



Australian Government

**Department of Resources
Energy and Tourism**

Geothermal Drilling Program (GDP)

Guide to Managing GDP Funding

Reporting Guide Rounds 1 & 2

June 2009

GDP Program Management Team:
Geothermal Drilling Program (GDP)
Department of Resources, Energy and Tourism
GPO Box 1564
Canberra ACT 2601
Ph: (02) 6276 1658
Email: GDP@ret.gov.au
Web: www.ret.gov.au

Table of Contents

1. ABOUT THE PROGRAM	3
1.1. PURPOSE OF THE PROGRAM	3
1.2. ADMINISTRATION OF THE PROGRAM	3
1.3. PURPOSE OF THIS GUIDE	4
2. THE GEOTHERMAL DRILLING PROGRAM <i>FUNDING AGREEMENT</i>	4
2.1. TERMS AND CONDITIONS	ERROR! BOOKMARK NOT DEFINED.
3. REPORTING RESPONSIBILITIES AND OBLIGATIONS	5
3.1. PERIODIC REPORTS	5
3.2. REVISED PROJECT BUDGET	6
3.3. ANNUAL PROJECT UPDATES	6
3.4. ANNUAL AUDITED FINANCIAL REPORTS	6
3.5. MILESTONE REPORTS	6
3.6. REPORTING FOLLOWING THE COMPLETION OF THE PROJECT	7
3.7. END OF PROJECT REPORT	7
3.8. POST PROJECT REPORTS	ERROR! BOOKMARK NOT DEFINED.
3.9. EVALUATION SURVEYS	7
4. FUNDING PAYMENTS	8
4.1. INITIAL PAYMENT	8
4.2. PROGRESS PAYMENTS	8
4.3. ELIGIBLE EXPENDITURE	8
4.4. ADJUSTMENT TO PAYMENTS	9
4.5. PROCESS FOR ADJUSTING PAYMENTS	9
4.6. TAXATION OBLIGATIONS	9
5. COMPLIANCE	9
5.1. COMPLIANCE VISITS	9
5.2. VERIFICATION ACTIVITY	10
6. VARIATION OF THE FUNDING AGREEMENT	10
6.1. REQUESTING A VARIATION	11
7. KEEPING THE DEPARTMENT INFORMED	11
7.1. WARRANTIES UNDER THE FUNDING AGREEMENT	11
7.2. CHANGE IN RECIPIENT DETAILS	11
7.3. GROUP STRUCTURE	11
7.4. ASSIGNMENT	11
7.5. CHANGE IN CONTROL	12
7.6. KEY PERSONNEL AND SUB CONTRACTORS	12
8. TERMINATION	12
8.1. TERMINATION BY RECIPIENT	12
8.2. TERMINATION BY COMMONWEALTH	12
8.3. TERMINATION AS THE RESULT OF UNFORSEEN EVENTS	12
8.4. TERMINATION FOR BREACH OF FUNDING AGREEMENT	12
8.5. ABILITY TO REMEDY BREACH	13
8.6. RIGHTS SURVIVING TERMINATION	13
9. OBLIGATIONS AFTER PROJECT COMPLETION	13
10. ACKNOWLEDGING GDP SUPPORT	13
10.1. PUBLIC STATEMENTS/ANNOUNCEMENTS	13
10.2. BRANDING	13
10.3. MINISTERIAL VISITS	14
11. FEEDBACK ON THE GDP	14
ATTACHMENT B: AGREEMENT OF CONFIDENTIALITY	21
ATTACHMENT C: GDP MILESTONE REPORT	26
ATTACHMENT D: GDP ANNUAL FINANCIAL AUDIT REPORT	31
ATTACHMENT E: GDP END OF PROJECT REPORT	37
ATTACHMENT F: GDP PROJECT VARIATION REQUEST	39
ATTACHMENT G: GDP POST PROJECT REPORT	ERROR! BOOKMARK NOT DEFINED.

About the Program

Launched on 20 August 2008 by Minister Ferguson, the \$50 million Geothermal Drilling Program (GDP) provides assistance to companies seeking to develop geothermal energy with the cost of proof-of-concept projects including drilling geothermal wells.

The GDP is an Australian Government commitment to maintaining a strong and internationally competitive economy with a lower greenhouse gas signature. The GDP will accelerate the development, commercialisation and deployment of renewable energy technologies in Australia.

Geothermal energy holds the promise of being a renewable energy source with zero greenhouse gas emissions that can operate 24 hours a day, providing critical large scale baseload power for Australian homes and industries.

The GDP is a competitive merit-based grants program provided as dollar for dollar matched funding and is capped at \$7 million per proof-of-concept project.

A proof-of-concept project involves drilling an initial well to the required depth to reach the desired temperature, usually between three to five kilometres. If necessary, fracturing of the rock at this depth is undertaken to allow fluid passage and create an effective underground heat exchanger. Most projects will involve the drilling of a second well to intersect the reservoir. Testing is undertaken to provide information on how much fluid can be circulated through the underground heat exchanger and at what temperature. This description does not preclude the eligibility of other geothermal projects that are primarily for the purpose of commercial energy production.

Once a suitable geothermal resource is "proven" to exist, a commercial viability study is undertaken, and then development is begun. Whereas the proof-of-concept phase involves as few as two wells, development of a large scale resource may involve the drilling of more than 100 wells.

This program will help get the industry over the short-term hurdle of high drilling costs, which is delaying the ability of companies to demonstrate proof-of-concept in a variety of locations and, thereby, demonstrate the robustness of the technology to private sector investors. It is possible that the first small-scale geothermal power plants could be in place in the next four to five years.

1.1. Purpose of the Program

The purpose of the GDP is to reduce the cost, to developers, of geothermal drilling proof of concept projects with the commercial intent to produce renewable energy technology within the Australia's energy sector. By reducing the cost of proof of concept projects, the GDP aims to accelerate the availability of geothermal energy for commercial deployment in Australia. For this reason, the Recipient is required to report on what has been done within the project and to assist in the dissemination of information about the performance of the technology that has been demonstrated.

The GDP funded projects are a tangible demonstration of Australia's commitment to developing Renewable Energy through the Geothermal Sector. They are likely to attract substantial interest from within Australia and overseas. It will be important for the project and its outcomes to be disseminated widely across the industry to facilitate acceptance and adoption of the technology. The objective of the GDP should be front of mind as the project proceeds and as Milestone Reports are submitted.

1.2. Administration of the Program

The Minister for Resources and Energy is responsible for the Program.

Funding for the Program is appropriated through the Department of Resources, Energy and Tourism (RET). Implementation, operation and financial delegations for the Program are managed within the Department. The position of the Program Manager and Program Delegate for the GDP is held by the Department.

All notices, reports and other correspondence relating to the Program are to be sent to the Department.

1.3. Purpose of this Guide

The Guide to Managing GDP Funding assists Recipients of GDP funding to meet the requirements of the *Agreement*. It addresses the:

- General terms and conditions of the *Agreement*;
- Rights and obligations under the *Agreement*;
- GDP reporting responsibilities and processes;
- GDP payment processes; and
- Processes to vary the *Agreement*.

This Guide does not replace, limit, vary or operate in preference to any terms or conditions contained in the *Agreement*.

2. The Geothermal Drilling Program (GDP) *Funding Agreement*

The *Agreement* is composed of two parts: the General Conditions and the Schedules.

2.1. General Conditions

The General Conditions contain terms that deal with (among other things):

- payment of the Funding (clause 9);
- conduct of the project (clause 5);
- record keeping (clauses 14 and 23);
- reporting, audit and acquittal of the funding (clause 6);
- termination rights (clause 27);
- Intellectual Property (clause 16);
- evaluation of the Program (clause 6).

2.2. Schedules

The Schedules to the *Agreement* contain the details specific to the Funding and project. The Schedules include terms that describe:

- the parties to the Agreement and their contact details (schedule 1);
- recipient and consortium details (schedule 1);
- project details and project milestones (schedule 2);
- insurance requirements (schedule 1);
- key personnel and approved subcontractors (schedule 1);
- reporting schedule and payment schedule (schedule 3 &4); and

A number of documents are also included in the *Agreement* as attachments. These documents serve as a point of reference for key aspects of the project proposal approved by the Minister and also act as reference documentation for obligations under the *Agreement*. These attachments relate to the:

- Project Plan;
- Project Budget
- IP Management plan;

3. Reporting Responsibilities and Obligations

All reports provided by recipients under the *Agreement* are to be sent to,

GDP Program Management Team
Geothermal Drilling Program (GDP)
Department of Resources, Energy and Tourism
GPO Box 1564
CANBERRA ACT 2601

GDP@ret.gov.au

3.1. Periodic Reports

The following periodic reporting by the Recipient in relation to the Project is required under the *Agreement*,

For each milestone report due date specified in schedule 4	Milestone Report / Payment Claim (clauses 6, 9.3 and 16.6) Eligible Expenditure Statement; Budget update; Technical report of Milestone completion; Geological Data; Progress towards meeting Program Objectives; Project Plan update.
By 31 October of each year	Annual Audited Financial Report (schedule 3)
Within 12 weeks after Project Completion	Final Report (schedule 3)
Ad Hoc Reports	As requested by the Commonwealth

Templates of the reporting formats are provided in the attachments to this Guide.

All reports provided to the Department under the *Agreement* must be signed by an appropriate representative of the Recipient.

Any applications for extension of time on reporting deadlines must be provided to the Department in writing prior to the specified date for the activity. The Department retains sole discretion in considering applications of this type.

If the Recipient is unable to meet its reporting obligations under the *Agreement* they must notify the Department as soon as possible.

The Department understands that in meeting reporting obligations under the *Agreement* the Recipient may, from time to time, provide sensitive information. Protecting sensitive information is important to the Department and it is recommended that the Recipient clearly identifies any confidential information contained in reports.

Under the *Agreement*, the Department is required to protect confidential information and may only disclose it in the limited circumstances described in the *Agreement*. The confidentiality of information is also protected by Commonwealth legislation, as well as common law.

3.2. Revised Project Budget

By 31 December of each year, the Recipient must provide a revised budget for the project, in the form used for the Initial Project Budget under schedule 5, detailing any proposed changes from the immediately previous budget provided. This is to ensure that the funding arrangements for the project remain aligned with the anticipated achievement of milestones. The project budget current at the commencement of the project is set out in schedule 5 of the *Agreement*.

The Recipient must also provide a revised project budget if there is an expected variation of 10% or more in the planned eligible expenditure for a financial year (clause 10.1).

3.3. Annual Project Updates

On or before 30 June of each year, the Recipient must provide updates of the:

- IP Plan;
- Project Plan; and
- Project Budget.

Updates are to be provided against the original attachments included in the *Agreement* and updates previously advised.

These updates are used to ensure that the project, as understood through the attachments to the *Agreement*, is reflective of the project activity being undertaken or planned. The IP Plan, Project Plan, and Project Budget current at the commencement of the project are the respective documents contained in the *Agreement*.

3.4. Annual Audited Financial Reports

At the end of each Financial Year, the Recipient is required to provide an audited financial report in the form attached to this Guide (Attachment D).

The report is to be prepared by a qualified and independent auditor, as set out in schedule 3 of the *Agreement*.

The report must specifically address the activities of the project, including:

- project income and expenditure statement for the reporting period;
- a cumulative project income and expenditure statement from the commencement of the project to the end of the reporting period;
- notes to the project income and expenditure statement, explaining the basis of compilation; and
- certification by authorised officer of the Recipient.

This report is used by the Department to verify that any expenditure Recipients claim to have incurred on the project is in accordance with the *Geothermal Drilling Program Eligible Expenditure Guidelines* (Attachment A). The reported eligible expenditure, and future Funding progress payments, may be adjusted to take account of any differences between actual and reported eligible expenditure identified by the financial audit. The Department may also seek to recover from Recipients any overpayments of the funding identified from the audit.

3.5. Milestone Reports

Recipients are required to submit Milestone Reports so that the Department can ensure a project is progressing according to the agreed activities and timeline set out in the *Agreement*. This report is also used by the Recipient to claim a progress payment. The schedule for these reports is detailed in schedule 4 of the *Agreement*.

Milestone Reports are to be provided in the form detailed in Attachment C, and will include:

- a general update of the project;
- an outline of the activities undertaken since the last Milestone Report;

- a statement as to whether,
 - (a) expected eligible expenditure on the project for the current financial year remains within 10% of figures provided in the most recent Project Budget for the same period; and
 - (b) the sum of progress payments at the milestone date is less than the accrued eligible expenditure at that date;
- a statement as to whether there have been any developments that might impact on the future commercialisation pathway;
- a statement that the Recipient can truthfully repeat all representations and warranties made in clause 5.2 of the Agreement; and
- all documentary evidence required for the milestone as detailed in schedule 4 of the Agreement.

Milestone Reports are required within 30 days of the milestone completion due date detailed in schedule 4 of the *Agreement*.

The Recipient may be required to provide additional information to verify the achievement of the milestone. If requested to do so, the Recipient will have 14 days to provide the requested information. Progress payments will not be processed until all information required to verify the achievement of the milestone is received by the Department and any issues that arise from the report are resolved.

Achievement of milestones by the relevant due date specified in schedule 4 is a material obligation of the *Agreement* (clause 5.1(g)). Failure to do so triggers a breach under the Termination clause 27.2(a) of the *Agreement*.

If a milestone is not expected to be completed by the date specified in schedule 4 of the *Agreement*, the Recipient must notify the Department in accordance with the requirements under clause 7 (Variation to the Project) of the *Agreement*. If an extension of time is required to complete the milestone a request must be made under clause 7.1 of the *Agreement*. The written request must be submitted prior to the due date for the milestone and include the points specified under clause 7.1 of the *Agreement*.

Where a milestone is no longer expected to be achieved, or has changed significantly from the form described in schedule 4 of the *Agreement*, the Recipient is required to submit a request for a variation of the *Agreement* (see below in section 6).

If the Recipient requires additional time to prepare and submit the Milestone Report, the Recipient is required to submit a written request for an extension of time prior to the due date for submission, as detailed under clause 7.1 of the *Agreement*.

3.6. Reporting following the Completion of the Project

Consequent to the completion of the project the following reports are to be provided by the Recipient,

12 weeks after the project completion	End of Project Report
---------------------------------------	-----------------------

3.7. End of Project Report

The Recipient is required to submit an End of Project Report within 12 weeks of the GDP project's completion date. This report is required to acquit final payments and to provide feedback on the outcomes of the project. The template for the report is provided at Attachment E.

Where a final payment is due to the Recipient in connection to the End of Project Report, this payment will be processed in the same manner as payments connected to Milestone Reports.

3.8. Evaluation Surveys

From time to time, the Australian Government will evaluate whether the GDP is achieving its objectives. The Recipient is obliged under the Evaluation clause 6.2 to complete surveys, or provide other relevant information

to assist with an evaluation, for the term of the *Agreement* (which is in effect until the completion of the project (clause 3). Recipient responses are important to evaluating the effectiveness of the GDP and co-operation is appreciated.

4. 4. Funding Payments

The Department has responsibility for the \$50 million GDP funding appropriation. The Department will pay funding payments by direct credit into the Recipient's bank account.

Tax invoices are not required for payment. Under the *Agreement*, the Department has the authority to established Recipient Created Tax Invoices (RCTIs). This is similar to a tax invoice but is created by the debtor not the creditor. Copies of RCTIs will be provided for the Recipient's Tax records.

4.1. Initial Payment

In most circumstances an initial payment of 5% of the Funding is due within seven days from when the *Agreement* is executed.

4.2. Progress Payments

Progress payments are made in accordance with schedule 4 and clause 9 of the *Agreement*. No Claim for payment is required, as the Department will issue Payments via a Recipient Created Tax Invoice (RCTI). This allows the Department to make direct Payments without Waiting for the Recipient to lodge a tax Invoice. For accounting and record keeping purposes the RCTI is exactly the same as a tax invoice issued by the recipient and should be keep as a record of the payment.

The amount of each progress payment is set in schedule 4 of the *Agreement*.

Approval of progress payments is dependent on:

- the Department being satisfied that the Recipient has met all the requirements of the milestone associated with the progress payment (from information provided in the Milestone Report);
- the Recipient providing a completed tax invoice that correctly identifies the progress payment and the amount to be paid; does not match advice above re RCTI
- the sum of progress payments received by the Recipient being less than 33% of accrued eligible expenditure at the date of the current progress payment;
- the Recipient having no outstanding obligations against the payment milestone under the *Agreement*; and
- the satisfaction of conditions precedent to payment.

The Program management Team will provide payment advice to the Program Delegate within 30 days of receiving all the information it requires to verify whether the Recipient has met the payment conditions. Payments will be made by Program Delegate within 30 days of receipt of advice from the Department that the Recipient has satisfied payment conditions.

4.3. Eligible Expenditure

Only expenditure that meets the requirement of the *GDP Eligible Expenditure Guidelines* (Attachment A) will be recognised as eligible expenditure for the purposes of the GDP Funding.

Eligible expenditure will be recognised only for expenditure incurred on project activities during the project period (the period between the commencement date and project completion date, as defined in the *Agreement*). Records of all project expenditure must be kept in accordance with clause 23, separately identifying eligible expenditure from other project costs.

4.4. Adjustment to Payments

It is important the Recipient ensures that information provided to the Department is accurate and appropriate. It is in the interests of the Recipient that the Department is kept informed of any issues that may affect the Recipient's eligibility for payments under the *Agreement*.

Where the Recipient has received payments that they are not entitled to under the *Agreement*, the Department will seek to recover all amounts owing to the Australian Government. This may include interest accrued on the amounts owed, as determined under clause 11.6 of the *Agreement*.

Repayment may be required when the Department considers that:

- the sum of progress payments exceeds 33% of the accrued eligible expenditure at the end of a financial year within the project period (clause 11.2); or
- the whole or a part of a progress payment has been used for purposes not directly related to the project (clauses 10.1 and 10.2).

Re-examination of payments may occur due to an audit finding (such as, but not limited to, the annual audited financial statements), the re-evaluation of information previously provided to the Department, or new information that indicates that the Recipient is not entitled to payments it has received under the *Agreement*.

4.5. Process for Adjusting Payments

Under clause 11.5, where an over payment has been determined a repayment notice will be issued by the Department requiring payment within 30 days. This notice will be issued within a reasonable time of the repayment triggering event as outlined in clause 11.5.

The Commonwealth will require that interest be paid on any outstanding amount as set out in clause 11.6. Interest will be calculated on a daily compounding basis from the date when the overpayment is made.

Where possible appropriate alternative approaches can be employed to address the overpayment. Clause 11.7(b) provides for the Department to deduct any amounts owed by the Recipient from progress payments due. The Recipient also has the option of requesting a variation to the *Agreement* to accommodate circumstances where overpayments may have occurred (for example: insufficient eligible expenditure). Variations to the *Agreement* are at the absolute discretion of the Commonwealth and it is in the interests of the Recipient to advise the Department at the earliest possible instance where circumstances are expected to impact the project.

4.6. Taxation Obligations

Funding payments are subject to Goods and Services Tax (GST) and the Department will gross up the Funding payments to take account of GST. Eligible expenditure is calculated as net of GST and GST is added to the Funding payment due. GST is dealt with under clause 12 of the *Agreement*.

GDP Funding is to be included by Recipients as assessable income, unless specifically exempted by a provision of *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

Recipients are advised to seek professional advice regarding taxation obligations and the impact of GDP Funding on these obligations.

5. Compliance

The Recipient is obliged to ensure that they remain compliant with the *Agreement*.

5.1. Compliance Visits

Compliance visits by the Department (or a person authorised by the Program Manager) are undertaken to provide assurance on the progress of the project and may take place at any time during the project period

The Department will provide the Recipient with reasonable notice of any compliance visits and will accommodate the operational requirements of the project in scheduling the visits. Where possible, written notice of the intended visit will be sent to the Recipient no less than 14 days prior to the visit taking place.

5.1.1. Visit Outcomes

Subsequent to a compliance visit, the Department will inform the Recipient in writing, within 30 days of the visit taking place, of the outcomes of the visit and note whether any further activity as a result of the visit will be undertaken.

All information gathered during the compliance visit will be treated as confidential.

5.1.2. Financial Audit Activity

At the end of each financial year the Recipient is required under schedule 3 to provide an Annual Financial Audit Report relating to the project. This is detailed in section 3.1.3 of this document.

5.2. Verification Activity

Members of Geoscience Australia may accompany the Department on site visits for verification of the performance of the project. This is to obtain an accurate understanding of the progress of the project and any issues arising.

Alternatively, an expert may be engaged by the Commonwealth to review the performance of the project. Under these circumstances a written request would be made to the recipient and conflict of interest issues would be addressed. An expert would be asked to enter in to an agreement with the commonwealth which includes commercial in confidence provisions. If the Recipient requires additional protection there is a sample confidentiality agreement at Attachment B, which the recipient may request the expert to agree to and sign.

5.3. Verification Process

Prior to any verification activity being undertaken, the Department will notify the Recipient in writing informing them that the review is being undertaken, outlining the purpose of the review and identifying the expert(s) conducting the review.

The Recipient is required to provide the Department with access to its premises, work sites and records, as well as those of any project participant or subcontractor. Where the Department requires copies of records or documents the Recipient is required to provide assistance in obtaining these copies. These documents and records will be treated as confidential and dealt with accordingly.

5.3.1. Independent Expert

An expert engaged by the Department is required to sign RET's standard Confidentiality Agreement. A copy of this agreement is provided at Attachment B.

5.3.2. Verification Outcomes

Where a material adverse event is identified in the report by an expert engaged by the Commonwealth under clause 16.1, the Department will notify the Recipient in writing of the material adverse event and require the Recipient to remedy the material adverse event within 30 days. If the material adverse event is not remedied in 30 days the Commonwealth may terminate the *Agreement*.

A material adverse event is defined in the *Agreement* and refers to an event that affects the Recipient's ability to meet a milestone or achieve the Program objectives.

6. Variation of the Funding Agreement

A variation to the *Agreement* is required when there is a change to the project as outlined in the *Agreement*. It is the responsibility of the Recipient to seek a variation when there are changes affecting the project.

Variations can be required in a range of circumstances, including but not limited to:

- changes or modifications that affect the performance of the project;
- adjustments in eligible expenditure that may impact progress payments;
- changes within the Recipient company that affect the conduct of the project; or
- milestone adjustments to reflect changes in project timetables.

The Program Manager, in consultation with the Program Delegate, may approve or reject requests where the change is not likely to affect the achievement of the project's stated outcomes and does not require a variation to funding arrangements.

Where a change is considered by the Program Manager to have a significant impact on the project, including variations to funding arrangements, it will be referred to the Program Delegate for a decision.

6.1. Requesting a Variation

Where a variation is required it is important that the Recipient inform the Department at the earliest possible opportunity.

The formal request for a variation should be made using the template provided at Attachment F. The Recipient should also discuss the variation with the Department before submitting the completed form.

Following receipt of the variation request the Department may engage experts to assess the technical aspects of the request. Additional information may be requested from the Recipient to confirm any details of the variation.

7. Keeping the Department Informed

7.1. Warranties under the Funding Agreement

Recipients are required to notify the Department as soon as they become aware of a breach of warranty under clause 5.2section 4 of the *Agreement*. Please refer to clause 5 of the *Agreement* for a complete list of warranties.

7.2. Change in Recipient details

Recipients are required to notify the Department in writing of any change in:

- company name;
- registered office address; and/or
- nominated contact details (eg name, telephone number, email address).

7.3. Group Structure

Recipients are required to provide the Department with prior notice of any change to the composition of the project group or the terms of any joint venture, joint participation or consortium agreement that bind the project group.

7.4. Assignment

Recipients are required to provide the Department with prior notice of any intention to assign, novate, mortgage, charge or otherwise encumber or declare itself trustee in relation to any of its rights or obligations (as applicable) in relation to the project.

The Department will not unreasonably withhold its consent to an assignment.

If, however, an assignment occurs without the Department's consent, or which the Department considers may adversely impact on the ability to perform the agreed project or meet other obligations under the *Agreement*, the Department may terminate the *Agreement*. If the Department decides to terminate the *Agreement*, it may require Recipients to repay some or all, of the Funding, together with interest.

7.5. Change in Control

Recipients are required to provide the Department with notice of any change in 'control'. (Note: for the purposes of the GDP 'control' has the same meaning as in section 50AA of the *Corporations Act 2001*.)

If a Recipient does not provide the Department with a written undertaking that the project will continue within 90 days of the Recipient becoming aware of a change of control the Department may terminate the Agreement. If the Department decides to terminate the *Agreement*, it may require Recipients to repay some or all, of the Funding, together with interest.

7.6. Key Personnel and Sub Contractors

Recipients are required to notify the Department in writing of any changes to the key personnel or sub contractors listed in schedule 1.

Recipients are required to also notify the Department if there are any disputes relating to key contracts involved in the project.

8. Termination

Termination of the *Agreement* can be initiated by either the Commonwealth or the Recipient. Termination may result in obligations to either the Commonwealth or the Recipient. Certain rights and responsibilities survive termination and are specified in clause 28.

8.1. Termination by Recipient

Where the Recipient believes the technologies or processes related to the project are not capable of being proven or implemented, the Recipient may request mutual termination from the Commonwealth. The request for mutual termination must state all the reasons for technical failure and why it is not viable to continue with the project. In this instance the Commonwealth will pay all progress payments due prior to the date of the notice of termination.

8.2. Termination by Commonwealth

The Commonwealth has the option, under clause 27, of terminating the *Agreement* at any time. This right is required by the Commonwealth to ensure it remains compliant with the *Financial Management and Accountability Act (1997)*.

Where the *Agreement* is terminated under clause 27, the Recipient will be paid all progress payments due prior to the date of termination and will also be able to claim for costs incurred due to the termination, clause 27.1(c) (i) and (ii)).

8.3. Termination as the result of Unforeseen Events

Where an unforeseen event, as outlined in clause 25.1, continues for 14 days the *Agreement* may be terminated under clause 25.3. No additional liabilities are incurred by the Commonwealth or the Recipient if this occurs.

8.4. Termination for Breach of Funding Agreement

The Agreement can be terminated for a breach of the Agreement. The Recipient may be required to repay some or all Funding payments made under the Agreement where:

- the Recipient has failed to meet a conditions precedent;
- there has been a Change of Control of the Recipient without the consent of the Department);
- the Recipient has abandoned the project ; and/or
- fraud has been committed by the Recipient or a Project Participant.

8.5. Ability to Remedy Breach

It is expected that the Recipient will engage in a consultative process with the Department to remedy an identified breach under clause 27 of the *Agreement*. Recipients will be given 14 days after receiving notice from the Department to remedy the breach of the *Agreement*. The notice of a breach will be sent in writing to the Recipient by the Department.

Where appropriate, the Department may allow additional time to remedy the breach.

If after 14 days (or an additional period of time granted by the Commonwealth) the Department is not satisfied that the Recipient has remedied the breach, a notice of termination will be sent in writing to the Recipient.

8.6. Rights surviving Termination

Any rights or obligations accrued by the Commonwealth or the Recipient prior to the date of termination of the *Agreement* are not cancelled by the termination (clause 27.4)

Clause 28 details a number of clauses that survive the termination of the *Agreement*. These clauses relate primarily to the Commonwealth's ability to review the project (records, confidentiality, independent review, etc) and recover any payments to which the Recipient is not eligible.

9. Obligations after Project Completion

Several clauses of the *Agreement* will remain in affect following the completion of the project such as indemnity. The Recipient may also be contacted by the Department to participate in program evaluation surveys, customer satisfaction surveys and general information regarding the project post completion. Participation in these activities is voluntary.

10. Acknowledging GDP Support

Under the Funding Agreement, Recipients are required to acknowledge the Australian Government's support when promoting the project.

10.1. Public Statements/Announcements

It is the responsibility of the Recipient to ensure that any public statements or announcements specifically relating to the project are approved by the Department prior to release. This includes statements or announcements to be made by the Recipient or any of the project participants.

Recipients should ensure that the Australian Government is acknowledged through any statements or announcements. Where appropriate the level of funding is to be recognised in any public release.

The Department will promptly review all material submitted for clearance. It is expected that clearance will occur within 1 working day, however, as much notice as possible should be provided.

Assistance with a public statement or announcement can be provided by the Department to Recipients. If assistance is required the statement or announcement for review should be emailed to: GDP@ret.gov.au. The Department can also provide it's logo electronically to the Recipient for use in promotional materials.

10.2. Branding

The Department and the recipient will co-operate to design and develop joint branding for use in connection with the project and protocols for the use of that branding. The design of the branding and protocols for use must be agreed by both parties.

It is necessary for the Department to clear all promotional material being produced by Recipients (and project participants). The Department is able to offer assistance for those who seek clarification or advice. Material for review should be emailed to: GDP@ret.gov.au.

10.3. Ministerial Visits

In the event that a Minister(s) seeks to visit a site under the control of the Recipient (or project participant or subcontractor) at which activities conducted are directly related to the project or the GDP, the Department will work with the Recipient to facilitate the Ministerial visit.

The Department will provide as much notice as possible to the Recipient and will coordinate: invitations to media and other guests; media release statements; and other Australian Government promotional material.

11. Feedback on the GDP

The Department aims to provide a high standard of service to the public and its funding recipients. The program documentation sets out the standards that Recipients can expect from the Department and how they can help the Department to deliver better services.

From time to time the Department may conduct satisfaction surveys to improve business operations and service. Both positive and negative comments are passed on to the appropriate staff.

If a Recipient has a complaint, the Program Manager is the first point of contact. If the Recipient is not satisfied with the complaint resolution procedure they can contact the:

General Manager
Energy Futures Branch
Department of Resources, Energy and Tourism
GPO Box 1564
CANBERRA ACT 2601
Phone: 02 6276 7879

Recipients may decide to complain to the Commonwealth Ombudsman. There is no fee for making a complaint and the Ombudsman will conduct an independent investigation of any concerns. Recipients should note that the Ombudsman usually prefers if an issue is first worked through relevant internal processes before complaining about a decision.

The Ombudsman has offices in all States and Territories, and can be contacted on 1300 362 072 or by writing to the relevant contact address specified on the Ombudsman's website at www.ombudsman.gov.au.

Attachment A: GDP Eligible Expenditure Guide

These guidelines set out what kind of expenditure is eligible expenditure and what kind of expenditure is ineligible for Geothermal Drilling Program (GDP) supported projects. These guidelines are recognised in the *GDP Funding Agreement*.

Eligible expenditure relates to project expenses on eligible activities under the GDP. The GDP eligible activities are restricted to proof-of-concept drilling and reservoir conditioning activities for geothermal energy projects.

In providing advice to the Department, the Geothermal Energy Committee (GEC) will assess the eligibility of proposed expenditure by examining the extent to which project activities relate to the achievement of the GDP objectives as outlined in the Geothermal Drilling Program Applicant Information Guide which is available through the Department's website. This will be taken into account by the Department when determining which projects are funded and the Funding amount.

1. General issues

For project expenditure to qualify as eligible expenditure it must relate to activities necessary to conduct work on the ground for the proof of concept stage of geothermal developments. Eligible expenditure must relate to the achievement of project milestones and it must be incurred on or after the project commencement date (which **cannot** be before the date of execution of the GDP Funding Agreement) and on or before the specified completion date with the following exception:

- All final audit costs incurred must be paid within three months of the specified completion date of the project.

The following considerations generally apply to project expenditures:

- Non-cash consideration: payments by non-cash consideration, for example the issuing of shares in payment for services rendered, are not eligible.
- For GDP purposes, non-cash consideration can be described as contributions to a project that have the following common characteristics:
 - no impact on entity cash flow and
 - no record in the entity's statement of financial performance.
- These arrangements are sometimes referred to as 'in-kind' contributions. Other examples include the use of resources (internally or externally sourced) for no cost to the agreed project.
- This is to be differentiated from situations where resources are utilised, at a cost, to conduct activities for the agreed project. That cost will generally be eligible expenditure under the GDP.
- Opportunity costs: costs relating to foregone production and downtime arising from the allocation of resources to the agreed project activities are not eligible.
- Transfers within company groups: transfers within a group of companies may be eligible if the group incurs a reliable, measurable cost and there exists an internal process to transfer the cost with no profit margin attached.
- Any intra-group mark ups are ineligible for GDP expenditure claims.
- All eligible expenditure must be net of GST.
- Specific exclusions: the costs of conducting certain activities will not be eligible. (Please see section 3 of this appendix for examples.)

2. Eligible GDP Expenditure

The guiding principle for eligible expenditure for the GDP is that it relates to activities necessary to conduct work on the ground for the proof of concept stage of geothermal developments. This excludes exploration activities, expenses relating to gaining necessary (regulatory) approvals for the proof of concept phase, development and infrastructure work beyond flow testing for either electricity generation or other energy conversion, and other company activities not directly related to the proof of concept project.

As geothermal proof of concept projects are expected to be diverse, some flexibility is allowed in consideration of what is eligible expenditure for each project. The Program Delegate will provide a ruling in cases that diverge from these guidelines. Expenditure that falls outside these guidelines can be submitted to the Program Delegate for and Eligibility Determination. To be considered, supporting information must either have been presented in the Application, or if at a later stage during the project, within a report. Determination by the Program Delegate are final and no discussion will be entered into.

2.1 Application of technology or processes

The costs associated with activities necessary to conduct work on the ground for the proof of concept stage of geothermal developments are eligible expenditure under the GDP, where those activities directly contribute to the completion of the agreed project.

Where the Recipient needs to access technology in relation to the GDP activities, and it is essential for the conduct of the agreed project, licence fees to access such technologies or intellectual property purchase costs are considered as eligible expenditure.

Independent valuations of technology acquisition costs, including intellectual property, will be required at the time of application to substantiate the cost of the claim.

2.2.2 Project-related use of acquired technology

If the technology has a value or usage to the Recipient outside the agreed project, this will be considered when determining the amount that can be claimed. The acquisition costs will need to be apportioned on the basis of agreed project-related usage of the purchased technology.

2.2 Labour Expenditure

Personnel considered under this category will be people directly employed on the agreed project.

This does not include personnel performing an administrative function within the organisation as these costs are covered separately through an administrative overhead, detailed below (see 2.3.2).

Eligible GDP labour expenditure is the gross amount paid or payable to an employee of the Recipient's company. An employee is a person who is paid a regular salary or wage, out of which regular tax instalment deductions are made.

2.2.3 Eligible Salary

Eligible salary includes any components of the employee's total remuneration package which are itemised on the *Pay As You Go (PAYG) Annual Payment Summaries* submitted to the Australian Taxation Office (ATO). Salary sacrificed superannuation contributions can be considered part of an employee's salary package where this amount is in excess of that required under the Superannuation Guarantee. Payroll reports can be used as evidence of salary sacrifice. Labour on-costs include an allowance for the employer's contributions under the Superannuation Guarantee. The maximum claimable salary, including packaged components, is \$150,000 per employee per annum. Recipients may apply for eligibility of higher salaries to be paid to employees where these are warranted to attract an employee to the agreed project. Reasons supporting the request should be supplied. Directors and shareholders eligible salaries are limited to \$120,000 per person, per annum.

Amounts credited by journal entry to the loan accounts or current accounts of principals and/or their relatives will **not** be assessed as eligible GDP labour expenditure until the individual income tax returns have been sighted and the tax payable on the salary has been assessed by the ATO, or the Recipient provides similar satisfactory evidence that income tax has been paid.

2.2.4 Calculation of eligible salary expenditure

The Recipient may only claim salary costs to the extent that an employee is working on the agreed project. Where employees spend less than 100 per cent of their time on the agreed project, the Recipient will need to apportion the salary costs. This is done by using the formula below:

Eligible salary costs =

$$\frac{\text{Total salary incurred in period} \times \text{Actual time spent on agreed project in period}}{\text{Total time at work in period}}$$

Please note that allowance for leave is made under 'labour-on-costs' (see 2.3.1), therefore public holidays and leave such as annual and sick leave time is to be included only under 'total time at work'.

The 'Total salary incurred in period' amount should include salary amounts that have been incurred by the Recipient during the period in respect of the employee, but not yet paid. Accruals of incurred, but unpaid, salary amounts in the Recipient's books of account should not reduce the salary amount used in this calculation.

It is expected that the Recipient will be able to demonstrate, by reference to appropriate records such as timesheets, job cards or diaries, the amount of time spent on approved activities by each employee.

This covers all employees working directly on the agreed project on approved activities.

2.2.5 Ineligible salary expenditure

2.2.6 Non-Cash Salary

The Recipient cannot claim project labour costs based on an estimation of the employee's worth to the company, where no cash has changed hands and no amount has been credited to a loan account or current account in the company's accounts.

2.3 On-costs

2.2.7 Labour on-costs

Labour on-costs include worker's compensation insurance (Workcare), employer contributions to superannuation, recreation and sick leave, long service leave accrual and payroll tax, etc. A set rate of 30 per cent to cover all labour on-costs is applied directly to the employee's eligible salary costs as calculated above.

2.2.8 Administrative overhead

This area recognises the cost of administrative support for those employees engaged on the agreed project. Eligible administrative expenses include general project management, a proportion of communications, accommodation, computing facilities, travel, recruitment, printing and stationery, postage, office salaries, legal, accounting and auditing fees and bank charges.

The administrative support rate is calculated as follows:

- a set rate of 30 per cent of the employees' eligible salary costs as calculated above under section 2.2.2
- for contractors identified under 'contract expenditure' (see Section 2.4 below) who work a minimum of 35 hours per week at the project premises, a set rate of 20 per cent of the contractor's hourly fee.

2.4 Contract expenditure

Eligible contract expenditure is the cost of any agreed project activities performed for the Recipient by another organisation. All project work to be performed must be the subject of a prior written contract (for example, a letter or purchase order) which specifies the nature of the work to be performed for the client and the applicable fees, charges and other costs payable.

Where the contractor and the company are not at 'arm's length', the amount assessed for work performed will be an amount considered to be a reasonable charge for that work and contain **no** unacceptable overheads and **no** element of 'in group profit'. Organisations considered **not** at 'arm's length' include related companies and companies with common directors and/or shareholders.

Invoices from contractors must be detailed and properly indicate the nature of the work, the hours and hourly rates involved and any specific plant expenses incurred. This will enable the Department to be satisfied that the proposed expenditure relates to the agreed project activity and is reasonable.

2.5 Plant expenditure

Plant is usually an input to the agreed project or the tools or infrastructure used to pursue the agreed project. Plant may have a value or use outside of the agreed project.

2.5.1 Pre-existing purchased plant

Running costs can be claimed for pre-existing plant but must be readily verifiable and may include items such as rent, light and power, and repairs and maintenance.

2.5.2 Hired/leased plant

Allowance for hired, rented or leased plant is simply the number of payment periods dedicated to the agreed project use, multiplied by the period hiring fee.

Running costs can be claimed for hired or leased plant but must be readily verifiable and may include items such as rent, light and power, and repairs and maintenance.

2.5.3 Newly purchased plant

The costs of newly purchased plant acquired for the approved project qualifies as eligible expenditure.

Running costs can be claimed for newly purchased plant but must be readily verifiable and may include items such as rent, light and power, and repairs and maintenance.

2.5.4 Constructed plant

The cost of plant constructed on the Recipient's premises typically comprises materials, labour and factory overheads. Factory overheads are considered to cover rent, light and power, depreciation of existing plant and equipment, repairs and maintenance, technical information etc. The factory overhead percentage is set at 50 per cent of labour costs associated with the construction of plant. Claims for material and labour costs associated with construction must be readily verifiable.

2.6 Intellectual property expenditure

The cost of accessing (e.g. through in-licensing) the intellectual property needed to undertake eligible activities qualifies as eligible expenditure. Where the intellectual property is sourced from a related body corporate, expenditure must be calculated on an at arm's-length basis. The Recipient should also furnish a letter of understanding or an agreement setting out existing and proposed ownership and disposition of intellectual property rights associated with the project. The letter of understanding or intellectual property agreement must be signed by all collaborating partners.

Reasonable costs to protect intellectual property related to the agreed project, such as annual patent maintenance fees, will also qualify as eligible expenditure. These costs must be consistent with the intellectual property protection regime detailed in the Recipient's application.

In the event of intellectual property being created as a result of a GDP project, reasonable costs, such as fees to IP Australia for filing an application, search and examination, and patent attorney fees, will qualify as eligible expenditure.

Only costs incurred during the period of the *GDP Funding Agreement* will be supported and the GDP will not support the cost of defending intellectual property rights, with the exception of legal expenses insurance.

2.7 Collaboration

For GDP purposes, collaboration is defined as a formal linkage between entities where key personnel from businesses and/or research organisations have a substantive involvement in the development and performance of the project which surpasses the level of involvement that would normally be expected under a fee-for-service relationship. In order for collaboration costs to qualify as eligible expenditure, it must be demonstrated that the collaboration is likely to directly contribute to the successful completion of the GDP project.

Collaboration may be between companies, or between companies and research organisations. Under the GDP, eligible collaboration expenditure may include, but is not limited to:

- partnering/negotiation costs, such as brokering of licensing or distribution agreements
- expert advice fees (e.g. for alliance formation)
- travel costs (limited to accommodation and transport for purposes of collaboration and includes accommodation and transport where identified)
- total quality management audit.

Costs associated with initiating and maintaining a collaborative partnership may be claimed as an eligible activity under the GDP where the collaboration is likely to contribute to the successful completion of an agreed project.

In order for collaboration costs to be treated as eligible expenditure, the collaboration will need to be clearly defined up-front in the application.

2.8 Other expenditure

This relates to miscellaneous charges that are not covered by any of the above categories, provided they are a direct cost to the agreed project. The most common charges include expenses such as:

- substantial travel on the agreed project: this would involve conduct of agreed project activities (limited to accommodation and transport)
- regulations and standards compliance and product documentation where these costs are not covered under labour expenditure, yet still relate to the approved project
- training costs where the skills acquired are specific to the requirements of the agreed project and approved in the application and *GDP Funding Agreement*, and are not covered under other items of expenditure
- reasonable cost of preparation of an annual audit certificate.

3. Activities not funded under the GDP

The cost of some activities conducted as part of an agreed project may not be eligible expenditure. A Recipient must ensure it has adequate funds to meet the cost of any ineligible expenditure associated with its project.

The GDP will not support expenditure in respect of:

- projects that are primarily directed towards research and development activities
- activities that a local, State, Territory or Australian Government agency has the responsibility to undertake
- activities that the Recipient could reasonably be expected to undertake in the normal course of business
- activities that are supported by another Australian Government programme which would lead to the Australian Government funding the same activity more than once

- activities that the proponent must perform to comply with legislation
- interest on loans for new and pre-existing capital items utilised for the project.

In addition to any expenditure expressly excluded above, the cost of any activity which is not directly related to eligible activities is not eligible expenditure. Ineligible activities include but are not limited to:

- undertaking commercialisation activities—such as sales promotion
- obtaining regulations and standards compliance—such as certification and accreditation fees, and other direct payments to regulators including geothermal license retention fees, certification or accreditation bodies
 - obtaining necessary regulatory approvals for all proof of concept activities including hydrofracturing are considered to be exploration activities and are ineligible expenditure
- quality control activities and achieving quality control accreditation
- undertaking management studies, feasibility studies or efficiency surveys
- making donations
- obtaining resources used on the project – such as job advertising and recruiting (except as captured by the employee administrative overhead), contract negotiations, and transporting goods to be used on the project
- opportunity costs relating to forgone production and production downtime arising from the allocation of resources to the agreed project

This list is not exhaustive. Other activity expenditure may be ineligible because it is assessed as not directly supporting the achievement of the planned outcomes of the project, or as contrary to the spirit or intention of the GDP.

Attachment B: Agreement of Confidentiality

BY THIS AGREEMENT DATED THE day of200

BETWEEN

Commonwealth of Australia represented by the Commonwealth Department of Resources, Energy and Tourism 10 Binara Street, Canberra, Australian Capital Territory ("the Commonwealth")

AND

[Insert name and address for service of Confidant] ("the Confidant")

RECITALS:

- A. The Confidant is employed by *[insert full name of company, ACN number, registered business address]*;
- B. In the course of the Confidant conducting the *[insert description of Services]* (whether directly or indirectly), the Confidant may become aware of information belonging to or in the possession of the Commonwealth that is confidential.
- C. Improper use or disclosure of that information would severely damage the Commonwealth's ability to perform its governmental functions.
- D. The Commonwealth requires, and the Confidant agrees, that it is necessary to take all reasonable steps (including the execution of this Agreement) to ensure that the Commonwealth's Confidential Information is kept confidential and that the Confidant performs those Services faithfully and without any conflicting interest.

AGREED COVENANTS:

1. RECITALS

The Parties acknowledge the truth and accuracy of the Recitals in every particular.

2. INTERPRETATION

2.1 Definitions

In the interpretation of this Agreement unless the contrary intention appears or the context otherwise requires or admits the following expressions shall have the following meanings:

"**Confidential Information**" means information that:

- (a) is by its nature confidential;
 - (b) is designated by the Commonwealth as confidential; or
 - (c) the Confidant knows or ought to know is confidential;
- and includes:-
- (d) information comprised in or relating to any Intellectual Property Rights of the Commonwealth;
 - (e) information relating to the financial position of the Commonwealth and in particular includes information relating to the assets or liabilities of the Commonwealth and any other matter that does or may affect the financial position or reputation of the Commonwealth;
 - (f) information relating to the internal management and structure of the Commonwealth, or the personnel, policies and strategies of the Commonwealth;
 - (g) information supplied to the confidant or information associated with the Services and any information of the Commonwealth to which the Confidant has access other than information

referred to paragraphs (d), (e) and (f) that has any actual or potential commercial value to the Commonwealth or to the person or corporation which supplied that information;

- (h) any information relating to the policies, strategies, practices and procedures of the Commonwealth;
- (i) any information in the Confidant's possession relating to the Australian Public Service Commonwealth's clients or suppliers, and like information;
but does not include information which:
 - (j) is or becomes public knowledge other than by breach of the Agreement;
 - (k) is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party;
 - (l) has been independently developed or acquired by the receiving party; or
 - (m) is in respect of ideas, concepts know-how, techniques or methodologies where disclosure is permitted under the Agreement;

"**Intellectual Property Rights**" includes copyright, trade mark, design, patent, semiconductor or circuit board layout rights, trade, business or company names, confidential or other proprietary rights, or any rights to registration of such rights, whether created before or after the date of this Agreement and whether created in Australia or elsewhere;

"**notice**" means notice in writing given in accordance with this Agreement;

"**Services**" means the [*insert description of the Services - the description must describe the services required by the Department*];

"**writing**" means any mode of representing or reproducing words, figures, drawings or symbols in a visible form delivered, posted or transmitted electronically.

2.2 General

Unless the contrary intention appears:

- (a) monetary references are references to Australia currency;
- (b) the clause and subclause headings are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;
- (c) a cross reference to a clause number is a reference to all its subclauses;
- (d) words in the singular number include the plural and vice versa;
- (e) words importing a gender include any other gender;
- (f) a reference to a person includes a partnership and a body whether corporate or otherwise;
- (g) a reference to a clause or subclause is a reference to a clause or subclause of this Agreement; and
- (h) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

3. NON DISCLOSURE

- 3.1 The Confidant must not disclose the Confidential Information to any person without the prior written consent of the Commonwealth.
- 3.2 The Commonwealth may grant or withhold its consent at its discretion.
- 3.3 If the Commonwealth grants its consent, it may impose conditions on that consent. In particular, but without limiting the generality of the preceding sentence, the Commonwealth may require that the

Confidant procure the execution of a Agreement substantially in these terms by the person to whom the Confidant proposes to disclose the Confidential Information.

3.4 If the Commonwealth Funds consent subject to conditions, the Confidant must comply with those conditions.

3.5 The obligations of the Confidant under this Agreement shall not be taken to have been breached where the Confidential Information is legally required to be disclosed.

4. RESTRICTION ON USE

4.1 The Confidant will use the Confidential Information only for the purpose of its dealings with the Commonwealth (whether directly or indirectly).

5. POWERS OF THE COMMONWEALTH

Production of Documents

5.1 The Commonwealth may demand (without needing to reduce the demand to writing) the delivery up to the Commonwealth of all documents in the possession or control of the Confidant containing the Confidential Information.

5.2 The Confidant must immediately comply with a demand under this clause 5.

5.3 If the Commonwealth makes a demand under this clause 5, and the Confidant has placed or is aware that documents containing the Confidential Information are beyond his or her possession or control, then the Confidant must provide full particulars of the whereabouts of the documents containing the Confidential Information, and the identity of the person in whose custody or control they lie and an authority to obtain the documents.

5.4 In this clause 5, "documents" includes any form of storage of information, whether visible to the eye or not.

Legal Proceedings

5.5 The Confidant acknowledges that the Commonwealth may take legal proceedings against the Confidant or third parties if there is any actual, threatened or suspected breach of this Agreement, including proceedings for an injunction to restrain such breach.

6. SURVIVAL

6.1 This Agreement will survive the termination, suspension or completion of the Services.

7. CONFLICT OF INTEREST

7.1 The Confidant warrants that before entering into this Agreement it has disclosed to the Commonwealth all the past, current and anticipated interests of the Confidant which may conflict with or restrict the Confidant in performing Services to the Commonwealth fairly and independently.

7.2 The Confidant shall not during the course of this Agreement engage in any activity or obtain any interest likely to conflict with or restrict the Confidant in providing Services to the Commonwealth fairly and independently and shall immediately disclose to the Commonwealth such activity or interest.

8. WAIVER

8.1 No waiver by the Commonwealth of one breach of any obligation or provision herein contained or implied shall operate as a waiver of another breach of the same or of any other obligation or provision herein contained or implied.

9. REMEDIES CUMULATIVE

9.1 The rights and remedies provided under this Agreement are cumulative and not exclusive of any rights or remedies provided by law or any other such right or remedy.

10. VARIATIONS AND AMENDMENTS

10.1 No term or provision of this Agreement may be amended or varied unless such amendment or variation is reduced to writing and signed by the parties in the same manner as this instrument.

11. APPLICABLE LAW

11.1 This Agreement shall be governed and construed in all respects in accordance with the law of Australian Capital Territory.

12. NOTICES

12.1 A notice or other communication which may be given to or served on the Confidant under this Agreement shall be deemed to have been duly given or served if it is in writing signed by the Commonwealth and is either delivered by hand, posted or a copy transmitted electronically to the Confidant at any registered office of the Confidant or posted to the Confidant's address set out herein or such other address as may be notified in writing to the Commonwealth from time to time.

12.2 A notice or other communication which may be given to or served on the Commonwealth under the Agreement shall be deemed to have been duly given or served if it is in writing, signed by or on behalf of the Confidant and is either delivered by hand, posted or a copy transmitted electronically to the Commonwealth at the address set out herein or such other address as may be notified in writing to the Confidant from time to time.

12.3 A notice sent by post shall be deemed to have been given at the time when, in due course of transmission, it would have been delivered at the address to which it is sent.

12.4 A notice sent by facsimile transmission or transmitted electronically shall be deemed to have been given when the machine on which the notice is sent reports in writing that the notice has been transmitted satisfactorily.

Executed as a Agreement

SIGNED SEALED AND DELIVERED)

)

by)

.....

[insert name of Commonwealth representative])

(signature of Commonwealth representative)

)

in the capacity as)

[insert Position])

)

in the presence of)

[insert name of Witness])

)

)

.....

(signature of Witness))

SIGNED SEALED AND DELIVERED)

)

by)

[*insert name of Confidant*])

.....)

(signature of Confidant)

in the presence of)

[*insert name of Witness*])

)

)

.....)

(signature of Witness)

Attachment C: GDP Milestone Report

Recipient Company Name:	
GDP Reference Number:	
Project Title	
Report Date	
Primary Contact Name:	
Contact telephone Number	
Contact email	

1. Technical Progress

Milestone(s) due for this report

Milestone No.	Expected Completion Date	Actual Completion Date

Description of Milestone(s) (including description of milestone activities):

1.1. Please provide a brief outline of project activities undertaken in the period since the last report. This should include but not be limited to:

- Any issues that arose during the completion of this milestone
- Any changes made from the project plan (*Attachment A of the Agreement*)
- Any relevant testing (completed & scheduled) [i.e. technology efficiencies and effectiveness]
- If this milestone was achieved behind schedule, what effect has this had on the project

1.2. Please indicate and describe any actual or planned:

- delays for achieving future milestones, including the overall project impact for delays.
- changes to the project plan (*Attachment A of the Agreement*)
- changes to key personnel or subcontractors (*as listed in Schedule 4 of the Agreement*)
- changes to insurance policies relevant to the project
- changes in IP arrangements (*Attachment B in the Agreement*)

- reviews of the project/technology.

Please indicate if there have been any changes relating to or impacting on the warranties or conditions precedent detailed in the Recipient's GDP funding Agreement..

1.3. Please comment of the project's performance against its timetable and milestones.

1.4. Please indicate and describe if there were any issues relating to compliance with the National Code of Practice for the Construction Industry and the Implementation Guidelines.

2. Regulatory and Environmental Approval

2.1. Please detail any significant environmental achievements or issues that are currently impacting on the project or that have occurred during the Milestone period.

Please complete the list below for EPA approvals currently applied for and received (i.e. associated with this or future milestones)

Date applied	Description of Approval	Related Milestones	Approval Reference & Authority	Approval Date

2.2. Detail any EPA approvals that are yet to be applied for or other environmental requirements associated with a future milestone, and any progress to achieving these.

2.3. Detail any operating approvals that are still to be obtained or applied for.

Date applied	Description of Approval	Related Milestones	Approval Reference & Authority	Approval Date

2.4. Detail any operating approvals that are yet to be applied for or other requirements associated with a future milestone, and any progress to achieving these.

3. Commercialisation Progress (Attachment C in the Agreement)

3.1. Briefly describe progress achieved towards commercialisation of the results of the project and any developments over the reporting period which may impact on the commercialisation strategy.

Describe any changes to the commercialisation strategy. Please give details of the proposed change and the reasoning behind it.

4. Project Dissemination and Media

4.1. List any public statements or announcements made by the Recipient or any project participant about the GDP project during the milestone reporting period.

Subject/Description	Audience (newspaper/ conference)	Date of release	Date Copy sent to RET

4.2. List site visits undertaken directly related to the demonstration aspect of the GDP project (ie academics/state authorities/etc)

List of Visitors	Summary of visit (i.e.	Date of visit
------------------	------------------------	---------------

(company or institution)	activities/technology demonstrated)	

4.3. Provide comment on any other dissemination activity undertaken or planned during the period.

5. Eligible Expenditure Summary and Project Budget

5.1. Please report against the current budget for the project, showing actual eligible expenditure versus budgeted expenditure at the report date. If necessary, please include a revised project budget for the remainder of the project. Refer to the Eligible Expenditure Guidelines or contact a member of the GDP team to confirm details of eligibility of expenditure.

NOTE: All financial information should be net of GST. That is, calculated at the GST inclusive cost less recoverable input tax credits.

Milestone Report Date	Budgeted Eligible Expenditure	Actual Eligible Expenditure

Commentary on difference:

5.2. Please provide where appropriate financial comments in relation to:

- Other government financial assistance
- Current milestone
- Next milestone
- Overall expenditure to date against budget
- Change in future budget projection

6. List of Attachments to the report

Please identify any relevant information that is attached to this report, such as photographs, independent certification certificates etc. Documentary evidence that is required for the Milestone should be included in this list.

Attachment	Description

7. Confidential Information

Please identify and describe any items of confidential information required for the reporting that are contained in a separate attachment to this report (Clause 17, General Conditions).

Attachment	Description

Certification

I being a person duly authorised by the Recipient hereby certify that:

- the Milestone described at section 1.1 above has been completed by .../.../....
- the information provided above is accurate, complete and not misleading;
- the eligible expenditure listed above in section 5 is understood by the Recipient to include only expenditure eligible for the Funding in accordance with the *Eligible Expenditure Guidelines*;
- I am aware of the Recipient's obligations under the GDP funding Agreement, including the need to keep the Department informed of any circumstances that may impact on the objectives, completion or outcomes of the agreed project;
- the Recipient remains compliant with terms and conditions under the GDP funding Agreement, including with the National Code of Practice for the Construction Industry and the Implementation Guidelines; and
- that all representations and warranties contained in clause 4 of the GDP Funding Agreement can be restated by the Recipient as true and correct and not misleading at the due date for this progress payment

Signed

Attachment D: GDP Annual Financial Audit Report

The purpose of the annual financial audit report is to provide the Australian Government, and the company, with an auditor's opinion on the fairness and accuracy of a statement of the expenditure incurred on a project in the relevant period. The statement of expenditure is prepared to correspond with the expenditure reported to the Australian Government by the company for the same period, in the process of claiming funding payments. The dates by which audit reports are required are specified in the GDP Funding Agreement. A sample pro-forma is provided below.

Auditors must exercise due care and skill in determining the audit process and nature and type of evidence to be reviewed in each circumstance. This may include:

- chart of accounts and other accounting systems specifications
- invoices
- bank statements
- payroll information related to each employee working on the project, detailed information from a management information system which is used by the company on the project
- quotations, orders, etc.

This list is intended as a guide only. It is not necessary to provide copies of documents with the audit report, but substantiating material should be able to be readily identifiable for any future enquiries. It is important that the audit report refers to the kind of material considered.

Example template - Annual Financial Audit Report

[Grantee Name]				
Project income and expenditure statement				
For the period .../.../... to .../.../...				
	Period		Cumulative since commencement of project	
Classification	Actual	Budget	Actual	Budget
	\$'000	\$'000	\$'000	\$'000
Eligible income				
LETDF grant			0	0
Interest on LETDF grant			0	0
Eligible Match Funding Income			0	0
Total income to be applied to eligible expenditure	0	0	0	0
Eligible expenditure				
Technology Acquisition			0	0
Salary			0	0
Contract			0	0
Plant			0	0
IP			0	0
Marketing			0	0
Collaboration			0	0
Other			0	0
Total eligible expenditure	0	0	0	0
Surplus / deficit of eligible income and expenditure	0	0	0	0
Ineligible project income				
State government funding			0	0
Commonwealth government funding			0	0
Other			0	0
Total other project income	0	0	0	0
Ineligible project expenditure				
Production & other costs of commercialising the project outcomes			0	0
Loan Repayments			0	0
Other operating expenses			0	0
Total ineligible project expenditure	0	0	0	0
Surplus / deficit from ineligible project income and expenditure	0	0	0	0
Total project surplus / deficit	0	0	0	0

[Recipient Name]
Notes to the Financial Report
For the period .../.../... to .../.../...

Note 1. Basis of compilation

This financial report has been prepared to meet the requirements of the [insert details of funding Agreement] (the Agreement) between [insert Recipient name] and the Commonwealth of Australia. Significant accounting policies applied in the compilation of the report include:

(a) Eligible Income and Expenditure

Income as reported in the Statement as eligible income includes:

- Funding received under the Agreement from the Commonwealth for the reporting period to be applied to eligible expenditure
- Proceeds from borrowings raised for the reporting period to be applied to eligible expenditure
- Proceeds from equity raised for the reporting period to be applied to eligible expenditure

Expenditure as reported in the Statement only includes expenditure that is defined as eligible in the Agreement and the Geothermal Drilling Program Information Guide.

(b) Other Project Income and Expenditure

Income as reported in the Statement as Other Project Income includes all income received in relation to the project that is not considered eligible income as defined in Note 1 (a).

Expenditure as reported in the Statement as Other Project Expenditure includes all expenditure incurred in relation to the project that is not considered eligible as defined in Note 1 (a).

Note 2 Related parties

The following summarises the entities that are considered related parties to [insert Recipient name] in accordance with Schedule 2 of the Agreement; the nature of the relationship and the value and nature of transactions that have flowed between [insert Recipient name] and the related party in relation to this project for the reporting period.

Related party	Nature of relationship	Eligible expenditure paid to / (by) related party	Other project expenditure paid to / (by) related party

The [insert Recipient name] has complied with the requirements of the GDP Information Guide in relation to the above transactions.

[insert Recipient name]
Certification by [insert name of Authorised Officer]
For the period .../.../... to .../.../...

We hereby certify that the Financial Report of [insert Recipient name] is in accordance with [details of the Funding agreement]. In particular, the Financial Report:

- (i) gives a true and fair view of the project income and expenditure for the period / year ended .../.../... in accordance with the accounting policies described at Note 1;
- (ii) gives a true and fair view of the cumulative project income and expenditure since the commencement of the project on .../.../... in accordance with the accounting policies described at Note 1; and
- (ii) gives a true and fair view of the budget and cumulative budgets approved by the Department as at the date of the annual financial report.

[This needs to be certified by the appropriate authorised officer of the Recipient]

Independent audit report

The purpose of the independent audit report is to provide the Department with an auditor's opinion on the financial report.

The independent audit report must be prepared by a person who:

- is not a director, other office holder, or employee of the Recipient or a related body corporate of the Recipient;
- has not previously been engaged by the Recipient for the purpose of preparing the *GDP Application* or any report (other than an audit report) required under the Funding agreement;
- has no financial interest in the Recipient; and
- is a Registered Company Auditor and a member of:
the Institute of Chartered Accountants in Australia; or
the Australian Society of Certified Practising Accountants.

Companies required by s.10 of *Corporations Act 2001* (Cth) to prepare an audited annual financial report are encouraged to use the same auditor to audit and report on the Financial Report. The audit should be undertaken and reported in accordance with Australian Auditing Standards.

The dates by which independent audit reports are required are specified in the particular conditions of the Funding agreement.

The independent audit report must follow the required format and include any modified audit opinion regarding the matters on which the auditor provides an opinion. Departmental staff will ordinarily follow up any modified opinion with the Recipient or auditor. The independent audit report must be submitted on the auditor's letterhead.

Auditors must comply with the professional requirements of the Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants in the conduct of the audit.

If the auditor forms an opinion that the annual financial report does not give a true and fair view of the matters being reported, the independent audit report should be qualified and the error quantified in the qualification section of the independent audit report.

Example template Independent audit report

The required independent audit report format follows.

[Auditor letterhead]

Independent audit report to the Department of Resources, Energy and Tourism (the Department)

Scope

We have audited the attached financial report, being a special purpose financial report, of [insert Recipient's name] for the [period] as set out on pages [X] to [Y]. [insert Recipient's name]'s directors are responsible for the financial report and have determined that the accounting policies used and described in Note 1 to the financial statements which form part of the financial report are appropriate to meet the requirements of the [insert details of Funding agreement] and are appropriate to meet the needs of the Department. The directors of [insert Recipient's name] responsibility also includes designing, implementing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances. We have conducted an independent audit of the annual financial report in order to express an opinion on it to the Department. No opinion is expressed as to whether the accounting policies used, and described in Note 1, are appropriate to the needs of the Department.

The financial report has been prepared for distribution to the Department for the purpose of fulfilling the directors' financial reporting requirements under the [details of Funding agreement]. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the Department, or for any purpose other than that for which it was prepared.

Our audit has been conducted in accordance with Australian Auditing Standards. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report and the evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with the accounting policies described in Note 1, so as to present a view which is consistent with our understanding of [insert Recipient's name]'s project income and expenditure under the [insert details of the Funding]. (These policies do not require the application of all Accounting Standards and other mandatory professional reporting requirements in Australia).

The audit opinion expressed in this report has been formed on the above basis.

Qualification or modification

<If required – must quantify error if one exists>

Audit Opinion

In our opinion, the financial report of [Recipient's Name] is in accordance with:

- (a) [details of the Funding agreement], including:
 - (i) giving a true and fair view of the project income and expenditure for the period / year ended .../.../... in accordance with the accounting policies described at Note 1;
 - (ii) giving a true and fair view of the cumulative project income and expenditure since the commencement of the project on .../.../... to .../.../... in accordance with the accounting policies described at Note 1; and
 - (iii) giving a true and fair view of the budget and cumulative budgets approved by the Department as at the date of the annual financial report.

- (b) complying with Accounting Standards in Australia to the extent described in Note 1.

Signature:

Name:

Qualifications:

Position:

Date:

Certification of Other Certain Matters by the Auditor

The Department also requires certification of other certain matters by the Auditor in addition to the Audit Report. This should also be submitted with the other reports.

Example template - Certification of Other Certain Matters by the Auditor

The required format of certification follows.

<Addressee – Department>

I understand that the Commonwealth of Australia and the [insert Recipient's name] have entered into a Funding Agreement (Agreement) for the provision of funding under the *Geothermal Drilling Program* to the Recipient for the Project. A condition of funding under the Agreement is that the Recipient provides an audited Financial Report in accordance with the Agreement.

In fulfilment of the condition, I hereby certify that:

1. I am a member of the Institute of Chartered Accountants in Australia/the Australian Society of Certified Practising Accountants.
I have prepared the audit report on the [Recipient's, financial report details and Funding details] dated [date of audit report].
2. I have reviewed the [details of the agreement] and related Guidelines and understand the requirements pertaining to financial reporting and eligible expenditure contained therein.
3. I have not prepared the financial report to which my audit opinion relates.
4. I have complied with the professional independence requirements of the Institute of Chartered Accountants in Australia/the Australian Society of Certified Practising Accountants.

I specifically certify that I:

- a. am not, and have not been, a director, office holder, or employee of XYZ Pty Ltd or a related body corporate of XYZ Pty Ltd
- b. have not been previously engaged by XYZ Pty Ltd for the purpose of preparing the GDP application
- c. have no financial interest in XYZ Pty Ltd

<Signature, name, qualifications, position, date>

Attachment E: GDP End of Project Report

Recipient Company Name:	
GDP Reference Number:	
Project Title	
Report Date	
Primary Contact Name:	
Contact telephone Number	
Contact email	

1. Technical Progress

1.1 Please provide a brief outline of Project activities and outcomes.

1.2 Did the Recipient achieve the agreed project objectives, and was the project considered a success? If not, please explain why. Is there any further work required for the project to become a success?

2. Proof of Concept to Commercialisation

Briefly describe progress achieved towards the commercialisation of the results of the project and any developments over the period of the project which may impact on the commercialisation strategy.

NOTE: Parts 1 and 2 of the report should provide sufficient information for the Department to assess the progress of the project but generally not exceed two pages.

3. Eligible Expenditure Summary

Please attach an updated version of the *GDP Project Budget* to the end of this report, showing actual eligible expenditure (by heads of expenditure) for the '**current review period**' (ie the immediately previous reporting period to the reporting period in which this report is lodged). Refer to the *Eligible Expenditure Guidelines* provided with the GDP Information Guide or contact the GDP Team for confirmation of eligibility of expenditure.

NOTE: All financial information should be GST exclusive. That is, calculated at the GST inclusive cost less recoverable input tax credits.

4. Confidential Information

Please identify and describe any items of confidential information contained in this report.

5. List of Attachments to the Report

Please identify any relevant information that is attached to this report, such as photographs, independent certification certificates etc.

7. The Recipient Company

It is important for the Department to understand whether the GDP funded Project has benefited the Recipient company, for example through increased revenue, increased employment etc. Please answer the following questions.

1.	Is the Recipient company a...	Public company <input type="checkbox"/>
		Private company <input type="checkbox"/>
	a) If a public company, has the Recipient conducted an Initial Public Offering on any stock exchange since the commencement of the GDP Project?	Yes <input type="checkbox"/>
		No <input type="checkbox"/>
2.	What percentage of the Recipient company is foreign owned?%
3.	Following completion of the GDP Project, is the Recipient retaining the Proof of Concept site? If no, why not?	Yes <input type="checkbox"/> No <input type="checkbox"/>

8. Further Comments

Please provide any further information detailing the overall experience when engaging with the Department and accessing the GDP Program

9. Certification

I being a person duly authorised by the Company hereby certify that the information listed above and in the attached *GDP Project Budget* is correct. I further certify that the attached *GDP Project Budget* is understood by the Company to include only expenditure eligible for the Funding in accordance with Project No..... and that all expenditure represented is actual expenditure incurred.

Signed Date/..

Attachment F: GDP Project Variation Request

Recipient Company Name:	
GDP Reference Number:	
Project Title	
Report Date	
Primary Contact Name:	
Contact telephone Number	
Contact email	

1. **Variation Type being requested (please cross):**

- Change or modification that affects the performance of the project
- Adjustment in eligible expenditure that may impact progress payments
- Milestone adjustment due to changes in project timetables
- Notification of change in the Recipient that could affect the conduct of the project:
 - Change in Recipient details including name; registered office location; nominated contact details
 - Change in Group Structure
 - Intention to assign, novate, mortgage, charge rights and obligations in relation to the project
 - Change in Control, and/or
 - Change in sub contractors
- Other (please specify)

2. **Details of Variation:**

Please provide as much detail regarding the variation as possible. Attach extra documentation if required.

Please submit electronically to: GDP@ret.gov.au

or hard copy to:

GDP Program Management Team
Geothermal Drilling Program (GDP)
Department of Resources, Energy and Tourism
GPO Box 1564
Canberra ACT 2601