



Programme Area: Smart Systems and Heat

Project: Planning Permission

Title: Request for Proposals

Abstract:

A request for proposals to deliver the Provision of Planning Permission Services project.

Context:

The project will bring an understanding of existing planning policy and planning requirements, policy gaps as associated with a future Smart Systems and Heat (SSH) market, more certainty on future timelines/budget, key risks/benefits, define a Town Planning strategy for Phase 2 and establish key Planning Officer relationships. In addition the work will provide a plan and budget to achieve planning consent and also start the process for achieving planning consents for chosen locations.

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Request for Proposal (RfP)

Title of Services for which Proposals are Requested

Smart Systems and Heat (SSH) Programme: Provision of Planning Permission Services

Request Release Date

22nd July 2013

Deadline for respondents to provide notification of intention to submit a Proposal

29th July 2013

Request for Proposals Submission Date

19th August 2013

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1. ETI INTRODUCTION

1.1. Introduction to the Energy Technologies Institute

The Energy Technologies Institute (ETI) is a public-private partnership between global industries – BP, Caterpillar, EDF, E.ON, Rolls-Royce and Shell – and the UK Government. Hitachi have joined the ETI as a Programme Associate for the SSH Programme

Public sector representation is through the administration of the Department for Business, Innovation and Skills, with funding channelled through the Technology Strategy Board and the Engineering and Physical Sciences Research Council. The Department of Energy and Climate Change are observers on the Board.

The ETI is focused on accelerating the deployment of affordable, secure low-carbon energy systems for 2020 to 2050 by demonstrating technologies, developing knowledge, skills and supply-chains and informing the development of regulation, standards and policy.

Further information can be found on our web-site at www.eti.co.uk.

1.2. ETI approach to Health, Safety and Environment (HSE)

The Health and Safety of those who may be affected by ETI projects and the protection of the environment that may be impacted by ETI projects is of paramount importance to the ETI and its Members. It is ETI policy to pursue best practice in the health, safety and environmental management of its projects. The ETI therefore expects those who receive ETI funding to demonstrate a commitment to best practice in health, safety and environmental management as well as demonstrating that all applicable legal requirements are met.

See Appendix B of this RfP for further information.

2. PROJECT OVERVIEW

2.1. Background to the SSH programme

The UK has committed to an 80% reduction in greenhouse gas emissions by 2050. CO₂ is the primary issue. Energy use in buildings accounts for around a significant proportion of the UK's CO₂ emissions, and the majority of that is used for space and water heating.

The ETI has commissioned a major three-phase Smart Systems and Heat programme in 2012, the aim of the ETI's SSH Programme is to design, develop and demonstrate a cost optimised, smart energy system suitable for future roll out within the UK, The programme will focus on the delivery of heat whilst meeting the needs of local energy consumers.

The three distinct phases of the programme are:

- **Phase 1:** The first phase will develop the toolkit and capacity to deliver the prototype 'product' to mass market consumers;
- **Phase 2:** The second phase will validate this with a significant system level demonstration;
- **Phase 3:** The third phase will focus on commercialisation.

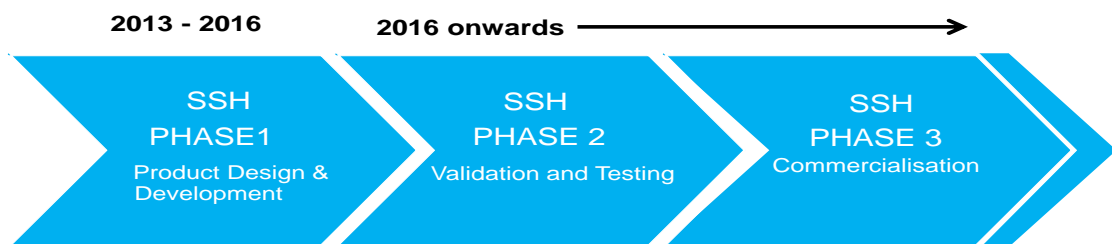


Figure 1: ETI SSH Programme Phases

2.2. Planning Permission Study and Local Authority Engagement

Phase 2 of the SSH Programme will encompass large scale validation of energy system designs in a number of locations. Planning consent is highly likely to be required in readiness for Phase 2.

The scope may include housing retrofit with enabling technologies such as heat pumps, insulation and HEMS/BEMS and associated IT systems through to installation of community heat networks and infrastructure. It may also include installation of new connections to existing networks/grid and the provision of distributed storage facilities related to heat and electricity.

Due to the potential for long lead-in times with any project requiring planning consent, there is a need to not only understand the national and local town planning policy requirements, but to also to ensure early engagement to build the relevant relationships in the planning process and also identify the key risks for each potential location together with the gaps in both the political and policy areas not just for today, but those which may stifle progress for a future smart energy system type project.

The ETI now wishes to start the process of achieving the relevant planning permissions that will be necessary for Phase 2 of the Programme by commissioning two contracts for consultancy services to support this activity.

The ETI have been engaging with Local Authorities ("LAs") across the UK, seeking a number of partnerships which will provide location(s) for the Phase 2 validation. The ETI will finalise a number of LAs that it intends to work with, likely to be between 1 and 5, by early 2014.

2.3. Commissioning Approach

The ETI plan to award the Project to either one or two Respondents. The Projects are envisaged to be of a maximum duration of six months and will be run in parallel (if awarded to two Respondents) commencing after the ETI shortlists 10 – 15 potential LAs in September 2013. Two Respondents may be awarded the Contract in recognition of the differing level of relationships with town planning officers by likely Respondents.

The work will:

- bring an understanding of existing planning policy and planning requirements;
- identify policy gaps associated with a future SSH market;
- give more certainty on future timelines/budget;
- highlight key risks/benefits;
- define the planning strategy for Phase 2; and
- establish key Planning Officer relationships.

In addition the work will also produce a plan and budget to achieve the necessary planning consents (subsequent work) and also start the process for achieving those planning consents for the ETI's chosen locations.

3. PLANNING PERMISSION PROJECT BACKGROUND

3.1. Project Outcomes

Achieving relevant planning permissions is key for the Programme achieving timescale and budget targets. The Project will provide the ETI with appropriate insight into the complexities, risks and opportunities associated with engaging with each of the 10 – 15 shortlisted LAs. This insight will inform the ETI in its final selection of LAs.

3.2. Project Aim and Scope

The successful Respondent(s) will deliver to the ETI an evaluation of each of the LAs and the challenges and opportunities associated with engaging with them from a planning consent perspective. This will include the following for each LA:

- The planning requirements;
- Political environment and structure;
- Existing policies and requirements applicable to SSH, and the LAs perspective on these policies;
- Requirements for any impact assessments required;
- A summary chart or table of the down selected Local Authorities in terms of attractiveness to the SSH Programme; and
- A strategy, plan and Rough order of Magnitude (ROM) budget for achieving planning consent with each LA.

4. PLANNING PERMISSION PROJECT DETAIL AND OUTLINE STATEMENT OF WORK

An outline statement of work has been included in this RfP. Respondents should treat this as a guide from which to construct their own proposals and/or suggest alternative approaches or work package suggestions which may add value to the Project.

Respondents should expand on their proposed work elements and outline their approach to completing the statement of work within their proposals and provide a Gantt chart of activities highlighting at least two milestone points in a schedule covering a maximum of six (6) months.

4.1. Project Work Packages:

WP1: Project Inception and Kick Off

The Prime Contractor will attend a kick-off meeting with ETI to review all available relevant up to date documentation on the proposed Project.

The Prime Contractor will receive the shortlist of LAs nominated by the ETI for the Programme and a list of current ETI contacts. The Prime Contractor will also be required to provide an outline engagement plan for each LA which identifies Local Planning Authority (LPA) contacts and hierarchy, and existing relationships. The engagement plan will later feed into a consenting strategy appraisal to establish the most cost effective planning strategy for the Project.

WP2: Understand Planning Requirements, Timelines and Guidelines within Local Authority

The Prime Contractor will hold discussions with planning officers in each of the respective nominated LAs in order that they have an understanding of the ETI outline proposal and that in turn, the ETI will have understanding of planning policy and development management requirements of the LPA and that the LA would be working to and any relevant guidelines to be followed.

The aim is to establish key contacts within the LPA and define the preferred approach to secure consent for the proposed development. Discussions should cover the options for securing consent, varying from planning applications through to Local Development Order.

The Prime Contractor will prepare a document for the ETI summarising the following:

- Minutes from LPA meeting;
- LPA/Planning, and LA policy;
- An outline of the Local Plan and its relevance to the Programme;
- An outline of requirements, and guidelines, update the engagement plan with key contacts for each nominated LPA;
- Any planning guidance in place that would be relevant to the Programme e.g. domestic homes retrofit / micro generation;
- Potential for Local Development Orders;
- Extent of conservation areas, listed buildings;
- Outline permitted development and its relevance to SSH;

- The likelihood of an Environmental Impact Assessment to be undertaken based on various scenarios;
- Key risks and benefits to the planning process.

WP3: Establish Political Environment and Structure – Confirming Key Political Dates – Planning Committee Make Up and Meet with LA’s as required

Running in parallel to WP2, the Prime Contractor will understand the political and officer make-up of the LA and establish and document a timeline for the consenting approach for each of the respective LPA’s and also:

- Identify planning committee members, key local political community groups and/or stakeholders and other relevant councillors;
- Identify any key dates for local elections and committee dates;
- Identify the key risks and benefits (i.e. planning value) for the ETI in the planning process including the political scene.

WP4: Understand and Feedback LPA Position on Energy Efficiency etc within Planning Terms

Undertake a discussion with the relevant planning officers of the respective LA’s taking forward the view on the consenting strategy. Gather feedback from LA officials at this stage to allow further refinement of the proposed development necessary to undertake the screening and scoping of the Project (as part of WP6).

WP5: Consenting Strategy Appraisal and Establish the Most Cost Effective Planning Strategy Regarding Existing Multi-Dwelling Properties

Undertake a consenting strategy appraisal: the completion of this appraisal should result in the identification and outline of an optimised consenting strategy in order to minimise planning risk, whilst illustrating any commonalities across the nominated LPA’s. Reference should also be made to multi-tenure buildings / areas, depending on the specific circumstances.

Understand key local risks then prepare mitigation measures.

A view is also to be given on chances of success at the consenting strategy stage, based upon the discussions held with the respective LPAs and their consenting approach in the various options.

WP6: Undertake Screening and Scoping of the Project with the LPA

This task would involve standard screening and scoping in terms of applicable environmental impact assessment regulations. This should include screening to establish whether or not the proposed development would require an EIA based on the Programme and demonstration options: secondly, steps should be taken to progress scoping for an EIA should it be required.

The second step will involve the preparation of an EIA scoping report for the Project and the submission of it to the LA for each LPA as appropriate.

WP7: Prepare Planning Process Fees / Budgets

Firm up fee budgets and outline any further actions required taking account of the consenting strategy. Further develop the broad scope of the scheme, and whether or not an EIA or simply a supporting

environmental study would be required in each case. Firm up costs and actions in relation to matters such as:

- Planning consultant fees;
- Environmental consultant / EIA briefs and fees;
- Any other consultant costs e.g. relating to engineering, and the respective EIA disciplines;
- Legal costs and planning application fees;
- Public consultation.

WP8: Overview of LPA's and attractiveness or fit to the SSH Programme

The Prime Contractor is to provide a summary chart that provides an assessment of the nominated LPA's in terms of overall attractiveness to the Programme with respect to planning. This can be done via a table or graphic with indicators against key assessment criteria nominated by the Prime Contractor as being important.

WP9: Provide an Outline Proposal and RoM Price for Tranche 2 Project

The Prime Contractor will provide the ETI with a project outline including a top level programme (gantt or other) and work area descriptions for Tranche 2 of the Project. This should be based on the work undertaken and knowledge gained in Tranche 1 and will include but is not limited to the following:

- Liaise manage and coordinate statutory and non-statutory consulters: establish key contacts within region, requirements and needs;
- Manage and coordinate specialist environmental studies as appropriate;
- Ongoing liaison with committee members and local authorities;
- Advice on strategy for public consultation and its implementation– coordinate and arrange as required;
- Prepare and submit planning application(s) - note inclusion and exclusions;
- A rough order of magnitude (ROM) estimate for Tranche 2 completion and support (an outline of Tranche 2 requirements is available).

4.2. Formal Deliverables from the Project

The deliverables required from the Project will be as follows:

Work Package Reference	Deliverable(s)	Reference
WP1: Project Inception and Kick Off	<ul style="list-style-type: none"> LA Engagement Plan 	D1
WP2: Planning Requirements	<ul style="list-style-type: none"> Document summarising LPA policy, reqts and guidelines 	D2
	<ul style="list-style-type: none"> Key contact list 	D3
WP3: Political Environment & Structure for LPA's	<ul style="list-style-type: none"> Document summarising the structure of each LPA 	D4
	<ul style="list-style-type: none"> Provide a graphic/other illustrating planning consent timeline for each 	D5
WP4: Feedback on LPA position and on Draft Strategy	<ul style="list-style-type: none"> Document a summary of relevant feedback from pre-application discussions 	D6
WP5: Consenting Strategy Appraisal	<ul style="list-style-type: none"> Consenting strategy document 	D7
	<ul style="list-style-type: none"> Risk and mitigation Log 	D8
WP6: Screening and Scoping	<ul style="list-style-type: none"> Screening list of which LPA's require EIA's 	D9
	<ul style="list-style-type: none"> Scoping reports for submission to relevant LAs 	D10
WP7: Planning Fees and Budgets	<ul style="list-style-type: none"> Spreadsheet itemising process fees and budgets 	D11
WP8: Overview of LPA's and attractiveness to SSH Programme	<ul style="list-style-type: none"> Summary chart or table with indicators against key assessment criteria nominated by the Prime Contractor as being important 	D12
WP9: Tranche 2 Project definition and ROM	<ul style="list-style-type: none"> Outline document and ROM pricing 	D13

4.3. Project Timescales

The ETI anticipate that the Project will be completed within a maximum of six (6) months from commencement.

4.4. Project organisation structure

More than one participant may be required to provide all the necessary knowledge, skills, experience and inputs to complete the Project.

If this is the case the ETI expects to enter a contract with a single Prime Contractor. The Prime Contractor shall manage the Technology Contract with the ETI and act as primary interface with the ETI.

It is a requirement that during contract finalisation the ETI approves any Subcontractors (and may review Sub-contracts).

The ETI places great emphasis on working through a Project Manager in the delivery of projects therefore would require the appointment of a Project Manager by the Prime Contractor acting as the primary interface with the ETI Project Manager. The Project Manager is responsible for managing and progressing the project team and programme of work to time and cost, handling information flows and commercial issues, ensuring effective team-working and the continued engagement and support of key stakeholders. In essence this responsibility is to make sure that the ETI benefits from a result at the end of the programme of work that meets the agreed outcomes within time and cost.

4.5. Project Governance

Throughout the duration of the Project the ETI expects to hold review meetings with the Project Manager which may be at the ETI or Prime Contractor's premises as appropriate, typically monthly or at other points which may be agreed. The ETI may involve advisors, external consultants, key industrial stakeholders, or representatives from the ETI Members as appropriate.

The timing and scope will be confirmed in discussions after the Proposal has been reviewed. Preliminary arrangements are as follows:

- a) **Project Kick Off:** This will be held within two weeks of the Project start date. The purpose of the meeting is for the Prime Contractor and the ETI to review the scope of the Project, planned timescales, deliverables, and the way of working and interfacing with the ETI to ensure a common understanding of how the Project will be delivered in accordance with the contract. It is anticipated that this review will be held at ETI offices in Birmingham and will take no longer than one day.
- b) **Project Reviews:** These will be at key agreed points during Project delivery. It is anticipated that these reviews will be held alternatively at the Prime Contractor and ETI's premises and take no longer than one day each.

4.6. Project funding and payment structure

This Project will be paid on a fixed cost basis. The Contract structure will include defined deliverables, with acceptance criteria and Payment Milestones by which one or more deliverables will have been completed (as to be defined and agreed in the Technology Contract).

4.7. State Aid

Funding from the ETI for this Project will constitute state aid. The ETI has a specific state aid clearance from the European Commission. A copy is available on request. In relation to their Proposals, Respondents should note:

- a) Further information may be required to support the specific state aid requirements of any Proposal during the procurement process;
- b) Successful Respondents will be required to provide full transparency of costs throughout the Project to ensure both the Prime Contractor and the ETI comply with EU state aid law; and
- c) the Prime Contractor will need to agree to certain contractual obligations related to the state aid requirements including the duration of the retention of records, and obligations to return ETI funding in certain exceptional circumstances.

Each Respondent must confirm that there are no potential, threatened, pending or outstanding recovery orders by the European Commission in respect of any funding received (either by the Respondent or any proposed Subcontractor).

4.8. Terms and Conditions for the Technology Contract

The Project will be governed by a Contract, a draft of which will be made available to Respondents on signature of a non-disclosure agreement (Appendix G). The final Contract will incorporate appropriate information from the ETI's RfP, the Respondent's Proposal and information drawn up and agreed during the Project shaping and contract negotiation phase.

5. COMMERCIAL AND LEGAL REQUIREMENTS

The most important issues that the ETI would like to highlight for initial consideration are as follows:

5.1. Insurance

The Respondent should confirm that liability and indemnity insurance cover is held and should confirm levels of cover and expiry for each. See Appendix C for further detail.

5.2. Intellectual Property (IP)

The ETI will own all Arising IP from the Project. The Contract will include a warranty that no Background IP or Third Party IP shall be included in any deliverable without the prior consent of the ETI or that such Background IP or Third Party IP included is automatically licensed to the ETI. Respondents should note that this applies to any copyright diagrams/images and must ensure appropriate permissions are obtained and evidence of permission provided to the ETI.

5.3. Statement of compliance

The Respondents shall provide a statement that the Proposal is fully compliant with the Request for Proposals, or shall state clearly any exceptions, deviations, alternative approaches or additions, with justification. Note that in the absence of any specifically-stated deviation in this section of the Proposal, in the case of any subsequent dispute, the ETI's Request for Proposals will take precedence over the Proposal. Additional comments and clarifications should also be listed where appropriate (for example to clarify interpretation of requirements), but these must be differentiated from any deviations / exceptions above.

In relation to the Technology Contract, the statement should set out as a minimum:

- a) The acceptance by each Respondent of the terms and conditions of the Technology Contract.
- b) Any exceptions to the terms and conditions of the Technology Contract issued by the ETI.

The exceptions set out will both be considered as part of the selection process to determine whether there is material compliance of the terms and conditions. Respondents should note that compliance with ETI terms and conditions is one of the selection criteria for this Request for Proposal. The ETI will not consider any further exceptions post selection which has not been identified in the statement.

5.4. Non-Disclosure Agreement

Respondents are required to enter into a Non-Disclosure Agreement with the ETI before submitting their Proposal. Submission of a signed NDA will be viewed by the ETI as the Respondent's formal intent to submit a Proposal. NDAs should be returned by the deadline outlined in Section 7.1.

A draft Contract shall be made available upon the successful execution and submission of an NDA. Signed NDAs should be returned to the ETI following the instructions provided in Appendix G.

For further information on the release of the draft Technology Contract and other information, please refer to the Terms and Conditions in Appendix E.

5.5. General Due Diligence

All Respondents (except ETI Members, Programme Associates, universities / higher education institutions and UK/EU government laboratories / agencies) which provide more than 20% of the

resources for the Project or which provide an input which is critical to the Project's success, shall provide due diligence Information to the ETI according to the table in Appendix A.

Please note that successful completion of all elements of the due diligence is a pre-requisite to any contract award: Failure to meet due diligence requirements at any stage may result in the exclusion of that Respondent or the Proposal from the ETI's selection process.

5.6. Warranties

The Technology Contract contains a number of warranties and undertakings related to IP. The ETI will conduct an appropriate level of due diligence before the start of the Project which relates to IP and the IP warranties. The wording of any warranties may be amended to reflect due diligence performed.

5.7. Indemnities

The ETI will contribute funding to this Project but has no control over any risks and associated liabilities that may arise from the Project. Therefore the Technology Contract contains a number of indemnities for the ETI including for third party claims and for IP infringement. Respondents should review and comment on the indemnity position in the Submission.

6. DISCLAIMERS

- a) The ETI at its discretion may request clarification of a Proposal, and may reject any Proposal which is unclear.
- b) Neither the issue of any documentation in the Request for Proposals process nor any of the information presented in it should be regarded as a commitment or representation on the part of the ETI or any other person to enter into a contractual arrangement. The Request for Proposals is not an agreement to purchase goods or services, and the ETI is not bound to enter into any contract with the Respondent. By responding to this Request for Proposals, the Respondent does not commit itself to entering into a contract with the ETI.
- c) All decisions made by the ETI relating to the acceptance, review and selection or otherwise of Proposals are final.
- d) All documents, including Proposals, submitted to the ETI become the property of the ETI. They will be received and held in confidence by the ETI, subject to the terms of the Non-Disclosure Agreement. No part of a Proposal, or documents provided by Respondents, shall be returned.
- e) The ETI reserves the right to (i) change the basis of, or the procedures for, the Request for Proposals process, including the timetable or closing date, (ii) make modifications to, or alter any of the information within, the Request for Proposals at any time until the execution of the Technology Contract, (iii) reject any or all of the Proposal received, and (iv) not invite any Respondent to proceed further. In cases (i) and (ii) the ETI shall provide a minimum of five working days written notice.
- f) Neither the ETI nor any of its agents or advisers accepts any liability or responsibility for the accuracy, adequacy or completeness of any of the information provided or any opinions contained in this Request for Proposals or of any other information made available during the Request for Proposals process. No representation or warranty, express or implied, is or will be given by the ETI or any of its agents or advisers with respect to such information provided or opinion given therein. Any liability is thereby expressly disclaimed.
- g) Respondents must assess the information and terms contained in this Request for Proposals independently, having taken professional advice if necessary. The Respondent will be deemed to have examined all the documents enclosed with this Request for Proposals and by its own independent observations and enquiries will be held to have fully informed itself as to the nature and extent of the requirements of the Request for Proposals. The Respondent must rely on its own enquiries and on the terms and conditions contained in any agreement, when and if finally executed, subject to such limitations and restrictions as may be specified therein.
- h) Respondents shall be wholly responsible for the costs they incur in the preparation and submission of their responses to the Request for Proposals. The ETI shall not be responsible for, and shall not pay, any costs and expenses which may be incurred by the Respondent in connection with its participation in the Request for Proposals process, including but not limited to any costs or expenses incurred up to the execution of the Technology Contract.
- i) The ETI may, at its discretion, shortlist Respondents for the next phase. The ETI does not undertake to accept the lowest bid or to accept part or all of any Proposal and the acknowledgement of receipt of any Proposal shall not constitute any actual or implied agreement between the ETI and the Respondent.

- j) The submission of a Proposal will confirm acceptance of the foregoing provisions by the Respondent without qualification. Any attempt to qualify any of the foregoing provisions in this Disclaimer Notice, either expressly or impliedly, may result in a Respondent being disqualified.
- k) The copyright in the documentation and any other materials supplied by the ETI and/or its advisers in this Request for Proposals process, in whatever format, belongs to the ETI or its appointed advisers. Such documentation and materials may not, either in whole or in part, be copied, reproduced, distributed or otherwise made available to any other third party or used without the prior written consent of the ETI, except in relation to the preparation of the Proposal in the course of the Request for Proposals process. All documentation supplied by the ETI in relation to this Request for Proposals process must be returned on demand, without any copies being retained by the Respondent.

This Request for Proposals, and any dispute or claim arising out of or in connection with it (including any dispute or claim relating to non-contractual obligations), shall be governed by and construed in all respects in accordance with the laws of England and Wales and the parties agree that the Courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this document (including any non-contractual disputes or claims).

7. PROJECT PROCUREMENT AND SELECTION

7.1. Estimated procurement and Project timeframes

The following tables outline the anticipated schedule for the procurement process.

The timing and the sequence of events resulting from this Request for Proposals may vary and shall ultimately be determined by the ETI.

Request for Proposal and Selection	Anticipated Dates
Issue of Request for Proposal	22 nd July 2013
Deadline for notifying the ETI of an intent to submit a proposal (via return of signed Non-Disclosure Agreement)	29 th July 2013
Closing date for submission of proposal	19 th August 2013
Preferred Respondents Notified	09 th September 2013

Project Start	Anticipated Dates
Contract signature target date (Note: this is dependent on the ETI LA short list selection process and a decision being in place by this point)	27 th September 2013
Project duration	6 months (maximum)

7.2. Questions and clarifications

The ETI will endeavour to answer any questions or provide clarifications for potential Respondents before the Proposal deadline.

Any advice or clarifications of ETI requirements requested by and provided to any Respondent may (at the ETI's discretion) be made available to all Respondents to ensure parity of information. Respondents should therefore consider presenting requests for advice and clarifications in a way that the ETI can respond to all Respondents without revealing confidential information.

7.3. Submission content and format

The Submission shall comprise five components:

- a) Detailed Proposal, arranged according to the structure set out in Appendix D. The content must demonstrate how the bidding organisation will meet the requirements set out in this Request for Proposal. The Proposal must be written in a succinct manner and must not include imprecise statements, generalities or repetition. The Proposal must be easily readable with appropriate font sizes (10pt or larger), margins, and shall not exceed a maximum of 10 pages (excluding appendices).
- b) Supporting information as specifically set out in Appendix D.

- c) Risk register, as described in Appendix D, part 3.4.
- d) Due-diligence information (as set out in Section 5.5).
- e) Statement of compliance and, if appropriate, supporting information, confirming compliance with or identifying exceptions to the specification or contractual requirements (as set out in Section 5.3). This must be signed by the Respondent.

Additional information (such as organisational brochures, etc.) may be provided to accompany the Submission, but such additional information will not be taken into account when reviewing Proposals.

The Submission shall consist of three (3) hard copies, with each component separately bound, and one (1) electronic copy. The latter shall be provided in both PDF and Microsoft Word formats.

7.4. Selection criteria

Proposals will be reviewed and judged primarily against the criteria listed below and the supporting evidence supplied.

Knowledge, skills and experience to deliver the Project:

- Specific knowledge relating to the subject area of this RfP;
- Experience and capability of key staff involved in Project, including the Project Manager;
- Availability and stability of deployable resources to mobilise sufficiently rapidly and for sufficient durations;
- A track record of engagement with multiple LAs across the UK with respect to obtaining planning permissions for renewable energy and housing retrofit projects.

Quality and credibility of proposal:

- Demonstration of understanding of the ETI's requirements;
- Clarity of the proposed work programme; including provision of a Gantt chart with milestones and review points;
- Credibility of the proposed project plan to deliver within the ETI's required timescales.

Value for Money:

- Total fixed price; against options for engagement with 5, 10 and 15 Local authorities;
- Hourly fee or day rates of proposed project staff.

Compliance with ETI technical and contractual requirements:

- Compliance with technical specification or statement of work requirements (as applicable);
- Compliance with contractual requirements;
- Ability to commence and deliver the Project within ETI's required timescales.

The ETI at its discretion may request further clarification of a Proposal, and may reject any Proposal which is unclear.

7.5. Selection process

Following the closing date, the ETI will convene a selection panel as part of its evaluation process to recommend which Respondent(s) should proceed to project shaping and contract. In addition to ETI staff, this panel may comprise of experts selected by the ETI (typically including individuals drawn from ETI Member organisations and third parties) to provide the necessary expertise to consider the technical, commercial, legal and financial aspects of each bid.

The ETI may hold initial discussions with more than one Respondent, to ensure that all key issues are resolved fully and promptly, before making / confirming a final selection decision.

Respondents may, at the ETI's discretion be invited to attend the Selection Panel in order to provide further information. Respondents will be notified if this is required although this is not anticipated for this Proposal.

8. POST-SELECTION PROCUREMENT PROCESS

8.1. Project shaping and contract negotiation

Following selection, the ETI will invite a preferred Respondent (or Respondents) to enter into a phase of Project shaping, which includes due diligence and contract negotiations. An overall period of 3 weeks has been allowed for this phase.

The Project shaping and contract negotiation phase will include the following activities (as required and dependent on the level of detail provided in the Respondent's proposal):

- a) Detailing of the proposed programme of work, including definition of deliverables and acceptance criteria;
- b) Detailing and agreement of Payment Milestones;
- c) Other due diligence activities if required;
- d) Agreement of any identified contractual issues (note that compliance with the ETI's contractual conditions is a key selection criterion and the ETI does not anticipate that any significant exceptions to its contractual conditions will be agreed);
- e) Agreement (and approval by the ETI) to terms of other key contractual arrangements (e.g. Sub-contracts);
- f) Gaining all necessary Respondent and ETI approvals to undertake the Project;
- g) Any further information or assessment that may be necessary to meet state aid requirements.

8.2. Contract detailing & negotiation requirements

These are only required if a Proposal is selected to proceed to the Project shaping and contract negotiations phase, and will include:

- a) Health, Safety and Environmental management approach. It is anticipated that this Project will be desk-based only, however, the ETI may ask for evidence of the organisation's health, safety and environmental management systems and specific technical competence to manage the risks in this Project.
- b) Further intellectual property due diligence: This will primarily comprise detailed Background IP questionnaire.
- c) Copies of insurance policies.
- d) Any other information that the ETI reasonably requires in order to fund the proposed Project including any information necessary to meet state aid requirements.

APPENDIX B - THE ETI'S APPROACH TO HSE IN PROJECTS

The ETI's approach to the management of HSE in Projects is based on three key elements:

- Competency assessment;
- Performance assurance;
- Project incident protocol.

How the ETI applies this approach to a specific Project depends upon the nature and content of the Project.

Respondents should ensure their Proposal makes the nature of the Project clear, demonstrates their competency to undertake the Project, and describes how they intend to organise themselves and manage health, safety and environmental issues in the Project. Specifically:

- a) Respondents should advise if any work to be undertaken during the Project is not desk based (e.g. site visits, field trials, experimental or laboratory work).
- b) If so, respondents should identify any specific HSE issues related to specific facilities or sites to be used in the Project. To the extent that parts of the Project take place outside of the UK, the Respondents should deal with the analogous issues as they apply in the local laws of the relevant country.
- c) Respondents should demonstrate their experience of identifying and managing HSE issues in Projects of equivalent complexity and scale, including:
 - i. Coordination of HSE across multiple contractors, if applicable;
 - ii. Incorporating safety into design, if applicable.
- d) Respondents are required to provide evidence throughout the Project that HSE is being managed and that such arrangements are adequate. The Respondents are required to set out in their Proposal how their management arrangements will enable such evidence to be provided.
- e) Respondents should set out their approach to managing contractors. This should include key roles and responsibilities of Subcontractors in the Project.

The Respondent should note that:

- Specific HSE requirements will be included in the Technology Contract including reporting against HSE performance on a periodic basis.
- The ETI will reserve the right to carry out a full HSE competency assessment against the Respondents (the Prime Contractor and any major Subcontractors) prior to contract award.
- The ETI will wish to explore the management of environmental issues with the Respondent prior to contract award as appropriate to the nature of the Project.

APPENDIX C - INSURANCE REQUIREMENTS

The Respondent should confirm that insurance cover for the following risks is held, and should confirm levels of cover and expiry for each. The ETI will require evidence of these during the Project shaping phase:

- Property damage (both any Property occupied by the Prime Contractor, its Subcontractors and any third party properties);
- Business interruption;
- Employer's liability;
- Public liability;
- Product liability (or justify its exclusion if not appropriate);
- Professional Indemnity.

The Respondent should identify if it self-insures for any of these risks.

The Respondent should identify if it is intending to take out any Project-specific insurance for the Project and the scope and intended beneficiaries of such insurance.

In relation to the Professional Indemnity Insurance, Respondents should note that the ETI requires that the Prime Contractor is required to have in place at the start of a Project a professional indemnity insurance policy (with at least a 6 month unexpired term):

- the policy should have a limit of indemnity of not less than £1,000,000 each and every loss;
- the policy should provide an indemnity at least as extensive as the ETI's policy (the ETI will make this assessment). For example, the cover needs to include cover for negligent acts or omissions, and dishonest or fraudulent acts or omissions by the insured);
- the Prime Contractor will need to agree to maintain a professional indemnity insurance policy in force for 6 years from the date of completion of the Project;
- The ETI will require sight of the insurance policy provided by the Prime Contractor or a copy of a letter of confirmation from the Prime Contractor's insurance company or broker summarising the policy.

APPENDIX D - CONTENT AND FORMAT OF PROPOSALS

The Proposal shall be arranged according to the structure defined below and shall explicitly include all the information listed. Proposals should be a maximum of 21 pages. Appendices are in addition to this but these may not be reviewed by the selection panel.

1. EXECUTIVE SUMMARY [approximately 1 page]

A summary of the Proposal, describing briefly:

- The organisation(s) undertaking the work and the project organisation structure;
- Summary of the predicted cost of outcomes, approaches taken and key deliverables;
- Confirmation of compliance with the Request for Proposals and brief summary of key exceptions/deviations;
- Project cost and duration.

2. BACKGROUND TO PROPOSED PARTICIPANTS [approximately 4 pages, plus appendices if required]

2.1. Project Participants [approximately 2 pages]

This section should identify all key roles and all associated key individuals (including deputies and alternates where appropriate). As well as key technical and other specialists, this should specifically include, (in detail), the nominated Project Manager.

The proportion of each individual's time dedicated to the Project should be identified and their expertise briefly summarised. CVs, of no more than 2 pages each, should be included in an appendix.

2.2. Key Individuals and Roles [approximately 2 pages]

This section should identify all key roles and all associated key individuals (including deputies and alternates where appropriate). As well as key technical and other specialists, this should specifically include, (in detail), the nominated Project Manager.

The proportion of each individual's time dedicated to the Project should be identified and their expertise briefly summarised; (CVs, of no more than 2 pages each, should be included in an appendix).

2.3. Project Organisation [approximately 1 page]

An organisation diagram showing the organisations and their roles (complete with key individuals) should be included.

3. PROJECT DESCRIPTION [approximately 13 pages, plus appendices if required]

3.1. Programme of Work [approximately 8 pages, plus appendices if required]

The programme of work to be undertaken in the Project should be described. The description should include a task by task breakdown of the proposed work aligned to the outline statement of work provided within this document, identifying for each Task;

- The Task leader and others involved;
- The Task objectives;

- Dependencies;
- The technical approach (e.g. methodologies, tools, techniques);
- Deliverables produced (labelled D1 to Dn);
- Any issues or assumptions.

The inter-dependencies between Tasks should also be identified.

3.2. Project Schedule [approximately 1 page]

A detailed schedule should be submitted, along with a Gantt which includes the timeline of work packages, proposed milestone and review points.

3.3. Deliverables and Payment Milestones [approximately 1 page]

The Respondent should provide a summary of all deliverables and highlight the proposed timing of release of deliverables to ETI.

This section should also propose acceptance criteria, and desired payment plan linked to the proposed Project milestones.

3.4. Risk Management [approximately 1 page, plus risk register as an appendix]

The Respondent should describe the proposed risk management strategy (i.e. how risks to the successful delivery of the Project will be identified and managed throughout the Project). The Respondent should also separately provide a risk register, identifying the key challenges, risks (including any assumptions or dependencies identified), issues and opportunities which may affect the successful delivery of the Project outcomes and identifying planned activities to address / mitigate each item.

A summary of key risks should be included in this section, with a risk register as described above provided as an appendix.

3.5. Health, Safety & Environment [approximately 1 page]

In this section Respondents should give evidence of their competence to undertake this Project, and to summarise their approach to manage and coordinate HSE in the Project.

The anticipated work required for this study is a desktop study using available information. It is not anticipated that any site visits, field trials, experimental or laboratory work will be required. Respondents should advise if any work which is not desk based is included in their Proposal and set out any key HSE risks in the risk register.

4. INTELLECTUAL PROPERTY [maximum 1 page, plus appendices if required]

Arising IP

The Respondent should provide a brief overview of the nature of any anticipated Arising IP from each stage of the Project.

In this Project, the Arising IP will belong to the ETI. Any licensing of Arising IP from the ETI to the Prime Contractor may be discussed if appropriate. If Respondents wish to discuss any licence to use the

Arising IP, Respondents should note that under state aid rules profit cannot be paid for the Project in addition to the grant of a licence of Arising IP.

Background IP

The Respondent should describe any Background IP (e.g. patents, proprietary data, computer algorithms, know how or other IP) only to the extent there is Background IP:

- Which is needed (whether by the ETI, or to be licensed from the Prime Contractor or a Subcontractor, or to be licensed by a Subcontractor to the Prime Contractor or to another Subcontractor, or otherwise) to carry out the Project or which may be used during the Project; or
- That which may be needed by the ETI to exploit the Arising IP.

The description of any such Background IP should detail:

- The nature of the IP (including the legal nature of the IP right);
- Rights to that IP; and
- Ownership and control, whether this is by the Prime Contractor or Subcontractors or by any third parties.

5. PROJECT FINANCES [approximately 2 pages, plus appendices if required]

Project Costs

The Respondent should provide a breakdown of the total fixed price contract value as set out in the following table. If there are any assumptions or limitations to this price, these should be clearly stated. Proposals should be based on **costed options for engagement with 5, 10 and 15 LA's across the UK.**

	Date	Prime Contractor	Subcontractor 1	Subcontractor 2	Subcontractor 3	Total
Milestone 1						
Milestone 2						
TOTALS						

The Respondent should also provide a breakdown of the total fixed cost contract value as specified in the table below.

	Prime Contractor	Subcontractor 1	Subcontractor 2	Subcontractor 3	Total
Number of Person-days					
Total Labour					
Materials					
Subcontractors (minor)					
Travel & Subsistence					
Other					
TOTAL PRICE					

Significant Subcontractors (>20% costs) should be included and fill in a column in the table Base Labour should include direct add-ons (e.g. NI, pension etc.).

6. INSURANCE [approximately ½ page]

The Respondent should confirm that insurance cover is held and should confirm levels of cover and expiry for each. The ETI will require evidence of these during the Project detailing phase. Refer to Appendix C for full requirement.

7. PLAN FOR PROJECT SHAPING AND CONTRACT FINALISATION [approximately ½ page]

Respondents must clearly confirm in the submission that their key technical, commercial and legal resources will be available to meet the Contract signature target date.

APPENDIX E - TERMS AND CONDITIONS OF THE TECHNOLOGY CONTRACT

INTRODUCTION

The following represents a summary of the key contractual terms which the ETI would expect to be included in the Technology Contract.

1. Structure

The Project is subject to state aid rules. Certain requirements relating to information on costs, IP and return of funding are a requirement of State Aid requirements. The ETI cannot fund a Project with a Respondent who is unable to agree to terms relating to state aid requirements.

2. Project Management

- 2.1. The Prime Contractor will be required to appoint a Project Manager for the day-to-day management of the Project. The ETI will appoint a programme manager to act on behalf of the ETI with regards to the Project.
- 2.2. The ETI, its Members and Programme Associates shall be entitled to attend meetings.
- 2.3. The Prime Contractor must fulfil various reporting obligations which will a weekly update to the ETI by email or by phone. Each report must address a specified list of topics required by the ETI.

Note: Respondents should include costs to fulfil the reporting obligations in their Proposal.

- 2.4. The ETI will require the right to carry out a stage gate review on completion of a "stage" in order to assess (a) overall performance in the Project; (b) whether the Project continues to deliver against ETI outcomes; and (c) also in order to carry out a validation exercise against the business case. The ETI may carry out stage gate reviews more frequently if the Project is in jeopardy. It is anticipated that there will be at least one Stage Gate.

3. Finance

- 3.1. The ETI will pay fixed sums.
- 3.2. Acceptance of Payment Milestones will be determined by the ETI against acceptance criteria agreed with the Prime Contractor. Any increase in costs in carrying out the Project over and above the agreed contractual amounts will only be payable by the ETI when such charges are agreed in accordance with the contractual variation control procedure.
- 3.3. Costs are payable in Sterling and the ETI will pay valid invoices within 30 days of receipt of an invoice and all supporting financial documentation following acceptance of a milestone.
- 3.4. The ETI reserves the right to require the return of funding in certain exceptional circumstances (such as in the event of corruption or fraud, overpayment, costs incurred in respect of unapproved project changes and failure to comply with state aid obligations).

4. Representatives, Warranties and Covenants

- 4.1. The Technology Contract will contain representations and warranties in favour of the ETI as to the accuracy of information provided by the Prime Contractor to the ETI prior to entry of the Contract.

4.2. The Technology Contract will contain on-going covenants from the Prime Contractor, including to meet certain ETI requirements, deliverables due dates, and environmental and health and safety requirements.

4.3. In certain rare circumstances, major subcontractors may need to enter into deeds of collateral warranty and representation in favour of any parties nominated by the ETI.

5. Key Personnel

The Technology Contract will identify a limited number of key personnel involved in the Project, and the Prime Contractor will be required to gain approval from the ETI for proposed replacement staff.

6. Confidentiality

Restrictions on disclosure of any other party's confidential information will apply. Any publication of results (if appropriate) will be subject to the confidentiality provisions in the Technology Contract.

7. Audits and Records

7.1. ETI will require the right to audit the Project and Prime Contractor during the Project and, in certain circumstances, up to 7 years from the end of the Project on financial or technical grounds.

7.2. The Prime Contractor will be required to maintain the majority of Project records for a minimum of 10 years from the Project end date to comply with state aid rules.

7.3. The Prime Contractor will be required to keep relevant Project records for more than 20 years where the records relate to registered intellectual property rights.

8. Sub-contracting and assignment

8.1. Sub-contracting or assignment (other than by the ETI) is not permitted without consent. However, details of known Subcontractors (and therefore the requisite consent) can be given in the Technology Contract at signing.

8.2. The terms of any material Subcontract will be subject to the prior approval of the ETI. The ETI may impose conditions prior to consenting to any Subcontract.

9. Variation

Any variations to the Project must be made via the variation control procedure.

10. Liability

The ETI will require an indemnity in respect of (a) third party infringement claims (to be uncapped) (b) certain claims brought by any third parties against the ETI as a result of the acts or omissions of the Prime Contractor under the Project (a cap may be accepted as long as this reflects a full allocation of the risk to the Prime Contractor and must be proposed in the Proposal).

11. Insurance

The Prime Contractor and Subcontractors will be obliged to carry appropriate insurance which will be tailored on a project by project basis.

12. Termination and Suspension

12.1. The ETI reserves the right to terminate the agreement in certain circumstances (such as breach by a participant, withdrawal of a participant, insolvency, change of control of a Prime Contractor without ETI consent etc.).

12.2. The ETI also reserves the right to terminate the agreement unilaterally upon giving a (to be agreed) period of notice to the Prime Contractor. Upon unilateral termination, the ETI will pay the eligible costs (pre-approved by the ETI) incurred by the Project participant[s] up to the date of termination.

12.3. The ETI will reserve the right to suspend the Project in certain defined circumstances.

13. Governing Law

The Project Contract will be governed by English law and the parties will submit to the exclusive jurisdiction of the English Courts.

APPENDIX F - NOTIFICATION OF INTENTION TO SUBMIT A PROPOSAL

The following form is to be completed and received at the address (postal or email) on the front cover no later than the date defined on the front cover and in Section 7.1 of this RfP.

Notification of Intention to Submit a Proposal

Respondent Name: [Legal Name]

Address: [Registered Office Address]

Contact:

Email/telephone:

The above named Respondent hereby notifies the ETI of its intention to submit a Proposal in response to the ETI's Request for Proposal entitled "Smart Systems and Heat: Provision of Planning Permission Service Project", issued on 22nd July 2013.

The Respondent submits this notification on its own behalf [and on behalf of the following proposedSub-contractors]:

Please list below the legal names of the organisations / entities proposed to deliver the Project.

- 1. [Enter Name]
- 2. [Enter Name]
- 3. [Enter Name]
- 4. [Enter Name]
- 5. [Enter Name]
- 6. [Enter Name]
- 7. [Enter Name]
- 8. [Enter Name]
- 9. [Enter Name]
- 10. [Enter Name]

Signed: _____

For and on behalf of the Respondent(s).

Name: _____

Date: _____

APPENDIX G - NON-DISCLOSURE AGREEMENT

The Non-Disclosure Agreement protects the confidential information of the Respondents and the ETI during the bidding process through to the conclusion of contract negotiations. For the successful Respondents, the confidentiality provisions in the Project Contract will supersede this NDA.

In order to ensure parity across different groups of bidders, the ETI will not enter into negotiations on the terms of this NDA during the bidding process.

Instructions for completing the Non-Disclosure Agreement

1. The Respondent should arrange to complete a single electronic NDA with its company details in Schedule 1.
2. The Respondent should print and sign TWO copies of the NDA. The NDA **must not be dated**.
3. A copy of the signed NDA is to be sent to the ETI by post and scanned by email to the address on the front of the RFP.
4. The Respondent should indicate if it wishes to receive an original hard copy by post signed by the ETI.
5. On receipt of an NDA fully signed by the Respondent, the ETI will execute and date all copies of the NDA. The ETI will then send a scanned copy of the now fully executed NDA by email to the proposed Prime Contractor Respondent. The ETI will retain the original hard copies. The ETI will also send original hard copies signed by it, if requested.
6. The proposed Prime Contractor should then arrange for non-disclosure agreements to be entered between it and proposed Subcontractors in order to comply with the NDA.

A separate version of this NDA is available on request to: smart@eti.co.uk.

Hard copies of the completed NDA must be sent by post, with **original signatures**, to the ETI.

TWO WAY CONFIDENTIALITY AGREEMENT



THIS AGREEMENT is made on _____ of _____ 2013

BETWEEN:

- (1) **ENERGY TECHNOLOGIES INSTITUTE LLP**, a limited liability partnership (company no. OC333553) whose registered office is at Holywell Building, Holywell Way, Loughborough, Leicestershire, LE11 3UZ (the “**ETI**”); and
- (2) **The party named in Schedule 1 of this Agreement** (the “**Respondent**”),

(collectively the “**Parties**” and individually a “**Party**”)

BACKGROUND:

The Parties intend to exchange certain Information on or after the Effective Date for or in relation to the Purpose. The Parties agree to receive such Information, and to treat it as confidential information, on the following terms and conditions.

IT IS AGREED:

In consideration of the above and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

- 1 In this Agreement, unless the context requires otherwise, the following words shall have the following meanings:

“**Disclosing Party**” means any Party that discloses Information pursuant to this Agreement;

“**Effective Date**” means the date of execution of this Agreement;

“**ETI Affiliates**” means the Secretary of State for Business, Innovation and Skills (and any successor governmental department or agency from time to time) and any other entity which is entitled to appoint the directors or otherwise having the ability to direct management policies of the ETI (together with any affiliates of those entities), together with their respective officers, employees, agents and consultants;

“**Information**” means any and all confidential information or data exchanged, submitted or otherwise disclosed in respect of or further to the Purpose or prepared for or in relation to the Purpose, including but not limited to written proposal documentation, due diligence materials, contractual documentation, reports, and the fact that the Parties have entered into this Agreement and are discussing and considering a business relationship;

“**Project**” means the proposed project under the ETI’s Smart Systems and Heat Programme entitled “Work Area 0 – Provision of Planning Permission Services”;

“**Project Commissioning Process**” means the ETI’s commissioning process for the Project as defined in the RfP and as set out at Section 7 of the RfP or as later may be notified or published

by the ETI;

“Proposal” means a Proposal as such term is defined in the RfP;

“Purpose” means:

- a the preparation and/or submission of any Proposals and related documents in response to the RFP;
- b the Project Commissioning Process;
- c any activities related to the assessment of any Proposals for the Project; and
- d any related exchanges of Information, clarifications, clearances, discussions, due diligence, meetings, and/or negotiations in respect of the RFP, the Project Commissioning Process and/or the Project;

“Receiving Party” means any Party that receives Information pursuant to this Agreement; and

“RFP” means the request for proposals relating to the Project, issued by the ETI on 22nd July, 2013.

2 The Receiving Party shall with regard to any Information disclosed pursuant to this Agreement by or on behalf of a Disclosing Party on or after the Effective Date:

- a hold the Information in confidence and, except as is otherwise stated herein or agreed in writing by the Disclosing Party, shall not disclose or make available the Information by publication or otherwise to any third party (including for the avoidance of doubt, disclosure in any patent application or to any patent office) and shall use any Information disclosed to it pursuant to this Agreement only for carrying out the Purpose;
- b make copies of the Information (or any further information derived from the Information) in whatever form or medium only to the extent that the copies are reasonably necessary for the Purpose and clearly mark all such copies as confidential;
- c take all necessary and proper security precautions (and at least as great as those it takes to safeguard its own information) to safeguard every part of the Information to prevent it from being disclosed or otherwise made available to any third party except as permitted by this Agreement; and
- d at the request and direction of the Disclosing Party, and without delay, return or destroy any Information provided to it pursuant to this Agreement and any copies of such Information, except that one copy may be kept by the Receiving Party for archival purposes and for the purpose of defending itself against any claims arising in connection with this Agreement.

3 The obligations set out in clause 2 shall not apply to Information that:

- a the Receiving Party can prove (using written or electronic records), was lawfully known to the Receiving Party or in its possession prior to its communication by or at the direction of the Disclosing Party and was not communicated to the Receiving Party subject to any restrictions on disclosure or use; or
- b is or becomes a part of the public domain through no wrongful act of the Receiving Party or any person on its behalf, provided that this clause 3(b) shall only apply from the date

- that the relevant Information so enters the public domain; or
- c the Receiving Party receives from a third party without similar obligations of confidence in circumstances where the third party did not obtain that Information as a result of a breach of an obligation of confidence; or
 - d subject to clause 4, is required to be disclosed or made available by the Receiving Party pursuant to any applicable law, governmental regulation, or decision of any court or tribunal of competent jurisdiction or any government body, agency or regulatory body.
- 4 If a Receiving Party believes it is required by law to disclose any Information under clause 3(d) above, the Receiving Party shall (in each case and to the extent not prohibited in law):
- a provide the Disclosing Party with prompt written notice of such requirement or obligation (together with a copy of any relevant access request, court order or other evidence giving rise to such belief) in advance of the required disclosure, to enable the Disclosing Party to seek appropriate protective relief and/or to take other steps to resist or narrow the scope of any required disclosure;
 - b where it is not permitted in law to notify the requirement for disclosure in advance of the required disclosure, notify the Disclosing Party as soon as reasonably practicable after the disclosure confirming the nature of and extent of the disclosure; and
 - c co-operate with the Disclosing Party with respect to such matters,
- and in any event disclose only such Information as it has ascertained, after taking legal advice, it is legally compelled to disclose.
- 5 The ETI shall be entitled to disclose or make available any Information it receives from the Respondents (or any of them) to:
- a such of the ETI Affiliates, and either the ETI's or the ETI Affiliates' employees, officers, secondees, agents, consultants, Sub-contractors, proposed Sub-contractors, professional advisers and proposed professional advisers where such disclosure is necessary for the Purpose, provided that all such aforementioned persons to whom any Information is disclosed by the ETI are bound by obligations of confidentiality and the ETI shall be responsible for breaches of the obligations by such persons. Each ETI Affiliate may enforce this clause in accordance with the Contracts (Rights of Third Parties) Act 1999; and
 - b the Department of Business, Innovation and Skills (or other relevant government department), the European Commission and such other bodies and/or individuals (including without limitation professional advisers) as may reasonably be required for the notification of, to seek advice in relation to, as part of an assessment of, or otherwise in relation to, State aid.
- 6 The Respondent shall be entitled to disclose or make available any Information it receives from the ETI to such of its employees, officers, consultants, sub-contractors, proposed sub-contractors and professional advisers where such disclosure is necessary for the Purpose provided that all such persons to whom any Information is disclosed are bound by obligations that are no less restrictive than those in this Agreement. The Respondent disclosing Information shall be responsible for breaches of the obligations by such persons.
- 7 Each Party as Receiving Party expressly agrees and accepts that except in the case of fraud, no representation or warranty, express or implied, is made by the Disclosing Party as to the

accuracy, completeness, reasonableness or otherwise in respect of the use of the Information, and that neither the Disclosing Party or any of its affiliates nor any of its or their respective employees, officers, secondees, agents, consultants, Sub-contractors and professional advisers (as applicable) shall have any liability to the Receiving Party as a result of the Receiving Party's possession or use of the Information.

- 8 The Parties agree that money damages would not be a sufficient remedy for any breach of this Agreement and that the Disclosing Party shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for breach of this Agreement, but shall be in addition to all other remedies available at law or equity.
- 9 No rights or obligations other than those expressly set out in this Agreement are to be implied and nothing contained in this Agreement:
 - a constitutes an offer by or on behalf of the Disclosing Party; or
 - b confers upon the Receiving Party a licence or other transfer of rights in respect of any Party's interest in any Information or in any present or future patent or patent application; or
 - c affects the present or prospective rights of the Disclosing Party under the patent laws of any country or precludes the filing or prosecution of any patent applications by the Disclosing Party.
- 10 This Agreement represents the entire agreement between the Parties in relation to the subject matter contained herein and supersedes all other agreements and representations, whether oral or written, between the Parties relating to such subject matter. This Agreement may only be modified if such modification is in writing and signed by a duly authorised representative of each Party. Each Party also agrees that it shall have no remedies or claims under this Agreement for any innocent or negligent misrepresentation based on statements made prior to the Effective Date.
- 11 The Parties agree that the ETI may disclose that one or more of the Respondents are involved in discussions with the ETI and the subject matter of the discussions provided that the ETI will provide a copy of any press release or other announcement to the Respondents and seek the approval of the Respondents prior to its publication or release. Other than as set out in this clause, none of the Parties will make any public announcements, statements or otherwise publicise the subject matter of this Agreement (or its existence) without the prior written consent of the other Parties and no Party will use the business names or trademarks of any other Party in any way without that Party's prior written consent.
- 12 This Agreement shall come into force on the Effective Date and shall continue in full force and effect, notwithstanding the completion of the Purpose, for a period of seven years from the Effective Date unless extended, superseded or otherwise varied by a subsequent written agreement between the Parties.
- 13 It is not intended that a third party (other than an ETI Affiliate) should have the right to enforce a provision of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 14 The rights of the Disclosing Party under this Agreement are in addition to and not exclusive of rights under the general law and may be waived only in writing and specifically. Delay in exercising or non-exercise of any right under this Agreement is not a waiver of that or any other

right, partial exercise of any right under this Agreement shall not preclude any further or other exercise of that right or any other right under this Agreement and waiver of a breach of any term of this Agreement shall not operate as a waiver of breach of any other term or any subsequent breach of that term.

- 15 If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:
- a the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
 - b the legality, validity or enforceability in any other jurisdiction of that or any other provision of this Agreement.
- 16 Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the Parties (or any of them), or to authorise any Party to act as agent for another, and no Party shall have authority to act in the name or on behalf of or otherwise to bind any other in any way.
- 17 Except as provided otherwise, no person may assign any of its rights under this Agreement or any document referred to in it.
- 18 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each Party has executed at least one counterpart.
- 19 This Agreement shall be construed in accordance with and governed by English law and the Parties hereby submit to the non-exclusive jurisdiction of the English Courts.

The Parties have caused this Agreement to be executed by their duly authorised representatives.

ENERGY TECHNOLOGIES INSTITUTE LLP

By: _____

Name: _____

Title: _____

Date: _____

SCHEDULE 1

Respondent	Signature
Company Name: Company No: Address of Company:	By: Name: Title:

The ETI will return a copy of the executed Non-Disclosure Agreement to the Prime Contractor. Please provide the relevant name and address for this correspondence below.

Contact for return of executed Non-Disclosure Agreement	Send to [name]: At postal address:
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APPENDIX H - GLOSSARY

Term	Definition
Arising IP	Any intellectual property which is created by or for any party during the Project or for the purposes of the Project.
Background IP	Any intellectual property which existed prior to any party's commencement of the Project and which was created by or for the party.
Company Registration Number	Company number as registered at Companies House. Universities should enter their Royal Charter (RC) number in place of the Company Registration Number requested.
Contract or Technology Contract	The technology contract, as described in Appendix E, to be entered into between the ETI and the Prime Contractor.
EIA	An environmental impact assessment in accordance with the relevant legislation including the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011.
ETI	The Energy Technologies Institute LLP, a limited liability partnership (Company no. OC333553) whose registered office is at Holywell Building, Holywell Way, Loughborough, Leicestershire LE11 3UZ.
HSE	Health, Safety and Environment.
Member	The ETI's industry members (as identified on the ETI's website from time to time - http://www.eti.co.uk/about/current_members), including affiliates of such members, and Her Majesty's Government (including but not limited to those public sector members identified on the ETI's website (above) from time to time and Associate Member(s)).
Non-Disclosure Agreement or NDA	A non-disclosure agreement in the form provided at Appendix G.
Payment Milestone	A contract milestone with defined constituent deliverables, associated deliverable acceptance criteria, and milestone value (all to be detailed in the Respondent's Proposal and agreed in the Technology Contract which should be completed in order to reach the said milestone, and at which, subject to acceptance by the ETI that the milestone has in fact been reached, payment may be claimed from the ETI.
Prime Contractor	A sole organisation which contracts with the ETI to manage the Project. It may have Subcontractors.
Programme Associate	Programme associates of the SSH Programme (as identified on the ETI's website from time to time https://www.eti.co.uk/technology_programmes/smart_systems_and_heat) including affiliates of such programme associates.

Term	Definition
Programme or SSH Programme	The ETI Smart Systems and heat programme that includes the Project.
Project	The Project for which the purpose, scope of work and other details are described in this Request for Proposals.
Project Manager	The individual who is appointed by the Prime Contractor to carry out its responsibilities.
Proposal	The proposal for the Project submitted to the ETI, in response to this Request for Proposals.
Respondents	The organisations submitting a Proposal to the ETI.
Review Point	A Project review involving the Prime Contractor and ETI representatives at which the overall progress in Project or a specific Work Package will be critically reviewed and following which a formal decision will be made on the future Project programme.
Stage Gate	A major Project Review Point involving the Prime Contractor and ETI representatives at which the overall performance and business case for the Project will be critically reviewed and following which a formal decision will be made whether to continue with the Project, based on whether agreed Stage Gate Criteria have been met.
Subcontract	A contractual arrangement (described in Section 3.6) between the Prime Contractor and another organisation to which work for the Project has been subcontracted.
Subcontractor	An organisation which has a Subcontract.
Submission	The components set out in Appendix D, including the Respondent's Proposal submitted by the Respondent in response to this Request for Proposals.
Task	A significant activity or group of activities (within a Work Package) which results in completion of a deliverable or a significant part of one, or which represents a significant step in the process towards one.
Third Party IP	Any intellectual property which is required for or used in the Project (other than Arising IP and Background IP) and which is owned by parties other than the ETI and the Participant.
Work Package (WP)	A major section of the Project scope of work, which may be identified in this Request for Proposals or in the Respondent's Proposal, in order to break up the scope of work into separate manageable parts. A Work Package will usually consist of a number of Tasks.