

Drive electric NSW

EV fleets incentive

Funding Deed

Department	Department of Planning, Industry and Environment
Agency/Division	Environment, Energy and Science
Grantee	Click here to enter name of recipient

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Details

Department	Name	The Crown in right of the State of New South Wales acting through the Department of Planning, Industry and Environment (ABN 20 770 707 468).
	Agency/ Division	Environment, Energy and Science
	Address	Level 10, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
Department Authorised Officer <i>(refer to clause 177- Notices)</i>	Name	Esther Bailey
	Position	A/Director Climate Resilience and Net Zero Emissions
	Address	Level 10, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
	Telephone	(02) 9995 6721
	E-mail	esther.bailey@environment.nsw.gov.au
Grantee ('You')	Name	Click here to enter name of recipient
	Address	Click here to enter text.
	ABN	Click here to enter text.
Your Authorised Officer <i>(refer to clause 177 - Notices)</i>	Name	Click here to enter text.
	Position	Click here to enter text.
	Address	Click here to enter text.
	Telephone	Click here to enter text.
	E-mail	Click here to enter text.
Project		Procurement of BEVs/FCEVs and Smart Chargers as described in Schedule A.
Funding		A maximum total amount of Click here to enter total amount of Funding (inclusive of GST).
Commencement Date <i>(refer to clause 2- Term)</i>		The date this Deed is executed.

Additional Insurance Policies

Types of Insurances	<i>Minimum Sum Insured</i>
Motor Vehicle	in respect of all motor vehicles in respect of which a payment is made by the Department under this Deed: <ul style="list-style-type: none"><li data-bbox="587 555 1377 589">a. compulsory third-party insurance as required by law; and<li data-bbox="587 595 1161 629">b. comprehensive motor vehicle insurance.

Special Conditions

1. COVID-19

- 1.1 Both parties acknowledge the uncertainty arising from the current COVID-19 pandemic, the measures taken by State and Commonwealth Governments in relation to the emergency, and the consequential effects on daily activities (“C-19 Emergency”).
- 1.2 If either party becomes aware that it is, will be or has been materially affected in its ability to comply with any of its obligations on time under this Deed because of the C-19 Emergency, it must immediately give the other party a written Notice which sets out:
 - (a) the nature and extent of the obligations affected by the C-19 Emergency;
 - (b) the ways in which the C-19 Emergency will affect its ability to perform those obligations; and
 - (c) a proposal that the parties either vary the Deed to mitigate the effects of the C-19 Emergency (for example, to change time frames and/or the scope of the Project), or terminate by agreement.
- 1.3 When a party receives a Notice under special condition 1.2, it must respond to the Notice immediately, and the parties will attempt in good faith to reach agreement promptly to vary or terminate the Deed.
- 1.4 Despite any other provisions in this Deed, if the Department considers that, as a result of the C-19 Emergency:
 - (a) there is likely to be significant delay before you will be able to complete your obligations; or
 - (b) the Project is no longer viable;the Department may terminate the Deed by notice, with effect on the date stated in the Notice.
- 1.5 You release the Department from any Claims in respect of termination under this clause.

Definitions and Term

Definitions and Interpretation

1. Interpretation

1.1 Unless the context requires otherwise, in this Deed:

- (a) the terms set out in the left hand column of the Details have the meaning ascribed to them in the right hand column of the Details;
- (b) where any time limit pursuant to this Deed falls on a day which is not a Business Day then the time limit will be deemed to have expired on the next Business Day;
- (c) a reference to a statute, regulation, ordinance or by-law will be deemed to include a reference to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing same from time to time;
- (d) the meaning of general words is not limited by specific examples introduced by “including” or “for example” or similar expressions;
- (e) references to persons include bodies corporate, government agencies and vice versa;
- (f) references to the parties include references to respective directors, officers, employees and agents of the parties;
- (g) nothing in this Deed is to be interpreted against a party solely on the ground that the party put forward this Deed or any part of it; and
- (h) where an expression is defined, any other grammatical form of that expression has a corresponding meaning.

1.2 Definitions

Activity means the activity(s) described in **Schedule A – Project Plan**, which aim to fulfil one or more of the Objectives of the Project.

Activity Due Date means the period specified in **Schedule A – Project Plan** by which time the Activity must be completed.

Aggregator means an organisation that provides leasing arrangements to their Customers for EVs, and which bids on behalf of its Customers to secure funding from the Incentive.

BEV means a battery electric vehicle.

Bid refers to the request for funding submitted by you via the EV fleets incentive bidding platform, including information on the total amount of Incentive requested, the EVs to be incentivised, the total number of Smart Chargers to be incentivised, the estimated emissions abatement and the \$ Incentive requested per tonne of CO₂e abated (\$/tCO₂e).

Business Day means any day other than a Saturday, Sunday or public holiday in New South Wales.

Claim means any cost, expense, loss, damage, claim, action, proceeding or other liability (whether in contract, tort or otherwise), however arising and includes legal costs on a full indemnity basis.

Confidential Information of a party means all trade secrets, financial information and other commercially or scientifically valuable information of whatever description and in whatever form (whether written or oral, visible or invisible) which:

- (a) is by its nature confidential;
- (b) has been designated as confidential by a party;
- (c) is capable of protection at common law or equity as confidential information; or
- (d) is derived or produced partly from the information in paragraphs (a), (b) or (c) above

but does not include information that:

- (e) is in the public domain; or
- (f) is independently known or developed by the party receiving the information other than as a result of a breach of this Deed or any other obligation of confidentiality owed by or to any other person.

Correctly Rendered Invoice means an invoice rendered in accordance with the [Department's Fact Sheet](https://www.industry.nsw.gov.au/__data/assets/pdf_file/0003/88158/fact-sheet-supplier-invoice-submission.pdf) https://www.industry.nsw.gov.au/__data/assets/pdf_file/0003/88158/fact-sheet-supplier-invoice-submission.pdf.

Customer(s) means the fleet managers to whom an Aggregator will lease EVs and provide their services.

Deed means this funding deed document and includes the Details, Terms, **Schedule A – Project Plan** and any other schedules, annexures or other documents cross-referenced in this deed.

EVs means electric vehicles which include BEVs and FCEVs.

FCEV means a fuel cell electric vehicle.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999*.

Incentive means the EV fleets incentive which is a payment to support the procurement of EVs and BEV Smart Chargers, provided in accordance with the Incentive Guidelines.

Incentive Guidelines means the guidelines for the Incentive attached to this Deed as **Annexure 1**.

Incentivised EVs means EVs for which Funding has been provided under this Deed.

Incentivised Smart Chargers means Smart Chargers for which Funding has been provided under this Deed.

Individual fleet means an organisation with at least 10 vehicles registered and used for business purposes in New South Wales.

Intellectual Property or IP includes:

- (a) all rights in relation to copyright, inventions, plant varieties, trademarks, designs, patents; and
 - (b) all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields including trade secrets and know-how,
- but does not include Moral Rights.

Moral Rights has the same meaning as in the *Copyright Act 1968 (Cth)*.

Notice means any approvals, consents, instructions, orders, directions, statements, requests and certificates, or other communication one party gives to another party in writing under this Deed.

Objectives means the objectives of the Activities described in **Schedule A – Project Plan**.

Personal Information has the same meaning as in the *Privacy and Personal Information Protection Act 1998 (NSW)*.

Report means a report provided by you, or that you arrange to be provided by your Customers (if you are an Aggregator), to the Department, that provides evidence of the Activities having been completed and other details as specified in **Schedule B – Reporting Requirements**.

Project Material means material created as part of or in performance of the Project including any documents or data and including any documents and data included with the application for the Funding.

Smart Chargers mean networked chargers, installed where the BEV is usually garaged, and that share data connections with the BEV being charged and a charging operator.

2. Term

- 2.1 This Deed will commence on the Commencement Date.
- 2.2 Unless terminated earlier, this Deed will end after you have completed the Project to the Department's satisfaction and the Department has paid all Funding due.

What you must do

3. Your Obligations

- 3.1 You must:
 - (a) ensure the Funding is used only for the approved Project;
 - (b) ensure each Activity is completed no later than the Activity Due Date in accordance with this Deed;
 - (c) comply with the reporting requirements set out in **Schedule B – Reporting Requirements**;
 - (d) ensure the Incentivised EVs and any Incentivised Smart Chargers are purchased by you from third parties unrelated to you, in an arm's length market transaction;

- (e) ensure the Incentivised EVs are purchased, received, registered and used primarily in New South Wales as a fleet vehicle designated to predominately support your business operations as more specifically described in Schedule A and in accordance with this Deed, including in accordance with your fleet policies, usual industry practices and standards;
- (f) ensure the Incentivised Smart Chargers (if any) are purchased, installed, and used to charge the Incentivised EVs at their garaging location(s) and in accordance with this Deed, including in accordance with usual industry practices and standards;
- (g) comply with all Commonwealth, State and Local government laws that are relevant to the Project, this Deed, or your registration as an entity;
- (h) not provide misleading, false or inaccurate information in or related to your Bid, the Project, the Incentive or this Deed and notify the Department immediately on becoming aware that any information provided to the Department in your Bid or otherwise related to this Deed is misleading, false or inaccurate; and
- (i) comply with all policies, guidelines and reasonable directions the Department provides to you.

About the Funding

4. Paying the Funding

4.1 The Department will make a single, upfront payment in accordance with **Schedule A – Project Plan**. Payment is made on condition that:

- (a) the Activities in respect of which payments are claimed have been performed to the satisfaction of the Department by the respective Activity Due Date;
- (b) the Department receives a Correctly Rendered Invoice from you that clearly identifies the payment you are claiming; and
- (c) you are not in breach of any term of the Incentive Guidelines or this Deed.

5. Withholding, Suspension and Repayment

5.1 The Department's obligation to make a payment will reduce where you have:

- (a) performed only part of the Activities by the Activity Due Date in respect of which payments are claimable in accordance with **Schedule A**; or
- (b) failed to provide sufficient evidence of performance, such that the Department is not satisfied (acting reasonably) that all Activities have been performed in full by the Activity Due Date.
- (c) provided any information or made any representations to the Department in your Bid, or as part of an audit carried out by the Department, that the Department considers may be inaccurate, misleading, deceptive, deceitful, or fraudulent and where further information is needed to resolve discrepancies and apparent inconsistencies.
- (d) been identified as not having complied with this Deed whether as a result of an audit or otherwise, such as but not limited to:

- i. the Incentivised EVs not being purchased, received, registered and/or used primarily in New South Wales as a fleet vehicle designated to predominately support your business operations;
 - ii. the Incentivised Smart Chargers (if any) not being purchased, installed and/or used to charge the Incentivised EVs at their garaging location(s); or
 - iii. inappropriate use of the Incentivised EVs and Smart Chargers.
- 5.2 Without prejudice to any other right the Department may have, if you are not complying with this Deed or the Incentive Guidelines, the Department may withhold or suspend payment until you comply with your obligations to the Department's satisfaction.
- 5.3 If the Department withholds or suspends any payment in accordance with **clause 5.2**, you must continue to perform your obligations under this Deed.
- 5.4 If you provided misleading, false or inaccurate information resulting in you receiving the Funding or part of the Funding to which you were not entitled under the terms of this Deed, you must repay to the Department the amount of the Funding to which you were not entitled.
- 5.5 You must repay within 20 Business Days of a demand being sent:
 - (a) any overpayment, including any payment which the Department subsequently determines (acting reasonably) you were not entitled to receive in accordance with the terms of this Deed.
- 5.6 The Department may set off the amount of any overpayment or Claim for repayment against:
 - (a) any future payment due under this Deed;
 - (b) any future payment under the Incentive;
 - (c) any amount owed to you or to which you are entitled to receive in future for any other reason or purpose from the Department or other NSW Government agency.
- 5.7 Any repayment the Department claims from you under this **clause 5** will be a debt due and owing by you to the Department.
- 5.8 Failure to repay in accordance with this Deed may result in the Department excluding you from future funding rounds and future grants.
- 6. GST**
- 6.1 All consideration for any supply under this Deed is inclusive of any GST imposed in relation to the supply, subject to **clause 6.2**.
- 6.2 If:
 - (a) despite any other provision of this Deed, GST is imposed on a supply; and
 - (b) you will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply, the amount of the Funding is not to include any amount for GST for which you are entitled to an input tax credit.

- 6.3 If you are not registered under the GST Law you will not be entitled to receive any additional amount for GST as provided under this **clause 6**.
- 6.4 If for any reason the Department pays you an amount under this **clause 6** which is more than the GST imposed on the supply, you must repay the excess to the Department on demand or the Department may set off the excess as specified in **clause 5.6**.

Material and Information

7. Reporting Requirements

- 7.1 You agree to provide the Department with written Reports at the times and containing the information specified in **Schedule B – Reporting Requirements**.
- 7.2 You must also provide any other information the Department reasonably requires from time to time concerning the Project.
- 7.3 If any Report contains information confidential to you, you should mark the relevant parts of the Report accordingly.

8. Intellectual Property

- 8.1 Intellectual Property in all Project Material vests in you, unless otherwise stated in the Special Conditions.
- 8.2 You grant the Department a perpetual, irrevocable, transferable, sub-licensable and royalty free licence to use the IP in the Project Material and Progress Reports.

9. Confidential Information

- 9.1 Each party must maintain the confidentiality of all commercially sensitive information it receives from the other party, including the amount of the Funding, except in accordance with **clause 11** (Public Announcements and Acknowledgement) and **clause 12** (Disclosure of Information), as required by law or as otherwise agreed in writing.

10. Privacy

- 10.1 You will:
- (a) ensure that Personal Information that is provided by the Department or collected by you under or in connection with this Deed is used only for the purposes of this Deed and is protected against loss, unauthorised access, use, modification and disclosure, or against other misuse;
 - (b) not disclose any Personal Information without the written consent of:
 - i. the individual to whom the Personal Information relates; or
 - ii. the Department,unless otherwise required or authorised by law;

- (c) comply with the Information Protection Principles applying to NSW public sector agencies under the *Privacy and Personal Information Protection Act 1998 (NSW)* when doing any act or engaging in any practice in relation to Personal Information as if you were an agency directly subject to that Act; and
- (d) include equivalent requirements regarding Personal Information (including this **clause 10**) in any subcontract entered into for the provision of any of the Activities under this Deed.

11. Public Announcements and Acknowledgement

11.1 You must:

- (a) promote and share via media and communications the Project and benefits of procured BEVs, FCEVs and Smart Chargers which includes estimated carbon emissions abated;
- (b) provide Notice to the Department of any public statements made by you related to the Project;
- (c) immediately correct any incorrect statements made by you referring to the Department and/or the Project; and
- (d) remove any public webpages, posts, statements or disclosures as to the Project as reasonably requested by the Department.

11.2 The Department may publish the title and brief description, including outcomes, of the Project and the amount of the Funding including but not limited to your name and the name of your business, the number and models of BEVs, FCEVs and Smart Chargers acquired.

12. Disclosure of Information

12.1 You acknowledge that, under the *Government Information (Public Access) Act 2009*, the Department may be required to publicly disclose information about this Deed at <https://tenders.nsw.gov.au>. None of the disclosure obligations require the disclosure of:

- (a) the commercial-in-confidence provisions of a contract;
- (b) any matter that could reasonably be expected to affect public safety or security; or
- (c) information which would be exempt from disclosure if it were the subject of an application under the *Government Information (Public Access) Act 2009*.

12.2 In the event of a request made under the *Government Information (Public Access) Act 2009*, you may nominate any items you consider are confidential and why, to assist the Department in determining what items to disclose.

Dealing with Risk

13. Insurance

13.1 You must maintain, at your own cost:

- (a) a broadform public liability policy of insurance to the value of at least \$5 million in respect of each claim and in the aggregate as to the number of occurrences in the policy period;
- (b) workers' compensation insurance as required by all relevant laws of Australia relating to workers compensation;
- (c) the Additional Insurance Policies listed in the Details for the minimum sum provided.

13.2 You must not do, permit or suffer any act, matter or thing or omission whereby any of the policies required under this clause lapse or may be vitiated, rendered void or voidable.

13.3 On request by the Department, you must provide a copy of valid and current certificates of currency for each or any of the policies required under this clause.

13.4 Without limitation to **clause 13.1**, each party warrants that it has and will maintain appropriate insurance to cover any liability it may incur in relation to this Deed.

14. Indemnities

14.1 You must indemnify and keep indemnified the Department, the Crown in right of the State of New South Wales and their officers, employees and agents from and against any loss (including legal costs and expenses on a solicitor/own client basis) or liability incurred or suffered by, or made against, any of those indemnified arising directly or indirectly from any Claim by any person as a result of or in connection with:

- (a) the Funding or the Project;
- (b) your breach of this Deed;
- (c) any unlawful or negligent act or omission by you, your employees or your subcontractors in connection with this Deed;
- (d) any illness, injury or death of any person you, your employees or your subcontractors cause or contribute to, in connection with this Deed;
- (e) any loss or damage to real or personal property you, your employees or your subcontractors cause or contribute to, in connection with this Deed; or
- (f) any act or omission by you, your employees or your subcontractors in connection with this Deed that is in infringement of any Intellectual Property, or privacy rights of the Department or any third party.

14.2 Your liability to indemnify the Department under this clause will be reduced proportionately to the extent that any negligent or unlawful act or omission by the Department, its officers, employees or agents contributed to the relevant loss or liability.

14.3 Your liability to indemnify the Department under this clause does not exclude or reduce the liability of, or benefit to, a party that may arise by operation of the common law, statute or the other terms of this Deed.

Terminating the Deed

15. Termination

15.1 Where a party has breached this Deed:

- (a) the other party may give a Notice to that party requiring it to rectify that breach within 10 Business Days of receiving that Notice; and
- (b) if the party which received the Notice fails to rectify that breach in time, the other party may terminate this Deed immediately by giving a further Notice.

15.2 The Department may terminate this Deed by Notice, with effect on the date stated in the Notice, if:

- (a) you breach any of the following provisions: **clause 3** (Your Obligations), **clause 7** (Reporting Requirements), or **clause 18.8** (Assignment);
- (b) the Department considers that there has been a material change in circumstances in your financial position, your structure or your identity; or
- (c) you become insolvent, are the subject of a debtors or creditors petition under the *Bankruptcy Act 1966*, resolve to go into administration or liquidation, or if a summons for your winding up is presented to a court or you enter into any scheme of arrangement with your creditors.

15.3 This **clause 155** does not exclude or reduce the rights of a party to terminate this Deed arising by operation of the common law or statute or the other terms of this Deed.

15.4 On termination or expiry of this Deed:

- (a) accrued rights and obligations are not affected; and
- (b) the Department will make any payments due and payable (after taking into account any payments already made prior to that date and the Activities completed in accordance with this Deed).

Other Legal Matters

16. Dispute Resolution

16.1 If a dispute arises in relation to this Deed (“a Dispute”), a party must comply with this **clause 16** before starting court proceedings except proceedings for urgent interlocutory relief.

16.2 A party claiming that a Dispute has arisen must notify the other party in writing giving details of the Dispute (a “Dispute Notice”) in accordance with the requirements of **clause 17** (Notices).

16.3 Following receipt of a Dispute Notice, each party must immediately refer the Dispute to a senior representative, who:

- (a) does not have prior direct involvement in the Dispute; and

(b) has authority to negotiate and settle the Dispute.

16.4 If the Dispute is not resolved within 10 Business Days, from the date the Dispute Notice is received by the party to whom the Dispute Notice is given, the party which gave the Dispute Notice under **clause 16.2** must immediately refer the Dispute for mediation by the Australian Disputes Centre Limited (ADC) for resolution in accordance with the mediation rules of the ADC.

16.5 If the Dispute is not resolved within 40 Business Days after referral to mediation either party may initiate proceedings in court.

16.6 Each party must pay its own costs of complying with this clause and split the costs of the mediator evenly.

17. Notices

17.1 Unless otherwise stated in this Deed, all Notices to be given under this Deed must be in writing, and hand-delivered, posted or emailed to the Authorised Officer specified in the Details or as otherwise notified in writing.

17.2 The receiving party will be deemed to have received the Notice as follows:

- (a) if hand delivered, on the day on which it is delivered or left at the relevant address;
- (b) if sent by post within Australia:
 - i. if posted using Express Post, the priority letter service option of regular post, or the priority service option for Registered Mail, on the fourth Business Day after the day on which it is posted;
 - ii. if posted using the regular post option, on the tenth Business Day after the day on which it is posted;
- (c) if sent by email before 5.00pm on a Business Day, the first of the following occurring:
 - i. when the sender receives an automated message confirming delivery; or
 - ii. four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not be delivered.
- (d) if sent by email after 5.00pm on a Business Day or on a day that is not a Business Day, then it will be deemed to be received on the next Business Day.

17.3 Any such mode of service will be in all respects valid notwithstanding that the party on whom service is affected may be in liquidation, bankruptcy or wound up and notwithstanding any other matter or event whatsoever.

18. General

18.1 **Survival:** The following clauses survive termination or expiry of this Deed: **clause 7** (Reporting Requirements), **clause 8** (Intellectual Property), **clause 9** (Confidential

Information), **clause 10** (Privacy), **clause 11** (Public Announcements and Acknowledgements), **clause 12** (Disclosure of Information), **clause 13** (Insurance), **clause 14** (Indemnities), **clause 15** (Termination), **clause 18.2** (Keeping of records), this **clause 18.1** and any other clause which by its nature is intended to survive this Deed.

18.2 **Keeping of records, audit and rights of access to such records:** You:

- (a) must keep complete and accurate records and books of account with respect to:
 - i. your performance of the Project (the “Project Records”) and must retain such Project Records for a minimum of 7 years after expiry or termination of this Deed;
 - ii. any sale of the Incentivised EVs and Incentivised Smart Chargers (“Sale Records”) and must retain such Sale Records for a minimum of 7 years after the sale; and
 - iii. the usual garage of the Incentivised EVs and Incentivised Smart Chargers for a period of 5 years or until sold, if earlier, (“Location Records”) and must retain such Location Records from the date of acquisition for a minimum of 7 years.
- (b) authorise the Department and any State or Commonwealth Government department or agency (the “Auditors”) that has provided moneys to the Department for the purposes of the Project, to undertake audits, to examine and inspect, at reasonable times and on reasonable notice:
 - i. any Project Records, Sale Records and Location Records held by you, and allow any such records to be copied;
 - ii. the usual garage of the Incentivised EVs and Incentivised Smart Chargers; and
 - iii. the Incentivised EVs and Incentivised Smart Chargers.
- (c) must provide all reasonable assistance in order for the Auditors to properly carry out the inspections and audits referred to in this clause.

18.3 **Conflict of Interest:** You must not carry on or be involved in any capacity in an activity or business, which may conflict with, or adversely affect, your ability to carry out your obligations under this Deed, and you will immediately notify the Department in writing if such a conflict or risk of such a conflict arises.

18.4 **Entire Deed:** This Deed states all the express terms agreed by the parties as to the matters referred to in this Deed. It supersedes all prior contracts, obligations, representations, conduct and understandings between the parties relating to the subject matter of this Deed.

18.5 **Inconsistency:** If there is any inconsistency between provisions of this Deed then the order of precedence will be:

- (a) the **Details**; then
- (b) any **Special Conditions**; then
- (c) these **Terms**; then

(d) any **Schedules**.

18.6 Negation of employment, partnership or agency

- (a) This Deed does not create a relationship of agency, partnership, and/or employment between the parties.
- (b) You must not represent yourself as being an employee or agent of the Department or as otherwise able to bind or represent the Department.

18.7 Waiver

- (a) If a party fails to exercise any of its rights under this Deed, or delays exercising those rights, that failure or delay will not operate as a waiver of those rights or any future rights or in any respect estop a party from relying on the terms of this Deed to their full force and effect.
- (b) Any waiver by a party of a breach of this Deed by the other party must be in writing and will not be construed as a waiver of any further breach of the same or any other provision.

18.8 **Assignment:** You must not assign or novate your obligations or interests under this Deed, without the prior written consent of the Department.

18.9 **Counterparts:** This Deed may be signed in any number of counterparts which taken together will constitute one instrument.

18.10 **Electronic Execution:** Subject to applicable laws, the parties may execute this Deed, and any document entered under it, electronically (including through an electronic platform). Notwithstanding the way a document under this Deed is submitted or accepted, the terms of this Deed will apply and any click-wrap, "pop-up" or other like terms and conditions of the Grantee appearing in the course of such submittal or acceptance will have no force or effect.

18.11 **Governing Law:** The laws of New South Wales govern this Deed and the parties submit to the non-exclusive jurisdiction of the courts in that State.

Executed as a deed

Department

Signed, sealed and delivered for and on behalf of the Crown in right of the State of New South Wales acting through the **Department** by its authorised signatory but not so as to incur personal liability:

Signature of Authorised Signatory

Signature of Witness

Name of Authorised Signatory

Name of Witness

Position of Authorised Signatory

Address of Witness

Date

You (Company/Organisation)

Signed, Sealed and delivered for on and on behalf of [Click here to enter Company/Organisation name Ltd](#) in accordance with section 127 of the *Corporations Act 2001* by:

Signature of Director(1)

Signature of Director(2)/Company Secretary

Name of Director (1)

Name of Director(2)/Company Secretary

Date

Date

Schedule A – Project Plan – Individual fleet stream

Item	Description of Activities – INDIVIDUAL FLEET STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
01	<p>If buying the EVs, you must provide purchase orders for the EVs included in your Bid and the purchase order(s) must:</p> <ul style="list-style-type: none"> be dated on or after 30 November 2021 (i.e. the date of the bidding round opening); and include details of the number and the model of each of the EVs and match the information provided in your Bid. <p>If leasing the EVs, you must provide the leasing quote/order for the EVs included in your Bid and the leasing quote/order must:</p> <ul style="list-style-type: none"> be dated on or after 30 November 2021 (i.e. the date of the bidding round opening); and be signed by both your lessor and you with only signatures of authorised representatives being acceptable. 	N/A	N/A	<p>By [the Department to insert the date]</p> <p>Within 40 Business Days from the notification of Bid results (as per the Incentive Guidelines)</p>	N/A

EV fleets incentive

Funding Deed



Item	Description of Activities – INDIVIDUAL FLEET STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<p>You must provide a purchase order or a leasing quote/order for all the vehicles included in your Bid.</p> <p>You must submit the purchase order(s)/leasing quote/order via the bidding platform, within 40 Business Days from the notification of Bid results. [the Department to insert date]</p>				
02	<p>For all the EVs and Smart Chargers included in your Bid, you must provide:</p> <ul style="list-style-type: none"> • proof of EVs’ registration in NSW, which must include: <ul style="list-style-type: none"> ○ Certificate of Registration, showing registration number, registration history, registered owner, vehicle use, Vehicle Identification Number – VIN, and the duty paid amount; ○ Completed Registration Template. The Template can be downloaded from the Energy Saver website. • proof of purchase of the Smart Chargers, in the form of a valid tax invoice that must: 	N/A	N/A	<p>By [the Department to insert the date]</p> <p>Within 120 Business Days from notification of Bid results (as per the Incentive Guidelines)</p>	N/A

EV fleets incentive

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Item	Description of Activities – INDIVIDUAL FLEET STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<ul style="list-style-type: none"> ○ be issued against your organisation’s name and ABN; ○ include all the Smart Chargers included in your Bid; and ○ be dated after your notification results date [the Department to insert the notification results date] <p>You must submit the proof of vehicle registration and the proof of purchase of the Smart Chargers via the bidding platform, within 120 Business Days from the notification of Bid results.</p>				
03	<p>You must participate in any due diligence activity/audit initiated by the Department to verify:</p> <ul style="list-style-type: none"> • the legitimacy/integrity of the information provided in your Bid. • the purchase, receipt and registration of the Incentivised EVs. • the acceptable use of Incentivised EVs, i.e. that the EVs must: <ul style="list-style-type: none"> ○ be designated and used to support your business operations and 	N/A	N/A	Audits may happen at any time, from the Commencement Date of this Deed till the conclusion of the reporting activities. The Department will provide	

EV fleets incentive

Funding Deed



Item	Description of Activities – INDIVIDUAL FLEET STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<ul style="list-style-type: none"> ○ be used in NSW (with only occasionally interstate trips allowed). ● Purchase and installation of the funded Smart Chargers and their use to charge the Incentivised EVs at their garaging location(s). <p>The participation in audit/due diligence activities will include:</p> <ul style="list-style-type: none"> ● the provision of any information requested by the Department which is relevant to verification purposes. ● access to premises where the Incentivised EVs are garaged and where the Smart Chargers have been installed (if applicable). ● evidence of on-site renewable energy systems that are used to recharge the Incentivised EVs (if applicable). 			reasonable notice.	
04	<p>To request payment of Funding, you must</p> <ul style="list-style-type: none"> ● have provided the required evidence for payment for all EVs included in your Bid as per items 01 and 02 of this Schedule. 	\$ [insert value: 100% vehicles + chargers]	N/A	By [the Department to insert the date]	After receiving confirmation from the Department that the evidence for payment (item 02) is satisfactory

EV fleets incentive

Funding Deed



Item	Description of Activities – INDIVIDUAL FLEET STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<ul style="list-style-type: none"> submit a Correctly Rendered Invoice to electricvehicles@environment.nsw.gov.au and include in the subject of your e-mail the EV fleets incentive funding round you participated in. <p>The Correctly Rendered Invoice must:</p> <ul style="list-style-type: none"> include a valid registered ABN in your organisation’s name. include all the EVs included in your Bid for the EV fleets incentive funding round one of November 2021. include 100% of the Funding payment for the EVs and – if applicable – for the Smart Chargers, included in your Bid. <p>You can only submit <u>one</u> invoice for all your EVs and Smart Chargers (if applicable).</p>			(120 Business Days from the notification of results as per the Incentive Guidelines)	
05	<p>Participate in the reporting requirements set out in Schedule B for a period of 2 years from the date all Incentivised EVs have been registered.</p> <p>You acknowledge that the objectives of such reporting is to:</p>	N/A	N/A	Refer to Schedule B	N/A

EV fleets incentive

Funding Deed



Item	Description of Activities – INDIVIDUAL FLEET STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<ul style="list-style-type: none"> ensure all Incentivised EVs and Smart Chargers are being used according to the terms of this Deed and the Incentive Guidelines; allow the Department to verify the emissions abatement from the Incentivised EVs' usage; and analyse the Incentive's impact. <p>You undertake to provide such additional information and reporting as is required by the Department to enable the above objectives to be achieved.</p> <p>If you do not provide a complete annual Report, the Department may exclude you from future funding rounds and/or future grants funding.</p>				
Objectives of the Project	To procure EVs and, if applicable, Smart Chargers to support your business operations in NSW.				
Invoicing Requirements (if required)	Invoicing must be in the form of a Correctly Rendered Invoice with a valid registered ABN of the Grantee.				

Schedule A – Project Plan – Aggregator stream

Item	Description of Activities – AGGREGATOR STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
01	<p>You must provide:</p> <ul style="list-style-type: none"> • a total cost of ownership (TCO) gap report for the ordered EVs, with assumptions and supporting evidence, and including the estimated emissions abated based on the final mix of vehicles, and evidence for the renewable energy nominated by the Customer for vehicle charging. • fleet structure information on each of the Customers to whom you are leasing the Incentivised EVs. • a signed declaration by each of the Customers, confirming the number of EVs to be leased, the number of Smart Chargers procured and the value of the Funding included in the leasing package. • purchase orders for the Incentivised EVs that will be leased which must: <ul style="list-style-type: none"> ○ be dated on or after 30 November 2021 (i.e. the date of the bidding round opening) 	N/A	N/A	<p>By [the Department to insert the date]</p> <p>Within 60 Business Days from the notification of Bid results (as per the Incentive Guidelines)</p>	N/A

EV fleets incentive

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Item	Description of Activities – AGGREGATOR STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<ul style="list-style-type: none"> include details of the number and the model of EVs and match the information provided in your Bid. <p>The TCO gap report, the fleet structure information and the customer declaration must be completed using the templates downloadable from the Energy Saver website.</p> <p>If you do not raise purchase orders for the number of EVs included in your Bid, you will be paid Funding only for the vehicles for which you have raised purchase orders and which you purchase or lease.</p> <p>The Funding will be calculated by decreasing proportionally the total Funding requested in the Bid on a per vehicle basis.</p> <p>If your final payment from the Incentive requested per tonne of CO₂e abated (as shown in the TCO gap report) is higher than the amount requested in the Bid, the payment per vehicle will be decreased proportionally to compensate for the difference.</p> <p>If your final payment from the Incentive requested per tonne of CO₂e abated is lower (as shown in</p>				

EV fleets incentive

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Item	Description of Activities – AGGREGATOR STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<p>the TCO gap report) or equal to the amount requested in the Bid, no further adjustments will be required, and the payment per vehicle as initially requested will be the same.</p> <p>You must submit the purchase order(s) via the bidding platform, within 40 Business Days from the notification of Bid results. [the Department to insert date]</p>				
02	<p>For all the EVs and Smart Chargers included in your Bid, you must provide:</p> <ul style="list-style-type: none"> • proof of EVs' registration in NSW which must include: <ul style="list-style-type: none"> - Certificate of Registration, showing registration number, registration history, registered owner, vehicle use, Vehicle Identification Number – VIN and the duty paid amount) 	N/A	N/A	<p>By [the Department to insert the date]</p> <p>Within 120 Business Days from notification of Bid results (as per the Incentive Guidelines)</p>	N/A

EV fleets incentive

Funding Deed



Item	Description of Activities – AGGREGATOR STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<p>- Completed Registration Template (the template can be downloaded from the Energy Saver website)</p> <ul style="list-style-type: none"> • proof of purchase of the Smart Chargers, in the form of a valid tax invoice that must: <ul style="list-style-type: none"> • be issued against either your organisation or your customers' business name and ABN; • include all the Smart Chargers included in your Bid; and • be dated after your notification results date [the Department to insert the notification results date]. <p>You must submit the proof of EV registration and the proof of purchase of the Smart Chargers via the bidding platform, within 120 Business Days from notification of Bid results [the Department to insert date].</p>				
03	You must participate and ensure the participation of your Customers in any due diligence activity/audit initiated by the Department to verify:	N/A	N/A	Audits may happen at any time, from the Deed	

EV fleets incentive

Funding Deed



Item	Description of Activities – AGGREGATOR STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<ul style="list-style-type: none"> • the legitimacy/integrity of information provided in your Bid • the purchase, receipt and registration of EVs being incentivised • the acceptable use of Incentivised EVs, i.e. the EVs must: <ul style="list-style-type: none"> ○ be designated and used to support your Customers' business operations and ○ be used in NSW (with only occasional interstate trips allowed). • purchase and installation of funded Smart Chargers and their use to charge the Incentivised EVs at their garaging locations. <p>The participation in audit/due diligence activities will include:</p> <ul style="list-style-type: none"> • the provision of any information requested by the Department which is relevant to the verification purposes. 			<p>execution till the conclusion of the reporting activities. The Department will provide reasonable notice.</p>	

EV fleets incentive

Funding Deed



Item	Description of Activities – AGGREGATOR STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<ul style="list-style-type: none"> access to premises where the Incentivised EVs are garaged and where the Smart Charger have been installed (if applicable) access to on-site renewable energy systems that are used to recharge the Incentivised EVs (if applicable) 				
04	<p>To request payment of Funding, you must</p> <ul style="list-style-type: none"> have provided the required evidence for payment for the Incentivised EVs and Incentivised Smart Chargers, if applicable, as per items 01 and 02 of this Schedule. submit a Correctly Rendered Invoice to electric.vehicles@environment.nsw.gov.au and include in the subject of your e-mail the EV fleets incentive funding round you participated in. <p>The Correctly Rendered Invoice must:</p> <ul style="list-style-type: none"> include a valid registered ABN in your organisation's name. 	\$ [insert value: 100% vehicles + chargers]	N/A	By [the Department to insert the date] (120 Business Days from the notification of results as per the Incentive Guidelines)	After receiving confirmation from the Department that the evidence for payment (item 02) is satisfactory

EV fleets incentive

Funding Deed



Item	Description of Activities – AGGREGATOR STREAM	Instalment (including GST)	Your Contribution (including GST) (If applicable)	Activity Due Date	When to send invoice
	<ul style="list-style-type: none"> include all the EVs for which you have placed a purchase order. include 100% of the Funding payment for the EVs and – if applicable – for the Smart Chargers. <p>You can only submit <u>one</u> invoice for all your EVs and Smart Chargers (if applicable).</p>				
05	<p>You must participate in the reporting requirements set out in Schedule B for a period of 2 years from the date all Incentivised EVs have been registered.</p> <p>You acknowledge that the objectives of such reporting is to:</p> <ul style="list-style-type: none"> ensure all Incentivised EVs and Smart Chargers are being used according to the terms of this Deed and the Incentive Guidelines; allow the Department to verify the emissions abatement from the Incentivised EVs' usage; and analyse the Incentive's impact. 	N/A	N/A	Refer to Schedule B	N/A

EV fleets incentive

Funding Deed



Item	Description of Activities – AGGREGATOR STREAM	Instalment (including GST)	Your Contribution (including GST) (if applicable)	Activity Due Date	When to send invoice
	<p>You undertake to provide such additional information and reporting as is required by the Department to enable the above objectives to be achieved.</p> <p>If you do not provide a complete annual Report, the Department may exclude you from future funding rounds and/or future grants funding.</p>				
Objectives of the Project	To procure EVs and, if applicable, Smart Chargers to support your Customers' business in NSW.				
Invoicing Requirements (if required)	Invoicing must be in the form of a Correctly Rendered Invoice with a valid registered ABN of the Grantee.				

Schedule B – Reporting Requirements (refer to **clause 7**)

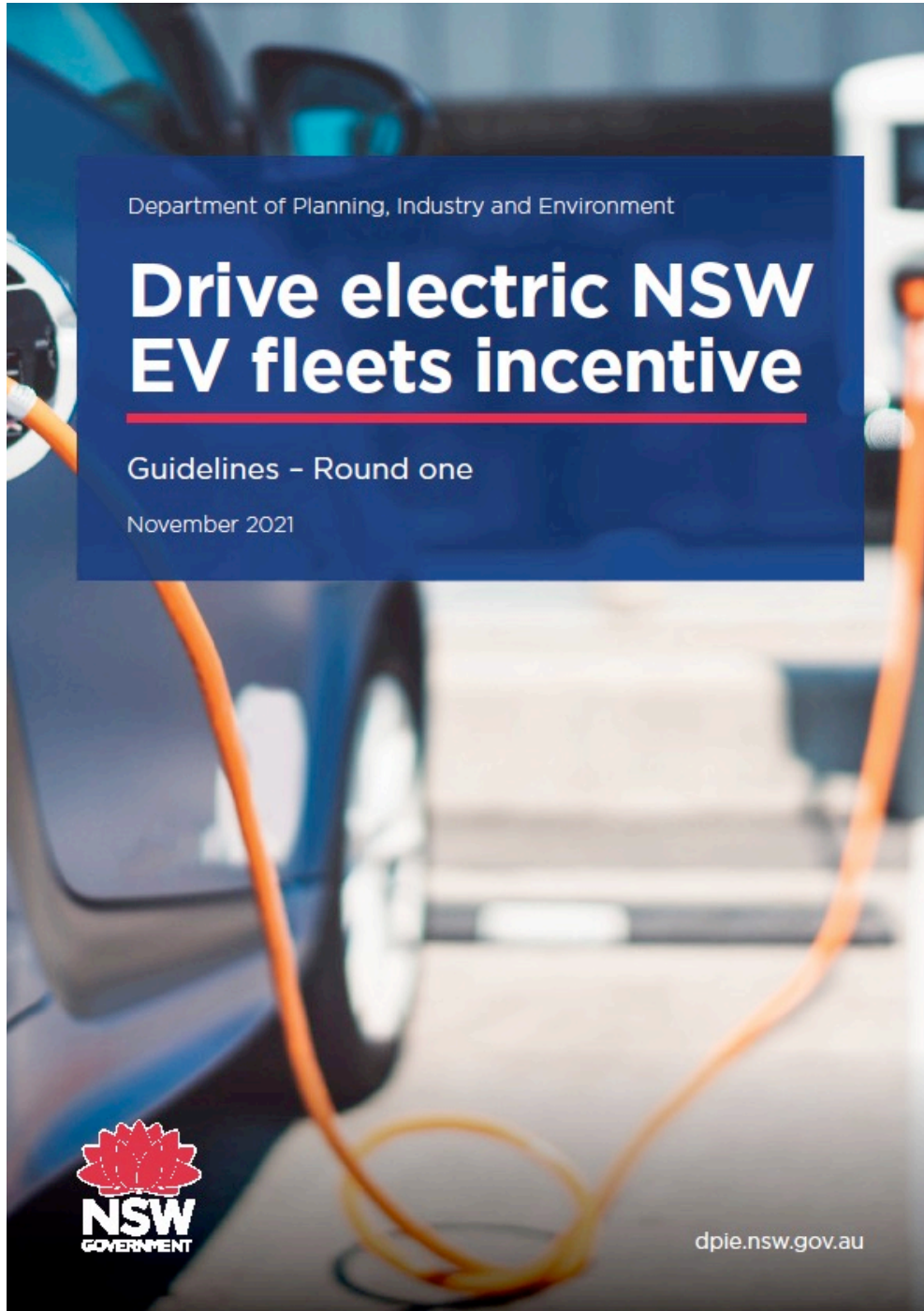
Reporting requirements:

1. You must provide to the Department, annually for the first 2 years following registration of the EVs and within 15 Business Days of a written request from the Department, in the form and using any template specified by the Department, Reports on the Incentivised EVs including:
 - i. copies of servicing and maintenance logbooks for each EV;
 - ii. details of annual mileage for each EV;
 - iii. details of energy usage and the percentage of energy sourced from renewable resources for each EV;
 - iv. Smart Charger usage Reports; and
 - v. information on when fleet managers plan to resell the Incentivised EVs on the second-hand market.

Aggregators must collate this information from their Customers and provide in an aggregated format to the Department.

2. Both Individual fleets and Aggregators (or Customers of Aggregators), must participate in surveys the Department may set up to analyse the Incentive's impact. For example, surveys may collect information about:
 - i. driver/staff sentiment towards EVs;
 - ii. levels of utilisation compared to internal combustion engine vehicles, hybrid electric vehicles and plug-in hybrid electric vehicles;
 - iii. the suitability of EV models chosen;
 - iv. staff charging behaviour (e.g. usage of public or private charging, state of charge vehicles are required to be charged to);
 - v. future EV procurement plans; and
 - vi. other items that may help to assess the Incentive's impact.
3. You are to meet with the Department, if requested on reasonable notice by the Department at the Department's discretion, to discuss progress on the Project.
4. The Department may undertake audits from time to time to ascertain compliance of the Activities. The Department will provide reasonable notice to you.

Annexure 1 – Scheme Guidelines



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