



Department for
Business, Energy
& Industrial Strategy

BEIS TEMPLATE GRANT OFFER LETTER

NOTE: before finalising the Grant Offer Letter, please don't forget to:

- **Remove** all guidance notes and boxes
- **Delete** all [square brackets]
- **Check** all cross-references etc.

[Date]

[Grantee address]

Dear [insert name]

[INSERT TITLE OF GRANT]

1. The Secretary of State for Business, Energy and Industrial Strategy (referred to in this letter as "**We**"/ "**Us**"/ "**Our**"), offers [insert name of grantee, and company number, if a company] (referred to in this letter as "**You**"/ "**Your**") a grant ("**Grant**") subject to Your agreement to, and compliance with, the terms and conditions set out or referred to in this letter, its Appendices and Schedules. These terms and conditions should be read in conjunction with the standard terms and conditions in the Grant Funding Agreement and accompanying Annexes issued by Us (the "**Grant Funding Agreement**"), which together comprise the "Agreement" on which the Grant is given by Us to You.
2. [This offer is made pursuant to Your successful application in the recent call /insert title/date/reference of call and internet link to grant call].].
3. The Grant is offered under section [insert section number] of [insert title of Act]. [Do not **use** this paragraph if relying on the Supply and Appropriations Act].

Amount of Grant

NOTE: Details of the payments of grant must be set out in **Annex 3** (Payment Schedule) to the Grant Funding Agreement. It may be that you award particular amounts of grant (or ranges of amount) for different purposes or costs. Where a block amount of grant is **not** awarded, the wording in paragraphs (a) and (b) will be appropriate.

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. [This will be paid as follows:
- a) up to £ **[insert amount in figures (insert amount in words)]** in financial year ending on 31 March **[insert date]**; and
 - b) up to £ **[insert amount in figures (insert amount in words)]** in financial year ending on 31 March **[insert date]**;

[Relationship with existing grant]

NOTE: *If this is not the only grant which has been awarded to the grant recipient you will also need to include wording in the letter which makes clear what the relationship is of this funding to any existing grant. Legal can help with wording.*

[Consortia]

NOTE: *This letter is drafted on the basis that BEIS is giving a grant to a party which is undertaking a project on its own.*

*Where BEIS is funding a grantee who is undertaking a project as part of a **consortium** the usual practice is for the grant agreement to be entered into by one **lead member** of the consortium. **In addition**, BEIS will usually require the other members of the consortium to agree to enter into a short **side agreement with BEIS**. The purpose of the side agreement is to ensure that all consortium members comply with the requirements of the grant, and to allow BEIS to take action to recover, in particular, any unlawful state aid from any member of the consortium. In practice, where there is a consortium it will be a condition of the grant that the consortium members have a **consortium agreement** in place between each other (to ensure the consortium has a robust legal basis) and these provisions can be included in this agreement rather than requiring the other members of the consortium to enter into a side agreement with BEIS. It is the consortium members' responsibility to draft the agreement (as it governs their relationships with each other) but BEIS should see it. It is also prudent to require the grantee to notify BEIS in the case of any changes to the consortium agreement – and to provide BEIS with rights to terminate / seek repayment of the grant if the consortium agreement is terminated or materially changed. Please speak to Legal for advice on the particular circumstances, and to ensure adequate drafting of the grant and side agreements.*

Purpose of Grant

NOTE: It is important to be clear as to **what** the grant is **for** so that it is clear to everyone what is covered (and what BEIS then has a commitment to fund). Details of the activities for which the grant is made available must be set out in **Annex 2** (The Funded Activities) to the Grant Funding Agreement. This letter is drafted on the basis that BEIS is funding certain specific costs incurred in undertaking a particular project. This approach is particularly suitable in the case of research and development grants, and mirrors the approach taken under the EU state aid block exemption. However, this approach may not suit other contexts.

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

Eligible Expenditure

Details of the Eligible Expenditure must be set out in **Annex 5** to the Grant Funding Agreement including items of expenditure that are expressly ineligible. **NOTE:** BEIS policy is that the fees of auditors/ accountants for reporting/certifying grant claims is **not** an Eligible Expenditure so **paragraph 5.2.1 in the Grant Funding Agreement** needs to be deleted.

In addition, if costs are limited by virtue of EU state aid rules and/or in any other way e.g. if you are relying on the General Block Exemption, you must refer to the specific provisions in the exemption under which the grant is awarded and summarise them, such as, the grant can only be used for experimental development (Article 2(86) GBER).

NOTE: It is important to be clear about costs which are covered and about costs that can be used for administration of the grant itself and any time period during which the costs must be incurred.

7. Subject to paragraphs 8 and 9, the Eligible Expenditure is limited to the costs specified in **Annex 5** to the Grant Funding Agreement [and the Eligible Expenditure within the scope of *[insert relevant Article and (its title in brackets)]* of the EU State Aid General Block Exemption Regulation referred to in paragraph [] below].
8. Under no circumstances may the Grant be claimed or used to cover any Ineligible Expenditure listed in paragraph 5.4 of the Grant

Funding Agreement or to cover costs incurred for those purposes (and any such costs do not constitute Eligible Expenditure for the purposes of this letter). The Eligible Expenditure must be kept to the minimum for the efficient conduct of the Funded Activities, and expenditure that We reasonably determine to be in excess of that amount does not constitute Eligible Expenditure.

Funding Period

9. The Eligible Expenditure for which the Grant is awarded is expenditure limited to costs which are incurred between **[the date You sign this letter] [or insert the date]** and **[insert an end date such as the date of the end of the financial year for the last instalment payable]**.

Payment of Grant

NOTE: Grants should normally be offered on a **reimbursement** basis so that they are paid **after** BEIS receives satisfactory evidence that Eligible Expenditure **has actually been incurred**. This is to reduce the risk of non-performance. This letter is therefore designed for a reimbursement payment.

*If there are requirements to cover the working capital requirement of a not-for-profit organisation, or where **payments in advance** would offer value for money, you will need to consult Finance on whether payments in advance are possible. This will normally require Treasury consent. If it is decided that payments in advance are permissible, further consideration will be required as to appropriate safeguards to include in the grant offer letter.*

If an Advance Payment is made You will need to include appropriate additional forms and requirements for claiming those Advance Payments to demonstrate that the Grant has been used for proper purposes.

*Please note that the text relating to reimbursement in the letter is drafted on the assumption that the grant is payable once the grantee **incurs the relevant Eligible Expenditure**. The term “incurs” is not further defined, but please note that, interpreted in accordance with accounting practice, this means that the grantee **has become obliged to pay those costs, but might not yet have actually done so**. If you require different or more specific conditions please speak to Finance and Legal.*

10. The Grant will be paid [in accordance with the instalments in **Annex 3** to the Grant Funding Agreement], in arrears, on a reimbursement basis upon receipt from You of a **Grant claim Form** in the form set

out in **Appendix 1 to this letter** by [insert deadline] [the deadlines specified in the Grant Funding Agreement].

Accountable Officer

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

Grant Claims

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

Conditions Precedent

13. The offer of Grant is conditional on You providing Us with the following:
- a) the completed and signed form in Annex 4 of the Grant Funding Agreement confirming Your bank details and the details of Your signatories;
 - b) evidence showing that an Accountable Officer has been appointed;
 - c) *[if you are relying on de minimis then this clause **must** include as a condition precedent receipt of the signed de minimis note and declaration appended to this Letter;]*
 - d) *[use this provision to insert any bespoke additional conditions not covered in the standard terms and conditions which need to be met before the grant is paid, such as planning consents or any specific consents.]*
14. You must ensure that We receive the information and evidence required above on or by **[insert deadline]**. 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]

NOTE: *The starting point is that any grant is likely to be a subsidy and may therefore to constitute a state aid.*

A state aid clause is required in the following circumstances:

- a) **Option 1:** *where BEIS considers there is no aid – but this is dependent on a set of circumstances which could change*

In this case, a clause may be prudent so that the grant award is conditional on the continuation of those circumstances and allows BEIS to re-negotiate, withdraw or reclaim the grant should those circumstances later change in a manner making it difficult to continue to rely on “no aid” arguments.

*An example is the award of a grant for **academic research** – BEIS may wish to review or withdraw the grant if the project funded becomes commercial in nature. **We set out below a draft clause***

for use in this context. In addition, the applicable paragraph in the Grant Funding Agreement will be paragraph 14.11.

*If you intend to rely on no aid arguments, **seek legal advice** as to whether a no aid clause is needed.*

b) Option 2: BEIS awards the grant as de-minimis aid.

In this case, use paragraph 14.12 in the Grant Funding Agreement and the de-minimis aid declaration in Annex 10, Part 1 to the Grant Funding Agreement.

*If using the de minimis state aid exemption, we need to know that the recipient will not breach the threshold of receiving €200,000 in aid over a 3 year period. We do this by asking them to **declare** any other aid received over the last 3 years. We also then make it a condition of the Agreement that the recipient maintains records for 10 years and ensures that the European Commission is provided within 20 working days of any requested information. The declaration will be appended to the Grant Offer letter.*

c) Option 3: BEIS awards the grant under the EU General Block Exemption Regulation (GBER).

In this case, use paragraph 14.13 in the Grant Funding Agreement and the conditions in Annex 10, Part 2 to the Grant Funding Agreement apply. That Annex is designed for the R&D exemption under GBER Article 25 so you should speak to Legal if you are relying on another exemption under GBER. NOTE: The Grant Recipient must not be a company in difficulty (as defined in Article 2.18 of GBER) and an application must be made for GBER **before** a project starts (and grant is made available) because GBER Article 6 only applies where it has been established that the proposed aid has an incentive effect (as defined in Article 6).

d) Option 4: You intend to award the grant under Commission decision clearing the aid.

*In this case, speak to **Legal** to obtain a “bespoke” state aid clause.*

15. [It is important to ensure that the Grant is not, and does not become, an unlawful state aid under Article 107 of the Treaty on the Functioning of the European Union. State aid rules ensure that the governments of EU Member States do not unfairly subsidise their own industry or particular parts of it].

16. **[Use this paragraph IN THE CASE OF OPTION 1 (NO AID) WHERE BEIS IS FUNDING ACADEMIC RESEARCH].** [In this particular case, the Grant is awarded on the basis that You are a research organisation and that, in undertaking the Project, You are pursuing the primary activities of a research organisation and/or knowledge transfer activities, and are not undertaking economic activities, in accordance with section 2.1.1 of the European Commission's 2014 Framework for state aid for research and development and innovation¹. A fundamental condition of the Grant is that the activities funded are, and remain, non-economic activities and that measures are (where necessary) taken, and maintained, to ensure that there is no cross-subsidy of any other economic activity You might pursue.]
17. **[Use this paragraph and Annex 10, Part 1 (de-minimis aid) to the Grant Funding Agreement IN THE CASE OF OPTION 2 (de-minimis aid)]** [In this case, the Grant is awarded as de-minimis aid under the EU state aid de-minimis regulation² and is subject to the conditions in **Annex 10, Part 1 to the Grant Funding Agreement** and conditional on receipt by Us of the declaration in that Annex.]
18. **[Use this paragraph and Annex 10, Part 2 (GBER) to the Grant Funding Agreement IN THE CASE OF OPTION 3]** [In this case, the Grant is awarded under the EU State Aid General Block Exemption Regulation ("GBER")³ and is subject to the conditions in **Annex 10, Part 2 to the Grant Funding Agreement (GBER)**].

Conditions

19. You must comply with the standard terms and conditions set out in the Grant Funding Agreement which apply to this Grant and accompany this letter, in addition to all other requirements set out or referred to in this letter and its Appendices.

NOTE: If you want to vary the standard terms and conditions speak to Legal in advance to advise on the best way as this may include amending the model Grant Funding Agreement itself. If the standard terms are being amended, you should set out the amendments here (the standard terms themselves should be left unamended).

¹ http://ec.europa.eu/competition/state_aid/modernisation/rdi_framework_en.pdf

² Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de-minimis aid (OJ L 352, 24.12.2013, p.1).

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

20. The standard terms and conditions in the Grant Funding Agreement are amended as follows:

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

Director's declaration

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

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

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

Reasonable assurance report

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

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

Accountants: engagement terms

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

Accountant's payment

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

NOTE: This section is for making any other amendments you might wish to make to the standard terms and conditions. Any such amendments need to be considered on a case by case basis and do not set a precedent for all future grants.

For example, it is important to think about what is needed to deal with any **intellectual property rights** ("IPRs") created in connection with the Grant to check whether the provisions in the Grant Funding Agreement are appropriate.

The **General Data Protection Regulation** ("GDPR") came into force on 25 May 2018 and applies to "Controllers" and "Processors" processing personal data in any public or private organisation. Under GDPR the Controller says how and why personal data is processed and the Processor acts on the Controller's behalf gathering personal data on behalf of the Controller. **It is important therefore, to consider in each case what personal data is involved in relation to the grant funding and whether the Grant Recipient will be required to process the personal data of BEIS during the Funding Period.**

NOTE: "Processing" covers anything that is done with personal data (e.g. retrieving, disclosing, collection and storage) and "Personal data" covers any information relating to and identified or identifiable natural person. This would include basic grant details about the grant recipient. Where personal data is processed there will always be a "controller" (a person who determines the purpose and means of the processing). Depending on who is doing what with any personal data the wording in the model Grant Funding Agreement incorporates alternative additional wording will be needed, and you should consult Legal.

[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 ...;

b) []].

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

Notices and contact

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

[Insert contact details]

Duration of offer

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

Acceptance

[DRAFTING NOTE: This is the acceptance wording for the standalone BEIS grant offer letter]

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

Yours sincerely,

..... [Insert BEIS signatory]

[DRAFTING NOTE: This is the acceptance wording for the grant offer letters appended to each copy of the Grant Funding Agreement.]

Acceptance

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

Agreement

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

Signed:

Printed Name:

Position:

Date:

Day to day contact for the Grant:

Name:

Position:

Email address:

Accountable Officer for the Grant:

Name:

Email address:

APPENDIX 1

GRANT CLAIM FORM

NOTE: *the purpose of the information below is to enable BEIS to be satisfied that the Eligible Expenditure has been properly incurred and that the project is on track and making progress. It is important that you consider what provisions and information are necessary in the context of the individual project e.g. by requiring details of the administrative costs claimed to be provided in the Grant claim form. The table is designed for payments in arrears.*

CLAIM FOR PAYMENT OF GRANT

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

Name of Applicant Organisation:

Period of claim (Month) 201X to (Month) 201X

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

DEPARTMENT FOR BUSINESS, ENERGY & INDUSTRIAL STRATEGY

11/12/2018
OFFICIAL

SCHEDULE 1
REASONABLE ASSURANCE REPORT

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

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

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

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

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

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

Our approach

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

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

[Inherent limitations]

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

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

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

Conclusion

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

11/12/2018
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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 Funding Agreement.

or

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

[insert details of issues leading to qualification of opinion]

Firm of Accountants
Office
Date

SCHEDULE 2
REPORTING ACCOUNTANTS: LETTER OF ENGAGEMENT

Letter of engagement

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

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

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

In these terms of engagement:

1. Introduction

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

2. The [grant recipient]'s responsibilities

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

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

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

3. Scope of the accountant's work

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

4. Form of the accountant's report

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

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

5. Liability provisions

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

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

6. Fees

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

7. Quality of service

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

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

8. Providing services to other parties

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

9. Applicable law and jurisdiction

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

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

10. Alteration to terms

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