

**Template GOL for Industrial Energy Efficiency Accelerator – Consortia
Applicants - 2018
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Department for
Business, Energy
& Industrial Strategy

**Mark Taylor
BEIS
1 Victoria Street
London SW1H 0ET**

[Date]

[Grantee address]

Dear **[insert name]**

BEIS Industrial Energy Efficiency Accelerator – Grant Offer Letter

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

Amount of Grant

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

Requirements relating to the Consortium

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5. In your application, you confirm that the **[insert full project title]** (“**the Funded Activities**”) are being undertaken by a consortium of which You are the first consortium member and the other consortium member(s) [is/are]:

a) **Second consortium member: [insert full name of second consortium member]; Registered Number: [insert company number of second consortium member] whose registered office is at [insert full address of second consortium member].**

b) **Third consortium member: [insert full name of third consortium member]; Registered Number: [insert company number of third consortium member] whose registered office is at [insert full address of third consortium member].**

c) **Fourth consortium member: [insert full name of fourth consortium member]; Registered Number: [insert company number of fourth consortium member] whose registered office is at [insert full address of fourth consortium member].**

d) **etc**

Your responsibility for the consortium

6. You must ensure that the consortium as a whole complies with the requirements of this letter and its Appendices and Schedules. You are fully responsible for:

a) ensuring that all other consortium members comply with those requirements; and

b) their acts or omissions, where they do not.

7. The requirements in paragraphs 9 to 11 below do not in any way qualify or limit Your responsibility, or Our right to reclaim the Grant and interest from You.

8. No member may join or leave the consortium without prior authorisation in writing by Us.

Requirement to enter into a collaboration agreement

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9. The Grant is conditional on all consortium members entering into a legally binding agreement (“collaboration agreement”) under which each member of the consortium:
- a) confirms that they have read the Grant Agreement, this letter and its Annexes;
 - b) agrees to comply with all relevant requirements of the Grant Agreement, this letter and its Annexes, and to use all reasonable endeavours to ensure that the consortium does so; and
 - c) without limiting the generality of its agreement in sub-paragraph b) above, agrees to the conditions set out in clause 7 of the Grant Agreement,

(the collaboration agreement may also include other reasonable requirements between its parties, as may be negotiated between them).

Rights against consortium members

10. Consortium members must agree that We may (under the Contracts (Rights of Third Parties) Act 1999:
- a) require them to provide Us with information and evidence as to their compliance with the requirements of the Grant, and to allow Us and Our agents to inspect their premises for that purpose;
 - b) make that information available to other public authorities, including the European Commission; and

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- c) require them to repay the Grant and interest to Us on Our reasonable demand, in cases where We the Secretary of State have reasonable cause to consider that:
- i. the grounds in Part 2 of this letter and clause 7 of the Grant Agreement arise (without limitation, in case of misuse or EU law relating to state aid); and
 - ii. those grounds arise by virtue of the fault of the relevant member,

and consortium members shall agree that We may continue to exercise those rights at any time after the termination or expiry of the collaboration agreement, and after the relevant consortium member has left the consortium.

Indemnity to be contained in the collaboration agreement

11. The collaboration agreement shall also include an agreement by consortium members to indemnify You (and keep You indemnified) against Your liability under paragraphs 22 and 23 and Appendix 2 of this letter and clause 7 of the Grant Agreement.

Purpose of Grant

12. The Grant is offered to You to contribute to certain expenditure (see paragraphs 14 to 15) (“**Eligible Expenditure**”) where that expenditure is reasonably incurred by You or the consortium members in undertaking **[insert full project title]** (“**the Funded Activities**”).
13. A description of the Funded Activities is set out in **Annex 1** to the Grant Agreement.

Eligible Expenditure

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14. Subject to paragraphs 15 and 16, the Eligible Expenditure is limited to the costs specified in **Annex 3** to the Grant Agreement and the Eligible Expenditure within the scope of Article 25 (*Aid for research and development projects*) of the EU State Aid General Block Exemption Regulation referred to in paragraph 23 below.
15. Under no circumstances may the Grant be claimed or used to cover any Ineligible Expenditure listed in that Annex or to cover costs incurred for those purposes (and any such costs do not constitute Eligible Expenditure for the purposes of this letter). The Eligible Expenditure must be kept to the minimum for the efficient conduct of the Funded Activities, and expenditure that We reasonably determine to be in excess of that amount does not constitute Eligible Expenditure.

Funding Period

16. The Eligible Expenditure for which the Grant is awarded is expenditure limited to costs which are incurred between **[insert the start date]** and **[insert the end date]**.

Payment of Grant

17. The Grant will be paid in accordance with the instalments in **Annex 2** to the Grant Agreement, in arrears, on a milestone and reimbursement basis (up to the Grant limit for that milestone) upon receipt from You of a **Grant Claim Form** in the form set out in **Appendix 1** to this letter by the deadlines specified in the Grant Agreement. The milestones are set out in **Annex 2** to the **Grant Agreement**.

Accountable Officer

- 18.1 You must appoint a person (the “Accountable Officer”) responsible for ensuring that You use the Grant in compliance with the Agreement, and notify Us of the identity of the Accountable Officer. The Secretary of State must approve the appointment of any person who is not the Chief Executive Officer or Chief Financial Officer.
- 18.2 The Accountable Officer must maintain oversight of Your use of the Grant and:
 - a) safeguard, control and ensure the efficient, economical and effective management of the Grant;
 - b) advise You on the discharge of Your responsibilities under the Agreement and under any subsequent terms and conditions agreed by You and Us, or any guidance or other information notified by Us;

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- c) ensure that principles of probity, robust governance, transparency and value for money are maintained at all times in relation to the Grant;
- d) be responsible for signing the accounts relating to the Grant, ensuring that they are properly prepared and presented and that proper accounting records are maintained in a form that complies with generally accepted accounting practices to which You are subject; and
- e) ensure that conflicts of interest are avoided.

Grant Claims

19. Your Grant claims must include the following:

- a) the information and evidence required for the relevant instalment in clause 4 of the Grant Agreement; and
- b) accompanying that information and evidence, the appropriate assurance required by clause 18.9 of the Grant Agreement.

Conditions Precedent

20. The offer of Grant is conditional on You providing Us with the following:

- a) *evidence showing that an Accountable Officer has been appointed;*
- b) *evidence that a consortium agreement is in place between all the project partners.*

21. You must ensure that We receive the information and evidence required above on or by the **first milestone deadline** set out in **Annex 2** of the **Grant Agreement**. Should You fail to do so, or should We reasonably conclude that the information and evidence provided prior to that deadline is unsatisfactory, We shall be entitled to withdraw the Grant (and any Grant already paid by then will be repayable with interest).

EU state aid

22. It is important to ensure that the Grant is not, and does not become, an unlawful state aid under Article 107 of the Treaty on the

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Functioning of the European Union. State aid rules ensure that the governments of EU Member States do not unfairly subsidise their own industry or particular parts of it.

23. In this case, the Grant is awarded under the EU State Aid General Block Exemption Regulation (“**GBER**”)¹ and is subject to the conditions in **Appendix 2 (GBER)**.

Conditions

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

In **clause 18.9** of the standard terms and conditions in the Grant Agreement the requirement for certification of Grant claims by external auditors/accountants shall apply to this grant offer letter as follows:

Director’s declaration

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

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

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

Reasonable assurance report

In addition to a statement by one of your directors, following Grant claims must be accompanied by a reasonable assurance report from an independent reporting accountant in the form in Schedule 1 to this letter:

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

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- a) If you have incurred Eligible Expenditure resulting in a Grant claim of £100,000 (one hundred thousand pounds) or more; and
- b) Your final Grant claim.

Accountants: engagement terms

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

Accountant's payment

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

The standard terms and conditions are amended as follows (the amendment is for the purpose of this Grant only, and does not set a precedent for any future Grants):

- a) In **clause 22.1** of the standard terms and conditions in the Grant Agreement, substitute for sub-clause (ii) the following:

(ii) developed during the period of the Grant.

- b) **Clause 22.2** shall be replaced with the following:

The Authority will retain its Pre-existing IPR.

- c) **Clause 22.4** of the standard terms and conditions in the Grant Agreement shall not apply;

- d) **Clause 22.5** of the standard terms and conditions in the Grant Agreement shall be replaced with the following:

The Authority may, with the prior written approval of the Grant Recipient, freely share any information, no-how, system or process developed during the period of the grant Funded Activities to support similar projects.

Notices and contact

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

- A) Anahit Aharonyan Anahit.Aharonyan@beis.gov.uk, and
- B) Philip Cohen Philip.cohen@beis.gov.uk

Duration of offer

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

Acceptance

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

Yours sincerely, **[BEIS signatory]**

DEPARTMENT FOR BUSINESS, ENERGY & INDUSTRIAL STRATEGY

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Agreement

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

Signed:

Printed Name:

Position:

Date:

Day to day contact for the Grant:

Name:

Position:

Email address:

Accountable Officer for the Grant:

Name:

Email address:

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APPENDIX 1**

GRANT CLAIM FORM

CLAIM FOR PAYMENT OF GRANT

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

Name of Applicant Organisation:

Milestone claim number:

Date of claim: (Month) 201X

Period	Grant claimed this period	Activities undertaken and Eligible Expenditure incurred	Evidence provided in support	Total Grant claimed this period
Totals				

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APPENDIX 2
GBER**

**Part 1
Award of aid**

1. The Grant is awarded as aid for industrial research or experimental development in accordance with Article 25 (aid for research and development projects) of the EU State Aid General Block Exemption Regulation (“**GBER**”).

2. The Grant may only be used to contribute to Eligible Expenditure covered by this letter where that expenditure is incurred by You or a Consortium Member in respect of eligible costs permitted under Article 25(3) of GBER, where these are incurred in a part of the Project constituting industrial research as defined in Article 2(85) of GBER or experimental development as defined in Article 2(86) of GBER. The amount of public funding (including the Grant) that You or a consortium member may receive for the Project must not exceed:
 - a) In accordance with Article 4(1)(i)(iii) of GBER, €20m (twenty million Euros) in total if the project is predominantly industrial research; and
 - b) in accordance with Article 25(5) (b) and Article 25(6) ([insert subparagraph]), an aid intensity being [insert percentage] of Your total Eligible Expenditure incurred in the Project through activities which fall within the category of industrial research; and
 - c) in accordance with Article 25(5) (c) and Article 25(6) ([insert subparagraph]), an aid intensity being [insert percentage] of Your total Eligible Expenditure incurred in the Project through activities which fall within the category of experimental development; and
 - d) in accordance with Article 25(5) (b) and Article 25(6) ([insert subparagraph]), an aid intensity being [insert percentage] of the Second Consortium Member’s total Eligible Expenditure incurred in the Project through activities which fall within the category of industrial research; and
 - e) in accordance with Article 25(5) (c) and Article 25(6) ([insert subparagraph]), an aid intensity being [insert percentage] of the Second Consortium Member’s total Eligible Expenditure incurred in the Project through activities which fall within the category of experimental development; and
 - f) in accordance with Article 25(5) (b) and Article 25(6) ([insert subparagraph]), an aid intensity being [insert percentage] of the Third

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Consortium Member's total Eligible Expenditure incurred in the Project through activities which fall within the category of industrial research; and

- g) in accordance with Article 25(5) (c) and Article 25(6) ([insert subparagraph]), an aid intensity being [insert percentage] of the Third Consortium Member's total Eligible Expenditure incurred in the Project through activities which fall within the category of experimental development; and
- h) in accordance with Article 25(5) (b) and Article 25(6) ([insert subparagraph]), an aid intensity being [insert percentage] of the Fourth Consortium Member's total Eligible Expenditure incurred in the Project through activities which fall within the category of industrial research; and
- i) in accordance with Article 25(5) (c) and Article 25(6) ([insert subparagraph]), an aid intensity being [insert percentage] of the Fourth Consortium Member's total Eligible Expenditure incurred in the Project through activities which fall within the category of experimental development.

3. For the purpose of paragraph 2, public funding includes any funding from, or attributable to, any public authority or EU institution. Please note that: [delete as appropriate]

- a) the maximum aid intensity permitted under paragraph 2 b) has been increased from 50% of Your Eligible Expenditure to [the percentage set out in that paragraph] on the basis that **[insert justification for increase under the relevant paragraph of Article 25(6)]**; and
- b) the maximum aid intensity permitted under paragraph 2 c) has been increased from 25% of Your Eligible Expenditure to [the percentage set out in that paragraph] on the basis that **[insert justification for increase under the relevant paragraph of Article 25(6)]**; and
- c) the maximum aid intensity permitted under paragraph 2 d) has been increased from 50% of the Second Consortium Member's Eligible Expenditure to [the percentage set out in that paragraph] on the basis that **[insert justification for increase under the relevant paragraph of Article 25(6)]**; and
- d) the maximum aid intensity permitted under paragraph 2 e) has been increased from 25% of the Second Consortium Member's Eligible Expenditure to [the percentage set out in that paragraph] on the basis that **[insert justification for increase under the relevant paragraph of Article 25(6)]**; and

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- e) the maximum aid intensity permitted under paragraph 2 f) has been increased from 50% of the Third Consortium Member's Eligible Expenditure to [the percentage set out in that paragraph] on the basis that ***[insert justification for increase under the relevant paragraph of Article 25(6)]***; and
- f) the maximum aid intensity permitted under paragraph 2 g) has been increased from 25% of the Third Consortium Member's Eligible Expenditure to [the percentage set out in that paragraph] on the basis that ***[insert justification for increase under the relevant paragraph of Article 25(6)]***; and
- g) the maximum aid intensity permitted under paragraph 2 h) has been increased from 50% of the Fourth Consortium Member's Eligible Expenditure to [the percentage set out in that paragraph] on the basis that ***[insert justification for increase under the relevant paragraph of Article 25(6)]***; and
- h) the maximum aid intensity permitted under paragraph 2 i) has been increased from 25% of the Fourth Consortium Member's Eligible Expenditure to [the percentage set out in that paragraph] on the basis that ***[insert justification for increase under the relevant paragraph of Article 25(6)]***.

Please inform Us in writing, and as soon as possible, if these circumstances cease to apply or You have grounds to consider that they are likely to do so. You must also provide Us with any evidence requested to satisfy Us that You and Your Consortium Partners have complied with the aid intensity requirements and that You have sufficient match funding in place.

Part 2
General conditions

4. The Grant is awarded subject to the following understandings and conditions:
- a) You must comply with all applicable European Union rules on state aid and ensure that all requirements for the application of GBER are met;
 - b) You are not entitled to the Grant or any payment of it if You are, or become, subject to a recovery order following a previous Commission decision declaring any aid illegal and incompatible with the internal market²;
 - c) You confirm that You are not a company in difficulty as defined in Article 2.18 of GBER and You commit to informing Us as soon as

² This does not apply to aid schemes making good the damage caused by certain natural disasters

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reasonably practicable of any change in this status; We reserve the right to terminate the Grant agreement if Your status changes;

- d) You confirm that, prior to the commencement of the Project, You submitted an application which confirmed the undertaking's name and size, description of the Project (including its start and end dates), location of the Project, list of Project costs and type of aid and amount of public funding required;
- e) You have informed Us of any other public funding applied for or awarded against the Eligible Expenditure; it is on this basis that We have ensured that the total public funding for the Project is within the amounts permitted by GBER;
- f) We are responsible for informing EU Commission of aid awards, including summary notification of the aid to the Commission via the electronic notification system and publication of details of the aid as required from 1 July 2016;
- g) in the case of an award of aid in excess of €500,000, You consent to the publication of the following information: name of the beneficiary, beneficiary's identifier, type of enterprise (SME/large) at the time of granting, region in which the beneficiary is located, at NUTS level 2, sector of activity at NACE group level, aid element, expressed as full amount in national currency, aid instrument, date of granting, objective of aid, granting authority, reference of the aid measure; for schemes under Articles 16 and 21 of GBER, name of the entrusted entity, and the names of the selected financial intermediaries;
- h) You are responsible individually, and jointly with Us, for maintaining detailed records with the information and supporting documentation necessary to establish that all the conditions set out in the Grant agreement and the GBER are fulfilled;
- i) such records shall be maintained for 10 years following the granting of the aid and shall be made available to the Commission within a period of 20 working days if requested;
- j) We may (without qualifying the generality of Our monitoring rights under this letter) monitor Your compliance with the requirements of paragraphs h) and i) and for the avoidance of doubt any failure to comply with those requirements (where applicable) shall be deemed a breach of the terms of this letter.

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SCHEDULE 1
REASONABLE ASSURANCE REPORT**

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

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

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

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

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

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records, to make the calculations specified in the grant offer letter, and to provide relevant financial information to BEIS.

Our approach

We conducted our engagement in accordance with ISAE 3000 (*Assurance engagements other than audits and reviews of historical financial information*). We performed a reasonable assurance engagement as defined in the framework. For the purpose of the engagement we have been provided by the directors with a schedule (attached to this report) (“the schedule”) showing the company’s eligible expenditure and the grant agreement. The directors of the company remain solely responsible for the schedule.

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

[Inherent limitations]

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

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

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

Conclusion

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

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or

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

or

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

[insert details of issues leading to qualification of opinion]

Firm of Accountants

Office

Date

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SCHEDULE 2
REPORTING ACCOUNTANTS: LETTER OF ENGAGEMENT**

Letter of engagement

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

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

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

In these terms of engagement:

1. Introduction

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

2. The [grant recipient]’s responsibilities

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

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records and the [grant recipient] shall procure that any such records held by a third party are made available to the accountant.

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

3. Scope of the accountant’s work

- 3.1 The [grant recipient] will provide the accountant with such information, explanations and documentation that the accountant considers necessary to carry out its responsibilities. The accountant will seek written representations from management in relation to matters for which independent corroboration is not available. The accountant will also seek confirmation that any significant matters of which the accountant should be aware have been brought to the accountant’s attention.
- 3.2 The accountant will perform carry out a [reasonable] level of assurance assignment and subject to any adverse findings will produce a report in the form set out in [Appendix X].
- 3.3 The accountant will not subject the information provided by the [grant recipient] to checking or verification except to the extent expressly stated. While the accountant will perform the accountant’s work with reasonable skill and care, the accountant’s work should not be relied upon to disclose all misstatements, fraud or errors that might exist.

4. Form of the accountant’s report

- 4.1 The accountant’s reports are prepared on the following bases:
- 4.1.1 the accountant’s reports are prepared solely for the confidential use of the [grant recipient] and BEIS and solely for the purpose of submission to BEIS in connection with BEIS’s requirements in connection with [name of grant]. They may not be relied upon by the [grant recipient] or BEIS for any other purpose;
- 4.1.2 without imposing on the accountant and without the accountant assuming (or being perceived as assuming) any duty or responsibility and without imposing or accepting any liability to anyone except the [grant recipient] and BEIS, BEIS may disclose the reports to the European Commission for state aid purposes, Parliament, the Comptroller and Auditor General (NAO) and others who demonstrate statutory rights of access to the report;

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- 4.1.3 neither the [grant recipient], BEIS [or others] may rely on any oral or draft reports the accountant provides. The accountant accepts responsibility to the [grant recipient] and BEIS for the accountant's final signed reports only;
- 4.1.4 the report will be prepared solely for the confidential use of [grant recipient] and BEIS, and solely for the purpose of facilitating the grant claim. The report will be released to the [grant recipient] and BEIS on the basis that it shall not be copied, referred to or disclosed, in whole or in part (save as otherwise permitted by agreed written terms), without the accountant's prior written consent, except where there is a legal or statutory right of access. Without assuming or accepting any responsibility or liability in respect of the report to any party other than [grant recipient] and BEIS, we acknowledge that [grant recipient] and BEIS (or one of them) may be required to disclose this report to parties demonstrating a statutory right to see it, to enable such parties to exercise their statutory rights of access to this report;
- 4.1.5 to the fullest extent permitted by law, except for the [grant recipient] and BEIS, the firm of accountants, its partners and staff neither owe nor accept any duty to any person (including, without limitation, any person who may use or refer to any of BEIS's publications) and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by any person's reliance on representations in the accountant's reports.

5. Liability provisions

- 5.1 The accountant will perform the engagement with reasonable skill and care and accepts responsibility to the [grant recipient] and to BEIS for losses, damages, costs or expenses ('losses') caused by its breach of contract, negligence or wilful default, subject to the following provisions:
- 5.1.1 The accountant will not be responsible or liable if such losses are due to the provision of false, misleading or incomplete information or documentation or due to the acts or omissions of any person other than the accountant, except where, on the basis of the enquiries normally undertaken by accountants within the scope set out in these terms of engagement, it would have been reasonable for the accountant to discover such defects.
- 5.1.2 The accountant accepts liability without limit for the consequences of its own fraud and for any other liability which it is not permitted by law to limit or exclude.

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- 5.1.3 Subject to the previous paragraph (5.1.2), the total aggregate liability of the accountant whether in contract, tort (including negligence) or otherwise, to each of the [grant recipient] and BEIS, arising from or in connection with the work which is the subject of these terms (including any addition or variation to the work), shall not exceed the maximum value of the relevant Grant instalment to which the Grant claim relates (as set out in the grant agreement).
- 5.2 The [grant recipient] and BEIS agree that they will not bring any claims or proceedings against any individual partners, members, directors or employees of the accountant. This clause is intended to benefit such partners, members, directors and employees who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999 ('the Act'). Notwithstanding any benefits or rights conferred by this agreement on any third party by virtue of the Act, the parties to this agreement may agree to vary or rescind this agreement without any third party's consent. Other than as expressly provided in these terms, the Act is excluded.
- 5.3 Any claims, whether in contract, negligence or otherwise, must be formally commenced within 4 years after the party bringing the claim becomes aware (or ought reasonably to have become aware) of the facts which give rise to the action and in any event no later than 6 years after relevant report was issued (or, if no report was issued, when the accountant accepted the engagement in writing). This expressly overrides any statutory provision which would otherwise apply.
- 5.4 This engagement is separate from and unrelated to any audit work of the accountant on the financial statements of the [grant recipient] for the purposes of any applicable statutory or regulatory or other auditing framework and nothing herein creates obligations or liabilities regarding the accountant's audit work, which would not otherwise exist.

6. Fees

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

7. Quality of service

The accountant will investigate all complaints. BEIS or the [grant recipient] have the right to take any complaint to the ICAEW. BEIS or the [grant recipient] may obtain an explanation of the mechanisms that operate in respect of a complaint to the ICAEW at www.icaew.co.uk/complaints or by writing to the ICAEW at the

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ICAEW Professional Standards Office, Metropolitan House, 321
Avebury Boulevard, Milton Keynes MK9 2FZ UK.

8. Providing services to other parties

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

9. Applicable law and jurisdiction

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

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

10. Alteration to terms

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