or incurred by reason of the actions and/or omissions of the Grant Recipient in relation to the Funded Activities, the non-fulfilment of obligations of the Grant Recipient under this Grant Funding Agreement or its obligations to Third Parties.
- 28.2. Subject to this paragraph 28, the Authority's liability under this Grant Funding Agreement is limited to the amount of Grant outstanding.

29. VAT

- 29.1. If VAT is held to chargeable in respect of the Grant Funding Agreement, all payments shall be deemed to be inclusive of all VAT and the Authority shall not be obliged to pay any additional amount by way of VAT.
- 29.2. All sums or other consideration payable to or provided by the Grant Recipient to the Authority at any time shall be deemed to be exclusive of all VAT payable and where any such sums become payable or due or other consideration is provided the Grant Recipient shall at the same time or as the case may be on demand by the Secretary of State in addition to such sums or other consideration pay to the Secretary of State all the VAT so payable upon the receipt of a valid VAT invoice.

30. CODE OF CONDUCT FOR GRANT RECIPIENTS

- 30.1. The Grant Recipients acknowledges that by signing the Grant Funding Agreement it agrees to take account of the Code of Conduct for Grant Recipients (the **Code of Conduct**²) and that it will ensure that its Representatives undertake their duties in a manner consistent with the principles set out in the Code of Conduct.
- 30.2. The Grant Recipient shall immediately notify the Authority if it becomes aware of any actual or suspected breaches of the principles outlined in the Code of Conduct.
- 30.3. The Grant Recipient acknowledges that a failure to notify the Authority of an actual or suspected breach of the Code of Conduct may result in the Authority immediately suspending the Grant funding, terminating the Grant Funding Agreement and taking action to recover some or all of the funds paid to the Grant Recipient as a civil debt in accordance with paragraph 25.3.12

31. NOTICES

- 31.1. All notices and other communications in relation to this Grant Funding Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or

² <https://www.gov.uk/government/publications/supplier-code-of-conduct>

mailed (first class postage prepaid) to the address of the relevant party, as referred to in Annex 7 or otherwise notified in writing. All notices and other communications must be marked for the attention of the contact specified in Annex 7 (Contact Details). If personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any Working Day they shall be deemed received on the next Working Day) and if mailed all such communications shall be deemed to have been given and received on the second Working Day following such mailing.

32. GOVERNING LAW

32.1. These Conditions will be governed by and construed in accordance with the law of England and Wales and the Parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

SIGNED by:
Signature

**for and on behalf of the
Department for Business,
Energy and Industrial
Strategy**
Title
.....
Date

SIGNED by
Signature

for and on behalf of []
Title
.....
Date

**ANNEX 1 – GRANT OFFER LETTER AND GRANT APPLICATION
PART A - GRANT OFFER LETTER**



[Date]

[Grantee address]

Dear [insert name]

Smart Energy Savings Grant (Phase 1)

1. The Secretary of State for Business, Energy and Industrial Strategy (referred to in this letter as “**We**”/ “**Us**”/ “**Our**”), offers [insert name of grantee, and company number, if a company] (referred to in this letter as “**You**”/ “**Your**”) a grant (“**Grant**”) subject to Your agreement to, and compliance with, the terms and conditions set out or referred to in this letter, its Appendices and Schedules. These terms and conditions should be read in conjunction with the standard terms and conditions in the Grant Funding Agreement and accompanying Annexes issued by Us (**the “Grant Funding Agreement”**), which together comprise the “Agreement” on which the Grant is given by Us to You.
2. This offer is made pursuant to Your successful application in the recent call **Department for Business, Energy and Industrial Strategy’s Smart Energy Savings Competition issued on 18th February 2019**.
3. The Grant is offered under section 5 of **Science and Technology Act 1965**.

Amount of Grant

4. The maximum amount of Grant offered is up to [insert amount in figures (insert amount in words)]. This is the total amount of Grant that We may pay and this amount will not be increased as a result of any overspend or otherwise.

[Consortia]

Purpose of Grant

5. The Grant is offered to You to contribute to certain expenditure (see paragraphs 7 to 8) (“**Eligible Expenditure**”) where that expenditure is reasonably incurred by You in undertaking [summarise the project] (“**the Funded Activities**”).
6. A description of the Funded Activities is set out in **Annex 2** to the Grant Funding Agreement.

Eligible Expenditure

7. Subject to paragraphs 8 and 9, the Eligible Expenditure is limited to the costs specified in **Annex 5** to the Grant Funding Agreement and the Eligible Expenditure within the scope of *Article 25 (Aid for research and development projects)* of the EU State Aid General Block Exemption Regulation referred to in paragraph 16 below.
8. Under no circumstances may the Grant be claimed or used to cover any Ineligible Expenditure listed in paragraph 5.4 of the Grant Funding Agreement or to cover costs incurred for those purposes (and any such costs do not constitute Eligible Expenditure for the purposes of this letter). The Eligible Expenditure must be kept to the minimum for the efficient conduct of the Funded Activities, and expenditure that We reasonably determine to be in excess of that amount does not constitute Eligible Expenditure.

Funding Period

9. The Eligible Expenditure for which the Grant is awarded is expenditure limited to costs which are incurred between **[the date You sign this letter] [or insert the date]** and the Phase 1 end date **31st October 2019**.

Payment of Grant

10. The Grant will be paid in accordance with the instalments in **Annex 3** to the Grant Funding Agreement, in arrears, on a reimbursement basis upon receipt from You of a **Grant claim Form** in the form set out in **Appendix 1 to this letter** by the deadlines specified in the Grant Funding Agreement.

Accountable Officer

- 11.1 You must appoint a person (the “Accountable Officer”) responsible for ensuring that You use the Grant in compliance with the Agreement and notify Us of the identity of the Accountable Officer. We must approve the appointment of any person who is not the Chief Executive Officer or Chief Financial Officer.
- 11.2 The Accountable Officer must maintain oversight of Your use of the Grant and:
 - a) safeguard, control and ensure the efficient, economical and effective management of the Grant;
 - b) advise You on the discharge of Your responsibilities under the Agreement and under any subsequent terms and conditions agreed by You and Us, or any guidance or other information notified by Us;
 - c) ensure that principles of probity, robust governance, transparency and value for money are maintained at all times in relation to the Grant;
 - d) be responsible for signing the accounts relating to the Grant, ensuring that they are properly prepared and presented and that proper accounting records are

maintained in a form that complies with generally accepted accounting practices to which You are subject; and

- e) ensure that conflicts of interest are avoided.

Grant Claims

- 12. Your Grant claim[s] must include the following:
 - a) the information and evidence required for the relevant instalment in paragraph 4 of the Grant Funding Agreement; and
 - b) accompanying that information and evidence, the appropriate assurance required by paragraph 8 of the Grant Funding Agreement.

Conditions Precedent

- 13. The offer of Grant is conditional on You providing Us with the following:
 - a) the completed and signed form in Annex 4 of the Grant Funding Agreement confirming Your bank details and the details of Your signatories;
 - b) evidence showing that an Accountable Officer has been appointed;
 - c) [evidence that a consortium agreement is in place between all project partners] (*to be included where appropriate*)
- 14. You must ensure that We receive the information and evidence required above on or by the first milestone set out in Annex 3 of the Grant Agreement. Should You fail to do so, or should We reasonably conclude that the information and evidence provided prior to that deadline is unsatisfactory, We shall be entitled to withdraw the Grant (and any Grant already paid by then will be repayable with interest).

EU state aid

- 15. It is important to ensure that the Grant is not, and does not become, an unlawful state aid under Article 107 of the Treaty on the Functioning of the European Union. State aid rules ensure that the governments of EU Member States do not unfairly subsidise their own industry or particular parts of it.
- 16. In this case, the Grant is awarded under the EU State Aid General Block Exemption Regulation (“**GBER**”)³ and is subject to the conditions in **Annex 10 to the Grant Funding Agreement**.

³ Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.06.14, p.1).

Conditions

17. You must comply with the standard terms and conditions set out in the Grant Funding Agreement which apply to this Grant and accompany this letter, in addition to all other requirements set out or referred to in this letter and its Appendices.
18. The standard terms and conditions in the Grant Funding Agreement are amended as follows:

In paragraph 8.1 of the standard terms and conditions in the Grant Funding Agreement the requirement to provide independent assurance and certification of Grant claims by an independent auditor shall apply to this grant offer letter as follows:

Director's declaration

Your Grant claim[s] must be accompanied by a statement by one of Your directors (or if You are not a company, an officer of equivalent status) in the following terms:

"I confirm that I have considered the information and evidence provided in support of this Grant claim, and the terms and conditions of the Grant and that:

- a) the information and evidence is complete, true and accurate. If I give information which I know is not correct or complete, I understand that action may be taken against me; and
- b) we have complied with the terms and conditions of the Grant.

Reasonable assurance report

In addition to a statement by one of your directors, Your Grant claim[s] must be accompanied by a reasonable assurance report from an independent reporting accountant in the form in **Schedule 1** to this letter if You have:

- a) incurred Eligible Expenditure of £100,000 (one hundred thousand pounds) or more;
or
- b) the total amount of the Grant is £1 million (one million pounds) or more.

Accountants: engagement terms

Where an assurance report is required, You must engage the relevant accountant on the terms in **Schedule 2** to this letter. The documentation in Schedules 1 to 2 is based on templates in Technical Release AAF 01/10 (Framework Document for accountants' reports on grant claims) of the Institute of Chartered Accountants in England and Wales (ICAEW). You must not materially modify those terms and conditions without the prior consent in writing of the Secretary of State.

Accountant’s payment

Where an assurance report is required, You are responsible for paying the accountant’s fees and must not use the Grant to do so.

19. In the event of any conflict or inconsistency between the Grant offer letter and the Grant Funding Agreement, the Grant offer letter takes precedence.

Notices and contact

22. In communicating with Us, Your contact within the Department of Business, Energy and Industrial Strategy is:

[Insert contact details]

Duration of offer

23. This offer remains open until 5pm on xxxx 201*, at which point it expires. If You wish to accept this offer, You must ensure that We receive Your formal acceptance, in full compliance with the acceptance requirements below, on or by that time.

Acceptance

24. If You wish to accept this offer, You must sign and date both copies of the Grant Funding Agreement and the grant offer letter appended to each Grant Funding Agreement and return one signed copy to Us. It must be signed by someone who is authorised to sign on behalf of your organisation. Please provide evidence of their authority to sign and bind your organisation. Please also provide a day to day contact name and email address.

Yours sincerely,

..... [Insert BEIS signatory]

Acceptance

24. If You wish to accept this offer, You must sign and date this letter as indicated below. It must be signed by someone who is authorised to sign on behalf of Your organisation. Please also provide a date to day contact name and email address.

Agreement

I confirm, for and on behalf of the [**insert name of Grantee**], the agreement of [**insert name of Grantee**] to the terms and conditions set out or referred to in this letter and its Appendices and Schedules.

Signed:

Printed Name:

Position:

Date:

Day to day contact for the Grant:

Name:

Position:

Email address:

Accountable Officer for the Grant:

Name:

Email address:

APPENDIX 1

GRANT CLAIM FORM

CLAIM FOR PAYMENT OF GRANT

This form must be used when you wish to claim an instalment of the Grant. When making a Grant claim, as set out in the standard terms and conditions of in the Grant Funding Agreement, We may request and You must supply proof of expenditure and any other supporting documentation and information in addition to the Grant claim Form as We may require.

Name of Applicant Organisation:

Period of claim (Month) 201X to 31 October 2019

Period	Grant claimed this period <i>(excluding Administration costs)</i>	Activities undertaken and Eligible Expenditure incurred	Evidence provided in support	Total Grant claimed this period (including Administration costs)
Totals				

DEPARTMENT FOR BUSINESS, ENERGY & INDUSTRIAL STRATEGY

SCHEDULE 1
REASONABLE ASSURANCE REPORT

To: Directors and the Secretary of State for Business, Energy and Industrial Strategy (“BEIS”)

This report is produced in accordance with the terms of our letter of engagement dated [XX] for the purpose of reporting to [the directors of client] (the ‘company’) and BEIS in connection with the Grant claim for the monies receivable from BEIS under its Grant Funding Agreement dated X in respect of [project name] [for the period ended [date]] and in accordance with the terms of our engagement letter dated [date] (attached).

Our report is prepared solely for the confidential use of [insert name of grant recipient] and BEIS, and solely for the purpose of facilitating the grant claim. This report is released to [insert name of grant recipient] and BEIS on the basis that it shall not be copied, referred to or disclosed, in whole or in part (save as otherwise permitted by agreed written terms), without our prior written consent except where there is a statutory requirement of disclosure. Without assuming or accepting any responsibility or liability in respect of this report to any party other than [insert name of grant recipient] and BEIS, we acknowledge that [insert name of grant recipient] and BEIS (or one of them) may be required to disclose this report to parties demonstrating a statutory right to see it, to enable such parties to exercise statutory rights of access to this report.

This report is designed to meet the agreed requirements of [insert name of grant recipient] and BEIS and particular features of our engagement determined by their needs at the time. This report should not therefore be regarded as suitable to be used or relied on by any other party wishing to acquire any rights against [name of accountant] for any purpose or in any context. Any party other than [insert name of grant recipient] and BEIS which obtains access to this report or a copy and chooses to rely on this report (or any part of it) will do so at its own risk. To the fullest extent permitted by law, [name of accountant] will accept no responsibility or liability in respect of this report to any other party and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by any person’s reliance on representations in this report.

As directors of the company, you are responsible for ensuring that the company maintains accounting records which disclose with reasonable accuracy, at any time, the financial position of the company, and in respect of grant claims, as the company’s directors (the ‘directors’) you are responsible for compiling claims in accordance with the Grant Funding Agreement, ensuring that only eligible items are included in each grant claim and for ensuring that all terms of such offer letters have been complied with or varied in writing with the provider. It is also the directors’ responsibility to extract relevant financial information from the company’s accounting records, to make the calculations specified in the grant offer letter, and to provide relevant financial information to BEIS.

Our approach

We conducted our engagement in accordance with ISAE 3000 (*Assurance engagements other than audits and reviews of historical financial information*). We performed a reasonable assurance engagement as defined in the framework. For the purpose of the engagement we

have been provided by the directors with a schedule (attached to this report) (“the schedule”) showing the company’s eligible expenditure and the Grant Funding Agreement. The directors of the company remain solely responsible for the schedule.

The objective of a reasonable assurance engagement is to perform such procedures as to obtain information and explanations which we consider necessary in order to provide us with sufficient appropriate evidence to express a positive conclusion on the schedule.

[Inherent limitations]

[The following two paragraphs only to be used only where the accountants are the auditors of the grant recipient]

[Our audit work on the financial statements of [grant recipient] is carried out in accordance with our statutory obligations and is subject to separate terms and conditions. This engagement will not be treated as having any effect on our separate duties and responsibilities as [grant recipient]’s external auditors. Our audit report on the financial statements is made solely to [grant recipient]’s members, as a body, in accordance with Chapter 3 of Part 16 of the Companies Act 2006. Our audit work has been undertaken so that we might state to [grant recipient]’s members those matters we are required to state to them in an auditor’s report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than [grant recipient] and [grant recipient]’s members as a body, for our audit work, for our audit reports, or for the opinions we have formed.]

To the fullest extent permitted by law we do not and will not, by virtue of our reports/confirmations or otherwise, assume or accept any duty of care or liability under this engagement to [grant recipient] or to [BEIS] or to any other party, whether in contract, negligence or otherwise in relation to our audits of [grant recipient]’s financial statements.]

Conclusion

In our opinion, [the schedule] has been prepared, in all material respects, and the expenditure has been incurred, in accordance with the Grant Funding Agreement.

or

Except for [detail minor exceptions noted], in our opinion [the schedule] has been prepared, in all material aspects, and the expenditure has been incurred, in accordance with the Grant Funding Agreement.

or

In our opinion [the schedule] has not been prepared, in all material respects, and the expenditure has been incurred, in accordance with the Grant Funding Agreement.

[insert details of issues leading to qualification of opinion]

Firm of Accountants
Office
Date

SCHEDULE 2
REPORTING ACCOUNTANTS: LETTER OF ENGAGEMENT

Letter of engagement

The following are the pre-agreed terms of engagement on which the [grant recipient] engages accountants to perform [a reasonable assurance report] in connection with the [name of [grant claim]].

The Secretary of State for Business, Energy and Industrial Strategy (“BEIS”) accepts that an agreement between the [grant recipient], its reporting accountants and BEIS on these terms is formed when the accountants sign and submit to BEIS a report as set out in clause 3 below.

NB: BEIS will not need to sign anything. By publishing this document BEIS confirms that these pre-agreed terms form its agreement with [grant recipient] and the reporting accountants. Once the accountants’ report is submitted to BEIS in accordance with these terms BEIS will accept that an agreement is formed. If the terms of the standardised engagement letter are to be revised, BEIS will need to confirm its acceptance of the new terms before an agreement is formed.

In these terms of engagement:

1. Introduction

The [grant recipient] is required to submit to BEIS reports as set out in clause 3 below that are also signed by an accountant to provide independent assurance. These terms of engagement set out the basis on which the accountant will sign the report.

2. The [grant recipient]’s responsibilities

- 2.1 The [grant recipient] is responsible for producing information, maintaining proper records complying with the terms of any legislation or regulatory requirements and BEIS’s terms and conditions of grant (‘the grant conditions’) and providing relevant information to BEIS in accordance with the requirements of the grant conditions. The [grant recipient] is responsible for ensuring that the non-financial records can be reconciled to the financial records.
- 2.2 The management of the [grant recipient] will make available to the accountant all records, correspondence, information and explanations that the accountant considers necessary to enable the accountant to perform the accountant’s work.
- 2.3 The [grant recipient] and BEIS accept that the ability of the accountant to perform its work effectively depends upon the [grant recipient] providing full and free access to the financial and other records and the [grant recipient] shall procure that any such records held by a third party are made available to the accountant.

2.4 The accountant accepts that, whether or not the [grant recipient] meets its obligations, the accountant remains under an obligation to BEIS to perform its work with reasonable care. The failure by the [grant recipient] to meet its obligations may cause the accountant to qualify its report or be unable to provide a report.

3. Scope of the accountant's work

3.1 The [grant recipient] will provide the accountant with such information, explanations and documentation that the accountant considers necessary to carry out its responsibilities. The accountant will seek written representations from management in relation to matters for which independent corroboration is not available. The accountant will also seek confirmation that any significant matters of which the accountant should be aware have been brought to the accountant's attention.

3.2 The accountant will perform carry out a [limited][reasonable] level of assurance assignment and subject to any adverse findings will produce a report in the form set out in [Appendix X].

3.3 The accountant will not subject the information provided by the [grant recipient] to checking or verification except to the extent expressly stated. While the accountant will perform the accountant's work with reasonable skill and care, the accountant's work should not be relied upon to disclose all misstatements, fraud or errors that might exist.

4. Form of the accountant's report

4.1 The accountant's reports are prepared on the following bases:

4.1.1 the accountant's reports are prepared solely for the confidential use of the [grant recipient] and BEIS and solely for the purpose of submission to BEIS in connection with BEIS's requirements in connection with [name of grant]. They may not be relied upon by the [grant recipient] or BEIS for any other purpose;

4.1.2 without imposing on the accountant and without the accountant assuming (or being perceived as assuming) any duty or responsibility and without imposing or accepting any liability to anyone except the [grant recipient] and BEIS, BEIS may disclose the reports to the European Commission for state aid purposes, Parliament, the Comptroller and Auditor General (NAO) and others who demonstrate statutory rights of access to the report;

4.1.3 neither the [grant recipient], BEIS [or others] may rely on any oral or draft reports the accountant provides. The accountant accepts responsibility to the [grant recipient] and BEIS for the accountant's final signed reports only;

4.1.4 the report will be prepared solely for the confidential use of [grant recipient] and BEIS, and solely for the purpose of facilitating the grant claim. The report will be released to the [grant recipient] and BEIS on the basis that it shall not be copied, referred to or disclosed, in whole or in part (save as otherwise permitted by agreed written terms), without the accountant's prior written consent, except

where there is a legal or statutory right of access. Without assuming or accepting any responsibility or liability in respect of the report to any party other than [grant recipient] and BEIS, we acknowledge that [grant recipient] and BEIS (or one of them) may be required to disclose this report to parties demonstrating a statutory right to see it, to enable such parties to exercise their statutory rights of access to this report;

4.1.5 to the fullest extent permitted by law, except for the [grant recipient] and BEIS, the firm of accountants, its partners and staff neither owe nor accept any duty to any person (including, without limitation, any person who may use or refer to any of BEIS's publications) and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by any person's reliance on representations in the accountant's reports.

5. Liability provisions

- 5.1 The accountant will perform the engagement with reasonable skill and care and accepts responsibility to the [grant recipient] and to BEIS for losses, damages, costs or expenses ('losses') caused by its breach of contract, negligence or wilful default, subject to the following provisions:
- 5.1.1 The accountant will not be responsible or liable if such losses are due to the provision of false, misleading or incomplete information or documentation or due to the acts or omissions of any person other than the accountant, except where, on the basis of the enquiries normally undertaken by accountants within the scope set out in these terms of engagement, it would have been reasonable for the accountant to discover such defects.
- 5.1.2 The accountant accepts liability without limit for the consequences of its own fraud and for any other liability which it is not permitted by law to limit or exclude.
- 5.1.3 Subject to the previous paragraph (5.1.2), the total aggregate liability of the accountant whether in contract, tort (including negligence) or otherwise, to each of the [grant recipient] and BEIS, arising from or in connection with the work which is the subject of these terms (including any addition or variation to the work), shall not exceed the maximum value of the relevant Grant instalment to which the Grant claim relates (as set out in the Grant Funding Agreement).
- 5.2 The [grant recipient] and BEIS agree that they will not bring any claims or proceedings against any individual partners, members, directors or employees of the accountant. This clause is intended to benefit such partners, members, directors and employees who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999 ('the Act'). Notwithstanding any benefits or rights conferred by this agreement on any third party by virtue of the Act, the parties to this agreement may agree to vary or rescind this agreement without any third party's consent. Other than as expressly provided in these terms, the Act is excluded.
- 5.3 Any claims, whether in contract, negligence or otherwise, must be formally commenced within 4 years after the party bringing the claim becomes aware (or ought

reasonably to have become aware) of the facts which give rise to the action and in any event no later than 6 years after relevant report was issued (or, if no report was issued, when the accountant accepted the engagement in writing). This expressly overrides any statutory provision which would otherwise apply.

- 5.4 This engagement is separate from and unrelated to any audit work of the accountant on the financial statements of the [grant recipient] for the purposes of any applicable statutory or regulatory or other auditing framework and nothing herein creates obligations or liabilities regarding the accountant's audit work, which would not otherwise exist.

6. Fees

The accountant's fees, together with VAT and out-of-pocket expenses, will be agreed with and billed to the [grant recipient]. BEIS is not liable to pay the accountant's fees.

7. Quality of service

The accountant will investigate all complaints. BEIS or the [grant recipient] have the right to take any complaint to the ICAEW. BEIS or the [grant recipient] may obtain an explanation of the mechanisms that operate in respect of a complaint to the ICAEW at www.icaew.co.uk/complaints or by writing to the ICAEW at the ICAEW Professional Standards Office, Metropolitan House, 321 Avebury Boulevard, Milton Keynes MK9 2FZ UK.

8. Providing services to other parties

The accountant will not be prevented or restricted by virtue of the accountant's relationship with the [grant recipient] and BEIS, including anything in these terms of engagement, from providing services to other clients. The accountant's standard internal procedures are designed to ensure that confidential information communicated to the accountant during the course of an assignment will be maintained confidentially.

9. Applicable law and jurisdiction

- 9.1 This agreement shall be governed by and interpreted and construed in accordance with the law of England.
- 9.2 The [grant recipient], BEIS and the accountant irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaims) which may arise on any basis in connection with the validity, effect, interpretation or performance of, or the legal relationship established by this agreement or otherwise arising in connection with this agreement.

10. Alteration to terms

All additions, amendments and variations to these terms of engagement shall be binding only if in writing and signed by the duly authorised representatives of the parties. These terms supersede any previous agreements and representations (unless based on fraud) between the parties in respect of the scope of the accountant's work and the accountant's report or the obligations of any of the parties relating thereto (whether oral or written) and represents the entire agreement and understanding between the parties. These terms do not affect any separate agreement in writing between the [grant recipient] and the accountant.

ANNEX 1

PART B – GRANT RECIPIENT'S [GRANT APPLICATION]

[Include the Grant Recipient's application here]

ANNEX 2 –THE FUNDED ACTIVITIES

1. Background/purpose of the Grant

We expect this to be populated with our requirements from the Competition proposal and the Project Proposal

1.1. Aims and objectives of the Funded Activity

We expect this to be populated with our requirements from the Competition proposal and the Project Proposal

2. Funded Activities

The table below outlines the work packages to be completed during Phase 1 of the project.

Work package number	Work package name	Project partner lead for work package	Brief description of work package, including key tasks
WP1			
WP2			
WP3			
WP4			

ANNEX 3 – PAYMENT SCHEDULE

Company/Consortia	
Name of project	
Grant size requested (£)	
Grant size awarded (£)	
Date	
Version	

Milestone Description	No:	Due	Maximum grant payable	Evidence of achievement to be provided	Verification criterion

Approved Match Funding

GRANT FUNDING PERIOD	TOTAL MATCH FUNDING RECEIVED	MATCH FUNDING PAYMENT DATE
Year 1		

ANNEX 4 – GRANT RECIPIENT’S BANK DETAILS

Guidance: The Grant Recipient must complete parts 1 to 5. Part 5 must only be completed by the person who signed the Grant Letter/ Agreement with the Authority, or their replacement.

The Grant Recipient should take a photocopy of the form for their records and return the original along with the signed Grant Funding Agreement to the address indicated in the Grant Letter.

Part 1: Grant recipient details

Name of Main Grant Holder <input style="width: 95%; height: 25px;" type="text"/>	Address of Grant Holder <input style="width: 95%; height: 100px;" type="text"/>
Grant Determination number <input style="width: 95%; height: 25px;" type="text"/>	Postcode: <input style="width: 95%; height: 25px;" type="text"/>
Grant name <input style="width: 95%; height: 25px;" type="text"/>	Contact telephone number <input style="width: 95%; height: 25px;" type="text"/>

Part 2: Bank details

Bank / Building Society name <input style="width: 95%; height: 25px;" type="text"/>	Account name <input style="width: 95%; height: 25px;" type="text"/>
Branch name <input style="width: 95%; height: 25px;" type="text"/>	Account number <input style="width: 95%; height: 25px;" type="text"/>
Bank sort code <input style="width: 20px; height: 20px;" type="text"/> - <input style="width: 20px; height: 20px;" type="text"/> - <input style="width: 20px; height: 20px;" type="text"/>	Account type <input style="width: 95%; height: 25px;" type="text"/>
Building Society roll number <input style="width: 95%; height: 25px;" type="text"/>	Branch address <input style="width: 95%; height: 25px;" type="text"/>
	Postcode: <input style="width: 95%; height: 25px;" type="text"/>

Part 3: Address for remittance advice

<p>Choose one method only</p> <p>Send our remittance advice by post <input type="checkbox"/> ►</p> <p>Send our remittance advice via email <input type="checkbox"/></p>	<p>Postal address (if different from Part 1) <input style="width: 95%; height: 25px;" type="text"/></p> <p>Postcode <input style="width: 95%; height: 25px;" type="text"/></p>
--	--

Part 4: Authorised signatories

The names and specimen signatures of people authorised to sign claim forms on behalf of the person who signed the Grant Funding Agreement are shown below. These signatures are binding on this organisation in respect of the Agreement.

Name

Position in the organisation

Signature

Date

--	--	--	--	--

Name

Position in the organisation

Signature

Date

--	--	--	--	--

Part 5: Grant recipient declaration

To be completed by the person who signed the Grant Letter/ Grant Funding Agreement

- I certify that the information given on this form is correct.
- I agree that following discussions, any overpayments can be automatically recovered from future payments.

Name

Signature *(the person who signed the agreement)*

Date

--	--	--	--	--

Return this form to the address indicated in the Grant Letter, alongside a signed Grant Funding Agreement.

General Data Protection Regulation (2018): The information on this form will be recorded on the Authority's computer system. The information provided will be used for paying your fees and will not be passed to anyone outside of the Authority without the permission of the Grant Recipient.

ANNEX 5 – ELIGIBLE EXPENDITURE SCHEDULE

(breakdown of forecast grant expenditure)

Item of Expenditure	Budget (in UK Sterling)/forecast expenditure

ANNEX 6 – AGREED OUTPUTS AND LONG TERM OUTCOMES

The Grant Recipient is required to achieve the following milestones and performance measures in connection with the Grant:

Agreed Outputs

The outputs of Phase 1 of the Project will be:

Information provided to, and engagement with, the separately contracted Trial Design and Evaluation Lead (TDEL)

- Share development plans with the TDEL and refine based on feedback.
- Work together to develop the trial design for Phase 2.

Reporting to BEIS

- A project kick-off meeting with BEIS.
- Quarterly reports and meetings to discuss project progress against milestones.
- A final Phase 1 report which is envisaged to include:
 - general description of development activities
 - testing results and associated learning.
- Updated Phase 2 application based on the trial design developed in Phase 1.
- A final presentation at the end of Phase 1 to discuss both the Phase 1 report and the updated Phase 2 application.

Agreed Milestones

The agreed milestones are those listed in the Payment Schedule in Annex 3 of this Agreement.

Key Performance Indicators (KPIs)

Report on the following relevant BEIS Energy Innovation Portfolio KPI Performance Metrics. Successful applicants will be required to complete the Project Data Collection and Reporting Template (to be supplied by BEIS) at the start of the project and to revise it at end of this grant award (i.e. end of Phase 1). Upon completion, successful applicants will return the template to the BEIS Project Officer who will review, and quality assure it.

A follow-up review, 3+ years post project completion, may also be undertaken, with focus on demonstrated Technology Readiness Levels (TRLs), follow-on funding, and products & services sold.

These Performance KPIs are taken from the BEIS Energy Innovation Portfolio. BEIS will provide guidance on the definition and application of the KPIs for this Competition. The KPIs include but may not be limited to:	
KPI 3	Number (and size) of Organisations supported to deliver project (Lead Partner and Other Organisations as named on grant offer/ contract)
KPI 4	Number of active Business Relationships and Collaborations supported (Formal and Informal, Overall and New)
KPI 5	Advancement of Low Carbon Solutions- Technology Readiness Levels
KPI 6i	Initial Financial Leverage from private sector to deliver project
KPI 6ii	Follow-on Funding to take project further forward
KPI 7i	A. Reduced Unit Cost of energy- LCOE (if relevant)
	B. Potential Reduced Unit Cost up to 2032 (if relevant)
KPI 7ii	A. Increased Energy Efficiency/ Reduced Energy Consumption*
	B. Potential Increased Energy Efficiency up to 2032

KPI 7iii	A. Increased energy system flexibility (if relevant)
	B. Potential Increased Energy System Flexibility up to 2032 (if relevant)
KPI 8	Number of products (and services) sold in UK and Internationally
KPI 9	Potential reduction in CO2 emissions savings of project up to 2032

*Evidence gathered for 7ii (Reduced Energy Consumption) will be collected by the TDEL as part of their evaluation. Successful applicants can expect TDEL support in reporting the data for this metric in the template.

ANNEX 7 – CONTACT DETAILS

The main departmental contact in connection with the Grant is:

Name of contact	[]
Position in organisation	[]
Email address	[]
Telephone number	[]
Fax number	[]
Postal address	[]

This information is correct at the date of the Grant Funding Agreement. The Authority will send you a revised contact sheet if any of the details changes.

The Grant Recipient's main contact in connection with the Grant Funding Agreement is:

Reference	
Organisation	[]
Name of contact	[]
Position in organisation	[]
Email address	[]
Telephone number	[]
Fax number	[]
Postal address	[]

Please inform the Authority if the Grant Recipient's main contact changes.

ANNEX 8 – DATA PROTECTION PROVISIONS

DATA PROTECTION LEGISLATION PARAGRAPH DEFINITIONS:

Breach, Data Protection Officer and Data Subject, take the meaning given in the GDPR.

Data Protection Impact Assessment: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by the Processor under these Conditions, and/or actual or potential loss and/or destruction of Personal Data in breach of these Conditions, including any Personal Data Breach.

Data Subject Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

GDPR: the General Data Protection Regulation (*Regulation (EU) 2016/679*).

LED: Law Enforcement Directive (*Directive (EU) 2016/680*).

Processor Personnel: means all directors, officers, employees, agents, consultants and Recipients of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under these Conditions.

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule [x] (Security).

Sub-processor: any Third Party appointed to process Personal Data on behalf of that Processor related to these Conditions.

DATA PROTECTION

1. DATA PROTECTION

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Grant Recipient is the Processor unless otherwise specified in Annex A. The only processing that the Processor is authorised to do is listed in Annex A by the Controller and may not be determined by the Processor.
- 1.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 1.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

- 1.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under these Conditions:
- (a) process that Personal Data only in accordance with Annex A, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that :
 - (i) the Processor Personnel do not process Personal Data except in accordance with these Conditions (and in particular Part 1 of Annex A);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this paragraph;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any Third Party unless directed in writing to do so by the Controller or as otherwise permitted by these Conditions; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
 - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.
- 1.5 Subject to paragraph 1.6, the Processor shall notify the Controller immediately if it:
- (a) receives a Data Subject Request (or purported Data Subject Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under these Conditions;
 - (e) receives a request from any Third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

- (f) becomes aware of a Data Loss Event.
- 1.6 The Processor's obligation to notify under paragraph 1.5 shall include the provision of further information to the Controller in phases, as details become available.
- 1.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event;
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 1.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this paragraph. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the processing is not occasional;
 - (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 1.10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
- 1.11 Before allowing any Sub-processor to process any Personal Data related to these Conditions, the Processor must:
- (a) notify the Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this paragraph 1.11 such that they apply to the Sub-processor; and
 - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 1.12 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this paragraph by replacing it with any applicable controller to processor standard paragraphs or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to these Conditions).
- 1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend these Conditions to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 1.15 Where the Parties include two or more Joint Controllers as identified in Part 1 of Annex A in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Part 2 of Annex A in replacement of paragraphs 1.1-1.14 for the Personal Data under Joint Control.

ANNEX 8 PART 1: SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Controller at its absolute discretion.

1. The contact details of the Controller's Data Protection Officer are: [Insert Contact details]
2. The contact details of the Processor's Data Protection Officer are: [Insert Contact details]
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of the Controller and Processor	<p>To be confirmed:</p> <p><i>“Notwithstanding paragraph 1.1 the Parties acknowledge that they are also Joint Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <p><i>[Insert the scope of Personal Data which the purposes and means of the processing is determined by the both Parties]</i></p> <p><i>In respect of Personal Data under Joint Control, paragraph 1.1-1.15 will not apply and the Parties agree to put in place a Joint Controller Agreement as outlined in Part 2 of Annex A instead.”</i></p>
Subject matter of the processing	[To be added]
Duration of the processing	[To be added]
Nature and purposes of the processing	[To be added]
Type of Personal Data being Processed	[To be added]
Categories of Data Subject	[To be added]

<p>Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data</p>	<p>[To be added]</p>
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ANNEX 8

Part 2: Annex for Joint Controller Agreements

[Guidance: insert only where Joint Controller applies]

In this Annex the Parties must outline each party's responsibilities for:

- providing information to data subjects under [Article 13 and 14](#) of the GDPR.
- responding to data subject requests under [Articles 15-22](#) of the GDPR
- notifying the Information Commissioner (and data subjects) where necessary about data breaches
- maintaining records of processing under [Article 30](#) of the GDPR
- carrying out any required Data Protection Impact Assessment
- The agreement must include a statement as to who is the point of contact for data subjects.

The essence of this relationship shall be published.

[Guidance: You may wish to incorporate some paragraphs equivalent to those specified in Annex 8 paragraph 1.2-1.14.

You may also wish to include an additional paragraph apportioning liability between the Parties arising out of data protection of data that is jointly controlled.

Where there is a Joint Control relationship, but no Controller to Processor relationship under the contract, this completed Annex 8 Part 2 should be used instead of Annex 8 paragraph 1.1-1.15]

ANNEX 8 Annex for Independent Controller

[Guidance: insert only where the Parties are separate independent Controllers]

1. The Parties acknowledge that for the purpose of Data Protection Legislation the Grant Recipient is the Controller of any Personal Data processed by it pursuant to the Funded Activities. To the extent that the Grant Recipient and the Authority share any Personal Data for the purposes specified in paragraph 4, the Parties acknowledge that they are each separate independent Controllers in respect of such data.
2. The Grant Recipient shall (and shall procure that any of its Representatives shall) adhere to all applicable provisions of the Data Protection Legislation and not put the Authority in breach of the Data Protection Legislation.
3. On request from the Authority, the Grant Recipient will provide the Authority with all such relevant documents and information relating to the Grant Recipient's data protection policies and procedures as the Authority may reasonably require.
4. Subject to clause 6(b), the Grant Recipient agrees that the Authority and its Representatives may use Personal Data which the Grant Recipient provides about its staff and partners involved in the Funded Activities to exercise the Authority's rights under this Agreement and or to administer the Grant or associated activities. Furthermore, the Authority agrees that the Grant Recipient and its Representatives may use Personal Data which the Authority provides about its staff involved in the Funded Activities to manage its relationship with the Authority.
5. The Grant Recipient agrees that the Authority may share details of the Grant, including the name of the Grant Recipient's organisation, with the UK Government [and that these details may appear on the Government Grants Information System database which is available for search by other funders.
6. The Authority and the Grant Recipient shall:
 - (a) ensure that the provision of Personal Data to the other party is in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects); and
 - (b) ensure that it only shares Personal Data with the other party to the extent required in connection with Funded Activity.

7. Where a Party (the "**Data Receiving Party**") receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data shared pursuant to this Agreement:
 - 7.1. the other Party shall provide any information and/or assistance as reasonably requested by the Data Receiving Party to help it respond to the request or correspondence, at the Data Receiving Party's cost; or
 - 7.2. where the request or correspondence is directed to the other party and/or relates to the other party's Processing of the Personal Data, the Data Receiving Party will:
 - (j) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other party that it has received the same and shall forward such request or correspondence to the other party; and
 - (k) provide any information and/or assistance as reasonably requested by the other party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
8. Each party shall promptly notify the other party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other party pursuant to this Agreement and shall:
 - 8.1. do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Breach;
 - 8.2. implement any measures necessary to restore the security of any compromised Personal Data;
 - 8.3. work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - 8.4. not do anything which may damage the reputation of the other Party or that party's relationship with the relevant Data Subjects, save as required by Law.
9. Without limiting any other provision of this Annex 8, Part 2, each of the Parties shall, on request, provide such information and assistance as is reasonably requested by the other Party to assist the other Party in complying with the Data Protection Legislation in respect of the Personal Data.
10. The Authority and the Grant Recipient shall not retain or process Personal Data for longer than is necessary to perform the respective obligations under this Agreement.
11. The Grant Recipient will notify the Authority of any change to its constitution, legal form, membership structure (if applicable) or ownership, and of any complaint or investigation by any regulatory body or the police into its activities or those of its staff or officers or volunteers.

ANNEX 9 - EXIT

1. The following definitions shall apply in addition to the definitions contained in paragraph 2.1 of these Conditions (Definitions):

“Exit Plan” means the plan prepared and submitted by the Grant Recipient to the Authority to enable the smooth closure of transfer of the Funded Activities to the Authority or successor of the Grant Recipient.

General

2. The Grant Recipient will prepare an Exit Plan within the first three months of this Grant Funding Agreement to allow the smooth closure of the Funded Activities.
3. Where the Authority intends to continue the operation of the Funded Activities in broadly the same way after expiry or termination of the Grant Funding Agreement, either by performing them itself or by means of a successor, The Grant Recipient shall endeavour to ensure the smooth and orderly transition of the Funded Activities and shall co-operate with the Authority or the successor, as the case may be, in order to achieve such transition.
4. When such endeavours and co-operation are outside the scope of the Grant, the Grant Recipient shall provide quotations for reasonable charges associated with providing such assistance and the Authority shall pay such reasonable charges.
5. The Grant Recipient will comply with any reasonable request of the Authority for information relating to the performance of the Funded Activities.

Exit Planning

6. The Grant Recipient will, in conjunction with the Authority, maintain, and as necessary update, the Exit Plan throughout the Funding Period so that it can be implemented immediately, if required. From time-to-time either the Authority or the Grant Recipient may instigate a review of the Exit Plan.
7. The Grant Recipient will co-operate with all reasonable requests made by either the Authority or a successor body relating to exit transition arrangements for the Funded Activities.

Assistance

8. The Grant Recipient will use all reasonable endeavours to ensure that a transition of responsibility for the delivery of the Funded Activities to the successor body or the Authority, as the case may be, minimises any detrimental effect on the delivery of the Funded Activities and the Authority will use all reasonable endeavours to co-operate in such transfer.

Assets Register

9. The Grant Recipient shall maintain throughout the exit period of this Grant an asset register in accordance with the Terms and Conditions of the Grant Funding Agreement.

10. The Grant Recipient shall not change the status of any asset without the prior written consent of the Department where such a change would either be viewed as a major change or would require repayment in accordance with the Terms and Conditions of the Grant Funding Agreement.

Documentation and Access

11. The Grant Recipient shall provide the Authority on request with information and documentation reasonably necessary to assist with the transfer of the Funded Activities to the Authority or to a successor body, including any documentation required to support any bidding process for the provision of the Funded Activities. This includes full details of:
 - a) the work programme, objectives/targets, and other services delivered by the Grant Recipient under this Grant Funding Agreement;
 - b) any software, including Third Party software and any hardware used in connection with the delivery of the Funded Activities;
 - c) software and supply agreements used to deliver any services associated with delivery of the Funded Activities, including the agreements relating to any Third Party software identified by name of supplier, term of Grant, and charges payable under the Grant; and
 - d) any employees used by the Grant Recipient to help deliver the Funded Activities who are essential to this delivery; this information shall be provided under conditions of confidentiality reasonably acceptable to the Grant Recipient.
12. The Authority may make the documentation available to suppliers who wish to bid for the provision of the activities. The Grant Recipient shall respond expediently and in full to any reasonable questions by the Authority or the suppliers and shall co-operate with any reasonable due diligence activities carried out by suppliers.

Transfer Support Activities

13. The Grant Recipient shall co-operate with all reasonable requests made by either the Authority or a successor relating to the Funded Activities transition arrangements. The Authority and the Grant Recipient shall discuss the implementation plan for the transition of the activities to either the Authority or a Successor body.

ANNEX 10 - STATE AID GENERAL BLOCK EXEMPTIONS (GBER)

Annex 10 Section 1

Award of aid

FOR PROJECTS THAT INCLUDE EXPERIMENTAL DEVELOPMENT

1. The Grant is awarded as aid for experimental development in accordance with Article 25 (aid for research and development projects) of the EU State Aid General Block Exemption Regulation (“GBER”).
2. The Grant may only be used to contribute to Eligible Expenditure covered by this letter where that expenditure is incurred by You in respect of eligible costs permitted under Article 25(3) of GBER, where these are incurred in a part of the Funded Activities constituting experimental development as defined in Article 2(86) of GBER. The amount of public funding (including the Grant) that You may receive for the Project must not exceed:
 - a. in accordance with Article 4(1)(i)(iii)] of GBER, €15m (fifteen million Euros) in total; and
 - b. in accordance with Article 25(5)(c) and Article 25(6)(b)(ii), an aid intensity being **insert percentage** of Your total Eligible Expenditure incurred on the Funded Activities.
3. For the purpose of paragraph 2, public funding includes any funding from, or attributable to, any public authority or EU institution. **Please note that the maximum aid intensity permitted under paragraph 2 b)** has been increased from **25% of Your Eligible Expenditure** to **the percentage set out in that paragraph** on the basis that **insert justification for increase under the relevant paragraph of Article 25(6)**. Please inform the Authority in writing, and as soon as possible, if these circumstances cease to apply or the Grant Recipient has grounds to consider that they are likely to do so. The Grant Recipient must also provide the Authority with any evidence requested to satisfy it that the Grant Recipient has complied with the aid intensity requirements and that it have sufficient Match Funding in place.

FOR PROJECTS THAT INCLUDE INDUSTRIAL RESEARCH

1. The Grant is awarded as aid for industrial research in accordance with Article 25 (aid for research and development projects) of the EU State Aid General Block Exemption Regulation (“GBER”).
2. The Grant may only be used to contribute to Eligible Expenditure covered by this letter where that expenditure is incurred by You in respect of eligible costs permitted under Article 25(3) of GBER, where these are incurred in a part of the Funded Activities constituting [experimental development as defined in Article 2(86) of GBER. The amount of public funding (including the Grant) that You may receive for the Project must not exceed:
 - a. in accordance with Article 4(1)(i)(ii) of GBER, €20m (twenty million Euros) in total; and

- b. in accordance with Article 25(5)(b) and Article 25(6)(b)(ii), an aid intensity being [insert percentage] of Your total Eligible Expenditure incurred on the Funded Activities.

3. For the purpose of paragraph 2, public funding includes any funding from, or attributable to, any public authority or EU institution. [Please note that the maximum aid intensity permitted under paragraph 2 b) has been increased from [50% of Your Eligible Expenditure] to [the percentage set out in that paragraph] on the basis that [insert justification for increase under the relevant paragraph of Article 25(6)]. Please inform the Authority in writing, and as soon as possible, if these circumstances cease to apply or the Grant Recipient has grounds to consider that they are likely to do so. The Grant Recipient must also provide the Authority with any evidence requested to satisfy it that the Grant Recipient has complied with the aid intensity requirements and that it have sufficient Match Funding in place.

Annex 10 Section 2 General conditions

1. The Grant is awarded subject to the following understandings and conditions:
 - a. The Grant Recipient must comply with all applicable European Union rules on state aid and ensure that all requirements for the application of GBER are met;
 - b. The Grant Recipient is not entitled to the Grant or any payment of it if it is, or becomes, subject to a recovery order following a previous EU Commission decision declaring any aid illegal and incompatible with the internal market⁴;
 - c. The Grant Recipient confirms that it is not a company in difficulty as defined in Article 2.18 of GBER and the Grant Recipient commits to informing the Authority as soon as reasonably practicable of any change in this status; the Authority reserve the right to terminate the Grant Funding Agreement if the Grant Recipient's status changes;
 - d. The Grant Recipient confirms that, prior to the commencement of the Project, the Grant Recipient submitted an application which confirmed the undertaking's name and size, description of the Funded Activities (including its start and end dates), location of the Funded Activities, list of costs and type of aid and amount of public funding required;
 - e. The Grant Recipient informed the Authority of any other public funding applied for or awarded against the Eligible Expenditure; it is on this basis that the Authority has ensured that the total public funding for the Project is within the amounts permitted by GBER;
 - f. The Authority is responsible for informing EU Commission of aid awards, including summary notification of the aid to the Commission via the electronic notification system and publication of details of the aid as required from 1 July 2016;
 - g. in the case of an award of aid in excess of €500,000, the Grant Recipient consent to the publication of the following information: name of the beneficiary, beneficiary's identifier, type of enterprise (SME/large) at the time of granting, region in which the beneficiary is located, at NUTS level 2, sector of activity at NACE group level, aid element, expressed as full amount in national currency, aid instrument, date of granting, objective of aid, granting authority, reference of the aid measure; for schemes under Articles 16 and 21 of GBER, name of the entrusted entity, and the names of the selected financial intermediaries;
 - h. The Grant Recipient is responsible individually, and jointly with the Authority, for maintaining detailed records with the information and supporting documentation necessary to establish that all the conditions set out in the Grant Funding Agreement and the GBER are fulfilled;

⁴ This does not apply to aid schemes making good the damage caused by certain natural disasters

- i. such records shall be maintained for 10 years following the granting of the aid and shall be made available to the EU Commission within a period of 20 working days if requested;
- j. the Authority may (without qualifying the generality of the Authority's monitoring rights under this Grant Funding Agreement) monitor the Grant Recipient's compliance with the requirements of paragraphs h) and i) and for the avoidance of doubt any failure to comply with those requirements (where applicable) shall be deemed a breach of the terms of this letter.