

Annex 2 TERMS AND CONDITIONS OF CONTRACT

Maintenance contract no

This maintenance contract has been concluded on _____, 2017 by

Enefit Power & Heat Valka SIA, a company established and existing under the laws of Latvia, with its principal place in Rujienas iela 5, Valka city, Republic of Latvia, Commercial Registry number 44103024234, (hereinafter the Customer), represented by **Nadezda Kornejeva-Krumina** and **Innar Kaasik** acting under the Power of Attorney

and....., a company, established and existing under the laws of _____, with its principal place in _____ (hereinafter the Contractor), represented by _____ acting under the Power of Attorney,

The Customer and the Contractor hereinafter mentioned jointly as Parties and separately as Party.

The Parties have concluded the following contract:

1.1. Definitions

Unless the context otherwise requires, the following definitions shall apply to this Contract:

- CHP Valka means the biomass-fired co-generation plant operated by the Customer and located at Rujienas iela 5, Valka, Latvia.
- Contract means this service agreement with Annexes.
- Consumables means all materials subject to wear and tear, such as bearings, sealings, grease and etc. These materials are commercially available as “off the shelf” products and can be purchased from any specialized retailer.
- Major spare parts means proprietary or custom-made items that can be purchased only from the supplier of equipment.
- Services means inspection and maintenance services described in annexes of the competition document issued for competition of rotating equipment services for CHP Valka.
- Site means the site of the CHP Valka.

2. EFFECTIVE DATE AND TERM

2.1. The contract shall become effective from2017 and valid through 3 years until09.2020.

3. CONTRACTOR'S RESPONSIBILITIES

3.1. The Contractor shall:

3.1.1. be fully qualified, duly equipped and capable of providing the Services in a manner prescribed by the Contract and its annexes;

3.1.2. comply with all legal requirements governing delivery of Services mentioned in the Contract;

3.1.3. be solely responsible and have a control over techniques, methods, planning and coordination of all aspects of the Services unless the Customer gives other specific instructions concerning these matters. The Contractor has no right to change any proven technology without obtaining a prior written consent of the Customer;

3.1.4. timely and properly deliver the Services specified in annex A to the Contract;

- 3.1.5. be responsible for procurement, shipment, handling, storage and safekeeping of all materials necessary for the performance of Services.
- 3.2. The Contractor has to share all relevant information in respect of contractual matters that is reasonably requested by the Customer.
- 3.4. The Contractor is liable to the Customer for the damages resulting from any nonconformity to the Contract , such as delivery and installation of non-quality materials or bad workmanship.
- 3.5. The Contractor shall keep allocated workplace in clean and safe conditions. In this regard, the Contractor shall remove at first request any unnecessary materials and tools stored on Customer's territory to avoid useless obstruction.
- 3.6. Upon mutual agreement the Contractor is authorized to use the waste containers installed on Customer's territory for disposal of non-hazardous wastes. The hazardous wastes shall be handled and treated according to respective Latvian legislation.

4. CUSTOMER'S RESPONSIBILITIES

- 4.1. The Customer shall:
 - 4.1.1. appoint an English speaking Customer's representative with whom the Contractor may consult at all reasonable times;
 - 4.1.2. provide reasonable assistance to the Contractor in obtaining any legal or permitting documents related to work performance;
 - 4.1.3. Supply the Contractor at no cost and in reasonable quantities with power, compressed air and Hot/Cold water. Provide the Contractor upon request with any available maintenance and operational data as well as with other technical information about equipment installed at CHP Valka;
- 4.2. The Customer reserves the right to inspect at any time the materials and tools that are intended to be used by the Contractor for their quality and conformity to the contractual terms. Any such inspection shall be conducted at no cost for the Contractor. The Contractor shall use other materials or tools if the Customer it reasonably requires.
- 4.3. Customer shall inform the Contractor at least 1 (one) month in advance about planned maintenance outages. Actual starting day and duration of the Services shall be mutually agreed by both Parties depending on travelling time and logistics. Usual service time for carrying out of planned Services is a short maintenance period of 5 days in April and one long maintenance period of 14 days in September.

5. SUB-CONTRACTORS

- 5.1. The Contractor is responsible for the quality of works and materials delivered by its Sub-Contractors as well as for self-performed Services.
- 5.2. The Contractor shall submit a list of Sub-Contractors at least one week before the Sub-Contractor begin to work in CHP Valka.
- 5.3. The Customer has the right to reject the proposed Sub-Contractors, if the last is a direct competitor to Customer or there are other reasonable objections toward the Sub-Contractor.

6. RELATIONS WITH THE AUTHORITIES

- 6.1. The Contractor has to obtain and/or keep those governmental authorizations and permits for legal and due

Services, that are required for the performance of its duties under this Contract, and ensure that the Sub-Contractors obtain and/or keep all governmental authorizations and permits required for due performance of their duties under this Contract, and/or under any other agreement based on this Contract. Delayed approvals and permissions concerning the Services from the authorities will not qualify the Contractor for excusable delays.

- 6.2. Contractor shall prepare at its cost all permit applications in compliance with the Contract and legal requirements and Contractor shall submit the applications to the authorities and pay all fees in connection therewith.

7. CONTRACT PRICES AND TERMS OF PAYMENT

- 7.1. For each planned visit, the Customer will pay to the Contractor a service fee based on a cost estimate previously approved by the Customer. By submission of the cost estimate for a planned visit the Contractor shall use the regular hourly rate stated in the Contractors tender.
- 7.2. Payments for emergency call outs will be calculated by multiplication of working hours and emergency hourly rates.
- 7.3. Hourly rates include all costs and expenses borne by the Contractor during performance of Services (transport and delivery costs, personal allowances, allocation fees, report compilation costs and others)except cost of materials.
- 7.4. The actual cost of consumables and minor parts will be paid by the Customer additionally.
- 7.5. Payment term is 35 days after receiving the invoice.

8. GUARANTEE

- 8.1. Contractor undertakes, within the limits of following stipulations, to rectify- free of charge all faults which may occur within 12 months after the Services have been carried out.
- 8.2. The guarantee obligation extends to faults that appear under normal operating conditions when the CHP Valka is used correctly. It does not extend to faults caused by inadequate or abnormal operation conditions, or to changes made without Contractor's written instructions, or repairs carried out by the Customer or to fault arising from normal wear and tear. Normal wear and tear conditions shall be defined in the product manuals.
- 8.3. Defective parts replaced by Contractor under the guarantee obligations become the Contractor's property. The new guarantee period starts from the date of replacement.

9. LIABILITY

- 9.1. If the Contractor fails to deliver the planned Services on due date, or within the agreed period, the Customer shall notify the Contractor in writing about and has the right to demand from the Contractor a penalty in amount of 250 EUR for every day of delay.
- 9.2. When the Contractor fails to carry out the Services in a proper and workman-like manner, or otherwise than prescribed by the Contractual terms, the Customer shall promptly notify the Contractor about and demand from the Contractor a penalty in amount of 250 EUR for every non-conformity caused by using of bad material or workmanship. The Contractor's obligations under this article shall not extend to failures caused by improper or abnormal operation.

- 9.3. The Contractor shall at his own expense and within a reasonable time, given by the Customer in written notification to remedy all defects in delivered works.
- 9.4. The Customer may deduct sums payable by the Contractor to the Customer from the payments due to the Contractor related to points 9.1 and 9.2 of this Contract.
- 9.5. Parties shall not in any case be liable for any loss of production, loss of profit or any other indirect loss that may be suffered by the other Party unless damage is caused intentionally or by gross negligence.

10. FORCE MAJEURE

- 11.1. An event of Force Majeure shall mean any circumstance not within the reasonable control, directly or indirectly, of the Party affected, but only if and to the extent that (i) such circumstance, despite the exercise of reasonable diligence, cannot be or be caused to be prevented, avoided or removed by such Party and (ii) such event or series of the same or different events materially adversely affects the ability of the Party affected to perform its obligations under this Contract, and such Party has taken all reasonable precautions, due care, and reasonable alternative measures in order to avoid the effect of such event on such Party's ability to perform its obligations under this Contract and to mitigate the consequences thereof and (iii) such event is not the result of the failure of such Party to perform any of its obligations under this Contract.
- 11.2. During a Force Majeure event the Parties shall not be liable for failure to fulfil the Contract.

11. TERMINATION OF THE CONTRACT

- 11.1. Either Party shall be entitled to terminate the Contract if the other Party becomes bankrupt or due to force majeure referred to in Article 10 if the the consequences of force majeure have continued or obviously will continue in excess of 3 months.
- 11.2. Either Party shall be entitled to withdraw unilaterally from the Contract by giving prior written notice with immediate effect if the other Party is in breach of any of important provisions of this Contract and has failed to remedy such breach within 30 days after having received written notice from the other Party requiring the breach to be remedied.
- 11.3. If the Contract is terminated on any grounds whatsoever, the provisions of the Contract, which due to their nature prescribe the rights and obligations of the Parties after termination of the Contract, remain applicable after the termination of this Contract.

12. GOVERNING LAW, SETTLEMENT OF DISPUTES

- 12.1. This Contract is governed by the law of the Republic of Latvia.
- 12.2. Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach, termination or invalidity thereof, shall be finally settled in the Latvian Chamber of Commerce and Industry Court of Arbitration in Riga in accordance with its Rules of Arbitration. .
 - 12.2.1. The arbitral tribunal shall be composed of one (1) arbitrator.
 - 12.2.2. The seat of arbitration shall be Riga. The language to be used in the arbitral proceedings shall be English.

13. LANGUAGE OF THE CONTRACT

13.1. The language of the Contract and the appendixes shall be English. All correspondence related to the administration of the Contract shall be carried on in English.

14. CONFIDENTIALITY AND TRANSFER OF THE CONTRACT

14.1. The Customer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party, except for Party's legal counsels or other advisers and to a parent company to the extent required for the performance of their services, or use, other than on behalf of the other party hereto, any confidential information. To the extent possible, confidential information shall be stamped or labelled "Confidential" or if designated orally as confidential information, such indication shall be confirmed in writing within thirty (30) calendar days. Notwithstanding the foregoing, all financial information (including the financial model) provided to or otherwise obtained by a Party shall be confidential information. Notwithstanding the above, the Contractor may furnish to its Contractor's suppliers confidential information to the extent required for the Contractor's suppliers to perform its/their work under the Contract, and the Customer may furnish confidential information to the credit institutions in connection with the financing of the plant. If disclosure to a third party is authorized or disclosure to the credit institutions or the Contractor's suppliers is made under this section, the Contractor or the Customer, as applicable, shall obtain from such third party a confidentiality undertaking containing terms and conditions identical to this section contains.

14.2. The obligation of a Party under article 14.1. above, however, shall not apply to that information which:

14.2.1. now or hereafter enters the public domain through no fault of that Party;

14.2.2. can be proven to have been possessed by that Party at the time of disclosure, either without limitation on disclosure to others or which subsequently becomes free of such limitation, and which was not previously obtained, directly or indirectly, from the other Party hereto;

14.2.3. belongs to the other Party and lawfully becomes available to the Party from a third party that has no obligation of confidentiality to the other Party; or

14.2.4. is required by any relevant authorities, in which case the other Party shall be informed prior to such disclosure so that precautions with respect to proprietary information may be taken.

14.3. Without written permission from the other Party neither the Customer nor the Contractor is entitled to assign or transfer the Contract or any right or obligation therein to a third party.

15. CONTRACT DOCUMENTS

15.1. If the Contract agreement and its annexes are contradictory the Contract shall prevail.

15.2. The stipulations in the annexes shall be an integral part of the Contract. The list of the annexes:

Annex A Tender Documents (EE-2260) Annex 1 TECHNICAL TERMS OF REFERENCE

Annex B Contractor's tender

Annex C OCCUPATIONAL HEALTH AND SAFETY AND FIRE SAFETY AGREEMENT

15.3. This Contract may be amended solely with the written agreement of the Parties, and any such amendment shall form integral part of the Contract.

16. NOTICES AND CONTACTS

16.1. Any notices about disputes relating to the Contract, approvals, consents and other declaration of

intention are deemed as having been issued in accordance with this Contract if sent by e-mail to the addresses stated in Articles 16.2 or 16.3.

16.2. The addresses and contacts of the Parties for matters relating to the Contract are as follows:

The Customer: SIA Enefit Power & Heat Valka
Registry code:
Rūjienas iela 5 , LV-4701, Valka, Latvia
Contact person:
Phone:
Fax:
E-mail:

The Contractor:
Registry code:
Contact person:
Phone:
Fax:
E-mail:

16.3. Contacts for matters relating to carrying out the Services are as follows:

24h service – e-mail

The Contractor
The Customer ..

16.4. This Contract has been drawn up in two originals, one original for each contracting Party.

Date and Place :

CUSTOMER

CONTRACTOR