DRAFT, WITHOUT PREJUDICE AND SUBJECT TO CONTRACT

NORTH LONDON WASTE AUTHORITY

Settlement and Variation Agreement (No.3) in relation to the ERF Construction Works Contract awarded in connection with the North London Heat and Power Project

Dated

(1) North London Waste Authority

(2) Acciona Industrial SA

This Settlement and Variation Agreement (No. 3) is made on

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 ("**Purchaser**" which term includes its legal successors and permitted assignees); and

(2) **Acciona Industrial S.A.** a company registered in Madrid, Spain (Company no: A-41374307) whose registered office is at Acciona Industrial S.A., Calle Mesena, 80, 28033 ("**Contractor**" which term includes its legal successors and permitted assignees).

Background

(A) The Purchaser and the Contractor (together the "**Parties**") entered into a contract based on the IChemE Form of Contract for Lump Sum Contracts (the "**Red Book**") as amended by a schedule of Special Conditions on 24 January 2022 in connection with the engineering, procurement and construction of an energy recovery facility as part of the North London Heat and Power Project. The original contract signed on 24 January 2022 was amended by the Parties by the execution of Variation Agreement (No.1) dated 27 June 2023 and again by the execution of Variation Agreement (No.2) dated 24 July 2026 (the "**Variation Agreements**"), taken together the original contract signed on 24 January 2022 and the Variation Agreements constitute the "**Contract**".

(B) The Contractor has raised claims under the Contract for extensions of time (as well as claiming that time is now at large) and additions to the Contract Price, which the Contractor referred to arbitration by its Notice of Arbitration dated 30 July 2025 and has since developed, particularised and quantified (the "**Contractual Claims**"). The Contractual Claims include: (i) the Contractor's claim in connection with the NAECI requirements of the Contract for an extension of time and an addition to the Contract Price under the Contract, including by reference to Sub-clauses 2.1, 4.4, 7.1, 13.2A, 14, 19 and 28.6A of the Contract, as notified in the Contractor's Notice of Claim CLM-7 dated 16 May 2024 and its letters GC-956 dated 23 August 2024, GC-1211 dated 12 March 2025 and GC-1765 dated 26 January 2026; (ii) the Contractor's claim for a Variation and associated relief in connection with the redesign of the steam turbine enclosure, as notified in the Contractor's claim dated 15 April 2024 and which was the subject of an adjudication commenced on 3 February 2025; (iii) the Contractor's claim for a Variation and associated relief in connection with the late design changes to the Administration Building and the Contractor's Compound, as notified in the Contractor's Notice of Claim CLM-8 dated 5 July 2024; and (iv) the Contractor's claim in connection with the social value requirements of the Contract. The Contractor's assessment for these Contractual Claims is £557,914,553 (five hundred and fifty-seven million, nine hundred and fourteen thousand, five hundred and fifty-three pounds) and EUR 915,945 (nine hundred and fifteen thousand, nine hundred and forty-five euros).

(C) In addition to the Contractual Claims, the Contractor has raised claims which arise otherwise than under the Contract, and has since developed, particularised and quantified those claims (the "**Non-Contractual Claims**"). The Non-Contractual

Claims include: (i) the Contractor's claims arising from the Stay Agreement (as defined in Clause 2.3.7), including its claim for the additional cost of implementing the revised procurement method required by the Stay Agreement, as notified in the Contractor's letter GC-1818 dated 20 February 2026 and since developed, and its claim for the costs incurred during the stay period, as notified in the Contractor's letter GC-1151 dated 31 January 2025; (ii) the Contractor's claim for misrepresentation in connection with its entry into the Stay Agreement, as raised in the Contractor's letter GC-1824 dated 27 February 2026; (iii) the Contractor's claim for misrepresentation in respect of the Purchaser's pre-contract representations regarding NAECI, as raised in the Contractor's letter GC-1765 dated 26 January 2026; and (iv) the Contractor's claim for loss or damage in connection with the Local Government Act 1988. The Contractor's assessment for these Non-Contractual Claims (which overlap in part with the Contractual Claims) is £518,162,027 (five hundred and eighteen million, one hundred and sixty-two thousand and twenty-seven pounds) and EUR 3,686,744 (three million, six hundred and eighty-six thousand, seven hundred and forty-four euros), such that, taking account of that overlap, the Contractor's assessment for the Contractual Claims and the Non-Contractual Claims together is £572,234,040 (five hundred and seventy-two million, two hundred and thirty-four thousand and forty pounds) and EUR 4,602,689 (four million, six hundred and two thousand, six hundred and eighty-nine euros).

(D) Pursuant to a Heads of Terms document entered into on 20 July 2026, the Parties have been in discussions regarding the settlement of the Contractual Claims and Non-Contractual Claims. The Parties have agreed to enter into this agreement to finalise those matters and others detailed in Clause 2.3 of this agreement so that the remaining Works under the Contract can progress towards Take Over (the "**Settlement**").

(E) As part of the Settlement, the Parties require certain amendments to be made to the Contract and wish to make such amendments to clarify the terms of the Contract and give effect to the Settlement in the manner and to the extent set out in Schedule 2 of this agreement (the "**Amendments**"). The Purchaser has satisfied itself that the Amendments and this agreement do not amount to substantial modifications to the Contract pursuant to reg. 72(1)(e) and 72(8) of the Public Contracts Regulations 2015 ("**PCR 2015**") and that: (i) the Amendments and this agreement may be entered into without a new procurement procedure as that terminology is used under the PCR 2015 and (ii) the Amendments and this agreement otherwise comply with the PCR 2015. The Purchaser is of the view that the Amendments and this agreement do not amount to a substantial modification to the Contract for the following reasons:

a. The Amendments do not make the nature of the Contract materially different;

b. The Amendments would not have allowed for the admission of different candidates, the acceptance of a different tender or attracted additional participants. The Purchaser notes that the Contractor was the only tenderer that submitted a final tender in the procurement related to the Contract;

c. The Amendments do not change the economic balance of the Contract in the Contractor's favour having regard, *inter alia*, to: (i) the UK's exit from the EU and its commercial consequences, (ii) the disputes, (iii) the existing contractual terms of the Contract, and/or (iv) the Settlement terms;

d. The Amendments do not considerably extend the scope of the Contract; and

e. The Amendments do not cause a replacement of the Contractor.

(F) The Parties have entered into this agreement to agree and record the terms and conditions on which the Settlement and such Amendments are to be made.

The Parties agree to amend the Contract as follows**:**

1. **Interpretation**

1.1 In interpreting this agreement:-

1.1.1 words importing one gender include all other genders, words importing the singular include the plural and vice versa, and any reference to a person includes a reference to a company, authority, board, department or other body;

1.1.2 except where otherwise herein provided, the words and expressions defined in the Contract will have the same meaning in this agreement; and

1.1.3 the clause headings do not form part of this agreement and are not to be taken into account for the purposes of its construction or interpretation.

2. **Settlement**

2.1 The Parties have agreed to enter into this agreement to resolve all claims (including, without limitation, the Contractual Claims and the Non-Contractual Claims), Variations (other than any follow up instruction in relation to Variation 75 as set out in Part 6 of Schedule 1 to this agreement), Contractual Deviations, and/or disputes that have arisen under the Contract or otherwise at law as at the date of this agreement (the "**Settlement Issues**") and which are more particularly detailed at Clause 2.3 below. For the purposes of this agreement, "**Contractual Deviations**" shall mean any allegation that the Contractor has (i) failed to act regularly and diligently in the performance of the Works, and/or (ii) has breached Clause 9 of the Conditions of Contract and/or Schedule 7 (Subcontracting) and/or (iii) has breached Clause 21 of the Conditions of Contract and/or Schedule 2 (Documentation). For the avoidance of doubt, the definition of Contractual Deviations shall not include any other breaches of the Contract including (without limitation) those that amount to Defects and/or Latent Defects or any breach of Consents and/or Legislation or Guidance under the Contract, and to the extent not captured by Legislation or Guidance the obligations pursuant to Clauses 26, 50, 51 and 52, and, Prohibited Acts.

2.2 In consideration of the resolution of the Settlement Issues and of the Amendments to be made to the Contract, the Parties agree that:

2.2.1 the Contractor is granted an extension of time of 962 days so that the date set for Take Over in Schedule 11 (*Times of completion*) is extended from 14 May 2027 to 31 December 2029 (the "**Extension of Time**"). The Parties have agreed a new Approved Programme for the Works to account for this Extension of Time which is appended to this agreement at Schedule 3; and

2.2.2 the Contract Price under the Contract is hereby adjusted to the sum of £1,250,000,000 (£1.25 billion) comprising a Euro Element of EUR 337,285,225 (three hundred and thirty-seven million, two hundred and

eighty-five thousand, two hundred and twenty-five euros) and a Pounds Sterling Element of £965,635,085 (nine hundred and sixty-five million, six hundred and thirty-five thousand and eighty-five pounds).

The Parties further agree that:

2.2.3 the adjustment to the Contract Price accounts for and includes all of the Contractor's costs and/or any claims and/or losses that would otherwise be incurred under the Contract in connection with the Extension of Time; and

2.2.4 Clause 3 of the Agreement forming part of the Contract shall not be amended and that whenever the Contract refers to an amount as a percentage of the Contract Price, then the "Contract Price" shall continue to 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).

2.3 The Extension of Time and the adjustment to the Contract Price referred to in Clause 2.2 are in full and final settlement of the Settlement Issues which are summarised as follows:

2.3.1 all claims, Variations (other than any follow up instruction in relation to Variation 75 as set out in Part 6 of Schedule 1 to this agreement), Contractual Deviations, and/or disputes between the Parties under the Contract and in relation to the claims intimated against the United Kingdom under the Energy Charter Treaty; and

2.3.2 any potential claims, Variations, Contractual Deviations, and/or disputes whether notified or not notified under the Contract as between the Parties, provided that the Parties agree that this shall not include any potential claims that may arise in connection with the ongoing conflict in the Middle East,

as at the date of this agreement, including the future effects of all such claims, Variations (other than any follow up instruction in relation to Variation 75 as set out in Part 6 of Schedule 1 to this agreement), Contractual Deviations, and/or disputes and potential claims, Variations (other than any follow up instruction in relation to Variation 75 as set out in Part 6 of Schedule 1 to this agreement), and/or disputes which may present after the date of this agreement but that arose by the date of this agreement. Further details of the claims and Variations which form part of the Settlement Issues together with the Derogations referred to in Clause 2.3.12 are set out in Schedule 1 to this agreement.

The Parties agree that where the Project Manager issues a follow up instruction under the Contract further to Variation 75 as set out in Part 6 of Schedule 1 to this agreement, requiring the Contractor to carry out the procurement and construction work in connection with the designs captured by Variation 75, the Contractor shall be entitled to an addition to the Contract Price to be assessed in accordance with the Conditions of Contract. Where the Project Manager issues such a follow up instruction on or before 9 April 2027, the Contractor shall have no entitlement to claim an extension of time in connection with the instruction to carry out the procurement and construction works. Where the Project Manager issues such a follow up instruction after 9 April 2027, the Contractor shall be entitled to claim an extension of time in accordance with the Conditions of Contract.

The claims (including the Contractual Claims and the Non-Contractual Claims), Variations, Contractual Deviations, and/or disputes referred to in this Clause 2.3 include the following (without limitation):

2.3.3 the requirement on the Contractor to comply with NAECI and all impacts of compliance with NAECI including delays and/or disruption to the progress of the Works (whether to In Scope NAECI Activities or otherwise) resulting from compliance with the NAECI requirements, and including insufficient deployment of NAECI labour;

2.3.4 the Contractor's obligation to comply with the Social Value requirements and the impact of compliance with the Social Value requirements, including all associated delay and/or disruption and costs;

2.3.5 delays and/or disruption and costs and/or any claims to damages and/or losses in connection with the Administration Building;

2.3.6 delays and/or disruption and costs and/or any claims to damages and/or losses in connection with the Steam Turbine;

2.3.7 recovery of any delay, disruption, costs and/or any other relief in connection with the Stay Agreement which was entered into between the Parties on 24 June 2024 which was subsequently amended and extended by the Parties on 24 October 2024 and again on 27 November 2024 (together the "**Stay Agreement**");

2.3.8 to the extent not covered by Clauses 2.3.3 to 2.3.7 above, the arbitration claims under the Contract (such as they are or have been developed or expanded on pursuant to the Notice of Arbitration dated 30 July 2025) including but not limited to any claims in connection with the lawfulness of the NAECI requirements and/or the Social Value requirements of the Contract (the "**Contractual Arbitration**");

2.3.9 any allegation that the Contractor has failed to proceed with the Works regularly and diligently, including any such allegation referred to or arising out of the "Project Audit Report" dated 5 June 2025 prepared by ARUP and subsequent correspondence, including, but not limited to, the letter from the London Borough of Camden to the Contractor's Chief Executive dated 16 September 2025, and any allegation that the Contractor is or was in breach of its obligations under Clause 9 of the Conditions of Contract and/or Schedule 7 (Subcontracting), whether by reason of the appointment of a Subcontractor prior to the Purchaser's approval of the relevant Subcontractor and/or form of subcontract or by reason of the failure to procure a collateral warranty or other required security from a Subcontractor;

2.3.10 the dispute intimated against the United Kingdom Government (the "**ECT Arbitration**") which must be withdrawn and fully and finally settled under an enforceable deed of release between the Contractor and the United Kingdom on the basis of no admissions, no relief (whether compensation or otherwise) agreed to be provided to the Contractor and no legal or other cost recovery to the Contractor in respect of the same. The Parties shall bear their own legal or related costs in connection with the ECT Arbitration (including its withdrawal) provided that the Purchaser shall additionally bear any legal or related costs that have arisen on behalf of the United Kingdom Government;

2.3.11 all impacts of and/or any disputes and/or claims in connection with Contract price escalation arising in connection with indexation and/or any escalation of NAECI rates and allowances; and

2.3.12 each Derogation (as defined in Schedule 2 of this agreement) set out in the Derogation List, it being agreed and acknowledged by the Parties that: (a) each Derogation will be a Variation once formally ordered as such in accordance with the Contract as amended by this agreement; and (b) the Purchaser accepts each Derogation on the basis, and subject to the conditions (if any), stated against that Derogation in the Derogation List.

2.4 Subject to clause 2.13, neither of the Parties may raise any further or future claims and/or disputes in connection with the Settlement Issues.

2.5 The Contractor, in consideration of entering into this agreement and the Settlement:

2.5.1 subject to clause 2.13, hereby irrevocably waives any right it may have to bring or continue a claim and shall not commence any claim, actions or proceedings against the Purchaser in connection with the lawfulness of the NAECI or Social Value related requirements in the Contract pursuant to section 17 of the Local Government Act 1988 or otherwise;

2.5.2 shall within two (2) Business Days of this agreement in writing to the Purchaser fully and finally withdraw its request made to the Purchaser under the Freedom of Information Act 2000 on 2 March 2026 and shall not issue a complaint to the Information Commissioner's Office in relation to that request; and

2.5.3 shall, as soon as reasonably practicable following the date of this agreement, provide the Purchaser with:

(a) a copy of the deed of release between the Contractor and the United Kingdom Government as signed by the Contractor showing that the Contractor has withdrawn its claims against the United Kingdom Government in connection with the ECT Arbitration; and

(b) evidence that it has released the signed deed of release to the United Kingdom Government for countersigning and completion.

2.6 The Purchaser, in consideration of entering into this agreement and the Settlement, hereby irrevocably waives any right it may have to bring or continue a claim and shall not commence or continue any claim, action or proceedings against the Contractor in connection with any Contractual Deviation that has arisen or occurred as at the date of this agreement.

2.7 The Purchaser confirms that, as at the date of this agreement, it has notified the Contractor in writing of all matters of which it is aware that it considers to constitute a Contractual Deviation and agrees that any matter constituting a Contractual Deviation which existed before the date of this agreement but which has not been so notified is nonetheless released and waived under this Clause 2.7.

2.8 Within 60 calendar days of the date of this agreement, the Contractor shall raise a proposal for a Variation in accordance with Clause 17A of the Contract, as the same is amended in accordance with this agreement, in respect of each Derogation, for the purpose of formally recording each Derogation as a Variation under the Contract.

2.9 The Parties acknowledge that further items of value engineering and rationalisations of (i) commissioning labour and (ii) commissioning consumables that present further opportunities for cost optimisation and efficiency gains are available under the Contract. The particular opportunities identified by the Parties, which, subject to the remainder of this clause, shall be instructed under the Contract as Opportunity Variations (as defined in Schedule 2 to this agreement), are set out in section 1 of Schedule 4 to this agreement. Section 2 of Schedule 4 details the requirements of the Opportunity Variation Assessment (as defined in Schedule 4) that the Contractor must develop in connection with each Opportunity Variation and section 3 of Schedule 4 details the criteria which must be satisfied before an Opportunity Variation may be instructed under the Contract (the "**Implementation Criteria**"). The Parties agree that they shall use all reasonable and commercially prudent endeavours to develop and study each Opportunity Variation as soon as reasonably practicable with a view to the Contractor submitting Opportunity Variation Assessments that satisfy the relevant Implementation Criteria for the particular Opportunity Variation in accordance with the provisions of the Contract, as amended by the Amendment. The Purchaser shall not be required to instruct any Opportunity Variation, notwithstanding that the relevant Implementation Criteria are satisfied, where the Opportunity Variation:

(a) does not comply with Legislation and/or would result in the Works not complying with Legislation; and/or

(b) would reduce the performance standards, guarantees and/or functionality of the Plant under the Contract.

2.10 The Parties shall, within five (5) Business Days of this agreement, jointly ask the tribunal in the Contractual Arbitration to stay the Contractual Arbitration until a period of six (6) months from the date of this agreement (the "**Challenge Period**"). The Purchaser shall notify the Contractor of any procurement or public law challenge it receives from a third party in connection with the Parties entering into this agreement (a "**Challenge**") during the Challenge Period and shall, to the extent permitted by Legislation or otherwise by law, keep the Contractor updated as to the status of that Challenge (save that the Purchaser shall not be compelled to share documents or communications with Acciona that are protected by privilege, confidentiality and/or any collateral undertaking (or equivalent)). Where the Purchaser is subject to a Challenge during the Challenge Period and the Challenge has not been determined, settled or withdrawn by the date falling ten (10) Business Days before the end of the Challenge Period, the Parties shall jointly ask the tribunal to continue to stay the Contractual Arbitration until the Challenge has been determined, settled or withdrawn.

2.11 If at the end of the Challenge Period the Purchaser has not been the subject of any Challenge, or any Challenge in the Challenge Period has been settled and/or withdrawn, the Parties shall within five (5) Business Days of the end of the Challenge Period notify the tribunal appointed in connection with the Contractual Arbitration that they have settled their claims and that the Contractual Arbitration accordingly ends with requested immediate effect. The Parties shall bear their own legal or related costs in connection with the Contractual Arbitration including its withdrawal.

2.12 If during the Challenge Period the Purchaser is the subject of any Challenge and the Challenge does not result in a court ordering that the Contract, some or all of the modifications and/or this agreement and/or the Purchaser's relevant decisions are declared ineffective or unlawful, voided and/or quashed (but subject to any permission to appeal that is granted), the Parties shall within twenty eight (28)

calendar days of the determination, settlement or withdrawal of the Challenge (or, where a determination is subject to permission to appeal, following expiry of any other timeframe that a Court has ordered in relation to the filing of an appellant's notice and where the appellant's notice is not filed within that timeframe), notify the tribunal appointed in connection with the Contractual Arbitration that they have settled their claims and that the Contractual Arbitration accordingly ends with requested immediate effect. The Parties shall bear their own legal or related costs in connection with the Contractual Arbitration including its withdrawal.

2.13 If during the Challenge Period:

2.13.1 the Purchaser is subject to any Challenge during the Challenge Period; and

2.13.2 the Challenge results in a court ordering that the Contract, some or all of the modifications and/or this agreement and/or the Purchaser's relevant decisions are declared ineffective or unlawful, voided and/or quashed; or

2.13.3 the Challenge at first instance, or of a lower court, does not result in a court ordering that the Contract, some or all of the modifications and/or this agreement and/or the Purchaser's relevant decisions are declared ineffective or unlawful, voided and/or quashed but an appeal of the first instance or lower court's decision overturns that decision and orders that the Contract and/or this agreement is declared ineffective or unlawful, voided and/or quashed,

the Parties shall comply with the terms of any such court order and the Contractor may recommence the Contractual Arbitration and pursue the Contractual Claims and the Non-Contractual Claims in the Contractual Arbitration against the Purchaser. Where the Contractual Arbitration is recommenced pursuant to this clause 2.13, the Contractor may (subject to the terms of any court order arising out of the Challenge, whether at first instance or on appeal) retain any sums already paid to it under this agreement, giving credit for them or otherwise setting those payments off against any sums to be paid to the Contractor (i) under an arbitration award of the Contractual Arbitration, or, (ii) agreed to be paid by the Purchaser if it agrees a settlement of the claims under the Contractual Arbitration. If there is an appeal of a first instance or lower court's Challenge after the Contractual Arbitration has concluded (because it has been settled or because an award has already been given in respect of the Contractual Arbitration by the tribunal), the Parties shall make such necessary adjustments to the Contractual Arbitration award as are required in order that the Contractor gives credit to the Purchaser in respect of sums already paid to it under this agreement in respect of such agreed settlement or sums ordered to be paid under an arbitration award. The necessary adjustments shall include approaching the tribunal to request an amendment to the award or, if required, commencing a further arbitration pursuant to Clause 49 of the Contract so that the adjustment to the existing arbitration award may be effected.

2.14 In accordance with Sub-clause 20.3 of the Contract, the Contractor hereby:

2.14.1 provides its consent to the publication by the Purchaser of any Confidential Information obtained from the Contractor as part of the Voluntary Ex-Ante Transparency notice (the "**VEAT Notice**") (including any associated attachments, links or other documents subsequently issued in connection with the same) which was published by the Purchaser on [TBC] November 2026 in anticipation of the Parties entering into this agreement; and

2.14.2 waives any right it may have to bring a claim under the Contract or at law in connection with the publication by the Purchaser of any such Confidential Information obtained from the Contractor; and

2.14.3 agrees that it shall not rely on the contents of the VEAT notice (including any associated attachments, links or other documents subsequently issued in connection with the same) in relation to any claims it has or may have against the Purchaser in connection with or under this agreement and/or the Contract.

The rights of the Parties and otherwise at law continue in accordance with the terms of the Contract, this agreement and at law and are unaffected by clauses 2.14.1, 2.14.2 and 2.14.3 above, save as expressly set out in those clauses.

2.15 Save as expressly set out herein in relation to the Settlement Issues, this agreement does not release, waive or otherwise discharge any other or future claim which the Purchaser or the Contractor may have against the other for breach of contract, tort or otherwise arising out of or in connection with the performance of the Works under the Contract after the date of this agreement.

2.16 The Contract shall, subject to Clause 3 and the Amendments set out in Schedule 2 of this agreement, remain in full force and effect notwithstanding the Parties entering into this agreement.

3. **Variation**

3.1 The Parties agree that, with effect from the date of this agreement, the Contract shall be varied so as to incorporate the Amendments set out in Schedule 2 appended hereto and the Purchaser and the Contractor further agree that the Amendments shall replace or amend, as the case may be, any previous wording or drafting and the entire of the Contract shall be read and construed to take account of and give full effect to the Amendments.

3.2 The Parties acknowledge and agree that the Amendments attached hereto at Schedule 2 (including any appendices referred to within) shall be deemed to be annexed to the Contract.

3.3 The Contract shall remain in full force and effect, save as expressly varied in accordance with this agreement.

4. **Entire Agreement**

4.1 The Parties shall not be entitled to rely upon nor claim whether in contract, tort or otherwise in law in relation to any statements, representations or warranties made or given by or on behalf of any of the Parties during the course of negotiations which are not contained in or referred to in this agreement (or the Contract as amended by this agreement) in relation to the subject matter of this agreement.

4.2 The Parties agree and confirm that they have placed no reliance upon and shall have no claim against the other Parties in respect of any statement, representation or warranty made or given by or on behalf of any of the Parties (whether during the course of negotiations or otherwise) in respect of the subject matter of this agreement, which is not included as a term in this agreement (or the Contract as amended by this agreement).

4.3 Once executed, this agreement replaces and supersedes all such statements, representations or warranties made or given by or on behalf of any of the Parties during the course of negotiations in respect of the subject matter of this agreement. Notwithstanding the foregoing and Clauses 4.1 and 4.2, nothing in this agreement or the Amendments shall limit or exclude the liability of any of the Parties in respect of any fraudulent or negligent misrepresentation or negligent misstatement made by any of the Parties.

5. **Resolving and Avoiding Disputes**

The Parties agree that the provisions of Clauses 46, (Disputes), 47 (Adjudication), 48 (Reference to an Expert) and 49 (Arbitration) shall apply equally to any disputes which may arise under or in connection with this agreement.

6. **No Admission**

This agreement is entered into in connection with the compromise of disputed matters and in the light of other considerations. It is not, and shall not be represented or construed by the Parties as an admission of liability or wrongdoing on the part of either Party or any other person or entity.

7. **Counterparts**

This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

8. **Confidentiality**

8.1 The Parties shall keep the terms of this agreement strictly confidential and shall permit disclosure only:

8.1.1 to the Parties' respective legal and professional advisers, auditors, insurers and shareholders;

8.1.2 if required by law but only to the extent so required;

8.1.3 insofar as necessary to enable enforcement of this agreement;

8.1.4 with the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed); and

8.1.5 to enable the Contractor to enforce its rights against its Subcontractors and provided that any such disclosure pursuant to this Sub-clause 7.1.5 is notified to the Purchaser no more than five Business Days after such a disclosure and is done so on terms imparting confidentiality obligations at least commensurate with this Clause 7.1.

8.2 The Parties will ensure that any person to whom disclosure is made pursuant to Clause 7.1.1 and 7.1.4 treats the information disclosed to them as strictly confidential and does not permit disclosure save in accordance with the provisions of this agreement.

9. **Severability**

In the event that any term of this agreement is held to be invalid, unlawful or unenforceable, and subject to Clause 2.11 above, such term shall be deemed to be omitted from this agreement and the remaining terms shall continue in full force and effect.

10. **Governing Law and Jurisdiction**

This agreement and any contractual and/or non-contractual obligations in connection with this agreement are subject in all respects to English law.

11. **Rights of Third Parties**

This agreement does not create any right enforceable by any person not a party to it (whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise) except that a person who is the successor to or the permitted assignee of the rights of the Parties in accordance with the Contract (if any), is deemed to be a party to this agreement.

In Witness whereof the Parties have signed this agreement on the day and year first above written.

Schedule 1 – Settlement of claims, Variations and disputes captured in and/or arising from CEMAR Correspondence and Derogations

The claims, Variations, and disputes recorded in or arising out of the CEMAR Correspondence and Derogations listed in Parts 1 to 6 (inclusive) of this Schedule form part of the Settlement Issues settled by the Parties pursuant to Clause 2 of the Settlement and Variation Agreement (No. 3). Subject to the specific qualifications set out in Part 6 of this Schedule, each such claim, Variation, and dispute is fully and finally settled, irrespective of its status in CEMAR.

PART 1: Issues raised in and captured by the following General Communications which are deemed to have been in7structed as Variations and are included in the scope of the Works

Ref	Title
GC-889	FF&E Schedules for the Administration Building and Contractor's Compound.
GC-904	FF&E Schedules for Administrative Spaces in Workshops & Ancillary Areas
GC-943	The Operator's Strategic Catering Design Brief
GC-1099	Provision of Door Access Control

PART 2: Issues raised in and captured by the following Letters of Dissatisfaction are withdrawn by the Contractor following the date of this agreement

Ref	Related to	Title
GC-1488	CLM-3	Hazard present within Zone 1&2 of hydrogen in the ground
GC-1489	CLM-4	Pre Construction Information - delays
GC-1490	VAR-18	Proposal for second heat exchanger
GC-1491	GC-352	Photovoltaic Array Panel Area
GC-1492	VAR-30	Feed Hopper Wear Plates
GC-1493	VAR-31	Refractory Lining Protection
GC-1494	GC-834	Deodorisation System (Odour Control)

PART 3: Derogation List

Ref	Title
GC-1527	Potential Variations to Contract - Architectural
GC-1580	Potential Variations to Contract - Engineering - List 1
GC-1581	Potential Variations to Contract - Engineering - List 2
GC-1582	Potential Variations to Contract - Engineering - List 3
GC-1583	Potential Variations to Contract - Engineering - List 4
GC-2038	Potential Variations to Contract - Architectural - List 2

PART 4: Issues raised in and captured by the following Claims

Ref	***Title***	***CEMAR Status as of 19/10/26***
CLM-9	Standardisation of components	Closed
CLM-8	Administration Building and Contractor's Compound - Late Purchaser Design Changes	Awaiting DC
CLM-7	NAECI Requirements	Awaiting DC
CLM-6	IVC Obstructions	Awaiting DC
CLM-5	OCIP Insurance additional cover	Closed
CLM-4	Pre Construction Information - delays	Disapproved
CLM-3	Hazard present within Zone 1&2 of hydrogen in the ground	Disapproved
CLM-2	Cooling Water Pipe	Disapproved
CLM-1	Grounds obstructions	Closed

PART 5: Issues raised in and captured by the following Variations,

Ref	***Title***	***From***	***CEMAR Status 19/10/26***	***Remark***
VAR-74	Use of Air Admittance Valves (AAVs) where roof vent connection is not practicable	Contractor	Awaiting proposal	Derogation GC-2040
VAR-73	Health, Safety & Wellbeing Manual P14	Purchaser	Closed	
VAR-72	Additional Phone Requirements	Purchaser	Awaiting proposal	
VAR-71	2D piping drawings omission	Contractor	Awaiting proposal	Derogation GC-2040
VAR-70	IT Interface Revised	Purchaser	Awaiting proposal	
VAR-69	Value of VAR-49 Stay Period	Purchaser	Closed	
VAR-68	Silos area Corrosion Classification and Fabrication	Contractor	Awaiting proposal	Derogation GC-2040
VAR-67	Value Engineering Silos Hall Preparation	Contractor	Closed	

Ref	*Title*	*From*	*CEMAR Status 19/10/26*	*Remark*
VAR-66	NAECI Rate Uplift	Purchaser	Awaiting proposal	
VAR-65	Fire Suppression for the Boilers	Contractor	Closed	
VAR-64	Change of Legislation	Purchaser	Awaiting proposal	
VAR-63	IT Interface	Purchaser	Cancelled	Superseded by VAR-70
VAR-62	Turbine Hall Ventilation - Temperature Limits	Contractor	Awaiting proposal	Derogation GC-1580
VAR-61	Removal of Secondary Pump Supply	Purchaser	Closed	
VAR-60	Big foot for HVAC system	Contractor	Closed	
VAR-59	IT Network Interface	Purchaser	Cancelled	Superseded by VAR-63
VAR-58	H42 Precast Concrete Panel Cladding	Contractor	Closed	Derogation GC-1527
VAR-57	Emergency Showers	Contractor	Awaiting proposal	Derogation GC-1527
VAR-56	Admin Building Roof Parapet	Contractor	Awaiting proposal	Derogation GC-1527
VAR-55	Tipping Hall Southern Ramp	Contractor	Awaiting proposal	Derogation GC-1527
VAR-54	Curtain Walling Specification	Contractor	Awaiting proposal	Derogation GC-1527
VAR-53	Change of reception high level cladding from Terracotta to back-painted glass	Contractor	Awaiting proposal	Derogation GC-1527
VAR-52	Value Engineering Proposal - Silos Hall	Contractor	Cancelled	
VAR-51	Change Of Legislation - Kitchen food waste	Purchaser	Closed	
VAR-50	Emergency Diesel Generator Trip Override - Requirements Specification	Purchaser	Closed	

Ref	*Title*	*From*	*CEMAR Status 19/10/26*	*Remark*
VAR-49	Stay Period Extension of Time	Purchaser	Closed	
VAR-48	Proposal for a Variation - Suppliers documentation to be reviewed	Contractor	Not adopted	
VAR-47	NLHPP Environment Manual P07 revision	Purchaser	Closed	
VAR-46	H & S Manual update Rev 13	Purchaser	Closed	
VAR-45	District Heating control panel	Purchaser	Cancelled	
VAR-44	Omission of Works to Biffa connection	Purchaser	Closed	
VAR-43	UKPN Secondary Substation	Purchaser	Closed	
VAR-42	Administration Building changing areas	Purchaser	Closed	
VAR-41	EDG upgrade	Purchaser	Closed	
VAR-40	HSW Manual Rev 012	Purchaser	Closed	
VAR-39	Lifts to be installed in the Administrative Building.	Contractor	Closed	
VAR-38	Electrical Supply Site Eye Camera	Purchaser	Closed	
VAR-37	NLHPP - Architectural Workshop 13 Facade Treatment	Purchaser	Cancelled	
VAR-36	De-Vegetation Works -	Purchaser	Closed	
VAR-35	Repairs To Kitchen Fire Suppression	Purchaser	Closed	
VAR-34	NLHPP - Architectural Workshop 13 Facade Treatment	Purchaser	Cancelled	
VAR-33	Repairs to Perimeter Fence laydown area	Purchaser	Closed	

Ref	*Title*	*From*	*CEMAR Status 19/10/26*	*Remark*
VAR-32	Totem 5 Foundation and placement of free issue pole	Purchaser	Closed	
VAR-31	Refractory Lining Protection	Contractor	Awaiting proposal	Derogation GC-2040
VAR-30	Feed Hopper Wear Plates	Contractor	Awaiting proposal	Derogation GC-2040
VAR-29	Eastern access road hoarding graphics	Purchaser	Closed	
VAR-28	Zone 5 Handover date	Purchaser	Closed	
VAR-27	3rd Floor Collaboration Space (Subcontractors Block)	Purchaser	Cancelled	
VAR-26	Cadent Gas Compound	Purchaser	Cancelled	
VAR-25	H & S Manual update Rev 11	Purchaser	Closed	
VAR-24	Laydown Area New Dates	Purchaser	Closed	
VAR-23	Health, Safety & Wellbeing Manual	Purchaser	Cancelled	
VAR-22	Cadent Gas duct extension	Purchaser	Closed	
VAR-21	Gulley Cleaning Lower Hall Lane	Purchaser	Closed	
VAR-20	Handover Zone 1a & Zone 1b	Purchaser	Closed	
VAR-19	Green Route Pedestrian Walkway Route & additional Signage	Purchaser	Closed	
VAR-18	Proposal for second heat exchanger	Purchaser	Closed	
VAR-17	Extension of Constraints Information	Purchaser	Closed	
VAR-16	Extension of Constraints Information	Purchaser	Closed	
VAR-15	Access to UKPN Assets	Purchaser	Closed	

Ref	***Title***	***From***	***CEMAR Status 19/10/26***	***Remark***
VAR-14	H & S Manual update	Purchaser	Closed	
VAR-13	Northern Gate Security	Purchaser	Closed	
VAR-12	Zone 1 access date and demarcation change	Purchaser	Closed	
VAR-11	Extension of Constraints Information	Purchaser	Closed	
VAR-10	H & S Manual update	Purchaser	Cancelled	
VAR-9	Removal of pond Liner	Purchaser	Closed	
VAR-8	Borehole De-silting	Purchaser	Closed	
VAR-7	Updated Constraints Information: Appendix 19 of Schedule 22.9 Site Conditions, Permits and Constraints	Purchaser	Closed	
VAR-6	Temporary Hoarding	Purchaser	Closed	
VAR-5	Variation proposed by Contractor	Contractor	Not adopted	
VAR-4	Ground Water Monitoring	Purchaser	Closed	
VAR-3	Management of Laydown Area October 2022 - March 2023	Purchaser	Closed	
VAR-2	Schedule 11: Times of Completion: Start on Site - Phase 2 Western Area variation	Purchaser	Closed	
VAR-1	Updated Constraints Information: Appendix 19 of Schedule 22.9 Site Conditions, Permits and Constraints	Purchaser	Cancelled	

PART 6: Issues raised in and captured by the following Variations,

Ref	Title	Comment
VAR-75	UKPN 33kV Import/Export Provisions in Northern Access Road	The time impact of this Variation is included in the Settlement. The cost impact of any subsequent instruction to carry out the procurement and construction work

		pertaining to this Variation is excluded from the Settlement. The time impact of any subsequent instruction to carry out the procurement and construction work pertaining to this Variation is included in the Settlement on the condition that an instruction is issued by 9th April 2027, and there shall be no entitlement for an Extension of Time.

Schedule 2 – Amendments

The Contract shall be modified and/or supplemented by the insertion and deletion (as appropriate) of the following:

1 IChemE Appendix 1: Red Book Special Conditions of Contract

1.1 In Sub-clause 1.1, **Insert** the following new definitions:

"**Derogation**" means each item of non-compliance of the Works with the Contract which are detailed in the general communications that are set out in the Derogation List.

"**Derogation List**" means the list of Derogations appended at Part 3 of Schedule 1 of Settlement and Variation Agreement (No.3) to this Contract.

"**Implementation Criteria**" means the Implementation criteria for the Opportunity Variations as set out in Part 3 of Schedule 4 of Settlement and Variation Agreement (No. 3) to this Contract.

OBJ "**Off-Site Storage Location**" means Codham Hall, Kettering or any other off-site storage location as may be agreed between the Parties where the Contractor may store Materials prior to their delivery to the Site in accordance with Clause 24.

"**Opportunity Variation Assessment**" or "**OVA**" means the assessment to be developed by the Contractor in relation to each Opportunity Variation in accordance with the requirements of section 2 of Schedule 4 of Settlement and Variation Agreement (No. 3) to this Contract.

"**Opportunity Direct Costs**" means any direct costs incurred by the Purchaser in the implementation of an Opportunity Variation including, but not limited to:

(a) consumables purchased by the Purchaser on behalf of the Contractor including absorbents, adsorbents, hydrated lime, powdered activated carbon / activated carbon and sodium hydroxide); and

(b) the net present value of additional capital, maintenance or operational costs for the Plant due to the implementation of the Opportunity Variation,

but, for the avoidance of doubt, excluding any commissioning resources required by the Purchaser in connection with Opportunity Variation C1.

"**Opportunity Variation**" means a Variation to the Works described in section 1 of Schedule 4 of Settlement and Variation Agreement (No.3) to this Contract, to be developed by the Parties and which the Project Manager shall, subject to the provisions of Clause 16A, instruct once the Contractor has developed a full OVA and the Implementation Criteria applicable to that Opportunity Variation are satisfied.

1.2 In Sub-clause 1.1, **delete** the definitions of "**Productivity**" and "**Productivity Baseline**" and **insert** "Not used."

1.3 In Sub-clause 7.5, after the words “or similar body” on line 2 **insert** “(which, for the avoidance of doubt, shall not include the NJC or the Unions)”.

1.4 **Delete** Sub-clause 9.2.1 and **replace** with the following:

“9.2.1 Prior to appointing any Subcontractor in respect of any of the subcontract packages listed or, in the case of architectural Subcontractors the requirements of which are set out in Schedule 22.4 *Architectural Specification*, referred to in Appendix A (Critical Plant systems/component list) in Schedule 7 *Subcontracting* or, in respect of any other subcontract package, where the value of the subcontract is equal to or more than three million, five hundred thousand pounds (£3,500,000), the Contractor shall submit the identity of the proposed Subcontractor to the Purchaser for review and comment in accordance with Schedule 7 *Subcontracting*. For the avoidance of doubt, the Parties agree that the companies listed in Appendix A (Critical Plant systems/component list) in Schedule 7 *Subcontracting* are Subcontractors that have already been reviewed and commented on by the Purchaser as at the date of Settlement and Variation Agreement (No. 3) to this Contract. Otherwise, subject to the foregoing, the Contractor shall be entitled to subcontract parts of the Works to any Subcontractor without the prior consultation of the Purchaser.

The Contractor shall submit the subcontract documents it proposes to use to appoint any Subcontractor in respect of:

(a) any of the subcontract packages listed or, in the case of architectural Subcontractors the requirements of which are set out in Schedule 22.4 *Architectural Specification*, referred to in Appendix A (Critical Plant systems/component list) in Schedule 7 *Subcontracting* including, for the avoidance of doubt, for any Subcontractors that have already been consented to by the Purchaser as at the Effective Date or as at the date of Settlement and Variation Agreement (No. 3) to this Contract;

(b) any of the subcontract packages listed in Appendix B (Nominated supplier list) in Schedule 7 *Subcontracting;* or

(c) any subcontract package where the value of the subcontract is equal to or more than three million, five hundred thousand pounds (£3,500,000),

to the Purchaser for review and comment in accordance with Schedule 7 *Subcontracting*. The Contractor shall ensure that its subcontracts in relation to the subcontract packages referred to in (a) to (c) above:

(a) appropriately pass down the relevant obligations on the Contractor under the Contract having regard to the scope, value, nature and complexity of the subcontract package in question and so enable the Contractor to perform the Works in accordance with and comply with the requirements of the Contract;

(b) oblige the Subcontractor to comply with the requirements of the Contractor's current approved Employment Relations Plan and to pay its employees and workers working primarily on the Site the London Living Wage as set out in Sub-clause 28.9;

(c) permit the Contractor to assign the benefit of the subcontract and the benefit of the subcontract performance security package to the Purchaser or another third party or to permit the Purchaser or another third party to assume the Contractor's role of purchaser under the subcontract in case of termination of the Contract; or

(d) require the Contractor to pay the Subcontractor or require the Subcontractor to pay its Sub-subcontractors any sums due under the subcontract or any sub-subcontracts the Subcontractor may enter into within thirty (30) days of receipt of a valid and undisputed invoice."

1.5 In Sub-clause 9.2.2, **delete** the final sentence "The Purchaser shall not refuse to grant approval to a proposed Subcontractor purely on the grounds that they are not located within the local boroughs specified in Schedule 25 *Social Value."*

1.6 **Delete** Sub-clause 9.2.5(a) and **insert** "Not used."

1.7 In Sub-clause 9.9.1, **delete** the second sentence beginning "Any Subcontractor to be appointed in respect of any of the subcontract packages listed…" until the end of the Sub-clause.

1.8 In Sub-clause 10.1, **delete** the words ", once the proposed form of subcontract has been approved by the Purchaser in accordance with Sub-clause 9.2.1," and **replace** with ", once the proposed form of subcontract has been submitted to the Purchaser for review and comment in accordance with Sub-clause 9.2.1,".

1.9 **Delete** the text in Sub-clause 13.2A.1(i) and **replace** with "other information which Schedule 2 *Documentation* requires the Contractor to show on a programme."

1.10 In Sub-clause 13.2A.2(d), **delete** the words "and Schedule 11 *Times of completion".*

1.11 In Sub-clause 13.2A.4, **delete** the words “for approval” on line 2 and **insert** “for review and comment”.

1.12 **Delete** the text in Sub-clause 13.2A.4(a) and **insert** “the information specified in paragraph 6.4 of Schedule 2 *Documentation”*.

1.13 **Delete** the final sentence in Sub-clause 13.2A.4 “The Project Manager's approval of any draft programme update shall not constitute an approval of any such programme as the Approved Programme.”

1.14 In Sub-clause 14.4 (b), after the words “other than a Variation ordered by reason of the Contractor's default” **insert** “or the order of an Opportunity Variation or the order of a Variation in connection with a Derogation”.

At the end of the clause **insert**, “The Contractor shall only be entitled to an extension of time in connection with a follow up instruction under the Contract further to Variation 75 requiring the Contractor to carry out the procurement and construction work in connection with the designs captured by Variation 75 where that instruction is ordered after 9 April 2027”.

1.15 **Delete** the “; or” at the end of Sub-clause 14.4(n) and **insert** “.”.

1.16 **Delete** Sub-clause 14.4(o) and **insert** “Not used.”

1.17 In Sub-clause 14.6(h), **delete** the words “and other than an industrial dispute in connection with NAECI and any of the In Scope NAECI Activities as specified in Sub-clause 28.6A”.

1.18 **Insert** a new Clause 16A as follows:

“16A.1 The Parties shall use all reasonable and commercially prudent endeavours to develop and study each Opportunity Variation as soon as reasonably practicable with a view to the Contractor then producing an Opportunity Variation Assessment that satisfies the relevant Implementation Criteria for the particular Opportunity Variation. Any Opportunity Variations must be instructed by no later than six (6) months after the date of Settlement and Variation Agreement (No.3) to this Contract. Where any Opportunity Variation has not been instructed by the date falling six (6) months after the date of Settlement and Variation Agreement (No.3) to this Contract, the relevant Opportunity Variation shall be deemed to have been rejected and no further work will be undertaken on the Opportunity Variation.

16A.2 Subject to Sub-clause 16A.3, where the Implementation Criteria for a particular Opportunity Variation is satisfied, the Project Manager shall, within ten (10) Business Days of such Implementation Criteria being satisfied, order that Opportunity Variation as a Variation.

16A.3 The Project Manager shall not be required to instruct any Opportunity Variation as a Variation, notwithstanding that the relevant Implementation Criteria are satisfied, where the Opportunity Variation:

(a) does not comply with Legislation and/or would result in the Works not complying with Legislation; and/or

(b) would reduce the performance standards, guarantees and/or functionality of the Plant under the Contract.

16A.4 The Contractor shall prepare and submit to the Project Manager an Opportunity Variation Assessment demonstrating that the relevant Opportunity Variation has been sufficiently developed and assessed to enable the Project Manager to determine whether each applicable Implementation Criterion has been satisfied. The Opportunity Variation Assessment shall be developed in accordance with and contain the information specified in section 2 of Schedule 4 to Settlement and Variation Agreement (No.3) to this Contract. The Project Manager shall not be required to confirm that the Implementation Criteria for a particular Opportunity Variation has been satisfied and the Project Manager's ten (10) Business Day review period referred to in Sub-clause 16A.5 shall not commence, unless the Contractor's Opportunity Variation Assessment contains all the information required in section 2 of Schedule 4 to Settlement and Variation Agreement (No.3) to this Contract.

16A.5 The Project Manager shall, within ten (10) Business Days of receipt of the relevant Opportunity Variation Assessment which complies with the requirements of section 2 of Schedule 4 to Settlement and Variation Agreement (No.3) to this Contract issued under Sub-clause 16A.4, confirm in writing to the Contractor whether it agrees that the relevant Implementation Criteria have been satisfied. Where the Project Manager determines that the relevant Opportunity Variation Assessment does not meet the requirements of Part 2 of Schedule 4 to Settlement and Variation Agreement (No.3) to this Contract, it shall set out those aspects of the Implementation Criteria that are yet to be satisfied and/or confirm to the Contractor what further supporting information and evidence are to be provided to demonstrate their satisfaction. The Contractor shall rectify any outstanding Implementation Criteria and/or provide such further supporting information and evidence in an updated Opportunity Variation Assessment and resubmit them to the Project Manager in accordance with Sub-clause 16A.4 and the time period for the Project Manager's review shall recommence on receipt.

16A.6 If the Project Manager fails to respond within the ten (10) Business Day period referred to in Sub-Clause 16A.5 or, where the Project Manager does respond, and the Contractor disagrees with the Project Manager's decision, the Contractor may may refer the matter for determination in accordance with Clause 46.

16A.7 Where the Project Manager orders an Opportunity Variation, the Project Manager may award an extension of time in connection with any Key Events or other dates set out in Schedule 11*Times of completion.* As set out in Sub-clause 14.4 (b), the Project Manager's order of an Opportunity Variation, shall not entitle the Contractor to any other extension of time under the Contract including, without limitation, any extension to the date set for Take Over in Schedule 11 *Times of completion* (as extended in accordance with Sub-clause 14.1)."

1.19 **Insert** a new Clause 17A as follows:

"17A.1 The Contractor shall, within sixty (60) days of the date of Settlement and Variation Agreement (No.3) to this Contract, submit to the Project Manager

separate proposals for each Derogation to be formally ordered as a Variation under the Contract. Where the Contractor fails to submit separate proposals for each Derogation within such sixty (60) day period, the Project Manager may withhold a sum equal to one (1%) of the total value of interim payments following the expiry of that sixty (60) day period and such sum shall not be payable to the Contractor until such time as separate proposals for each Derogation have been submitted to the Project Manager in accordance with this Sub-clause 17A.1.

17A.2 The Project Manager shall review each proposal for a Derogation to be formally ordered as a Variation and within twenty (20) Business Days following receipt shall:

(a) where the Contractor's proposed Variation is consistent with the relevant Derogation as described in the Derogation List and is sufficiently detailed to enable the Project Manager to order the Variation, formally order the Variation; or

(b) where the Project Manager considers that a Variation proposal is not sufficiently detailed to enable it to order the Variation, notify the Contractor in writing of the respects in which further detail is required.

If the Project Manager determines that further detail is required, the Contractor shall thereafter resubmit the Variation proposal with the additional detail required, and the twenty (20) Business Day period shall run afresh from the Project Manager's receipt of the resubmitted Variation proposal."

1.20 In Sub-clause 18.1, **delete** "Sub-clauses 18.1A, 18.1B and 18.1C," and replace with "Sub-clauses 18.1A, 18.1B, 18.1C and 18.1D".

1.21 **Insert** the following new Sub-clause 18.1D as follows:

"The Parties agree that where the Variation is an Opportunity Variation or a Variation ordered in connection with a Derogation:

(a) There shall be no adjustment to the Contract Price; and

(b) Where the Purchaser incurs any Opportunity Direct Cost as a consequence of the Opportunity Variation, the Parties shall agree the quantum of the Opportunity Direct Cost (which, in the absence of agreement shall be determined by the Project Manager) and the value of the Opportunity Direct Cost shall be deducted from the final Milestone in Schedule 19 *Terms of payment*. Where the value of the agreed quantum of the Opportunity Direct Cost in connection with all Opportunity Variations ordered under this Contract exceeds the value of the final Milestone in Schedule 19 *Terms of payment,* the outstanding balance of Opportunity Direct Cost in excess of the final Milestone amount shall be payable by the Contractor to the Purchaser as a debt."

1.22 **Delete** Sub-clause 21.7 and **replace** with the following:

"In addition to the Documentation to be submitted for approval by the Project Manager under Sub-clause 21.2, Schedule 2 may include descriptions of other Documentation which is to be provided to the Project Manager, under the heading 'Documentation for review', 'Documentation for review and comment' or 'Documentation for information only'. The Contractor shall submit such Documentation to the Project Manager in accordance with the requirements of and in the form specified in Schedule 2 *Documentation*."

1.23 At the end of Sub-clause 21.13, **insert** the following new sentence:

"For the avoidance of doubt, references in this Sub-clause 21.13 to "the Documentation provided by the Contractor and approved by the Project Manager or the Contractor's accepted design" shall only include any Documentation or reviewable Design Data that the Contractor is required to submit to the Project Manager for approval in accordance with Schedule 2 *Documentation* (and which has been so approved). It shall not include any Documentation or reviewable Design Data that the Contractor is required to submit to the Project Manager for "review" or "review and comment" in accordance with Schedule 2 *Documentation*."

1.24 **Delete** the words "If the Contractor fails to achieve Take Over by the date set for Take Over" from the start of the Sub-clause 15.1, and **replace** with "If the Contractor fails to achieve Take Over by the date which is six (6) months after the date set for Take Over".

1.25 **Delete** Sub-Clause 25.1 and **insert** the following:

"The ownership of Materials shall pass to the Purchaser at whichever is the earlier of the following:

(a) upon delivery to the Site; or

(b) upon delivery to the Off-Site Storage Location; or

(c) when the Contractor becomes entitled to the final payment in respect of such Materials and such payment has been made,

the Contractor shall insert such provisions Subcontracts as will cause this to happen."

1.26 **Delete** Sub-clause 28.6A and **replace** with:

"The Parties acknowledge and agree that the Contractor shall be deemed to have allowed for the time and cost implications of negotiating the SPA and of complying with the terms of the completed SPA in the performance of the Works."

1.27 **Insert** the following at the end of Sub-clause 41.2:

"The Contractor's entitlement to payment of the first Milestone after the date of Settlement and Variation Agreement (No. 3) to this Contract (being Milestone [ ]) shall be conditional on the Contractor providing:

(a) written confirmation to the Purchaser that it is fully and finally withdrawing its request made to the Purchaser under the Freedom of Information Act 2000 on 2 March 2026 and that it shall not issue a complaint to the Information Commissioner's Office in relation to that request; and

(b) the Purchaser with:

(i) a copy of the deed of release between the Contractor and the United Kingdom Government as signed by the Contractor showing that the Contractor has withdrawn its claims against the United Kingdom Government in connection with the ECT Arbitration; and

(ii) evidence that it has released the signed deed of release to the United Kingdom Government for countersigning and completion,

in accordance with the requirements of Settlement and Variation Agreement (No. 3) to this Contract."

1.28 On line 1 of Sub-clause 41.3, **delete** the words "Save in relation to the advance payment which is dealt with in Sub-clause 41.3B," and **insert** "Save in relation to the payments which are referred to in Sub-clauses 41.3B, 41.3C and 41.3D.2".

1.29 After Sub-clause 41.3C, **insert** a new Sub-clause 41.3D as follows:

"41.3D.1 The Purchaser shall pay to the Contractor the first Milestone after the date of Settlement and Variation Agreement (No. 3) to this Contract (being defined in Schedule 19 *Terms of payment* as [ ]) provided that the Contractor has complied with the criteria for completion set out in Schedule 19 *Terms of payment* and the conditions precedent in relation to that Milestone referred to in Sub-clause 41.2.

41.3D.2 Where Settlement and Variation Agreement (No.3) to this Contract is entered into on or before [14 December 2026], the Contractor shall submit a request for payment including a valid VAT invoice for Milestone [ ] and payment shall become due on the later of the date on which (i) the Purchaser receives the valid VAT invoice and (ii) the criteria for completion set in Schedule 19 *Terms of payment* and the conditions precedent in relation to that Milestone referred to in Sub-clause 41.2 have been satisfied. Provided that the due date for payment is no later than [TBC] December 2026, the final date for payment of Milestone [ ] shall be five (5) Business Days after the date on which the advance payment becomes due. Where the due date

for payment s after [TBC] December 2026, the final date for payment of Milestone [ ] shall be twenty-six (26) days after the due date for payment.

41.3D.3 Where Settlement and Variation Agreement (No.3) to this Contract is entered into after [14 December 2026], the Contractor shall submit a request for payment including a valid VAT invoice for Milestone [ ] on the last Friday of the calendar month in which the Settlement and Variation Agreement No.3) to this Contract in accordance with Sub-clause 41.3 of the Contract and the relevant provisions of Clause 41 that apply to all interim payments shall apply."

1.30 On line 1 of Sub-clause 41.4, **delete** the words "Save in relation to the advance payments which are dealt with in Sub-clause 41.3B" and **insert** "Save in relation to the payments which are referred to in Sub-clauses 41.3B, 41.3C and 41.3D.2".

1.31 **Renumber** Sub-clauses 41.4A(e), (f) and (g) as Sub-clauses 44.1A(f), (g) and (h) respectively, and **insert** a new Sub-clause 41.4A(e) as follows:

"Sub-clause 17A.1 (Derogations);".

1.32 On line 2 of Sub-clause 41.4B, **delete** "for approval" and **insert** "for approval or review and comment (as applicable)".

1.33 On line 1 of Sub-clause 41.5, **delete** the words "Save in relation to the advance payments which are dealt with in Sub-clause 41.3B" and **insert** "Save in relation to the payments which are referred to in Sub-clauses 41.3B, 41.3C and 41.3D.2".

2 IChemE Schedule 2 *Documentation*

2.1 The document entitled "IChemE Schedule 2 Documentation, Reference: NP-RUK-41XX-XXX-SP-TA-090002, Revision: C02, Version: 70, 31 May 2023" shall be deleted and replaced with the following document:

"IChemE Schedule 2 Documentation, Reference: NP-RUK-41XX-XXX-SP-TA-090002, Revision: C03, Version: 71, [TBC] 2026".

which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\024 IChemE Schedule 2 Documentation.

3 IChemE Schedule 7 *Subcontracting*

3.1 The document entitled "IChemE Schedule 7 Subcontracting, Reference: NP-RUK-41XX-XXX-SP-TA-090007, Revision: C01, Version: 63, 24 January 2022" shall be deleted and replaced with the following document:

"IChemE Schedule 7 Subcontracting, Reference: NP-RUK-41XX-XXX-SP-TA-090007, Revision: C02, Version: 64, [TBC] 2026"

which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\029 IChemE Schedule 7 Subcontracting.

4 IChemE Schedule 11 *Times of Completion*

4.1 The document entitled "IChemE Schedule 11 Times of Completion, Reference: NP-RUK-41XX-XXX-SP-TA-090011, Revision: C01, Version: 43, 22 January 2022" shall be deleted and replaced with the following document:

"IChemE Schedule 11 Times of Completion, Reference: NP-RUK-41XX-XXX-SP-TA-090012, Revision: C02, Version: 44, [TBC] 2026"

which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\033 IChemE Schedule 11 Times of Completion.

5 IChemE Schedule 12 *Liquidated Damages for Delay*

5.1 The document entitled "IChemE Schedule 12 Liquidated Damages for Delay, Reference: NP-NLW-E7XX-XXX-SH-KK-090003, Revision: C01, Version: 27, 14 January 2022" shall be deleted and replaced with the following document:

“IChemE Schedule 12 Liquidated Damages for Delay, Reference: NP-NLW-E7XX-XXX-SH-KK-090003, Revision: C02, Version: 28, [TBC] 2026"

which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\034 IChemE Schedule 12 Liquidated Damages for Delay.

6 IChemE Schedule 13 *Pre-Installation Tests and Procedures*

6.1 The document entitled "IChemE Schedule 13 Pre-Installation Tests and Procedures, Reference: NP-RUK-41XX-XXX-SP-TA-090013, Revision: C01, Version: 31, 18 January 2022" shall be deleted and replaced with the following document:

“IChemE Schedule 13 Pre-Installation Tests and Procedures, Reference: NP-RUK-41XX-XXX-SP-TA-090013, Revision: C02, Version: 32, [TBC] 2026"

which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\035 IChemE Schedule 13 Pre-Installation Tests and Procedures.

7 IChemE Schedule 14 *Criteria for Completion of Construction*

7.1 The document entitled "IChemE Schedule 14 Criteria for Completion of Construction, Reference: NP-RUK-41XX-XXX-SP-TA-090014, Revision: C01, Version: 43, 14 January 2022" shall be deleted and replaced with the following document:

“IChemE Schedule 14 Criteria for Completion of Construction, Reference: NP-RUK-41XX-XXX-SP-TA-090014, Revision: C02, Version: 44, [TBC] 2026"

which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\036 IChemE Schedule 14 Criteria for Completion of Construction.

8 IChemE Schedule 15 *Take Over Procedures*

8.1 The document entitled "IChemE Schedule 15 Take Over Procedures, Reference: NP-RUK-41XX-XXX-SP-TA-090015, Revision: C01, Version: 55, 23 January 2022" shall be deleted and replaced with the following document:

“IChemE Schedule 15 Take Over Procedures, Reference: NP-RUK-41XX-XXX-SP-TA-090015, Revision: C02, Version: 56, [TBC] 2026"

and the document entitled “Schedule 15: Appendix A - Commissioning Process Flow Chart, Reference NP-RUK-41XX-XXX-PF-TA-090001, Revision P08, Version 12, 14 January 2022” shall be deleted and replaced with the following document:

“Schedule 15: Appendix A - Commissioning Process Flow Chart, Reference NP-RUK-41XX-XXX-PF-TA-090001, Revision P09, Version 13, [TBC] 2026”,

both of which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\037 IChemE Schedule 15 Take Over Procedures.

9 IChemE Schedule 19 *Terms of Payment*

9.1 The document entitled "IChemE Schedule 19 Terms of Payment, Reference: NP-RUK-41XX-XXX-SP-TA-090019, Revision: C02, Version: 40, 31 May 2023" shall be deleted and replaced with the following document:

"IChemE Schedule 19 Terms of Payment, Reference: NP-RUK-41XX-XXX-SP-TA-090019, Revision: C03, Version: 41, [TBC] 2026"

which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\041 IChemE Schedule 19 Terms of Payment.

10 IChemE Schedule 23 Contractor's *Proposal*

10.1 The following document within Schedule 23 *Contractor's Proposal*:

"Schedule 23 - A4 Social Value Cover Sheet, Reference: NP-ARP-E7XX-XXX SH-PM-090138, Revision: P01, Version: 3, 22 January 2022"

Shall be deleted and replaced with document

"Schedule 23 - A4 Social Value Cover Sheet, Reference: NP-ARP-E7XX-XXX SH-PM-090138, Revision: P02, Version: 4, [TBC] 2026"

Which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\082 IChemE Schedule 23 Contractor's Proposal

11 IChemE Schedule 24 *Stakeholder Management and Communications*

11.1 The document entitled "IChemE Schedule 24 Stakeholder Management and Communications, Reference: NP-ARP-XXXX-ZZZ-RP-PM-090008, Revision: C01, Version 43:, 14 January 2022" shall be deleted and replaced with the following document:

""IChemE Schedule 24 Stakeholder Management and Communications, Reference: NP-ARP-XXXX-ZZZ-RP-PM-090008, Revision: C02, Version 44:, [TBC] 2026"

which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility

(ERF)\14 Contract Exchange Documents\083 IChemE Schedule 24 Stakeholder Management and Collaboration.

12 IChemE Schedule 25 *Social Value*

12.1 The document entitled “IChemE Schedule 25 Social Value, Reference: NP-ARP-E7XX-XXX-TE-PM-090001, Revision: C01, Version 40, 18 January 2022” shall be deleted and replaced with the following document:

“IChemE Schedule 25 Social Value, Reference: NP-ARP-E7XX-XXX-TE-PM-090001, Revision: C02, Version 41, [TBC] 2026”

which can be located in Asite using the following folder paths:

[Link]

NLWA - North London Heat & Power Project\01 WORKING STRUCTURE\Programme Wide\Procurement\E7 - Energy Recovery Facility (ERF)\14 Contract Exchange Documents\084 IChemE Schedule 25 Social Value.

Schedule 3

Approved Programme

Schedule 4

Opportunity Variations

Opportunity Variations

The Parties agree that the items detailed in this Schedule will be further developed and may potentially be instructed as Opportunity Variations subject to meeting the requirements set out in the Opportunity Variation Assessment and the Opportunity Implementation Criteria.

The Opportunity Variation Assessments are to be completed within 6 (six) months of the date of the Settlement and Variation Agreement No. 3

The notices stating that the Opportunity Variation satisfies the applicable Implementation Criteria are to be issued within 6 (six) months of the date of the Settlement and Variation Agreement No. 3.

In the event that an Opportunity Variation Assessment or notice stating that the Opportunity Variation satisfies the applicable Implementation Criteria is not issued within the timescales required by Schedule 4, then the Opportunity Variation shall be deemed to have been rejected and no further work will be undertaken on the Opportunity Variation.

1. Opportunity Variation Descriptions

The descriptions below define the scope and intent of the Opportunity Variations identified by the Parties for further development. Except where expressly stated otherwise, no statement in a Description shall constitute agreement that any assumption, technical proposition, anticipated benefit, cost saving or other consequence associated with an Opportunity Variation has been demonstrated or accepted. Such matters shall be established through the Opportunity Variation Assessment against the applicable Implementation Criteria.

1. **Opportunity Variation A1: Contractor Office (Ramps Area)**

The Opportunity Variation comprises the omission from the Works of the dedicated Contractor Office currently proposed within the Ramps Area and the use and/or adaptation of other facilities for the accommodation of the functions and activities that would otherwise be accommodated within that Contractor Office.

2. **Opportunity Variation A2: PV Canopy (Tipping Hall Area)**

The Opportunity Variation comprises the omission from the Works of the photovoltaic canopy above the Tipping Hall roof, together with any consequential modifications to the Works arising directly from that omission.

3. **Opportunity Variation A3: Dumping Doors (Tipping Hall Area)**

The Opportunity Variation comprises the omission of the dumping doors between the Tipping Hall and the waste bunker and their associated equipment, together with the provision of such alternative safety, operational and other measures as are demonstrated through the Opportunity Variation Assessment to be necessary as a consequence of their omission.

4. **Opportunity Variation A4: Kitchen Specification**

The Opportunity Variation comprises the review and potential rationalisation of the kitchen specification having regard to the catering requirements applicable under the Contract, including the documents provided with GC 943 (Strategic Catering Design Brief and ERF FF&E Schedules Canteen Area) with the objective of developing a revised kitchen specification appropriate to those requirements.

The Contractor's current proposed measures, which remain to be assessed as part of the Opportunity Variation Assessment and tested against the Implementation Criteria, include the following:

a) Omission of UV filtration.

b) Omission of the cold stores, including the walk-in freezer.

c) Omission of the Rational Variopan.

d) Omission of the dedicated waste station.

e) Omission of the high-speed oven from the cook line.

f) Replacement of two 6-grid ovens with one 10-grid oven.

5. **Opportunity Variation A5: Hard Copy Documentation**

The Opportunity Variation comprises the proposed omission of the requirement to provide hard copies of Documentation under the Contract, with such Documentation instead being provided electronically.

6. **Opportunity Variation B1: Terracotta Façade System (Bunker Area)**

The Opportunity Variation comprises the omission of the second-skin terracotta façade to the Bunker Area and the use of orange sandwich panels as the final external cladding in its place, or other alternative façade solution, together with any consequential modifications to the façade system and associated supporting elements required as a result of that change.

7. **Opportunity Variation B2: Expanded Mesh Panels (Boiler and FGT Area and Stack)**

The Opportunity Variation comprises the omission of the expanded-mesh second-skin cladding to the affected areas of the Tipping Hall, process building and stack, including the Boiler and Flue Gas Treatment areas, with the resulting external façade comprising the proposed sandwich panel system in grey (currently proposed as RAL 7044) as the final external cladding in its place, or other alternative façade solution, together with any consequential modifications to the façade system and associated supporting elements required as a result of that change, including associated louvres, polycarbonate window openings and other façade elements.

8. **Opportunity Variation B3: Platform Steel Structure (Boiler and FGT Area)**

The Opportunity Variation comprises the omission of some or all of the platform steel structure located between the terracotta and expanded-mesh cladding systems around the building, to the extent that such platform steel structure is demonstrated through the Opportunity Variation Assessment to be unnecessary following implementation of the relevant façade Opportunity Variation(s).

9. **Opportunity Variation B4: Landscape, Embankment and Retaining Wall (Adjacent to Tipping Hall)**

The Opportunity Variation comprises the redesign of the landscape and embankment topography adjacent to the Tipping Hall, including:

a) Alteration of the embankment geometry between the pedestrian pathways and the fire appliance route.

b) Retention of the pedestrian pathways and fire appliance route at their existing proposed levels.

c) Omission of the currently proposed earth-retaining green wall.

d) Consequential regrading and associated landscape works.

10. **Opportunity Variation B5: Green Roof (Tipping Hall) and Brown Roof (Waste Bunker)**

The Opportunity Variation comprises the replacement or modification of the specified green roof to the Tipping Hall and/or brown roof to the Waste Bunker with an alternative roofing solution.

The alternative roofing solution has not been defined as at the date of this Agreement and shall be developed and defined by the Contractor through the Opportunity Variation Assessment.

Options identified by the Contractor for further consideration include:

a) An extensive green roof incorporating a shallower substrate and alternative vegetation in place of the currently specified green roof.

b) An alternative roof finish or covering.

Identification of an option in this description does not constitute acceptance by the Purchaser of that option or of its technical, environmental, planning, BREEAM or other consequences.

11. **Opportunity Variation C1 The Operator Commissioning Participation**

The Opportunity Variation comprises the proposed use of personnel from the Operator as the Purchaser’s Operations and Maintenance organisation to undertake agreed activities in support of the Contractor's cold commissioning, hot commissioning, functional testing, plant fine tuning and trial operation activities, together with the potential provision by the Operator of agreed tools, equipment and commissioning consumables which, under the Contract, would otherwise be provided or procured by the Contractor.

The Contractor shall remain responsible for the management, supervision, coordination and successful completion of commissioning and for achieving all requirements, performance standards, guarantees and dates under the Contract, notwithstanding the participation of the Operator’s personnel or resources.

The Purchaser has accepted in principle the use of the Operators resources for this purpose. Such acceptance does not constitute agreement to the personnel numbers, staffing profile, activities, responsibilities, working arrangements, tools, equipment or consumables identified in the Contractor's proposal NPE7-ACC-41XX-XXX-FN-WA-000004, which shall be subject to development and agreement through the Opportunity Variation Assessment.

2. Opportunity Variation Assessment

1. General

1.1 In respect of each Opportunity Variation, the Contractor shall prepare and submit to the Purchaser an Opportunity Variation Assessment ("OVA") demonstrating that the relevant Opportunity Variation has been sufficiently developed and assessed to enable the Purchaser to determine whether each applicable Implementation Criterion has been satisfied.

1.2 The Contractor shall be responsible for the design and development of each Opportunity Variation and for identifying and assessing its direct and consequential effects and interfaces.

1.3 The OVA shall contain sufficient design development, analysis, calculations, assessments and supporting evidence to demonstrate the consequences of the proposed Opportunity Variation and whether the applicable Implementation Criteria have been satisfied.

1.4 The scope and level of detail of an OVA shall be proportionate to the nature, scale, complexity and potential consequences of the relevant Opportunity Variation.

1.5 The Purchaser's review of an OVA shall not relieve the Contractor of any responsibility or liability under the Contract.

2. Development and Engagement

1.1 In developing each Opportunity Variation and preparing the OVA, the Contractor shall engage proactively and in a timely manner with the Purchaser, the Project Manager, the Operator, the Purchaser's professional advisers and other relevant stakeholders, authorities, third parties and statutory consultees, to the extent appropriate having regard to the nature and potential consequences of the Opportunity Variation.

1.2 Such engagement shall be undertaken sufficiently early in the development of the Opportunity Variation to enable relevant requirements, constraints, interfaces, operational considerations and potential consequences to be identified and taken into account as the proposal is developed, rather than solely following submission of the completed OVA.

1.3 In respect of Opportunity Variation C1 (The Operator Commissioning Participation), the Contractor shall engage with the Operator in developing the proposed allocation of commissioning activities and shall demonstrate through the OVA that the personnel, resources, competencies and working arrangements proposed (including consideration of the SPA and associated requirements of NAECI) have been confirmed as capable of being provided by the Operator. The OVA shall identify any difference be2. tween the resources or activities proposed by the Contractor and those which the Operator has confirmed it is able and willing to provide.

1.4 Engagement, consultation, review, comment or other participation by the Purchaser, Project Manager, the Operator, the Purchaser's professional advisers or any other stakeholder shall not relieve the Contractor of its responsibility for the design,

development, assessment or implementation of the Opportunity Variation or constitute confirmation that any Implementation Criterion has been satisfied.

3. Overall Requirements of the OVA

1.1 Each OVA shall:

a) Clearly and unambiguously define the proposed Opportunity Variation such that its scope, design, interfaces and consequences can be assessed without reliance on assumptions as to the Contractor's intentions.

b) Identify and compare the solution otherwise required by the Contract with the solution proposed by the Opportunity Variation.

c) Identify all direct and consequential effects upon the Plant and Works and their design, procurement, construction, commissioning, testing, operation, maintenance and replacement.

d) Identify all affected interfaces with other systems, structures, equipment, work packages and third parties.

e) Address each applicable Implementation Criterion individually and provide evidence supporting the Contractor's conclusion as to whether that Implementation Criterion has been satisfied.

f) Identify any matter referred to in this OVA which the Contractor considers not applicable to the relevant Opportunity Variation and explain the basis for that conclusion.

g) Identify any assumptions, qualifications, outstanding investigations or further design development relevant to the assessment.

4. Definition and Design Development

1.1 The OVA shall identify and provide, as applicable:

a) The existing contractual and/or developed design solution.

b) The proposed solution.

c) The physical and functional elements to be omitted, substituted, modified or otherwise changed.

d) Affected drawings, specifications, calculations and other Contract documents

e) Affected systems, structures, equipment and interfaces.

f) The maturity of the proposed design and any further design development required.

g) Drawings, specifications, calculations, manufacturers' information, technical data and other design information as are necessary to define and substantiate the proposed Opportunity Variation.

5. Technical Performance and Functionality

1.1 The OVA shall assess, to the extent applicable, the effect of the Opportunity Variation upon:

a) Performance and functionality of the Plant and Works.

b) Performance standards and guarantees under the Contract.

c) Reliability and availability.

d) Testing and commissioning.

e) Acoustic, thermal, hydraulic, aerodynamic, structural, electrical, mechanical and process performance.

f) Fire performance and fire strategy.

g) Durability and design life.

h) Interfaces with other elements of the Plant and Works.

1.2 Where existing calculations, models, studies, analyses or assessments are affected by an Opportunity Variation, the Contractor shall identify them and undertake such recalculation, remodelling, analysis or reassessment as is necessary to demonstrate whether the applicable Implementation Criteria are satisfied.

6. Operation, Maintenance and Asset Replacement

1.1 The OVA shall assess, to the extent applicable, any effect upon:

a) Operation of the facility.

b) Maintenance requirements and frequencies.

c) Inspection and statutory testing.

d) Access for operation, inspection, cleaning, maintenance, repair and replacement.

e) Consumables.

f) Staffing or operational resources.

g) Planned and unplanned outages.

h) Asset life and replacement intervals.

i) Availability of spare parts and replacement components.

j) Operational disruption associated with maintenance, inspection, repair or replacement.

1.2 Where an alternative method of access, inspection, maintenance, repair or replacement forms part of or results from the Opportunity Variation, the Contractor shall define and demonstrate the practicability of that alternative.

7. The Operator Commissioning Participation

7.1 In respect of Opportunity Variation C1 (The Operator Commissioning Participation), the OVA shall include a detailed commissioning task and resource assessment identifying, for each activity proposed to be undertaken by the Operators personnel:

a) The commissioning activity and relevant commissioning phase.

b) The party responsible for undertaking the activity.

c) The number, role and proposed period of deployment of the Operators personnel.

d) The competence, qualification, certification, induction and training requirements applicable to those personnel.

e) Mobilisation requirements, working hours and proposed shift arrangements.

f) Supervision, coordination, HSE, permit-to-work and Lockout/Tagout arrangements.

g) Responsibility for system ownership and control.

h) Responsibility for the provision of tools, machinery, specialist testing equipment, PPE and consumables.

i) Responsibility for commissioning records, protocols, test results and sign-off.

j) Responsibility for identifying and rectifying defects.

k) The authority for determining successful completion or acceptance of the relevant commissioning activity.

l) The Contractor resources and responsibilities retained in connection with the activity.

7.2 The OVA shall clearly identify those commissioning activities, authorities and responsibilities which remain with the Contractor notwithstanding the participation of the Operators personnel.

7.3 The OVA shall confirm that the Contractor considered and included the potential impact of NAECI and the SPA In the Opportunity Variation.

8. Health, Safety and CDM

1.1 The OVA shall identify and assess any changed or additional hazards arising from the Opportunity Variation during design, construction, commissioning, operation, inspection, maintenance, repair, replacement and, where relevant, decommissioning.

1.2 The OVA shall demonstrate how such hazards have been eliminated, reduced or controlled through the design and shall include or identify any necessary amendments to relevant design risk assessments and hazard registers.

1.3 The assessment shall identify any implications for emergency access, means of escape, fire safety and statutory inspection requirements.

9. Statutory, Regulatory and Contractual Requirements

1.1 The OVA shall identify, to the extent applicable, any effect upon:

a) Applicable law.

b) Applicable codes and standards.

c) The Development Consent Order.

d) Approved details and Design Code requirements.

e) Planning requirements.

f) Environmental Permit requirements.

g) Building Regulations.

h) Environmental and sustainability requirements.

i) BREEAM requirements.

j) Other third-party approvals or consents.

1.2 The OVA shall identify any approval, consent, consultation, discharge, re-discharge or other authorisation required in connection with the Opportunity Variation and shall identify:

a) The relevant approving or consenting body.

b) The information and design necessary to obtain the approval or consent.

c) The status of any application or submission.

d) Any conditions or requirements arising from the approval or consent.

e) Any consequential programme or Opportunity Direct Cost effects.

1.3 Where the applicable Implementation Criteria require any approval or consent to have been obtained before the Opportunity Variation may be instructed, the OVA shall provide evidence that such approval or consent has been obtained.

10. Environmental, Sustainability and Design Matters

1.1 To the extent applicable to the Opportunity Variation and the applicable Implementation Criteria, the OVA shall assess its consequences for:

a) Architectural and design requirements.

b) Materials and finishes.

c) Durability.

d) Environmental performance.

e) Embodied and operational carbon.

f) Biodiversity and ecology.

g) Drainage and SuDS.

h) BREEAM.

i) Applicable environmental and sustainability commitments.

11. Design, Procurement and Construction Status

1.1 The OVA shall identify the status of the existing design and Works affected by the Opportunity Variation, including any consequential Opportunity Direct Costs or programme effects arising from the matters identified shall be reflected in the programme and economic assessments.

12. Programme Assessment

1.1 The OVA shall identify the effect of the Opportunity Variation upon the Approved Programme.

a) The assessment shall identify activities introduced, omitted or changed by the Opportunity Variation and demonstrate the basis for the Contractor's conclusion against the applicable Implementation Criterion.

13. Economic Assessment

1.1 The Contractor shall provide an auditable economic assessment of the Opportunity Variation which separately identifies the capital Opportunity Direct Cost consequences and the operational and whole-life Opportunity Direct Cost consequences of the Opportunity Variation.

Contractor Capital Cost Saving

1.2 Where the Project Manager reasonably considers, on the basis of the information available to him, that the Opportunity Variation would not produce a significant net economic benefit when the Contractor's capital cost saving is compared with the Opportunity Direct Costs arising from that Opportunity Variation, he may request the information specified in subparagraphs (a) to (d) below. The Contractor shall provide that information upon such request, separately identifying:

a) The gross capital or delivery cost saving to the Contractor arising from the Opportunity Variation.

b) Any additional costs incurred by the Contractor in implementing the Opportunity Variation.

c) Any abortive design, procurement, manufacture, construction or other costs arising from the Opportunity Variation.

d) The resulting capital cost saving to the Contractor.

Consequential Opportunity Direct Costs to the Purchaser.

1.3 The assessment shall separately identify all additional Opportunity Direct Costs which would be incurred by the Purchaser and/or the Operator, to the extent such Opportunity Direct Costs are borne directly or indirectly by the Purchaser, as a consequence of implementing the Opportunity Variation.

1.4 Such Opportunity Direct Costs shall include, where applicable, costs associated with design, procurement, construction, modifications to other Works, third-party works, approvals and consents, testing and commissioning, and any other consequential Opportunity Direct Costs arising from the Opportunity Variation.

Operational and Whole-Life Opportunity Direct Costs and / or Savings

1.5 The assessment shall separately identify the net impact of any operational or whole-life Opportunity Direct Costs which would be incurred by the Purchaser and/or the Operator as a consequence of the Opportunity Variation, including, where applicable:

a) Operational costs.

b) Maintenance costs.

c) Inspection and statutory testing costs.

d) Repair costs.

e) Consumables.

f) Asset replacement costs and changes to replacement intervals.

g) Costs arising from operational disruption.

h) Staffing, recruitment and backfill costs.

i) Training, induction and supervision costs.

j) Welfare, PPE and travel costs.

k) Tools, machinery, specialist testing equipment and other equipment costs.

l) Any other lifecycle costs arising from implementation of the Opportunity Variation.

m) A risk factor that is commensurate with the scope of the opportunity and the level of detail used in the economic assessment.

n) Contingency value based on the risk factor.

1.6 Where such Opportunity Direct Costs occur in the future, they shall be assessed on a Net Present Value basis.

1.7 The assessment shall clearly state the assumptions used, including as applicable the assessment period, quantities, unit rates, maintenance frequencies, asset lives, replacement cycles, escalation assumptions and discount rate.

Economic Summary

1.8 The OVA shall provide a summary which clearly and separately identifies:

a) The Contractor's capital cost saving; where required by the Project Manager pursuant to 13.1.2 above

b) Consequential capital Opportunity Direct Costs to the Purchaser.

c) The NPV of additional operational and whole-life Opportunity Direct Costs to the Purchaser.

d) The NPV of any operational and whole-life Opportunity Direct Cost savings to the Purchaser.

e) The resulting adjustment, if any, to be made in accordance with the Opportunity Direct Costs provisions of the Contract.

1.9 Operational or whole-life Opportunity Direct Cost savings to the Purchaser shall be reported separately and shall not be applied to the Contractors capital cost savings.

14. Implementation Criteria Compliance Matrix

1.1 Each OVA shall contain an Implementation Criteria Compliance Matrix which, for each applicable Implementation Criterion:

a) Identifies the Implementation Criterion.

b) Sets out the Contractor's assessment of the effect of the Opportunity Variation against that criterion.

c) Identifies the calculations, drawings, reports, analyses, approvals or other evidence relied upon.

d) States whether the Contractor considers the Implementation Criterion to be satisfied.

e) Identifies any material engagement undertaken in relation to the Implementation Criterion and any material matters raised through that engagement which remain unresolved.

1.2 A statement or conclusion by the Contractor that an Implementation Criterion is satisfied shall not constitute evidence that the Implementation Criterion has been satisfied, which will remain subject to review and approval by the Purchaser.

3. Opportunity Variation Implementation Criteria

15. Demonstration of Compliance

1.1 An Opportunity Variation shall satisfy the Implementation Criteria where the Contractor demonstrates, through the Opportunity Variation Assessment and supporting evidence, that each of the following criteria has been satisfied to the extent applicable to that Opportunity Variation.

1.2 The Contractor shall demonstrate satisfaction of each applicable Implementation Criterion through the Opportunity Variation Assessment.

1.3 The burden of demonstrating that an Implementation Criterion has been satisfied shall rest with the Contractor.

1.4 A statement or conclusion by the Contractor that an Implementation Criterion is satisfied shall not constitute evidence that the Implementation Criterion has been satisfied.

1.5 Where the Contractor considers that an Implementation Criterion or any element of an Implementation Criterion is not applicable to a particular Opportunity Variation, the Contractor shall identify that matter in the Opportunity Variation Assessment and provide the basis for that conclusion.

16 Performance, Guarantees and Functionality Criteria

1.1 The Opportunity Variation:

a) Does not reduce or adversely affect any performance standard or guarantee applicable to the Plant or Works under the Contract; unless in the alternative

b) Any reduction or change in functionality, capacity, reliability, availability or operability resulting from the Opportunity Variation has been fully identified and assessed and which in its discretion is acceptable to the Purchaser having regard to the requirements of the Contract, including Schedules 16 and 17.

17. Programme Criteria

1.1 The Opportunity Variation:

a) Does not delay the date set for Take Over.

b) Any effect upon Key Events, contractual milestones, the Approved Programme, critical path, sequencing or coordination of the Works has been fully identified, assessed and demonstrated not to create an unacceptable risk to Take Over or other material contractual obligations.

18. Operation, Inspection, Maintenance and Replacement Criteria

1.1 The Opportunity Variation:

a) Does not materially adversely affect the safe and effective operation, inspection, maintenance, repair or replacement of the Plant or Works.

b) Does not materially adversely affect access required for operation, inspection, maintenance, cleaning, repair or replacement.

c) Identifies any increase or change in the resources, frequency, access requirements, operational disruption or costs associated with operation, inspection, maintenance, repair or replacement, with all resulting cost effects taken into account in accordance with Economic and Whole-Life Cost Criteria.

19. The Operator Commissioning Participation Criteria

1.1 In respect of Opportunity Variation C1:

a) The Operator has confirmed the personnel, competencies, periods of deployment, working arrangements and activities which it is able and willing to provide.

b) The respective activities, responsibilities, accountabilities, supervision arrangements and decision rights of the Contractor, Purchaser and the Operator have been clearly defined.

c) Appropriate competence, qualification, training, induction, supervision, HSE, permit-to-work and other working arrangements have been established for participating Operator personnel.

d) The Operators participation does not materially compromise its ability independently to assess operational readiness and the completed Works.

e) The participation of the Operator does not relieve or waive any obligation or liability of the Contractor under the Contract except to the extent expressly identified in the Opportunity Variation and incorporated into the instruction implementing it.

f) Confirmation by the Contractor that it has considered and included the potential impact of NAECI and the SPA.

20. Health, Safety and CDM Criteria

1.1 The Opportunity Variation:

a) Complies with all applicable statutory and contractual health and safety requirements and the requirements of the Construction (Design and Management) Regulations 2015.

b) Does not introduce any materially adverse health or safety risk which has not been eliminated or, where elimination is not reasonably practicable, reduced and appropriately controlled through the design.

21. Environmental, Sustainability and Design Life Criteria

1.1 The Opportunity Variation:

a) Complies with all applicable statutory and contractual environmental and sustainability requirements, including applicable BREEAM requirements.

b) Does not have a material adverse effect upon the environmental or sustainability performance of the Plant or Works which has not been identified and appropriately taken into account in the assessment of the Opportunity Variation.

c) Identifies any effect upon asset durability, design life or replacement frequency, with all resulting operational, maintenance, replacement and lifecycle cost effects taken into account in accordance with the Economic and Whole-Life Cost Criteria.

22. Economic and Whole-Life Cost Criteria

1.1 The Opportunity Variation:

a) Identifies all direct and consequential capital Opportunity Direct Cost effects upon the Purchaser and/or the Operator to the extent such Opportunity Direct Costs are borne directly or indirectly by the Purchaser, arising from implementation of the Opportunity Variation.

b) Identifies separately all staffing, recruitment, backfill, training, supervision, welfare, tools, equipment, operational, maintenance, inspection, testing, repair, consumable, replacement and other implementation or lifecycle Opportunity Direct Cost effects upon the Purchaser and/or the Operator to the extent such Opportunity Direct Costs are borne directly or indirectly by the Purchaser, arising from the Opportunity Variation.

c) Identifies separately any operational or whole-life Opportunity Direct Cost savings to the Purchaser arising from the Opportunity Variation.

d) Assesses future operational or whole-life Opportunity Direct Cost increases and savings on a Net Present Value basis in accordance with the methodology applicable under the Contract.

e) Takes all consequential capital Opportunity Direct Costs and additional implementation, operational and whole-life Opportunity Direct Costs incurred by the Purchaser and/or the Operator, to the extent such Opportunity Direct Costs are borne directly or indirectly by the Purchaser, into account in determining any adjustment required under the Opportunity Direct Costs provisions of the Contract.

f) Does not result in an operational or whole-life Opportunity Direct Cost increase to the Purchaser which is unacceptable having regard to the nature, scale and duration of that increase and the other consequences of the Opportunity Variation.

23. Contractual Compliance Criteria

1.1 Except to the extent that a departure from an existing requirement of the Contract is expressly identified as forming part of the Opportunity Variation, the Opportunity Variation does not cause the Plant or Works to fail to comply with any applicable requirement of the Contract.

1.2 Any amendments to the requirements of the Contract necessary to implement the Opportunity Variation shall be expressly identified in the Opportunity Variation Assessment and incorporated into the instruction implementing the Opportunity Variation.

24. Consents and Approvals Criteria

1.1 The Opportunity Variation:

a) Identifies all consents, permissions, approvals, licences, authorisations, consultations, discharges or re-discharges required for its implementation.

b) Identifies any conditions or requirements associated with such consent or approval and all resulting design, Opportunity Direct Cost or programme consequences.

c) Has obtained all such consents, permissions, approvals, licences, authorisations, discharges or re-discharges required before implementation of the Opportunity Variation.

d) Has satisfied all conditions required to be fulfilled before implementation.

1.2 For the avoidance of doubt, these criteria apply to every Opportunity Variation according to the consents and approvals applicable to it and are not dependent upon the Opportunity Variation having previously been allocated to a particular category.

Execution by the Purchaser

Signed on behalf of **North London Waste Authority** by a duly authorised officer:

signature ----------

print name ---------- Authorised Officer

position ----------

Execution by the Contractor

Signed by

…… ----------
Signature of Director/Secretary/Authorised Signatory

duly authorised for and on behalf of **Acciona Industrial S.A.**