

[Insert Applicant
name, address and
Grant Number]

[•] 202[•]

Zero-Emission Heavy Duty Vehicle - Infrastructure Grant Scheme (the Scheme)

Dear [•],

Thank you for submitting your Application for a grant to be made pursuant to the Scheme in connection with your development of recharging infrastructure for zero-emission heavy duty vehicles (**Recharging Infrastructure** or **ZEHDV-I**).

1. Approval

1.1 Your Application has been considered and we are pleased to confirm that:

- (a) your development of Recharging Infrastructure set out in Table 1 below (the **Approved Development**) has been approved as eligible for the Scheme;
- (b) we are prepared to offer to make available to you a grant (the **Grant**) in order to assist you in the development of your Recharging Infrastructure;
- (c) you have been provisionally categorised as a [insert SME categorisation]; and
- (d) the amount provisionally proposed to be made by way of grant (the **Provisional Grant Amount**) is set out in Table 1,
- (e) the amount provisionally made available to you can be provided in the 202[X] budgetary year,

in each case, subject to the terms set out in this Grant Letter (including Appendix A and Appendix B).

Table 1

| Ref. | Installation Address (including Eircode & x/y coordinates of site) | Economically Disadvantaged Area increase % | Provisional Grant Amount |
|-------------|---|---|--|
| 1 | [insert installation address] | [insert percentage increase for relevant EDA (if any)] | [insert provisional grant amount, i.e. amount to be awarded if all applicant information is verified] |
| Total | | | |

1.2 The amount of the Grant which we may pay shall not exceed the Provisional Grant Amount set out in Table 1 above but may be adjusted downwards in accordance with the terms of this Grant Letter.

2. *This Letter*

- 2.1 This is a Grant Letter for the purposes of the Scheme.
- 2.2 Upon your acceptance of this Grant Letter in accordance with paragraph 3.1 below, this Grant Letter becomes a legal document with obligations and responsibilities for you.
- 2.3 Upon your acceptance of this Grant Letter:
- (a) you will be required to satisfy the conditions listed in paragraph 7.2, in each case, to our satisfaction; and
 - (b) upon you so doing, we will verify your status as a “SME” and make the determination contemplated by paragraph 7.3,

at which point, we will notify you of the amount of the Grant determined in accordance with paragraph 7.3. Please note that until that final determination is made in accordance with paragraph 7.3, we do not have or assume any responsibility or obligation to you.

- 2.4 Before accepting the Grant Letter, you should familiarise yourself with all the terms and conditions which are part of the Grant Letter (and their impact on any agreement you may enter into by reason of your satisfaction of your obligations under the Grant Letter).

3. *Validity Period and Acceptance of the Grant Letter*

- 3.1 The Grant Letter is open to be accepted by you for the period from the date of this Grant Letter expiring twenty one (21) days after the date of this Grant Letter (**Validity Period**). Accordingly, in order for a Grant to be made available for your installation of ZEHDV-I , you must, as a preliminary step on or before the expiry of the Validity Period, accept the terms and conditions of this Grant Letter by duly executing (e.g., by duly signing and dating) this Grant Letter and returning it by email to zehdvgrant@pierse.ie

This is without prejudice to the other requirements and conditions of this Grant Letter.

- 3.2 Please note that if you do not return this Grant Letter duly executed within the Validity Period, the provisional offer contemplated by this Grant Letter will automatically lapse and cease to have effect and you will not be able to proceed to the next stage of the application process (as set out in paragraph 7).
- 3.3 If the provisional offer has lapsed in accordance with paragraph 3.2, you will have to submit a new Application for a Grant which will be the subject of a separate decision, offer and conditions.
- 3.4 Please note that, as set out in clause 1.2 of Appendix B, you (together with your Affiliates) may not receive Grants under the Scheme:
- (a) where you have received Grants under the Scheme where the combined total of the Grants exceeds €300,000 within the budgetary year of the grant application(including the Grant that is the subject of this Grant Letter);
 - (b) where you do not have an establishment or branch within Ireland as of the date the Grant is paid to you;

- (c) for any installation site for Recharging Infrastructure which has received or is to receive any subsidy or grant under any other scheme or has previously received funding through this Scheme for the same Recharging Infrastructure; or
- (d) where you and/or an Affiliate are subject to an outstanding recovery order for repayment of State aid previously granted by the State following a decision by the European Commission that such aid was illegal and incompatible with the EU internal market,
- (e) for the installation of Recharging Infrastructure that is located in a 'port' or which constitutes a part of 'port infrastructure', as in each case as defined by GBER;
- (f) where you have started the works for the Recharging Infrastructure prior to applying for the Grant in accordance with the definition of Start of Works as outlined in Appendix A.

and, without prejudice to the other requirements specified in this Grant Letter, our intention to make any payment in connection with a Grant to you, and your receipt of a Grant, under this Grant Letter is subject to these requirements. For the avoidance of doubt, while it is our intention to provide a Grant where all required conditions are satisfied, we are under no legal obligation to do so.

4. *Confirmations/further information*

- 4.1 It is a condition of this Grant Letter that all documentation and information supplied by you in relation to the Scheme is true and correct as of (a) the date it was supplied; (b) the date this Grant Letter is entered into by you and (c) the date the Grant is paid to you.
- 4.2 You acknowledge that we are relying on the documentation and information supplied by and to be supplied by you in making decisions in connection with the Scheme, including in connection with this Grant Letter.
- 4.3 Without prejudice to paragraph 4.1, we may seek such documents, information or confirmations from you as we may determine in relation to any matter in connection with (a) your Application, (b) the installation of the Recharging Infrastructure, or (c) this Grant Letter. This may include, without limitation, seeking the original of the Grant Letter duly executed by you.

5. *Purpose of Grant*

- 5.1 The Grant is being provided to facilitate the development of zero-emission heavy duty vehicle charging infrastructure in order to promote future-proof clean technologies to accelerate the use of sustainable, accessible and smart transport.

6. *Charging Infrastructure – Requirements*

- 6.1 The Recharging Infrastructure shall, as of the date of its installation satisfy the following criteria:
 - (a) the Recharging Infrastructure shall be new and not have been used previously;
 - (b) the charging point should provide a minimum of 50kW power output at a single Recharging Points or 22kW power output at each of two Recharging Points;
- 6.2 The Recharging Points must be capable of recharging operation in which the intensity of electricity delivered to the battery is adjusted in real-time, based on information received

through electronic communication (otherwise known as Smart Charging).

6.3 Where the Recharging Infrastructure is open for access by users other than the Grantee the following conditions shall apply:

- (a) The Recharging Infrastructure:
 - (i) cannot be placed behind gates, barriers or locked compounds;
 - (ii) must be located on a site that is accessible to the public free of charge and does not require membership or possession of a token;
 - (iii) is to be available to the public 24/7 for charging;
 - (iv) is to be provided on a non-discriminatory basis to users, including in relation to tariffs, authentication and payment methods and other terms and conditions of use; and
 - (v) is made available to users at usage fees which correspond to market prices.
- (b) if you or an Affiliate are the operator of the Recharging Infrastructure allow contract-based payments for use of the Recharging Infrastructure, you may not discriminate between mobility service providers without an objective justification.
- (c) if you grant a concession or other entrustment to a third party to operate the Recharging Infrastructure:
 - (i) you shall do so on a competitive, transparent, and non-discriminatory basis, having due regard to applicable procurement laws; and
 - (ii) you shall procure compliance with paragraph 6.2(b) on the part of the operator.
- (d) you shall comply with the technical requirements specified by the European Commission in accordance with AFIR.

6.4 The Site may not be in a port (as defined in GBER).

7. *Grant Payment*

7.1 We will make a decision in respect of payment of a Grant to you, which is at our absolute discretion, where:

- (a) you are in compliance with the requirements of this Grant Letter (including paragraph 3.4);
- (b) you have satisfied the conditions listed in paragraph 7.2, in each case, in accordance with paragraph 7.2; and
- (c) we have verified whether you qualify as a "SME" in accordance with paragraph 7.3.

7.2 You shall provide to us, in form and substance satisfactory to us, by 31 October of the calendar year in which the Grant Letter has been accepted (the ***Grant Availability Period***):

- (a) copy of the Safe Electric Completion Certificate for the electrical installation of the Recharging Infrastructure, for each installation site referenced in Table 1;
- (b) copy of the ESB Networks DAC VAT invoice showing the connection cost of the Recharging Infrastructure by you on a date following the date of your entering into the Grant Letter, for each installation site referenced in Table 1;

- (c) copy of the contractor VAT invoice showing the purchase and installation of the Recharging Infrastructure by you on a date following the date of your entering into the Grant Letter, for each installation site referenced in Table 1;
- (d) a copy of the contractor Declaration of Works showing the equipment installed, for each installation site referenced in Table 1;
- (e) x/y coordinates and photographs of the equipment installed , for each installation site referenced in Table 1;
- (f) your Tax Reference Number and Tax Clearance Access Number so that we can access your current tax clearance certificate or such other evidence in relation to establishing your tax compliance as we might specify;
- (g) a financial statement for the last two (2) operating years, or a link to your published accounts, if applicable; and
- (h) provide such information or confirmations as may have been required from you in accordance with paragraph 4.3.

7.3 On the conditions in paragraph 7.2 being satisfied, we shall:

- (a) verify whether you qualify as a “SME” for the purposes of GBER and your compliance with the terms of this Grant Letter;
- (b) verify if the installation location is located in an Economically Disadvantaged Area and thus if you are eligible for an uplift to the maximum allowed percentage of Eligible Costs for the purposes of GBER;
- (c) verify whether there has been any change in the circumstances or matters taken into account in our initial assessment when determining the Provisional Grant Amount;
- (d) subject to paragraph 7.5, determine having regard to:
 - (i) paragraph 3.4;
 - (ii) paragraph 7.2(b & c);
 - (iii) the amount of the Eligible Costs for the Recharging Infrastructure;
 - (iv) clause 1.17 of Appendix B; and
 - (v) the Provisional Grant Amount; and

the amount of the Grant to be paid to you; and
- (e) notify you of the amount of the which we will make available under this Grant Letter and seek your bank details in accordance with paragraph 7.7.

7.4 If you do not satisfy the conditions set out in paragraph 7.2 on or before the end of the Grant Availability Period, any obligations or liability on our part in connection with the Grant (or any amount in respect of it) shall cease and this Grant Letter will terminate.

- 7.5 If we determine that your status as a “SME” has changed, that you are not compliant with this Grant Letter or that there has been a change in the circumstances taken into account in our initial assessment of the Provisional Grant Amount, then, at our discretion, we may:
- (a) cease to consider your Application;
 - (b) ask you to submit a new Application;
 - (c) seek further information or clarifications from you; and/or
 - (d) consider your Application by reference to the change in status or circumstances, and determine the amount of the Grant by reference to such changed status or circumstances.
- 7.6 Provided you comply with the requirements of this Grant Letter, we shall use our reasonable endeavours to pay, or procure the payment to, your bank account of the Grant within two (2) months of you supplying us with the information referred to in paragraph 7.7.
- 7.7 In the event of our notification to you in accordance with paragraph 7.3, within thirty (30) days of your receipt of such notification, you will then provide the Scheme Operator with your bank details to facilitate the payment of the Grant by electronic funds transfer to such account specified. The bank details required will be those specified in our notification to you in accordance with paragraph 7.3.
8. *Excusing Events*
- 8.1 You shall be entitled to request an extension of the Grant Availability Period to the extent that:
- (a) you can demonstrate to our satisfaction that your ability to complete the associated installation works within the Grant Availability Period is directly and materially adversely affected by any Excusing Event; and
 - (b) you are not responsible for, and did not contribute to, such Excusing Event (by reason of a breach of an obligation or failure to perform a requirement).
- 8.2 Any such request shall be made by service of a notice on us within five (5) Business Days of you becoming aware of the circumstances claimed to be an Excusing Event, including:
- (a) full details of such circumstances, including their nature, the date of their occurrence and their duration; and
 - (b) the direct linkage between the Excusing Event and your ability to complete the associated Recharging Infrastructure works within the Grant Availability Period.
- 8.3 Having considered the request and the information supplied in connection with the request for an extension of the Grant Availability Period, we shall issue a notice (an Extension Notice) specifying a maximum of a 12 month extension to the Grant Availability Period (Extended Grant Availability Period).
- 8.4 Under no circumstances shall the Grant Availability Period be extended more than once, irrespective of the number of Excusing Events or their respective effect on you.

Notwithstanding the issue of any Extension Notice, you shall take all steps necessary and

- consistent with Good Industry Practice to mitigate the consequences of any Excusing Event.
- 8.5 We may, in our absolute discretion, at any time terminate this Grant Letter upon giving you seven days (7) days' notice prior to making any notification to you under paragraph 7.3(d).
- 8.6 Upon such termination in accordance with paragraph 9.1, we shall not proceed to pay to you the Grant (or any amount in respect of it).
- 8.7 Without prejudice to paragraph 9.1 or any other termination rights set out in this Grant Letter, we may immediately terminate this Grant Letter, cease making any payments of the Grant, seek repayment of the Grant already paid to you, reduce the amount of the Grant to be paid and/or withdraw the Grant if any of the events outlined at clause 1.17 of Appendix B occur.
9. *Defined terms/terms and conditions*
- 9.1 Any term or expression used but not otherwise defined shall have the meaning given to it in Appendix A.
- 9.2 The terms and conditions set out at Appendix B apply to, and are part of, this Grant Letter.
- 9.3 In the event of there being any ambiguity or discrepancy between the terms of this Grant Letter (excluding the Appendices) and the Appendices, the provisions of this Grant Letter (excluding the Appendices) shall prevail.
10. *Governing Law*

This Grant Letter is governed by, and shall be construed in accordance with, the laws of the State and you and we submit to the exclusive jurisdiction of the Irish courts.

Please sign where indicated below to confirm your agreement to the foregoing.

Yours sincerely,

Accepted and agreed:

NAME

NAME

SIGNATURE

SIGNATURE

DATE

DATE

**SIGNED FOR AND ON BEHALF OF
NATIONAL ROADS AUTHORITY
(otherwise known as
TRANSPORT INFRASTRUCTURE IRELAND)**

APPENDIX A

DEFINITIONS AND INTERPRETATION

1. Definitions and Interpretation

1.1 Definitions

In this Grant Letter:

“Affiliate” means:

- (a) in respect of a Grantee that is an enterprise, a Subsidiary of that enterprise or a Holding Company of that enterprise or any other Subsidiary of that Holding Company;
- (b) in respect of a Grantee that is an individual person:
 - (i) an enterprise in which the Grantee has a majority of the shareholders’ or members’ voting rights;
 - (ii) an enterprise in which the Grantee has the right to appoint or remove a majority of the members of the administrative, management or supervisory body;
 - (iii) an enterprise in which the Grantee has the right to exercise a dominant influence over pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association; or
 - (iv) an enterprise, which is a shareholder in or member of another enterprise, which the Grantee controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders’ or members’ voting rights in that enterprise.

“AFIR” means Regulation (EU) 2023/1804 of the European Parliament and of the Council of 13 September 2023 on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU.

“Applicable Law” means any law applicable in the State without further enactment and includes, without limitation, common law, statute, statutory instrument or orders made thereunder, proclamation, by-law, EU Directive, decision, regulation, rule, order, rule of court, instruments or delegated or subordinate legislation;

“Application” means the completed Grant Application Form and all supplementary information furnished by or on behalf of the Grantee in connection with its application for a Grant in connection with the Recharging Infrastructure;

“Applicant” means any person (such as a sole trader or a body corporate) which furnishes, or on whose behalf is furnished, an Application, whether private, public or commercial. This includes any sole trader, company or statutory corporation.

“Data Protection Legislation” means all applicable data protection law, including the General

Data Protection Regulation (GDPR) (Regulation (EU) 2016/679), the Data Protection Act 2018 and any regulations enacted thereunder, and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011;

“Department” means the Minister for Transport;

“Eligible Costs” means the costs of the construction, installation, upgrade or extension of the Recharging Infrastructure. Those costs may include:

- (a) the costs of the Recharging Infrastructure itself and related technical equipment; and
- (b) the installation of or upgrades to electrical or other components, including electrical cables and power transformers, required for connecting the Recharging Infrastructure to the grid or to a local electricity storage unit; and
- (c) the costs of civil engineering works, land or road adaptations associated with the installation, upgrade or extension of the Recharging Infrastructure; and
- (d) costs incurred in relation to obtaining any necessary development consent, including
 - (i) local authority fees for an application for the development consent; or
 - (ii) local authority development contribution scheme costs associated with the Recharging Infrastructure works; and
- (e) costs of installation of Recharging Infrastructure;

but not including any Excluded Costs.

“Excluded Costs” are:

- (a) any costs incurred on or before the date of entry of the Grant Letter;
- (b) any costs incurred in connection with an Application;
- (c) any cost incurred in connection with the operation of the Recharging Infrastructure;
- (d) any professional fees incurred in connection with an Application or a Grant Letter or any matter contemplated by any of them;
- (e) any cost incurred in connection with the provision of credit;
- (f) Value Added Tax, including any Value Added Tax incurred in connection with an Eligible Cost;
- (g) any costs incurred in connection with the installation of the Recharging Infrastructure funded under LDV National Road Grant Schemes any other grant scheme;
- (h) any costs associated with the installation of Recharging Infrastructure that is located in a ‘port’ or which constitutes a part of ‘port infrastructure’, in each case as defined by GBER; and;

- (i) any other costs not specifically identified as an Eligible Costs.

“Economically Disadvantaged Area” means an area that is eligible under GBER for an increased level of aid to be provided to enterprises in that area and, for the purposes of the Scheme, is an area outlined in the Regional Aid Map for Ireland (2022 – 2027) available at <https://enterprise.gov.ie/en/publications/publication-files/regional-aid-map-for-ireland.pdf>;

“EU” means the European Union;

“Excusing Event” means:

- (a) the occurrence of any natural disaster [or event outside the control of the Parties [and outside the State] which affected the delivery of Recharging Infrastructure;] or
- (b) any event which applies generally and which we have identified as an “Excusing Event”;
- (c) the grid connection for the Recharging Infrastructure not being operational on or before 6 months post the signing of this Grant Letter by reason of ESB Networks DAC not making such available;
- (d) planning permission not being obtained by a date falling 6 months post the signing of this Grant Letter after the date contemplated by the Application due to legal challenge or appeal to An Bord Pleanala; or
- (e) delays in the supply of Recharging Infrastructure by the relevant manufacturer for more than 3 months after the date indicated to you by such manufacturer and contemplated by the Application;

“FOI Act” has the meaning given to it clause 1.9 of Appendix B;

“General Block Exemption Regulation” or **“GBER”** means the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty of the functioning of the EU as amended by Commission Regulation (EU) 2023/1315;

“Good Industry Practice” means, at any time, the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced operator or contractor seeking in good faith to comply with its contractual obligations, complying with all Applicable Laws, legal requirements and standards and engaged in the same type of undertaking and under the same or similar circumstances and conditions;

“Government” means the government of Ireland;

“Grant” has the meaning given to it in paragraph 1 (Approval) of this Grant Letter as the grant being made available to the Grantee;

“Grant Application Form” means the application form and information submitted by you in connection with your application for a Grant in accordance with the Scheme Terms & Conditions;

“Grant Availability Period” has the meaning given to it in paragraph 6.2 (Grant Payment) of this Grant Letter;

“Grant Letter” means this letter;

“Grantee” or **“you”** means the addressee of the Grant Letter;

“Holding Company” means, in relation to a person, any other person in respect of which it is a Subsidiary;

“Investigation” has the meaning given to it in clause 1.7(b) of Appendix B;

“Liabilities” means all costs, claims, demands, damages, expenses, compensation, charges, settlements, penalties, losses, fines, awards, inconvenience and liabilities (including, legal and any other professional fees and costs, together with value added tax);

“Parties” means the Scheme Administrator together with the Scheme Operator and the Grantee;

“Personnel” means any employees and contractors of the Grantee from time to time;

“Provisional Grant Amount” has the meaning given to it in paragraph 1 (Approval) of this Grant Letter;

“Recharging Infrastructure” or **“ZEHDV-I”** means infrastructure associated with the recharging of zero-emission heavy duty vehicles;

“Records” has the meaning given to it in clause 1.6(a) of Appendix B;

“Scheme” is the ZEHDV-I grant scheme being made available by the Scheme Administrator, as contemplated by this Grant Letter;

“Scheme Administrator” means, in accordance with arrangements contemplated by section 32, Roads Act 1993, TII;

“Scheme Operator” means TII or any other the person, from time to time, responsible for the operation of the Scheme on behalf of the Scheme Administrator in accordance with clause 5 of Appendix B;

“Smart Charging” mean a recharging operation in which the intensity of electricity delivered to the battery is adjusted in real-time, based on information received through electronic communication;

“Start of works” shall have the meaning given to it in the GBER, namely, the earlier of either:

- (a) the start of construction works related to the investment; or
- (b) the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible, provided that buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered to be the “start of works”.

“State” means the island of Ireland, excluding Northern Ireland;

“State Aid Rules” means Articles 107 and 108 of Treaty of the Functioning of the EU (as may be amended) and all Applicable Laws, legislation, directives regulations, guidelines, procedures that are derived from Articles 107 and 108, including Commission Regulation (EU) No 651/2014, and all rulings of the courts of both the EU and the State, and including also, for the avoidance of any doubt, any communication from the European Commission in respect of Articles 107 and 108;

“Subsidiary” shall have the meaning ascribed to it in section 7 of the Companies Act 2014;

“Tax” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

“TII” means Transport Infrastructure Ireland (being the operational name of the National Roads Authority);

“Validity Period” has the meaning given to it in paragraph 3.1 (Validity Period) of this Grant Letter;

1.2 Interpretation

- (a) Unless a contrary indication appears, a reference in this Grant Letter to:
 - (i) **“assets”** includes present and future properties, revenues and rights of every description;
 - (ii) a **“person”** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;
 - (iii) a **“regulation”** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (iv) **“Department”, “Grantee”, any “Party”, “Scheme Operator”, “Scheme Administrator”** or any other person shall be construed as to include its successors in title, permitted assigns and permitted transferees;
 - (v) references to **“us”, “our” or “we”** shall be construed as referring to the Department, the Scheme Administrator and the Scheme Operator, as the case may be;
 - (vi) **“VAT”** shall be construed as a reference to value added tax including any similar tax which may be imposed in place thereof from time to time;
 - (vii) a provision of law is a reference to that provision as amended or re-enacted; and
 - (viii) a time of day is a reference to Greenwich Mean Time.

- (b) Unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing the masculine include the feminine and vice versa and words importing persons include corporations and vice versa.
- (c) The word “**including**” shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word “include” and its derivatives shall be construed accordingly.
- (d) The headings in this Grant Letter are inserted for convenience of reference only and shall not be considered a part of, or affect the construction or interpretation of this Grant Letter or its Appendices.

1.3 Currency symbols and definitions

“€” denotes the lawful currency of the State.

APPENDIX B SCHEME TERMS AND CONDITIONS

1. Scheme General Terms and Conditions

1.1 ZEHDV-I

- (a) The Scheme's provisions have been designed to accord with the general provisions of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty of the functioning of the EU as amended by Commission Regulation (EU) 2023/1315 (*GBER*) and, more particularly, with Section 6, Article 36a, which concerns state aid for recharging infrastructure;
- (b) The Scheme commences on 1 November of each calendar year for the following budgetary year. Applications for Grants may be made from that date for the scheme associated with the following budgetary year.
- (c) Applications may be submitted in each calendar year until the earlier of:
 - (i) 30 September of that calendar year; or
 - (ii) the date on which funds for the Scheme for the calendar year in question have been exhausted, (the *Scheme End Date*).
- (d) The Grantee must source and purchase the Recharging Infrastructure for installation and operation at each location, in your name.
- (e) The Grantee must ensure the Recharging Infrastructure is new and has not yet been acquired by the Grantee or been the subject of any agreement or contract for its acquisition by the Grantee before accepting the Grant Letter; and
- (f) The Grantee must develop and install the Recharging Infrastructure within the State.

1.2 Specific conditions

It is a condition of the Grantee's and the Recharging Infrastructure's eligibility for the Scheme that:

- (a) the Grantee and the Grantee's Affiliates have not received Grants under the Scheme where the combined total of the Grants exceeds €300,000 within the budgetary year of the grant application (including the Grant the subject of this Grant Letter);
- (b) the Grantee has an establishment or branch within Ireland as of the date the Grant is paid to the Grantee;
- (c) none of the particular installation sites in the Application have received or are to receive any subsidy or grant under any other scheme or has previously received funding through this Scheme for the same Recharging Infrastructure;
- (d) the Grantee and the Grantee's Affiliates are not subject to an outstanding recovery order for repayment of State aid previously granted by the State following a decision by the European Commission that such aid was illegal and incompatible with the EU

internal market;

- (e) neither the Grantee nor any of the Grantee's Affiliates are an "undertaking in difficulty";
- (f) the aggregate amount of the Grant and any funding you have received from funds managed centrally by the EU (the institutions, agencies, joint undertakings or other EU bodies) for the requested Eligible Costs, does not exceed the most favourable funding rate laid down in the applicable rules of EU law;
- (g) where the Applicant has previously been awarded grant aid under the Recharging Infrastructure LDV National Road Grant Schemes, a separate grid connection must be provided under the ZEHDV-I Scheme; and
- (h) neither the Grantee nor any of the Grantee's Affiliates have started the works for the Recharging Infrastructure prior to applying for the Grant in accordance with the definition of Start of Works as outlined in Appendix A.

1.3 *Maximum Grant amount*

- (a) Subject to the maximum allowable Eligible Costs under GBER, the maximum amount of the Grant is the difference between €300,000 and the aggregate amount otherwise received by way of grant under the Scheme for different installation sites (or any replacement or amended Scheme) by the Applicant (together with all Affiliates) within the budgetary year of the grant application.
- (b) With regards to GBER, which sets out the maximum aid amount that can be allocated from state funds for recharging infrastructure under EU state aid rules, the Provisional Grant Amount in respect of ZEHDV-I varies by reference to:
 - (i) the size of the enterprise applying for the grant, i.e. whether the enterprise can be categorised as 'small', 'medium' or 'large', as set out in paragraph 1.4(b) below;
 - (ii) the percentage of Eligible Costs, as set out in paragraph 1.5 below.

1.4 *Size of Enterprise*

- (a) Applicants are categorised (according to the provisions of GBER Annex I, Articles 1 to 6) as 'small', 'medium' or 'large' enterprise on the basis of:
 - (i) staff head-count; and
 - (ii) financial thresholds (i.e. turnover and/or balance sheet totals).
- (b) Therefore, for the purposes of the Scheme:
 - (i) a 'small enterprise' is an undertaking with fewer than 50 staff members and with a turnover equal to or under €10 million and/or a balance sheet of equal to or under €10 million;
 - (ii) a 'medium enterprise' is an undertaking with fewer than 250 staff members and

with a turnover equal to or under €50 million and/or a balance sheet of equal to or under €43 million;

- (iii) a 'large enterprise' is an undertaking with more than 250 staff members, and with a turnover in excess of €50 million and/or or a balance sheet in excess of €43 million.
- (c) In order to avail of the Grant, enterprises will be required to supply documentary evidence of their staff head counts and turnover so that their relative size and the grant levels to which they are eligible can be calculated.
- (d) In the case of an autonomous enterprise, as defined under Annex 1, Article 3 of GBER, the data, including the number of staff, are determined exclusively on the basis of the most recent accounts of that enterprise.
- (e) The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked fulltime within the enterprise in question or on its behalf during the entire reference year under consideration.
- (f) The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
- (g) In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.
- (h) For additional information on the definition of 'small', 'medium' and 'large' enterprises and on the type of data required to demonstrate the relative size of an undertaking, Applicants are advised to consult Annex I, Articles 1 to 6 of GBER and the European Commission's *User Guide to the SME Definition*.
- (i) In the case of enterprises having partner enterprises or linked enterprises (as defined under Annex I, Article 3 of GBER), specific rules apply regarding the data to be used, and aggregated, for determining the relative size of the enterprise. Applicants are advised to consult Annex I, Articles 1 to 6 of GBER and the latest version of the European Commission's *User Guide to the SME Definition*.

1.5 Eligible Costs

- (a) The Provisional Grant Amount for each category of enterprise is set as a percentage of the Eligible Costs, but subject to the amount not exceeding, in aggregate, €300,000 for each undertaking (together with Affiliates) within the budgetary year of the grant application as set out in the table below.

| Size of enterprise | Staff head count Turnover/balancesheet total | Maximum total Amount per enterprise per budgetary year | Maximum % of Eligible costs |
|--------------------|---|--|-----------------------------|
| Small | <50 staff <€10m/ <€10m | Up to €300,000 | 50% |
| Medium | <250 staff <€50m/ <€43m | Up to €300,000 | 40% |

| | | | |
|--------------|---------------------------|----------------|-----|
| Large | >250 staff >€15m/>€43m | Up to €300,000 | 20% |
|--------------|---------------------------|----------------|-----|

- (b) The maximum % of Eligible Costs can be increased by 5% where the Recharging Infrastructure will be installed in an Economically Disadvantaged Area.
- (c) In order to avail of the Grant, Applicants will be required to supply evidence of the purchase and installation price of the Recharging Infrastructure for which the Grant is being sought and the location of the installation site or sites.
- (d) The amount of the Grant may not exceed the Provisional Grant Amount set out in the Grant Letter, but may be reduced in accordance with the terms of the Grant Letter and these Scheme Rules (e.g. change in the Applicant's SME Status etc.).

1.6 Accounts and Records

- (a) The Grantee shall keep proper books of account, records of all payment and receipts, all supporting documentation including invoices, statements and bank statements, and any other relevant documents relating to the expenditure of the Grant for a period specified, from time to time, to the Grantee by the Department, Scheme Operator or Scheme Administrator, such period being a minimum of at least ten (10) years following receipt of the Grant (**Records**).
- (b) All Records shall be kept in such a manner as to provide precise financial details relating to this Grant Letter at any particular time.
- (c) The Grantee shall permit any person authorised by the Scheme Administrator such reasonable access to the Grantee's premises, staff, Personnel and Records for the purposes of ascertaining compliance with this Grant Letter.

1.7 Monitoring and Reporting

- (a) The Grantee shall provide such information and documents as the Department, the Scheme Administrator and/or the Scheme Operator may require in order to establish that the Grant has been used properly in accordance with this Grant Letter and all Applicable Law, and that the Grantee has fulfilled its obligations in connection with the Grant, the Scheme and this Grant Letter, including (without limitation) providing upon request from time to time:
 - (i) up to date Tax Clearance Certificate, or such other evidence as may reasonably be required.
- (b) In the event of any investigation(s) by the European Commission that the Grantee's receipt or use of the Grant is contrary to State Aid Rules (**Investigation**), the Grantee shall comply fully and promptly with:
 - (i) any Investigation(s); and
 - (ii) without prejudice to clause 1.7(a) of this Appendix B and the Scheme Operator and the Scheme Administrator rights in clause 1.17 of this Appendix B, any finding, determination, ruling or order by the European Commission or any court or tribunal of competent jurisdiction that the Grantee's receipt or use of the Grant is contrary to State Aid Rules.

- (c) In the event of any Investigation, the Grantee shall keep the Scheme Operator, the Scheme Administrator and the Department fully and promptly informed and, to the fullest extent permitted by Applicable Law, liaise with the Scheme Operator and the Department concerning any response(s) to any such Investigations.

1.8 *Data Protection and Confidentiality*

- (a) Terms and expressions used in this clause shall have the same meaning as in the Data Protection Legislation.
- (b) The Grantee shall comply with Data Protection Legislation, including, but not limited to, in connection with any personal data which you process in connection with the Scheme and any application for the Grant.
- (c) The Grantee hereby undertakes and agrees that before disclosing any personal data to the Scheme Operator, the Scheme Administrator or the Department, the Grantee shall obtain any necessary and relevant consents from any relevant data subjects or satisfy an alternative legal basis pursuant to the Data Protection Legislation for their personal data to be disclosed to and processed by the Scheme Operator, the Scheme Administrator or the Department.
- (d) The Grantee hereby acknowledges that information, including personal data within the meaning of Data Protection Legislation, which is provided to the Scheme Operator, the Department and/or the Scheme Administrator in connection with the Scheme may be used and disclosed by the Scheme Operator, the Department and/or the Scheme Administrator to the extent reasonably necessary for the administration of the Scheme, including for publication on the European Commission's Transparency Aid Module when required by Article 9 of the GBER. The Grantee further acknowledges that relevant information, may be shared with other grant providers to ensure that the Recharging Infrastructure is not benefitting from multiple grant supports.
- (e) The Grantee hereby acknowledges that information, including personal data, which is provided to us, the Department or any person acting on behalf of us or the Department in connection with this Grant Letter or the Scheme may be used and disclosed by any such person to the extent reasonably necessary for the administration of the Scheme including, without limitation, for publication on the European Commission's Transparency Aid Module when required by Article 9, GBER.

1.9 *Freedom of Information*

The Grantee acknowledges that each of the Department and the Scheme Administrator are subject to the Freedom of Information Act 2014 (the **FOI Act**) and the European Communities (Access to Information on the Environment) Regulations 2007 (SI No. 133/2007) (the **AIE Regulations**) and that records provided by the Grantee to any of the Scheme Operator, the Department and/or the Scheme Administrator, or generated by any of the foregoing in connection with the administration of the Scheme, may be subject to disclosure under the FOI Act.

1.10 *Intellectual Property*

The Grantee (and any other third party) has no, and will not acquire any, right, title or interest in or to the Scheme Operator's, the Department's or the Scheme Administrator's:

- (a) logo;
- (b) trademarks;
- (c) proprietary information;
- (d) trade secrets; or
- (e) any other intellectual property of the Scheme Operator, the Department or the Scheme Administrator or their third party licensors.

1.11 *Acknowledgment of Funding and Announcements*

- (a) The Grantee undertakes that it shall in its annual report (if applicable) and on its website:
 - (i) acknowledge the Scheme's funding of and support for the development of zero-emission heavy duty vehicle Recharging Infrastructure.
- (b) Without prejudice to clause 1.11(a) of this Appendix B, and save with the consent of the Scheme Administrator, the Grantee shall not make any public announcement, publications, marketing or sales materials relating to the Grant or the Scheme.
- (c) The Grantee acknowledges that:
 - (i) The Grantee is responsible for the costs, acts and omissions of its Personnel and its Subcontractors in relation to the installation and operation of the Charging Infrastructure on the sites;
 - (ii) no arrangements entered into by the Grantee with third parties in relation to this Grant Letter or the Charging Infrastructure qualifies or limits in any way your obligations or responsibilities under this Grant Letter; and
 - (iii) neither we nor the Department have any responsibility or liability in connection with any matters contemplated by sub-paragraph (i) above or any other matter contemplated by this Grant Letter.

1.12 *Warranties*

- (a) The Grantee warrants, represents and undertakes to the Scheme Administrator as of the date the Grant Letter is entered into and as of the date the Grant is made that:
 - (i) the Grantee has the necessary powers, competence and authority to enter into the Grant Letter and to carry out its obligations thereunder;
 - (ii) the Grantee shall comply with all Applicable Laws;
 - (iii) the Grantee is not subject to any contractual or other restriction imposed by the Grantee's own or any other organisation's rules or regulations or otherwise which may prevent or materially impede the Grantee from meeting the Grantee's obligations under the Grant Letter;
 - (iv) the Grantee shall promptly discharge the Grantee's statutory obligations in respect of PAYE, PRSI, VAT and all other relevant taxation and levies relating to this Grant Letter;

- (v) since the date of the Grantee's last accounts there has been no material change in the Grantee's financial position or prospects, including its SME status;
- (vi) the Grantee has not received nor is the Grantee in receipt of any other sources of State and/or EU funding for the Recharging Infrastructure or any part thereof;
- (vii) the Grantee shall comply with:
 - (A) all instructions from the Scheme Operator, and/or the Scheme Administrator and/or any of their authorised representatives in relation to the Scheme, and
 - (B) all terms and conditions of this Grant Letter;
- (viii) the Grantee and/or its Affiliates shall use the Recharging Infrastructure in connection with commercial activity;
- (ix) the Grantee and its Affiliates shall not use the Recharging Infrastructure to perpetrate or in connection with any criminal activity;
- (x) the Grantee is responsible for the costs, acts and omissions of the Grantee's Personnel in relation to the Recharging Infrastructure;
- (xi) the Grantee and its Affiliates, if any, can pay their debts as they fall due, and
- (xii) each of you and your Affiliates, if any, are not an "undertaking in difficulty", where "undertaking in difficulty" is as defined in Article 2(18), GBER, namely:
 - (i) in the case of a limited liability company (other than an SME that has been in existence for less than 3 years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company mentioned in Annex I to Directive 2013/34/EU of the European Parliament and of the Council and 'share capital' includes, where relevant, any share premium.
 - (ii) in the case of a company where at least some of its members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than 3 years), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some of its members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II to Directive 2013/34/EU.
 - (iii) where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.

- (iv) where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- (v) in the case of an undertaking that is not an SME, where, for the past two years:
 - (A) the undertaking's book debt to equity ratio has been greater than 7.5 and
 - (B) the undertaking's EBITDA interest coverage ratio has been below 1.0.

The representations, warranties and undertakings in this paragraph 1.12 are given as of the date the Grant Letter is entered into.

- (b) To the fullest extent permitted by Applicable Law, nothing in this Grant Letter shall be construed so as to imply or have the effect of the granting by the Scheme Operator, the Scheme Administrator or the Department of any warranty, condition, assurance or other term of any kind, express or implied, to the Grantee or to any third party whomsoever for any matters arising out of the performance of this Grant Letter.
- (c) Without prejudice to clause 1.13(b), nothing in this Grant Letter shall be construed so as to imply or have the effect of the granting by the Scheme Operator or the Scheme Administrator or the Department of any warranty, condition, assurance or other term of any kind, express or implied, to the Grantee or to any third party whomsoever regarding the payment of the Grant under paragraph 7 (*Grant Payment*) of this Grant Letter, which remains solely a matter at the Scheme Administrator's discretion.

1.13 *Indemnity*

- (a) The Grantee shall fully and effectively indemnify and keep indemnified the Scheme Operator, the Scheme Administrator, the Department or other relevant funding body and its respective officers, board members, employees and agents from and against any and all Liabilities arising out of or in connection with:
 - (i) any breach of, or default in complying with, this Grant Letter;
 - (ii) the sickness, injury or death of any person or loss or damage to property arising out of or in connection with the Grantee's performance or non-performance of this Grant Letter or its obligations to third parties; or
 - (iii) compliance with all Applicable Laws, including, State Aid Rules.
- (b) This provisions of this clause 1.13 (Indemnity) survive the termination or expiration of this Grant Letter.

1.14 *Liability*

- (a) Nothing in this Grant Letter shall operate to exclude or limit a Party's liability for death or personal injury caused by negligence, fraud or any other liability which cannot be excluded or limited by law.
- (b) To the fullest extent permitted by Applicable Law, the Scheme Operator, the Scheme Administrator and the Department are not responsible for, any and all liability, loss or

damage suffered or incurred by the Grantee or any other person arising out of:

- (i) the performance or non-performance of this Grant Letter;
- (ii) the expiry or termination of this Grant Letter;
- (iii) the operation of the Recharging Infrastructure; or
- (iv) the use of the Grant or the withdrawal of the Grant,

whether arising by reference to tort (including negligence), breach of contract or any other legal theory (including State Aid Rules), for any consequence arising therefrom, even if foreseeable.

- (c) Without prejudice to clause 1.14(b), to the fullest extent permitted by Applicable Law, the Scheme Operator, the Scheme Administrator and the Department are not responsible for, any and all liability, loss or damage suffered or incurred by the Grantee or any other person arising out of:

- (i) the performance or non-performance of this Grant Letter;
- (ii) the expiry or termination of this Grant Letter;
- (iii) the operation of the Recharging Infrastructure; or
- (iv) the use of the Grant or the withdrawal of the Grant,

whether arising by reference to tort (including negligence), breach of contract or any other legal theory (including State Aid Rules), for any of the following, even if foreseeable:

- (A) loss of income or revenue;
- (B) loss of business;
- (C) loss of profits or contracts;
- (D) loss of goodwill; or
- (E) indirect or consequential loss or damage.

- (d) Subject to clause 1.14(a), the Scheme Operator's, the Scheme Administrator's and the Department's total aggregate liability under this Grant Letter is limited to the value of the Grant.

1.15 *Insurance*

The Grantee shall ensure that such insurances in respect of the Recharging Infrastructure and its operation as may be required by law are taken out and maintained.

1.16 *Termination*

Upon termination or expiry of this Grant Letter for any reason all rights and obligations of the

Parties under this Grant Letter shall automatically terminate except for any rights and/or obligations which may have accrued prior to termination or expiry and any rights and/or obligations which expressly or by implication are intended to commence or continue in effect on or after termination or expiry.

1.17 *Amendment, Cessation, Repayment and Reduction of the Grant*

(a) TII may in its absolute discretion amend the Scheme (including these Scheme Rules) from time to time, upon seven (7) days' notice, by publishing a notice to such effect on TII's website.

(i) Without prejudice to paragraph 1.17 (a), amendments and modifications to the Scheme shall also be effective forthwith upon their acceptance by Applicants.

(b) The Scheme Operator and/or the Scheme Administrator may without liability immediately terminate this Grant Letter, cease making any payment of the Grant, seek repayment of the Grant already paid to the Grantee and/or reduce the amount of the Grant to be paid if any one or more the following events occur or have occurred:

(i) any information supplied by the Grantee in the Application or in connection with this Grant Letter is untrue or inaccurate, or becomes untrue or inaccurate;

(ii) in the reasonable opinion of the Scheme Operator and/or the Scheme Administrator it is necessary or prudent to do so in order to comply with any Applicable Law or the requirements of any guidelines, rules or regulations prescribed by the Government or any other authority having jurisdiction over the Scheme Operator and/or the Scheme Administrator or to settle any complaint or challenge received by the Scheme Operator and/or the Scheme Administrator in such respect;

(iii) without prejudice to any of the foregoing, you or any of your Affiliates has been fraudulent or has intentionally misled or misrepresented any fact or matter to us in connection with any matter contemplated by the Scheme;

(iv) the Grantee:

(A) commits any breach of any of its obligations under the terms and conditions of this Grant Letter; or

(B) without prejudice to (A) above, is in breach of any representation, warranty or undertaking set out in this Grant Letter,

and, in any case, which is not capable of remedy, or which is capable of remedy but which is not remedied within thirty (30) days of written notice from the Scheme Operator and/or the Scheme Administrator to do so;

(v) the Grantee:

(A) becomes insolvent, ceases to carry on its business, has a receiver, examiner, liquidator, administrative receiver, administrator, trustee in bankruptcy or other similar officer appointed over the whole or part of its assets, or an order is made or a resolution is passed for the

winding up of the Grantee or if the Grantee made an arrangement or assignment for the benefit of its creditors or is any analogous event to any of the foregoing occurs in respect of the Grantee; or

- (B) has, pursuant to the Personal Insolvency Act, initiated a Debt Relief Notice process or appointed a personal insolvency practitioner for the purposes of proposing a Debt Settlement Arrangement or a Personal Insolvency Arrangement to all or some of the Grantee's creditors or the Grantee is the subject of a Debt Relief Notice, a Debt Settlement Arrangement or a Personal Insolvency Arrangement under the Personal Insolvency Act. "Debt Relief Notice", "personal insolvency practitioner", "Debt Settlement Arrangement" and "Personal Insolvency Arrangement" have the meanings given to those terms in the Personal Insolvency Act; or
- (C) is unable to pay the Grantee's debts at the time of entering into the Grant Letter or becomes unable to pay their debts as a consequence of purchasing the Recharging Infrastructure; or
- (c) The Scheme Operator and/or the Scheme Administrator may without liability immediately terminate this Grant Letter and cease making any payment of the Grant where the Scheme has been terminated in accordance with the Scheme Terms & Conditions.
- (d) If the Scheme Operator and/or the Scheme Administrator seeks repayment of the Grant as a result of the occurrence of any of the events referred to above at clause 1.17(b), the Grantee covenants and undertakes to make such repayments in full and without deduction, set-off or withholding of any kind within one (1) month of receipt of a written demand by the Scheme Operator and/or the Scheme Administrator.
- (e) Any cessation of the Grant payments and/or reduction in the amount of the Grant shall be notified in writing to the Grantee by the Scheme Operator and/or the Scheme Administrator.

2. Grant process

2.1 The following process will apply to those looking to receive a Grant towards the installation of Recharging Infrastructure (**the Applicant**):

- (a) The Applicant will complete an application form located on TII's website (**the Grant Application Form**) and supply the required information, including the specifications of the Recharging Infrastructure, evidence of the staff head count and turnover of the Applicant and, as applicable, information of any partner enterprise or linked enterprise (as defined under Annex 1, Article 3 of GBER), to enable a determination of the Provisional Grant Amount in accordance with paragraph 1.3.
- (b) Applications and all correspondence shall be submitted electronically, to the Scheme Operator's email, zehdvgrant@pierse.ie.
- (c) Applications will be considered on a "first received" basis, subject to an application being satisfactorily completed.
- (d) Upon consideration of the information provided in the Grant Application Form (the

Application), a letter will be issued to the Applicant (the Grant Letter) containing an amount provisionally proposed to be made by way of a grant (the Provisional Grant Amount) determined in accordance with paragraph 1.3 as well as setting out the conditions to be satisfied by the Applicant in the event that they accept the Grant Letter. An Applicant will have twenty-one (21) days to accept the Grant Letter.

- (e) If the Applicant accepts the Grant Letter in accordance with its terms, the Applicant can then purchase the Recharging Infrastructure and supply further information required under the terms of the Grant Letter to the Scheme Operator. The Applicant will have until 31 October of the budgetary year in which the Grant Letter has been accepted to satisfy its obligations in this regard (**the Grant Availability Period**).
- (f) Upon verification of the information provided in accordance with the Grant Letter and confirmation of the SME status of the Applicant at the time of the issuance of the Grant amount, the amount of the Grant will be determined, which will be made at TII's absolute discretion and in accordance with the Grant Letter. The amount will be notified to the Grantee by the Scheme Operator after which payment of the Grant will be made at TII's discretion, but no later than two (2) months following Scheme Operators confirmation of the grant amount.

3. General Provisions

- 3.1 The Grantee shall comply with all Applicable Laws and legal requirements in connection with the performance of the Grantee's obligations under this Grant Letter.
- 3.2 At all times, the Grantee shall act fairly, responsibly and openly in the Grantee's dealings with the Scheme Operator and the Scheme Administrator.
- 3.3 This letter may be entered into in any number of counterparts and by the Parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.
- 3.4 Any liability of any Party under the provisions of this Grant Letter may in whole or in part be released, varied, impounded or compromised by such Party under any liability without it in any way prejudicing or affecting its rights against any other Party under the same or a like liability whether joint and several or otherwise. No failure by any Party to enforce any provision or term of this Grant Letter shall be construed as a waiver of such provisions or of the right thereafter of the Party to enforce the same.
- 3.5 If any of the provisions (or part thereof) of this Grant Letter are found by a court of competent jurisdiction or any other competent authority to be void, invalid or unenforceable, such provision or provisions shall be deemed to be deleted from this Grant Letter and the remaining provisions (or part thereof) shall not be affected and shall continue to apply. The Parties shall then negotiate in good faith in order to agree terms of a mutually satisfactory provision to be substituted for the provision found to be void, invalid or unenforceable.
- 3.6 This letter shall not be construed as establishing or implying any partnership or joint venture between the Parties and nothing in this Grant Letter shall be deemed to constitute any of the Parties as the agent of any other Party or authorise any Party to:
 - (a) pledge the credit of or otherwise bind or oblige the other Party;
 - (b) make any representation or warranty on behalf of another Party; or,

- (c) commit another Party in any way whatsoever, without in each case obtaining that Party's prior written consent.

3.7 Where the Grantee is neither a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Grant Letter on behalf of the Grantee shall be jointly and severally liable for the Grantee's obligations and Liabilities arising under this Grant Letter.

3.8 The Grantee may be requested to participate in surveys and research undertaken by or on behalf of TII, including to establish the Scheme's impacts and achievements and/or any revisions to the Scheme which may be worthwhile.

3.9 Such surveys will involve the collection of relevant information relating to the Grantee and Grant. Such information may also be used for the development and publication of case studies. Please note, however, that in connection with any such case studies, all personal data, confidential information and/or commercially sensitive information will be protected (and/or redacted) as appropriate..

4. Changes to the parties

4.1 The Grantee shall not assign, delegate, sub-contract or otherwise transfer any of its rights or obligations under this Grant Letter without the prior consent in writing of the Scheme Administrator.

5. Set Off

5.1 All payments to be made by the Grantee in connection with the Grant Letter shall be calculated and be made without (and free and clear of any deductions) for set off or counterclaim.

5.2 The Scheme Administrator may set off any amount due from the Grantee under the Grant Letter against any amount owed by the Scheme Administrator to the Grantee, whether under this Grant Letter or any other agreement between the Scheme Administrator and the Grantee.

6. Scheme Operator

6.1 The Scheme Administrator has been requested in accordance with the Roads Act 1993 to provide the Scheme, including all administration and operating services in connection with the Scheme to the Department. From time to time, the Scheme Administrator may engage one of its contractors to provide administrative services in connection with the Scheme.

6.2 References in this Grant Letter to the Scheme Operator are therefore references to any contractor engaged by the Scheme Administrator from time to time for this purpose in its capacity of administering the Scheme and, in the absence of any such appointment, TII shall itself be the Scheme Operator.

7. Notices

7.1 Where the Scheme Administrator or the Grantee is required to notify the other or otherwise wishes to communicate with the other, such notice or communication may be served:

- (i) in the case of the Grantee to the Scheme Administrator, by e-mail or by facsimile transmission to such e-mail address or facsimile number as may be notified by the Scheme Administrator from time to time; or

- (b) in the case of the Scheme Administrator to the Grantee:
 - (i) by e-mail to such address as may be notified in writing by the Grantee to the Scheme Administrator from time to time; or
 - (ii) by such other means as the Scheme Administrator may consider appropriate.

7.2 Any notice or communication so served shall be deemed duly served:

- (a) in the case of e-mail, upon delivery; or
- (b) in the case of facsimile transmission, upon confirmation of receipt.

8. **Dispute Resolution**

8.1 Should there be any dispute arising out of this Grant Letter, including the interpretation or fulfilment of any of its provisions:

- (a) all such disputes shall be promptly discussed by the Scheme Operator and the Grantee in an effort to arrive at a mutually agreeable solution;
- (b) failing the resolution of the matter within a twenty-one (21) day the dispute may be referred to the Scheme Administrator so that it and the Grantee can discuss the matter in an effort to arrive at a mutually agreeable solution;
- (c) if the matter is not resolved within a further fourteen (14) day period, the matter may be referred to mediation by the mutual agreement of the Parties based on terms and conditions to be agreed; and
- (d) if the matter is not resolved by mediation (including failure to agree on the identity of the mediator and/or failure to agree the terms and conditions of the mediation) within a further twenty-eight (28) day period either Party may resort to court process.

9. **Right to Audit**

9.1 TII may in its absolute discretion as Scheme Administrator complete a site audit of any location that has received funding towards the installation of Recharging Infrastructure under the Scheme

9.2 Any costs incurred by the Grantee during the audit will be borne by the Grantee

9.3 Any audit completed by or on behalf of the Scheme Administrator will be subject to the following conditions:

- (a) the Grantee will be given ten (10) business days notice in the advance of the audit;
- (b) the Grantee will make available any documentation requested by the Auditor during the audit; and
- (c) any finding raised during the audit will be resolved by the Grantee within a reasonable timeframe agreed as part of the audit.