

AGREEMENT FOR MEMBERSHIP OF GREEN500 TERMS AND CONDITIONS

This is a Business to Business Agreement and applies to the participation of a company in the Green500 award scheme a “Participating Business”)

BETWEEN

AEA TECHNOLOGY PLC (“AEA”) registered address 329 Harwell, Didcot, Oxfordshire OX11 0QJ registered in England and Wales, Registered Number 3095862, VAT Registration Number GB 641 930 839, Green500@aeat.co.uk

AND

You as a Registered Company to be a Participating Business of the Green500 award scheme (“You”)

BY REGISTERING TO BE A PARTICIPATING BUSINESS YOU AGREE TO BECOME BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. PLEASE READ THESE TERMS AND CONDITIONS BEFORE COMPLETING THE REGISTRATION

- A. AEA is the London Development Agency’s (“LDA”) appointed manager of the Green500 award scheme (“Green500”) and is responsible for contracting with the Participating Business to provide Core Services as described below.
- B. Membership of Green500 entitles a Participating Business to core services provided by AEA to identify activities for implementation by the Participating Business to maximise carbon savings.
- C. All Participating Businesses will be awarded a badge that recognises the carbon saved through the implementation of activities described in their Action Plan (“Recognition Scheme Badge”). The criteria for achieving the level of accreditation required for a Recognition Scheme Badge at the bronze, silver, gold, platinum or diamond levels is as detailed on this web page.

1. OFFER, ACKNOWLEDGEMENT AND ACCEPTANCE

- 1.1 Any prices and descriptions made or referred to on this website do not constitute an offer and may be withdrawn or revised at any time until the Agreement is made between AEA and You.

- 1.2 An application submitted by You constitutes an offer by You to purchase membership of Green500 as a Participating Business and to receive the provision of the Core Services by AEA and AEA shall acknowledge by e-mail receipt of Your application.
- 1.3 AEA acceptance of Your application for membership is concluded when AEA receives payment in respect of Your application for membership at which time this Agreement is made between AEA and You.
- 1.4 AEA will keep records of Your application and acknowledgement and acceptance of this Agreement by You however You should print a copy of all such records and this Agreement for Your own records.

2. DURATION

- 2.1 This Agreement will commence in accordance with the terms of condition 1.3 and will unless terminated early in accordance with condition 13 continue in force until 31 March 2010.
- 2.2 This Agreement may be extended by a further period of up to twelve months subject to the written Agreement of AEA and You.

3. CORE SERVICES

- 3.1 Payment of the Fee referred to in condition 7.1 entitles You to membership of Green500 as a Participating Business. As a Participating Business You are entitled to the core services as detailed at 3(a) to 3(f) below (“Core Service”). AEA shall provide the Core Service using reasonable skill and care and in accordance with all relevant legislation and good industry practice:
 - (a) The provision of a personal carbon mentor (“Carbon Mentor”), who will act as Your first point of contact for all matters concerning Green500.
 - (b) The Carbon Mentor will provide information and support in the delivery of Your carbon opportunities assessment (COA”) and action plan (“Action Plan”) regarding Your London based operations. The COA will cover Your direct carbon footprint use in London only. This will

include the collection, collation and analysis of information on energy, water, waste and transport use within Your Company. The COA will include a one-day visit undertaken by a carbon expert ("Carbon Expert"). As an output from the COA You will receive a report detailing the findings and an Action Plan of carbon saving actions You may take to reduce Your carbon footprint in London.

- (c) The final Action Plan will be agreed between You, Your Carbon Mentor and the Carbon Expert. The Action Plan will form the basis upon which Your annual accreditation will be assessed.
 - (d) You will receive quarterly e-mail updates from AEA on Action Plan progress from Your Carbon Mentor.
 - (e) In total, You will receive six (6) working days' dedicated support from the Green500 team in delivering the COA, developing the Action Plan and on-going mentoring.
 - (f) You will be invited to attend regular networking events and seminars on carbon related matters.
 - (g) Subject to payment of the Fee stated in condition 7.2, the AEA accreditation team will undertake an annual audit of Your implementation of the actions identified in Your Action Plan.
- 3.2 You acknowledge and accept that the project management of any aspect of the implementation of the Action Plan and any costs associated with implementing carbon saving activities are excluded from the Core Service and will be met directly by You.
- 3.3 You may extend the scope of the COA or other non-core services by separate agreement with AEA or any supplier of your own choice. Scope extensions may include incorporating non-London operations, indirect carbon emissions or project management of the Action Plan implementation. The scope and charges associated with such non-core services will be agreed on an individual basis and will be subject to separate terms and conditions of contract.
- 3.4 AEA shall use the Scheme Logo on all printed or other visual materials and shall permit its use by You, in accordance with the terms of this Agreement and the LDA's directions for use issued from time to time. The LDA approves the use of the Scheme Logo by You on Your website to promote Your connection and participation within the scheme subject to the LDA's directions on the use of the

Scheme Logo. You have no right to: pass the Service Logo to any third party; change or amend the Scheme Logo; or use the Scheme Logo on expiry or termination of participation in the Scheme.

- 3.5 You shall obtain AEA's prior written consent to, and comply with the LDA's directions in respect of, all promotional activity, advertisements or publicity, public statements or press releases, and marketing and promotional activities in relation to the Scheme, and (without prejudice to the foregoing provision) AEA shall inform the LDA in writing in advance of all Scheme promotional events to enable the LDA to maximise any promotional activities.

4. YOUR OBLIGATIONS

- 4.1 You represent that the information provided by You when making Your application is accurate and complete and that you have authorised delegation from your Company to enter into this Agreement.
- 4.2 You are responsible for accuracy, completeness and any updating of Your account information, any passwords for accessing this website and for ensuring, Your Participating Business reference number, account number secure against unauthorised access.
- 4.3 In order for AEA to provide the Core Service You will ensure the timely provision of information, availability of key personnel and access to sites as required by AEA.
- 4.4 You will use all reasonable endeavours to implement the activities identified in the Action Plan.

5. ACCREDITATION – RECOGNITION SCHEME BADGE

- 5.1 The level of recognition will depend upon the level of savings achieved, accordingly, in order to qualify for any one of a level of a Recognition Scheme Badge, You will need to supply to the AEA accreditation team evidence of implementation at least one carbon saving action arising as a result of the delivered Core Service. Such evidence can be in the form of invoices, commissioning certificates or other appropriate evidence. Subject to this evidence has being approved by the accreditation team, you will be issued confirmation of the relevant level of

Recognition Scheme Badge achieved, supported by a licence of use.

- 5.2 In order to achieve annual recognition You will need to supply to the AEA accreditation team evidence of implementation and continuing implementation of those actions agreed in the Action Plan. Such evidence can be in the form of invoices, commissioning certificates or other appropriate evidence. Subject to this evidence being approved by the accreditation team, and you have made payment of the annual fee in accordance with condition 7.2 you will either be issued confirmation of the renewal of Your existing level of Recognition Scheme Badge or will be issued with confirmation of a new level of Recognition Scheme Badge, supported by a licence of use.
- 5.3 Any level of Recognition Scheme Badge awarded to You will be subject to the terms and conditions of a licence agreement covering conditions of use of the Recognition Scheme Badge and You will comply with the terms of such licence agreement and any other instructions and guidelines issued from time to time by the AEA on behalf of the LDA in respect of the use of the Recognition Scheme Badge.
- 5.4 You will be invited to attend an annual Green500 awards ceremony to celebrate and acknowledge the successful implementation of carbon saving activities by all Participating Businesses.

6. USE OF APPROVED CONTRACTORS

- 6.1 In order to facilitate implementation of the recommendations included in Your Action Plan, Green500 has provide on this website a list of approved contractors (“Approved Contractors”) that You can approach if You wish to request a quote to provide You with assistance with the implementation of the activities defined in the Action Plan.
- 6.2 You are free to use your own suppliers , however, the list of Approved Contractors is offered as a tool of assistance. Any use of an Approved Contractor is entirely at your own cost and risk and will be subject to separate contracting arrangements between You and the Approved Contactor. Neither AEA nor the LDA shall have any liability for any claim, costs or expenses arising from any contractual arrangement between You and the Approved Contractor.

7. PRICE AND PAYMENT

- 7.1 The price payable for the Core Service is £3,500.
- 7.2 In addition, an annual accreditation fee of £500 is also payable on each anniversary of the date of commencement of this Agreement.
- 7.3 Prices are pounds sterling as quoted on this website and are exclusive of VAT, withholding or any other tax of duty chargeable by any government or local authority which (where applicable) must be added to the price and will be payable by You.
- 7.4 Payment shall be made within 30 days of receipt of an invoice from the Green500 scheme. Payments can be made via BACS transfer or credit card payments. Payments must quote the invoice reference number in all occasions. Full details of payment requirements will be re-issued with invoices. No element of the Core Service will be delivered until full payment is received.
- 7.5 BACS transfers must be made as follows:
Account Name: AEA Technology Environment
Bank: Lloyds TSB plc
Branch: City Office
Sort Code: 30-00-02
Account No.: 01232768

For Credit Card Payments, please contact AEA’s credit control team on 0870 190 6498 or 0870 190 6541.

- 7.6 AEA will provide You with the relevant invoice through this website or by e:mail.

8 STATE AID

- 8.1 The Core Service provided by AEA under this Agreement is not provided as “de minim aid” in accordance with the De Minimus Aid Exemption. However, in the event AEA, on behalf of the LDA, notifies You of the intent to provide to You any grant or subsidised service under this Agreement, in addition to the Core Service, which is deemed to be provided as “de mimimus aid” You will be required to provide Your written acceptance that such grant or subsidised service is given accordance with applicable “de minimus aid” terms and conditions and You will be required to complete a De Minimus Aid Disclosure Form to allow assessment by the LDA that You comply with all

applicable rules on State Aid made by the European Commission. You will not receive any such grant or subsidised service under this Agreement until You confirm Your acceptance of such "de minimus aid" terms and conditions.

9. INFORMATION AND CONFIDENTIALITY

- 9.1 You accept that on an annual basis Green500 will release into the public domain information on:
- (a) aggregate carbon savings across all members of Green500;
 - (b) the level of Recognition Scheme Badge You and other members of Green500 have achieved.
- 9.2 Subject to condition 9.1 above, Green500 will not report Your individual footprint or the actual amount of carbon saved each year by You and will not release any of Your individual Company information ("Your Information") into the public domain. However, You may use Your Information and publicise as You require.
- 9.3 For the purposes of the Data Protection Act 1998 (as amended or replaced) ("the Data Protection Act") AEA has been appointed Data Processor on behalf of the LDA. Where Your Information is covered by the Data Protection Act and the LDA, and/or the Greater London Authority, requires consent to use Your Information for the purposes of marketing and publicity (including without limitation, publicity of Your membership of Green500) and market research, AEA will request your consent which consent will not be unreasonably withheld.
- 9.4 Subject to conditions 9.1 to 9.3 above each party shall take all reasonable measures to keep confidential for the period of seven (7) years next following the date of commencement of this Agreement all information which is received from the other party under this Agreement and which is specified by the disclosing party to be confidential at the time of disclosure or which may come to one party's knowledge or is disclosed to it as a result of visiting the premises of the other party.
- 9.5 The obligation under condition 9.4 above shall not apply to information which either at the time of disclosure or after disclosure is published or generally available to the public other than through a breach hereof or information already in the receiving

party's possession at the time of receipt and which was not acquired directly or indirectly from the disclosing party or information acquired by the receiving party in good faith from a third party or information which the receiving party is obliged to disclose in order to comply with applicable laws.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 All relevant information resulting from the provision of the Core Service will be sent to You in the COA and Action Plan. Copyright in the COA and Action Plan shall vest AEA and You will have the right to use for Your own internal purposes.
- 10.2 AEA has pre-existing rights relating to Intellectual Property (including by not limited to) methodology, data sources, databases, carbon footprint methodology and software that will be utilised in the performance of the Core Service ("AEA Pre-existing intellectual property") Where AEA makes modifications enhancements or improvements to AEA's Pre-existing Intellectual Property used in the provision of the Core Service AEA shall retain ownership of such modifications, enhancements or improvements.
- 10.3 Where You have proprietary data relating to Your materials and components, such "Customer Data" shall remain the property of You. You hereby consent to the grant of a royalty free, non-exclusive, non-transferable licence to AEA to use the Customer Data solely for the purposes of the Core Service.

11. LIABILITY

- 11.1 Notwithstanding any other provision of this Agreement, the total liability of AEA arising under or in any way in connection with this Agreement whether in contract, tort (including negligence), for misrepresentation, breach of statutory duty, by way of indemnity or otherwise, including legal costs, shall be limited to £100,000.
- 11.2 The limit in 1 above shall not apply where limitation is not permitted under English law, including in cases of fraud and death or personal injury caused by the negligence of AEA.
- 11.3 Except where such losses incurred are within the limit in 11.1 above or covered

by 11.2. above, AEA shall have no liability for any direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of business, loss of profits, loss of time, loss of use, depletion of goodwill and like loss).

- 11.4 The parties each confirm that the exclusions and limitations of liability set out in this clause are fair and reasonable having regard to all relevant circumstances.
- 11.5 Except where not permitted under English law and except as expressly set out in this Agreement, AEA hereby excludes to the fullest extent permissible in law all conditions, warranties and stipulations, whether express or implied, by statute, custom or otherwise.

12. FORCE MAJEURE

- 12.1 Notwithstanding anything contained in this Agreement, in the event of any prevention or delay in the performance of this Agreement or any part hereof by AEA for any reason beyond its reasonable control, such prevention of or delay in performance shall be deemed not to be a breach of this Agreement.
- 12.2 "any reason beyond its reasonable control" shall include, but not be limited to, pandemic or epidemic, death, injury or illness of key personnel, war, invasion, act of foreign enemy, hostilities, whether war be declared or not, civil war or strife, rebellion, strikes, lockout or other industrial disputes or actions, Acts of God, acts of government or other prevailing authorities (including AEA's compliance with any advice from government or other prevailing authorities on matters including in relation but not limited to the health, safety and welfare of its employees or contractors engaged in the performance of the Work), and defaults of third parties.

13. TERMINATION

- 13.1 This Agreement shall expire 31 March 2010 and may be terminated:
- (a) at any time by either party by giving one month's notice in writing to the other party;
 - (b) by either party filing a petition in bankruptcy or insolvency, or by the appointment of a receiver for all or substantially all of the property of either party; or

(c) either party commits any material breach of this Agreement and if the breach is capable of remedy fails to remedy the breach within thirty (30) days of receipt of a notice from the other party specifying the breach and requiring it to be rectified.

13.2 The termination of this Agreement shall be without prejudice to the rights and obligations of the parties under this Agreement.

13.3 Notwithstanding the expiry or earlier termination of this Agreement for any cause, the terms of conditions 5.3, 8, 9, 10, 11 and 18 shall survive such expiry or termination.

14. ASSIGNMENT

14.1 You shall not assign Your rights and duties under this Agreement, in whole or in part, without the prior written approval of AEA, which approval shall not be unreasonably withheld in the event of corporate amalgamation, reconstruction or reorganisation of that party, provided that the assignee effectively undertakes to comply with all the terms and conditions of this Agreement, as though he had been an original party hereto.

14.2 AEA shall be entitled to assign this Agreement to any other manager of Green500, as may be appointed by the LDA at any time.

15. THIRD PARTY RIGHTS

15.1 Save as may be expressly stated in this Agreement concerning the rights of the LDA nothing in this Agreement confers or purports to confer on any third party any right or benefit under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement.

16. SEVERABILITY

16.1 If any provision of this Agreement is illegal, invalid or unenforceable in any jurisdiction, such illegality, invalidity or unenforceability shall not invalidate the remaining provisions hereof or affect the legality, validity or enforceability of such provision in any other jurisdiction. The parties hereto agree in such event to substitute legal, valid and enforceable provisions for the illegal, invalid or unenforceable provisions so as to implement the intentions of the parties hereto to the extent that this is legally possible.

17. ENTIRE AGREEMENT

17.1 This Agreement embodies the entire understanding of the parties and at the date of signature there are no promises, terms, conditions or obligations oral or written expressed or implied other than those contained herein. However, this Agreement may be subsequently modified by written agreement of the parties.

18. LAW

18.1 Acceptance of this offer constitutes an Agreement made in England and subject to the laws of England and the sole jurisdiction of the courts of England and Wales between the Customer and AEA.