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**ELECTRICITY DEMAND REDUCTION PILOT SCHEME**  
**PARTICIPANT AGREEMENT**  
**TERMS AND CONDITIONS**

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Department of Energy and Climate Change  
5 February 2015

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**PART 1**  
**INTERPRETATION AND TERM**

**1. Defined Terms**

1.1. In these Conditions, capitalised terms have the meaning set out or referred to in Schedule 1 (Defined Terms).

**2. References to the parties**

2.1. In these Conditions:

- a) references to “Our”, “Us” and “We” are to the Secretary of State for Energy and Climate Change; and
- b) references to “You” and “Your” are to the participant in the Scheme as identified in the Award Letter (but, if the participant is an Aggregator, are to be construed in accordance with the participant’s responsibility for its Constituent Clients under clause 39).

**3. References to deadlines and periods of time**

3.1. Deadlines in these Conditions expire at:

- a) 5pm on the day specified or 5pm on the final day of any period of days referred to (as relevant); or
- b) where that day is not a Business Day, 5pm of the following Business Day.

3.2. Periods of days referred to in these Conditions begin on the first Business Day following the relevant event or occurrence to which they relate.

3.3. Where You are required to provide Us with information or evidence, You must ensure that We receive it on or by the relevant deadline in these Conditions.

**4. Other interpretation**

4.1. In these Conditions:

- a) headings are for ease of reference only and do not affect interpretation;
- b) references to clauses are to clauses in these Conditions;
- c) references to the singular include the plural, and vice versa;
- d) “include”, “includes” and “including”, “in particular”, “such as” and similar words and expressions are to be construed as if they were followed by the words “without limitation”;
- e) references to any statutory provision are to that provision as amended or re-enacted (whether before or after the commencement of the Agreement); and

- f) where a Scheme Document has been revised, references to that Scheme Document are to the Revised Version and to the equivalent section in that Revised Version.

## **5. Term of Agreement**

### 5.1. The Agreement:

- a) commences on the date You sign the Award Letter; and
- b) subject to the on-going obligations in clause 48, terminates on 31 March 2017 or on any earlier termination by Us (under clause 34.1).

## **PART 2** **SCHEME PURPOSE AND PRINCIPAL OBLIGATIONS**

## **6. Scheme purpose and overarching requirements**

6.1. The Scheme is a pilot scheme under section 43(1) of the Energy Act 2013.

6.2. The purposes of the Scheme are:

- a) for You to achieve Capacity Savings by:
    - i. replacing existing technology at Sites specified in Your M&V Plan with the replacement technology specified for the relevant Sites in that M&V Plan (“the Replacement Technology”); and
    - ii. operating that Replacement Technology;
- and
- b) for Us to obtain sufficient information from participants to review the operation and effectiveness of the Scheme under section 43(2) of the Energy Act 2013, and to report the results and conclusions of that review to Parliament under section 43(3) of that Act.

6.3. Capacity Savings are reductions in Your demand for grid electricity where that reduction is achieved through more efficient use of grid electricity arising as a result of the operation of the Replacement Technology at the relevant Site during the Peak Applicable Hours in the Winter Peak Period. Reductions in demand for grid electricity achieved by reducing the operation of the relevant Replacement Technology, by operating outside of those hours or by using energy other than grid electricity do not constitute Capacity Savings.

6.4. The timely provision to Us, and retention by You, of complete and accurate information and evidence is a fundamental requirement of the Scheme.

6.5. You have been selected to participate in the Scheme on the understanding that Your Application, and in particular Your M&V Plan, complies in all material aspects, in

accuracy and completeness, with the requirements of the Scheme set out in the Scheme Documents including the M&V Plan Template.

## **7. Operational Verification Obligation**

- 7.1. You must, on or by 15 October 2015, provide Us with sufficient evidence (“the Operational Verification Obligation”) to satisfy Us that:
- a) You have, following the commencement of the Agreement, purchased and installed the Replacement Technology; and
  - b) the Replacement Technology has been properly commissioned and is operational, and that You have undertaken the relevant activities (“Operational Verification Activities”) to verify that this is the case.
- 7.2. Detailed requirements for the Operational Verification Obligation (which do not restrict or qualify the generality of clause 7.1), and the consequences of non-compliance, are set out in Part 3 of these Conditions.

## **8. Savings Obligation**

- 8.1. You must:
- a) in operating the Replacement Technology during the Peak Applicable Hours in the Winter Peak Period, achieve Your Savings Target; and
  - b) on or by 15 April 2016, provide Us with a report (“the Winter Capacity Savings Report”) demonstrating, to Our reasonable satisfaction, that You have complied with the requirements of paragraph a),
- (the requirements of this clause 8.1 together constitute the Savings Obligation).
- 8.2. Detailed requirements for the Savings Obligation (which do not restrict or qualify the generality of clause 8.1) are set out in Part 4 of these Conditions.
- 8.3. If You comply with the Savings Obligation (and no grounds for withdrawal or reduction of the EDR Payment arise under Part 4 or otherwise in these Conditions), We will pay You 80% of the EDR Payment (“the Delivered Savings Payment”).

## **9. Post Winter Peak Obligations**

- 9.1. So as to enable Us to obtain information and evidence relating to the operation and effectiveness of both the Project and the Scheme (including beyond the Winter Peak Period), You must:
- a) on or by 1 December 2016, provide Us with a report (“the Final Report”); and
  - b) until (and including) 31 March 2017, participate in such evaluation activities as We reasonably require,

(the requirements of this clause 9.1 together constitute the “Post Winter Peak Obligations”).

- 9.2. Detailed requirements relating to the Post Winter Peak Obligations are set out in Part 5 of these Conditions.
- 9.3. If You comply with the Post Winter Peak Obligations (and no grounds for withdrawal or reduction of the EDR Payment arise under Part 5 or otherwise in these Conditions), We will pay You the remaining 20% of the EDR Payment for which You are eligible (“the Final Payment”).

**10. Other obligations**

- 10.1. In undertaking the Project and the principal obligations set out and referred to in clauses 7 to 9 of this Part 2, You must:
- a) comply with all other requirements of these Conditions, in particular the requirements in Part 6 of these Conditions; and
  - b) cooperate with Us in the exercise of Our rights under these Conditions.

**PART 3**  
**OPERATIONAL VERIFICATION OBLIGATION**

**11. Operational Verification Obligation: evidence**

- 11.1. The evidence that You are required to provide Us to comply with the Operational Verification Obligation is evidence satisfying the requirements of sections 2.4 and 3.1 of the M&V Manual. That evidence must cover a representative sample of every Technology Type.
- 11.2. In particular, evidence that You have installed the relevant Replacement Technology includes receipts or other proofs of purchase and evidence demonstrating that You have undertaken the Operational Verification Activities (in compliance with clause 12) includes commissioning certificates.
- 11.3. If You are participating as an Aggregator, You must also provide Us with a Confirmation Letter from any Constituent Client who has not already provided a Confirmation Letter as part of Your Application. It is a fundamental requirement of the Scheme that We receive Confirmation Letters from all Constituent Clients, covering the part of the Project being undertaken by them, by the deadline for the Operational Verification Obligation at the latest. If We do not receive those letters, We shall treat the Operational Verification Obligation as having not been complied with in respect of the relevant Sites.
- 11.4. It is also a condition of the Operational Verification Obligation that You satisfy Us that You have complied with any specific pre-condition for Your participation in the Scheme as may be set out in the Award Letter.

**12. Operational Verification Obligation: activities**

- 12.1. The Operational Verification Activities You are required to carry out are such activities as are necessary for the relevant Replacement Technology in accordance with the requirements in sections 2.4 and 3.1 of the M&V Manual.
- 12.2. In particular, You must follow any guidance of the supplier or manufacturer of the relevant Replacement Technology as to the Operational Verification Activities necessary for that Replacement Technology.
- 12.3. The Operational Verification Activities must be carried out by a person of suitable expertise and qualification to do so including (having regard to the relevant Replacement Technology):
  - a) Your own personnel;
  - b) an external consultant; or
  - c) the supplier or manufacturer of the Replacement Technology or their agent.

**13. Operational Verification Obligation: compliance**

- 13.1. We will endeavour to inform You whether We consider that You have complied with the Operational Verification Obligation within 15 (fifteen) Business Days of receipt of satisfactory evidence of operational verification.
- 13.2. We shall determine that You have failed to comply with the Operational Verification Obligation (in whole or in part) where or to the extent that (on the basis of the information and evidence You have provided to Us, or on the basis of other information coming to Our attention) We are not satisfied that the Replacement Technology has been installed and is operating.
- 13.3. Where We reach the conclusion in clause 13.2, We will treat the relevant Replacement Technology as not being operational for so much for the Winter Peak Period as occurs until such time as You are able to satisfy Us that it is installed and operating. This will adversely affect the Capacity Savings that You are able to achieve in accordance with Part 4 of these Conditions.

**14. Revision of M&V Plan**

- 14.1. You may apply to Us to approve a revision to Your M&V Plan to vary the number of items, or the make or model, of equipment to be installed within any particular Technology Type at one or more Sites on Your M&V Plan.
- 14.2. We will only approve a revision under clause 14.1 if We are satisfied that the revision does not reduce the total Capacity Savings achievable in respect of the relevant Technology Type at the relevant Site.
- 14.3. Apart from a revision of Your M&V Plan under clause 14.1 meeting the requirements of that clause and of clause 14.2, You may not make any other change to Your existing M&V Plan.
- 14.4. If You make an application under clause 14.1, You must:

- a) do so by e-mail to [edrproject@decc.gsi.gov.uk](mailto:edrproject@decc.gsi.gov.uk), on or by the deadline for the Operational Verification Obligation;
  - b) attach the M&V Plan as You propose to revise it, clearly marking the proposed revision so that the full changes are immediately clear;
  - c) provide explanatory material, clearly explaining the nature and effect of the proposed revision and Your reasons for requesting it; and
  - d) provide a signed statement confirming that You have complied with the requirements of this clause 14.
- 14.5. We may approve Your application, reject it or approve it with modifications. We will confirm any approval of a revision under clause 14.1 in writing. We will endeavour to inform You of the outcome of Your application within 20 (twenty) Business Days of receipt of a satisfactory application.
- 14.6. If We approve Your application under clause 14.1, You will be required to comply with all of the requirements of the Agreement, including the deadline for the Operational Verification Obligation, on the basis of Your revised M&V Plan. For the avoidance of doubt, any application under clause 14.1 does not change or postpone the deadline for compliance with the Operational Verification Obligation and You must comply with Your existing M&V Plan unless We approve Your application. Bearing in mind the time that We may take to consider Your application and the risk that We may not approve it, You are advised to make any application in good time prior to the deadline.

#### **PART 4** **SAVINGS OBLIGATION**

##### **15. Savings Obligation: assessment of Capacity Savings**

- 15.1. You must obtain, record and retain all information and evidence required by Your M&V Plan and by the M&V Manual relating to:
- a) in accordance with clause 15.2 below, the operation of the relevant Replacement Technology at each Site; and
  - b) in accordance with clauses 15.3 to 15.5, the achievement of the Savings Target.

##### *Operation of Replacement Technology*

- 15.2. The Savings Target assumes that the Replacement Technology is (except in the case of a Force Majeure Event) operating for the amount of time indicated in Your M&V Plan. Accordingly, whatever measurement approach You use, You must record:
- a) the times of operation of the relevant Replacement Technology during the Peak Applicable Hours in the Winter Peak Period; and

- b) any times during those Peak Applicable Hours in which the relevant Replacement Technology has not been in use or has operated at a reduced capacity and full details of any circumstances that You consider constitute a Force Majeure Event.

*Measurement approach for Capacity Savings*

- 15.3. Your Capacity Savings must be established by the measurement approach applying to the relevant Replacement Technology and Site under Your M&V Plan, being one of the approaches permitted under the M&V Manual.
- 15.4. Where (or to the extent that) Your Capacity Savings are established by the Deemed Savings Approach, You are not required to measure electricity use. Under the Deemed Savings Approach, Your Capacity Savings will be established by applying (to the relevant time and extent of operation of the Replacement Technology in question recorded under clause 15.2) the relevant formulae and factors published by Us in the Scheme Documents.
- 15.5. Where (or to the extent that) Your Capacity Savings are established by a Metered Approach, You must measure and record the grid electricity used in the operation of the relevant Replacement Technology in accordance with the requirements of the M&V Manual relating to the relevant Metered Approach.

**16. Savings Obligation: Winter Capacity Savings Report**

- 16.1. The Winter Capacity Savings Report must contain the information, and be in the relevant form, set out in Your M&V Plan and must comply with all material requirements of the M&V Manual.
- 16.2. The information provided in the Winter Capacity Savings Report must be sufficient to demonstrate that You have met the Savings Target, having regard to the information You are required to record under clause 15.
- 16.3. The Winter Capacity Savings Report must cover so much of the Winter Peak Period as occurs from the time that You have installed and begun to operate the relevant Replacement Technology.

**17. Savings Obligation: Delivered Savings Payment**

- 17.1. We will endeavour to inform You whether We consider that You have complied with the Savings Obligation within 30 (thirty) Business Days of receipt of a satisfactory Winter Capacity Savings Report, and will endeavour to pay You the Delivered Savings Payment within a further 30 (thirty) Business Days from that time or from the date of Our notification of the conclusion of any review under clause 43.1.
- 17.2. Where You fail to provide Us with a properly completed Winter Capacity Savings Report, You will not qualify for the EDR Payment (whether the Delivered Savings Payment or the Final Payment).
- 17.3. Where You provide Us a properly completed Winter Capacity Savings Report but, in Our reasonable determination, You fail to achieve Your Savings Target (or otherwise

materially fail to comply with the Savings Obligation), We will reduce the EDR Payment by a percentage equal to twice the amount of the Capacity Savings that We determine You have failed to achieve in compliance with the requirements of the Savings Obligation. Accordingly, in a case where You fail to achieve 50% or more of the Savings Target in compliance with those requirements, We will reduce the EDR Payment to zero.

- 17.4. The reduction of the EDR Payment under clause 17.3 is a reduction to the EDR Payment generally. In consequence, both the Delivered Savings Payment and the maximum Final Payment for which You are eligible (should You comply with the Post Winter Peak Obligations) will be reduced by the percentage applying under that clause.
- 17.5. In determining the amount of the Capacity Savings that You have failed to achieve in compliance with the requirements of the Savings Obligation, Our assessment (to be determined reasonably) shall (subject to any review under clause 43.1) be conclusive. In calculating any reduction to the EDR Payment, We will disregard any non-operation or reduced operation of Replacement Technology which in Our determination arises as a result of a Force Majeure Event. You must notify Us of any circumstances that You consider constitute a Force Majeure Event as soon as possible after it occurs.
- 17.6. For the avoidance of doubt, there will be no increase in the EDR Payment for exceeding the Savings Target.

## **PART 5** **POST WINTER PEAK OBLIGATIONS**

### **18. Post Winter Peak Obligations: Final Report**

- 18.1. The Final Report must contain:
  - a) where Your Capacity Savings are established by a Metered Approach, 12 (twelve) months of metered data (that 12 month period must include the entire Winter Peak Period) in accordance with paragraphs 7.4 to 7.6 of the Participant Handbook; and
  - b) in all cases, such other information as We may specify.
- 18.2. The Final Report must be submitted on a template and/or in a format that We may specify. We will endeavour to specify the matters referred to in clause 18.1 b) and this clause 18.2 on the gov.uk web site or by 30 April 2015.

### **19. Post Winter Peak Obligations: evaluation activities**

- 19.1. The evaluation activities in which We shall require You to participate under clause 9.1 b) may include:
  - a) interviews (either face to face, by telephone or both);
  - b) completing questionnaires (aside from the Final Report);

- c) participation in group discussions arranged by Us; and
  - d) any follow-up queries or activities.
- 19.2. A list of likely evaluation activities accompanies the Agreement. However, We reserve the right to amend that list.
- 19.3. You must:
  - a) make all reasonable efforts to participate in the evaluation activities, and inform Us promptly if You are unable to do so; We shall treat repeated failure to participate in the evaluation activities as a failure to comply with the Scheme; and
  - b) ensure that the relevant evaluation activities are undertaken by a person (“relevant person”) having sufficient expertise, authority and seniority to be able to do so having regard to the activity in question.
- 19.4. We anticipate that the duration of the evaluation activities (excluding travel) is likely to involve 10 (ten) hours of a relevant person’s time and We require You to ensure that the evaluation activities are undertaken by a relevant person for that length of time (assuming that the activities are of that duration) but not longer. (Depending on the circumstances, more than one person may participate in the same activity but in this case We will only count the time of one representative towards the 10 hour total).
- 19.5. If You are participating as an Aggregator, You must, where We require You to do so, ask the Constituent Clients whether they would be willing to participate in the evaluation activities.
- 19.6. For the avoidance of doubt, the evaluation activities under this clause 19 are focused on Our evaluation of the operation and effectiveness of the Scheme as a whole. Accordingly:
  - a) the evaluation activities are separate from any activities You perform in order to ensure that the Project complies with the Scheme (such as to comply with the Operational Verification Obligation or the Savings Obligation, providing Us with information or evidence under clause 25.1, facilitating inspections under clause 26.1 or complying with the requirements of clause 27) (“compliance activities”); and
  - b) the time You spend in compliance activities does not count towards the anticipated time for evaluation activities under clause 19.4.

**20. Post Winter Peak Obligations: Final Payment**

- 20.1. We will endeavour to pay You the Final Payment within 30 (thirty) Business Days of notifying You that We are satisfied that You have complied with the Post Winter Peak Obligations or from the date of Our notification of the conclusion of any review under clause 43.1.
- 20.2. If You fail to comply with the Post Winter Peak Obligations, We will reduce the amount of the Final Payment by a sum which We determine is commensurate with the failure in question. In determining any reduction of the Final Payment under this

clause, Our assessment (to be determined reasonably) shall (subject to any review under clause 43.1) be conclusive.

## **PART 6** **OTHER REQUIREMENTS**

### **Section 1** **Eligibility**

#### **21. Continuing eligibility**

- 21.1. It is a fundamental condition of the Agreement that You:
- a) undertake the Project in accordance with Your M&V Plan; and
  - b) comply, and (except as provided for by clause 21.3) continue to comply, with the Eligibility Criteria.
- 21.2. In particular, You are not eligible for the EDR Payment in so far as You are otherwise required to install the relevant Replacement Technology under any requirement of law.
- 21.3. The requirement that the Project complies with the two year payback period in paragraphs 1.11 to 1.13 of the Participant Handbook applies on the basis of prices, other material factors and reasonable assumptions at the time of Your Application. You will not be treated as ineligible for the Scheme where those factors and assumptions subsequently change for reasons beyond Your control.

#### **22. Other public funding**

- 22.1. It is a fundamental condition of the Agreement that You do not receive any other public funding in relation to the Project (or any part of it).
- 22.2. For the purpose of clause 22.1, public funding means any funding, subsidy or other benefit or advantage (including any tax rebate or other tax relief and the benefits referred to in clauses 22.3 and 22.4) attributable to Her Majesty's Government (including the devolved administrations) which incentivises or subsidises the Project or the achievement of the Capacity Savings.
- 22.3. Without limiting the generality of clauses 22.1 and 22.2, You must not receive benefits for or in connection with the Project under any of the following:
- a) reduction of the Climate Change Levy under a Climate Change Agreement;
  - b) the Energy Company Obligation;
  - c) grants or loans from Us, or from parties operating on Our behalf including Salix Finance Ltd;
  - d) the Renewable Heat Incentive;

- e) the Green Deal Cash-Back Scheme;
  - f) the Green Deal Home Improvement Fund;
  - g) Demand Side Balancing Reserve; or
  - h) the Green Homes Cashback Scheme in Scotland.
- 22.4. Without limiting the generality of clauses 22.1 and 22.2, if You claim a capital allowance under the Capital Allowances Act 2001 in connection with any capital expenditure in respect of which You have received or will receive an EDR Payment You must deduct the amount of the applicable EDR Payment from Your claim.

**23. Compliance with laws and regulatory requirements**

- 23.1. In undertaking the Project, You must comply with all relevant laws and regulatory requirements including:
- a) planning requirements and other consents;
  - b) buildings regulations; and
  - c) health and safety legislation.

**Section 2**  
**Records and monitoring**

**24. Record keeping**

- 24.1. You must keep:
- a) all records required by Your M&V Plan and by the M&V Manual; and
  - b) in any event, sufficient records and evidence to verify Your compliance with the requirements of the Agreement.
- 24.2. If You do not keep the records required by clause 24.1, We shall be entitled to conclude that You have failed to comply with the requirements of the Scheme and to terminate the Agreement with immediate effect.
- 24.3. You must keep the records required by clause 24.1 for a period of 10 (ten) years beginning with the date of commencement of the Agreement.
- 24.4. You must also keep a copy of the Agreement (and all of the documents it refers to), as well as all correspondence with Us, for that period.

**25. Provision of information and evidence**

- 25.1. You must promptly provide Us, or Our Agents, with all information and evidence (including documents and records) relating to the Project, and to Your participation in the Scheme, that We may reasonably require, and do so at such times and in such form as We may reasonably specify.
- 25.2. We may require You to ensure that any information or evidence provided to Us is verified by a person of such qualifications or expertise as We specify.
- 25.3. You must also provide information or evidence to the following authorities, as they may require:
- a) the Comptroller and Auditor General;
  - b) Parliament or any Parliamentary Committee;
  - c) the European Commission; and
  - d) any other public authority which may be entitled by law to such information or evidence.
- 25.4. If You do not comply with the requirements of this clause 25, We shall be entitled to conclude that You have failed to comply with the requirements of the Scheme and to terminate the Agreement with immediate effect.

**26. Inspection of Sites**

- 26.1. You must allow Us, or Our Agents, to inspect any relevant Sites and relevant evidence, so that We may:
- a) verify Your compliance with the Agreement;
  - b) verify the information and evidence You have submitted to Us at any time, including in Your Application; and
  - c) obtain evidence, including the taking of photographs and other recorded evidence, for the purposes in paragraphs a) and b).
- 26.2. We will not provide any payment or reimbursement for any expense or inconvenience You incur as a result of an inspection.
- 26.3. We will endeavour to inform You of the outcome of any inspection within 15 (fifteen) Business Days of the inspection taking place.
- 26.4. If, without reasonable mitigating circumstances as may be determined by Us, You do not comply with a reasonable request for inspection by granting Us or Our Agents reasonable access to the relevant Sites, We shall be entitled to terminate the Agreement with immediate effect.

## **27. Evaluation of Deemed Savings Approach**

- 27.1. In order to allow Us to evaluate the accuracy and effectiveness of the Deemed Savings Approach, if Your Capacity Savings are established (in whole or in part) by the Deemed Savings Approach, You must, where We require:
- a) install, in accordance with Our or Our Agent's instructions, metering equipment specified by Us for that purpose or allow Us or Our Agents to install that equipment; and
  - b) allow Us, or Our Agents, reasonable access to the relevant Sites to inspect and/or maintain that metering equipment.
- 27.2. We may require the installation of metering equipment under clause 27.1 at any time from the commencement of the Agreement (so that We can obtain measurements at any relevant time during the period of the Agreement, including obtaining measurements prior to the installation of the Replacement Technology in order to verify a baseline).
- 27.3. In a case where We install metering equipment under clause 27.1, We require that the installation is supervised by an appropriately qualified member of Your staff or representative. This is to ensure that We do not inadvertently damage Your equipment or premises in any way.
- 27.4. Where metering equipment is installed under clause 27.1, You must co-operate with Us and Our Agents to facilitate the taking and recording of meter readings and in recording photographic and other evidence to verify those readings. This requirement shall continue until (and including) the later of:
- a) 29 February 2016; or
  - b) the first anniversary of the installation of that metering equipment or any later date reasonably specified by Us (provided that these dates occur no later than 31 March 2017).
- 27.5. You must not interfere with metering equipment installed under clause 27.1 in any way without Our prior authorisation in writing. Any metering equipment installed at Our cost will constitute Our property, but You will be responsible for any failure of, damage to, or damage caused by, that metering equipment so far as caused, or contributed to, by Your acts or omissions, or those of persons for whom You are responsible (see clause 38.1). On the termination of the Agreement, You must comply with Our reasonable instructions relating to the disposal, if necessary, of that metering equipment.
- 27.6. Whether or not We require the installation of metering equipment under clause 27.1 (and without restricting or qualifying the generality of clause 25.1), You must promptly provide Us, or Our agents, with all information or evidence We reasonably require relating to the use of the Deemed Savings Approach in the Project. We may use this information (inter alia) to consider whether metering equipment should be installed at a relevant Site under clause 27.1.
- 27.7. If You do not comply with this clause 27, We shall be entitled to terminate the Agreement with immediate effect.

**PART 7**  
**WARRANTIES ETC.**

**28. Warranties**

- 28.1. In entering into the Agreement, in accepting the EDR Payment, and by continuing to participate in the Scheme, You represent and warrant that:
- a) You comply and (subject to clause 21.3) remain compliant with the Eligibility Criteria and other rules of the Scheme;
  - b) the information and evidence You have provided to Us in connection with Your actual or potential participation in the Scheme including in Your Application was and remains:
    - i. complete, containing all information required by the Scheme Documents including the M&V Plan Template; and
    - ii. true and accurate;
  - c) You have full capacity and authority, and have obtained any consents necessary, to:
    - i. enter into the Agreement; and
    - ii. undertake the Project;
  - d) You are aware of no circumstances which might materially and adversely impact on Your ability to undertake the Project (or any part of it), or to comply with the requirements of the Agreement, including:
    - i. any circumstance in contravention of the requirements in Section 1 of Part 6 of these Conditions (eligibility);
    - ii. any contractual obligations with third parties;
    - iii. any requirement of law, including those in clause 23.1;
    - iv. any legal or administrative proceedings (such as any litigation or any wind-up or insolvency proceedings); or
    - v. any circumstance which might give rise to such proceedings.
- 28.2. In providing Us with information relevant to Your participation in the Scheme, You will be deemed to represent and warrant that the information is true, complete and accurate. The information to which this warranty applies includes information provided:
- a) in requesting approval for a revision of Your M&V Plan in accordance with clause 14.1;
  - b) as part of the Operational Verification Obligation;
  - c) in the Winter Capacity Savings Report;

- d) in the Final Report; and
  - e) under clauses 25.1 and 27.6.
- 28.3. The warranties under clauses 28.1 and 28.2 are deemed to be made on Your own behalf and by You on behalf of any Constituent Client.

**29. On-going duty to notify**

- 29.1. You must, within 5 (five) Business Days of becoming aware of the relevant occurrence or circumstance, notify Us of:
- a) any breach of the requirements of the Agreement;
  - b) any inaccuracy or incompleteness in information to which the warranties in clause 28 apply;
  - c) any material change in Your circumstances, including any change of circumstances meaning that the warranties in clause 28 are no longer, or may no longer be, true and accurate; and
  - d) any circumstance entitling Us to exercise Our rights under Part 9 of these Conditions to terminate the Agreement or to reduce, withdraw, require You to repay or to suspend the EDR Payment.
- 29.2. For the purpose of clause 29.1 c), a material change in Your circumstances includes:
- a) any of the events referred to in Schedule 2 (change of control and insolvency) to these Conditions; and
  - b) any change to Your business where relevant to the Project, including any change in the nature of the business undertaken at a relevant Site or the hours of operation of that Site.

**PART 8**  
**USE OF INFORMATION**

**30. Use of information: general**

- 30.1. We may publish, share and disclose information relating to Your participation in the Scheme ("Your Information") in accordance with:
- a) Our information policy in section 10 of the Participant Handbook or any other information policy We may publish; and
  - b) clauses 31 to 33 below.
- 30.2. So as to enable Us to consider whether any of Your Information may be commercially sensitive or contain personal data (from which any living individual can be identified,

in accordance with section 1(1) of the Data Protection Act 1998), You must inform Us in writing of any information where:

- a) in Your view, publication, sharing or disclosure of that information would, or would be likely to, prejudice Your commercial interests or those of any other person (in accordance with section 43 of the Freedom of Information Act 2000); or
  - b) that information may comprise personal data (this does not qualify Your obligation to comply with the Data Protection Act 1998).
- 30.3. Prior to any publication, information sharing or disclosure We may seek Your written representations on the matters set out in clause 30.2. If We do so, You must provide any response in writing and within any deadline reasonably specified by Us, or, if no deadline is specified, within 5 (five) Business Days.
- 30.4. Having taken into account any representations made by You in writing, the decision on any publication, information sharing or disclosure, and/or any editing or redactions, shall be within Our absolute discretion.
- 30.5. The fact of Your participation in the Scheme, or that of any Constituent Client, shall not be regarded as falling under paragraph a) of clause 30.2.

### **31. Use of information: publication**

- 31.1. We may publish Your Information including for the purpose of the provision of Our report to Parliament under section 43(3) of the Energy Act 2013.
- 31.2. The particulars that We may publish under clause 31.1 include:
- a) the fact that You are participating in the Scheme;
  - b) the amount of the EDR Payment awarded, or paid, to You; and
  - c) a summary of the Project.
- 31.3. We may publish the information referred to in clause 31.1 on the gov.uk web site or otherwise.

### **32. Use of information: information sharing**

- 32.1. We may disclose Your Information to:
- a) other public authorities including:
    - i. other government departments;
    - ii. Ofgem; and
    - iii. the public authorities referred to in clause 25.3;
- and

- b) Our Agents and their contractors and agents.
- 32.2. We may also disclose Your Information to third parties:
- a) where required to do so by law, such as for the investigation of any suspected breach of the law including fraud or a suspected criminal act; or
  - b) for other reasonable purposes, including academic or other research.

**33. Freedom of Information etc.**

- 33.1. We may be required to disclose Your Information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
- 33.2. You must assist, and cooperate with, Us, as reasonably requested, to enable Us to comply with the legislation referred to in clause 33.1.

**PART 9**  
**TERMINATION AND REPAYMENT ETC.**

**34. Termination**

- 34.1. We may (and in the case of paragraph d) shall) terminate the Agreement with immediate effect:
  - a) in accordance with any specific right set out in these Conditions;
  - b) in the case of any other material breach of the Agreement (including a breach relating to a warranty under clause 28):
    - i. which is not capable of remedy; or
    - ii. is capable of remedy, but You do not remedy the breach to Our reasonable satisfaction within 20 (twenty) Business Days of receipt of a notice from Us specifying the breach and the remedy required;
  - c) in the case of repeated breaches of the Agreement, where those breaches occur in such frequency or manner as to reasonably justify a conclusion that Your conduct is inconsistent with an intention or ability to participate in the Scheme in compliance with the Agreement;
  - d) where termination, withdrawal or repayment of the EDR Payment is required by operation of law, including:
    - i. an order of a court of competent jurisdiction; or
    - ii. a decision of the European Commission relating to state aid;
  - e) on the occurrence of an event referred to in Schedule 2 (change of control and insolvency) to these Conditions;

- f) where We have reasonable grounds to conclude that any information or evidence You have provided to Us, whether under the Agreement or in Your Application, has:
  - i. been materially misleading; and/or
  - ii. not provided honestly or in good faith;
- g) where You have omitted to provide information under the Agreement, or in Your Application, where that omission has had a similar misleading effect or intention as in paragraph f);
- h) where evidence emerges from which We have reasonable grounds to conclude that You:
  - i. were not eligible to participate in the Scheme, or to participate on the terms or at the amount of the EDR Payment under the Agreement; or
  - ii. have ceased to be eligible to participate in the Scheme, or for participation on those terms;
- i) without prejudice to the generality of paragraph h), where You or any person referred to in regulation 23(1) of the Public Contracts Regulations 2006 is (or has been) convicted of any of offence listed in that regulation (whether or not in connection with the Project); or
- j) where You fail to make any repayment required under clause 35.

34.2. On termination of the Agreement You shall cease to be eligible for:

- a) the Delivered Savings Payment, where the grounds for termination first arose prior to the conclusion of the Savings Obligation or where other grounds for repayment etc. arise under clause 35; and
- b) the Final Payment, where the grounds for termination first arose prior to the conclusion of Post Winter Peak Obligations or where other grounds for repayment etc. arise under clause 35.

34.3. Where the Agreement is terminated under clause 34.1, any EDR Payment which You have received and to which You are not entitled by virtue of clause 34.2 shall be repayable together with interest (see clauses 35.3 and 35.5).

34.4. Where grounds for termination arise under clause 34.1 but We choose not to exercise them, We may nonetheless on those grounds exercise Our rights under clause 35.1 to reduce, withdraw or require You to repay all or any proportion of the relevant EDR Payment together with interest.

### **35. Repayment etc.**

35.1. We shall where the grounds in clause 35.2 below apply (or where clauses 34.2 or 34.3 apply or We exercise Our rights under clause 34.4):

- a) reduce or withdraw the EDR Payment, or part of it; and/or

- b) where the EDR Payment has already been paid, require You to repay all, or any proportion, of the EDR Payment together with interest.

35.2. The grounds under this clause 35.2 are:

- a) that reduction, withdrawal or repayment of the EDR Payment is required by operation of law (as referred to in clause 34.1 d));
- b) You do not qualify for the EDR Payment by virtue of clause 17.2, or grounds arise for the reduction of the EDR Payment under clause 17.3 or clause 20.2;
- c) in the case of any overpayment, in which case the amount of the EDR Payment which We have overpaid must be repaid by You;
- d) where You receive any other public funding referred to in clause 22, in which case:
  - i. the amount of the EDR Payment to which You are entitled shall be reduced by the amount of that funding; and
  - ii. the balance must be repaid by You,(without prejudice to any consequence, or the exercise of any rights by any relevant authority, under the measure or scheme in question); or
- e) to the extent that any sum of money is owed by You to Her Majesty's Government (including the devolved administrations), including any sum owed under a separate agreement relating to another project under the Scheme or any agreement unrelated to the Scheme.

35.3. Interest on any repayment will be calculated from the date of the original payment, in accordance with:

- a) the retail prices index over the relevant period (that index being taken as 0% for any period during which the index is negative); or
- b) any other rate required by law in the circumstances (including any rate required under EU law relating to state aid), if it is higher.

35.4. You must make any repayment within 30 (thirty) Business Days of the date of Our notification requiring the repayment or the date of Our notification of the conclusion of any review under clause 43.1.

35.5. If You fail to make any repayment within the deadline under clause 35.4, further interest will accrue on the outstanding sum (inclusive of interest already charged under clause 35.3), after that deadline, at the statutory rate of interest under section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 or any other rate required by law in the circumstances, if it is higher.

## **36. Suspension**

36.1. We may suspend any payment to You of the EDR Payment where:

- a) We have reasonable cause for concern that grounds for the exercise of Our rights under this Part 9 arises, pending Our investigation of the circumstances and the making of a determination; or
  - b) that suspension is required by operation of law (as referred to in clause 34.1 d)).
- 36.2. In the case of any suspension, You must continue to comply with the requirements of the Agreement unless We confirm otherwise in writing.

**37. Waiver**

- 37.1. If We do not exercise Our rights under this Part 9, this shall not constitute a waiver of those rights unless We confirm any such waiver in writing.
- 37.2. Any such waiver as may be confirmed in writing under clause 37.1 shall constitute a waiver only in relation to the particular circumstances or occurrence to which it relates, and may not be taken as an indication that We will waive Our rights should analogous circumstances arise in the future.

**PART 10**  
**MISCELLANEOUS**

**38. Responsibility for partners and agents etc.**

- 38.1. You must ensure that persons for whom You or a Constituent Client are responsible (including Your or their partners, agents, employees and contractors) comply with the Agreement, and You agree that any breach by them of the requirements of the Agreement will be deemed to constitute a breach of the Agreement by You.

**39. Participation as an Aggregator**

- 39.1. If You are participating as an Aggregator You must ensure that all of Your Constituent Clients comply with the Agreement.
- 39.2. Without qualifying the generality of Your responsibility under clause 39.1, You must, in particular, ensure that Constituent Clients:
- a) provide Us with information and evidence under clause 25, and consent in writing for You to do so;
  - b) allow Us to inspect their Sites in accordance with clause 26; and
  - c) comply with clause 27 where We require them to do so.
- 39.3. Where a Constituent Client does not comply with any requirement of the Agreement, You will be responsible for its failure which will be deemed to constitute a breach of the Agreement by You.

39.4. We may exercise Our rights under Part 9 of these Conditions (including to terminate the Agreement or withdraw or reduce the EDR Payment or require its repayment together with interest) where any of the grounds for doing so under that Part arise in respect of a Constituent Client or by virtue of its acts or omissions.

#### **40. Relationship between the parties**

40.1. Nothing in the Agreement creates a relationship of employment, agency, partnership or joint venture or any similar relationship between You and Us. Accordingly, You must not hold yourself out as having any such relationship.

40.2. Our liability to You is limited, to the fullest extent permitted by law, to making the EDR Payment (the payment being subject to Your compliance with the Agreement and to Our rights under Part 9 of these Conditions). To the fullest extent permitted by law, We shall have no liability to any Constituent Client.

40.3. You remain entirely responsible for Your risks and liabilities in undertaking the Project, and, to the fullest extent permitted by law, We shall have no liability for any consequence, direct or indirect, that may arise as a result of the Project.

#### **41. Indemnity**

41.1. You agree to indemnify Us against all claims, demands, actions, proceedings, costs, charges, expenses, losses, damages or other liabilities arising from:

- a) Your acts or omissions, and those of any persons for whom You are responsible (within the meaning of clause 38.1); and
- b) if You are participating as an Aggregator, the acts or omissions of Your Constituent Clients and any persons for whom they are responsible.

#### **42. Reasoning for determinations**

42.1. In the case that We make a determination that You have failed to comply with the requirements of the Agreement and/or to exercise Our rights under Part 9 of these Conditions, We shall:

- a) notify You of that determination; and
- b) provide a summary of Our reasoning for reaching that determination.

#### **43. Review of determinations**

43.1. In the case that We make a determination referred to in clause 42.1 (“the Original Determination”), You may apply to Us to review that Original Determination where You consider that We have incorrectly applied the requirements of the Agreement in Your case.

43.2. You are not entitled to seek a review under clause 43.1:

- a) for the purpose of reviewing the terms of the Agreement itself; or

- b) to adduce new information or evidence which You were required to provide prior to the making of the Original Determination.

43.3. You must:

- a) ensure that We receive Your application within 10 (ten) Business Days of receipt of Our reasoning under clause 42.1 for the Original Determination; and
- b) make Your application in writing, specifying:
  - i. the Original Determination You are asking Us to review; and
  - ii. the grounds on which You consider that it should be reviewed.

43.4. You must provide Us with any necessary assistance, explanations or further information or evidence, to Us to enable Us to conduct the review.

43.5. Once We have undertaken the review, We may:

- a) affirm the Original Determination;
- b) vary the Original Determination; or
- c) substitute the Original Determination with a new determination.

43.6. We will endeavour to determine the review within 10 (ten) Business Days of receipt of Your application or (if later) of receipt of any information or evidence provided under clause 43.4 and inform You as soon as practicable thereafter.

43.7. You may not seek more than one review of the substance of the Original Determination. Accordingly, Our verdict in a review shall be final.

#### **44. Notices**

44.1. This clause 44 applies to any notice You are required to give under these Conditions, including in the case of Your submission of:

- a) evidence of compliance with the Operational Verification Obligation under clause 7.1;
- b) Your Winter Capacity Savings Report;
- c) notification of circumstances of a Force Majeure Event under clause 17.5;
- d) Your Final Report;
- e) any notification under clause 29.1;
- f) an application for review of an Original Determination under clause 43.1; and
- g) notification of a change in Your address for service or (see clause 44.2) or Your day-to-day contact (see clause 45.1).

- 44.2. Notices under this clause 44 shall be in writing and must be served to Our address set out in the Award Letter. You must notify Us under this clause 44 if Your address for service changes.
- 44.3. Notices under this clause 44 shall be served by one of the following methods:
- a) e-mail, provided that the notice or communication is subsequently sent by one of the methods in paragraphs b) and c) and that You do not receive an error message;
  - b) hand delivery, to the reception at the relevant address; or
  - c) first class recorded postal delivery.
- 44.4. Notices under this clause 44 shall be deemed served on the Business Day during which they are delivered (but if they are delivered on a day other than a Business Day or after 5pm on a Business Day, on the next Business Day). It is Your responsibility to retain proof of delivery, against future uncertainty.
- 44.5. This clause 44 does not apply to applications for revision of Your M&V Plan under clause 14.1, in respect of which clause 14.4 a) applies.
- 44.6. We may send notices to You by e-mail or otherwise in writing in accordance with Your contact details as referred to in clause 45.1.

**45. Day-to-day contact**

- 45.1. In relation to routine correspondence, each party shall communicate with the day-to-day contact identified in the Award Letter. You must notify Us by notice, in accordance with clause 44, if Your contact details change.

**46. Entire agreement**

- 46.1. The following documents constitute the entire agreement between the parties:
- a) these Conditions;
  - b) the Award Letter;
  - c) the M&V Manual; and
  - d) Your M&V Plan.
- 46.2. Any conflict or inconsistency between the documents referred to in clause 46.1 shall be resolved in the order in which those documents are listed in that clause.
- 46.3. The Agreement supersedes previous correspondence and understandings. The parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly contained within the documents in clause 46.1. This clause 46.3 does not exclude the liability of either party in respect of any previous fraud or fraudulent representation.

46.4. References in these Conditions to particular sections of the M&V Manual do not qualify the general application of the M&V Manual or Your obligation to comply with all relevant requirements contained within it.

#### **47. Variation**

47.1. Subject to clause 47.2, no variation of the Agreement shall be effective unless it is agreed in writing and signed by authorised representatives of both parties.

47.2. Notwithstanding clause 47.1, We may, from time to time, where We consider it necessary for the purpose of the Scheme, revise the M&V Manual and other Scheme Documents. We shall publish such revisions on the gov.uk web site.

#### **48. On-going obligations**

48.1. The termination of the Agreement shall be without prejudice to the rights of either party accrued in respect of the other party's acts or omissions prior to termination.

48.2. The following continue in force after the termination of the Agreement:

- a) clause 22 (other public funding), where You have received (and not repaid with interest) any payment of the EDR Payment;
- b) clause 23.1 (compliance with laws and regulatory requirements);
- c) clause 24 (record keeping), relating to records for the period before the termination;
- d) clause 25 (provision of information and evidence);
- e) clause 26 (inspection of Sites), so far as necessary to investigate any grounds for repayment of the EDR Payment or wrongdoing;
- f) clause 27.5 (metering to evaluate deemed savings);
- g) clause 29.1 (on-going duty to notify), but clause 29.1 c) only so far as relating to changes in circumstance prior to termination;
- h) the entirety of Part 8 of these Conditions (use of information);
- i) clause 35 (repayment etc.), so far as relating to the repayment of any EDR Payment You have received;
- j) clause 41.1 (indemnity);
- k) this clause 48; and
- l) any other clauses or requirements of the Agreement, so far as necessary to give the provisions listed in this clause 48.2 effect.

**49. Third party rights**

49.1. The Agreement does not confer any rights or benefits on third parties for the purpose of the Contracts (Rights of Third Parties) Act 1999. For the avoidance of doubt, Constituent Clients are not parties to the Agreement and the Agreement does not confer any rights or benefits on them.

**50. Assignment etc.**

50.1. You may not assign or otherwise transfer to any other person the benefit of the Agreement. However, this clause 50.1 does not prevent You from paying the relevant part of the EDR Payment to a Constituent Client.

**51. Further funding**

51.1. We are under no obligation to provide You with any further funding beyond the amount of the EDR Payment identified in the Award Letter.

**52. Law and jurisdiction**

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

**53. Severance**

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

**SCHEDULE 1**  
**DEFINED TERMS**

<b>Agent</b>	any contractor or other person employed or engaged by Us in connection with the Scheme
<b>Aggregator</b>	You are an Aggregator if You participate in the Scheme on behalf of one or more Constituent Clients (whether or not You also participate in the Scheme on Your own account)
<b>Agreement</b>	the agreement between You and Us, relating to Your participation in the Scheme for the Project, of which these Conditions form part
<b>Application</b>	Your application for participation in the Scheme, including Your M&V Plan, other supporting documentation and material submitted as part of the expressions of interest process
<b>Award Letter</b>	the letter setting out Our offer to You to participate in the Scheme
<b>Business Day</b>	any day apart from: <ul style="list-style-type: none"><li>a) a Saturday or a Sunday;</li><li>b) during the Winter Peak Period, the days in paragraphs b) to d) of the definition of Winter Peak Period; or</li><li>c) at times other than the Winter Peak Period, any day which is a public or bank holiday (as published from time to time on the gov.uk web site<sup>1</sup>) in England and Wales or in Scotland</li></ul>
<b>Capacity Savings</b>	has the meaning in clause 6.3
<b>Conditions</b>	these terms and conditions
<b>Confirmation Letter</b>	an aggregated savings confirmation letter meeting the requirements set out in the template published by the Department of Energy and Climate Change <sup>2</sup> (or a Revised Version)
<b>Constituent Client</b>	any third party (whether a business or an individual) who is replacing existing technology with Replacement Technology at one or more Sites as part of the Project
<b>Deemed Savings Approach</b>	see section 2.5 of the M&V Manual and Appendix B of the M&V Manual (Deemed Savings Manual) (version 0.2 published on 6 October 2014 (or a Revised Version))
<b>Delivered Savings Payment</b>	see clause 8.3
<b>EDR Payment</b>	the sum identified in the Award Letter to be paid by Us to You (provided that You comply with the Agreement and that no grounds

<sup>1</sup> <https://www.gov.uk/bank-holidays#england-and-wales>

<sup>2</sup> <https://www.gov.uk/government/publications/electricity-demand-reduction-pilot-guidance-and-forms>

for withdrawal, reduction or repayment of the EDR Payment apply), comprising:

- a) the Delivered Savings Payment; and
- b) the Final Payment

**Eligibility Criteria** the eligibility criteria for the Scheme in section 1 of the Participant Handbook

**Final Payment** see clause 9.3

**Final Report** see clause 9.1 a)

**Force Majeure Event** occurs where:

- a) there has been a power cut, being the unexpected and temporary loss of the supply of grid electricity to a Site where that loss arises for reasons unconnected with that Site and is not attributable to Your acts or omissions or those of other relevant persons; or
- b) You are unable to operate the relevant Replacement Technology due to unforeseen events beyond Your reasonable control, or the control of other relevant persons, in the nature of acts of God, riots, war or armed conflict, acts of terrorism, fire, flood, storm, earthquake, other disasters or similar events;

for the avoidance of doubt, Force Majeure Events do not include events in the ordinary course of business such as loss of business, failure in a supply chain, industrial disputes, Your acts or omissions or the acts or omissions of other relevant persons, termination of a lease or staff absences;

for the purpose of this definition, “other relevant person” includes a Constituent Client, any person for whom You or a Constituent Client are responsible (in accordance with clause 38.1) and any landlord, tenant or licensee of the relevant Site (or any other person having access to or responsibility for that Site) and persons for whom they may be responsible

**Metered Approach** one of the metered approaches referred to in section 2.5 of the M&V Manual

**M&V Manual** the Electricity Demand Reduction Pilot Measurement and Verification Manual published by the Department of Energy and Climate Change on 13 October 2014 (version 0.3)<sup>3</sup> (or a Revised Version) and its appendices and spread sheet files (or any Revised Versions)

**M&V Plan** the measurement and verification plan submitted as part of Your Application or, if more than one version was submitted, the final

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<sup>3</sup> <https://www.gov.uk/government/publications/electricity-demand-reduction-pilot-guidance-and-forms>

	version submitted
<b>M&amp;V Plan Template</b>	the measurement and verification plan template (version 0.4) published by the Department of Energy and Climate Change <sup>4</sup> (or a Revised Version)
<b>Operational Verification Activities</b>	see clause 7.1 b)
<b>Operational Verification Obligation</b>	see clause 7.1
<b>Original Determination</b>	see clause 43.1
<b>Participant Handbook</b>	the Electricity Demand Reduction Pilot Scheme: Participant Handbook published by the Department of Energy and Climate Change on 24 October 2014 (version 2.0) <sup>5</sup> (or a Revised Version)
<b>Peak Applicable Hours</b>	each of the following hours: <ul style="list-style-type: none"> <li>a) 4pm to 4.59pm;</li> <li>b) 5pm to 5.59pm;</li> <li>c) 6pm to 6.59pm; and</li> <li>d) 7pm to 7.59pm</li> </ul>
<b>Post Winter Peak Obligations</b>	see clause 9.1
<b>Project</b>	the entirety of the activities of installation and operation of the Replacement Technology as identified in Your M&V Plan
<b>Replacement Technology</b>	see clause 6.2 a) i
<b>Revised Version</b>	the most recent revised version of the relevant Scheme Document published on the gov.uk web site
<b>Savings Obligation</b>	see clause 8.1
<b>Savings Target</b>	the total average Capacity Saving specified in Your M&V Plan, as confirmed in the Award Letter
<b>Scheme</b>	the electricity demand reduction (EDR) pilot announced by the Department of Energy and Climate Change on 12 October 2012 and set out in the Scheme Documents

<sup>4</sup> <https://www.gov.uk/government/publications/electricity-demand-reduction-pilot-guidance-and-forms>

<sup>5</sup> *ibid.*

<b>Scheme Documents</b>	the documents relating to the Scheme published by the Department of Energy and Climate Change (including the M&V Manual, M&V Plan Template and Participant Handbook) <sup>6</sup> (or Revised Versions)
<b>Site</b>	any site within England, Wales or Scotland identified in Your M&V Plan complying with the requirements of a site in section 2.2 of the M&V Manual, and includes the site of any Constituent Client
<b>Technology Type</b>	any particular category of Replacement Technology identified in Your M&V Plan
<b>Winter Capacity Savings Report</b>	see clause 8.1 b)
<b>Winter Peak Period</b>	the period from 1 November 2015 to 29 February 2016 (inclusive), excluding: <ul style="list-style-type: none"> <li>a) any day which is a Saturday or a Sunday;</li> <li>b) 25 December 2015;</li> <li>c) 28 December 2015; and</li> <li>d) 1 January 2016,</li> </ul> there being 83 (eighty three) days within the period
<b>Your Information</b>	see clause 30.1

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<sup>6</sup> <https://www.gov.uk/government/publications/electricity-demand-reduction-pilot-guidance-and-forms>

**SCHEDULE 2**  
**CHANGE OF CONTROL AND INSOLVENCY**

**Change of control**

1. You are subject to a change of control (including a takeover, merger or de-merger) (control being interpreted in accordance with section 1124 of the Corporation Tax Act 2010).

**Cessation of business**

2. You cease or suspend the carrying on of Your business or a material part of it.

**Insolvency and bankruptcy etc.**

3. You are a company (or other body corporate) and any of the following events occur:
  - a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986, an arrangement or reconstruction under Part 26 of the Companies Act 2006 or any other composition scheme or arrangement with, or assignment for the benefit of, the company's creditors;
  - b) a shareholders' meeting is convened for the purpose of considering a resolution that the company is wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
  - c) a petition is presented for the winding up of the company (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
  - d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of Your business or assets;
  - e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
  - f) You are or become unable to pay Your debts within the meaning of section 123 of the Insolvency Act 1986;
  - g) being a company subject to the small companies regime under section 381 of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
  - h) any other event occurs, in any jurisdiction to which You are subject, which is similar to those listed in sub-paragraphs a) to g).

4. You are an individual and any of the following events occur:
- a) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, Your creditors;
  - b) a petition is presented and not dismissed within 14 days or order made for Your bankruptcy;
  - c) a receiver, or similar officer is appointed over the whole or any part of the Your assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of Your assets; or
  - d) You are or become unable to pay Your debts or have no reasonable prospect of doing so, within the meaning of section 268 of the Insolvency Act 1986;
  - e) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of Your assets and such attachment or process is not discharged within 14 days;
  - f) You die or are adjudged to lack capacity in accordance with Part I of the Mental Capacity Act 2005; or
  - g) any other event occurs, in any jurisdiction to which You are subject, which is similar to those listed in sub-paragraphs a) to f).
5. You are a partnership and any of the events referred to in paragraphs 3 or 4 occur in relation to any partner.