

Annual Equipment Maintenance - Terms and Conditions

The Client's attention is particularly drawn to the provisions of Clause 7 (Limitation of liability).

1. Interpretation

The following definitions and rules of interpretation apply in the Contract.

1.1 Definitions:

- 1 **Annual Charge:** the Price as set out in the Order.
- 2 **Business Day:** a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- 3 **Business Hours:** the period from 8.30 am to 5.00 pm on any Business Day.
- 4 **Commencement Date:** as defined in clause 2.2.
- 5 **Conditions:** these terms and conditions set out in clause 1 to clause 12 (inclusive).
- 6 **Confidential Information:** any information, which by its nature is confidential, concerning the business, assets, affairs, customers, or suppliers of the other party or of any member of its Group.
- 7 **Consumables:** non-durable items used in the operation of the Equipment and as provided as part of the provision of the Services.
- 8 **Contract:** the contract between the Client and ICE for the supply of the Services in accordance with the Order, these Conditions and any Schedules.
- 9 **Contract Year:** the 12-month period starting on the Commencement Date and ending on the anniversary of the Commencement Date, and each 12-month period thereafter during the Term.
- 10 **Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be interpreted accordingly.
- 11 **Equipment:** the equipment specified in ICE's quotation, the Renewal Notice or overleaf (as the case may be).
- 12 **Extended Term:** has the meaning given in se 2.
- 13 **Force Majeure Event:** has the meaning given to it in clause 12.1.
- 14 **Good Working Order:** operating in accordance with the applicable specification of the manufacturer of the Equipment.
- 15 **Group:** in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to of a holding company of that company.
- 16 **ICE:** Industrial Cooling Equipment Limited incorporated and registered in England and Wales with company number 02749695 whose registered office is at 101 Chadwick Road, Astmoor Industrial Estate, Runcorn, Cheshire, WA7 1PW.
- 17 **Initial Term:** as defined in clause 2.3.
- 18 **Inspection Date:** the dates of the Maintenance Visits, as agreed in writing between ICE and the Client during the Term.

- 19 **Location:** the location of the Equipment as specified in ICE's quotation, the Renewal Notice or overleaf (as the case may be), or any other location as may be agreed by the parties in writing from time to time.
- 20 **Maintenance Services:** the maintenance services which are to be provided, as set out in the Order and paragraph 6 of Schedule 1.
- 21 **Maintenance Visits:** as defined in paragraph 2 of Schedule 1.
- 22 **Order:** the Client's order for the Subscription Services as set out in the Client's written acceptance of a quotation by ICE, the Renewal Notice or overleaf, as the case may be.
- 23 **Repair Quote:** has the meaning given to it in paragraph 1 of Schedule 2.
- Repair Services:** in accordance with 4.1:
- 23a) making any adjustments to the Equipment; or
- 23b) replacing any parts or components of the Equipment,
- 24 in each case, as required to restore the Equipment to Good Working Order.
- 25 **Repair Specification:** the description or specification for the Repair Services provided in writing by ICE to the Client.
- 26 **Replacement Parts:** as defined in paragraph 2.1 of Schedule 2
- 27 **Renewal Notice:** any notice served by ICE pursuant to clauses 2.4 or 6.5.
- 28 **Response Time:** the applicable response time set out in clause 4.3.
- 29 **Restricted Person:** as defined in clause 8.3.
- 30 **Review Period:** the period from the Client being notified by ICE, of the variation of the contract or the increase to the Annual Charge (as the case may be), up to the end of the Initial Term or the relevant Extended Term.
- 31 **Services:** the Subscription Services and/or the Repair Services (as the context may determine).
- 32 **Spare Parts:** all spare components and subassemblies of the Equipment supplied for installation in the Equipment as part of the provision of the Repair Services.
- 33 **Subscription Services:** those services as set out in Schedule 1.
- 34 **Term:** the period from the Commencement Date up to the date of termination of the Contract, howsoever arising.
- 35 **VAT:** value added tax chargeable in the UK.
- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of the Contract.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Contract is made up of the following:
- (a) The Order;
 - (b) The Conditions; and
 - (c) The Schedules specified in the Order.
- 1.2 If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1.4, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

- 1.3 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provisions.
- 1.8 A reference to **writing** or **written** excludes fax and email.
- 1.9 References to clauses and Schedules are to the clauses and Schedules of the Contract and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.10 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

2. Commencement and duration

- 2.1 The Order constitutes an offer by the Client to purchase the Subscription Services in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted when:
 - (a) the Client issues written acceptance of the Order;
 - (b) the Client signs the Order; or
 - (c) the Client instructs ICE to perform the Subscription Services or behaves in manner consistent with such instruction,

at which point and on which date the Contract shall come into existence (**Commencement Date**).

- 2.3 The Contract shall commence on the Commencement Date. Unless terminated earlier in accordance with clause 2.4, clause 6.5, clause 9, this clause or paragraph 1.2 of Schedule 2, the Contract shall continue for a period of 12 months (**Initial Term**) and shall automatically extend for a period of 12 months (**Extended Term**) at the end of the Initial Term and at the end of each Extended Term. Either party may give written notice to the other party, not later than 30 days before the end of the Initial Term or the relevant Extended Term, to terminate the Contract at the end of the Initial Term or the relevant Extended Term, as the case may be.
- 2.4 ICE may from time to time vary the Contract, such variation to take place in the next relevant Extended Term, by giving the Client notice, such notice to be given not less than 30 days' prior to the end of the Initial Term or the Extended Term (as the case may be). If the Client does not accept the variation, the Client may, during the Review Period, terminate the Contract on written notice to ICE, such termination to take place at the end of the Review

Period. The Client's continued use of the Subscription Services after the Review Period will constitute the Client's acceptance of the variation.

3. Subscription Services

- 3.1 **Supply of Services.** During the Term, ICE shall supply the Subscription Services to the Client.
- 3.2 The provisions of Schedule 1 shall apply to the Subscription Services (and, where the context requires, the Contract).
- 3.3 **Provision of information.** ICE shall provide to the Client from time to time in writing with such up to date and accurate information as to the application and use of the Equipment as may be available to ICE and as ICE may reasonably determine to be necessary or desirable to be provided.
- 3.4 **Health and safety compliance.** ICE shall procure that its representatives shall, while on site at the Location, comply with the Client's reasonable health and safety and security policies provided that these have been brought the attention of its representatives.

4. Repair Services

- 4.1 On ICE notifying the Client that the Equipment is defective, is malfunctioning, has failed, or is not otherwise in Good Working Order, ICE's representative shall provide a Repair Quote. For the avoidance of doubt, ICE's representative shall only provide a Repair Quote if the work required to rectify any defect/malfunction, or any restoration required to put the Equipment to Good Working Order, is not covered as part of the Subscription Services.
- 4.2 On the Client informing ICE that the Equipment is defective, is malfunctioning, has failed, or is not otherwise in Good Working Order, ICE shall use its reasonable endeavours to ensure that one of its representatives shall:
- (a) attend the Location during Business Hours within the Response Time to perform an inspection on the Equipment and test the Equipment's functionality; and
 - (b) following an inspection in accordance with clause 4.2(a) above, provide a quotation to perform the Repair Services.
- 4.3 No maximum Response Time is applicable (unless set out in the Order), but ICE will endeavour to respond as soon as reasonably practicable.
- 4.4 All Response Times provided by ICE shall be estimates only and time for performance by ICE shall not be of the essence of the Contract.
- 4.5 The provisions of Schedule 2 shall apply to the Repair Services (and, where the context requires, the Contract).
- ### **5. Client's obligations**
- 5.1 **Proper use of Equipment.** The Client shall at all times during the Term:
- (a) use the Equipment only in accordance with the instructions and recommendations of the manufacturer of the Equipment and/or as may be advised from time to time by ICE;
 - (b) permit only trained and competent personnel to use the Equipment;

- (c) notify ICE promptly if the Equipment is discovered to be defective or malfunctioning or has failed or is otherwise not in Good Working Order;
- (d) keep the Equipment in the environmental conditions recommended by the manufacturer of the Equipment or as may be advised in writing from time to time by ICE;
- (e) not allow any other person than ICE's representatives to adjust, maintain, repair, replace or remove the Equipment or any part of it, unless otherwise agreed in writing by ICE; and
- (f) not move the Equipment from the Location without the prior written consent of ICE (such consent not to be unreasonably withheld or delayed).

5.2 **Access to Equipment.** The Client shall ensure that ICE's representatives have:

- (a) full and free access to the Location and to the Equipment;
- (b) full and free access to any records of its use kept by the Client; and
- (c) adequate and safe working space and facilities,

in each case as required to enable ICE to perform its obligations under the Contract.

5.3 **Provision of information to ICE.** The Client shall provide ICE with such information concerning the Equipment, its application, use, location and environment as ICE may request to enable it to perform its obligations under the Contract.

5.4 **Safety.** The Client shall take all such steps as may be necessary to ensure the safety of any of ICE's representatives when attending the Location.

5.5 **Malfunction reports.** The Client shall report that the Equipment is defective or malfunctioning or has failed or is otherwise not in Good Working Order in writing as soon as reasonably practicable following discovery of the same, or in such manner as ICE may reasonably require from time to time.

5.6 **Client Services manager.** The Client shall appoint a manager for the Services. That person shall have authority to contractually bind the Client on all matters relating to the Services. The Client shall use all reasonable endeavours to ensure that the same person acts as the Client's manager throughout the Term, but may replace that person from time to time where reasonably necessary in the interests of the Client's business.

5.7 **Delay due to Client.** If ICE's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, ICE shall be allowed an extension of time to perform its obligations equal to the delay caused by the Client.

6. Charges and payment

6.1 In consideration of the performance of the Subscription Services, the Client shall pay to ICE the Annual Charge on an annual basis.

6.2 ICE shall invoice the Client in advance, on or around the Commencement Date. Thereafter, ICE shall invoice the Client on or after the start of each Extended Term.

- 6.3 Unless stated otherwise in the Order (or in any notice served by ICE in accordance with clause 6.5), the Client shall pay each invoice submitted to it by ICE, in full, within 30 days of receipt. Payment in accordance with this clause shall be to a bank account nominated in writing by ICE from time to time.
- 6.4 All amounts and fees stated or referred to in the Contract:
- (a) subject to clause 6.6, are non-cancellable and non-refundable;
 - (b) are exclusive of value added tax, which shall be added to ICE's invoice(s) at the appropriate rate.
- 6.5 ICE shall be entitled to increase the Annual Charge, such increase to take place in the next relevant Extended Term, by giving the Client notice. Such notice under this clause 6.5 shall be given not less than 30 days' prior to the end of the Initial Term or the Extended Term (as the case may be). If the Client does not accept the increase to the Annual Charge, the Client may, during the Review Period, and for a period of up to 30 days after the Review Period (**Cooling Off Period**), terminate the Contract on written notice to ICE. Termination shall be deemed to have taken place at the end of the Review Period. Failure by the Client to provide notice during such time shall constitute acceptance of the increase of the Annual Charge.
- 6.6 If the Client serves notice in accordance with clause 6.5 during the Review Period or the Cooling Off Period (as the case may be), and has paid some or all of the increased Annual Charge relating to the relevant Extended Term to ICE, ICE will refund such amounts received to it by the Client.
- 6.7 **Failure to pay.** Without prejudice to any other right or remedy that it may have, if the Client fails to pay ICE any sum due under the Contract on the due date ICE may suspend all or part of the Services until payment has been made in full.
- 6.8 **Tax and set-off.** All sums payable to ICE under the Contract:
- (a) are exclusive of VAT, and the Client shall in addition pay an amount equal to any VAT chargeable on those sums; and
 - (b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. Limitation of liability

- 7.1 **Scope of limitations of liability.** The restrictions on liability in this e 7 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 7.2 **No limitation of the Client's payment obligations.** Nothing in this 7 shall limit the Client's payment obligations under the Contract.
- 7.3 **Liability for delay if Client refuses off-site repair.** ICE shall not be liable for any delay in providing the relevant Service if in ICE's reasonable opinion it needs to remove the Equipment (or part of the Equipment, if applicable) for repair off-site and the Client unreasonably refuses this request.
- 7.4 **Total aggregate liability.** Each party's total aggregate liability in respect of all claims, losses or damages arising, shall not exceed the cap (as defined in clause 7.5 below).

7.5 **Definitions.** In 7.4:

- (a) **cap.** The cap is the total charges in the Contract Year in which the breaches occurred; and
- (b) **total charges.** The total charges means all sums paid by the Client and all sums payable under the Contract in respect of the Services supplied by ICE during the respective Contract Year.

7.6 **Exclusions of liability.**

- (a) Subject to 7.2, 7.6(b) excludes specified types of loss.
- (b) **Types of loss wholly excluded:**
 - (i) Loss of profits.
 - (ii) Loss of sales or business.
 - (iii) Loss of agreements or contracts.
 - (iv) Loss of anticipated savings.
 - (v) Loss of use or corruption of software, data or information.
 - (vi) Loss of or damage to goodwill.
 - (vii) Indirect or consequential loss.

8. **Non-solicitation**

8.1 **No solicitation of Restricted Persons.** In order to protect their respective legitimate business interests each party covenants with the other for itself and as agent for each member of its Group that it shall not (and shall procure that no member of its Group shall) (except with the prior written consent of the other party):

- (a) attempt to solicit or entice away; or
- (b) solicit or entice away,

from the employment or service of the other party or any member of its Group the services of any Restricted Person other than by means of a national advertising campaign open to all-comers and not specifically targeted at such staff of the other party or any member of its Group.

8.2 **Term of restrictive covenant.** The parties shall be bound by the covenant set out in 8.1 during the Term, and for a period of 6 months after termination or expiry of the Contract.

8.3 **Restricted Persons.** For the purposes of this 8, a **Restricted Person** shall mean any firm, company or person employed or engaged by a party or any member of its Group during the Term, who has been engaged in the provision of, or the management of, the Services under the Contract.

9. **Termination**

9.1 **Termination.** Without affecting any other right or remedy available to it, ICE may terminate the Contract with immediate effect by giving written notice to the Client if:

- (a) ICE reasonably determines that the Equipment can no longer be maintained in Good Working Order by the provision of Spare Parts or Consumables or the Equipment is damaged beyond economic repair;

- (b) the Client fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment;
- (c) the Client commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (d) the Client repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
- (e) the Client suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (**IA 1986**) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
- (f) the Client commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors;
- (g) the Client applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;
- (h) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Client;
- (i) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the Client;
- (j) the holder of a qualifying floating charge over the assets of the Client has become entitled to appoint or has appointed an administrative receiver;
- (k) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the Client;
- (l) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Client's assets and such attachment or process is not discharged within 14 days;
- (m) any event occurs, or proceeding is taken, with respect to the Client in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in 9.1(e) to 9.1(l) (inclusive);
- (n) the Client suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (o) the Client's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy; or
- (p) there is a change of Control of the Client.

10. Consequences of termination and survival

10.1 On termination of the Contract:

- (a) the Client shall immediately pay to ICE all of ICE's outstanding amounts (including any interest accrued on such amounts);

- (b) in respect of Services supplied but for which no invoice has been submitted, ICE may submit an invoice, which shall be payable immediately on receipt; and
- (c) any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

10.2 **Accrued rights.** Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

11. Confidentiality

11.1 **No disclosure of Confidential Information.** Each party undertakes that it shall not at any time, disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by 11.2.

11.2 **Exceptions.** Each party may disclose the other party's Confidential Information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this 11; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.3 **Restrictions on use of Confidential Information.** No party shall use any other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

12. General

12.1 **Force majeure.** Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (**a Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for two weeks, the party not affected may terminate the Contract by giving five Business Days' written notice to the affected party.

12.2 **Assignment and other dealings.**

- (a) ICE may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

12.3 **Entire agreement**

- (a) The Contract constitutes the entire agreement between the parties.

- (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

12.4 **Waiver**

- (a) A waiver of any right or remedy is only effective if given in writing.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

12.5 **Severance**

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.
- (b) If any provision or part-provision of the Contract is deemed deleted under 12.5(a) the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.6 **Variation.** Unless stated elsewhere in the Contract, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.7 **Third party rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

12.8 **Rights and remedies.** The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

12.9 **Notices**

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- (b) any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

12.10 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

12.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Schedule 1 Subscription Services

1. **Inspection.** On each Inspection Date, ICE shall carry out an inspection of the Equipment to determine whether it is in Good Working Order.
2. **Maintenance Visits.** A representative of ICE shall use reasonable endeavours to attend the Location on each Inspection Date (**Maintenance Visits**). ICE's representative shall perform the Maintenance Services during Business Hours on each Inspection Date, at such times as may be agreed in advance between the Client and ICE from time to time.
3. **Maintenance Report.** If ICE finds the Equipment to be in Good Working Order, it shall notify the Client confirming this, usually as part of a maintenance report provided by ICE to the Client.
4. **Equipment malfunction.** If ICE's representative discovers that the Equipment is defective; or is malfunctioning; or has failed; or is not otherwise in Good Working Order during the course of performing the Subscription Services, the representative will notify the Client of any defect, malfunction, failure or that the Equipment is not otherwise in Good Working Order, as part of a maintenance report provided by ICE to the Client after each Inspection Date.
5. **Quotation to restore to Good Working Order.** If ICE finds the Equipment not to be in Good Working Order and if the work required to rectify any defect/malfunction (or any restoration required to put the Equipment to Good Working Order) is not covered as part of the Subscription Services, ICE shall notify the Client of this fact and may issue a Repair Quote to provide Repair Services in accordance with clause 4.
6. **Maintenance Services**
 - 6.1 Routine maintenance, being:
 - (a) testing that the Equipment is functional;
 - (b) making any minor adjustments as may be required to ensure the Equipment remains in Good Working Order; and
 - (c) replacing any Consumables that require replacing,in accordance with paragraph 2;
 - 6.2 Provide a maintenance report as set out in paragraph 3 or paragraph 4 (as the case may be);
 - 6.3 Changing and/or cleaning any filters used in the operation of the Equipment;
 - 6.4 Cleaning and disinfecting evaporators and condensers;
 - 6.5 Asset list including refrigerant charge and CO2 Eq;
 - 6.6 Leak Check Certificate; and
 - 6.7 Access to ICE's 24/7 helpline for call outs on all days of the year.

7. **Maximum Number of Annual Inspections.**

- 7.1 Irrespective of the number of separate items of Equipment, ICE's representative shall only attend the Location up to the Maximum Number of Maintenance Visits in each Contract Year.
- 7.2 For the purposes of paragraph 7.1 of this Schedule, the **Maximum Number of Maintenance Visits** shall be the number of visits as specified within the ICE's quotation, the Renewal Notice or overleaf (as the case may be).

Schedule 2 Repair Services

1. Quotation

- 1.1. Any quotation given by ICE to perform Repair Services (**Repair Quote**) shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.
- 1.2. **Termination on rejection of quotation.** Without affecting any other right or remedy available to it, ICE may terminate the Contract with immediate effect by giving written notice to the Client if the Client refuses any Repair Quote.

2. Replacement Parts

- 2.1. **Supply of Spare Parts and Consumables.** ICE shall supply and fit such Spare Parts and/or Consumables as required to perform the Repair Services (**Replacement Parts**).
- 2.2. The details of the relevant Replacement Parts will be specified in the Repair Quote or set out in writing by ICE to the Client on or before performance of the relevant Repair Services. All Replacement Parts shall be either new, or reconditioned or reassembled parts which are equivalent to new parts in performance. All Consumables shall be new.
- 2.3. ICE will transfer to the Client, with full title guarantee and free from all third party rights, all the Replacement Parts that it provides to the Client, and the Replacement Parts shall become part of the Equipment upon their installation in the Equipment.
- 2.4. Any dates quoted for the Repair Services and the delivery of the relevant Replacement Parts are approximate only, and the time of delivery is not of the essence. ICE shall not be liable for any delay in the performance of the Repair Services and/or the delivery of the Replacement Parts that is caused by a Force Majeure Event or the Client's failure to provide ICE with adequate instructions that are relevant to the Repair Services.

3. Repair Services

- 3.1. ICE shall supply the Repair Services to the Client in accordance with the Repair Specification in all material respects. ICE shall use all reasonable endeavours to meet any performance dates for the Repair Services, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Repair Services.
- 3.2. ICE reserves the right to amend the Repair Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Repair Services, and ICE shall notify the Client in any such event.
- 3.3. Following the completion of the Repair Services, ICE shall provide the Client with a certificate confirming that the Repair Services have been completed.
- 3.4. The Client shall:
 - 3.4.1. ensure that the terms of the Repair Specification are complete and accurate;
 - 3.4.2. co-operate with ICE in all matters relating to the Repair Services;
 - 3.4.3. provide ICE, its employees, agents, consultants and subcontractors, with access to the Client's premises, office accommodation and other facilities as reasonably required by ICE to provide the Repair Services;

- 3.4.4. provide ICE with such information and materials as ICE may reasonably require in order to supply the Repair Services, and ensure that such information is complete and accurate in all material respects;
- 3.4.5. if instructed to do so by ICE, prepare the Client's premises for the supply of the Repair Services;
- 3.4.6. comply with all applicable laws, including health and safety laws;
- 3.4.7. keep all materials, equipment, documents and other property of ICE at the Client's premises in safe custody at its own risk, maintain ICE Materials in good condition until returned to ICE, and not dispose of or use ICE Materials other than in accordance with ICE's written instructions or authorisation; and
- 3.4.8. comply with any additional obligations as set out in the Repair Specification.

4. **Client Default**

- 4.1. If ICE's performance of any of its obligations under clause 4 and/or this Schedule 2 is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):
 - 4.1.1. without limiting or affecting any other right or remedy available to it, ICE shall have the right to suspend performance of any of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays ICE's performance of any of its obligations;
 - 4.1.2. ICE shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from ICE's failure or delay to perform any of its obligations as set out in this paragraph 4.1; and
 - 4.1.3. the Client shall reimburse ICE on written demand for any costs or losses sustained or incurred by ICE arising directly or indirectly from the Client Default.

5. **Charges**

- 5.1. The price for Repair Services shall be the price set out in the Repair Quote and shall be include related costs and related charges in respect of the Replacement Parts.
- 5.2. The charges for Repair Services not included in the Repair Quote shall be calculated on a time and materials basis:
 - 5.2.1. shall be calculated in accordance with ICE's hourly fee rates; and
 - 5.2.2. ICE shall be entitled to charge the Client for any expenses reasonably incurred by the individuals whom ICE engages in connection with the Repair Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by ICE for the performance of the Repair Services, and for the cost of any materials.
- 5.3. ICE shall invoice the Client on completion of the Repair Services.
- 5.4. The Client shall pay each invoice submitted by ICE:
 - 5.4.1. within 30 days of the date of the invoice or in accordance with any credit terms agreed by ICE and confirmed in writing to the Client; and
 - 5.4.2. in full and in cleared funds to a bank account nominated in writing by ICE, and

5.4.3. time for payment shall be of the essence.