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 DATED

**(1) THE PIRBRIGHT INSTITUTE**

**(2) [ ]**

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| **CONFIDENTIALITY AGREEMENT**relating to**provision of the Design and Build** **ISO 11 Incinerator Life Extension Project – WP 5 Refractory Replacement**  |

**AGREEMENT**  dated 2024

(1) **THE PIRBRIGHT INSTITUTE** (**TPI**) (Company Number 559784) a company incorporated in England and Wales, whose registered office is at The Pirbright Institute, Ash Road, Pirbright, Woking, Surrey GU24 ONF

(2) **[ ]** (Company Number [ ]) whose registered office is at
[ ](“**Recipient**”)

1. WHEREAS

The Recipient wishes to receive certain confidential information from TPI and TPI is willing to disclose confidential information to the Recipient on the terms set out below.

1. IT IS AGREED AS FOLLOWS:
2. Definitions
	1. In this Agreement, the following words shall have the following meanings:

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| 1. **Confidential Information**
 | * + - 1. all information regarding the existence of and subject matter of this Agreement, including the terms of this Agreement;
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|  | * + - 1. all information disclosed directly or indirectly by TPI to the Recipient in whatever form or medium, including written, oral, visual, electronic, digital, tangible or intangible form (and whether or not marked or described as “confidential” or “secret”) or by way of tender documentation, models, biological or chemical materials or by demonstrations and any copy of any of the foregoing and whether before, on or after the date of this Agreement in connection with the Permitted Purpose; and
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|  | in each of the above cases, this shall include documents and information prepared or generated from such information. |
| 1. **Group**
 | in relation to a company, that company, each and any subsidiary or holding company from time to time OR at the date of this Agreement of that company, and each and any subsidiary from time to time OR at the date of this Agreement of a holding company of that company. |
| 1. **Permitted Purpose**
 | 1. (a) to facilitate negotiations during the tender process and pre-contract phase in relation to the procurement of delivery of the Design and Build of the WP 5 Refractory Replacement (the “Project”) at the Pirbright Institute, Ash Road, Pirbright, Surrey GU24 0NF; and
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|  | (b) the performance of any such services and works by the Recipient. |
| 1. **Representatives**
 | means the Recipient’s: |
|  | * + - 1. officers, and employees that need to know the Confidential Information for the Permitted Purpose;
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|  | * + - 1. professional advisers or consultants who are engaged to advise the Recipient in connection with the Permitted Purpose;
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|  | * + - 1. contractors and subcontractors engaged by the Recipient in connection with the Permitted Purpose; and
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|  | * + - 1. any other person to whom TPI and the Recipient agree in writing that Confidential Information may be disclosed in connection with the Permitted Purpose.
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* 1. In this Agreement references to the Recipient shall be deemed to include any member of the Recipient’s Group that receives any Confidential Information and/or any of the Representatives.
1. undertakings
	1. In consideration of the disclosure of Confidential Information, the Recipient undertakes:
		1. to keep all Confidential Information confidential at all times;
		2. not to disclose any Confidential Information or allow it to be disclosed in whole or in part to any third party without TPI’s prior written consent;
		3. not to copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Permitted Purpose (and any such copies, reductions to writing or records shall be the property of TPI);
		4. not to use any Confidential Information in whole or in part for any purpose except for the Permitted Purpose;
		5. not use, reproduce, transform, or store the Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any form or by any means whatsoever outside of its usual place of business; and
		6. keep separate the Confidential Information from all documents and other records of the Recipient.
	2. The Recipient further undertakes to take all reasonable measures to ensure the confidentiality of all Confidential Information. Such measures will be no less than the Recipient takes to protect its own confidential information from theft or unauthorised disclosure, copying or use.
2. Exceptions
	1. The obligations of confidentiality set out in this Agreement shall not apply to any Confidential Information that the Recipient can show by written records:
		1. is in or subsequently comes into the public domain (other than as a result of its disclosure by the Recipient or its Representatives in breach of this Agreement);
		2. is received by the Recipient without restriction on disclosure or use from a third party lawfully entitled to make the disclosure to the Recipient without such restriction; or
		3. is developed by or for the Recipient by any of its Representatives who have not had any direct or indirect access to, or use or knowledge of, the Confidential Information disclosed by TPI.
	2. The obligations of confidentiality set out in this Agreement will not apply to the extent that the Recipient is required to disclose Confidential Information pursuant to any judicial or governmental request, requirement or order provided that the Recipient gives TPI prior notice in writing of the fact and extent of such disclosure and takes all available steps to minimise the disclosure required and to ensure the continued confidentiality of all Confidential information so disclosed.
3. Disclosure to REPRESENTATIVES
	1. The Recipient undertakes to permit access to the Confidential Information only to those of its Representatives who reasonably need access to such Confidential Information for the Permitted Purpose, and on the conditions that such Representatives shall have:
		1. entered into legally-binding confidentiality obligations to the Recipient on terms equivalent to those set out in this Agreement (and such obligations extend to the Confidential Information);
		2. been informed of TPI’s interest in the Confidential Information and the terms of this Agreement, and instructed to treat the Confidential Information as confidential in accordance with the provisions of this Agreement before any disclosure.
	2. The Recipient shall be responsible for ensuring that its Representatives comply with the provisions of this Agreement and shall be liable for the failure of any Representatives to comply with the terms of this Agreement.
4. Return of Confidential Information and property
	1. The Recipient acknowledges and agrees that the property and copyright in the Confidential Information, including any documents, files and other items, including copies, containing any Confidential Information, belongs to TPI.
	2. At TPI’s written request, the Recipient will return immediately to TPI all Confidential Information in its possession or under its control, including any copies (whether in hard copy or soft copy format, containing, reflecting, incorporating, or based on the Confidential Information), and the Recipient will make no further use or disclosure of any of it. Subject to clause 5.3, the Recipient shall otherwise irrevocably erase all the Confidential Information from its computer systems or any devices used by it or which is stored in electronic form and erase all of the Confidential Information which is stored in electronic form on systems and data storage services provided by third parties.
	3. The Recipient may, however, keep one copy of the Confidential Information in the Recipient’s legal adviser’s files solely for the purpose of enabling the Recipient to comply with the provisions of this Agreement.
	4. Notwithstanding any terms or conditions in any contract entered into between the Parties, the obligations on the Recipient under this Agreement shall continue in force for a period of 12 years from the date of this Agreement.
5. No implied terms
	1. This Agreement shall not be construed:
		1. to grant the Recipient any licence or rights other than as expressly set out herein in respect of the Confidential Information; nor
		2. to require TPI to disclose any Confidential Information to the Recipient
	2. No warranty or representation, express or implied, is given as to the accuracy, efficacy, completeness, capabilities or safety of any materials or Confidential Information provided under this Agreement
6. liability on indemnity basis

The Recipient shall indemnify and keep TPI and its Group fully indemnified at all times against all liabilities, costs (including legal costs on an indemnity basis), expenses, damages and losses including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and other reasonable costs and expenses suffered or incurred by TPI and/or any member of its Group arising from the Recipient’s breach of the terms of this Agreement (whether by act or omission) and from the actions or omissions of any Representative. Nothing in this clause shall restrict or limit TPI’s general obligations at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

1. inadequacy of damages

The Recipient hereby acknowledges that damages alone would not be an adequate remedy for any breach of the terms of this Agreement by the Recipient and that, accordingly, TPI shall be entitled, without proof of special damages, to seek the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this Agreement.

1. No PARTNERSHIP

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

1. Third party rights
	1. Except as provided in this clause 10, this Agreement is made for the benefit of the parties to it and their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.
	2. This Agreement is made for the benefit of TPI and its Group from time to time, and any entity in TPI’s Group may enforce this Agreement as if they were TPI and a party to this Agreement.
	3. The parties may terminate, rescind or vary this Agreement without the consent of any person who is not a party to this Agreement.
2. Severance

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

1. Governing Law and jurisdiction
	1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
	2. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims.

**IN WITNESS** whereof the Recipient has executed this Document as a Deed and is intended to be and is delivered on the date first above written.

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| **EXECUTED** as a **DEED** by **[ ]** acting by two directors or one director and the company secretary: | ))) |  |
|  |  | [*Signature of Director*]Print Name |
|  |  |  |
|  |  | [*Signature of Director/Secretary*]Print Name |
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