

## **Questions raised at the Energy Demand Reduction Pilot Workshop**

*held at  
Local Government Association, Smith Square, London SW1P 3HZ  
6 September 2006*

### **1 FUNDING**

#### **1.1 Could DTI make available its offer letter template?**

*DTI has made available a draft DTI offer letter (Appendix 1) to offer some indication to bidders of the types of conditions that would be contained therein. It should be seen as an example only, although DTI have added some trial specific comments for added guidance. It is important to note that the Secretary of State may see fit to impose other conditions as he sees fit when awarding grants.*

#### **1.2 Is the 50% of funding for actual expenditure or can it be for in-kind or third party costs?**

*In kind or third party costs may be included. As stated in the offer letter template: "If any Participant is a sole trader or partnership, its labour cost, at an agreed rate, will be treated as cost defrayed for the purpose of claims relating to time spent in connection with the project.*

#### **1.3 Does the funding cover expenditure for the trial before the grant offer has been signed?**

*Any expenditure incurred before the DTI makes its offer of grant is excluded.*

#### **1.4 Will you provide any template for the cost breakdown of bids?**

*Please see draft offer letter in Appendix 1.*

#### **1.5 Can you give us any direction as to how the total funds will be dispersed?**

*We ideally would like to fund a broad mix of trials, which are investigating methods that can be replicated on a larger scale. However, we will be limited by the bids we receive. If we receive similar bids then we will be looking at individual criteria to determine which bid will be successful, as outlined in the bid letter.*

#### **1.6 Capital grants are allocated 2006/7 and 2007/8. Is this when you are committed to spending or when actual expenditure will take place?**

*Actual spending will take place over the next two years. Due to the bulk of the grants being allocated to 2006/7 we want to spend as much as possible in this financial year.*

#### **1.7 Due to the strict length of the trial, would funding need to be returned if trial was not completed?**

*We will have to give some consideration to this. Paragraphs 13 and 14 of the DTI offer template (Appendix 1) sets out conditions when any grant already paid would need to be recovered.*

**1.8 It has been mentioned there is 'up to 50% funding support'- will there be negotiations with suppliers on how much funding they are allocated?**

*Yes, the amount of money DTI has available is fixed and cannot be exceeded. For example, if the total bids received exceed the amount available in the budget, then a decision may have to be taken to prioritise those projects that are supported or, we may take a decision to support a greater number of projects but may only be able to offer a smaller percentage of grant. If this proves to be the case, we aim to conduct these negotiations during October.*

**1.9 Is it possible for DTI to fund 100% of the project in 2006/7, then the supplier fund 100% of the project in 2007/8?**

*No. Whilst DTI would be willing to pay a greater percentage of the total grant awarded in the first year, i.e. the first year could be front end loaded to cover capital purchases and/or installation costs, this will not be up to the level of the total grant awarded. The total paid over the lifetime of the project could not exceed the total grant awarded,*

## **2 SELECTION PROCESS**

**2.1 Are you willing to accept bids from a consortium?**

*Yes, bids from all parties or consortium will be accepted and considered, as long as they contain the requirements outlined in the bid letter.*

**2.2 In the assessment criteria are you looking for ease of use by customers?**

*Yes, consumer interaction is vital.*

**2.3 Ideally how many contracts for bids are you looking for - can you define the size of the pilot? i.e. the number of pilots you have in mind?**

*We do not have a preconceived idea on the number of trials that would make up the pilot. We are unable to judge at this stage as it is dependant on the responses we receive.*

**2.4 In terms of time scales when will the successful bids be announced and when will trials begin?**

*Ofgem plan to submit proposals to DTI by the end of October, and DTI expect to offer grants in November. We acknowledge, though, that timelines are tight and the need for additional discussions could disrupt that schedule. Trials are expected to begin as soon as possible after the grant letters are signed.*

**2.5 You mentioned the focus of the trials would be on the domestic market, however would a sole SME bid be accepted? If so would the criteria differ?**

*The focus is on the domestic sector but, as was mentioned in the bid letter, we can see the potential for some overlap to, particularly, SMEs. Therefore no-one is*

*prevented from entering a sole SME bid and as of yet we have not differentiated the criteria.*

**2.6 Under the 'time of day' tariff will you be looking at load shifting?**

*Yes, we are interested in gaining more information on the potential for load shifting.*

**2.7 Is a trial involving water totally excluded?**

*This pilot is aimed at determining customer response in the gas and electricity markets. However, if a bid is submitted that includes a water element that does not compromise the gas and electricity components, it may be considered.*

**2.8 Would small suppliers be at any disadvantage?**

*No, this pilot is open to all companies.*

**2.9 Is there any disadvantage to submitting a number of single bids compared to one bid with multiple elements?**

*There is no disadvantage to submitting one single bid which has multiple components. In fact a number of variations within one bid (i.e. different trial options with different funding requests) would be attractive as it allows us greater flexibility in compiling a balanced pilot.*

**2.10 Would it be possible for Ofgem to act as broker if a number of similar, smaller bids could be consolidated to form a more comprehensive trial?**

*Yes, this may be considered.*

**2.11 If there are gaps after the bids have been received, would a second round of bidding be held?**

*No. The bid evaluation process allows for discussions with applicants if any debate or clarification is required.*

### **3 TRIAL DESIGN**

**3.1 What might be regarded as a statistically sound trial size? Can it be defined by a discussion process?**

*There is no single statistically sound sample size – this is dependent upon factors such as the sample characteristics. Supporting evidence on the soundness of the trial size should be included within the bid and supported by your research. Sample size may be discussed with applicants. We do, however, recognise the compromise between sample size and costs.*

**3.2 In terms of the independent assessment, how far removed does some-one need to be?**

*The aim of the independent assessment is to give support to your claim that you are submitting a statistically sound trial. Obtaining this validation from a statistical expert outside the organisation would be most beneficial. However we*

*recognise that there may be various constraints to obtaining this evaluation. As indicated, we will also be employing multiple checks through a third party.*

**3.3 Do you want to see the overall effect of seven/eight different elements being trialled or would you prefer a more gradual approach?**

*We are interested in both the individual elements and how they interact with other measures. Ideally the pilot would have some trials investigating a gradual approach (i.e. analysing the progressive impacts as more feedback measures are given to customers) and the impact of these approaches individually.*

**3.4 Are there any statistics available to help with the criteria?**

*It is expected that bidders will identify the necessary data to support their bid. It was noted though that demographic statistics, etc, can be obtained from the ONS website at [www.statistics.gov.uk](http://www.statistics.gov.uk).*

**3.5 Will heat meters be included?**

*Yes, heat meters can be included in trial proposals.*

**3.6 Can you define the Priority group?**

*Government has targets for fuel poverty by 2010/16, and are therefore interested in any proposals that could reduce the level of fuel poverty. Thus, trials that segment trial participants in terms of society groupings would be interesting.*

**3.7 Will the standard reporting template be available before the bid is entered?**

*No, it will not be ready in time as the Ofgem consultant will be detailed with this activity, and they will only be appointed shortly before the trial bids close. However it will be shown to successful bidders so that they will be aware of their responsibilities before there is final agreement.*

**3.8 Will the results of the trial be shared in the public domain?**

*Yes, some information will be published external to Ofgem in the form of end of project reports. As stated earlier, you can clarify in your bids any elements you do not want to be published.*

## **4 MISCELLANEOUS**

**4.1 Why is this level of information needed if it is being left to the market?**

*Information obtained about GB customer response will be an important input to aid future policy decisions, not least as a guide for establishing the extent of change that could be reasonably expected by domestic households to particular incentives. The Government made a commitment in the Climate Change Programme to a 0.2MtC saving from better billing and metering by 2010, needs to implement the End Use and Energy Services Directive by May 2008, is consulting on the inclusion of behavioural measures in EEC3, and, furthermore, made commitments in the Energy Review in relation to bills, displays and meters. So Government cannot preclude that some decisions may be taken while trials*

*are being held, nevertheless they are still seen as providing valuable information particularly in relation to smart meters – and also assisting the energy industry in their commercial decisions.*

**4.2 For those customers who take part in the trial, has there been any exit plans made? For example, what happens to customers who wish to keep the alterations made by the trial?**

*It is assumed that it will be a commercial decision whether to continue with the trialled product. If any regulatory derogation were made to accommodate the trial, and if, for example, a supplier wished to continue with their offering, the usual change procedures would need to be followed.*

**4.3 If the 'time of use tariff' proved popular, this could cause the need for new profiles. Is there any scope for a feasibility study?**

*It is likely that the projects will generate future work and needs which are outside the trial, but this should be expected.*

**4.4 If the primary aims of the project is to investigate methods to change consumer habits, have future price increases been modelled to measure against demand?**

*Existing information indicates that demand is inelastic. It is likely that higher prices are likely to lead to greater engagement in the trials by consumers.*

**4.5 Would regulatory derogations be given to accommodate bids? If so would they extend beyond the trial?**

*Yes, exemptions may be given, but this would be dealt with on a case by case basis. The supply licence is currently under review, but otherwise any exemptions given would only last for the duration of the trial, thereafter the applicant would be required to follow standard industry change processes to affect long-term changes.*

**4.6 To what extent are intellectual rights shared?**

*It is expected that the broad nature of the trial and its results will be publicly shared. This said, we will have due regard for any commercially sensitive elements of trials. These elements should be clearly described in the trial bids.*

**4.7 When will you publish a request for independent consultants to aid Ofgem?**

*Independent consultants have already been tendered the week starting the 28<sup>th</sup> of August. They were required to respond by the 15<sup>th</sup> of September and will be appointed by the end of the month.*



Name of grant recipient

Department of Trade and Industry

Energy Group

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London  
SW1H 0ET

Tel +44 (0)20 7215

Fax +44 (0)20 7215

Enquiries +44 (0)20 7215 5000

Minicom +44 (0)20 7215 6740

File Ref **DTI file reference details**

TP Ref **Project Reference number (if any) allocated by DTI**

Date October 2006

www.dti.gov.uk

paul.egerton @dti.gsi.gov.uk

Dear

## ENERGY DEMAND REDUCTION PILOT

I am pleased to inform you that subject to the terms and conditions of this letter the Secretary of State for Trade and Industry ("the Secretary of State") is prepared to pay **[Name of lead company]** ("the Company") a grant not exceeding [amount awarded] under Section 5 of the Science and Technology Act 1965 to undertake the collaborative programme of work entitled **Energy Demand Reduction Pilot** ("the Project") in accordance with the detailed proposal submitted to Ofgem and the Department of Trade and Industry ("the Department") on **[date of proposal]**.

### Conditions of the Offer

2. The Project is to be carried out in collaboration with **[names of others in consortium]** together with **[Name of lead company]** ("the Participants") in accordance with the terms of a collaboration agreement signed by all the Participants ("the Collaboration Agreement"). A model collaboration agreement is attached at Schedule 4.
3. This offer is conditional on the Department receiving within:
  - a. one month of the date of this letter an original copy of the grant offer acceptances duly signed and completed by the Company; and signed copies of the attached declarations by the participants
  - b. one month of the date of this letter an original copy of the Collaboration Agreement duly signed by all the Participants.
4. If these conditions are not met, the grant offer will lapse automatically. The grant offer may be renewed or extended at the discretion of the Secretary of State.
- 4a. The following supplementary conditions will also apply specifically to the project: **[DTI Note: this clause may not be required, but is retained in case the Secretary of State wishes to impose other conditions on the way that the trial is run]**

Financial

5. The grant will be payable at **[percentage grant awarded]** % of the net eligible costs (as defined and detailed in Schedule 1) incurred and defrayed on or after the common Project start date agreed by all the Participants as part of their Collaboration Agreement and Project Management Plan and declared by the Lead Partner in their acceptance of this offer at the end of this letter. The grant will be payable by instalments on submission by the Company of a statement of monies expended (as defined in Schedule 1) by the Participants on the Project.

6. Unless the Secretary of State otherwise agrees, claims for payment must be submitted on a quarterly basis (i.e. at intervals of not more than **three** calendar months) commencing from the project start date. Any overpayment of grant, whether disclosed by a report or otherwise, must be refunded forthwith to the Secretary of State on his first demand or upon the Company becoming aware that grant has been overpaid, whichever first occurs. Claims must be accompanied by:

(i) a certificate of expenditure on the project from [Participant/s not receiving grant or providing in-kind contributions] signed by a duly authorised Finance Officer as set out in Schedule 3;

(ii) a report on the Project covering:-

4.7.1.1.1 (a) progress on the Project including the installation of any necessary plant  
and machinery;

4.7.1.1.2 (b) any change in the nature or scale of the Project including an  
assessment of any change in the prospects of technical success;

4.7.1.1.3 (c) any change in the ownership of or beneficial interest in any asset  
provided for the Project;

4.7.1.2 (iii) the latest annual accounts of each Participant supported by the Department, unless these have already been supplied to the Department in connection with the application for assistance or an earlier claim for payment. If these accounts relate to a period ending more than nine months before the date of the claim for payment, management accounts for the later period must be included;

4.7.1.3 (iv) an up-to-date estimate of the Project costs indicating any significant variations  
in the amount or timing of payment of these costs.

7. **[ DTI Note: one of the following paragraph 7 options comes into play depending on the level of grant awarded in which case, intervals specifying when independent audit reports must accompany a claim for payment of grant. ]** (A) In addition, confirmation is required that the Participants have expended the sums in respect of which claims are made in the period. For this purpose, reports from an independent accountant must be provided. The first of these must accompany the first claim for payment. [Subsequently, a report must be submitted within three months after the end of each financial year (as defined in the Companies Act 1985) of the Company, covering all claims made in respect of periods ending during that financial year, unless covered by an earlier report]. The final claim must also be accompanied by a report in respect of that claim and any other claims for which reports have not already been submitted. Reports must relate to particular claims or to groups of consecutive claims. Successive reports must cover consecutive periods with no gaps. Reports must be in the form set out in **Schedule 2a** and must be made by an independent accountant eligible under the terms of Section 25 of the Companies Acts 1989 for appointment as auditor of a company. A person eligible under Section 34Name of grant recipient of the Companies

Act 1989 for appointment as auditor of a non-quoted company (as defined in that section) may only report on grant claims made by such a company or by a business not incorporated under the Companies Acts.

7. (B) In addition, confirmation is required that the Participants have expended the sums in respect of which claims are made in the period. For this purpose, reports from an independent accountant must be provided with each claim. Reports must be in the form set out in **Schedule 2a** and must be made by an independent accountant who is qualified under the terms of Section 25 of the Companies Acts 1989 for appointment as auditor of the Company. A person eligible under Section 34 Name of grant recipient of the Companies Act 1989 for appointment as auditor of a non-quoted company (as defined in that section) may only report on grant claims made by such a company or by a business not incorporated under the Companies Acts.

7. (C) In addition, confirmation is required that the Participants have expended the sums in respect of which claims are made in the period. For this purpose a report from an independent accountant must accompany the final claim for the Project. The report must cover the full period of the project and in the form set out in **Schedule 2a** and must be made by an independent accountant who is qualified under the terms of Section 25 of the Companies Acts 1989 for appointment as auditor of the Company. A person eligible under Section 34 Name of grant recipient of the Companies Act 1989 for appointment as auditor of a non-quoted company (as defined in that section) may only report on grant claims made by such a company or by a business not incorporated under the Companies Acts.

7a. In addition to point 7 above, the independent accountant must be appointed by the Participants in accordance with the Department's own Standardised Terms of Engagement, which are at **Schedule 2** of this offer letter.

8. The Secretary of State may also require a report from an independent accountant to be submitted earlier than as specified above in exceptional circumstances including:-

- (i) withdrawal of any Participant from the Project or termination of the Project;
- (ii) a claim disclosing expenditure substantially greater than was anticipated for the period in question;
- 4.7.1.4 (iii) a claim being made which covers an unusually long period or relates mainly to monies expended in a previous financial year;
- 4.7.1.5 (iv) a change in the accounting reference date or accounting practice of any Participant.

9. Despite the provisions of paragraph 5 **the Secretary of State is under no obligation to pay more than 85% of the grant specified in paragraph 1 until the Project has been completed to his satisfaction.**

10. All claims must be accompanied by full documentation. The Secretary of State shall be under no obligation to make any payment on claims received later than 6 months after the Project completion date defined in Paragraph 13 (iii), and there will be a general presumption against paying claims received after this date, unless he has previously agreed in writing to an extension.

11. Once a fully documented claim has been received, grant will normally be posted, or the claim rejected, within 30 days, unless it is necessary for the Department to seek further information to support the claim.

Changes affecting the Project



12. Subject to the prior written agreement of the Participants and the Secretary of State an additional participant or participants may be accepted into the Project in conformity with the Collaboration Agreement. In the event of a participant withdrawing the Participants will cooperate with the Secretary of State in securing an alternative participant or participants, if it is necessary in the Secretary of State's view in order to complete the Project.

13. While the Department in supporting the Project recognises the inherent technical and financial risks, there may be occasions when the Secretary of State considers that the payment of grant should cease or that grants already paid should be reclaimed. The Secretary of State shall be under no obligation to pay the grant, and any grant already paid may become repayable, in whole or in part, at his discretion, if:

- (i) he considers that collaboration between the Participants is not evident and effective;
- (ii) he considers that the future of the Project is in jeopardy;
- (iii) in his opinion progress towards completion of the Project is unsatisfactory or if the Project is not completed within **two** years of the start date determined by paragraph 5 or, in the opinion of the Secretary of State there is no longer any reasonable prospect of the Project being completed by that date, unless he has previously agreed in writing to an extension;
- (iv) there is a change in the nature or scale of the Project which in his opinion is substantial and to which he has not given his prior written agreement;
- (v) in his opinion the steps taken by the Participants during the period referred to in paragraph 25 for the exploitation of the results of the Project are inadequate;
- (vi) an asset, the cost of which has been included in the net eligible costs, is not used for the purpose of the Project, except as previously agreed by him in writing;
- (vii) within the period commencing on the date specified in paragraph 5 and ending 3 years after the date on which the final payment of grant is made
  - (a) any Participant becomes the subject of a proposal for a voluntary arrangement or has a petition for Administration Order or a petition for a winding-up Order brought against it or passes a resolution for a winding-up or makes any composition, arrangement, conveyance or assignment for the benefit of its creditors, or purports to do so, or if a receiver or any other person is appointed in respect of its undertaking or of all or any of its property or if the Participant does or suffers anything substantially equivalent to any of the foregoing.
  - (b) any Participant ceases to be a subsidiary (as defined in the Companies Act 1985) of any company of which it is a subsidiary at the date of this letter or becomes a subsidiary (as so defined) of a company of which it is not a subsidiary at the date of this letter, and such change of status is likely in the opinion of the Secretary of State to affect adversely the Project or the exploitation in accordance with the provisions of this letter of the results of the Project,
- (viii) any Participant does not comply with or observe any condition of this letter.

14. The Company shall inform the Department promptly in writing of any cessation of work on the Project and of any event or circumstance likely to affect significantly the satisfactory completion of the Project. The Company shall also inform the Department promptly in writing if any of the events referred to in paragraph 13(vi), (vii), or (viii) takes place.

### General

15. The Company shall manage the Project in accordance with the terms of the Collaboration Agreement.
16. The Company shall carry out the duties of Lead Company which are as follows:
  - (i) to appoint a Project Manager to carry out the day-to-day management of the Project and to act as the focal point for all contact with the Secretary of State. Details of the Project Manager should be declared when accepting this offer letter;
  - (ii) to use its best endeavours to ensure that the Participants do everything which is requisite to enable the terms and conditions of this letter to be fulfilled;
  - (ii) to receive grant payments on behalf of itself and of other Participants, and upon receipt of such payments to make corresponding payments to other Participants in respect of those monies expended by them to which the grant payments relate.
17. The Secretary of State and his representatives and advisers shall have the right to inspect the Project at any time and from time to time and to require such further information to be supplied as he or they see fit. Such further information may include but is not limited to information concerning the financial position of the Participants to be supported by the Department. In addition the Secretary of State and his representatives and advisers shall have the right to call and attend meetings with the Participants if necessary.
18. The Secretary of State shall be entitled to withhold payment and/or claim repayment of grant under this letter to the extent of the amount of any grant or other payment which has been received, or is, in the opinion of the Secretary of State, likely to be received, from any public authority and which the Secretary of State considers is payable towards the Project. For the purposes of this paragraph "public authority" includes any member of the European Union or their Institutions, any government department, research council, devolved administration, regional development agency, local authority, or body wholly or partly supported by public funds or charitable contributions. The terms of this paragraph do not apply to grant or other payment whose availability has been disclosed by the Participants to the Secretary of State before the date of this letter and which has been taken into account in making this offer.
19. Notwithstanding the provision of paragraph 18 the Secretary of State may:
  - 4.7.1.6 (i) withhold payment of grant and/or reclaim any grant paid to the extent necessary to ensure that any assistance given under this offer letter taken together with any other assistance which, in the opinion of the Secretary of State, has been or is likely to be received towards the Project is within the aid limits laid down by the European Union;
  - 4.7.1.7 (ii) withhold and/or reclaim grant, with interest from the date of payment if required to do so by a decision of the Commission of the EU, or as a result of any obligation arising under EU law.
20. No amendment to the terms of this offer will be effective unless and until agreed in writing on behalf of the Secretary of State.
21. The Secretary of State may provide the Commission of the European Communities with information about assistance under the Energy Demand Reduction Pilot in compliance with Treaty obligations.

### Confidentiality and Intellectual Property

22. The Participants shall make all reasonable enquiries concerning copyright, design, patent and other intellectual property rights and shall ensure that to the best of their respective beliefs there are no such rights which are required in connection with the carrying out of the Project or the exploitation of the Project's results save such as are owned by, or available to, the Participants on, and will continue to be so available at all times after, the date of the start of the Project as referred to in paragraph 5.

23. If any Participant is or becomes aware of any third party patent or patent application relevant to the exploitation of the result of the Project, the Participant shall immediately inform the Secretary of State.

### Exploitation

24. The Participants shall not exploit the results of the Project outside those countries which, at any time during the exploitation period, form part of the European Economic Area during the period starting on the date of this letter and ending five years after the date on which final payment of grant is made, unless the Participant or Participants have previously obtained the written consent of the Secretary of State. The exploitation of the results of the Project shall not be deemed to include the sale outside the European Economic Area of goods manufactured within it. Participants should note that that consideration would be given to other arrangements that achieve a satisfactory return to the UK/EEA economy.

25. The Participants are required to notify the Secretary of State of the sale of any prototypes the costs of production of which are included in the net eligible costs set out in Schedule 1, and to pay the Secretary of State a percentage, at the rates specified in Schedule 1, of the sale proceeds of any such prototypes after deducting from those proceeds the cost of any necessary refurbishment. The Participants shall provide an auditor's report on the sale price and the refurbishment costs involved. This payment is to be by refund of grant.

### Acceptance of Offer

26. Acceptance of this offer constitutes agreement in full to the terms and conditions set out in this letter.

27. The offer should be accepted by a Director or Duly Authorised Officer of the Company signing the duplicate copy of the offer letter on behalf of the Company. In addition, Directors or Duly Authorised Officers of the Participants should sign their copies of the participant's declaration. The letter and the Participants' acceptances should then be returned to **Paul Egerton, DTI, Energy Markets Unit, 1 Victoria Street, London SW1H 0ET**.

28. This offer letter shall be governed by and construed in accordance with English law in all respects.

29. If this offer is accepted, the Project will be monitored on behalf of the Secretary of State by an external monitoring officer to be agreed with the Participants.

32. The Project Officer for the Department will be **[to be named in the letter sent to the company]**

Yours sincerely

**Iain Macleay**

on behalf of the Secretary of State for Trade and Industry  
Energy Markets Unit

ACCEPTANCE OF OFFER

Project Title: **Energy Demand Reduction Pilot**

DTI Ref: **DTI file reference details**

Date: **Date of offer letter**

Project Ref: **Project Reference number (if any) allocated by DTI**

I accept the offer set out above and in the Schedules and make the following declarations:

(a) For the purposes of Paragraphs 5, 13(iii) and 10:

- (i) Common Project Start Date (Para 5).....
- (ii) Common Project End Date (Para 13(iii)).....
- (iii) No Obligation Date (Para 10).....

(b) For the purposes of Paragraph 4a, all the conditions of offer have been fulfilled, as follows:

- (i) Parent company support letters (where specified)
- (ii) Other documentation/information (where specified)

(c) For the purposes of Paragraph 16 the Project Manager is:

Name:  
 Address:  
 Telephone:  
 E-mail:

(d) Contact for finance contractual issues:

Name:  
 Address:  
 Telephone:  
 E-mail:

Signed \*

( ..... )

Director for and on behalf of **[Name of lead company]**

Date:

**\*Print Name**

Project Title: **Energy Demand Reduction Pilot**

DTI Ref: **DTI file reference details**

Date: **Date of offer letter**

DTI Ref: **Project Reference number (if any) allocated by DTI**

Declaration by Participating Company

I .....\*, on behalf of Project Reference number (if any) allocated by DTI, one of the companies participating in the Project which is the subject of the Secretary of State's Offer letter of **Date of offer letter** hereby confirm that, in consideration of the Secretary of State's becoming bound to fulfil the obligations undertaken by him in the above offer letter upon acceptance thereof by **[Name of lead company]**, **Name of Participant** accepts all the terms and conditions set out in the offer letter and requiring the compliance of, or imposing any obligation on Name of Participant as a Participant in the Project. I undertake to the Secretary of State that Name of Participant will do all such things and provide all such information, documentation and assistance as is required of it or necessary to be produced by it under the terms of the offer letter.

I further undertake to the Secretary of State that Name of Participant will indemnify [Name of lead company] in regard to any repayment to be made to the Secretary of State under paragraphs 6, 13, 18, 19 and 27 of the offer letter to the extent of monies received by Name of Participant from [Name of lead company] under the Project. The obligation of Name of Participant to indemnify **[Name of lead company]** shall only arise in the case that actions or failures of **Name of Participant** form part of the reasons of the Secretary of State in seeking repayment.

Signed .....Director or Duly Authorised Officer for and on behalf of **Name of Participant**

Date.....

insert name

Project Title: **Energy Demand Reduction Pilot**

DTI Ref: **DTI file reference details letter**

Date: **Date of offer**

Project Ref: **Project Reference number (if any) allocated by DTI**

4.7.2 Declaration by Participating Organisation not receiving grant

I \*.....on behalf of Name of Participant, one of the organisations contributing to the above Project which is the subject of the Secretary of State's offer letter of **Date of offer letter** hereby confirm that, in consideration of the Secretary of State's becoming bound to fulfil the obligations undertaken by him in the above offer letter upon acceptance thereof by Name of Participant, the Participant accepts all the terms and conditions set out in the offer letter and requiring the compliance of, or imposing any obligation on Name of Participant as a contributor to the Project. I undertake to the Secretary of State that Name of Participant will do all

such things and provide all such information, documentation and assistance as is required of it or necessary to be produced by it under the terms of the offer letter.

Signed .....

Director for and on behalf of **Name of Participant**

Date\*

\* Print Name and Insert Date

—

**Schedule 1**

1. The provisions of this Schedule are subject to the terms and conditions of the offer letter.
2. The grant will be **[percentage grant awarded]**% of the net eligible costs (as defined in para 5 below) in respect of which monies have been expended (as defined in paragraph 4 below) by the Participants on the Project between (start of claim period) and (end of claim period), the estimated costs of which are set out below:- [or] on separate sheet - see Annex A}

| (£)               | <u>Company A</u> | <u>Company B</u> | <u>Company C</u> | <u>Total</u> |
|-------------------|------------------|------------------|------------------|--------------|
| Labour            |                  |                  |                  |              |
| Overheads         |                  |                  |                  |              |
| Materials         |                  |                  |                  |              |
| Capital Equipment |                  |                  |                  |              |
| Sub-contracts     |                  |                  |                  |              |
| <b>TOTAL</b>      |                  |                  |                  |              |

3. The grant to be paid will be reduced by the amount of any Selective Assistance received or receivable on any goods or buildings the costs of which are properly included in the net eligible costs.
4. For monies to have been expended liabilities must have been incurred and defrayed. No claim can be accepted for liabilities which have been incurred but have not yet been defrayed. If any Participant is a sole trader or partnership, its labour cost, at an agreed rate, will be treated as cost defrayed for the purpose of claims relating to time spent in connection with the project.
5. The net eligible costs shall be the costs which are properly attributable exclusively to the Project excluding and deducting (as may be appropriate) from the amount of such costs:-
  - 4.7.2.1.1 (i) input Value Added Tax;
  - 4.7.2.1.2 (ii) any grant under the Industrial Development Act 1982 received or receivable by the Company or any Participant in respect of the Project;
  - 4.7.2.1.3 (iii) any other grant from any public authority (as defined in paragraph 18 of the Offer Letter) received or receivable in respect of the Project;
  - 4.7.2.1.4 (iv) interest, service charges and interest arising from hire purchase, leasing and credit arrangements;
  - 4.7.2.1.5 (v) any addition for profit by any Participant and profit earned by any company in any Participant's group as a result of work relevant to the Project undertaken by a Participant or sub-contracted to such company by a Participant. For the purposes of this sub-paragraph "group" means any holding company of any Participant and any subsidiary of such holding company or of any Participant, and "holding company" and "subsidiary" have the respective meanings assigned to them in Section 736 of the Companies Act 1985



## Schedule No 2

### STANDARDISED TERMS OF ENGAGEMENT (OFFERED AS PART OF GRANT CONDITION INSTEAD OF A TRI-PARTITE ENGAGEMENT)

The following are the terms of engagement on which **The Department of Trade & Industry [The DTI and / or its agents which are administering grants on behalf of the DTI]** agrees to engage accountants to perform a mixture of high and moderate - level of assurance engagement and report in connection with the (name of grant claim).

**References to “ The DTI” hereafter will mean “The DTI and / or its agents, which are administering grants on behalf of the DTI.” References to “Accountant” hereafter will mean “Independent Accountant” and the grant recipient’s reporting accountant.**

An agreement between the grant recipient, its reporting Accountant and the DTI on these terms is formed and the Accountant signs and submits to the DTI a report as set out in Clause 3 herein.

The DTI will not need to sign anything. By publishing this document the DTI makes an offer to engage on these terms. Once the offer is accepted by the grant recipient, and the Accountant then an agreement is formed. If the terms of the standardised engagement letter are to be revised, the DTI will need to confirm its acceptance of the new terms before agreement is formed.

**[Should it become necessary in exceptional circumstances to tailor the standard terms of engagement to accommodate specific circumstances the contact point will be the DTI project officer or programme manager issuing the grant offer letter to the grantee]**

#### 1 Introduction

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

#### 2 The [grant recipient]’s responsibilities

2.1 The [grant recipient] is responsible for producing all information, maintaining proper records, complying with the terms of any legislation or regulatory requirements and the DTI’s terms and conditions of grant (“the grant conditions”) and providing relevant information to the DTI on a basis in accordance with the requirements of the grant conditions. The [grant recipient] is responsible for ensuring that the non-financial records can be reconciled to the financial records.

2.2 The management (directors of limited companies, partners in partnership firms and the owner in a sole tradership) of the [grant recipient] will make available to the Accountant all records, correspondence, information and explanations that the Accountant considers necessary to enable the accountant to perform the Accountant’s work.

2.3 The [grant recipient] and the DTI accept that the ability of the Accountant to perform his work effectively depends upon the grant recipient providing full and free access to the financial and other records and the [grant recipient] shall procure that any such records held by a third party are made available to the Accountant.

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

#### 3 Scope of the Accountant’s work

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

3.2 The Accountant will perform the following work in relation to reports required by the DTI:

3.2.1 The Accountant will carry out a mixture of high and moderate level of assurance assignment as set out in the terms and conditions of the grant by performing the following work in relation to reports required by the DTI:

3.2.2 Select a random sample of expenditure, both capital and revenue items, reported in the statement of claims relating to the project;

3.2.3 For each item of expenditure selected in the sample, trace the amounts recorded in the statement of claims to the original invoice and / or other supporting documents to check that the amount has been properly incurred and defrayed in accordance with the terms of the offer letter.

3.2.4 Test any overheads included in the expenditure to ensure that any amounts are in respect of the company's own labour, not calculated to include any profit, and not in excess of overhead rates applicable to similar work carried out by the company.

3.2.5 Obtain breakdown of grant revenue received / receivable accounts of the company and make enquires with the directors of the company into whether or not there *are* any other grants received or receivable in respect of the project and that they have been correctly treated in the claim.

3.2.6 Make enquires with the directors of the company into whether the amounts claimed include any addition for profit by the company and profit earned by any company in the company's group.

3.2.7 Check the arithmetical accuracy of the schedules relating to the claim and check whether the grant claimed by the company has been calculated in accordance with the terms and conditions of the offer letter.

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

#### **4 Basis and Form of the accountant's reports**

4.1 The Accountant's reports will be prepared on the following basis:

4.1.1 The Accountant's reports will be prepared for the confidential use of the [grant recipient] and the DTI and for the purpose of submission to the DTI in connection with *the* DTI's requirements in connection with [name of grant]. They may not be relied upon by the [grant recipient], or the DTI for any other purpose or provided to any other party except as provided in 4.1.2 below

4.1.2 The DTI may only disclose the reports to others who may have statutory rights of access to the report. There may be an actual or potential liability to [other bodies] that may arise out of the eligibility and / or use of monies by [the grant recipient], and [the others] who will be entitled to rely on the report;

4.1.3 Neither the [grant recipient], nor the DTI [nor others] may rely on any oral or draft reports the Accountant provides. The Accountant accepts responsibility to the [grant recipient] and the DTI for the Accountant's final signed reports only;

4.1.4 Subject to clause 4.1.5, the Accountant's reports must not be recited or referred to in whole or in part in any other document (including, without limitation, any publication issued by the DTI) without the prior written approval of the Accountant;

4.1.5 Subject to clause 4.1.2 and except to the extent required by court order, law or regulation or to assist in the resolution of any court proceedings the Accountant's reports must not be made available, copied or recited to any other person (including, without limitation, any person who may use or refer to any of the DTI's publications);

4.1.6 Except as provided by 4.1.1 herein, the firm of accountants, its partners and staff neither owe nor accept any duty to any other person (including, without limitation, any person who may use or refer to any of the DTI's publications) and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by their reliance on representations in the Accountant's reports.

4.1.7 Subject to the above provisions, the Accountant's report should be addressed both to the grant recipient and also the DTI and should be based on the model report schedule attached to this engagement letter.

## 5 Liability Provisions

5.1 The Accountant will perform the engagement with reasonable skill and care and acknowledges that he will be liable to the [grant recipient] and the DTI for losses, damages, costs or expenses (“losses”) caused by his breach of contract, negligence or wilful default, subject to the following provisions:

5.1.1 The Accountant will not be so liable if such losses are due to the provision of false, misleading or incomplete information or documentation or due to the acts or omissions of any person other than the Accountant, except where, on the basis of the enquiries normally undertaken by accountants within the scope set out in these terms of engagement, it would have been reasonable for the Accountant to discover such defects;

5.1.2 The Accountant accepts liability without limit for the consequences of his own fraud and for any other liability, which he is not permitted by law to limit or exclude;

5.1.3 Subject to the previous paragraph (5.1.2), the total aggregate liability of the Accountant whether in contract, tort (including negligence) or otherwise, to the DTI and the [grant recipient], arising from or in connection with the work which is the subject of these terms (including any addition or variation to the work), shall not exceed the amount determined in accordance with the capping formula shown below

| <i>Amount of grant being reported on in this claim:</i> | <i>Proportion of amount</i>   | <i>Total cap</i>                            |
|---|---|---|
| <i>Up to £1m</i>  | <i>100%</i>   | <i>Amount of grant included in claim</i>    |
| <i>Between £1m and £5m</i>                              | <i>100% of first £1m<br/>+ 50% of remainder</i>                                     | <i>£1m + 50% of amount in excess of £1m</i> |
| <i>Between £5m and £15m</i>                             | <i>100% of first £1m<br/>+ 50% of amount between £1m and £5m + 20% of remainder</i> | <i>£3m + 20% of amount in excess of £5m</i> |
| <i>Above £15M</i>                                       | <i>Negotiate</i>  | <i>Negotiate</i>                            |

The DTI will negotiate the comparatively rare claims above £15m on an individual basis and accountants should contact the named contact at the DTI shown in the preamble to this engagement letter in advance of agreeing their engagement letter with their client to discuss such cases.

The DTI and its agents should note that the ICAEW has not agreed this capping formula on behalf of the profession. If firms are not happy with the proposals (as above) they will need to discuss their concerns either with the DTI or its agents directly.

5.2 The [grant recipient] and the DTI agree that they will not bring any claims or proceedings against individual partners, members, directors or employees of the Accountant. This clause is intended to benefit such partners, members, directors and employees who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999 (the “Act”). Notwithstanding any benefits or rights conferred by this agreement on any third party by virtue of the Act, the parties to this agreement may agree to vary or rescind this agreement without any third party’s consent. Other than as expressly provided in these terms, the provisions of the Act are excluded;

5.3 Any claims, whether in contract, negligence or otherwise, must be formally commenced within 3 years after the party bringing the claim becomes aware (or ought reasonably to have become aware) of the facts which give rise to the action and in any event no later than 6 years after any alleged breach of contract, negligence or other cause of action. This expressly overrides any statutory provision, which would otherwise apply;

5.4 This engagement is separate from, and unrelated to, the Accountant’s audit work on the financial statements of the [grant recipient] for the purposes of the Companies Act 1985 (or its successor) or other legislation and nothing herein creates obligations or liabilities regarding the Accountant’s statutory audit work, which would not otherwise exist.

## 6 Fees

The Accountant’s fees, together with VAT and out of pocket expenses, will be agreed with and billed to the [grant recipient]. The DTI is not liable to pay the Accountant’s fees.

## 7 Quality of Service

The Accountant will investigate all complaints. The DTI or the [grant recipient] have the right to take any complaint to the Institute of Chartered Accountants in England and Wales (“the ICAEW”) or to any professional accountancy body as appropriate.

### **8 Providing Services to Other Parties**

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

### **9 Applicable law and jurisdiction**

9.1 This agreement shall be governed by, and interpreted and construed in accordance with, English law.

9.2 The [grant recipient], the DTI and the Accountant irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaims) which may arise in connection with the validity, effect, interpretation or performance of, or the legal relationship established by this agreement or otherwise arising in connection with this agreement.

### **10 Alteration to Terms**

All additions, amendments and variations to these terms of engagement shall be binding only if in writing and signed by the duly authorised representatives of the parties. These terms supersede any previous agreements and representations between the parties in respect of the scope of the Accountant’s work and the Accountant’s report or the obligations of any of the parties relating thereto (whether oral or written) and represents the entire understanding between the parties.

**Schedule 2a****4.7.3 THE INDEPENDENT ACCOUNTANT'S REPORT****(On headed paper of the accountant)****RESTRICTED - COMMERCIAL**

## 1. Addressees:

The report should be addressed to:

- (i) The grant receiving company (the name of the company), and also
- (ii) The DTI or other agents as appropriate.

## 2. Identification of the agreed engagement letter, the grant offer letter and the specific information on which work has been performed and tests have been applied:

We have examined the enclosed claim from [name of the company] ('the company') for the period from [date] to [date] in accordance with the terms and conditions of the engagement letter dated [date] and grant offer letter dated **Date of offer letter**. The claim has been prepared by and is the sole responsibility of the [directors] of the company.

## 3. Statement that the tests performed were those agreed in the above mentioned engagement letter.

We have carried out a mixture of high and moderate level of assurance assignment by performing the following tests:

a) We have selected a random sample of both capital and revenue items of expenditure as reported on the claim and traced them to invoices and / or other supporting documentation and evidence of payment to check that they have been properly incurred and defrayed in accordance with the terms and conditions of the offer letter;

b) We have confirmed the arithmetical accuracy of the schedules relating to the claim and agreed them to the appropriate supporting documentation. We have also checked whether the grant claimed by the company has been calculated in accordance with the terms and conditions of the offer letter;

Our examination was substantially less in scope than an audit and hence provided a lower level of assurance than an audit.

## 4. Statement of errors and reservations / exceptions.

[These, if any, should be clearly stated under this paragraph]

## 5. Based on examination as above and subject to the financial effect of any reservations or qualifications set out at paragraph 4], we report based on our findings, in our opinion

(i) the claim and previously submitted claims for payment are in accordance with the Department of Trade and Industry offer letter dated .....including the schedules thereto;

(ii) the company has expended [as defined in Schedule [1] to the offer letter] monies to cover those eligible costs incurred and defrayed during the period from ..... to .....related to the project described in the offer letter amounting to:-

| £                  | Comp A | Comp B | Comp C | Comp D |
|--------------------|--------|--------|--------|--------|
| Labour             |        |        |        |        |
| Overheads          |        |        |        |        |
| Materials          |        |        |        |        |
| Capital Equipment* |        |        |        |        |
| Sub-contracts      |        |        |        |        |
| TOTAL              |        |        |        |        |

**\*Please differentiate between capital equipment purchased specifically for the Project and capital items that the company has already acquired or constructed.**

(iii) none of the costs were incurred before (start date of project)

(iv) overheads included in the expenditure are:-

(a) in respect of the company's own labour;

(b) not calculated to include any profit;

(c) not in excess of overhead rates applicable to similar work carried out by the company;

(v) the totals at (ii) above exclude input Value Added Tax and interest and service charges arising from hire purchase, leasing and credit arrangements; and

(vi) the Company has maintained adequate records to enable me/us to report on this claim for payment of grant.

In the course of our work nothing came to our attention to suggest that:

(vii) *the amount claimed has not been reduced by the amount of any Regional Development Grant received or receivable in respect of the project;*

(viii) *the totals at (ii) above include any grant under the Industrial Development Act 1982 received or receivable by the company in respect of the project;*

(ix) the totals at (ii) above include any addition for profit by the company and profit earned by any company in the company's group [as defined in Schedule 1] as a result of work relevant to the project undertaken by the company;

(x) the totals above include any other grants from any public authority, as defined in [paragraph 18] of the offer letter, that have been received or are receivable by the Company in respect of the Project.

6. Our report is prepared solely for the confidential use of the company and the DTI, and solely for the purpose of [verifying the grant claimed]. It may not be relied upon by the company or the DTI and [named others] for any other purpose whatsoever. Our report must not be recited or referred to in whole or in part in any other published document without our written permission. Our report must not be made available, copied or recited to any other party without our express written permission in every case except for the DTI and [named others] may disclose the report where it has a statutory obligation to do so. Other than to the company, the DTI and [named

*others]* we neither owe nor accept any duty to any other party to whom this report may be disclosed.—

7. The engagement to report on the grant claim is separate from, and unrelated to, the audit of the annual financial statements of the company and that the report relates only to the matters specified and that it does not extend to the grant recipient's annual financial statements taken as a whole.

8. Name and signature of the reporting accountant

9. Date of the report

10. Name for enquiries

—

**RESTRICTED - COMMERCIAL**

**Schedule 3**

**4.7.4**

**4.7.5 CERTIFICATE OF EXPENDITURE for organisation(s) not receiving grant or providing In-kind contribution to the project**

I/We certify that ..... (Participant) has expended monies in connection with the **Energy Demand Reduction Pilot: Energy Demand Reduction Pilot** between the period ..... and .....as follows:

| Headings                    | Current Claim |         | Cumulative  |               |
|-----------------------------|---------------|---------|-------------|---------------|
|                             | Amount Spent  | Claimed | Total Spent | Total Claimed |
|                             | £             | £       | £           | £             |
| Labour                      |               |         |             |               |
| Overheads                   |               |         |             |               |
| Materials/ consumables      |               |         |             |               |
| Capital Equipment           |               |         |             |               |
| Patent Costs                |               |         |             |               |
| Travel & Subsistence        |               |         |             |               |
| <b>4.7.5.1</b> Trials/tests |               |         |             |               |
| <b>4.7.5.2 Total</b>        |               |         |             |               |

\*(Participant)

\*(Address)

.....  
 .....  
 .....  
 .....

Name .....

**Signed** .....

(Duly authorised Finance Officer for and on behalf of participant)

Date .....

\*Please insert details