



Programme Area: Bioenergy

Project: Refining Estimates of Land for Biomass

Title: Refining Estimates of Land for Biomass - Request for Proposal

Abstract:

The Request for Proposals (RfP) for the Refining Estimates of Land for Biomass project (RELB).

Context:

Many significant pieces of work have been undertaken to assess UK “2nd generation” bioenergy feedstock production potential. The RELB project was undertaken to help refine and sense-check these existing estimates, including the ETI's own in-house modelling assumptions, in order to understand what further ‘correction factors’ (if any) may need to be applied to adjust existing estimates. In addition, the project aimed to better understand the process for converting land to 2nd generation bioenergy feedstocks and the impact planting these feedstocks could have on farm businesses. The RELB project had four distinct work packages:

1. A review of latest theoretical estimates of land available for biomass production in the UK and Europe.
2. A desk study to identify additional constraint layers which could be used to refine the ETI's own in-house land availability constraint masks. The suitability of these additional constraint layers was tested through field surveys.
3. A review of the steps and agencies involved in land use change to bioenergy crops and forestry.
4. Case studies of three farmers who have planted bioenergy crops, focusing on the financial and food production impacts of their decision.

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Request for Proposal (RfP)

Title of Services for which Proposals are Requested

Refining Estimates of Land for Biomass

Request Issue Date

2nd February 2015

Deadline for Notification of Intention to Submit a Proposal

16th March 2015 – 12:00 hrs

Request for Proposals Submission Date

23rd March 2015 – 12:00 hrs

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CONTENTS

1. ETI INTRODUCTION	1
1.1. Introduction to the Energy Technologies Institute	1
1.2. ETI Approach to Health, Safety and Environment (HSE)	1
2. PROJECT OVERVIEW	2
2.1. Background to the Bioenergy Programme and Project Context	2
2.2. Project Context	2
2.3. Commissioning Approach	2
3. REFINING ESTIMATES OF LAND FOR BIOMASS – OBJECTIVES, OUTCOMES AIM AND SCOPE	3
3.1. Project Objectives	3
3.2. Project Aim and Scope	3
4. REFINING ESTIMATES OF LAND FOR BIOMASS – PROJECT DETAIL	7
4.1. Project Work Packages	7
4.2. Formal Deliverables from the Project	7
4.3. Project Timescales	7
4.4. Project Organisation Structure	8
4.5. Project Governance	8
4.6. Project Funding and Payment Structure	10
4.7. State Aid	10
4.8. Terms and Conditions for the Contract	11
5. COMMERCIAL AND LEGAL REQUIREMENTS	12
5.1. Insurance	12
5.2. Intellectual Property (IP) – Arising IP	12
5.3. Background IP, Third Party Data and Third Party Software Models	12
5.4. Statement of Compliance	13
5.5. Non-Disclosure Agreement	13
5.6. General Due Diligence	13
5.7. Warranties	13
5.8. Indemnities	13
6. DISCLAIMERS	14
7. PROJECT PROCUREMENT AND SELECTION	16
7.1. Estimated Procurement and Project Timeframes	16
7.2. Questions and Clarifications	16
7.3. Submission Content and Format	17
7.4. Selection Criteria	17
7.5. Selection Process	18
8. POST-SELECTION PROCUREMENT PROCESS	19
8.1. Project Shaping and Contract Negotiation	19
8.2. Contract Detailing and Negotiation Requirements	19

APPENDIX A	20
DUE DILIGENCE TABLE	20
APPENDIX B	21
INSURANCE REQUIREMENTS	21
APPENDIX C	22
CONTENT AND FORMAT OF PROPOSALS	22
APPENDIX D	25
TERMS AND CONDITIONS OF THE CONTRACT	25
APPENDIX E	27
NOTIFICATION OF INTENTION TO SUBMIT A PROPOSAL	27
APPENDIX F	28
NON-DISCLOSURE AGREEMENT	28
APPENDIX G	35
GLOSSARY	35

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, Rolls-Royce and Shell – and the UK Government. Hitachi has joined the ETI as a Programme Associate for the SSH Programme.

Public sector representation is through 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.

2. PROJECT OVERVIEW

2.1. Background to the Bioenergy Programme and Project Context

If the future UK energy system is built without the use of bioenergy, it could cost the UK up to £90 billion per year more in 2050 to meet its climate change targets. The sustainable production of biomass has the potential to capture large amounts of carbon dioxide (CO₂) from the atmosphere which, when combined with Carbon Capture and Storage (CCS) to minimise the release of captured carbon back to the atmosphere, can result in a net removal of CO₂ from the atmosphere. In-house modelling using our ESME model suggests plausible pathways for removing 50 million tonnes of atmospheric CO₂ per year by 2050, by combining the use of domestically produced biomass with CCS. Even without CCS, sustainably generated bioenergy has been shown to deliver carbon savings compared with fossil fuels. It also offers significant end-use flexibility, as bioenergy can be used to produce a wide variety of outputs including power, heat and liquid and gaseous fuels.

Work by the Natural Environment Research Council (e.g. the TSEC¹ Bio-Sys Project), RELU (Rural Economy Land Use), and the SuperGen Bioenergy Programme, as well as in-house modelling at the ETI, has shown that the UK could potentially utilise reasonable volumes of domestically grown biomass to help fuel our energy future. As bioenergy generation increases, the UK can source that biomass from abroad or through biomass grown in the UK. Developing a UK biomass production base would decrease our reliance on imports (whose sustainability is often difficult to confirm) and be beneficial for the UK economy and for UK energy security. This must, though, be done sustainably from both a land-use perspective (balancing food, feed, fibre, and fuel), and an ecosystem services perspective (e.g. water, carbon and biodiversity management). Through one of our other Projects, the Ecosystem Land Use Modelling (ELUM) project, and other UK studies, we are assessing the direct land-use change emissions associated with UK bioenergy production, in order to inform judgements of sustainability.

In this project, we are looking to sense check current estimates of “available” land for the production of bioenergy crops and forestry, with a particular focus on 2nd generation type crops such as Miscanthus, Short Rotation Coppice and Short Rotation Forestry. This validation exercise will enable the ETI to examine the size of the role Bioenergy could have in the future UK low-carbon energy system, required to meet our GHG emissions reduction targets by 2050.

2.2. Project Context

This Project will be delivered under the ETI’s Bioenergy Programme. The Project outputs will be used to inform a potential future ETI demonstration Project focused on biomass pre-treatment or conversion technology.

2.3. Commissioning Approach

The ETI is procuring this project through an open process and is now seeking responses from interested parties. A Prime Contractor will be appointed and the Project is expected to commence mid 2015 with a Project duration of around 4 months. The Prime Contractor may choose to Subcontract some elements of the work. This should be detailed in the Respondent’s submission.

¹ Towards a Sustainable Energy Economy

3. REFINING ESTIMATES OF LAND FOR BIOMASS – OBJECTIVES, OUTCOMES AIM AND SCOPE

3.1. Project Objectives

The primary objective for this project is to validate current estimates of available UK land for the production of biomass crops and forestry² for energy. The successful Respondent will carry out a review of the current best theoretical estimates of land available for growing energy crops and forestry; design and execute a field survey; and compare the findings of the survey with the theoretical estimates, explaining any differences. The project will be informed by outputs from both our BVCM and ELUM projects, to ensure appropriate locations and parameters are considered.

From this study, the ETI is expecting the following outcomes:

1. An assessment of the potential future scale of bioenergy crop³ and forestry production in the UK and the key considerations which may positively or negatively affect the suitability of land for “2nd generation” biomass feedstock production in the UK, such that ETI’s estimates can be qualified accordingly. The assessment should highlight and comment on:
 - Where model and survey estimates agreed and disagreed (i.e. was the land cover and use as expected, particularly around soil, crop yields and “available” land)
 - Whether there are any other factors affecting national estimates of available land for biomass energy crops that have not been captured by models such as water stress zones, nitrate vulnerable zones, BAP priority areas, transportation restrictions etc.
2. An assessment of the opportunities for facilitating land-use change to bioenergy crops and forestry within the current or pending planning or regulatory frameworks (e.g. opportunities for sustainable intensification, local bioenergy value chain development, activities under CAP etc.).

3.2. Project Aim and Scope

Many significant pieces of work have been undertaken to assess UK “2nd generation” bioenergy feedstock production potential. The ETI is now looking for targeted research to be undertaken to help refine and sense-check these existing estimates, including its own in-house modelling predictions, in order to understand what further ‘correction factors’ (if any) may need to be applied to adjust existing estimates. It should be noted that the ETI is not looking for a new exercise in estimating available land for biomass feedstock production in the UK.

The ETI is looking for the Respondent to suggest the most appropriate and robust scope and methodology to meet the overarching Project objectives and deliver the Project outcomes within time and budget. The ETI expects the Respondent, taking into account their own strengths, weaknesses, skills and capabilities, to review the desired outcomes and present their own planned project to achieve these. This may be identical to the proposed plan described below, a variation on this or a different approach entirely.

The ETI anticipates three distinct phases for the project (Figure 1) in which the strengths and weaknesses of theoretical estimates of land available for bioenergy in the UK will be identified and established. Each phase is anticipated to provide a “picture” from which existing estimates of “land potentially suitable for bioenergy cropping/forestry” in the UK can be refined.

² These include, but are not limited to, Miscanthus, Short Rotation Coppice (SRC) willow and Short Rotation Forestry (SRF), both coniferous and deciduous

³ This to include 1st (e.g. oil seed rape, wheat, maize) where appropriate and 2nd (e.g. Miscanthus, SRC, SRF) generation bioenergy crops. However, the key focus is on 2nd generation crops.

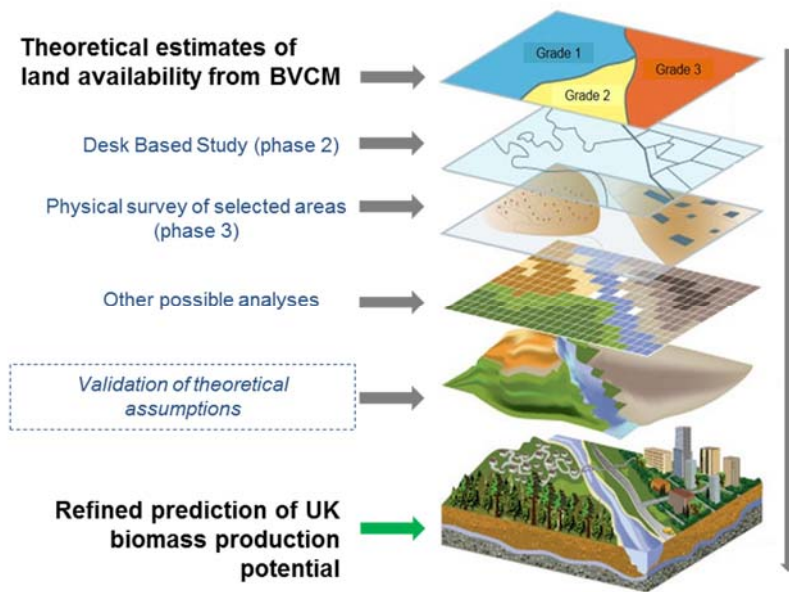


Figure 1 Representation of the three-phase approach

This three-phase approach is described below:

1. A short review of the current best “theoretical” estimates of “available” land for the production of both (a) “2nd generation” bioenergy crops and (b) SRF forestry (deciduous and coniferous) in the UK and Europe. Note that the “refinement” tasks (2 and 3 below) only apply to the UK.
2. A desk-based survey to sense-check the theoretical estimates of UK “available” land for the production of “2nd generation” bioenergy feedstocks. Sufficient sample areas (ideally a set of 50 x 50 km cells to match the BVCM⁴ cell size and locations; and which can be effectively field surveyed) will be selected, in consultation with the ETI, for analysis. Smaller cell units can be considered if necessary. Using multiple sources of data such as the EA’s flooding limitations mapping website; the MAGIC database of land and wildlife designations; UK MET office data; CEH land cover validation areas; Natural England energy crop scheme data; and other relevant studies completed within the areas (e.g. Planning studies); the Respondent will assess further detail on (at least):
 - Agricultural land class type;
 - The current land uses present in the cell (including exclusions such as infrastructure, buildings, conservation areas, natural habitats, water bodies etc.);
 - Terrain;
 - Water conditions (moisture balance, flooding risks, drainage);
 - Land designations (nitrate vulnerable zones, NVZ), catchment sensitive farming, agri-environment schemes, woodland and forestry schemes, wildlife / conservation schemes;
 - Local authority / LEP support for bioenergy;
 - Existing bioenergy-related activities, including availability of agricultural and forestry products and residues;

⁴ Bioenergy Value Chain Modelling Project

This assessment will enable the respondent to compare and contrast the theoretical estimates of land available for bioenergy feedstocks with the findings from this desk based study. This analysis should establish the theoretical estimates' strengths and weaknesses with respect to capturing estimates of "available land", identifying both "correct" and "incorrect" assumptions made when drawing up the theoretical estimates.

3. A UK field-based survey to compare and contrast the findings from the UK theoretical estimates and the desk-based study. In this field trial, the Respondent shall design and execute a field survey to gather relevant data on as many as possible of the cells identified in (2) above. This field survey will provide further data and evidence, in addition to that obtained in the desk survey, on what "correct" and "incorrect" assumptions have been made in the theoretical estimates and the effects of these assumptions.

In addition to the above three tasks, the Respondent will refine, update and add to, if necessary, the ETI's summary of the steps and agencies involved when a landowner seeks to convert existing land to bioenergy crops (including 1st generation if appropriate) or forestry (both Short Rotation and Long Rotation Forestry⁵), along with an assessment of the opportunities and barriers to increasing land use for biomass production. This document is to contain an overview of land-use policies, regulations and reporting – what agricultural and forestry measures are implemented 'locally' at the farm or local level, versus 'nationally', such as total UK land-use change under CAP, limits on production levels, diversification ambitions etc.

The outputs from this approach are to deliver conclusions on:

- The amount of UK land "available" for bioenergy crops and/or forestry;
- An explanation of any differences between theoretical estimates and survey (desk and field) findings and what "correct" and "incorrect" assumptions have been made in the theoretical assessments.
- An analysis of what refinements are required to improve theoretical estimates of "available" land generated by models, and, if appropriate, a correction factor that can be applied to adjust theoretical estimates;
- What steps and agencies are involved when a landowner seeks to convert existing land to bioenergy crops or forestry, along with an assessment of the opportunities and barriers to increasing land use for biomass production.

As noted above, Respondents should treat this as a guide from which to construct their own approaches, particularly those that 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 key milestones for the duration of the Project.

Additional scope:

- We would like to ask respondents to briefly scope out an extension work package which could lead on from the Project described above to provide a synthesis of specific market opportunities and barriers associated with land-use change to UK biomass production: For the farmers, landowners and local businesses identified in each area, what is the appetite for either growing or utilising biomass for energy? Are there any opportunities under the RHI for example, for self-supply or community heat/CHP schemes in the areas surveyed?

⁵ SRF and LRF

- What would it take to see these opportunities be taken up? What barriers are in place that currently prevent this? Are there opportunities for agricultural / land-use intensification in the surveyed areas, which would ensure food/feed production levels are maintained whilst biomass production is pursued?

We anticipate that this additional work package would undertake survey work and economic analysis to provide evidence supporting claims made above about opportunities and barriers.

4. REFINING ESTIMATES OF LAND FOR BIOMASS – PROJECT DETAIL

4.1. Project Work Packages

The Respondent is to propose and define a suitable set of Work Packages for this Project, if they don't wish to follow structure suggested.

4.2. Formal Deliverables from the Project

We look for Respondents to propose a final set of deliverables. These should include:

- Following the project's start, the successful Respondent will present their programme of work, modified as necessary following the selection panel, plus a desk survey and field work plan for review and agreement at a Project Review meeting to be held in Loughborough (unless otherwise agreed).
- A report summarising the latest theoretical estimates of land availability for all bioenergy crops and forestry (SRF and LRF) production in the UK and Europe (phase 1).
- A report detailing the key parameters and findings arising from the desk study, and the detailed plan of field work that will be undertaken to validate this and the modelling data.
- A database of field surveys conducted in each area (preferably in Microsoft Excel format), along with GIS outputs showing areas and granularity of findings (e.g. 100 m level).
- For each cell/area (e.g. a 50 x 50 km area), a mini case study incorporating findings from the desk based study (phase 2) and the field based study (phase 3).
- A short report (building on the ETI initial note) describing the steps and agencies involved when changing the use of a piece of land to a bioenergy crop or to forestry (including 1st generation such as oil seed rape and 2nd generation crops such as Miscanthus) and the opportunities to improve these processes.
- A final report presenting an assessment of "available" land for bioenergy crop and forestry production in the UK. The report should compare and contrast the theoretical estimates with the desk based and field studies carried out for this project. In the report, the Respondent shall explain differences between the theoretical estimates and the field survey and should, if possible, calculate a "correction" factor to be applied to theoretical estimates of land "available" for bioenergy crops generated by models. The report should also forecast potential changes and drivers for change that might affect the study's findings out to 2050.
- A PowerPoint slide set summarising the key findings from the Project. The slides should be more detailed than would normally be expected for a presentation to aid understanding.
- Final Project Review (expected to be in Loughborough unless otherwise agreed) to present the findings of the Project to the ETI, the reviewing panel and its members.

All deliverable reports shall be provided electronically in both Microsoft Word or Microsoft PowerPoint (by agreement) and PDF formats. Additionally, electronic copies of any databases and any other supporting data developed or used during the Project shall also be provided, with full rights for their use by the ETI and its members. Respondents will need to demonstrate a capability to manage licenses for the data they propose to use including for derived data. It should be noted that the ETI will be able to provide some support in this area to the successful Respondent.

4.3. Project Timescales

Due to the seasonality of bioenergy crop production and harvesting, we anticipate the Project will need to ensure that survey timings are carefully planned. We look for Respondents to provide their view of the timescales in their proposal.

4.4. Project Organisation Structure

The ETI places great emphasis on working through a Project Manager or primary point of contact in the delivery of Projects. Therefore we require the appointment of a Project Manager or Project lead by the Respondent acting as the primary interface with the ETI Project Manager. The Project Manager or Project lead is responsible for managing and progressing the 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 the 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.

Procurement Approach

The ETI envisages that it will contract with the Respondent who will then act as the **Prime Contractor** who will undertake, as a minimum, the coordination and analysis and reporting role. However, the ETI may be willing to consider a consortium structure if such a structure is appropriate to the Project and provides additional value to the ETI. Any Respondents wishing to make such a Proposal must discuss this with the ETI prior to submission of their Proposal.

Organisation and Contracting Structure

Organisations Required

The ETI will only select Respondents who have the required skills, experience and capability (either themselves or within their Subcontractors) to complete all parts of the Project.

Contracting Structure

For this Project, the ETI intends that a single Respondent will enter into the Project Contract with the ETI and undertake the Project as **Prime Contractor**, with specified parts of the Project being performed (as required) by Subcontractors. The ETI envisages that the Prime Contractor will, as a minimum, undertake the co-ordination, analysis and reporting role - however, we are open to alternative suggestions by Respondents if a more suitable Project structure is appropriate and adds value to the ETI.

The Prime Contractor must demonstrably have the capability to manage and deliver the Project effectively and efficiently.

Critical Roles

The ETI places great emphasis on two critical roles in the delivery of the Project – the Project Manager and the Chief Technologist – who together will lead the Project on behalf of the Prime Contractor.

The Project Manager is responsible for leading and managing the Project Team, delivering the programme of work to time and cost, and handling information flows and commercial issues.

The Chief Technologist is responsible (on behalf of the Prime Contractor) for the technical quality and content of the work and ensuring the competence of key technical staff allocated to individual work packages.

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:

Project Launch

This will be held, within one week 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 Loughborough and will take no longer than one day.

Stage Gate Reviews

It is not anticipated that a formal Stage Gate Review will be held for this project, given its short duration.

Reporting

Regular reporting will be required during the Project, as agreed between the ETI team and the Project Manager respectively during the Project Detailing and Contract Finalisation Stage.

Project Health, Safety and Environmental (HSE) Management

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

- Competency Assessment;
- Performance Assurance; and
- Project Incident Protocol.

How the ETI applies this approach to a specific Project depends upon the nature and content of the Project. For this Project specifically, there is likely to be non-desk based activities (e.g. surveying, transportation). The ETI's requirements for Respondents' Proposals are set out in Appendix C.

Respondents should note that if a Project involves any activity which is not desk based then the ETI will carry out a full HSE competency assessment against the preferred Respondent(s) prior to contract award.

Critical Success Factors

Critical Success Factors for this Project are as follows:

- Both the Project Manager and Chief Technologist will have demonstrated competence, experience and authority, having carried out their respective roles effectively.
- The Respondent will have carried out a thorough review of estimates of land "available" for bioenergy crops/forestry.
- The Respondent will have provided a credible desk-based and field work plans which shows the samples to be representative of the UK situation.
- The Respondent will have provided a thorough and accurate dataset to the ETI.
- The Respondent will have effectively assessed the land "available" for bioenergy crops in the UK, comparing and contrasting theoretical estimates with the field survey results, explaining differences and providing an analysis of refinements needed to theoretical estimates of land available for bioenergy feedstocks in the UK. The Respondent will have provided an analysis of uncertainties and how the assessment might change – and why – out to 2050, and most importantly, the respondent will provide an indication of their confidence / certainty on the estimates provided and conclusions drawn.
- The Respondent will have provided well written, easy-to-read reports.

4.6. Project Funding and Payment Structure

For this Project (excluding the additional scope item described above – see section 3.2), the ETI's investment will be on a fixed price basis up to a value of approximately £125,000. If necessary, Respondents can suggest additional added-cost options to improve Project outcome quality. 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 Contract).

Proposals must clearly state the Respondent's proposed Total Project Cost. If any other funding beyond the ETI investment is to be used, then the source and amount(s) of any additional funding (from the Prime Contractor and/or third parties, including proposed sub-contractors) which may be required to bridge any funding gap must be identified. Any other commercial impacts associated with any proposed reliance on such Participant Funding and/or Third Party Funding must also be clearly stated.

Value Return

In return for the ETI investment, the ETI anticipates that it will own any Arising IP from this Project (and where appropriate, that licenses for Background IP and third party IP will be granted/obtained if required by the ETI and third parties to use and exploit the Arising IP).

Subcontracts

As stated above, the ETI's intended organisation/contracting structure for this Project is that a single Respondent will enter into the Project Contract (as Prime Contractor) with the ETI, with specific parts of the Project being performed by agreed Subcontractors.

The ETI will require that there are Subcontracts in place between the Prime Contractor and its Subcontractors (including, as appropriate, companies within the same group as the Respondent), and that these Subcontracts are consistent in all material respects with the Project Contract. The appointment and use of Subcontractors by the Prime Contractor will be subject to prior ETI approval and the ETI reserves the right to approve the terms of Subcontracts.

Project Payment Structure

The ETI will invest in the Project as described above. Payments will be made by the ETI following successful completion of agreed Milestones, subject to acceptance by the ETI of Milestone deliverables against agreed acceptance criteria. Full details of the Project payment terms, structure and related requirements will be set out in the draft Project Contract and agreed during finalisation of the Project Contract (see Section 8.1 Project Shaping and Contract Negotiation).

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 Contractor and the ETI comply with EU state aid law; and
- c) The 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 Contract

The Project will be governed by a Contract, a summary of the key contractual terms which the ETI would expect to be included in the Contract is at Appendix D. The final Contract will incorporate appropriate information from the ETI's RfP, the Respondents Proposal and information drawn up and agreed during the Project shaping and contract negotiation.

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 B for further detail. Please note the ETI's requirements for professional indemnity insurance.

5.2. Intellectual Property (IP) – Arising IP

The ETI tailors its approach to intellectual property matters to each ETI Project. The ETI's expectations for this Project in relation to Arising IP are as follows:

- the ETI shall own (and therefore have rights to use and exploit) any Arising IP;
- the ETI does not anticipate granting rights to the Prime Contractor or other Project Team members to use or exploit Arising IP / Project results; Respondents may therefore wish to include an element of financial profit in their proposed costs; and

Where a Respondent proposes that it shall (a) own any Arising IP and/or (b) have rights to use/exploit any Arising IP, the ETI recommends that the Respondent discuss this with the ETI before submitting its Proposal.

Respondents should note that if requested, the ETI will usually grant rights to a Participant (in this case a Prime Contractor or if agreed with the ETI, an academic Sub Contractor) which is an academic institution, for the purposes of academic research, teaching; publication of appropriate parts of the Project results, if appropriate, will generally be permitted subject to an approval process; and

Profit will generally not be paid to a Participant in addition to that Participant having Arising IP rights.

5.3. Background IP, Third Party Data and Third Party Software Models

In relation to Background IP, where a licence of Background IP is required to carry out the Project and/or for the subsequent exploitation of any Arising IP / Project results, the Participant (or Subcontractor, where appropriate) is expected to make an appropriate licence available on a non-exclusive and (for this Project) royalty-free basis.

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.

Given that a key deliverable is a database from a desk-based survey analysing third party data (see Section 3.2 above), it is expected that existing third party data and software models, potentially from several sources, will be required to undertake the Project effectively. Furthermore a critical objective of the Project is that it will provide Deliverables (Reports, Database and Software Models) which the ETI can then share with its Members and, where appropriate, make publically available.

The ETI wishes to ensure that any IP (including Background IP or Third Party IP) is only included in the Database, any models or other Deliverables if (and only if) the ETI is able to onward licence the Deliverables with clear rights to do so and has certainty (so far as is reasonably possible) of this at contract signature.

The Respondents will need to identify prior to submission any key Third Party Data and have initial discussions about how Third Party Data will need to be used in their proposed Project with the owners of the Third Party Data and whether it can be used in the way proposed in this RfP.

It is possible that existing software models may be used in the Project. If such models, whether Background or Third Party, are used in the production of models which are delivered to the ETI, Participants will have to ensure that they are able to provide the ETI with the rights to use on onward license these models.

Respondents will need to consider and propose its Third Party IP management strategy in their Proposal and to demonstrate this can be done in line with the Project's timescales and budget.

5.4. 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 Contract, the statement should set out as a minimum:

- The acceptance by each Respondent of the terms and conditions of the Contract.
- Any exceptions to the terms and conditions of the 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 Proposals. The ETI will not consider any further exceptions post selection which has not been identified in the statement.

5.5. Non-Disclosure Agreement

Respondents are required to enter into a Non-Disclosure Agreement (NDA) with the ETI before submitting their Proposal (see Appendix F for NDA format). Submission of a signed NDA will be viewed by the ETI as the Respondents formal intent to submit a Proposal. NDAs should be returned by the deadline outlined in Section 7.1.

5.6. 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.

5.7. Warranties

The 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.

5.8. 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 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 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 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.

- l) 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 Proposals	2 nd February 2015
Submission of NDA and Notification of Intention to Submit a Proposal to ETI	16 th March 2015
Closing date for submission of Proposal	23 rd March 2015
Preferred Respondents Notified	27 th April 2015

Project Start	Anticipated Dates
Contract signature target date (Note: this is dependent on the ETI selection process and an agreement on contractual terms and conditions being in place)	8 th June 2015
Project Completion	8 th October 2015*

* Respondents are requested to provide a Gantt Chart with project timescales and delivery points for the deliverables.

7.2. Questions and Clarifications

An information meeting is to be held in Loughborough on 2nd March 2015 to give information on this project being commissioned to inform the design of a future bioenergy demonstration project. In this meeting, the ETI will provide the background to this project and give time to all bidders to better understand the ETI's requirements. There will also be time for networking should any bidders wish to consider partnering. The ETI needs to know if the Respondent intends to attend the information meeting. Whilst attendance is not obligatory, it is strongly encouraged, since it will be a key opportunity for respondents to ask questions of the Project sponsors and listen to a presentation from ETI Legal with regard to Contract forming. Respondents are requested to e-mail the contact for the enquiry with names of attendees who are planning to attend by no later than 16:00 hrs on Wednesday 25th February 2015.

In addition, 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 C. The content must demonstrate how the bidding organisation will meet the requirements, in particular the outcomes, set out in this Request for Proposals. 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 20 pages (excluding appendices).
- b) Supporting information as specifically set out in Appendix C.
- c) Risk register, as described in Appendix C, 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 one (1) electronic copy which 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 and skills relating to the subject area and delivering the work packages of this RfP.
- Experience and capability of key staff involved in Project, including the Project Manager/Lead Technologist
- Availability and stability of deployable resources to mobilise sufficiently rapidly and for sufficient duration.
- Specifically, it is expected that the Respondent will be able to demonstrate knowledge and/or expertise (either themselves or through Subcontractors) in the following areas:
 - “2nd generation” bioenergy feedstock types and how they are grown.
 - Understanding of the bioenergy supply chain and what aspects influence where bioenergy feedstocks might be grown.
 - An understanding of how to use and access to the data sets required to support the delivery of these desk based and field based studies.
 - The Respondent must have strong survey design skills to effectively design and execute the field based study.
 - Knowledge and experience of land-use policies, regulations and reporting.
 - The Respondent must have strong analysis skills to relate biomass provenance to final properties

- Understanding of the wider context of the requirements of this project and the impact the results may have on policy makers and industry in particular.
- Editing /co-ordinating / writing experience to ensure coherent, readable and succinct final written deliverables.

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/Stage Gates.
- Credibility of the proposed Project plan to deliver within the ETI's required timescales.
- Evidence of a plan for managing any necessary licences to access, use and manage data and models required to undertake the project, and for the ETI to use and license any resultant data, models and other such deliverables from the project.

Value for Money

- Total fixed price for the whole Project.

Compliance with ETI technical and contractual requirements

- Compliance with statement of work requirements.
- Compliance with contractual requirements.

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 (or Respondents) 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.

Compliance with the ETI's position on IP as set out in this Proposal to enable the use and exploitation of the Deliverables and Arising IP as intended by the ETI" will be an important issue when selecting the successful Respondent.

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. The ETI might down select more than one Respondent and may hold a second Selection Panel. The ETI may require a re-submitted Proposal for any second Selection Panel.

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 12 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 Respondents 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. Subcontracts).
- 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 and Negotiation Requirements

These are only required if a Proposal is selected to proceed to the Project shaping and contract negotiations phase.

Health, Safety and Environmental management approach:

- a) Further intellectual property due diligence: This will primarily comprise a detailed Background IP questionnaire.
- b) Copies of insurance policies.
- c) Any other information that the ETI reasonably requires in order to fund the proposed Project including any information necessary to meet state aid requirements.
- d) Respondents should advise of work included in their Proposal that is not desk based and set out any key HSE risks in the risk register. 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.

APPENDIX B

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 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 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 Contractor or a copy of a letter of confirmation from the Contractor's insurance company or broker summarising the policy.

APPENDIX C

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 20 pages. Appendices are in addition to this but these may not be reviewed in as much detail as the main body of the Proposal 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.

2. BACKGROUND TO PROPOSED PARTICIPANTS [approximately 3 pages, plus appendices if required]

2.1. Project Participants [approximately 1 page]

This section should identify all Project participants to include all sub-contractors, partners and suppliers of services to the contractor as applicable.

2.2. Key Individuals and Roles [approximately 1 page]

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 (or nominated Project lead) and Chief Technologist.

The proportion of each individual's time dedicated to the Project should be identified and their skills and expertise in relation to delivering the Project summarised; (CVs 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 8 pages, plus appendices if required]

3.1. Programme of Work [approximately 4 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 to delivering the Project (e.g. qualitative and quantitative research methodologies etc.).
- Deliverables produced (see section 4.2).
- Any issues or assumptions.

The inter-dependencies between Tasks should also be identified.

3.2. Project Schedule [approximately 1 page]

A top level schedule should be submitted, along with a Gantt chart 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 provide a summary of key risks 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 will require some or all of the following: site visits, field trials, experimental or laboratory work. Respondents should advise of work included in the Proposal that is not desk based and set out any key HSE risks in the risk register.

4. INTELLECTUAL PROPERTY [maximum 1 page] **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 and Third Party IP

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

- Which is needed (whether by the ETI, or to be licensed from the Contractor or a Subcontractor, or to be licensed by a Subcontractor to the 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, including specifically to licence to ETI Members and publish, without further consents or cost.

The description of any such Background IP and Third Party 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 Contractor or Subcontractors or by any third parties.

5. PROJECT FINANCES [approximately 1 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 **costs for the whole project (please delete columns as applicable)**.

	Date	Contractor 1	Subcontractor 1	Subcontractor 2	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.

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

Significant Subcontractors (>20% costs) should be included.

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 B 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 D

TERMS AND CONDITIONS OF THE CONTRACT

1. INTRODUCTION

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

2. 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.

3. PROJECT MANAGEMENT

The Contractor will be required to appoint a project manager/Lead for the day-to-day management of the Project, acting as the prime point of contact with ETI. The ETI will appoint a Project manager/lead to act on behalf of the ETI with regards to the Project.

The ETI, its Members and Programme Associates shall be entitled to attend meetings.

The 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.

The ETI will require the right to carry out a stage gate review if required 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. The ETI may carry out stage gate reviews more frequently if the Project is in jeopardy.

4. FINANCE

The ETI will pay fixed sums.

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.

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.

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).

5. REPRESENTATIVES, WARRANTIES AND COVENANTS

The 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.

The 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.

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.

6. KEY PERSONNEL

The 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.

7. 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 Contract.

8. AUDITS AND RECORDS

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

The 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.

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

9. SUB-CONTRACTING AND ASSIGNMENT

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 Contract at signing.

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.

10. VARIATION

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

11. 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 Contractor under the Project (a cap may be accepted as long as this reflects a full allocation of the risk to the Contractor and must be proposed in the Proposal).

12. INSURANCE

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

13. TERMINATION AND SUSPENSION

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.).

The ETI also reserves the right to terminate the agreement unilaterally upon giving a (to be agreed) period of notice to the 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.

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

14. GOVERNING LAW

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

APPENDIX E

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 "Refining Estimates of Land for Biomass" issued on 2nd February 2015.

The Respondent submits this notification on its own behalf [and on behalf of the following proposed Subcontractors]:

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]

Signed: _____
For and on behalf of the Respondent(s)

Name: _____

Date: _____

APPENDIX F

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. See Section 7.1 for Submission date of the NDA.

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. Both copies of the signed NDA are to be sent to the ETI by post and scanned by email to the address on the front of the RFP.
4. On receipt of the NDA fully signed by the Respondent, the ETI will execute and date both copies of the NDA. The ETI will then send a copy of the now fully executed NDA to the Respondent.
5. The Respondent should then arrange for non-disclosure agreements to be entered between it and any proposed Subcontractors in order to comply with the NDA.

A separate version of this NDA is available on the ETI website.

TWO WAY CONFIDENTIALITY AGREEMENT



THIS AGREEMENT is made on _____ of _____ 201

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 parties named in Schedule 1 of this Agreement** (the “**Respondents**”),
(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 Bioenergy Programme entitled “Refining Estimates of Land for Biomass”;

“**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 2 February 2015.

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 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 subcontractors 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

Signed 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 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 G

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	The Contract, as described in Appendix E, to be entered into between the ETI and the Prime Contractor.
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.
ICT	Information and Communication Technologies.
Member	The ETI's industry members (as identified on the ETI's website from time to time - http://www.eti.co.uk/about/membership/), 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 F.
Payment Milestone	A contract milestone with defined constituent deliverables, associated deliverable acceptance criteria, and milestone value (all to be detailed in the Respondents Proposal and agreed in the 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 Bioenergy Programme (as identified on the ETI's website from time to time https://www.eti.co.uk/about/membership/ including affiliates of such programme associates.
Programme or Bioenergy Programme	The ETI Bioenergy programme that includes the Project.
Project Manager/Lead	The individual who is appointed by the Contractor to carry out its responsibilities and act as the prime point of contact with ETI.
Proposal	The Proposal for the Project submitted to the ETI, in response to this Request for Proposals.

Term	Definition
Respondents	The organisations submitting a Proposal to the ETI.
Review Point	A Project review involving the 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 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 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 C, including the Respondents 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	Intellectual property rights owned by a Third Party.
Work Package (WP)	A major section of the Project scope of work, which may be identified in this Request for Proposals or in the Respondents 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.