

AGREEMENT

Between

THE GAS AND ELECTRICITY MARKETS AUTHORITY (1)
(operating through the Office of the Gas and Electricity Markets)

and

INNOVATE UK as part of UK RESEARCH AND INNOVATION (2)

SERVICES AGREEMENT

relating to

competitions under the Strategic Innovation Fund and related matters

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THIS AGREEMENT IS MADE ON

24th August

2021

BETWEEN:

1. **The GAS AND ELECTRICITY MARKETS AUTHORITY** established under s1 of the Utilities Act 2000 (as amended) operating through the Office of the Gas and Electricity Markets with its principal place of business at 10 South Colonnade, London E14 4PU (the “**Authority**”); and
2. **INNOVATE UK, A COUNCIL OF UNITED KINGDOM RESEARCH AND INNOVATION** an Executive Non-Departmental Public Body established by the Higher Education and Research Act 2017, whose address is Polaris House, North Star Avenue, Swindon, England, SN2 1FL (“**Innovate**”)

each a “**party**” and together “**parties**”.

1. BACKGROUND

- 1.1 UKRI is a non-departmental public body sponsored by the Department for Business, Energy and Industrial Strategy (BEIS). It brings together the seven disciplinary research councils, Research England, which is responsible for supporting research and knowledge exchange at higher education institutions in England, and the UK’s innovation agency, Innovate
- 1.2 The Authority is a non-ministerial government department and an independent National Regulatory Authority. Its role is encapsulated in its Principal Objective and general duties and includes the protection of the interests of consumers, both now and in the future through work to deliver a greener, fairer energy system. With that and other public service missions in view, the Authority regulates GB network companies through the RIIO (**R**evenue = **I**ncentives + **I**nnovation + **O**utputs) price control, which contains an innovation stimulus consisting in the Strategic Innovation Fund (“**SIF**”) and Network Innovation Allowance
- 1.3 The SIF is a network innovation programme aiming to achieve the following:
 - 1.3.1 the award of funding to the network innovation projects that meet the eligibility criteria set out in the SIF Governance Document and that help the networks to facilitate the energy system transition, support vulnerable customers and provide real net benefits to energy consumers;
 - 1.3.2 the furtherance of Ofgem’s public service mission to facilitate the UK’s transition to net zero, at lowest cost to the consumer and Innovate’s related mission to maximise UK-produced content and export opportunities and position the UK as the “Silicon Valley” of energy systems;
 - 1.3.3 the enabling and scaling of a greener, fairer energy system of the future; and
 - 1.3.4 the development of a new End to End Innovation Process.
- 1.4 The parties have entered into this Agreement on the basis that it is entirely conditional on the events in Clause 3.

2. DEFINITIONS

2.1 In this Agreement the following terms shall have the following meanings:

Authority Background IPR means:

- a) IPRs owned by the Authority before the date of this Agreement including IPRs contained in any of the Authority's Know-How, documentation, software, processes and procedures; and/or
- b) IPRs created by the Authority independently of this Agreement; and/or
- c) Crown Copyright which is not available to Innovate otherwise than under this Agreement

Authority Data means:

- a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Authority's Confidential Information, and which:
 - i) are supplied to Innovate by, on behalf of or at the direction of the Authority; or
 - ii) Innovate is required to generate, process, store or transmit pursuant to this Agreement (including any data received by Innovate from any entity holding or required to hold a licence issued by the Authority); or
- b) any Personal Data for which the Authority is the Data Controller within the meaning of the Data Protection Act 2018

Authority Principles Funding means [the funding principles developed by the Authority and reflected in the eligibility criteria set out in the SIF Governance Document];

Service Costs means the costs specified in Annex B (otherwise than purely indicatively) and calculated in line with the methodology and on the basis there stated. Such costs are exclusive of VAT, which will be reimbursed by the System Operator, where applicable, in accordance with a direction of the Authority;

Beneficiary means an organisation in receipt of SIF Funding;

Bribery Act means the Bribery Act 2010;

Business Day means any weekday other than a bank or public holiday in England and Wales;

Change in Law	change in the Law or a new requirement to comply with any existing Law or existing Law ceasing to apply to a party. For these purposes, Law means any legal provision a party must comply with including any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, enforceable EU right within the meaning of section 2 of the European Communities Act 1972 (as saved and modified by the European Union (Withdrawal) Act 2018), bye-law, regulation, order, mandatory guidance or code of practice, judgment of a court of law, or requirement of any regulatory body, whether in the UK or elsewhere;
Confidential Information	means information, including any information or analysis derived therefrom, relating to, without limitation, the business, products, affairs, strategy and finances of the relevant party, applicants for SIF Funding or Beneficiaries for the time being confidential to the relevant party, applicant or Beneficiary and trade secrets including, without limitation, technical data and know-how, relating to the business of the relevant party applicant or Beneficiary or any of its staff, management, clients, customers, visitors, partners, suppliers, agents, or distributors;
Contract Information	means; <ul style="list-style-type: none"> (i) the Agreement in its entirety (including from time to time any changes to the Agreement agreed by the parties in accordance with the terms of the Agreement); (ii) any documents relating to the award of the Agreement; and (iii) data from Innovate's invoices submitted, including (but not limited to) invoice number, clearing date and invoice amount;
Data Protection Legislation	means the Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699) as amended which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications codes of practice issued by the Information Commissioner;
Effective Date	means the date hereof;
End to End Innovation Process	means the novel three step process proposed for the operation of the Strategic Innovation Fund starting with 1) Pre challenge - strategic alignment across Ofgem, BEIS and UKRI, followed by 2) Challenges - the agile delivery of challenges (working alongside Innovation Link), and then 3) Post Challenge - the inclusion of the global route to market service to support business growth and scale;

Expiry Date means 24 August 2026 (or earlier in accordance with clauses 18.3, 18.4, 18.5, or 21.6;

Freedom of Information Laws (FOIA) means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with the Environmental Information Regulations 2004 including, in each case, any guidance and/or code of practice issued by the relevant regulator;

Innovate Background IPR means

- a) Intellectual Property Rights owned by Innovate before the date of this Agreement; and/or
- b) Intellectual Property Rights created by Innovate independently of this Agreement

Innovate Funding Direction means the direction given by the Authority in each Regulatory Year and specifying the Service Costs that, in accordance with the terms of this Agreement, are to be paid to Innovate by the System Operator and the manner in which and the timescale over which the System Operator is required to pay those Service Costs;

“Intellectual Property Rights” and “IPRs” means:

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, moral rights, trade marks, rights in computer software, internet domain names and website addresses and other rights in trade or business names, designs, rights in get-up or to sue for passing off, goodwill know-how, trade secrets and other rights in Confidential Information;
- (b) applications for registration and the right to apply for registration, of any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
- (c) all other rights having equivalent or similar effect in any country or jurisdiction;

Primary Contact means the person(s) nominated by each party in writing from time to time who shall have primary responsibility for overseeing delivery of the Programme on behalf of that party and being the primary point of commercial contact in all matters concerning the operation of the Agreement. As at the date of this Agreement, the Primary Contact for each party is as outlined in paragraph 6 of Annex A;

Programme means the strategic development, continuous improvement, delivery and management of the End to End process and competitions specified in Annex A, in consideration of which the Authority directs the System Operator to pay the service Costs specified in Annex B to Innovate;

Prohibited Act	<p>means any of the following:</p> <ul style="list-style-type: none"> (i) directly or indirectly offering, promising or giving any person working for or engaged by the Authority a financial or other advantage to (i) induce that person to perform Roles and Responsibilities improperly or (ii) rewarding that person for improper performance of Roles and Responsibilities; or (ii) directly or indirectly requesting, agreeing to receive or accepting any financial or other advantage as an inducement or a reward for improper performance of Roles and Responsibilities; or (iii) committing any offence (i) under the Bribery Act; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to this Agreement; or (iv) defrauding, attempting to defraud or conspiring to defraud a party to this Agreement; or (iv) misapplying or mismanaging Service Costs (save in case of genuine and promptly rectified error).
Project	<p>means work delivered by the Beneficiary;</p>
Project Specific IPR	<p>means:</p> <ul style="list-style-type: none"> a) Intellectual Property Rights in items created by Innovate specifically for the purposes of this Agreement and updates and amendments of these items including (but not limited to) database schema; and/or b) IPR in or arising as a result of the performance of Innovate's obligations under this Agreement and all updates and amendments to the same; <p>but shall not include Innovate Background IPR</p>
Representative	<p>means a party's employees, officers, advisers, contractors, sub-contractors and agents;</p>
Regulatory Year	<p>means a period of twelve months commencing on 1 April at 05:00 and ending on the following 1 April immediately before 05:00;</p>
Roles and Responsibilities	<p>means such roles and responsibilities of the Authority and Innovate (including any amendment thereto from time to time agreed in writing between the parties in accordance with the provisions of this Agreement and Annex C) as are consistent with the Authority Funding Principles and the SIF Governance Document;</p>
SIF Funding	<p>means disbursements by the System Operators to the Beneficiaries following a competition outcome, and disbursements of Service Costs by the System Operator to Innovate;</p>

SIF Funding Direction	means the direction given by the Authority in each Regulatory Year specifying the net amount of SIF Funding (less any SIF Funding Return) that is to be paid to the Beneficiary for the delivery of a Project by the System Operator and the Service Costs to be paid to Innovate, and the manner in which and the timescale over which the System Operator is required to pay that amount;
SIF Funding Return	means funds to be returned by Beneficiaries or by Innovate to the System Operators;
SIF Governance Document	means the document of that name published on Ofgem's website, as amended from time to time by Ofgem;
System Operator	means National Grid Electricity System Operator plc or National Grid Gas Transmission plc;
Third Parties	means all governmental, regulatory, commercial organisations and/or persons, from whom Innovate requires consents, permissions and/or licences to undertake the Programme but excluding third parties, from whom the Beneficiaries require consents or licences to undertake Projects.

2.2 The following rules of interpretation apply to this Agreement:

- (a) Clause headings shall not affect the interpretation of this Agreement;
- (b) Words importing one gender shall include other genders;
- (c) Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, include the singular;
- (d) Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed so as not to limit the generality of any words or expressions in connection with which it is used;
- (e) Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application, or re-enactment, and includes any subordinate laws for the time being in force made under it and all orders, notices, codes of practice and guidance made under it;
- (f) References to any clause, sub-clause, paragraph, sub-paragraph or schedule without further designation are to the clause, sub-clause, paragraph, sub-paragraph or schedule to this Agreement so numbered and any reference to an Appendix is a reference to an Appendix attached to this Agreement. Schedules and Appendices to this Agreement have the same force and effect as if expressly set out in the body of this Agreement and use the same definitions and interpretations;
- (g) Unless otherwise specified, a reference to writing or written excludes faxes and texts but includes email;

- (h) Any obligation in this Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce to that act or thing being done and to prevent such act or thing being done by a third party;
- (i) In the event of a conflict between the terms contained in the main body of this Agreement and the Schedules and Appendices, the main body of this Agreement shall prevail over the Schedules and the Appendices; and
- (j) The interpretation of clauses 18.3 and 18.5 must reflect the arrangements established by the SIF Governance Document and Authority Funding Principles.

3 Clause Not Used

This clause is intentionally blank.

4 APPOINTMENT OF INNOVATE AS INNOVATION PARTNER

- 4.1 Without prejudice to Ofgem's role as decision maker in relation to the SIF, the Authority appoints Innovate as innovation partner in respect of the and end to end process and associated Programme detailed in Annex A to:
 - 4.1.1 support strategic network innovation that contributes to the attainment of Net Zero targets, while delivering real net benefits to energy consumers;
 - 4.1.2 co-ordinate network innovation funding with other public sector funding initiatives, thereby ensuring greater flexibility and strategic alignment in innovation funding, and eliminating both unnecessary duplication of funding and funding gaps;
 - 4.1.3 align innovation funding to increase applications to the SIF and make it easier for other funds to align with the SIF programme;
 - 4.1.4 deliver the SIF using the agile methodology for funding projects (discovery, alpha and beta phasing); and
 - 4.1.5 establish a framework to realise the benefits from funded innovation projects, ensuring that projects are embedded in business as usual activities by network companies and that there is a national and international route to market service for network innovators, energy markets, utilities and investors.

5 SERVICE COSTS

Ofgem agrees to direct the System Operator to pay the Service Costs to Innovate, in accordance with the terms of this Agreement and the SIF Governance Document.

6 OVERARCHING PRINCIPLES

- 6.1 Subject to the requirements of the SIF Governance Document and the Authority Funding Principles, the parties agree, when carrying out the Programme, to:
 - 6.1.1 support the delivery of net zero at lowest cost to consumers;
 - 6.1.2 support the development of a national net zero carbon energy system;

- 6.1.3 increase innovation alignment across the Authority and Innovate and the wider energy innovation landscape, to maximise the benefits to energy consumers of the innovation spending of relevant bodies;
- 6.1.4 help coordinate and strategically focus energy innovation funding across the public sector;
- 6.1.5 help maximise value to consumers through the energy system transition, while protecting the most vulnerable in society and the energy system as a whole;
- 6.1.6 recognise that not all innovation projects will be successful and that there are lessons that can be learned from 'failed' projects, and by sharing those lessons to reduce risk and enhance opportunities;
- 6.1.7 work in consultation with electricity and gas networks, small and large business innovators, investors, utilities, academics and consumer groups across the full energy innovation ecosystem;
- 6.1.8 ensure that network consumers benefit from funded innovation across the whole system and that that impacts our net zero goals;
- 6.1.9 support the delivery of greater outcomes for society, the economy and the environment from energy innovation;
- 6.1.10 embrace an agile approach when funding innovation projects by breaking down projects into three phases – discoveries, alpha and beta. De-risking projects using discovery and alpha phases will lead to fewer (but higher value) live beta demonstrations;
- 6.1.11 demonstrate network innovation (funded by the RIIO price control) at a scale that secures further private and public sector investment;
- 6.1.12 provide a clear route to market to ensure innovation becomes business as usual for businesses;
- 6.1.13 promote effective and efficient business growth regionally, nationally and internationally;
- 6.1.14 help boost UK business value and economic growth both nationally and internationally.

7 AUTHORITY WARRANTIES AND OBLIGATIONS

- 7.1 The Authority warrants that it:
 - 7.1.1 has full rights and authority to enter into this Agreement; and
 - 7.1.2 will do nothing that would seriously impair its ability to maximise the benefit to energy consumers of UKRI's performance of its Roles and Responsibilities under the Agreement, in line with the Authority Funding Principles and the SIF Governance Document.
- 7.2 Subject to the requirements of the SIF Governance Document and the Authority Funding Principles, the Authority agrees to co-operate with Innovate in all matters regarding the shared performance of Roles and Responsibilities (as per Annex c) in relation to the Programme and to use reasonable endeavours to provide Innovate with any and all information and documentation, and carry out any task allocated as the Authority's responsibility under this Agreement in good time to allow Innovate to carry out its Roles and Responsibilities under this Agreement. Subject to clause 11 and for the

avoidance of doubt, this clause shall not oblige the Authority to provide Innovate with any information and documentation, the provision of which would put the Authority in breach of any applicable laws, statute, regulations or codes of practice and/or obligations owed by the Authority to third parties PROVIDED THAT Innovate shall not be in breach of this Agreement where information is withheld on these grounds and the withholding of such information prevents Innovate from observing its Roles and Responsibilities or otherwise prevents its performance of this Agreement.

8. CONFIDENTIALITY AND DATA

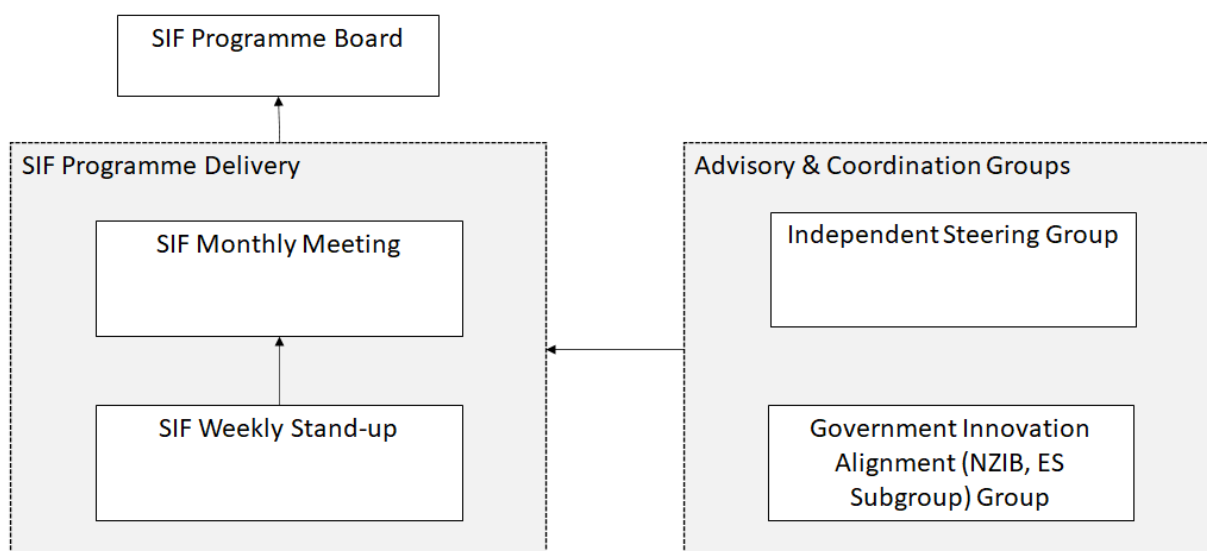
- 8.1 Each party undertakes that it shall not for a period of five (5) years after the date of this Agreement disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party (or of any member of the group of companies to which the other party belongs) disclosed to it except as permitted by clause 8.2 and in any event not disclose any Confidential Information in any way or to any person that would constitute a breach of section 105 of the Utilities Act 2000 .
- 8.2 Each party may disclose the other party's Confidential Information:
- (a) to its employees, officers, Representatives or advisers who need to know such information for the purposes of the Programme. Each party shall ensure that its employees, officers, Representatives or advisers to whom it discloses the other party's Confidential Information comply with this clause 8; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 8.3 The Authority may disclose any Confidential Information to the Secretary of State for Business, the Department for Business Energy and Industrial Strategy and/or any subsidiary thereof.
- 8.4 Neither party shall use the other party's Confidential Information for any purpose other than the Programme (“the Purpose”) and shall not except with prior written consent:
- 8.4.1 Use or exploit the Confidential Information in any way except for the Purpose.
 - 8.4.2 Disclose or make available the Confidential Information in whole or in part to any third party, except as expressly agreed.
 - 8.4.3 Copy and reduce to writing or otherwise record the Confidential Information except strictly as necessary for the agreed purpose.
 - 8.4.4 Seek to make contact with any third party that is subject of the disclosing party’s Confidential Information, unless expressly agreed.
- 8.5 Subject to Clause 8.6, where any Personal Data is Processed (such expression within the meaning of the Data Protection Act 2018) in connection with the exercise of the parties’ Roles and Responsibilities, including the provision of the services under it, the parties acknowledge that Innovate is the Data Controller (within the meaning of the Data Protection Act 2018).
- 8.6 Where the Authority directly provides any Personal Data to Innovate in connection with this Agreement, the Authority shall be the Data Controller and Innovate shall be the Data Processor (within the meaning of the Data Protection Act 2018) and Innovate shall comply with all directions given by the Authority in relation to such Personal Data from time to time.

- 8.7 Innovate shall (and shall ensure that all its staff and any contractors engaged directly on the Programme) duly observe and comply with all requirements and applicable obligations under the Data Protection Act 2018 which arise in connection with this Agreement, whether Innovate is Data Controller or Data Processor in relation to particular Personal Data.
- 8.8 Innovate shall use its reasonable endeavours to assist the Authority to comply with any obligations under the Data Protection Act 2018 and shall not perform its obligations under this Agreement in such a way as to cause the Authority to breach any of the Authority’s obligations under the Data Protection Act 2018 to the extent Innovate is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations
- 8.9 If as the Programme develops and operates it becomes apparent to either or both parties that it would be necessary or desirable to have a dedicated data sharing agreement to regulate the flow of data and information between the parties for the operation of the Programme or the conduct of services under this Agreement (including, but not limited to, the Roles and Responsibilities) the parties shall liaise and in good faith negotiate a data sharing agreement to meet the needs of the Programme

9. PROGRAMME MANAGEMENT

9.1 Overview

Subject to the requirements of the SIF Governance Document and the Authority Funding Principles, the following diagram represents the arrangements for Programme management and may be varied in accordance with the provisions of this Agreement.



9.2 Management principles

Subject to the requirements of the SIF Governance Document and the Authority Funding Principles, the following management principles apply. Innovate’s management of the Programmes will:

- 9.2.1 be consistent with Innovate’s Roles and Responsibilities;
- 9.2.2 provide strategic oversight and direction;

- 9.2.3 be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
- 9.2.4 align decision-making authority in relation to Innovate's Roles and Responsibilities with the criticality of the decisions required;
- 9.2.5 be aligned with Programme scope (and may therefore require changes over time);
- 9.2.6 leverage existing organisational, group and user interfaces;
- 9.2.7 provide coherent, timely and efficient decision-making; and
- 9.2.8 correspond with the key features of the arrangements for Programme delivery set out in this Agreement.

9.3 Records, Audit Access and Information Requests

- 9.3.1 Innovate shall keep and maintain for seven (7) years after the Expiry Date, full and accurate records and accounts of the operation of this Agreement and the amount of Service Costs.
- 9.3.2 Innovate shall:
 - 9.3.2.1 keep the records and accounts referred to in Clause 9.3.1 in accordance with good practice and applicable legal requirements; and
 - 9.3.2.2 afford the Authority and/or any auditor appointed by it ("the Auditor") copies of the records and accounts referred to in Clause 9.3.1 as may be required by the Authority and/or any Auditor from time to time during the concurrency of this Agreement and the period specified in Clause 9.3.1, in order that the Authority and/or any Auditor may carry out an inspection to assess compliance by Innovate of any of Innovate's obligations under this Agreement (the Authority having no obligation to inform Innovate of the purpose or objective of its inspection of same) including in order to:
 - (i) verify the accuracy of the Service Costs and any other amounts under this Agreement (and proposed or actual variations to them in accordance with this Agreement);
 - (ii) verify the costs of Innovate in connection with the provision of services under this Agreement;
 - (iii) verify Innovate's compliance with the applicable law;
 - (iv) identify or investigate an actual or suspected Prohibited Act, impropriety or accounting mistakes;
 - (v) obtain such information as is necessary to fulfil the Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes;
 - (vi) review any books of account and any internal management accounts kept by Innovate in connection with this Agreement;
 - (vii) carry out the Authority's internal and statutory audits and to prepare, examine and/or certify the Authority's annual and interim reports and accounts;
 - (viii) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used or directed resources;

- (ix) verify the accuracy and completeness of any information delivered or required by this Agreement.

- 9.3.3 The Authority shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt Innovate or delay the provision of the Services save insofar as Innovate accepts and acknowledges that control over the conduct of audits carried out by the Auditor(s) is outside of the direct control of the Authority.
- 9.3.4 Subject to Innovate's rights in respect of Confidential Information, Innovate shall on demand provide the Authority and/or any Auditor with all reasonable co-operation and assistance in providing, within a reasonable time:
 - 9.3.1 all reasonable information requested by the Authority or any Auditor within the scope of the audit or otherwise relevant to the operation of this Agreement; and
 - 9.3.2 reasonable access to premises controlled by Innovate and to any equipment used in connection with this Agreement the provision of the Services; and
 - 9.3.3 reasonable access to relevant Innovate Staff engaged in activities related to the provision of services under this Agreement.
- 9.3.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 9.

9.4 Project Monitoring

Innovate shall:

- 9.4.1 Monitor the work performed by Beneficiaries on Projects in accordance with its Roles and Responsibilities and the SIF Governance Document, to ensure that the aims and objectives of the Projects are being met;
- 9.4.2 notify the Authority in good time when issues in respect of Projects need to be escalated in accordance with this Agreement;
- 9.4.3 provide the Authority with access to Project monitoring reports every quarter. Each report will include an overall rating for each Project; and
- 9.4.4 invite a Representative of the Authority to attend and participate quarterly stage gates with the Beneficiaries.
- 9.4.5 Innovate will report to the Authority on the financial forecasting provided by the Beneficiaries.

10. COMMUNICATIONS, ACKNOWLEDGEMENT AND PUBLICITY

Innovate shall not without approval (not to be unreasonably withheld or delayed) make any press announcements or publicise this Agreement in any way.

11. STATUTORY OBLIGATIONS

- 11.1 Each party acknowledges that the other party is subject to the requirements of Freedom of Information Laws, and each party hereby agrees that it shall provide all necessary assistance and cooperation as reasonably requested by the other party to enable its compliance with its FOIA obligations arising from this Agreement.

- 11.2 Innovate shall (and shall procure that any of its staff involved in connection with the activities under this Agreement shall) comply with any notification requirements under the Data Protection Legislation and both parties will duly observe all their obligations thereunder which arise in connection with this Agreement.
- 11.3 Subject to the provisions of this Agreement, Innovate may be required to share Beneficiaries personal data with the Authority or the sole purpose of delivering the Programme.
- 11.4 Innovate and the Authority acknowledge that in accordance with current UK data protection legislation including but not limited to under the General Data Protection Regulation (GDPR 2016/679) and the Data Protection Act 2018, both parties are separate controllers and will comply fully with all requirements under current data protection legislation. Each party will implement and maintain appropriate technical and organisational measures in relation to the processing of personal data. Both parties shall ensure that nominated Data Protection Officers are in place and any breaches notified without undue delay to the nominated officer. Each party will have processes in place to notify the Information Commissioner's Office (ICO) within 72 hours of breaches when appropriate to do so.
- 11.5 Innovate and the Authority may disclose Confidential Information to the extent that it is required to be disclosed by law and/or by any governmental and/or other regulatory authority, and/or by a court of competent jurisdiction provided that, to the extent they are legally permitted to do so, the disclosing party should give the other party and the proprietor of the Confidential Information as much notice as reasonably possible. The party receiving a request for information pursuant to the FOIA shall determine in its sole discretion whether such information is disclosable.

12. INNOVATE WARRANTIES

- 12.1 Innovate warrants that, for as long as this Agreement remains in effect it:
- (a) is authorised for the purposes of this Agreement by powers conferred on it by Section 93 of the Higher Education and Research Act 2017
 - (b) has, and will continue to have the necessary resources and expertise to deliver the Programme (assuming due receipt of the Service Costs in accordance with the terms of this Agreement);
 - (c) will comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations;
 - (d) will deliver the Programme with all reasonable skill and care, using appropriately skilled personnel;
 - (e) is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from fulfilling its obligations under this Agreement;
 - (f) will not (save in case of genuine error) provide the Authority with any misleading or inaccurate information in respect of the Programme;
 - (g) will use the Service Costs only for delivering the Programme and meeting any costs directly associated with delivery;
- 12.2 Subject to Clauses 18.3, 18.4, 18.5, 21.6 and 23.6, in the event that the Authority or its Representative has any reasonable concern or complaint that Innovate is failing to comply fully with the warranties it will notify Innovate of this fact and the parties shall then seek to resolve the issue in accordance with Clause 16.

13. FRAUD AND CORRUPTION

The parties have a zero-tolerance approach towards any fraud and fraudulent behaviour that may result in the misuse of the Service Costs and agree in principle to use their best endeavours to ensure adequate anti-fraud policies and controls are in place to prevent and/or detect fraud, including money laundering, involving any part of the Service Costs.

14. NOTICES

14.1 All notices to be given hereunder shall be in writing and may be served:

- (a) in person;
- (b) by pre-paid first-class post or other next day delivery service; or
- (c) by email, provided always that a hard copy of the notice is also served, to the relevant party's registered address (or as it may from time-to-time be notified in writing to the other party) or to such email address as shall be notified in writing to the other party (as appropriate).

14.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (c) if sent by email, at 9.00 am on the next Business Day after sending.

14.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15. ENTIRE AGREEMENT

15.1 This Agreement (including the Annexes to it, or otherwise referred to in it and including any data sharing agreement that may be entered into by the parties in accordance with clause 8.9) constitutes the entire agreement between the parties exclusively in delivering the Programme, and supersedes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral.

16. DISPUTE RESOLUTION

16.1 Without prejudice to the rights of termination set out in Clauses 18.3, 18.4, 18.5 and 21.6, if either party has any issues, concerns or complaints about the delivery of the Programme, or any matter in this Agreement or any dispute, difference or question of interpretation arising out of or in connection with this Agreement ('Disputes') the Parties shall resolve such Disputes in accordance with the Dispute Resolution Procedure set out in Annex D.

16.2 If either party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier) in relation to the Programme, the matter shall be promptly referred to the Primary Contacts. No action shall be taken in response to any such inquiry, complaint, claim or action, to the extent that such response would adversely affect the Programme, without the prior approval of the Primary Contacts (or any other nominated Representative).

17. INTELLECTUAL PROPERTY RIGHTS

17.1 Allocation of title to IPR

17.1 Save as expressly granted elsewhere under this Agreement:

17.1.1 the Authority shall not acquire any right, title or interest in or to the Intellectual Property Rights of Innovate or any licensors, including:

- (i) Innovate Background IPR;
- (ii) the Project Specific IPR.

17.1.2 Innovate shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Authority or its licensors, including the:

- (i) Authority Background IPR; and
- (ii) Authority Data.

17.2 Where either Party acquires, by operation of law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 17.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

17.3 Neither Party shall 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.

Licence granted by Innovate: Project Specific IPR

17.4 Innovate hereby grants to the Authority, a perpetual, royalty-free, irrevocable, non-exclusive licence to use the Project Specific IPR including but not limited to the right to copy, adapt, publish and distribute such Project Specific IPR for all purposes related to the Programme.

Licence granted by Innovate: Innovate Background IPR

17.5 Innovate hereby grants to the Authority a perpetual, irrevocable, royalty-free and non-exclusive licence to use Innovate Background IPR for any purpose relating to the Programme.

Authority's right to sub-license

17.6 The Authority shall be freely entitled to sub-license the rights granted to it pursuant to Clause 17.4 (Licence granted by Innovate: Project Specific IPR) for purposes directly related to the Programme.

17.7 The Authority may sub-license:

17.7.1 the rights granted under Clause 17.5 (Licence granted by Innovate: Innovate Background IPR) to a third party provided that:

- (i) the sub-licence is on terms no broader than those granted to the Authority; and
- (ii) the sub-licence only authorises the third party to use the rights licensed in Clause 17.5 (Licence granted by Innovate: Innovate Background IPR) for purposes relating to the Programme; and

- 17.7.2 the rights granted under Clause 17.5 (Licence granted by Innovate: Innovate Background IPR) to any Approved Sub-Licensee to the extent necessary to use and/or obtain the benefit of the Project Specific IPR provided that the sub-licence is on terms no broader than those granted to the Authority.

Authority's right to assign/novate licences

- 17.8 The Authority shall be freely entitled to assign, novate or otherwise transfer its rights and obligations under the licence granted to it pursuant to Clause 17.4 (Licence granted by Innovate: Project Specific IPR) for purposes related to the Programme.
- 17.9 The Authority may for purposes related to the Programme assign, novate or otherwise transfer its rights and obligations under the licence granted pursuant to Clause 17.5 (Licence granted by Innovate: Innovate Background IPR) to:
- 17.9.1 a Central Government Body; or
- 17.9.2 to anybody (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Authority.
- 17.10 Where the Authority is a Central Government Body, any change in the legal status of the Authority which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Clause 17.4 (Licence granted by Innovate: Project Specific IPR) and/or Clause 17.5 (Licences granted by Innovate: Innovate Background IPR). If the Authority ceases to be a Central Government Body, the successor body to the Authority shall for purposes related to the Programme still be entitled to the benefit of the licences granted in Clause 17.4 (Licence granted by Innovate: Project Specific IPR) and Clause 17.5 (Licence granted by Innovate: Innovate Background IPR).
- 17.11 If a licence granted in Clause 17.4 (Licence granted by Innovate: Project Specific IPR) and/or Clause 17.5 (Licence granted by Innovate: Innovate Background IPR) is novated under Clauses 17.8 and/or 17.9 or there is a change of the Authority's status pursuant to Clause 17.10 (both such bodies being referred to as the "Transferee"), the rights acquired by the Transferee shall not extend beyond those previously enjoyed by the Authority.

Licence granted by the Authority

- 17.12 The Authority hereby grants to Innovate a royalty-free, non-exclusive, non-transferable licence during the Agreement Period only to use the Authority Background IPR and the Authority Data solely to the extent necessary for running the Programme in accordance with this Agreement, including (but not limited to) the right to grant sub-licences provided that:
- 17.12.1 any relevant sub-licensee has entered into a confidentiality undertaking with Innovate on the same terms as set out in Clauses 8 (Confidentiality); and
- 17.12.2 Innovate shall not without Approval use the licensed materials for any other purpose or for the benefit of any person other than the Authority.

Termination of licenses

- 17.13 Subject to Clause 17.5 (Licence granted by Innovate: Innovate Background IPR), all licences granted pursuant to Clause 17 (Intellectual Property Rights) and 17.12 (Licence granted by the Authority)) shall survive the Expiry Date.

17.14 The licence granted pursuant to Clause 17.12 (Licence granted by the Authority) and any sub-licence granted by Innovate in accordance with Clause 17.12 (Licence granted by the Authority) shall terminate automatically on the Expiry Date and Innovate shall:

17.14.1 immediately cease all use of the Authority Background IPR and the Authority Data (as the case may be);

17.14.2 at the discretion of the Authority, return or destroy documents and other tangible materials that contain any of the Authority Background IPR and the Authority Data, provided that if the Authority has not made an election within six months of the termination of the licence, Innovate may destroy the documents and other tangible materials that contain any of the Authority Background IPR and the Authority Data (as the case may be); and

17.14.3 ensure, so far as reasonably practicable, that any Authority Background IPR and Authority Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of Innovate containing such Authority Background IPR and/or Authority Data.

18. TERM AND TERMINATION

18.1 Clause 3 of this Agreement shall commence on the date of signature by both parties' authorised signatories and the remainder of the Agreement shall commence on the Effective Date. This Agreement shall expire on the earlier of completion of the Programme or the Expiry Date.

18.2 Either party may terminate this Agreement on the third anniversary of the date hereof by giving at least three months' notice in writing to the other party at any time.

18.3 Without prejudice to any other right or remedy it might have (and subject to interpretation in accordance with clause 2.2(j)), the Authority may terminate this Agreement by written notice to Innovate with immediate effect if Innovate:

18.3.1 commits a Prohibited Act;

18.3.2 is in material breach of any obligation under this Agreement which is not capable of remedy;

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

18.3.4 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within thirty (30) days of Innovate receiving notice from the Authority specifying the breach and requiring it to be remedied;

18.3.5 breaches any of the provisions of clauses 8, 11 or 21 (breach of confidentiality, statutory obligations, anti-corruption).

18.4 The Authority may terminate this Agreement if any of the provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply.

18.5 Innovate may (subject to interpretation in accordance with clause 2.2(j)) terminate this Agreement by written notice to the Authority with immediate effect if:

18.5.1 the Authority commits a Prohibited Act;

18.5.2 Innovate has not been paid any amounts due by the NG ESO or NGGT within ninety (90) days of them falling due;

- 18.5.3 the Authority is in material breach of any obligation under this Agreement which is not capable of remedy;
 - 18.5.4 the Authority repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
 - 18.5.5 the Authority is in material breach of any obligation which is capable of remedy, and that breach is not remedied within thirty (30) days of the Authority receiving notice from Innovate specifying the breach and requiring it to be remedied; or
 - 18.5.6 the Authority breaches any of the provisions of clauses 8, 11 or 21 (breach of confidentiality, statutory obligations, anti-corruption).
- 18.6 Any commitments made and costs incurred (by way of Service Costs) by Innovate in performing obligations of or related to this Agreement shall be paid or otherwise reimbursed to Innovate by the NG ESO or NGGT at the Authority's direction within 30 days of the latter of the date of termination of this Agreement or the date Innovate has confirmed to OFGEM the quantum of such costs (which Innovate shall confirm within 30 days of the date of termination of this Agreement)
- 18.7 Termination or expiry of this Agreement shall be without prejudice to the rights of either Party accrued prior to such termination or expiry and shall not affect the continuing rights or obligations of either party under this Agreement
- 18.8 For the avoidance of doubt, Innovate shall not be obliged (contractually or otherwise) to perform any obligations of this Agreement until the Effective Date and any work undertaken by Innovate or obligation performed (in whole or in part) in anticipation of the Effective Date is undertaken at risk and with no liability on the part of Innovate in any respect.

19. VARIATION

Aside from the provisions set out with the rate card in Annex B, this Agreement, including the Annexes, may only be varied by written agreement of the parties.

20 CHARGES AND LIABILITIES

- 20.1 Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in complying with their obligations under this Agreement.
- 20.2 The parties agree that the costs and expenses arising in respect of the Programme between them shall be payable in accordance with Annex B to this Agreement.
- 20.3 Both parties shall remain liable for any losses or liabilities which they incur due to their own or their employee's actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this Agreement.
- 20.4 The liability of each party for any breach of this Agreement, or arising in any other way out of the subject matter of this Agreement, will not extend to loss of business or profit, or to any indirect or consequential damages or losses.
- 20.5 In any event, the maximum liability of each party under or otherwise in connection with this Agreement or its subject matter shall not exceed the Service Costs (as forecast) as detailed in Annex B.

- 20.6 Notwithstanding the above provisions in the event that this Agreement is terminated in accordance with clause 18 subject to Innovate taking all reasonable steps to mitigate redundancies (such as exhausting redeployment opportunities), if the Authority serves notice to terminate this Agreement without breach of contract by Innovate, the Authority shall indemnify Innovate against all costs claims and liabilities arising out of any staff redundancies (including contracted engagements directly related to the provision of this Agreement) made necessary by virtue of such termination by directing NG ESO and NGGT to pay to Innovate these said costs as part of the provisions laid out in the relevant Innovate Funding Direction.
- 20.7 For the avoidance of doubt the Authority shall be liable for its own due diligence in respect of the Programme and any Beneficiary and the Authority shall immediately notify Innovate of any instance arising from that due diligence or failure thereof which impacts or might impact on the Programme or Innovate's performance under this Agreement and (in addition and/or related thereto) the Authority shall immediately inform Innovate of any person or entity relating to the Programme or a Beneficiary that is subject to legislative investigation and Innovate may cease to perform its functions under this Agreement in relation to such person, entity or beneficiary for so long as may be agreed by the Authority without such cessation amounting to a breach under this Agreement
- 20.8 Nothing in this Agreement limits or excludes either party's liability for:
- 20.8.1 death or personal injury resulting from negligence; or
- 20.8.2 any fraud; or
- 20.8.3 for any sort of other liability which, by law, cannot be limited or excluded

21. ANTI-CORRUPTION

- 21.1 Both Parties:
- (a) shall not and shall procure that any of its Representatives shall not commit a Prohibited Act in connection with this Agreement and/or the Programme;
- (b) represents and undertakes (each as a continuing obligation) that it is not aware of any financial or other advantage being given to any person working for or engaged by both parties, or that an agreement has been reached to that effect, in connection with the execution of the Agreement, excluding any arrangement of which full details have been disclosed in writing to both parties before formation of this Agreement.
- 21.2 Both Parties shall:
- (a) if requested, provide any reasonable assistance to enable both parties to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- (b) if so required by both parties within twenty (20) Business Days of the Effective Date, and annually thereafter, certify to either party in writing compliance with this Clause 21 by either party and all persons associated with it or other persons who are supplying goods or services in connection with the Agreement. Both parties shall provide such supporting evidence of compliance as either party may reasonably request.
- 21.3 Both parties shall have and maintain an anti-bribery policy (which shall be disclosed to the Authority on request) to prevent it and any of its Representatives from committing a Prohibited Act and shall enforce it where appropriate.

- 21.4 If any breach of this Clause 21 is suspected or known, either party must notify the other party immediately.
- 21.5 If either party notifies the other party that it suspects or knows that there may be a breach of this Clause 21, that party must respond promptly to the other party's enquiries, co-operate with any investigation, and allow either party to audit books, records and any other relevant documentation. This obligation shall continue for three years following the expiry or termination of this Agreement.
- 21.6 A breach of this clause 21 shall be deemed to be a material breach which is incapable of remedy.

22. TRANSPARENCY

- 22.1 The parties acknowledge and agree that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement and any information required to be supplied to the Authority by Innovate under it is not Confidential Information and shall be made available in accordance with the Government procurement policy note 13/15. The Authority shall determine whether any of the content of this Agreement is exempt from disclosure in accordance with the provisions of the FOIA. The Authority may consult with Innovate to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 22.2 Notwithstanding any other provision of this Agreement, Innovate hereby gives its consent for the Authority to publish this Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Agreement agreed from time to time.
- 22.3 Innovate shall assist and cooperate with the Authority to enable the Authority to publish this Agreement.

23. CONFLICT OF INTEREST

- 23.1 It shall be Innovate's responsibility to ensure that no conflict of interest arises from carrying out its Roles and Responsibilities in connection with the Programme under this Agreement.
- 23.2 The Authority will immediately notify and consult with Innovate in the event that any circumstances arise which give rise, or may give rise to a conflict of interest. The Authority shall be entitled to direct Innovate to take reasonable steps to avoid such conflict of interest and Innovate shall comply with such directions.
- 23.3 A breach of this clause 23 shall be treated for the purpose of Clause 18.3.2 as a material breach which cannot be remedied.

24. CHANGE IN LAW

- 24.1 In the event of a Change in Law occurring which effects or is likely to have an impact on a party's ability to perform the Agreement in accordance with its terms and applicable law, the parties shall in good faith promptly meet and negotiate an amendment to this Agreement to alleviate the impact of the Change in Law.
- 24.2 Any amendment negotiated between the parties in accordance with clause 24.1 shall be in accordance with clause 19 of this Agreement.

25. FORCE MAJEURE

A party shall not be liable for failure to perform its obligations under this Agreement, nor be liable to any claim for compensation or damage, nor be deemed to be in breach of this Agreement, if such

failure arises from an occurrence or circumstances beyond the reasonable control of that party (excluding an obligation to make payment). If a party affected by such an occurrence causes a delay of three (3) months or more, and if such delay may reasonably be anticipated to continue, then the parties shall discuss whether continuation of the Programme is viable, or whether the Programme and this Agreement should be terminated.

26. STATUS



Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

27. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with English law and, without affecting the escalation procedure, each party agrees to submit to the exclusive jurisdiction of the courts of England.

28. THIRD PARTY RIGHTS

An entity which is not expressly a Party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall be expressly excluded from this Agreement.

Authorised signatory on behalf of the AUTHORITY	Authorised signatory on behalf of Innovate
Signature: 	Signature: 
Position in Organisation: Deputy Director, Electricity Distribution Networks & Cross Sector Policy	Position in Organisation: Finance Director
Address: 10 South Colonnade, Canary Wharf, London, E14	Address: Polaris House, North Star Avenue, Swindon SN2 1FL
Date: 24 August 2021	Date: 24 August 2021

Annex A. The Programme

SIF Programme overview

The Strategic Innovation Fund (SIF) provides opportunities for Electricity and Gas network companies to compete for funding for the development and demonstration of new network technologies and new operating and commercial arrangements. Consistent with the Authority's Funding Principles, the Authority awards funding to the network innovation projects that meet the eligibility criteria set out in the SIF Governance Document and that help the networks to facilitate the energy system transition, support vulnerable customers and deliver real net benefits to energy consumers .

SIF Programme Vision, Key Objectives and Principles

The Authority and Innovate are collaborating to:

- 1) Enable and scale a greener, fairer energy system of the future (the Authority).
- 2) Position the UK as the Silicon Valley of energy systems (Innovate).
- 3) Support the UK's transition to net zero, at lowest cost to the consumer (the Authority) and with greatest UK-produced content and export opportunities (Innovate).

Our joint strategic approach enhances our ability to meet our net zero goals while allowing us to remain dynamic, flexible and joined up with cross-sector innovation aiming at net zero targets.

Key Principles (how we will get there)

Subject to the Authority Funding Principles and the SIF Governance Document, we will:

- 1) increase the alignment of network innovation with cross-sector innovation aiming at net zero targets, beginning in 2021/22 with alignment across the Authority and Innovate (including funding to maximise value for money and impact) and escalating cross-sector alignment from 2022/2023 onwards;
- 2) facilitate the demonstration of network innovation at a scale that secures investment;
- 3) provide a clear route to market to ensure that network innovation becomes business as usual and that businesses grow more effectively nationally and internationally;
- 4) use more discovery and alpha rapid prototyping leading to fewer (but higher value) live beta demonstrations;
- 5) share lessons learned to reduce risk and enhance opportunities; and
- 6) work in consultation with electricity and gas networks, small and large business innovators, academics and consumer groups across the full energy innovation ecosystem.

Impact (what we want to achieve)

Subject to the Authority Funding Principles and the SIF Governance Document, we will:

- 1) work to develop a national net zero carbon energy system, ensuring that the UK prospers from the energy revolution;

- 2) maximise value to citizens and the energy system as a whole, while providing real net benefits to energy consumers and protecting vulnerable consumers;
- 3) fund innovation across the whole system that impacts net zero targets
- 4) support the attainment of net zero targets at lowest cost consumers;
- 5) boost UK business value and economic growth both nationally; and
- 6) increase Triple Bottom Line (societal, economic and environmental) outcomes for society, the economy and the environment.

Practical Application of Key Principles

Subject to the Authority Funding Principles and the SIF Governance Document, we will:

1. create a larger pipeline of innovative ideas and participating organisations that bid for and secure innovation funding;
2. set key strategic challenges for industry and academia to solve;
3. reform the innovation funding application process to make it easier, more agile and networks more accountable;
4. deliver real world first of a kind development and demonstration involving both gas and electricity networks, bolstered with additional UKRI investor/business support services and a structured route to market service for national and international networks, utilities and investors to support post-project growth for the best ideas;
5. monitor and evaluate progress against our key principles to ensure benefits are realised during and after projects; and
6. enhance investment opportunities and support the development of new financial instruments via live 'in the system' trials, ensuring a seamless transition from innovation to business as usual across all networks

Key Roles and Responsibilities of the Authority

In line with the Authority Funding Principles and subject to the requirements of the SIF Governance Document, the Authority will:

1. consult on and set innovation challenges;
2. decide on the frequency of innovation challenges
3. consult and decide on project eligibility criteria, ensuring the compatibility of the eligibility criteria with the Authority Funding Principles.
4. consult on and identify any funding mechanism for larger projects alternative to funding via network charges;
5. consult and decide on bidding process requirements (relating, for example, to the composition of project partnerships, third party involvement and the size of any funding contribution);

6. decide on the allocation of funding;
7. apply and enforce SIF Governance; and
8. otherwise observe and perform its Roles and Responsibilities as per Annex c

Key Roles and Responsibilities of Innovate

In line with the Authority Funding Principles and subject to the requirements of the SIF Governance Document, Innovate will:

1. manage the timeline and process for each innovation challenge;
2. process bids for funding;
3. engage with bidders
4. analyse bids with a view to facilitating streamlined and collaborative innovation;
5. provide a cross-sectoral perspective on innovation funding and scale up the cross-sectoral approach from 2022'/2023 onwards; and
6. recruit the expert panel and support its evaluation of project; and
7. otherwise perform and observe its Roles and Responsibilities as per Annex c

Primary Contacts:

	Ofgem	UKRI - IUK
Name	██████████	██████████
Title	Deputy Director, Electricity Distribution and Cross Sector Policy	Deputy Director, OFGEM Strategic Innovation Fund (UKRI)
Address	Ofgem, Commonwealth House, 32 Albion Street, Glasgow, G1 1LH	Innovate UK, Polaris House, North Star Avenue, Swindon, Wiltshire, SN2 1FL United Kingdom
Telephone		
Email	██████████@ofgem.gov.uk	██████████@innovateuk.ukri.org

Annex B. Service Costs

1. Subject to the requirements of this Agreement, Innovate will administer the Service Costs in accordance with its standard policies, procedures and practices, as may be amended from time to time. Any amendments to Innovate's standard policies, procedures and practices will be do so transparently and in consultation with Ofgem. Further agreement between Innovate and Ofgem on the mechanism for consultation over changes to be agreed.
2. The Service Costs will be agreed, reported, and invoiced on an accrual basis.
3. Year 1 Service Costs will be agreed during the course of year 1 of the SIF. For year 2 onwards and subject to paragraph 11, the Service Costs will be agreed before the start of Innovate's financial year (1st April – 31st March), preferably in December, based on an agreed programme of work. Service Costs will be indicative and based on estimates.
4. The sequencing and timeline for settlement of Service Costs in year 1 of the SIF is as follows:
 - a An estimate of Service Costs will be calculated for 21/22 and 22/23 in the period November 2021.
 - b The Service Cost calculation will be provided and agreed with Ofgem in December 2021
 - c Ofgem will direct the National Grid Gas Transmission and National Grid Electricity System Operator to distribute funds during financial year 22/23 to cover Innovate's Service Costs for the financial year 21/22 and future year 22/23.
 - d Innovate UK will raise an invoice for both financial years 21/22 and 22/23 equal to the funding raised from National Grid Gas Transmission and National Grid Electricity System Operator.
 - e In November 2022 the cycle will begin anew covering financial years 22/23 and 23/24.
5. The Authority will direct National Grid Gas Transmission and National Grid Electricity System Operator to raise the required funding through consumer bills based on Innovate's estimate of Service Costs and distribute the cash to Innovate.
6. Innovate stipulate that the Service Costs will be accounted for separately as a liability. There will be no virement or offsetting of Service Costs with any other Innovate activity
7. Throughout the year the cash will only be recognised as income earned against costs incurred by Innovate based on the agreed programme of work.
8. Innovate will work with the Authority to ensure that the Programme remains aligned to the indicative spend profile. If costs are greater than the initial estimate these will be reimbursed to Innovate on the next cycle of raising cash from National Grid Gas Transmission and National Grid Electricity System Operator. This reimbursement will be no greater than 3 months after end of the financial year to which they relate. Conversely if costs are less than initially estimated then Innovate will refund the cash back to the National Grid Gas Transmission and National Grid Electricity System Operator within 3 months of the end of the financial year.
9. The Authority remains liable for directing payment from National Grid Gas Transmission and National Grid Electricity System Operator on all Service Costs incurred by Innovate in relation to agreed activities and in accordance with the Authority Funding Principles and the requirements of the SIF Governance Document.

10. Innovate shall ensure that no part of the funding is used in a way that infringes or could reasonably be expected to infringe, Subsidy Control Rules, or any other laws and/or regulations in force at that time.

CALCULATION AND JUSTIFICATION OF SERVICE COSTS

11. Service Costs shall be calculated using the rate card created by Innovate (UKRI). Any amendments to Innovate’s rate card will be done so transparently and in consultation with Ofgem. Further agreement between Innovate and Ofgem on the mechanism for consultation over changes to be agreed

12. Innovate will justify Service Costs using the rate card, together with the OPEX and Development Budget forecasts. Innovate must, together with submission of Service Costs for Ofgem approval, provide evidence that Service Costs represent value for money, such as:

- a Justification on the assumptions which underpin the amount of resource needed to run the SIF, including consideration of cost efficiencies that may arise running the programme over multiple years.
- b Justification for FTE staff resource employed on programme.
- c Justification for development budget spend, detailing how consultancy was sourced and why it was needed.

13. VAT will be charged where applicable.

14. Subject to agreement as detailed in paragraph 4 and justification of costs as detailed in paragraph 12, the indicative spend profile for Service Costs for year 1 is as follows

Full Cost Calculator																		
Competition	£ [REDACTED]	Running 3 x competitions (Discovery & Alpha for Challenge 1 and Challenger round), Assessment of up to 46 Discovery projects and the monitoring of up to 25																
Development Budget	£ [REDACTED]	Remains as agreed - £ [REDACTED] spend approved for 21/22																
FTE resource	£ [REDACTED]	<table border="1"> <tr><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr><td>[REDACTED]</td><td>[REDACTED]</td></tr> <tr><td>[REDACTED]</td><td>[REDACTED]</td></tr> </table>	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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Travel & Subsistence	£ [REDACTED]	[REDACTED] % of FTE Resource																
Overheads	£ [REDACTED]	[REDACTED] % of FTE Resource																
Overall Total	£ [REDACTED]																	
20% Tolerance	£ [REDACTED]																	

Competition Calculator		
Monitoring	£ [REDACTED]	1 x Monitoring Officer, 1.5 days per quarter @ £ [REDACTED]

Assessment	£ [REDACTED]	5 assessors per application @ £ [REDACTED] each
Brokerage	£ [REDACTED]	KTN or other
Operational	£ [REDACTED]	3 x competitions
Overheads	[REDACTED]	█% Ops resource
Total	£ [REDACTED]	

High level assumptions underpinning this indicative spend profile for year 1:

- a The costs above are based upon 3 competitions.
- b The average length of a Discovery Project is estimated to be 2 months.
- c The estimated number of projects per competition is 12.
- d Staff resource and overheads deemed to be a fixed cost for 3 years
- e All other costs are variable depending upon level of agreed activity.

PAYMENT OF SERVICE COSTS

15. To accommodate variations in timescales for completing specific Programme activities, monies directed by the Authority from the National Grid Gas Transmission and National Grid Electricity System Operator to those activities in a given financial year that remain unspent at the end of that financial year, may be rolled forward to future years that fall within the term of this Agreement, subject to the Authority's approval
16. Where either party has exercised its right of termination under this Agreement (contractual mechanism of which are detailed under clause 18 of the contractual agreement) and, as a result, the Authority withdraws any part of the funding which has not (or will not have) been committed, at the date upon which termination takes effect, Innovate may, in its sole and absolute discretion, discontinue future Programme payments, or substantively vary the terms of its offers, to contractors, in accordance with the notice provisions. In any event, the Authority will use all reasonable endeavours to direct National Grid Gas Transmission and National Grid Electricity System Operator to meet all costs that have reasonably been incurred by Innovate as at the date of termination.
17. If any part of the Service Costs remains unspent by the Expiry Date, or upon termination of this Agreement, whichever occurs sooner, Innovate shall ensure that such unspent Service Costs are either returned to National Grid Gas Transmission and National Grid Electricity System Operator within 60 (Sixty) Business Days of that date, or, subject to the written agreement of the Authority, is otherwise re-allocated to related, but separate, SIF programme activities.
18. In the event that an unapproved change creates a cost overrun occurs in delivering the Programme that result in the total costs being exceeded, the parties agree to use their reasonable endeavours to find a mutually acceptable course of action to address this.
19. Innovate shall promptly repay to the National Grid Gas Transmission and/or National Grid Electricity System Operator any money incorrectly paid to it in error, such instance shall include where part of the [Service Costs] is paid by the National Grid Gas Transmission and/or National Grid Electricity System Operator before Innovate has fully complied with all conditions attaching to the payment of that part of expenses.
20. Innovate shall monitor Programme costs incurred proactively on a monthly basis.

21. In the event that Innovate become aware that the costs in delivering the Programme may exceed the Service Costs, Innovate shall promptly inform the Authority prior to the Service Costs being exceeded. The parties agree to meet and work collaboratively to discuss necessary Programme management changes to address the cost overrun. For the avoidance of doubt the Authority shall not be liable under this Agreement for payment of any sums which exceed the Service Costs unless approved via change control
22. Innovate hereby agrees to accept liability for any sums incurred in managing the Programme which exceed the Service Costs, unless otherwise agreed in writing between the Parties.

Annex C
Roles and Responsibilities

This Annex C is subject to the requirements of the SIF Governance Document and the Authority Funding Principles, and the constraints of considering and updating these if necessary and appropriate.

Activities increasing alignment of SIF funds with other public innovation funds (Joint responsibility)			
Task	UKRI	Ofgem	
Together with BEIS, consider: 1) developing sister funds for the SIF. 2) aligning on strategic priorities via the Net Zero Innovation Board and more broadly.	Lead	Support	
UKRI will itself consider: 1) aligning funding and develop sister funds where possible. 2) promoting the SIF to existing projects. 3) developing links with academia.	Lead	-	
Consider future development of Ofgem innovation policy by: 1) considering the possibility of and opportunities for aligning innovation funding streams provided as part of the RIIO price controls, including for the electricity distribution sector, NIC and NIA. 2) Considering the role of third-party innovators in the SIF and how their increased involvement can be facilitated. 3) Considering how to increase interaction and join up service offerings provided by Ofgem's Innovation Link team with the SIF.	Support	Lead	

Activities operating the SIF (UKRI's core responsibility)			
Task	UKRI	Ofgem	

Competition strategy, phasing, setup & delivery (including question setting): 1) Whole System Integration (Discovery/Alpha/Beta) 2) Low Carbon Transport (Discovery/Alpha/Beta) 3) Multi Vector Heat (Discovery/Alpha/Beta) 4) Data and Digitalisation (Discovery/Alpha/Beta) 5) Challenger Round tbd (Discovery/Alpha)	Lead		
Communications strategy and delivery including competition promotion, press releases, animations etc	Lead	Support	
Discovery project assessment (year 1)	Lead	Support	
Assessment of Alpha/Beta applications (year 1)	Lead	Support	
Discovery / Alpha / Beta funding recommendations / line draw	Lead		
Discovery / Alpha / Beta funding decision	Support	Lead	
Project setup – registration of a Project on the Innovation Funding Service post-award	Lead		
Manage interview process	Lead	Support	
Award Contracts to winning businesses	Support	Lead	
Funding /Project Direction and Payment	Support	Lead	
SIF Governance Documentation	Support	Lead	
Project Monitoring and stage gating (including recommendations to terminate projects where necessary)	Lead		
Organise 'show and tell' at end of each phase	Lead		
Decisions regarding project termination	Support	Lead	
Identify prioritised options for future Challenge areas. Ongoing engagement with stakeholders to assess future challenge areas.	Lead	Support	
Decision of final challenge areas.	Support	Lead	
Discovery/Alpha project assessment.	Lead	Support	
Beta project assessment.	Lead	Support	

Activities supporting route to market of SIF projects (UKRI's core responsibility)			
Task	UKRI	Ofgem	
Develop 'Network of Energy Networks' to share learnings, develop new challenges, ensure innovation roll out to business as usual	Lead	Support	

Develop 'Network of Utilities' to stimulate follow on projects and investment into business innovation pipeline	Lead	Support	
Develop 'Network of Investors' to leverage private sector finance into business pipeline	Lead		
Develop global network of networks, utilities and investors bringing the best international businesses into the SIF and exporting the best UK capability overseas	Lead		
Ensuring business as usual roll out across networks (where innovation is shown to have worked) and taking claw back actions for non delivery if necessary	Support	Lead	

Miscellaneous activities			
Task	UKRI	Ofgem	
Programme Evaluation	Support	Lead	
Senior stakeholder engagement	Lead	Support	
Working with energy networks to revise the Energy Networks Innovation Conference	Lead	Support	

Annex D

Dispute resolution procedure

1. DEFINITIONS

1.1 In this Annex D, the following definitions shall apply in addition to those set out in clause 2.1:

"CEDR" the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;

"Expert" the person appointed by the Parties in accordance with paragraph 5.2 of this Annex D; and

"Mediation Notice" has the meaning given to it in paragraph 3.2 of this Annex D;

"Mediator" the independent third party appointed in accordance with paragraph 4.2 of this Annex D.

2. INTRODUCTION

2.1 If a Dispute arises then:

2.1.1 the Representative of the Authority and Innovate shall attempt in good faith to resolve the Dispute; and

2.1.2 if such attempts are not successful within a reasonable time either Party may give to the other a Dispute Notice.

2.2 The Dispute Notice shall set out:

2.2.1 the material particulars of the Dispute;

2.2.2 the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and

2.2.3 if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable as set out in paragraph 2.6 of this Annex, the reason why.

2.3 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Agreement regardless of the nature of the Dispute and notwithstanding the referral of the Dispute to the Dispute Resolution Procedure.

2.4 Subject to paragraph 3.2 of this Annex D, the Parties shall seek to resolve Disputes first by escalation (as prescribed in paragraph 3 of this Annex D) failing which;

2.4.1 then by mediation (as prescribed in paragraph 4 of this Annex D) but only if both parties consent; and

2.4.2 lastly by recourse to litigation (if such Dispute is litigious in nature).

2.5 Specific issues shall be referred to Expert Determination (as prescribed in paragraph 5 of this Annex D) where specified under the provisions of this Agreement and may also be referred to Expert Determination where otherwise appropriate as specified in paragraph 5 of this Annex D.

2.6 In exceptional circumstances where the use of the times in this Annex D would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in

resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use of the Expedited Dispute Timetable within five (5) Working Days of the issue of the Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Authority.

2.7 If the use of the Expedited Dispute Timetable is determined in accordance with paragraph 2.5 or is otherwise specified under the provisions of this Agreement, then the following periods of time shall apply in lieu of the time periods specified in the applicable paragraphs:

2.7.1 in paragraph 3.2.3, ten (10) Working Days;

2.7.2 in paragraph 4.2, ten (10) Working Days; and

2.7.3 in paragraph 5.2, five (5) Working Days.

2.8 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. Any agreed extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension.

3. ESCALATION

3.1 Following the service of a Dispute Notice, the Authority and Innovate shall use reasonable endeavours to resolve the Dispute as soon as possible by consultation between respective Representatives. If the issue cannot be resolved within a reasonable period of time (depending on the nature of the dispute, but in any event not more than [14] days) the matter shall be escalated to the senior management team of both parties which shall decide on the appropriate course of action to take. If the matter cannot be resolved by the senior management team within 14 days from the date of referral to them paragraph 2.4.1 of this Annex D shall apply.

3.2 If:

3.2.1 either Party is of the reasonable opinion that the resolution of a Dispute by escalation or consultation, or the continuance of the same, will not result in an appropriate solution;

3.2.2 the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of consultation in accordance with this paragraph 3 of this Annex D; or

3.2.3 the Parties have not settled the Dispute in accordance with paragraph 3.1 of this Annex D within thirty (30) Working Days of service of the Dispute Notice,

either Party may serve a written notice to proceed to mediation (a "Mediation Notice") in accordance with paragraph 4 of this Annex D.

4. MEDIATION

4.1 If a Mediation Notice is served, the Parties shall attempt to resolve the Dispute in accordance with CEDR's Model Mediation Agreement which shall be deemed to be incorporated by reference into this Agreement.

4.2 If the Parties are unable to agree on the joint appointment of a Mediator within thirty (30) Working Days from service of the Mediation Notice, then either Party may apply to CEDR to nominate the Mediator.

- 4.3 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if the Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.
- 4.4 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties. The Mediator shall assist the Parties in recording the outcome of the mediation.

5. EXPERT DETERMINATION

- 5.1 If a Dispute relates to any aspect of the technology underlying the provision of services under this Agreement or otherwise relates to a financial, technical or other matter (as the Parties may agree) suitable for determination by an expert and the Dispute has not been resolved by discussion or mediation, then either Party may request (which request will not be unreasonably withheld or delayed) by notice to the other that the Dispute is referred to an Expert for determination.
- 5.2 The Expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within ten (10) Working Days, or if the person appointed is unable or unwilling to act, the Expert shall be appointed on the instructions of the relevant professional body.
- 5.3 The Expert shall act on the following basis:
- 5.3.1 he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
 - 5.3.2 the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
 - 5.3.3 the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within thirty (30) Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;
 - 5.3.4 any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the Parties;
 - 5.3.5 the process shall be conducted in private and shall be confidential; and
 - 5.3.6 the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.