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**From:** Keith Avis  
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[NIRHI admin arrangements 7Nov2012 \(5\) \(2\).docx](#)  
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[NIRHI Baseline Scope.docx](#)

Fiona cc: Joanne, Matthew, Bob, Mary

Following the recent ongoing discussion between Fiona and Matthew, we have been working further on the documentation to arrive at a position at which we are hopefully all comfortable. Please find attached drafts of our covering letter, Administrative Arrangements and baseline scope which we believe will address your concerns. We would, however, like to gauge your views on the documents before we finalise any wording.

Covering letter – we have provided further detail in the letter to the right to audit and KPI's, in particular we have added existing KPIs as an attachment which will hopefully make the link that you need. Equally, there is some new wording on auditing that again is designed to pick up on the points that you have raised here.

Admin Arrangements – we have revisited the detail following conversations that you have had with Matthew this week and hopefully have accommodated your key points.

A NIRHI Baseline Scope – this replaces the previous Feasibility Study update document and is designed to clarify assumptions, costs, scope and the change request process that will underpin our operation. You will note that reference is made to this document in our covering letter.

In taking this forward we have made every effort to accommodate your requirements as far as we are able within our designated remit. Of course, we are happy to talk through these documents with you or Joanne, or you may wish to speak to Matthew directly. Suffice to say we want to move quickly to a position where we are both happy to sign off on the documents, so these latest updates are designed to put us in a position where this is likely. I hope that you agree.

Best regards

Keith

**Keith Avis**

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# Northern Ireland Renewable Heat Incentive Scheme Baseline Scope

**DRAFT****Reference:** DETI/01**Publication date:** [ ] November 2012**Contact:** Keith Avis**Team:** NIRHI**Tel:** 020 7901 3007**Email:** keith.avis@ofgem.gov.uk**Overview:**

This document sets out the baseline scope and assumptions for the NIRHI scheme, the proposed costs and change control process. This should be read in conjunction with the original feasibility study.

## Context

The original feasibility study for the NIRHI was conducted in December 2011 anticipating an April 2012 launch. However, due to a combination of the delay in the launch of this scheme and more certainty as to how the scheme will be administered than when the original feasibility study was submitted to DETI, the scope and plan for delivery has been updated. This report confirms the scope, resourcing, delivery timings and cost.

The scope has changed since the original feasibility study and is now more in line with that seen on the GB RHI scheme. The inclusion of Air Source Heat Pumps (ASHPs) as an eligible technology has now been removed from the draft NI regulations as has the inclusion of the 17 heavy industrial sites in Northern Ireland.

As the delivery of the project moved out to 1 November, the NIRHI development team have reassessed the costs for delivery, these are discussed in detail within this document.

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## Executive Summary

- i. As a result of the delay in the original launch date for the NIRHI scheme and due to changes in scope, we have developed this baseline study to confirm the scope, resourcing, delivery timings and costs building on the original NIRHI Feasibility Study, submitted to DETI in December 2011.
- ii. The core of the deliverables and activities stated in the original Feasibility Study, submitted to DETI in December 2011, are still valid but with some changes. In reviewing these, we have also taken account of our improved knowledge of scheme operations and costs since the original study was completed. These changes include:
  1. DETI have confirmed that there will be no separate treatment of large industrial customers and that air source heat pumps will not yet be included in the RHI, but also that biomass installations above 1MW will be ineligible;
  2. In order to contain IT costs, changes to the RHI Register (IT system) will still need to be done in conjunction with changes being made to the GB RHI. These changes are expected to take place in January-February 2013 and so in the interim period between 'go-live' and February 2013 we will be running a manual administration process. This is covered in more detail in Chapter 4;
  3. As forecast in the feasibility study, the IT cost forecast has decreased from £286,000 (£143,000 plus 100% contingency) down to £190,000 (including 33% contingency). This is because we have been able to scope the IT requirements in more detail, having received confirmation of policy from DETI. We will need to receive agreement to the full £190,000 in order to deliver IT changes for the end of January 2013.
  4. We have been able to revise legal costs downward from £186,000 (£62,000 plus 200% contingency) to £67,000. This represents a £5,000 increase on the original forecast, but due to the greater level of certainty we have been able to eliminate any contingency requirement.
  5. We have managed to reduce other development costs by £5,000, in effect meaning that contingency funding is not needed for any development costs other than IT development costs. In total we have therefore reduced the forecast funding required from £772,000 (£386,000 plus 100% contingency) down to £433,000;
  6. 2012/13 operating costs are forecast at £140,000 (a £5,000 increase). As a result of the delay in starting the scheme, operating costs have been revised down by almost £15,000. However, this has been offset, partly by an increase in application processing time than was previously envisaged, but primarily due to the impacts of operating without an IT system. The net effect is a small increase of £4,340 to the 2012/13 operating costs against the original feasibility study.
  7. Outyear costs for the financial years 2013/14-2015/16 are estimated at £730,084. These projections include staff costs, consultancy, legal consultancy and recruitment. All costs also include overheads charged at 24%.
  8. The change control process is designed to deal with any changes to the scope, cost or timescales that have been agreed between DETI and Ofgem.
  9. Details of the payment process.

# 1. Key working assumptions

## Chapter Summary

This chapter confirms the key working assumptions of the work we were to undertake for the development and implementation of the NIRHI and sets out the key assumptions on which costs are based.

## Legal framework

- 1.1. The costs and delivery timeframes cited in this paper are in line with the regulations brought into place in time for scheme go live on 1 November 2012.

## Cost Assumptions

- 1.2. Proposed costs have been developed taking account of the following:
- the number of installations are as set out in paragraph 1.5 of this document;
  - Northern Ireland will have smaller installations compared to GB, so applications under the NI RHI Scheme relating to them are quicker to process;
  - costs do not include development costs for other phases of the scheme, or any additional operational costs resulting from those;
  - the NI RHI Scheme does not differ from the GB RHI Scheme in a significant number of respects;
  - no provision has been made for resources to follow up any cases of fraud should any be found;
  - no provision for legal costs associated with preparing for, or participating in a Judicial Review has been included;
  - we will not be required to meet any other cross-Government or cross scheme requirements that we have not already made provision for; and
  - there are no further issues within the Regulations that would impact on our IT or manual system, internal procedures or external guidance.

## Scope

- 1.3. As set out in the original feasibility study the broad approach is consistent with the GB RHI scheme, broadly that Ofgem will have direct responsibility for the accreditation of generators, development and operation of the IT system, making payments to generators at all scales. However there are some key differences from that outlined in the Feasibility Study:
- we are no longer developing solutions to the inclusion of Air Source Heat Pumps (ASHPs) and the 17 Heavy Industrial Sites; and
  - Technologies using biomass >1MW are excluded from the NIRHI scheme. Deep geothermal including CHP and heat pumps if >1MW are not excluded.

## Scale

- 1.4. The expected volume of generators for the NIRHI scheme is difficult to predict and the uptake from generators will very much depend on the level of tariffs set, the administration systems for the scheme, the efficiency of the scheme and, of course, the desire for renewable technology.
- 1.5. For the purposes of this document the uptake figures remain consistent with those provided in the original Feasibility Study and are listed in Table 1 below. The Feasibility Study figures were shown as being cumulative year on year, whereas table 1 shows the same figures without the cumulative total (i.e in year). It must be noted that these figures used the GB projections at the time as a baseline, DECC have since projected down their forecast numbers. This should not impact on the cost apportionment for the NIRHI as costs will still be charged on a proportion of the GB scheme.

Table 1: Forecast NIRHI scheme uptake

<b>NIRHI</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>
<b>Total Non Domestic installations</b>	247*	251	433	697
<b>Domestic installations</b>	390*	525	975	1,905
<b>Total NI RHI installations</b>	637*	776	1,408	2,602

\* figures could be revised down to reflect part year operation of the scheme in 2012-13 period (5 months)

## 2. Key Dependencies

### Chapter Summary

This chapter sets out the key dependencies that form the basis on which we have developed this scheme.

2.1. As per the feasibility study our actions have been drafted based on assumptions agreed with DETI and we have commenced operation of the scheme from 1 November 2012 on the understanding that the following conditions will be met:

- **DETI will have affirmed their NIRHI regulations in parliament and they will be brought into force by 1 November 2012;**
- **DETI will confirm, in writing, their agreement to the Administrative Arrangements between Ofgem and DETI;**
- **we can draw down adequate funds from DETI to cover all tariff payments on time by 1 February 2013;**
- **DETI will confirm their commitment to cover the development costs of the scheme, £433,000, and the agreed administration costs for the ongoing administration of the scheme, £140,000 for 2012-13.**

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## 3. Manual Solution

### Chapter Summary

This chapter maps out how we will administer the NIRHI scheme manually until an effective IT system can be implemented.

### Context

- 3.1. DECC have announced that they will be making amendments to the GB RHI legislation in 2013 to primarily streamline the accreditation process for generators and will include significant extensions to the scheme, such as regarding air quality, biomass sustainability and substituting long term cost control provisions for the interim ones that come into force in July 2012.
- 3.2. In order to maintain NIRHI development costs close to the Feasibility Study forecast, we will need to administer the scheme manually until the existing GB RHI IT system can be amended to incorporate the changes listed above. By 'piggybacking' the NIRHI IT system changes on those being made by the GB scheme we are able to reduce standalone release costs by £35,000. It should be noted that it is possible that there could be legal issues surrounding DECC's owned intellectual property and IT infrastructure, however as both sources of funding for the GB and NI RHI schemes originate from HM Treasury and that the likelihood of Government Departments bringing legal action against each other is minimal, the risk of there being a legal barrier is negligible.

### The Manual Process

#### Accreditation

- 3.3. The manual application and preliminary application forms have both been developed previously for the GB scheme as contingency measures if the IT system failed or for applicants with no online access, they will be emailed or posted out to applicants when they contact us. We have adapted these forms to be appropriate to the NIRHI scheme.
- 3.4. NIRHI applicants will need to contact us in order to get an application form, this is so that we can track applicants with an interim NIRHI number until the IT system is operational. At the same time applicants will be sent a Fuel Measurement System Questionnaire (FMSQ) and a Guide to supporting information to provide. All of these forms must be completed and returned to us.
- 3.5. The completed application will be manually reviewed by us, using a newly developed review tracking database. We will then pick up on any noted queries and points of clarification with the applicant. We will assess the application against the eligibility criteria for a final decision from Senior Management.

#### Internal data entry

- 3.6. We will store all communications and documentation in a Customer Relationship Management (CRM) system.

- 3.7. We will fill in the internal tracking spreadsheet with the interim NIRHI number, date of submission and a link to where the application is stored on CRM;
- 3.8. NIRHI participant posts bank details and ID to the Fraud and Compliance team;
- 3.9. Our Generation team conduct their level 1, 2 and 3 reviews of the application form while communicating directly with the participant in order to solve outstanding issues;
- 3.10. Once Fraud and Compliance team have confirmation that all the bank details and ID are correct they will provide a sign off sheet to the operations manager with delegated authority for approval (Lindsay Goater);
- 3.11. Our Generation team will alert Lindsay Goater that all reviews of an application have been completed and Lindsay will complete the final review and sign off. At this point Lindsay Goater will mark a password protected checkbox in the internal spreadsheet;
- 3.12. Our Generation team will regularly check the internal spreadsheet and upon seeing the signed off application, will send out an email confirming that the participant is now an accredited NIRHI user. The email will also explain that they will need the interim NIRHI reference number for all future communications and will need to use the email address stated on the application form for all electronic communications. The NIRHI user will also be informed that the NIRHI reference number is only for an interim period and they will be asked to set up an online account once the IT system is functional – expected early 2013

#### **Periodic Data Submission**

- 3.13. All NIRHI Participants are required to make a Periodic Data Submission (PDS) to us, and some Participants must also submit information about Fuels and Sustainability.
- 3.14. NIRHI participants will need to email in all their periodic data in a spreadsheet, the template can be found on our website, 3 months after their official accreditation date.
- 3.15. PDSs will be tracked on a spreadsheet to support later review and upload to the IT system when that becomes available.
- 3.16. We will then calculate payments against NI tariff levels and complete the payment cycle.
- 3.17. We confirm that an IT system will be operational by 1 February 2013, based on current timings for DECC's legislative amendments; as covered in paragraph 3.19 there is risk that legislative amendments are delayed which could impact on this date.

#### **Additional Operating Cost**

- 3.18. Manually operating the accreditation and periodic data collection elements of the scheme increases the operational costs (estimated at an additional £4,750 per month on top of the forecast operational costs in the Feasibility Study). An IT system can automatically generate payments data, data downloads for Fraud and

Compliance checks and regular reporting. All of these elements will need to be generated manually which incurs additional staff costs.

- 3.19. There is a risk that DECC's legislative amendments are delayed and changes are not made in January 2013 to the GB scheme. This would result in either additional monthly operational costs continuing until such time as the IT system can be amended in conjunction with GB changes or a standalone IT release charge being incurred to bring the NI RHI IT system online.

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## 4. Resources, Legal and IT Costs

### Chapter Summary

This chapter sets out the justification for the proposed resources, legal and IT costs.

### Resource Costs

- 4.1. Resources for the development of the scheme are as set out in section 11 of the original feasibility study, apart from increasing the allocation of the scheme manager's time from 50% to 100% to ensure that the complex deliverables and tight deadlines are achieved.

### Legal Costs

- 4.2. The costs for legal resource have increased by just over 8% to £67,000 compared to the original feasibility study due to factors including two full legal reviews of the guidance materials development and time spent to date on the NI regulations development in association with DETI.
- 4.3. An exacerbating factor for legal costs is that half of the NIRHI project team's allocated legal resource was sourced externally at a higher unit cost than our internal legal staff. This is an unavoidable consequence of workload and changing project timescales.

### IT Costs

- 4.4. As we are delaying the amendments to the RHI IT system until changes can be made in conjunction with the GB scheme, we have been able to remain in line with the forecast cost in the Feasibility Study of £143,000. As there is now more certainty regarding the detailed requirements of the NIRHI scheme, the contingency necessary has reduced from 100% to 33%; this 33% is no longer considered contingency but rather core funding needed to achieve this development work. This 33% equates to an additional £47,000 making the total projected for IT development £190,000. This is dependent upon there being no change in the scope of the detailed requirements compared to what we currently understand is required.
- 4.5. A detailed breakdown of the IT development requirements can be seen in Appendix 1.

## 5. Proposed Budget

### Chapter Summary

This chapter summarises and breaks down the proposed budget for development of the NIRHI scheme and the estimated operational costs for 2012-13, 2013-14 - 2015-16.

### Development Costs Forecast

- 5.1. The following forecasts have been put together based on the available material and assumptions. This budget forecast includes savings and efficiencies that have been achieved through planned resource allocation.
- 5.2. Our legal costs have increased by £5,000 since the original feasibility study, however we have found cost savings of £5,000 through pooling our resources with the GB RHI scheme on an independent risk assessment that is to be carried out shortly.
- 5.3. The IT costs remain unchanged but we require from DETI an additional 33% (£47,000). We hope not to spend this additional funding but this is our current best estimate of IT costs. We will need the full £190,000 if we are to deliver on time.
- 5.4. Should the GB scheme changes be delayed beyond January 2013, DETI would incur additional costs if we are to progress with a standalone IT release to make the online NI scheme operational.

### Operational Costs Forecast

- 5.5. We have also now revised our 2012/13 operating cost forecast (from the original feasibility study) to take into account the part year operations, as well as taking into account our experience on the GB scheme with administration processing time.
- 5.6. As a result we have been able to revise down the base operating costs by almost £15,000, although this is offset by a need to increase operating costs due to the impacts of operating without IT until January. The net effect is a small increase of £4,340 to the 2012/13 operating costs so that total operating costs for 2012/13 are now forecast at £140,000. There is no legal contingency included in these costs.
- 5.7. The part year costs can be broken down as follows:
  - Original FS operating costs - £135,660
  - Revised part year operating costs - £121,000
  - Additional staff costs due to delayed IT launch - £19,000
  - Updated operational costs (i.e. part year operating costs plus additional staff costs due to delayed IT launch) - £140,000

Table 2: Development Costs Forecast

Delivery Component	Cost (£)
New Scheme Development delivery team (including: Band C Operational Manager – recruitment process & Stakeholder engagement costs)	£96,000
Internal Ofgem legal costs	£67,000
IT delivery costs	£190,000
Independent risk assessment	£5,000
Overheads	£75,000
<b>Total:</b>	<b>£433,000</b>
Operational Costs	Cost (£)
Revised 2012/13 operational costs (pre IT delay)	£121,000
Additional 2012/13 operational costs due to delay to IT launch	£19,000
<b>Total:</b>	<b>£140,000</b>
<b>Total 2012-13 forecast costs:</b>	<b>£573,000</b>

### Outyear Operational Cost Calculation

- 5.8. Since the original NIRHI feasibility study was completed there have been a number of factors which have changed which have given need to revise forecast outyear operating costs. Experience with the GB scheme shows that the time taken for us and applicants to process applications for accreditation is greater than assumed in the original study.
- 5.9. Improvements have been identified to address these issues. We have already cut down on average accreditation times by approximately one hour per accreditation. Further efficiency gains are expected to be achieved and these have been built into staffing models.
- 5.10. The total costs for the financial years 2013/14-2015/16 are estimated at £730,084. These projections include staff costs, consultancy, legal consultancy and recruitment. All costs also include overheads charged at 24%. A table which shows the estimated cost for each outyear is as follows:

Table 3: Operations Costs Forecast Table

Estimated outyear costs for operation of the Northern Ireland RHI scheme			
Financial years	2013/14	2014/15	2015/16
<b>NIRHI Estimated costs</b>	£164,636	£223,809	£341,639

- 5.11. Based on the above figures and our assumptions set out in paragraph 1.2 we anticipate costs for NIRHI will be around 3% of total scheme operating costs. As a result, we propose to charge on the following basis that DETI costs = Total RHI operating cost\* Value of NI tariff payments / Value of Total (NI+GB) tariff payments.
- 5.12. If volumes are more than 3% of total scheme operating costs we anticipate that NI will have smaller installations compared to GB which are quicker to process, resulting in reduced accreditation time/ resources required and justifying using 3%.
- 5.13. It is important to note that these costs **do not** include development costs or any supplementary operational costs for phase 2 of the Northern Ireland RHI scheme. These will be scoped out once you make known your intentions for phase 2 to us.
- 5.14. Any additional funding sought will be done via the Change Control process.

### Change Control Process

- 5.15. The change control process is designed to deal with any changes to the above scope, cost, assumptions or timescales set out in this document. The proposed process is outlined below; where any potential changes are identified, the Ofgem Project Manager (currently Keith Avis) will manage the process. Once agreed, the process may then be amended from time to time by written agreement between DETI and Ofgem

Key Phase	Description
Project Initiation	Capturing a basic definition of the scope to create a baseline of what is to be delivered. This phase has been completed for NIRHI and the scope was described in the NIRHI Feasibility Study (published December 2011) and in this document.
Change Identification	Identifying a change and initial identification of the potential outcomes.
Impact Assessment	Assessing the impact of implementing the suggested change to understand how the change will affect cost, quality and timescales.

Change Recording	Completing a Change Request Form (this will be provided separately) to capture a request for change. This should describe what the change is, why it is needed and what benefits it will bring. All raised Change Requests will be documented in the Change Request Log.
Ofgem/ DETI Approval	Reviewing the Change Request and impact assessment, assessing an appropriate course of action and approving or rejecting the change at the correct level of authority.
Change Implementation	Updating relevant documentation and communicating these changes to all stakeholders and impacted parties.

### Payment of Operational Costs

- 5.16. The Parties agree that prior to and during the term of the Arrangements GEMA will invoice DETI for all costs incurred to date and on a monthly basis in respect of the operational costs incurred by GEMA in the immediately preceding calendar month, and DETI will pay GEMA the amount of each invoice within 30 days of the date of the invoice.
- 5.17. If any dispute arises as to the amount of operational costs payable by DETI to GEMA in relation to a given month, the parties intend to comply with the following process –
- (a) The dispute will first be discussed by the accounting officers from GEMA and DETI, with a view to resolving the dispute at that level;
  - (b) If the accounting officers are unable to resolve the dispute themselves within two weeks of being notified thereof, they will then each escalate the dispute to the Senior Civil Service or Director level of each of the organisations for final resolution.

### Drawdown of Funds

- 5.18. The parties will agree in advance a sum which will be paid into the GEMA bank account from which all periodic payments to participants are made during the term of the arrangements. Monthly returns of receipts and payments transactions pertaining to the account, incorporating bank reconciliations, will be done by GEMA and a request for top-up of bank balance will be made monthly to DETI by GEMA if required; such a request for top up will be provided by GEMA no later than five working days prior to the beginning of the calendar month in which the payments to the participants concerned are to be made.
- 5.19. On receipt of the notice referred to in paragraph 5.17, DETI will transfer to GEMA the sum specified in the notice as soon as reasonably practicable, and in any event by no later than the 27<sup>th</sup> of the calendar month in which that notice is provided to DETI.
- 5.20. Any monies transferred to GEMA will be held in a bank account established solely for the purpose of making periodic support payments.
- 5.21. Where the Arrangements are terminated, either in accordance with paragraph 6 of the Arrangements or otherwise, GEMA will arrange for any monies (including any interest that may have accrued thereon) held in the account to be returned to DETI as soon as reasonably practicable.

- 5.22. For the avoidance of doubt, GEMA will not use funds transferred to it under this drawdown of funds section) other than for the purpose of making periodic support payments.

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## Appendix 1 – Detailed Breakdown of IT Costs

Task	Analyse		Design		Implement		Test		Infrastructure		Total
Project / Phase Setup	11	£4,664	0	£0	13	£5,512	0	£0			£10,176
Feature 2	5.55	£2,353	1	£424	1.5	£636	3	£1,272			£4,685
Feature 3	2.855	£1,211	0.5	£212	2	£848	1.05	£445			£2,716
Feature 4	5.3	£2,247	4.5	£1,908	13.5	£5,724	0	£0			£9,879
Feature 5	5.925	£2,512	4.5	£1,908	11.75	£4,982	3	£1,272			£10,674
Feature 6	0.625	£265	1	£424	2	£848	0.75	£318			£1,855
Feature 7	3.45	£1,463	5	£2,120	12.5	£5,300	2	£848			£9,731
Feature 8	4.855	£2,059	4.5	£1,908	16.5	£6,996	2.55	£1,081			£12,044
Feature 9	1.9	£806	1	£424	1	£424	2	£848			£2,502
Feature 10	8.1125	£3,440	3.25	£1,378	2.5	£1,060	0.375	£159			£6,037
Feature 11	2.725	£1,155	1.25	£530	1	£424	0	£0			£2,109
Feature 12	0.25	£106	0	£0	0	£0	0	£0			£106
Feature 13	7.31	£3,099	1.5	£636	8.75	£3,710	2.85	£1,208			£8,654
Feature 14	3.775	£1,601	0.5	£212	4.75	£2,014	0	£0			£3,827
									21.2	£8,988.80	£8,989
Testing for three cycles	0	£0	0	£0	0	£0	14.2	£6,021			£6,021
Release	6	£2,544	0	£0	16.5	£6,996	0	£0			£9,540
	69.6325	£29,524	28.5	£12,084	107.25	£45,474	31.775	£13,473	21.2	£8,989	
	20.88975	£8,857	8.55	£3,625	32.175	£13,642	9.5325	£4,042	6.36	£2,697	
		£0		£0		£0		£0			
	90.52225	£38,381	37.05	£15,709	139.425	£59,116	41.3075	£17,514	27.56	£11,685.44	
	335.86475										
	<b>£142,406.65</b>										



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*Promoting choice and value for  
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Date: [ ] November 2012

Dear Fiona

**RE: NIRHI – Funding and administrative Arrangements under section 114 of the Energy Act 2011**

Further to my letter of 31 October and your subsequent conversations with Matthew Harnack, I am pleased to be able to provide you with the signed administrative arrangements covering the Northern Ireland Renewable Heat Incentive Scheme.

I can confirm that we propose to deliver the administration of the scheme for a cost of £573k in 2012/13 and £730k for 2013/14 to 2015/16. The attached baseline scope document provides details of our deliverables, activities and operational performance that we propose to provide within this budget together with information regarding our operational cost control calculation and payment provisions. We believe this provides a robust, effective and value for money approach, while also providing the flexibility needed for your policy implementation.

In order to meet these funding constraints, our proposal is based on our current assumptions and scope, timing and risks. It does not allow for funding of contingent events and should any of these arise, then this may result in additional costs which we may need to agree with you. Of course, in the event that we are also able to make savings then we will also ensure that these are also passed to you. All further changes will be dealt with as change events in accordance with the process defined in our baseline scope document.

I appreciate that there were some areas where you required further clarification - in particular regarding performance measures and audit arrangements. In respect of KPI's I know that Matthew has highlighted that there is a legal requirement on us to operate independently of Government. Our duty is to be accountable to the public and as such we consult publicly on KPIs through our Corporate Plan process and report on our performance in our annual report. Our proposed internal performance measures for RHI are attached at Annex A to this letter; we will be consulting on these with our stakeholders shortly as part of our Corporate Planning process for next year. As such, DETI and all our other stakeholders, will be able to comment.

Regarding audits, I believe that you would wish to look at a sample of installations and applications, specifically how they were processed and the payments made. I can understand that you want assurances that this has been done in accordance with legislation and that the right amounts are being paid. We would be pleased to provide you with such information to consider remotely, as long as doing so does not pose any legal issues (such

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as regarding Data Protection Act compliance) or financially due to resource demands in compiling the information. In addition, we would like to see the outcomes of any audits that are carried out, so we can ensure any lessons are obtained.

I am pleased that we have reached agreement on these areas and I trust that you will be content that they have been reflected accurately in the attached documents.

If you have any further queries, please do give either Matthew or myself a call. Alternatively, if, as I hope, you consider everything is in order, I would be grateful if you could duly sign the Arrangements and confirm your agreement for the funding as set out in the attached Northern Ireland Renewable Heat Incentive Scheme Baseline Scope document.

Yours sincerely

Robert Hull

**Managing Director – Commercial**

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**Annex A: RHI performance measures**

Ofgem's proposed internal RHI performance measures (to be consulted on as part of our corporate planning process) are:

- 90% of all enquiries answered within 10 working days.
- Follow up with generators outstanding issues on their applications for accreditation, or forward application to the next level of internal review – 90% within 10 working days
- 95% of payments paid within 30 working days of quarterly periodic data submission.
- The on-line application system will be available for a minimum of 99% of the supported business hours (excluding planned down time). Supported business hours are 08:00-17:30 Monday to Friday excluding bank holidays.

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These Arrangements are entered into on [*date to be the date when the last to sign signs*]

BETWEEN:

- (1) The Department of Enterprise, Trade and Investment ("**DETI**"), whose principal address is Netherleigh, Massey Avenue Belfast BT4 2JP; and
- (2) The Gas and Electricity Markets Authority ("**GEMA**"), a body corporate established under section 1 of the Utilities Act 2000, whose principal address is 9 Millbank, London, SW1P 3GE

## 1. BACKGROUND AND STATUS OF THESE ARRANGEMENTS

- 1.1 Section 114 of the Energy Act 2011 provides that DETI and GEMA may enter into arrangements for GEMA to act on behalf of DETI for, or in connection with, the carrying out of any functions that may be conferred on DETI under, or for the purposes of a scheme established under section 113 of the Energy Act 2011.
- 1.2 Certain functions are conferred on DETI under the scheme established by the Renewable Heat Incentive Regulations (Northern Ireland) 2012.
- 1.3 This document sets out the arrangements in accordance with which GEMA intends to carry out certain of those functions on behalf of DETI.
- 1.4 These arrangements are not intended to be legally binding and no legal obligations or legal rights will arise between the parties from these Arrangements. However both parties will endeavour to comply with the provisions of these Arrangements. For the avoidance of doubt, nothing in these Arrangements is intended to, or will be deemed to, give rise to a relationship of agent and principal between the parties or overrides or is intended to pre-empt the ability of either party to discharge any of its powers or duties that arise as a matter of law.

## 2. DEFINITIONS AND INTERPRETATION

- 2.1 The definitions and rules of interpretation in this Paragraph are intended to apply throughout this document:

"Administration Costs" means the costs to GEMA of carrying out the Conferred Functions and Ancillary Activities and any other activities under these Arrangements, howsoever incurred. The budget and charging methodology for calculating the Administration Costs, and the types of activity which can contribute to the Administration Costs, will be agreed separately between the parties in advance of the Administration Costs being incurred.

"Ancillary Activities" means the activities that GEMA considers are necessary or desirable for the Conferred Functions to be carried out properly.

"Commencement Date" means [*date same as date of second signature*].

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"Conferred Functions" means all of the Functions other than the Retained Functions.

"Confidential Information" means information which has been designated as confidential by either of the Parties, whether, if it is passed to the other party, at the time it is so passed or at a later stage, or is of a confidential nature concerning DETI, GEMA or any third party.

"Functions" means the duties and powers conferred on DETI under the Regulations.

"Guidance" means [the document(s) entitled "Northern Ireland Renewable Heat Incentive Guidance Volume 1, eligibility and how to apply" and Northern Ireland Renewable Heat Incentive Volume 2, ongoing obligations, payments", published in accordance with regulation 51 on [date **date will need to be inserted**], as amended from time to time.

"Local Regulations" means the laws and regulations of Northern Ireland applicable to performance of the Functions.

"Party" means DETI or GEMA as a party to these arrangements, and "Parties" shall be construed accordingly.

"the Regulations" means the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012, and reference to a particular "regulation" is reference to that regulation in the Regulations;

"Retained Functions" means the powers and duties conferred on DETI pursuant to :

- (i) regulation 36(8).
- (ii) regulation 47(1)(a);
- (iii) regulation 50; and
- (iv) regulation 51.

2.2 Words used in these Arrangements and in the Regulations shall have the meaning given to them in the Regulations, unless otherwise defined herein.

2.3 Paragraph headings will not affect the interpretation of these Arrangements.

### 3. GEMA'S RESPONSIBILITIES

3.1 GEMA will carry out the Conferred Functions and the Ancillary Activities and will at all times act in a manner which is consistent with any applicable obligations that arise as a matter of law, including any requirement to respect any personal or commercial confidentiality.

3.2 Subject to paragraph 3.1, GEMA will:

- (a) provide DETI with –

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- (i) such information as is necessary to enable DETI to carry out in a proper manner the powers and duties imposed on DETI by regulations 47(1)(a) and 50; and
  - (ii) such other information as DETI may reasonably request, which GEMA may hold in relation to the Conferred Functions;
- (b) inform DETI of any complaint or request for a formal review that is received by GEMA in connection with the carrying out by it of the Conferred Functions or the Ancillary Activities;
  - (c) provide such assistance as DETI may reasonably request in connection with any court proceedings or other dispute with third parties in connection with the carrying out of the Functions on condition that any costs incurred by GEMA are charged to DETI at a daily rate to be agreed in advance of the provision of such assistance;
  - (d) nominate a person as a contact point for the purposes of these Arrangements and inform DETI of the identity of that person;
  - (e) take all reasonable steps to ensure that wherever possible it will facilitate the ability of DETI to operate effectively in relation to the Regulations. This may mean providing briefing or attending meetings with industry, providing resources are available to do this. GEMA will communicate with DETI on matters of common interest and common concern as appropriate;
  - (f) share in advance with DETI proposals for public announcements relating to or impacting on the scheme established by the Regulations when appropriate;
  - (g) ensure that any information it requests from DETI should be relevant to the Administration Costs, the Functions, the Ancillary Activities, the Regulations, the Guidance, Local Regulations, or any legislation made or proposed to be made under section 113 of the Energy Act 2011;
  - (h) ensure that where it requests information from DETI under these Arrangements, it will specify the information or nature of the information it requires, the format in which it requires it, the deadline for providing it and the reason it is required; and
  - (i) give DETI reasonable notice of the date by which it requires information, wherever possible.

#### 4. DETI'S RESPONSIBILITIES

##### 4.1 DETI will:

- (a) pay the Administration Costs, on a pass through basis;
- (b) transfer to GEMA the monies necessary for payment of the periodic support payments;

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- (c) nominate a person as a contact point for the purposes of these Arrangements and inform GEMA of the identity of that person;
- (d) take all reasonable steps to ensure that wherever possible it will facilitate the ability of Ofgem to operate effectively in relation to the Regulations. This may mean providing briefing or attending meetings with industry, providing resources are available to do this. DETI will communicate with GEMA on matters of common interest and common concern as appropriate;
- (e) share in advance with GEMA proposals for public announcements and consultations relating to or impacting on the scheme established by the Regulations when appropriate;
- (f) share information with GEMA necessary to enable GEMA to carry out the Conferred Functions and the Ancillary Activities in a proper manner. In doing so, DETI will comply with all relevant legislation and have respect for any personal or commercial confidentiality. Where DETI is made aware of such information, it will notify GEMA that it holds the information and provide it to GEMA on request;
- (g) only request information from GEMA under these Arrangements which is relevant to the Administration Costs, the Functions, the Ancillary Activities, the Regulations or the Guidance;
- (h) provide GEMA with all information necessary to ensure that GEMA is aware of any Local Regulations that will impact upon the carrying out by GEMA of the Conferred Functions or the Ancillary Activities, and to give GEMA as much advance notice as possible of any prospective or actual changes in the Local Regulations if such would impact in any way upon the carrying out by GEMA of those functions or activities, provided that DETI could reasonably be expected to be aware of these Local Regulations. Should there be any Local Regulations that impact upon the carrying out by GEMA of the Conferred Functions or the Ancillary Activities which DETI has not notified GEMA of, GEMA will not be liable for any loss which arises as a result of not taking into account the requirements of those Local Regulations;
- (i) where it requests information from GEMA under these Arrangements, specify what information it requires, in what format, by when and why it needs it;
- (j) where it requests information from GEMA under these Arrangements, wherever possible give GEMA reasonable notice of the date by which it requires the information;
- (k) where GEMA provides DETI with information under these Arrangements, prior to the publication of that information, not without GEMA's express consent circulate that information outside the Northern Ireland Executive until after the date of publication by GEMA and treat such information as Confidential Information, unless otherwise agreed; and

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- (l) provide such assistance as GEMA may reasonably request in connection with any court proceedings or other dispute with third parties in connection with the carrying out of the Functions.

#### 5. AMENDMENT TO THE SCOPE OF THE CONFERRED FUNCTIONS AND THE ANCILLARY ACTIVITIES

- 5.1 The Parties anticipate that the Regulations and/or the Guidance may be amended from time to time.
- 5.2 Where either Party becomes aware of any actual or proposed amendments to or re-enactments of the Regulations or the Guidance, or that there is a need to effect such amendments or re-enactments, it will be responsible for informing the other Party as soon as reasonably practicable. For the avoidance of doubt such amendments are not covered by these Arrangements.
- 5.3 The Parties will discuss in good faith amendment of these Arrangements to reflect any changes to the Regulations or the Guidance.
- 5.4 In the event that the Regulations are amended or re-enacted but the parties have not been able to agree amendments to these Arrangements to reflect the same by the end of the date on which the amending or re-enacting Regulations come into force, these Arrangements will be deemed to be terminated with effect from the next day.

#### 6. DURATION AND TERMINATION

- 6.1 These Arrangements will come into effect on the Commencement Date and will continue indefinitely until terminated by either Party giving prior written notice to the other Party in accordance with paragraph 6.2 or, as the case may be, until termination in accordance with paragraph 5.4.
- 6.2 Termination of these Arrangements other than in accordance with paragraph 5.4 will take effect on expiry of the period specified in the written notice referred to in paragraph 6.1.
- 6.3 For the purposes of paragraph 6.2, the notice period will not be less than 60 days from the date of the written notice, unless otherwise agreed by the Parties.
- 6.4 On termination of these Arrangements, the Parties intend that GEMA should (subject to obtaining any necessary approvals from the scheme participants) provide DETI with all information reasonably requested by DETI and held by GEMA on DETI's behalf at GEMA's premises in connection with the carrying out of the Conferred Functions and the Ancillary Activities on condition that at least one week's notice is provided in advance to GEMA by DETI.

#### 7. ASSETS

- 7.1 The Parties intend that any assets, including but not limited to intellectual property rights, created or purchased by GEMA in

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connection with the carrying out by it of the Conferred Functions and Ancillary Activities, will vest in GEMA following termination of these Arrangements.

- 7.2 Subject to paragraph 7.1, any materials, plant or equipment owned or held by DETI and provided by DETI for use by GEMA in carrying out the Conferred Functions or Ancillary Activities will be returned to DETI following termination of these Arrangements.

## 8. CONFIDENTIALITY

- 8.1 Each Party agrees to be responsible for ensuring (both during the term of these Arrangements and after their termination) that the Confidential Information is kept confidential, is not used other than strictly for the purposes of these Arrangements and is not disclosed to any third party without the prior written consent of the other Party, unless the information:
- (a) is public knowledge at the time of disclosure;
  - (b) has become public knowledge other than by breach of this paragraph;
  - (c) has come lawfully into the possession of the Party in question from a third party without any restrictions regarding confidentiality attaching to such information; or
  - (d) is required by law to be disclosed, as set out in paragraph 8.2.
- 8.2 Each Party recognises that disclosure of the Confidential Information may be required by law, in particular under the duties imposed on GEMA and DETI under Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 and any subordinate legislation or codes of practice issued in accordance with such legislation ("the Legislation") as amended from time to time. Where disclosure of Confidential Information is required by law, each Party agrees to consult where possible with the other in advance of making any disclosure of information which is held in relation to the subject matter of these Arrangements. Each Party agrees to offer all reasonable assistance to the other in handling any requests for information made under the Legislation which relate to the subject matter of these Arrangements and to transfer any information requests received by that Party to the other Party if appropriate.
- 8.3 GEMA may disclose Confidential Information to any relevant governmental or other authority or regulatory body, and to any employees or contractors of GEMA or of any of the above, provided that before any such disclosure GEMA will make those persons aware that the information is confidential and of these Arrangements. Where GEMA discloses such Confidential Information to another body under this paragraph, it will notify DETI that it has done so, subject to any legal constraints on its ability to do so.
- 8.4 Both Parties intend, both during the term of these Arrangements and after their termination, to ensure that any employee or contractor to whom Confidential Information is disclosed is made aware that the information is confidential and of these Arrangements.

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## 9. VARIATION

- 9.1 These Arrangements may only be varied by written agreement of the Parties.

## 10. NOTICES

- 10.1 Any notice to be given pursuant to these Arrangements should be in writing and sent by electronic mail to the relevant contact point nominated by the parties under these Arrangements.

## 11. DISPUTE RESOLUTION PROCESS

- 11.1 In the case of a dispute between GEMA and DETI about the interpretation or implementation of these Arrangements, the parties intend to comply with the following process:
- (a) the dispute will first be discussed by the contact points from GEMA and DETI, with a view to resolving the dispute at that level;
  - (b) if the contact points are unable to resolve the dispute amongst themselves within two weeks of first being notified thereof, they will each escalate the dispute to a more senior staff member within their respective organisation;
  - (c) senior staff members should arrange an informal resolution meeting;
  - (d) if the senior staff members are unable to resolve the dispute within four weeks of being notified thereof, they will then each escalate the dispute to the Senior Civil Service or Director level of each of the organisations for final resolution.

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Signed by [ ]

for and on behalf of  
The Department of Enterprise, Trade and  
Investment

Signed by [ ]

for and on behalf of  
The Gas and Electricity Markets Authority

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