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NORTH LONDON WASTE AUTHORITY

ICHEME AGREEMENT

ERF Construction Works for the North London Heat and Power Project

Certified a true copy this 25 day of January 2022
Stephenson Harwood LLP
Stephenson Harwood LLP
1 Finsbury Circus
London
EC2M 7SH

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THIS AGREEMENT is made as a Deed on 24 January 2022

BETWEEN

1) **North London Waste Authority** whose principal place of business is at Unit 1B, Berol House, 25 Ashley Road, Tottenham Hale, London N17 9LJ (hereinafter called the "**Purchaser**" which expression includes its successors in title and permitted assigns) of the one part; and

2) **Acciona Industrial S.A.** a company registered in Madrid, Spain (Company no: A-41374307) whose registered office is at C/Anabel Segura, 11 28108 Alcobendas, Madrid, Spain (hereinafter called the "**Contractor**") of the other part.

WHEREAS

The Purchaser wishes to have an Energy Recovery Facility to be known as the "**ERF**" constructed at the Edmonton EcoPark, Advent Way, Edmonton, London, N18 3AG and wishes the Contractor to carry out and complete the Works defined in the Contract and the Contractor is willing and able to carry out and agrees to carry out and complete the Works in accordance with the Contract.

THIS AGREEMENT provides as follows:

1. The following documents and their attachments, if any, (the "**Contract Documents**"), shall together form the contract between the Purchaser and the Contractor and the term "**Contract**" shall in all such documents be construed accordingly.

   (a) This Agreement.

   (b) The General Conditions of Contract being Clauses 1-49 as set out in the IChemE Form of Contract for Lump Sum Contracts (the "**Red Book**"), 5th edition, 2013.

   (c) The Special Conditions set out in Appendix 1 to this Agreement and Appendices 2 to 9, which amend and supplement the General Conditions of Contract.

   (d) The Specification which is set out in Schedule 22 (Technical Specifications).

   (e) The Schedules:

Schedule 1:	Description of the Works;
Schedule 2:	Documentation;
Schedule 3:	Responsibilities of Purchaser;
Schedule 4:	Health and Safety;
Schedule 5:	Environmental protection and waste disposal;
Schedule 6:	Quality assurance and validation;
Schedule 7:	Subcontracting;
Schedule 8:	Contractor's named personnel;
Schedule 9:	Training by Contractor;
Schedule 10:	Parts with limited working life and spare parts;
Schedule 11:	Times of completion;
Schedule 12:	Liquidated damages for delay;
Schedule 13:	Pre-installation tests and procedures;
Schedule 14:	Criteria for the completion of construction;
Schedule 15:	Take Over procedures;
Schedule 16:	Performance tests and procedures;

Schedule 17: Performance guarantees and damages for failure;
Schedule 18: Valuation of Variations and claims;
Schedule 19: Terms of payment;
Schedule 20: Contract Co-ordination – NOT USED;
Schedule 21: Reports and Records – NOT USED;
Schedule 22: Technical Specifications;
Schedule 23: Contractor's Proposals;
Schedule 24: Stakeholder Management and Collaboration; and
Schedule 25: Social Value.

2. The Contract constitutes the entire agreement between the Purchaser and the Contractor with respect to the performance of the Works and supersedes any prior negotiation, representation or agreement relating thereto, whether written or oral, except to the extent that they are expressly incorporated in the Contract. No change, alteration or modification to the Contract shall be effective unless the same shall be in writing and signed by both Parties.

3. The Contract Price is the sum of:

(a) 323,975,920.00 EUR (three hundred and twenty-three million, nine hundred and seventy-five thousand, nine hundred and twenty euros) (the "**Euro Element**"); and

(b) £526,195,716.00 (five hundred and twenty-six million, one hundred and ninety-five thousand, seven hundred and sixteen pounds sterling) (the "**Pounds Sterling Element**").

The Parties agree that whenever the Contract refers to an amount as a percentage of the Contract Price (including, without limitation, in paragraph 4 of this Agreement) then the "Contract Price" shall be deemed to mean and the relevant percentage shall be calculated by reference to the sum of:

£799,339,566.00 (seven hundred and ninety-nine million, three hundred and thirty-nine thousand, five hundred and sixty six pounds),

being the sum of the Pounds Sterling Element and the Euro Element when converted into pounds sterling using the exchange rate as at the date of the Contractor's tender as specified in paragraph 8 of this Agreement.

4. The total aggregate liability of the Contractor to the Purchaser as provided in Sub-clause 45.3 (the "**Overall Liability Cap**") shall not exceed a sum equivalent to 75 per cent of the Contract Price.

5. The Contractor's liability in respect of:

(a) Loss of or damage to property of the Purchaser and its Affiliates in accordance with Sub-clause 30.13 of the General Conditions shall not exceed a sum equivalent to 75 per cent of the Contract Price.

(b) The amount to be stated in accordance with Sub-clause 37.12 of the General Conditions is N/A – see Special Conditions of Contract.

6. The Deductible for the following elements of the insurance to be maintained under Sub-clause 31.1 shall be as follows:

Each and every loss described under	£500,000

Defects Exception 1 (LEG2) to Section I and arising out of, testing, commissioning or the maintenance period	
Each and every other loss	£150,000

The Deductible for the insurance to be maintained under Sub-clause 31.1A.1 shall be: £25,000 each and every occurrence of loss or damage to property only.

The Deductible for the insurance to be maintained under Sub-clause 31.1A.2 shall be £50,000 each and every loss.

7. In case of conflict between any of the documents accompanying this Agreement, the order of precedence shall be as set forth in Sub-clause 1.2 of the General Conditions as amended by the Special Conditions.

8. For the purposes of Sub-clauses 3.18 A, 3.18B, 3.23, 6.3, 7.3, 7.5, 8.3, 14.4, 18.1A, 23.4, 23.7 and 51.1 of the Conditions of Contract, the date of the Contractor's tender shall be 25 October 2021.

9. The date for the commencement of the Works shall be the date of this Agreement.

10. The Purchaser hereby appoints David Cullen to act as the Project Manager for the purposes of the Contract.

11. The Contractor hereby appoints Andrew Bendall to act as the Contract Manager for the purposes of the Contract.

12. The bank whose base lending rate is referred to in Sub-clause 1.1 of the General Conditions is in the definition of Agreed Rate is National Westminster Bank Plc.

13. Wherever Profit is expressly referred to in the General Conditions it shall be 9% of the applicable Cost.

14. Any Notice to be served in accordance with Sub-clause 1.8 of the General Conditions shall be sent to the postal address stated below:

The Purchaser: Unit 1B
Berol House
25 Ashley Road
Tottenham Hale
London N17 9LJ

Any legal notices will be marked for the attention of the Head of Legal and Governance.

The Contractor: ACCIONA Industrial S.A.
Calle Anabel Segura 11, Edificio Albatros Bloque D
28108 Alcobendas,
Madrid, Spain

Any notices shall be marked for the attention of:

Andrew Bendall – Project Director

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15. The Contract shall be governed by the laws of England and the Parties submit to the jurisdiction of the courts of England and Wales.

16. The seat of any arbitration proceedings under Clause 49 shall be London.

IN WITNESS whereof the Parties hereto have executed this Agreement as a Deed on the date first above written.

Execution by the Purchaser

Executed as a deed and sealed on behalf of **North London Waste Authority** by a duly authorised officer:



signature Martin Capstick

print name MARTIN CAPSTICK Authorised Officer

position MANAGING DIRECTOR AND DEPUTY CLERK

Execution by the Contractor

Signed as a **deed** on behalf of **Acciona Industrial S.A.**, a company incorporated in Spain, by CARLOS ADRIÁN LEDESMA LARDIÉS and MARÍA DE LOS REYES PARDO RODRÍGUEZ being persons who, in accordance with the laws of that territory, are acting under the authority of the company

Authorised signatory

CARLOS ADRIAN LEDESMA LARDIÉS
print name

Authorised signatory

MARÍA DE LOS REYES PARDO RODRÍGUEZ
print name