

Equipment Replacement Scheme Hot Water Heat Pumps Installer Panel Agreement

Installer Legal Name:	[Installer]
Contract #:	[contract #]

CONTENTS

1. DEFINITIONS	4
2. INTERPRETATION	5
3. TERM	5
4. PRIORITY	6
5. YOUR GENERAL OBLIGATIONS	6
6. ASSESSMENT	7
7. ACCEPTED QUOTE	7
8. INSTALLATION	7
9. INVOICING	7
10. CLAIMS	7
11. INSTALLER REQUIREMENTS REGARDING COMPLAINTS / WARRANTY	8
12. SUBCONTRACTORS	9
13. REPORTING AND RECORDS	9
14. AUDITING AND REVIEWS	10
15. POST COMPLETION INFORMATION	10
16. INDEMNITY	11
17. INSURANCE	11
18. PROMOTIONS AND MARKETING	11
19. CONFIDENTIALITY AND PRIVACY	11
20. CONFLICTS OF INTEREST	12
21. INTELLECTUAL PROPERTY	13
22. REVIEW OF INSTALLER	13
23. RECTIFYING BREACHES AND TERMINATION	13
24. COMMUNICATION	15
25. DISPUTES	16
26. NON-WAIVER	16
27. EXPECTATIONS	16
28. VARIATIONS	16
29. GENERAL	17
SCHEDULE 1 – MINIMUM SERVICE REQUIREMENTS	19
SCHEDULE 2 - ADDITIONAL PAYMENTS	20

AGREEMENT

DATED :

BETWEEN **THE ENERGY EFFICIENCY AND CONSERVATION AUTHORITY ("EECA, we, us, our")**
AND **[INSTALLER] ("you", " Installer"),**
 together, "the Parties"

INTRODUCTION

- A. The Installer was a respondent to a Request for Proposal ('**RFP**') issued by EECA on 6th April 2023, and in reliance on its RFP response has been offered appointment to EECA's panel of Hot Water Heat Pump Installers as an approved provider of Services to Customers in connection with the Hot Water Heat Pump Co-Funding Programme.
- B. The goal of the Scheme is to accelerate the uptake of heat pump technology to replace fossil-fuelled boilers in New Zealand through an equipment replacement subsidy. This Programme will be targeted at the medium and small emitters in the commercial and industrial sectors. The Programme is aiming to replace smaller existing califont instant/ on-demand hot water boilers, coal boilers and electric boilers with small to medium (15 – 50 kW) 'air-to-water' heat pumps hot water systems.
- C. The parties wish to enter into an agreement ("Agreement") that sets out the terms of panel membership as follows:

1. DEFINITIONS

- 1.1 **Agreement** means this panel agreement and includes all Schedules and Appendices and any Notices to Installers issued by us in relation to the Programme.
- 1.2 **Approved Heat Pump Product** means a heat pump model that:
- (a) Meets the technical requirements listed in the RFP.
- 1.3 **Assessment** means a full inspection of a Commercial Property conducted before the Installation at that Commercial Property to determine its eligibility for Funding, suitability for an Installation, which Approved Heat Pump Product should be installed, and any installation requirements specific to the Commercial Property, in accordance with the requirements of the RFP.
- 1.4 **Audit** means review and/or inspection of an Installation and/or the information submitted by the Installer including records submitted, reports submitted, Claims made and Installations claimed against.
- 1.5 **Claim** means a claim submitted by you EECA, for payment for the Installation.
- 1.6 **Confidential Information** means information relating to this Agreement or disclosed by one party to this Agreement to the other party under this Agreement that is marked as confidential or which might reasonably be expected to be confidential in nature.
- 1.7 **Conflict of Interest** means any interest or duty which conflicts or may conflict with any of our interests.
- 1.8 **Commercial Property** means any commercial or industrial building not owned by central government.
- 1.9 **Force Majeure Event** means an event or circumstance beyond the reasonable control of a party such as an Act of God (but excluding lack of funds).
- 1.10 **Funding** means funding through the Programme.
- 1.11 **GST** means goods and services tax payable in accordance with the Goods and Services Tax Act 1985.
- 1.12 **Insolvency Event** means, in relation to a party, where that party suspends or ceases to conduct its principal business or threatens to do so; becomes or is presumed by law to be insolvent; makes or proposes to make any assignment, arrangement, compromise or composition with, or for the benefit of, any of its creditors; has any of its assets subject to any form of seizure or execution; has a receiver, liquidator, administrator, statutory manager or any similar insolvency administrator appointed; is removed from the Register of Companies; or suffers any analogous event.
- 1.13 **Installation** means installing an Approved Heat Pump Product in a Commercial Property in accordance with the online Job web forms [and the provisions of this Agreement](#) and Install has a corresponding meaning.
- 1.14 **Invoice** means an invoice that you must generate that complies with this Agreement.
- 1.15 **Payment and Pay** means the:
- (a) payment of a Claim made to us;

(b) payment of an Administration Fee specified in Schedule 2

in accordance with the provisions of this Agreement, (each a **Payment** as context may require).

- 1.16 **Personnel** means all individuals engaged by either party in relation to this Agreement or the delivery of Services. Examples include: the owner of the business, its directors, employees, subcontractors, agents, external consultants, specialists, technical support and co-opted or seconded staff.
- 1.17 **Post Installation Audit** means a check carried out by EECA after the Installation of Approved Heat Pump Products.
- 1.18 **Post Installation Audit Form** means the Post Installation Audit Form provided in, and required by, the EECA
- 1.19 **Pre-start Assessment** means a pre-start assessment in relation to the Site-specific Health and Safety Assessment with all Personnel who will be involved in the Installation.
- 1.20 **Programme** means the Hot Water Heat Pump Replacement Scheme administered by us to meet the objectives outlined in paragraph B of the Introduction to this Agreement.
- 1.21 **Services** means the services (including Installation) to be provided by you to the Customer accordance with this Agreement, and also includes the obligations owed to us under this Agreement (including record keeping, reporting, Assessments and Post Installation Audits).
- 1.22 **Site-specific Health and Safety Assessment** means the site-specific health and safety assessment that must be conducted before the Assessment at a Commercial Property and in accordance with the requirements of the Heat Pump Guidelines.
- 1.23 **Subcontractor** means any person contracted by you in accordance with clause 13 to deliver any Services.
- 1.24 **Working Day** means any day other than a Saturday, a Sunday, a public holiday in Wellington and the Region you operate in as your primary area of business, and any day in the period from 22 December to 15 January the following year.

2. INTERPRETATION

2.1 In this Agreement, unless the context requires otherwise:

- (a) the headings to clauses are inserted for convenience only and may be ignored in interpreting this Agreement;
- (b) the word including and other similar words do not imply any limitation;
- (c) a person includes any company or body of persons (incorporated or not);
- (d) the plural includes the singular and vice versa; and
- (e) a reference to a statute includes any legislative instrument or other subordinate legislation made under it and amendments to or replacement of any of them from time to time.

3. TERM

3.1 This Agreement commences on the date of final signing by the Parties.

- 3.2 This Agreement will expire on 30 June 2024. The term may be extended for up to four periods of one year each by agreement in writing between the parties.
- 3.3 You must ensure that, on the date the Agreement expires or is terminated, you have completed all Installations. You may submit a Claim for an Installation after the date the Agreement expires or is terminated if you submit the Claim on or before a date specified in writing by us.
- 3.4 We do not commit to providing you with a minimum number of Leads during the term of this Agreement.

4. PRIORITY

- 4.1 This Agreement supersedes and replaces any previous agreement between the parties in respect of the Services.
- 4.2 Any such prior agreement is terminated from the date on which this Agreement commences as specified in clause 3.1. The termination of such a prior agreement does not affect the rights or obligations of either party in respect of any matter arising before that date.

5. YOUR GENERAL OBLIGATIONS

- 5.1 You must:
- (a) act with all the professional skill, experience and resources necessary to undertake the Services safely and provide all Services with reasonable care, skill and diligence in a professional and competent manner. This includes:
 - (i) ensuring that all Installations are carried out by persons with appropriate qualifications and experience to undertake the work;
 - (ii) not putting yourself in a position which would, or has any reasonable potential to, give rise to a Conflict of Interest, except with our prior approval (such approval not to be unreasonably withheld);
 - (b) act in accordance with:
 - (i) maintaining good customer service practices, and maintaining a high standard of honesty and integrity at all times in the performance of your obligations under this Agreement; and
 - (ii) the best, currently accepted principles and practices applicable to the field of expertise applicable to the Services, having regard to the nature of the Services and the funding provided;
 - (iii) all applicable licences, approvals and permits required by law, which you must maintain throughout the term of this Agreement at your cost; and
 - (iv) the *Standards of Integrity and Conduct* issued by the Public Service Commission (see www.publicservice.govt.nz) and any other relevant codes of conduct notified by us to you from time to time;

- (c) not perform any Services pursuant to this Agreement without having first been prequalified for Health and Safety processes and practices by an independent prequalification provider approved by us, and having provided evidence of this prequalification to us;
- (d) maintain a valid Health and Safety prequalification at all times while performing Services under this Agreement;
- (e) ensure that you have in place and at all times adhere to robust quality and health and safety standards and processes, and provide evidence of the same to us on request;
- (f) not act in a manner that could reasonably be expected to damage our reputation;
- (g) comply in all respects with all legislation, regulations (including the Electricity (Safety) Regulations 2010), local government by-laws and other requirements pertaining to the Services in force at the time you provide the Services;
- (h) comply with current standards issued by Standards New Zealand relating to the Services;
- (i) comply in all respects with relevant manufacturer or supplier standards relating to Installations, and the handling, storage, and care of Approved Heat Pump Products;
- (j) comply in all respects with any applicable professional codes of practice relating to Installations;
- (k) provide us with any information we request, within the timeframes we specify.

5.2 You must notify us immediately if you believe that you will not be able to comply with any aspect of this Agreement or perform any Services in respect of the Programme.

6. ASSESSMENT

6.1 You must carry out an Assessment of the Commercial Property in accordance with online Job web forms.

7. ACCEPTED QUOTE

7.1 If the Customer accepts the quote, in writing, that you provided as part of the Assessment, you must follow the requirements as set out in the RFP.

8. INSTALLATION

8.1 Once a Customer has accepted your quote in writing you must carry out the Installation of the Approved Heat Pump Product within 8 months from date of approval of Job Application webform by EECA.

9. INVOICING

9.1 After an Installation is complete, you must generate and provide an Invoice to the Customer that shows the EECA co-funding contribution.

10. CLAIMS

10.1 You must submit a Claim, including the following information:

- (a) Copy of electrical certificate of compliance verifying project completion and adequacy;
- (b) Copy of customer invoice;
- (c) Model number of new equipment, together with photographic evidence, and
- (d) Photographic evidence of site post installation.
- (e) Valid GST invoice to EECA for the agreed co-funding amount.

10.2 We may reject any Claim:

- (a) that is not made in accordance with clause 10.1
- (b) that includes an amount that differs from the amount specified in the Invoice;
- (c) if, based on the information we have received, we have reasonable grounds to believe that you have breached this Agreement during the Installation;
- (d) that makes a Claim in respect of an item that is not an Approved Heat Pump Product;
- (e) includes an amount for an Additional Service;
- (f) that makes a Claim in respect of an Approved Heat Pump Product that has not been Installed in accordance with the information provided in the Job Application webform.;
- (g) that is not completed to EECA's satisfaction.

10.3 Claims that meet the conditions above and are not rejected under clause 10.2 will be processed for Payment.

11. INSTALLER REQUIREMENTS REGARDING COMPLAINTS / WARRANTY

11.1 You must:

- (a) put in place and maintain a process for:
 - (i) receiving and managing complaints from Customers (whether directly or referred by us) who received Services from you under the Programme ("**Complaints**"); and
 - (ii) receiving and responding to faults in respect of Approved Heat Pump Products that are still under warranty ("**Faults**") that you Installed; and
- (b) advise Customers of how to access those processes.

11.2 You must respond promptly to, and deal in a professional manner with, any Complaints and Faults

11.3 If you are unable to resolve a Complaint or Fault within 20 Working Days after being notified of the Complaint or Fault, you must inform us of the Complaint or Fault and that it remains unresolved.

11.4 If we are notified of a Complaint or Fault pursuant to clause 11.3, we may determine the next steps that are required in relation to the Complaint or Fault and may, on your behalf and at your cost, take steps that we (acting reasonably) deem necessary to resolve or rectify the Complaint or Fault.

12. SUBCONTRACTORS

12.1 You may enter into a contractual arrangement with a subcontractor for any part of the Services, provided that in every case you agree to:

- (a) notify us of the identity of the subcontractor(s) you propose to engage;
- (b) ensure any subcontractor engaged by you to perform the entire Services (i.e. you do not intend to perform the Services directly) has, prior to performing any Services, complied with the same prequalification requirements imposed on you by clauses 5.1(c) and 5.1(d); and
- (c) ensure that any subcontractor(s) engaged by you at all times comply with all requirements imposed on you under this Agreement, including in relation to workmanship, quality, customer care, health and safety, insurances and Vaccination.
- (d) obtain confirmation from the subcontractor(s) that they will not further subcontract the Services or any part of them.

12.2 If you subcontract any aspect of your performance under this Agreement, you are liable for all acts or omissions of the relevant subcontractor, and such subcontracting does not release you from liability for the performance of any of your obligations under this Agreement.

12.3 If we are dissatisfied on reasonable grounds with the performance (past or current) or conduct of a particular person performing or intending to perform any activities in connection with this Agreement (including a person you have subcontracted), we may, after consulting with you, require you to replace that person at your cost, or require that additional measures be put in place to ensure a satisfactory level of performance.

13. REPORTING AND RECORDS

13.1 You must promptly provide any other reports or information we may reasonably require from time to time.

13.2 During the term of the Agreement and the period ending six years after termination or expiry of the term, you must:

- (a) keep comprehensive and accessible records of each activity pertaining to each Installation (including records of work done in relation to each Installation, the Claim made in relation to that Installation, and any Payments received);
- (b) hold all such records on a computer database accessible to us on request;
- (c) promptly make available to us on request all records and documentation relating to the performance of your obligations under this Agreement (including reasonable access to staff) so we (or our appointed auditors) can audit those records to monitor your compliance with those obligations under this Agreement;
- (d) cooperate with us to provide information immediately if the information is required by us to comply with an enquiry, or our statutory, parliamentary, or other reporting or investigative obligations; and

- (e) ensure that proper accounting standards and controls are exercised in respect of each Claim and Payment received.

14. AUDITING AND REVIEWS

14.1 We may audit your performance (including the quality of your Installations) under this Agreement at any time after giving you reasonable notice of the audit. An audit:

- (a) may occur during the term of this Agreement or after its expiry (or termination);
- (b) may be conducted with reference to any information we consider relevant;
- (c) will be conducted with reference to the standards in the Quality and Audit Manual and Heat Pump Guidelines current at the time of Installation; and
- (d) will be conducted in accordance with the process specified in the Heat Pump Guidelines

14.2 If we notify you that we are undertaking an audit, you must provide us with all information, access and assistance that we reasonably require to carry out the audit. We will not reimburse you for any costs you incur as a result of us undertaking an audit.

14.3 If we identify any non-compliance with this Agreement by you, you must undertake any corrective actions we specify (at your own cost) within the timeframes specified in the Heat Pump Guidelines.

14.4 From time to time, and with notice to you, we may put in place performance measurements and/or scoring systems for measuring your performance. If at any time your score or performance under any such measure falls below our pre-advised minimum standards then we may (without prejudice to our other rights and remedies) require you to conduct, at your own expense:

- (a) an independent Audit of your quality assurance policies, processes and systems, with an independent auditor agreed between the parties; and/or
- (b) an independent validation of a proportion of your Installations and Post Installation Audits by any person appointed by agreement between us and you,

at such times and with such frequency as we may, in our sole discretion, require for so long as your score or performance remains below such minimum standard.

15. POST COMPLETION INFORMATION

15.1 In the event that an install is selected by EECA to measure performance and actual usage on site, the Installer will require to:

- a) Obtain written permission from the customer to install and use the monitoring device to provide the following information to EECA:

b) Data Requirements

- i. How much power is consumed by the equipment in kWh.
- ii. Water flow in litres per hour, (point of measurement to be specified as unit outlet or customer delivery point).
- iii. Water temperature (outlet) in degrees Celsius (point of measurement to be specified as unit outlet or customer delivery point).
- iv. Water temperature (inlet) in degrees Celsius if source is not ambient.

DATA FORMAT

- i. Data frequency: at least every five minutes
- ii. CSV file format
- i. Multiple files are acceptable, up to 1 per calendar month

c) Provision of Data to EECA

- i. Data is to be recorded by the Installer for 12 months following installation and reported to EECA six months and twelve months post installation.
- ii. The data will be provided to EECA in csv files no later than one month post data collection

16. INDEMNITY

- 16.1 Without limiting any other right we may have and to the extent permitted by law, you must fully protect, indemnify and hold us and our Personnel harmless from and against any direct, indirect or consequential losses (including, without limitation, loss of revenue, opportunity or profits or any other special or punitive losses), liability, damages, actions, proceedings, claims, demands, costs and expenses (including, without limitation solicitor and own client costs), incurred directly or indirectly in connection with or as a consequence of, any breach by you of any term of this Agreement or the negligent or wrongful act or default by you or your Personnel in performing obligations under this Agreement.

17. INSURANCE

- 17.1 You must maintain adequate business insurance, including but not limited to public liability cover during the term of the Agreement and the period ending 6 years after termination or expiry of this Agreement to cover all risks relating to the provision of Services under this Agreement.
- 17.2 You must produce a copy of the policy and provide us with evidence of payment of the current premium for the policy and any other related information as and when we request.
- 17.3 You will not do, cause, or permit anything to be done to any Commercial Property that would or could reasonably be expected to render insurance held by the Commercial Property Owner to be void or voidable.

18. PROMOTIONS AND MARKETING

- 18.1 We may promote the Programme to stimulate demand for referrals. The extent of our marketing of the Programme is at our sole discretion.
- 18.2 You must not make any public or media release or statement about the Programme or this Agreement without having first obtaining our consent to the content of such release or statement.

19. CONFIDENTIALITY AND PRIVACY

- 19.1 Each party must keep the other party's Confidential Information confidential and must not disclose such Confidential Information to any person or use such Confidential Information for any purpose other than the purpose of this Agreement. Notwithstanding this clause, either party may disclose Confidential Information:
- (a) to its professional advisers on a need-to-know basis;

- (b) if and to the extent required by law or any government agency, to a Minister of the Crown or parliamentary officer or body, provided that the party gives the other party notice of the requirement as soon as practicable before such disclosure is made; or
- (c) if and to the extent the information is obtained or developed independently of the information disclosed by the disclosing party.

19.2 You acknowledge that:

- (a) we are subject to the Official Information Act 1982 and the Privacy Act 2020 and we are obliged to release information including Confidential Information under those Acts if so requested and if there is no good reason pursuant to the provisions in those Acts to withhold that information; and
- (b) we may be required to disclose information including Confidential Information in response to a Parliamentary or Select Committee question, or to a Minister of the Crown.

19.3 You should mark any commercially sensitive information as "Commercial: In Confidence" if you wish to protect specific commercial information. However, we do not guarantee that such marked information will be protected from disclosure.

19.4 You will immediately forward to us any request for information made under the Official Information Act 1982 that you receive in relation to us or the Programme.

19.5 You must collect, use, disclose, store or otherwise handle personal information (as defined in the Privacy Act 2020) so as not to cause a breach of the Privacy Act 2020, including by:

- (a) ensuring all documentation and communications in relation to Customers is collected, processed, used, disclosed and stored in accordance with the Privacy Act; and
- (b) informing Customers that any information collected about them in relation to the provision of Services may be disclosed to us and used, collected, processed and stored by us for the purposes of this Agreement or the Programme.

19.6 Each party will ensure that its Personnel:

- (a) are aware of the confidentiality obligations in this Agreement; and
- (b) do not use or disclose any of the other party's Confidential Information except as allowed by this Agreement.

20. CONFLICTS OF INTEREST

20.1 You must:

- (a) immediately notify us if you become aware that you are or may be conflicted in your performance of any obligations under this Agreement; and
- (b) assist us to address or avoid any actual or potential Conflicts of Interest notified to EECA under clause 20.1(a) above.

21. INTELLECTUAL PROPERTY

- 21.1 We are the sole and exclusive owner of all intellectual property rights in the name "EECA", " ", and you do not have any rights in relation to the same except as expressly authorised by us in this Agreement or otherwise in writing.
- 21.2 Any intellectual property rights already in existence that are not covered by clause 21.1 at the commencement of this Agreement will remain the property of the current owner. Each party grants the other party a royalty-free, non-exclusive licence to use its existing intellectual property to the extent necessary to carry out the Programme.
- 21.3 All intellectual property rights created or developed by either of us during the term of this Agreement and in conjunction with any associated specific projects ("**New IP**") will be owned by the party that creates or develops the rights, provided that the other party will have a perpetual, irrevocable and royalty-free licence to use such New IP for the purposes of the Programme, unless otherwise agreed between the parties in writing.

22. REVIEW OF INSTALLER

- 22.1 In addition to audits, we may conduct reviews of your performance. This may include reviewing any aspect of your performance of this Agreement, including, but not limited to:
- (a) volume of Installations;
 - (b) quality of Installations;
 - (c) complaints from end customers;
 - (d) timeliness and accuracy of administration; and
 - (e) health and safety processes,
- and as against the minimum key performance requirements set out in Schedule 2, which may be amended by us from time to time by notice to you.
- 22.2 If you do not meet the minimum key performance requirements for any one of the criteria set out in Schedule 2, we may, in our sole discretion, take one or more of the following actions:
- (a) discuss with you how the Services may be improved and agree on an action plan;
 - (b) suspend you from the Programme for a period of time;
 - (c) set aside your inability to meet the minimum key performance requirements;
 - (d) terminate this Agreement effective within 20 Working Days.

23. RECTIFYING BREACHES AND TERMINATION

Rectifying breaches

- 23.1 Without prejudice to any other remedy available, if we determine that you have been, or are in breach of any term of this Agreement, we may:
- (a) advise you in writing of the details of the breach and require the breach to be rectified within 20 Working Days of notification;

- (b) take steps (ourselves or through an agent appointed by us for the purpose) to rectify the breach and recover the cost of doing so from you;
- (c) carry out follow-up or additional audits and recover the cost of doing so from you; and
- (d) withhold Payments until the breach is remedied.

Termination by you

23.2 You may terminate this Agreement at any time by giving 20 Working Days' notice to us.

Termination by us

23.3 We may terminate this Agreement at any time by giving 20 Working Days' notice to you.

23.4 In addition to clause 23.3, we may terminate this Agreement immediately, by giving notice, if you:

- (a) breach clause 29.3 (assignment);
- (b) suffer an Insolvency Event;
- (c) are unable to deliver the Programme for a period of 20 Working Days or more due to an extraordinary event;
- (d) are in breach of any of your obligations under this Agreement and we reasonably believe the breach cannot be remedied;
- (e) repeatedly fail to perform or comply with your obligations under this Agreement whether those obligations are minor or significant;
- (f) do something or fail to do something that, in our opinion, results in damage to our reputation or business;
- (g) have a Conflict of Interest that, in our opinion, is so material as to impact adversely on the delivery of the Programme or on us; or
- (h) provide information to us that is misleading or inaccurate in any material respect.

23.5 We may also terminate this Agreement immediately if the New Zealand Government decides to terminate or modify the Hot Water Heat Pump Replacement Scheme.

Your obligations on termination or expiry of this Agreement

23.6 On receiving a notice of termination from us, you must:

- (a) stop providing the Services as specified in the notice;
- (b) comply with any conditions contained in the notice;
- (c) immediately do everything reasonably possible to reduce your losses, costs and expenses arising from the termination of this Agreement; and
- (d) if we request you to do so, immediately return or securely destroy all Confidential Information and other material or property belonging to us.

Consequences of termination or expiry of this Agreement

23.7 The termination or expiry of this Agreement does not affect those rights of each party that:

- (a) accrued prior to the date of termination; or
- (b) relate to any breach or failure to perform an obligation under this Agreement that arose prior to the date of termination.

23.8 If this Agreement is terminated, we:

- (a) will only be liable to make Payments in respect of Installations that were completed in accordance with this Agreement before the effective date of termination; and
- (b) may recover from you or set off against sums due to you, any Payments for Services that have not yet been performed.

Handing over the Services on termination or expiry of this Agreement

23.9 You will, within 10 Working Days of the date of termination of this Agreement, provide all reasonable assistance and cooperation necessary to facilitate a smooth handover of the Services to us or any person appointed by us.

23.10 Following termination or expiry of this Agreement, provisions that are by their nature intended to survive remain in effect.

24. COMMUNICATION

24.1 Each party will communicate honestly and as regularly as necessary with the other so there are no surprises for the other party in relation to this Agreement and use its reasonable endeavours to ensure all information provided to the other party, whether requested or otherwise, is accurate and timely. The parties also agree to notify each other immediately of any actual or anticipated issues that could receive media attention or significantly impact the Programme.

24.2 Any notice or other formal communication to be given under this Agreement must be given in writing and transmitted by email (first preference) or by courier, hand delivery or postal service to the persons, positions and addresses set out in the table below and any others notified by either party to the other during the term of this Agreement.

24.3 A notice is deemed to be received:

- (a) if delivered by hand, on the date on which it is delivered;
- (b) if sent by post within New Zealand, on the 3rd Working Day after the date on which it was sent;
- (c) if sent by courier, on the date on which it is delivered; or
- (d) if sent by email, at the time the email enters the recipient's information system as evidenced by a delivery receipt requested by the sender and it is not returned undelivered or as an error.

24.4 A notice received after 5pm on a Working Day or on a day that is not a Working Day will be considered to be received on the next Working Day.

24.5 The relevant persons, positions and addresses of the parties are:

Us		You
Name:		
Role:		
Address:		
Email:		

25. DISPUTES

25.1 If a dispute arising out of this Agreement occurs between the parties, then the parties will, in good faith, try to resolve that dispute including by escalating the dispute to their respective chief executives for resolution.

25.2 If the parties cannot resolve their dispute within twenty (20) Working Days of one party giving the other notice of a dispute, either party may by notice to the other refer the dispute to mediation. The mediation will be conducted in Wellington under the Resolution Institute standard mediation agreement. If the parties are unable to agree on a mediator or the fees for mediation within 5 Working Days of the notice of mediation being given, the mediator and/or fees will be determined by the chair of the Resolution Institute. No party may commence any proceedings relating to a dispute (except to seek urgent equitable relief) unless the party has complied with this clause.

26. NON-WAIVER

26.1 A failure or delay of either party to exercise a right under this Agreement is not a waiver of that right, and a waiver of a breach of this Agreement is not a waiver of any other breach.

27. EXPECTATIONS

27.1 Our obligations to you are strictly limited to those set out in this Agreement, and you agree that you have no expectation of future funding other than as provided for in this Agreement.

28. VARIATIONS

28.1 We may, by written notice to you, in our sole discretion from time to time, amend:

- (a) the list of Approved Heat Pump Products;

28.2 Without limiting clause 28.1, this Agreement cannot be substantially varied in any manner except by way of agreement between the parties. We may make minor administrative amendments to this Agreement without your agreement. Any such amendments will take effect when you have been given reasonable notice of it.

28.3 You may send us an application to vary the Agreement on a case-by-case basis. Any approval of a variation is at our sole discretion.

29. GENERAL

- 29.1 If any provision in this Agreement is invalid or unenforceable, the remaining provisions are not affected and continue in full force and effect.
- 29.2 A party is not liable for any breach of this Agreement to the extent such breach is due to a Force Majeure Event, provided that it keeps the other party fully informed of the situation, uses reasonable endeavours to mitigate the effect of the Force Majeure Event, and resumes full performance as soon as reasonably practicable. In the event that such breach continues for a period of not less than 20 Working Days, either party may terminate this Agreement on written notice to the other.
- 29.3 Neither party may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld). A change in the effective control of you is deemed to be an assignment.
- 29.4 Any costs or amounts recoverable by us under this Agreement will be a debt owed by you to us. We may set off any amount you owe us against any amount payable by us under this Agreement.
- 29.5 Each party will, at its own expense, promptly sign and deliver any documents, and do all things that are reasonably required to give full effect to the provisions of this Agreement.
- 29.6 This Agreement is governed and must be interpreted in accordance with the laws of New Zealand. All money is in New Zealand dollars. Dates and times are New Zealand time.
- 29.7 This Agreement may be executed in any number of counterparts (including any facsimile or scanned PDF counterpart), each of which will be deemed to be an original, but all of which together will constitute the same instrument.

EXECUTION

SIGNED for and on behalf of)
ENERGY EFFICIENCY AND)
CONSERVATION AUTHORITY by)
)

Signature

[Print Name]

Position

Date

SIGNED for and on behalf of)
INSTALLER by)
)
)

Signature

[Print Name]

Position

Date

SCHEDULE 1 – MINIMUM SERVICE REQUIREMENTS

Factor	Minimum Key Performance Requirements
*Quality – achieves the specified standard	Number of audits that pass as a percentage of total audits completed is 95% or greater
*Administration - financial	At least 95% of claims are submitted within 15 Working Days of installation, or within the timeframe specified by EECA.
*Administration – Documentation compliance	Documentation reviews of selected Claims show documents comply with programme requirements
*Health and Safety – Safe Work Practices	You and any Subcontractors maintain current prequalifications Your Subcontractors have been notified to EECA before engaging in Programme work
*Health and safety reporting	H&S reporting submitted on required date – no later than 5 Working Days after month end

SCHEDULE 2 - ADDITIONAL PAYMENTS

1. ADDITIONAL PAYMENTS

In the event that EECA instructs the Installer to carry out post installation monitoring and reporting, EECA will pay the Installer as follows:

- a) For provisions and installation of monitoring device \$500;
- b) For provision of monitoring data as outlined in Condition 15, \$500;
- c) The monitoring equipment reimbursement will be claimed at job completion alongside the co-funding amount.