**Annexure 5 - Heat Pump Operation and Maintenance**

**Part 1**

1. **Definitions**

In addition to the definitions set out in the Annexure 1- General Terms and Conditions the following definitions shall apply particularly to this Annexure.

**Key Performance Indicators (KPIs)** means the timescales in which the Contractor is to fix faults in the Heat Pump System (as appropriate) in carrying out the Services as set out in Part 5 of this Annexure 5 or as varied in the relevant Work Order.

**Scheduled Maintenance Services** means the scheduled maintenance services and activities to be carried out by the Contractor for the Heat Pump System to maintain them to a safe standard and to optimise the performance and longevity of the Heat Pump System which shall include as a minimum standard the activities described in this Annexure 5, clause 3 below

**Unscheduled Maintenance Services** means any unscheduled works or services for the maintenance or repair of a Heat Pump System requested by PECR or as deemed necessary for the continued functioning of an applicable Heat Pump System by the Contractor (acting reasonably) from time to time during the Term in accordance with this Annexure 5, clause 4 below which are not included in the Scheduled Maintenance Services.

# Term

## This Annexure 5 shall commence on the Heat Pump O&M Commencement Date specified in the Work Order and shall continue, unless extended by agreement of the parties or terminated earlier in accordance with the terms of this Agreement, until the Heat Pump O&M Completion Date specified in the Work Order.

1. **Scheduled Maintenance Services**
   1. The Contractor shall carry out the Scheduled Maintenance Services set out in Part 2 of this Annexure 5 at the times shown and in accordance with the Scheduled Maintenance Programme.
   2. The Scheduled Maintenance Services shall not include rectification/remedy of defects resulting from failure to follow the instructions or advice of the Contractor or the manufacturers of any part of the Heat Pump System (save and to the extent that any such defects arise due to the default or breach of the Contractor under this Agreement).
   3. In the event that any of the matters in clause 3.2 above occur, then the Contractor shall follow the procedure set out at clause 4 below.
2. **Unscheduled Maintenance Services**
   1. The Contractor shall notify PECR as soon as reasonably practicable if it becomes apparent that Unscheduled Maintenance Services are likely to be required, identifying the required services.
   2. PECR shall be entitled to instruct the Contractor to perform Unscheduled Maintenance Services. As soon as reasonably practicable after receiving an instruction to perform Unscheduled Maintenance Services, the Contractor shall provide PECR (at no additional cost) with a quotation for providing the Unscheduled Maintenance Services where applicable based on the rates set out in Part 4 of this Annexure 5, and an estimate of its effect on the Scheduled Maintenance Programme.
   3. PECR shall notify the Contractor within ten (10) Business Days of receiving the Contractor's quotation whether it wishes the Contractor to proceed with the Unscheduled Maintenance Services and confirming whether it accepts the quotation.
   4. On receipt of PECR's confirmation under clauses 4.2 and 4.3 above, the Contractor shall perform any such Unscheduled Maintenance Services as may be reasonably requested by PECR from time to time in relation to the Heat Pump System or as deemed required by the Contractor, acting reasonably.
   5. No fee shall be payable in respect of any Unscheduled Maintenance Services unless PECR has issued a notice to proceed in accordance with clause 4.3, whereby the quotation will become the **'Additional Fee'**.
   6. No fee shall be payable in respect of any works required that are covered by a manufacturer's warranty.
   7. If PECR does not accept the Contractor's quotation for the Unscheduled Maintenance Services, PECR may, after giving reasonable prior notice to the Contractor, instruct a third party to carry out the relevant works and/or services in which event the Contractor shall have no entitlement to be paid in respect of such works and/or services, and in respect of such works:
      1. the Contractor shall have no further liability in connection with any of its relevant obligations hereunder which are directly affected by PECR exercising this right and are directly related to such works and the actions of such third party; and
      2. the Contractor shall have no responsibility for these works/services.
   8. No Additional Fee shall be payable if the requirement for Unscheduled Maintenance Services arises from the Contractor's default or negligence, or the default or negligence of the Contractor's Subcontractors or suppliers (if any).
   9. Any Additional Fee payable by PECR shall be included in the monthly invoice following performance of the Unscheduled Maintenance Services to which it relates.
3. **Reports and Documentation and Site Visits**
   1. The Contractor shall provide to PECR the reports relating to performance of the Heat Pump System referred to in Part 2 of this Annexure 5.
   2. The Contractor shall keep and maintain such records during the Term and for 3 years following termination or expiry of the Agreement and shall permit PECR and PECR's auditors to access such records and to take copies of the same during business hours (being between the hours of 9am-5pm (inclusive on a Business Day) and on reasonable notice.
   3. The Contractor shall carry out the Site visits detailed in Part 2 of this Annexure 5 (if any). PECR shall ensure that access is granted for the purposes of these Site visits,
4. **Key Performance Indicators**
   1. The Contactor shall perform the Services in accordance with the Key Performance Indicators and the Contractor will be monitored and assessed by reference to the Key Performance Indicators.
   2. Every 6 months (starting from 6 months after the Heat Pump O&M Commencement Date), the Contractor shall provide details of its performance against the Key Performance Indicators, together with such other information and assistance as PECR may reasonably require, in order for PECR to assess the Contractor's performance and for both Parties to use the information in order to improve performance.
   3. Without prejudice to any other rights and/or remedies of PECR, if the Contractor fails to achieve the KPIs in any calendar month (not including the first 3 months' following the Heat Pump O&M Commencement Date):
      1. it shall agree with PECR the corrective actions it will take; and
      2. use its best endeavours to ensure that it attains or surpasses the KPI Target(s) in the following calendar month; and
      3. if it fails to achieve the KPIs in both the following calendar month and the month following that, then PECR shall be entitled to terminate the Agreement immediately upon giving written notice to the Contractor.
   4. If the Contractor fails to achieve a KPI, it shall pay PECR liquidated damages in the sum as calculated in this Annexure 5, Part 5 for every day from the date specified by the KPI up to and including the date on which the relevant service has been achieved. The Parties confirm that this rate represents a genuine pre-estimate of PECRs' loss. PECR shall calculate the liquidated damages (if any) due every 6 months' and notify these to the Contractor.
      1. Provided that PECR gives the Contractor reasonable notice, PECR shall be entitled to deduct any liquidated damages payable under clause 6.4 from any payments due to the Contractor under the terms of this Annexure 5.
      2. Any liquidated damages payable under clause 6.4 shall be payable in arrears and shall be due for payment on demand, such demand to take the form of an invoice from PECR to the Contractor specifying the sum that PECR considers to be due on the payment due date and the basis on which that sum is calculated, accompanied by any relevant supporting documents. The final date for payment of liquidated damages shall be 30 days after the date on which payment becomes due.
   5. PECR shall be entitled to terminate the Agreement immediately upon giving written notice to the Contractor if:
      1. The Contractor has breached a KPI such that the whole or material part of the Heat Pump System is offline or incapable of generation for a period of ten (10) days or more;
      2. The level of liquidated damages payable by the Contractor in respect of one or more KPI breaches has reached the Contractor's Liability Cap set out in the Work Order.
5. **Reporting and Review Meetings**
   1. Upon PECR's reasonable request at any time, the Contractor shall provide all such information and reports as PECR requests in respect of the Services, including any open issues to be addressed by the Parties. The Contractor warrants that any such information and reports produced by it shall be provided in the format reasonably requested by PECR from time to time.
   2. The Parties shall hold monthly performance review and maintenance actions review meetings (including by conference call) at such frequency as is reasonably determined by PECR (but no more than once a month), to discuss the Contractor's performance under this Work Order. The Contractor shall ensure the availability of all appropriate Contractor personnel to attend and participate in such meetings.
6. **Fees and Payment Terms**
   1. PECR shall pay the Contractor:
      1. in consideration of the performance of the Scheduled Maintenance Services the fees set out in Part 4 of this Annexure 5; and
      2. in consideration of the performance of the Unscheduled Maintenance Services, the Additional Fee at the rates detailed in Part 4 of this Annexure 5.

(together the "**Fee**").

* 1. The Contractor may carry out Unscheduled Maintenance Services up to the value of one hundred and fifty pounds (£150) each month during the Term without prior approval from PECR. If the Contractor knows or suspects that the cost of Unscheduled Maintenance Services, any month will cost more than one hundred and fifty pounds (£150) the Contractor must obtain prior written approval from PECR prior to carrying out such Unscheduled Maintenance Services. If prior written approval is not obtained PECR shall not be obliged to pay for any Unscheduled Maintenance Services charged for which are in excess of the one hundred and fifty pounds (£150) cap.
  2. Following each visit to a Site, the Contractor shall provide a written report to PECR detailing what work was undertaken along with photographic evidence of the Site visit.
  3. On the first Business Day of each month, the Contractor shall submit to PECR's Contract Manager an itemised invoice for any Scheduled Maintenance Services and/or Unscheduled Maintenance Services carried out in the previous month. Each invoice must clearly specify the Site and the Services provided for each item on the invoice.
  4. Subject to receipt of the Site visit report in accordance with clause 8.3, payment of each invoice shall become due on the date of receipt by PECR of such invoice.

1. **Termination of this Annexure 5**
   1. This Annexure 5 shall automatically terminate on the Annexure 5 Expiry Date as set out in the Work Order.

**Part 2 – Scheduled Maintenance Services**

**Part 3 – Unscheduled Maintenance Services**

**Part 4 – O&M Charges**

**Part 5 - KPIs**

**KPIs**

On receipt of notification from PECR that there is a fault with a Heat Pump System the Contractor shall attend the Site and diagnose the fault within the time periods specified below.

The Contractor shall provide a report to PECR as soon as reasonably practicable outlining what the fault is and how/when the fix will be completed.

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| **Priority Level** | **Response Time (to attend site/ diagnose fault)** | **Penalty for failure to meet response time** |
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