



10 July 2023

Dear 

Re: Official Information Act Request – LEVCF Maintenance & Funding Agreements (ChargeNet)

Thank you for your email on Monday 12 June in which you requested information under the Official Information Act 1982. You requested:

A copy of each of the following between the EECA and ChargeNet regarding funding from the Low Emission Vehicles Contestable Fund:

- *Maintenance agreements for EV chargers/maintenance processes for EV chargers*
- *Funding agreements for EV chargers, including terms and/or conditions of funding*

EECA’s response to your questions are below:

Maintenance agreements for EV chargers/maintenance processes for EV chargers

EECA does not provide funding for the maintenance of EV Chargers.

Please refer to Item One: LEVCF Proposed Funding Agreement, Schedule 2: Project Specific Conditions (page 14) for information regarding maintenance processes for EV Chargers.

Funding agreements for EV chargers, including terms and/or conditions of funding

Please refer to the PDF’s attached.

Item #	Title	LEVCF Funding Round	Proposed Project information	Decision
1	LEVCF Proposed funding agreement	N/A		Release in full (Note – this is a general LEVCF

				funding agreement template).
2	2016_17_02_110 - Funding Agreement (Final V1) SIGNED	2	<p>Electrifying Southland: Invercargill to Queenstown.</p> <p>Three fast charging units installed:</p> <ol style="list-style-type: none"> 1. Winton 2. Lumsden 3. Garston 	<p>Release in Part</p> <ul style="list-style-type: none"> - 9(2)(a) - Protect the privacy of natural persons, including that of deceased natural persons. - 9(2)(b)(ii) - Protect information where the making available of the information would be likely to prejudice commercial position.
3	2016_17_02_111 - Funding Agreement (Final V1) SIGNED	2	<p>Dunedin to Queenstown.</p> <p>Four fast Charging units:</p> <ol style="list-style-type: none"> 1. Cromwell 2. Roxburgh 3. Lawrence 4. Waihola 	<p>Release in Part</p> <ul style="list-style-type: none"> - 9(2)(a) - 9(2)(b)(ii)
4	2016_17_02_112 - Funding Agreement (Final V1) SIGNED	2	<p>Christchurch to Picton</p> <p>Five Fast Charging units:</p> <ol style="list-style-type: none"> 1. Culverden 2. Harris Pipes 3. Maruia Junction 4. Murchison 5. Motupiko 	<p>Release in Part</p> <ul style="list-style-type: none"> - 9(2)(a) - 9(2)(b)(ii)

5	04-232 ChargeNet Alpine Route funding agreement SIGNED	4	Alpine Pacific Route Installing 50kW DC fast charging stations at Ward and Cheviot on SH1 between Christchurch and Blenheim.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
6	04-249 ChargeNet funding agreement SIGNED	4	Installing eight DC fast charging stations in a regional	Release in Part - 9(2)(a) - 9(2)(b)(ii)
7	05-320 ChargeNet Rotorua Funding agreement SIGNED	5	Installing three 50kW DC fast charging stations to cover the three major routes into and out of Rotorua.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
8	06-366 ChargeNet Darfield funding agreement REVISED - signed by client	6	Installing one 50kW fast charging station at Four Square, Darfield	Release in Part - 9(2)(a) - 9(2)(b)(ii)
9	06-377 ChargeNet Kawerau funding agreement SIGNED	6	Installing one 50kW Fast Charger at Kawerau New World.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
10	06-384 ChargeNet Bombay funding agreement SIGNED	6	Pilot High Power Charging Hub for Bombay, South Auckland	Release in Part - 9(2)(a) - 9(2)(b)(ii)
11	07-444 ChargeNet Mokau and Palmerston Funding Agreement SIGNED	7	Partnering with Powernet Ltd to install one public charger in Mokau and another in Palmerston.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
12	07-485 ChargeNet Taupo HPC Funding Agreement SIGNED	7	Installing two charging stations (with two ports) in the Taupō central business district.	Release in Part - 9(2)(a) - 9(2)(b)(ii)

13	08-534 ChargeNet Eketahuna LEVCF Funding Agreement - SIGNED	8	Closing the gap – Eketāhuna. Installing one 50kW Charger and ancillary equipment in Eketāhuna.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
14	EECA LEVCF Funding Agreement - Kaiwaka - SIGNED	8	Four 300Kw charging ports for Kaiwaka.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
15	EECA LEVCF Funding Agreement - Smales Farm - SIGNED	8	Four 300kW charging ports for Smales Farm.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
16	08-557 ChargeNet Christchurch LEVCF Funding Agreement - SIGNED	8	Four 300kW charging ports for Christchurch.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
17	08-558 ChargeNet LEVCF Funding Agreement - Bulls - SIGNED	8	Two 300kW chargers for Bulls	Release in Part - 9(2)(a) - 9(2)(b)(ii)
18	09-588 ChargeNet Rotorua LEVCF Funding Agreement - SIGNED	9	Four 300kW and two 50K charging points for Rotorua.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
19	09-596 ChargeNet Tamahere LEVCF Funding Agreement - SIGNED	9	Electrifying Tamahere One 50kW Charging station & ancillary equipment.	Release in Part - 9(2)(a) - 9(2)(b)(ii)

20	09-602 ChargeNet Tauranga LEVCF Funding Agreement - SIGNED	9	Four 300kW and two 50kW charging ports for Tauranga.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
21	09-604 ChargeNet Dunedin LEVCF Funding Agreement - SIGNED	9	Two 300kW charging ports and one 50kW charging port for Dunedin.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
22	10-628 ChargeNet Ltd Queenstown Funding Agreement - SIGNED	10	Bringing the EV future to Queenstown.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
23	10-630 ChargeNet Ltd Taupiri Funding Agreement - SIGNED	10	Bringing public hypercharging to the Waikato.	Release in Part - 9(2)(a) - 9(2)(b)(ii)
24	10-628 ChargeNet Ltd Wellington LEVCF Funding Agreement - SIGNED	10	Bringing public hypercharging to the Capital.	Release in Part - 9(2)(a) - 9(2)(b)(ii)

Note, some of these projects had one or more Variations of Contract (VOC). However, the variations do not change the Terms & Conditions of the funding agreement of the terms in schedule two. The variations only change delivery dates, number of units delivered etc.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that it is our policy to proactively release our responses to official information requests where possible. Our response to your request will be published shortly at <https://www.eeca.govt.nz/about/news-and-corporate/official-information/> with your personal information removed.

Yours sincerely



Andrew Caseley
EECA Chief Executive

Low Emission Vehicles Contestable Fund Project Funding Agreement

EECA
Energy Efficiency and Conservation Authority

Recipient
[Recipient]

Parties

- (1) **Energy Efficiency and Conservation Authority** (NZBN 9429041901953), a Crown entity constituted under the Energy Efficiency and Conservation Act 2000 ("**EECA**"); and
- (2) [**Recipient**] (NZBN XXX), a [New Zealand registered company] located at [Location] ("**Recipient**").

Background

- A. EECA administers the Low Emission Vehicles Contestable Fund. The Fund's aim is to encourage innovation and investment to promote, enable and accelerate the uptake of electric and other low emission vehicles into New Zealand that would not otherwise occur.
- B. The Recipient has successfully applied to the Low Emission Vehicles Contestable Fund for funding support from EECA, and has agreed to implement a Project.
- C. EECA has agreed to provide such funding support to the Recipient on the terms of this Agreement.

Agreement

1. Definitions and Interpretation

1.1 In this Agreement:

"**Agreement**" means this project funding agreement, including all Schedules;

"**Business Day**" means a day on which registered banks are open for general banking business, other than a Saturday or Sunday, in New Zealand;

"**Claim**" means a claim for EECA Funding made by the Recipient to EECA in the manner specified in clause 4;

"**Completion Date**" means, in relation to each milestone set out in item 2 of Schedule 1, the date by which the Recipient must complete that milestone;

"**Confidential Information**" means information disclosed by a party under this Agreement that is marked as confidential or which might reasonably be expected to be confidential in nature;

"**EECA Funding**" means the maximum amount of funding payable by EECA to the Recipient (on a Milestone-by-Milestone basis) to support the Project. The maximum amount payable under this Agreement is set out in item 1 of Schedule 1;

"**Force Majeure Event**" means an extraordinary event or circumstance beyond the reasonable control of a party such as an Act of God (but excluding lack of funds);

"**GST**" means goods and services tax within the meaning of the Goods and Services Tax Act 1985;

"**Insolvency Event**" means in relation to a party, where that party suspends or ceases to conduct its principal business or threatens to do so; becomes or is presumed by law to be insolvent; makes or proposes to make any assignment, arrangement, compromise or composition with, or for the benefit of, any of its creditors; has any of its assets subject to any form of seizure or execution; has a receiver, liquidator, administrator, statutory manager or any similar insolvency administrator appointed; is removed from the Register of Companies or suffers any analogous event.

“Milestone” means a project milestone to be achieved by the Recipient as set out in the table in item 5 of Schedule 1;

"Project" means the project to be undertaken by the Recipient, as described in Schedule 1;

"Project Reports" means the reports that are set out in the table in item 5 of Schedule 1 and that the Recipient is required to provide to EECA under clause 4.2 of this Agreement;

"Proposal" means the proposal for the Project that the Recipient supplied to EECA;

“Records” means all information and data for the management of this Agreement and the delivery of the Project. Records include, but are not limited to, reports, invoices, letters, emails, notes of meetings, photographs and other media recordings. Records can be hard copies or soft copies stored electronically;

“Schedule” means a schedule attached to this Agreement;

“Serious Incident” means any notifiable event as defined by the Health and Safety at Work Act 2015;

“Supplier Declaration of Conformity” means a declaration, required by Regulation 83 of the Electricity (Safety) Regulations 2010 (see: <https://worksafe.govt.nz/topic-and-industry/electricity/appliances-and-fittings/high-and-medium-risk-products/medium-risk-product-list/supplier-declaration-of-conformity/>) and provided to the Recipient by the supplier of any electric vehicle supply equipment, that any such equipment installed under this Agreement complies with the relevant recognised standard;

“Worker” means any person who carries out work for the Recipient in any capacity, including work as an employee, contractor or subcontractor, an employee of a contractor or subcontractor, or a volunteer worker. It also includes anyone else directed or influenced by the Recipient in the exercise of their work;

“WHS Laws” means all applicable legislation and regulations in force including, but not limited to, the Health and Safety at Work Act 2015 and any amendments or replacement legislation, the Hazardous Substances and New Organisms Act 1996, the Resource Management Act 1991, the Building Act 2004, and the Human Rights Act 1993 and all relevant Regulations, Approved Codes of Practice, New Zealand Standards and guidance material, and/or other international standards and guidance material regarding best practice requirements for undertaking the Project that the Recipient could reasonably be expected to be aware of.

1.2 Interpretation:

- (a) References to clauses and schedules are to clauses and schedules of this Agreement unless the context requires otherwise.
- (b) The headings in this Agreement are for convenience only and have no legal effect.
- (c) The singular includes the plural and vice versa.
- (d) A reference to a statute includes a legislative instrument or other subordinate legislation made under it and amendments to or replacement of any of them from time to time.

2. Term

- 2.1 This Agreement will commence on the date it is signed by both parties and continue until [TERM] unless the Agreement is terminated earlier in accordance with clause 9.

2.2 Notwithstanding clause 2.1, the parties agree that in the event they agree to extend the date of the final Milestone, and that date is beyond [TERM], then the Agreement will continue until that extended final Milestone date.

3. Recipient's Obligations

3.1 The Recipient will:

- (a) undertake the Project in accordance with this Agreement;
- (b) take full responsibility for the Milestones as part of the Project and manage the implementation of the Project in accordance with good operational and health and safety practices;
- (c) implement and manage the Project with all due care and skill and to a professional standard commensurate with the nature of the Project;
- (d) notify EECA promptly of any matter that could impact or delay the Milestones or Project Reports or any other aspect of the Project;
- (e) schedule regular meetings with EECA to discuss progress with the Project;
- (f) not act in a manner that would damage the reputation of EECA;
- (g) comply with the project specific conditions detailed in Schedule 2; and
- (h) notify EECA of any contracts it intends to enter into with any third parties in relation to the Project and shall not unreasonably refuse to incorporate agreed requirements into the same. If the Recipient sub-contracts any aspect of its performance under this Agreement the Recipient is liable for all acts or omissions of the relevant sub-contractor and any such sub-contracting will not release the Recipient from liability for the performance of any of its obligations under this Agreement.

4. EECA Funding

4.1 Subject to the funding criteria in item 4 of Schedule 1, and the Recipient's compliance with this Agreement, EECA agrees to pay the Recipient the EECA Funding, applicable to and on the achievement of each Milestone.

4.2 To receive EECA Funding, the Recipient must provide EECA with a Claim and the applicable Project Report. The Claim will contain at least the following details:

- (a) the Recipient's name, address and GST number;
- (b) the Proposal number (refer Schedule 1);
- (c) the Milestone against which the Claim is being made;
- (d) evidence of completion of the relevant milestone (e.g. receipts or proof of purchases, photos); and
- (e) the amount and GST due.

4.3 Following the receipt and approval of a Claim, EECA will provide the Recipient with a buyer created invoice at the time of making payment.

4.4 Subject to clause 4.5, if EECA receives a valid Claim by the 10th of the month following the month that the Claim relates to, EECA will pay the sum set out in the Claim on the 20th day of that month. Any valid Claims received after the 10th of the month will be paid by the 20th of the following month.

4.5 If EECA disputes the sum in any Claim:

4 EECA Initials: _____ | Recipient initials: _____ |

- (a) EECA will notify the Recipient of the dispute following receipt of the Claim;
 - (b) EECA will pay the undisputed portion of the Claim in accordance with clause 4.4; and
 - (c) the disputed portion will be dealt with under clause 11 (Disputes).
- 4.6 EECA is not under any obligation to make any payment under this Agreement until EECA has received:
- (a) a valid Claim for the EECA Funding from the Recipient; and
 - (b) reasonably satisfactory evidence from the Recipient, including any other evidence not stipulated in the reporting requirements, necessary to demonstrate that the relevant milestone has been completed in accordance with this Agreement.
- 4.7 If EECA is required by law to withhold any taxes from any payment required to be made by it under this Agreement, payment of the valid Claims shall be deemed to have been made in full if EECA makes payment of the invoiced sum, less the taxes so required to be withheld.
- 4.8 The Recipient agrees and warrants that it will use EECA Funding only for the purposes set out in this Agreement. If any of the EECA Funding is not used for the purpose of the Project, the Recipient must immediately repay the EECA Funding.
- 4.9 The Recipient agrees that it has not received and will not receive any other New Zealand Government funding (including from any Crown entity) in connection with this Project.

5. Repayment

- 5.1 Without limiting any other remedy EECA may have, the Recipient must repay EECA any amounts of EECA Funding paid to the Recipient in the circumstances set out in this clause 5.
- 5.2 If the actual total costs of the Project are less than the total costs set out in the Proposal, and the Recipient has claimed, and EECA has paid the full amount of EECA Funding available under this Agreement, the Recipient will repay to EECA an amount of EECA Funding proportional to the reduction in total costs (i.e. so that the EECA Funding does not exceed the percentage of total costs as set out in item 4 of Schedule 1, when applied against actual costs) within 10 days of a demand in writing by EECA.
- 5.3 EECA may at its sole discretion require the Recipient to repay to EECA any amounts it has paid to the Recipient under this Agreement (such repayment to be made within 20 Business Days of EECA's notice) if the Recipient:
- (a) materially breaches any of its obligations and does not remedy such breach within 20 Business Days of being notified in writing of the breach by EECA; or
 - (b) suffers an Insolvency Event.

6. Information Management

- 6.1 The Recipient must:
- (a) provide EECA with the Project Reports by the relevant Milestone 'Completion date' specified in item 5 of Schedule 1;
 - (b) keep and maintain full, true and up-to-date Records of the performance of its obligations under this Agreement during the term of this Agreement and for a minimum of three years following termination or expiry of the Agreement;

- (c) allow EECA or its nominee on request and subject to reasonable notice to audit the Records, or audit the performance of the Recipient under this Agreement (including reviewing the Records) from time-to-time, as reasonably required by EECA;
- (d) co-operate with EECA and provide all information and assistance reasonably requested by EECA to allow EECA to promote, if successful, the Project through the publication of case studies, guides, workshops and seminars (including the participation of the Recipient at one or more workshops and seminars arranged by EECA);
- (e) provide to EECA any information reasonably requested by EECA relating to the performance of the Recipient's obligations pursuant to this Agreement. All information provided by the Recipient must be in a format that is usable by EECA, and delivered within a reasonable time of the request;
- (f) co-operate with EECA to provide any of the information requested under clause 6.1(e) as soon as reasonably practicable if the information is required by EECA to comply with an enquiry or its statutory, parliamentary, or other reporting obligations; and
- (g) make sure that any Records provided to EECA or created for EECA, are securely managed and securely destroyed on their disposal.

6.2 The parties shall otherwise co-operate promptly and share information with each other as necessary to meet the operational objectives of EECA and enable the parties to perform their respective obligations under this Agreement.

7. Intellectual Property

7.1 Any intellectual property already in existence at the commencement of this Agreement shall remain the property of that party.

7.2 All intellectual property created, or developed, by, or for, the Recipient in performing this Agreement, including all intellectual property rights in the Project will be owned by the Recipient.

7.3 The Recipient grants to EECA a perpetual, irrevocable, royalty-free and non-exclusive licence to use the Recipient's existing and new intellectual property in relation to the Project solely and to the extent strictly necessary for EECA to carry out EECA's obligations provided in this Agreement and for no other purpose whatsoever. Without limiting the foregoing, EECA acknowledges EECA is not granted any rights whatsoever to use or exploit commercially or otherwise the Recipient's existing or new intellectual property, or to share such intellectual property with any third parties other than as necessary to fulfil its reporting obligations.

8. Health And Safety

8.1 If there is an inconsistency or ambiguity between this clause and the WHS Laws, the WHS Laws will prevail.

8.2 The Recipient must at all times when undertaking the Project in accordance with this Agreement comply with all applicable WHS Laws.

8.3 The Recipient must (and must ensure that its Workers):

- (a) at all times identify and exercise all necessary precautions for the protection of the health and safety of all persons including Workers, EECA, and members of the public who may be affected by the Project or by the performance or purported performance of the Project;

- (b) undertake the Project in a safe manner; and
- (c) in performing its obligations under this Agreement, including undertaking the Project, do all things reasonably requested by EECA or any of its personnel to allow EECA to discharge and comply with EECA's obligations under the WHS Laws in relation to the project.

8.4 The Recipient will:

- (a) comply with any directions on safety issued by any relevant authority;
- (b) notify EECA and the relevant authorities promptly after any Serious Incident regarding the Project;
- (c) promptly after that event occurs, conduct an investigation into the circumstances of such a near miss or an incident (including a Serious Incident) affecting or potentially affecting the health and safety of any person and promptly notify EECA of the outcome of any such investigation in relation to the Project; and
- (d) if requested by EECA, promptly provide to EECA any documents relating to or created in respect of any investigation (by the Recipient or any regulator) into a near miss or incident (including a Serious Incident) in relation to the Project.

8.5 EECA and the Recipient may schedule a meeting prior to commencement of the Project at which health, and where applicable safety systems, and performance, will be reviewed. Topics for discussion will include but are not limited to:

- (a) the Recipient's health and safety system which includes hazard identification, risk assessment, training, supervision and monitoring. If required, the Recipient will work with EECA to complete a hazard and risk identification and management process for the Project to identify potential hazards/risks and develop a system to control those hazards/risks prior to commencing work, where relevant;
- (b) supervision and training of Workers performing work for or participating in the Project if applicable;
- (c) the provision of protective safety equipment to Workers participating in the Project if applicable;
- (d) the provision of first aid equipment for Workers participating in the Project if applicable.

8.6 The Recipient must ensure, and provide (on request) evidence to the reasonable satisfaction of EECA, that any subcontractor it engages in accordance with this Agreement has the necessary safety systems and expertise to carry out the work to be subcontracted.

8.7 The parties will consult, co-operate, and co-ordinate activities with each other in order to ensure that each of the parties (including, in the case of the Recipient, any subcontractors) meet their obligations under this Agreement and the WHS Laws.

9. Termination

9.1 Either party may terminate this Agreement if the other party commits a material or persistent breach of this Agreement and, if such breach is capable of remedy, fails to remedy that breach within 20 Business Days after receipt of a notice from the other party requiring the breach to be remedied.

9.2 EECA may terminate this Agreement on notice with immediate effect if:

- (a) EECA considers in its sole discretion the Recipient has not materially fulfilled its obligations under clause 3.1; or
- (b) the Recipient becomes insolvent; or

- (c) the Recipient is the subject of enforcement action pursuant to the WHS Laws in relation to the Project.
- 9.3 Upon termination of the Agreement under clause 9.2, EECA will not be obliged to pay the EECA Funding remaining under the contract and any EECA Funding paid to the Recipient will be repayable on demand by EECA.
- 9.4 The termination of this Agreement shall be without prejudice to either party's rights and remedies in respect of any breach by the other party to this Agreement.

10. Confidentiality And Publicity

- 10.1 Except as permitted by clause 10.2, each party shall keep the other party's Confidential Information confidential and will not disclose any Confidential Information to any person or use the Confidential Information for any purpose other than to perform this Agreement.
- 10.2 Notwithstanding clause 10.1, a recipient of Confidential Information may disclose any Confidential Information if, and to the extent that, disclosure is required by law (including under the Official Information Act 1982 and the Health and Safety at Work Act 2015) or any governmental authority, regulator, or parliamentary convention, provided that the disclosing party gives the other party notice of the requirement as soon as practicable before such disclosure is made, and gives the other party copies of any such information to be disclosed.
- 10.3 Each party will ensure that its personnel:
- (a) are aware of the confidentiality obligations in this Agreement; and
 - (b) do not use or disclose any of the other party's Confidential Information except as allowed by this Agreement.
- 10.4 Subject to clause 10.5 and except as required by law, a party shall make no announcement or disclosure relating to the contents of this Agreement or the Project except as agreed by the parties in advance (such approval not to be unreasonably withheld or delayed).
- 10.5 Either party may publish the results and findings arising from the Project in such manner and media as it thinks fit, provided that the party obtains the other party's prior written approval to any such publication (such approval not to be unreasonably withheld).
- 10.6 The Recipient acknowledges that EECA is subject to the Official Information Act 1982 and may be required to disclose information pursuant to that Act. The Recipient should mark any commercially sensitive information as "Commercial: In Confidence" if the Recipient wishes to protect specific commercial information. However, EECA does not guarantee that such marked information will be protected from disclosure. The Recipient will immediately forward to EECA any request for information in relation to this Agreement received by the Recipient.
- 10.7 The Recipient will notify EECA of any actual or anticipated issues, including but not limited to health and safety events or investigations by a regulator that could impact on the Project agreed under this Agreement.

11. Disputes

- 11.1 If any dispute or difference arises between the parties in relation to, or arising out of, this Agreement, both parties will endeavour in good faith to settle the dispute by agreement.

- 11.2 If the dispute or difference is not settled by agreement within 20 Business Days of the dispute arising then, unless agreed otherwise, either party may refer the dispute to mediation.
- 11.3 If a dispute is referred to mediation, the mediation will be conducted:
- (a) by a single mediator agreed by the parties or if they cannot agree, appointed by the Chair of the Resolution Institute;
 - (b) on the terms of the Resolution Institute standard mediation agreement; and
 - (c) at a fee to be agreed by the parties or if they cannot agree, at a fee determined by the Chair of the Resolution Institute.
- 11.4 Each party will pay its own costs of mediation under this clause 11.
- 11.5 Neither party may issue legal proceedings (other than for urgent interlocutory relief) in respect of such dispute or difference, unless that party has first taken all reasonable steps to comply with clauses 11.1 to 11.3.

12. Insurance

- 12.1 It is the Recipient's responsibility to ensure the risks of doing business are adequately covered by insurance. The Recipient must within 10 Business Days of a request from EECA provide proof confirming the specific nature and quantity of the insurance cover held and show that this cover is current.

13. Indemnity

- 13.1 The Recipient shall, to the full extent permitted by law, defend, indemnify and hold harmless EECA, from and against any and all damage, loss (including loss of profits), cost, liability, and expense whatsoever (including legal fees, third party claims, all and any actual court costs, witness fees and expenses and all disbursements) directly incurred by reason of:
- (a) any failure by the Recipient to perform any covenant or observe any obligation of the Recipient under this Agreement; or
 - (b) any breach by the Recipient of any representation, warranty, or covenant on the part of the Recipient contained in this Agreement; or
 - (c) the negligence or wrongful act or omission of the Recipient in performing any of its obligations under this Agreement.
- 13.2 Notwithstanding clause 13.1, neither party shall be liable for any breach of this Agreement to the extent such breach is due to a Force Majeure Event, provided that it keeps the other party fully informed of the situation, uses reasonable endeavours to mitigate the effect of the Force Majeure Event and resumes full performance as soon as reasonably practicable.

14. General

- 14.1 **Assignment:** The obligations of the Recipient under this Agreement are personal to the Recipient and may only be assigned or transferred with the prior approval in writing of EECA, such approval not to be unreasonably withheld.

- 14.2 **Change of Control:** Any change in the majority shareholding of the Recipient or the effective management control of the Recipient shall be deemed to be an Assignment under this Agreement requiring the consent of EECA pursuant to clause 14.1.
- 14.3 **Counterparts:** This Agreement may be signed in any number of counterparts (including electronic copies) and provided that each party has signed a counterpart, the counterparts, when taken together, will constitute a binding and enforceable agreement between the parties.
- 14.4 **Entire agreement:** The parties acknowledge that this Agreement sets out the entire agreement and understanding of EECA and the Recipient and supersedes all prior oral or written agreements, understandings or arrangements relating to its subject matter.
- 14.5 **Further assurances:** Each party shall, at its own expense, promptly sign and deliver any documents, and do all things, which are reasonably required to give full effect to the provisions of this Agreement.
- 14.6 **New Zealand Law:** This Agreement will be governed by and construed in accordance with the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the New Zealand courts. All money specified in this Agreement is in New Zealand dollars. Days, dates and times are New Zealand time.
- 14.7 **No partnership:** Nothing contained in this Agreement shall be deemed to constitute either party as being the partner of the other or to constitute either party as being the agent or legal representative of the other. Neither party shall have any authority to act or to assume any obligation or liability on behalf of the other.
- 14.8 **Notices:** Each notice under this Agreement shall be in writing and delivered by courier or sent by email to the address set out in item 6 of Schedule 1. A notice is deemed to be received:
- (a) if delivered by courier, when delivered; or
 - (b) if sent by email, when actually received,
- provided that any notice received after 5 pm on a Business Day or on a non-Business Day shall be deemed to have been received on the next Business Day.
- 14.9 **Variations:** This Agreement cannot be varied in any manner except by way of agreement in writing signed by the parties.
- 14.10 **Survival:** Following expiry or termination of this Agreement, clauses 5 (Repayment of EECA Funding), 7 (Intellectual Property), 9 (Termination), 10 (Confidentiality and Publicity), 11 (Disputes), 12 (Insurance), 13 (Indemnity), and items 5, 6 and 7 of Schedule 2 (clause 3.1(g) Project Specific Conditions), together with other provisions that are by their nature intended to survive, will remain in effect.

Execution

Signed for and on behalf of
**Energy Efficiency And Conservation
Authority** by

Print Name

Signature

Position

Date

Signed for and on behalf of
[Recipient] by

Print Name

Signature

Position

Date

Schedule 1: Project Details, Deliverables And Reporting

1. **Proposal number** 09-000
2. **Proposal title** Title
3. **Proposal summary** Description of Project
4. **EECA Funding and payments** EECA Funding is capped at a maximum of \$[amount] plus GST.

EECA Funding cannot exceed 50% of the actual costs of delivery of any Milestone.

5. Milestones

Milestone number and description		Deliverable to EECA and reporting	Completion date	EECA Funding
1	Project planning and initiation	<p><u>Project Report 1:</u> A report confirming that:</p> <ul style="list-style-type: none"> • A project plan for the delivery of the Project has been completed (see item 1 of Schedule 2); • The reporting template; and • The Project has commenced. <p>The report must also include details of costs, timeframes, locations and personnel.</p>		Nil
2				
3				
4				
5	Operational data for first six months of the Project from launch/other/commissioning	<p><u>Project Report 5:</u></p> <p>A report containing operational data for the six month period including: <i>[for example]</i></p> <ul style="list-style-type: none"> • Charger defects and maintenance activities. • Hours of charger utilisation, and time of use, number of charging connections. • Availability and wait times. • Total energy delivered through the chargers. • Any other information that EECA should be aware of. 		\$1,000
6	Operational data for first twelve months of the Project from launch/ other/commissioning	<p><u>Project Report 6:</u></p> <p>A report containing operational data for the twelve month period including: <i>[for example]</i></p> <ul style="list-style-type: none"> • Charger defects and maintenance activities. • Hours of charger utilisation, and time of use, number of charging connections. 		\$1,000

		<ul style="list-style-type: none"> • Availability and wait times. • Total energy delivered through the chargers. • Any other information that EECA should be aware of. 		
7	Project close-out interview with EECA	<p><u>Project close-out interview:</u></p> <p>An interview with EECA to discuss the outcomes of the Project, alignment with Project objectives and opportunities for knowledge sharing, such as industry conferences, papers and promotional activity.</p>		Nil

6. Address for notices

Recipient

Recipient name

Recipient address

Attention: Name

Email: Recipient email

EECA

Energy Efficiency & Conservation Authority

Level 8, 44 The Terrace
Wellington 6011

Attention: EECA representative

Email: LEVFund@eeca.govt.nz

Schedule 2: Project Specific Conditions

The Recipient will:

1. Develop a project plan, to be available to EECA on request, to manage the performance of its obligations under this Agreement; and which must include as appropriate:
 - (a) A detailed health and safety assurance plan;
 - (b) Project timetable and activity schedules;
 - (c) Updated Project budget with, as appropriate, details about vehicle type and costs, conversion costs, charger costs and installation and commissioning costs, and any other details relevant to the Project;
 - (d) Project delivery resources; and
 - (e) Project risk assessment and mitigation measures;

Where relevant to the project, the Recipient will:

2. Ensure that any electric vehicle charging infrastructure installed under this Agreement complies with the NZ Transport Agency public charging infrastructure guidelines;
3. Ensure that any electric vehicle supply equipment installed under this Agreement complies with the technical guidance developed by WorkSafe (<https://worksafe.govt.nz/laws-and-regulations/regulations/electrical-regulations/regulatory-guidance-notes/electric-vehicle-charging-safety-guidelines/>);
4. Provide EECA with a Supplier Declaration of Conformity for each type and model of electric vehicle supply equipment installed under this Agreement;
5. Ensure that any electric vehicle supply equipment and electric vehicles purchased or leased under this Agreement are insured against damage and loss for a minimum period of two years from the date of purchase. If vehicles are to be used by any third party, insurance is extended to cover this use;
6. Ensure that all electric vehicle supply equipment installed, and all electric vehicles purchased or leased, under this Agreement are available for use in a well maintained and legal state for a minimum period of two years, with an annual availability of 95%, from the date of commissioning;
7. Repair the funded electric vehicles and/or electric vehicle supply equipment, in the event that any are out of service, in a prompt manner to ensure compliance with the availability requirements specified in item 6 above;
8. Ensure that all sign writing and branding to be done as part of this Agreement is completed according to brand guidance provided to the Recipient by EECA;
9. Ensure that electric vehicle chargers are registered on EV Roam if relevant;
10. Ensure that any secure storage facility for e-bikes installed under this Agreement is insured against damage and maintained as contracted for a minimum period of two years from the date of installation.