Request for Participation on Asbestos Disposal Approved List

1st March 2017 to 28th February 2022

**Contract Ref. YOR/TFR011**

Issue Date: 23rd December 2016

Closing Date & Time: 27th January 2017, 12 Noon

|  |  |
| --- | --- |
| Yorwaste Limited  Mount View  Standard Way  Northallerton  DL6 2YD |  |

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# INFORMATION AND INSTRUCTIONS FOR SUPPLIERS

* 1. **OVERVIEW**
     1. Yorwaste Ltd (“the Company”) is a waste management and recycling company based and operating in Yorkshire. The Company is owned by North Yorkshire County Council and City of York Council but is run at arms-length. The Company has undergone major changes in the last 12 months and now has a new strategic direction, namely:
        1. From 2017, commercial municipal (non-recyclable) waste collected by The Company will be taken to the new energy from waste plant at Allerton Park.
        2. Recyclables, such as plastic, cans and glass bottles, collected from commercial customers or processed on behalf of local authorities (from domestic kerbside schemes) will be sent for recycling.
     2. The Company wishes to establish an Approved List (the “Approved List”) for facilities to receive asbestos for disposal. The services to be procured under the Approved List include the provision, management, operation and maintenance of an appropriately permitted delivery point for the acceptance and final disposal of asbestos.
     3. In 2015/16 our shareholder North Yorkshire County Council had to arrange the disposal of 132.88 tonnes of asbestos that had been deposited at the seven household waste recycling centres (HWRCs) in North Yorkshire that accept the waste. Table 1 shows the annual amount of asbestos disposed of by North Yorkshire County Council since 2010/11.

**Table 1**

|  |  |
| --- | --- |
| **Year** | **Asbestos Disposed of (tonnes)** |
| 2010/11 | 200.52 |
| 2011/12 | 154.06 |
| 2012/13 | 167.40 |
| 2013/14 | 189.44 |
| 2014/15 | 165.46 |
| 2015/16 | 132.88 |

* + 1. In addition to the seven HWRCs owned by North Yorkshire County Council, there is one City of York Council HWRC that also accepts asbestos. In 2015/16 the Company had to arrange the disposal of 38.96 tonnes of asbestos.
    2. For 2015/16 the tonnage breakdown by HWRC is shown in Table 2.

|  |  |
| --- | --- |
| HWRC | Tonnage |
| Harrogate | 42.86 |
| Hazel Court | 38.96 |
| Malton & Norton | 19.04 |
| Northallerton | 22.12 |
| Seamer Carr | 17.86 |
| Selby | 17.32 |
| Skibeden | 7.54 |
| Whitby | 6.32 |

* + 1. The Company can give no guarantee or warranty as to the amount of Asbestos that may arise during the term of the Approved List. Suppliers should make their own assumptions as to the predicted volumes available and geographic location of Asbestos that they are likely to have access to throughout the Approved List Term.
    2. The scope of the Approved List will be for up to approximately 170 tonnes of asbestos per annum. The services are set out in the Specification and may include, but are not limited to: receipt and disposal of asbestos delivered by the Company, its agents and the District and Borough Councils of York and North Yorkshire.
    3. Appointment onto the Approved List will be made on or around 3rd February 2017 with a Commencement Date of 1st March 2017. The term of the Approved List will be for five years from the Commencement Date. Suppliers may be appointed onto the Approved List at any point throughout the Term providing they meet the selection criteria.
    4. Call Off Contracts will be awarded through the Approved List by way of either direct award or further competition using the procedure set out in Clause 6 of the Approved List Contract. Volumes of tonnage will be divided between Suppliers based on the available capacity, price and location offered by successful Suppliers. All volumes re approximate and the exact volumes available will be to such a level as the Company may determine.
    5. It is anticipated the initial further competition will be conducted in early March 2017 and that the delivery of asbestos under that Call Off Contract will start on 1st April 2017. Further competitions will be run as and when the requirement arises, or on an annual basis at the sole discretion of the Company.
    6. **Collection and transport of asbestos to the Delivery Point is excluded from the Approved List.**
  1. **DELIVERY POINTS**
     1. For the purposes of the Approved list a delivery point is the point of interface between the Company (or its agents, parties or partners), and the Contractor for the handover of asbestos (“Delivery Point”).
     2. If a Supplier proposes to use a Delivery Point that is not in its own control, then evidence shall be submitted to show that a contractual arrangement exists at the time of expressing an interest for this Approved Lists that will allow the Supplier to fulfil its obligations under the Approved List Contract from the Commencement Date.
     3. **Suppliers should note where a Supplier proposes more than one Delivery Point a separate quotation document should be submitted for each one.**
     4. It is a requirement that the Delivery Point shall have planning permission and an environmental permit at the date of submission of the quotation and Suppliers are required to submit a copy of the planning permission and environmental permit as part of the quotation response.
  2. **TIMETABLE**
     1. The Company does not bind itself to accept any request to participate but every effort will be made to reach a decision on the award of appointment to the Approved List. Suppliers should note that if the Company either decides not to accept any request to participate of to abandon the procurement process at any stage it will not be responsible for any costs which Suppliers may have incurred as a consequence of the Company’s decision.
     2. The draft timetable below outlines the estimated duration of the procurement process. Suppliers should not this is for indicative purposes only and the Council is not bound by these timescales.

|  |  |
| --- | --- |
| **Task / Milestone** | **Date** |
| Request to Participate period begins | 23rd December 2016 |
| Last day for clarification questions | 20th January 2017 |
| Last day for receipt of requests to participate | 27th January 2017 |
| Evaluation period commences | 30th January 2017 |
| Appointment of Providers to Approved List | 3rd February 2017 |
| Commencement of the Approved List | 1st March 2017 |
| Date of initial further competition | 1st March 2017 |
| Commencement of waste deliveries | 1st April 2017 |

* + 1. Suppliers should note that although the timetable above shows the period for receipt of requests to participate ending on 27th January 2017, that is for the first round only. Suppliers are able to apply to join the Approved List throughout the life of Approved List.
  1. **SUBMISSION OF REQUESTS TO PARTICIPATE**

1.4.1 Requests to Participate should be submitted via the ProContract procurement portal no later than: 12 Noon, 27th January 2017.

1.4.2 Any queries regarding this procurement should be submitted via the ProContract portal no later than 12 Noon, 20th January 2017.

1.4.3 The Supplier’s attention is specifically drawn to the date and time for receipt of Quotes and **no submission after the closing date and time will be considered**.

**1.5 EVALUATION**

1.5.1 The evaluation of the Requests to Participate involves the Company evaluating the Suppliers response to the Standard Selection Questionnaire. The Suppliers that pass all thresholds and provide all the information requested will be appointed onto the Approved List.

1.5.2 Suppliers may be appointed onto the Approved List at any point throughout the Term. In the event a Supplier’s facility does not have the necessary permissions as stated in paragraph 1.2.4 above, at the point of this procurement process, the Supplier may submit a response to this Request to Participate document at the time such permissions are obtained.

**1.6 SUPPLIER’S WARRANTIES**

1.6.1 All Suppliers shall keep their respective Quote valid and open for acceptance by the Company until the expiry of 90 days from the last date for the receipt of Quote.

**1.7 TUPE**

1.7.1 The Company considers that the provisions of the current Transfer of Undertakings (Protection of Employment) Regulations (“TUPE”) do not apply at the commencement of the Call Off Contracts. **BUT IT IS FOR EACH SUPPLIER TO TAKE APPROPRIATE LEGAL AND/OR PROFESSIONAL ADVICE ON THE POTENTION APPLICATION OF TUPE.**

1.7.2 Suppliers should not that the Company does not offer any indemnity to any person against any costs that may be incurred should the provisions of TUPE apply. Further details of the Company’s requirements can be found in Clause XX of the Approved List Contract and Clause XX of the Call Off Contract regarding TUPE.

**1.8 GENERAL INSTRUCTIONS**

1.8.1 Requests to Participate must be submitted in accordance with the following instructions and conditions. Any Suppliers that do not comply with these instructions or conditions may have their Request to Participate rejected.

1.8.2 The Company reserves the right to disqualify any submission which is incomplete or not in accordance with paragraph 1.8.1 above.

1.8.3 Prospective Suppliers should be aware that canvassing (i.e. seeking the support of influential persons within the Company) will lead to disqualification.

1.8.4 The information that Suppliers give in response to the Request to Participate forms part of the legal representations of the Suppliers organisation during the procurement process. Any findings of misrepresentation may result in any subsequent contract being terminated.

1.8.5 The Supplier’s written response to any information required by the Company will be taken into account in the evaluation of completing the Request to Participate and if approved, will be binding but will not detract from the Specification or the Approved List Contract.

**1.9 INFORMATION, COSTS & EXPENSES**

1.9.1 The Supplier is responsible for obtaining all information necessary for the preparation of its submission and all costs expenses and liabilities incurred by the Supplier in connection with the preparation and submission of the Request to Participate will be borne by the Supplier.

1.9.2 Suppliers should satisfy themselves of the accuracy of all fees, rates and prices quoted, since Suppliers will be required to hold these or withdraw their Request to Participate in the event of errors being identified after the submission of Request to Participate.

1.9.3 If a Supplier fails to provide fully for the requirements of the Specification in the Request to Participate it must either:

(a) absorb the costs of meeting the full requirements of the Specification within its Request to Participate price; or

(b) withdraw its Participate.

**1.10 RESEARCH AND INVESTIGATION**

1.10.1 The Supplier will be deemed for all purposes connected with the Request to Participate and the Contract to have carried out all researches, investigations and enquiries which can reasonably be carried out and to have satisfied itself as to the nature, extent, and character of the requirements of the Contract (in the context of and as it is described in the Specification), the extent of the materials and equipment which may be required and any other matter which may affect its Request to Participate.

1.10.2 The Supplier shall have no claim whatsoever against the Company in respect of such matters and in particular (but without limitation) neither the Company shall make any payments to the Supplier save as expressly provided for in the Contract and (save to the extent set out in the Contract) no compensation or remuneration shall otherwise be payable by any Company to the Supplier in respect of the scope of the Contract being different from that envisaged by the Supplier or otherwise. Information given in respect of current orders is given as a guide and the Company makes no warranty and accepts no liability as to the actual value or volume of orders to be placed with the Supplier.

**1.11 COMPLETING THE FORM**

**1.11.1** **Failure to complete the form as instructed may result in your Request to Participate being rejected.**

1.11.2 Requests to Participate must be submitted on this document, in Word format (unless otherwise specified), which must be duly completed and signed where appropriate.

1.11.3 When completing this document you may enlarge the answer boxes to ensure you have sufficient space to respond. **Please do not alter or amend the form in any other way**.

1.11.4 The form must be completed even if your organisation has previously worked with the Company. Also cross-referencing to previous submissions will not be sufficient.

1.11.5 **Please answer every question as instructed to do so**. Do not assume that the officers evaluating the form will know about your organisation or the work that you do, and answer the questions as fully as possible within any given constraints.

1.11.6 If the question does not apply to you please write N/A; if you don’t know the answer please write N/K. When posed with Yes / No questions please edit your answer as appropriate. All figures should be in full, i.e. £3,500,000 not £3.5 million and in GBP.

1.11.7 You may submit electronic or typed signatures. However, should you be successful, you will be required to resign all declarations that form part of the contract with an original signature.

**1.12 ACCEPTANCE OF REQUESTS TO PARTICIPATE**

1.12.1 Any acceptance of a Request to Participate by the Company will be in writing and communicated to the Supplier.

1.12.2 The Company will inform the Supplier of the acceptance of the offer by means of a formal letter accompanied by two copies of the contract document. The Supplier will be expected to sign and return the contract document to the Company who will duly sign and complete the contract and return one copy to the Supplier.

**2. SPECIFICATION**

1. **Description of the Service**
   1. The Contractor shall be responsible for the provision, management, operation and maintenance of an appropriately permitted Delivery Point for the acceptance and final disposal of cement bonded asbestos (“Asbestos”).
   2. The Company has occasions to dispose of Asbestos collected:
      1. At its household waste recycling centres (“HWRCs”),
      2. From the clean-up of fly-tipping by District or Borough Councils or their agents, or
      3. From other activities carried out by the Company or others acting on its behalf in a formal capacity.
   3. The types of waste (“Waste”) to be accepted under this Specification are:
      1. Asbestos delivered by or on behalf of District or Borough Councils,
      2. Asbestos transported from HWRCs
      3. Asbestos delivered by or behalf of the Company.
   4. All Asbestos shall be sealed in a double layer of plastic before delivery to minimise the risk of airborne asbestos particles being released upon deposit.
2. **Waste Quantities and Ownership**
   1. The Company gives no guarantee or warranty of tonnages arising over the Term.
   2. All Waste delivered to a Delivery Point shall be deemed to be the property of the Contractor after the person delivering the Waste has discharged the Waste from the delivery vehicle.
3. **Waste Acceptance**
   1. For the purposes of the Contract a delivery point is the point of interface between the Company (or its agents, parties or partners), and the Contractor for the handover of Waste (“Delivery Point”).
   2. The Contractor shall use a Delivery Point that is in its own control. Where the Delivery Point is not in its own control, a contractual arrangement shall continue to exist throughout the Contract Period and evidence of that contractual arrangement shall be provided to the Company upon the request.
   3. The Company may nominate Company related parties or partners to deliver Waste directly to the Delivery Point. The Contractor shall accept Waste from Company related parties or partners ensuring that they comply with the Delivery Point’s procedures and health and safety requirements.
   4. As part of their Request to Participate submission, the Contractor shall inform the Company of the normal opening hours at the Delivery Point. The Company shall ensure all deliveries are made during those normal opening hours. Should those normal opening hours change, then the Contractor will notify the Company of the new opening hours no less than two weeks before the change occurs.
   5. The Contractor shall provide a weighbridge controlled entrance for the purpose of establishing actual net weights of waste delivered to the Delivery Point and shall be understood as being “in use for trade”. The design and operation of the weighbridge shall be subject to the requirements of the Weights and Measures Act 1985 and as such the weighbridge shall be stamped and verified. The weighbridge shall be maintained in calibration and subject to routine inspecting and calibrations at the Contractor’s own expense. A copy of the calibrations certificate shall be available for inspection at the Delivery Point.
   6. The Contractor shall ensure that all vehicles delivering waste are weighed in and out of the Delivery Point. Stored tare weights shall only be used in emergencies and when prior notification has been sent to the Company.
   7. Any weighbridge not meeting the requirements of the Weights and Measures Act 1985 for being “in use for trade” or not generating weighbridge tickets automatically at the time of weighing shall not be used by either the Contractor or the Company for the purpose of establishing net weights of waste and shall be deemed not to be available.
4. **Access**
   1. The Contractor shall ensure that reasonable and safe access is provided for all vehicles between the public highway and tipping / discharge point.
   2. The Contractor shall ensure that all access roads used by vehicles delivering waste are clear of debris which may cause damage.
   3. The Contractor shall ensure that all pedestrian access walkways throughout the site are key clear of debris to prevent injury.
   4. Waste may be delivered to the Delivery Point by the Company, related parties, partners, agents or directly by District or Borough Councils. The Delivery Point shall therefore accommodate a range of vehicles including but not limited to vans, road sweepers, refuse collection vehicles, fixed body hook-lifts and rigid and articulated HGVs.
   5. The Contractor shall ensure that a vehicle cleaning facility is available at all times with the minimum manual input and is maintained to a standard that it effectively removes any mud and/or debris that may have accumulated whilst the vehicle has been on site.
   6. The Contractor shall be liable for all damage to vehicles delivering waste to the Delivery Point save in the event of a negligent act by the driver or other persons in the vehicle.
5. **Health and Safety**
   1. The Contractor shall at all times takes such precautions as are necessary to protect the health and safety of all persons employed by them and all persons affected by their activities and shall comply with the requirements of the Health & Safety at Work etc. Act 1974 (and any amendment or re-enactment thereof) and all relevant Legislation.
   2. The Contractor shall inform the Company of any changes to their health and safety policy or the risk assessment and safety procedures providing within their submission.
   3. The Service shall be provided only in accordance with the risk assessments and safety procedure submitted in the Request to Participate.
   4. The Company Representative reserves the right to comment upon risk assessments and safety procedures as it feels appropriate and request a review at any stage. The Contractor shall review the risk assessments and safety procedures, provided within the submission on a periodic basis no greater that every twelve months and as requested by the Company. The Contractor shall confirm when it’s risk assessments have been reviewed and supply the Company with copies of any new or modified risk assessments and safety procedures which relate to the Service provided within the Contract.
   5. The Contractor shall at all times ensure that its own health and safety policy and procedures are adhered to and take into account any existing and future relevant guidance from the HSE (or other similar body).
   6. Access to the Contractor’s welfare facilities will be required for all persons delivering Waste to the site as part of this Contract.
   7. The Contractor shall take all measures as are necessary to ensure safety, health and welfare at work of those using the facility.
   8. The Contractor shall ensure that a copy of the site rules and conditions is prominently displayed at the Delivery Point; and that all employees and visitors are made aware of them.
   9. The Contractor shall maintain a first aid point equipped with appropriate first aid equipment and displaying the name of the appointed person in charge of first aid or a qualified first aider. As a minimum standard the Contractor shall ensure at all times availability of a first aid box and an appointed person to take charge of first aid requirements.
   10. The Contractor shall notify the Company of any changes of contact details for the nominated person within their organisation responsible for health and safety matters.
   11. The Company shall provide details for those responsible for health and safety for the Company with regards to the Service prior to the Commencement Date and update the Contractor of any changes during the Contract Period.
6. **Provision of Information**
   1. The Contractor shall provide PDF copies of each weighbridge ticket with each invoice submitted.
   2. Each weighbridge ticket should have the following information:
7. Origin of the Waste by HWRC location or District or Borough Council
8. Delivery Point name
9. Disposal Contractor name
10. Unique reference number for each load or part load
11. Date
12. Time of arrival and departure
13. Vehicle registration number
14. Haulier’s employee’s name
15. Description of waste type
16. EWC (European Waste Catalogue) number
17. Gross, tare and net weights
18. Hazardous waste consignment note reference number
    1. The Contractor shall provide a summary of the final destination(s) of the Asbestos (if different to the Delivery Point) upon request from the Company.
    2. The Contractor shall submit to the Company a copy of the CAR reports issued by the Environment Agency within seven days of receipt.
    3. The Company shall provide the Contractor with a specified e-mail address to send invoices, supporting details and scanned weighbridge tickets to.
19. **Performance Management**
    1. The Contractor is required to undertake the following performance monitoring regime:
       1. To take note of the prioritisation of reported service performance failures.
       2. To operate procedures and systems to record information in support of performance monitoring and to enable regular robust performance reporting.
       3. To monitor the performance of the Service and produce quarterly performance reports for the Company.
    2. The Contractor shall self-monitor their performance in line with the Key Performance Indicators set out in Table 1 below:

|  |  |  |
| --- | --- | --- |
| **No.** | **Key Performance Indicator** | **Unit of Measure** |
| 1. | Accuracy of tonnage data and information surrounding what happens to the waste | 98% compliance |
| 2. | EA Compliance | 0 Enforcement Notices received. |

* 1. The Contractor and the Company shall ensure both parties fully comply with all obligations detailed in Clause 28 of the Terms & Conditions.
  2. The Contract Manager and Company Representative shall meet on a frequency to be agreed after the Commencement Date.

**3. SUPPLIER SELECTION QUESTIONNAIRE**

**ASBESTOS DISPOSAL APPROVED LIST**

**YOR/TFR/011**

**Notes for completion**

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
2. “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. **Note for Contracting Authorities: The following paragraph is optional for inclusion if a decision has been made to request a self-declaration of the exclusion grounds from sub-contractors.** *All sub-contractors are required to complete Part 1 and Part 2[[1]](#footnote-1).*
7. For answers to Part 3 -If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.

The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

**Part 1: Potential supplier Information**

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

|  |  |  |
| --- | --- | --- |
| Section 1 | Potential supplier information | |
| Question number | Question | Response |
| 1.1(a) | Full name of the potential supplier submitting the information |  |
| 1.1(b) – (i) | Registered office address (if applicable) |  |
| 1.1(b) – (ii) | Registered website address (if applicable) |  |
| 1.1(c) | Trading status   1. public limited company 2. limited company 3. limited liability partnership 4. other partnership 5. sole trader 6. third sector 7. other (please specify your trading status) |  |
| 1.1(d) | Date of registration in country of origin |  |
| 1.1(e) | Company registration number (if applicable) |  |
| 1.1(f) | Charity registration number (if applicable) |  |
| 1.1(g) | Head office DUNS number (if applicable) |  |
| 1.1(h) | Registered VAT number |  |
| 1.1(i) - (i) | If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established? | Yes ☐  No ☐  N/A ☐ |
| 1.1(i) - (ii) | If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s). |  |
| 1.1(j) - (i) | Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement? | Yes ☐  No ☐ |
| 1.1(j) - (ii) | If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this. |  |
| 1.1(k) | Trading name(s) that will be used if successful in this procurement |  |
| 1.1(l) | Relevant classifications (state whether you fall within one of these, and if so which one)   1. Voluntary Community Social Enterprise (VCSE) 2. Sheltered Workshop 3. Public service mutual |  |
| 1.1(m) | Are you a Small, Medium or Micro Enterprise (SME)[[2]](#footnote-2)? | Yes ☐  No ☐ |
| 1.1(n) | Details of Persons of Significant Control (PSC), where appropriate: [[3]](#footnote-3)  - Name;  - Date of birth;  - Nationality;  - Country, state or part of the UK where the PSC usually lives;  - Service address;  - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used);  - Which conditions for being a PSC are met;  - Over 25% up to (and including) 50%,  - More than 50% and less than 75%,  - 75% or more. [[4]](#footnote-4)  (Please enter N/A if not applicable) |  |
| 1.1(o) | Details of immediate parent company:    - Full name of the immediate parent company  - Registered office address (if applicable)  - Registration number (if applicable)  - Head office DUNS number (if applicable)  - Head office VAT number (if applicable)  (Please enter N/A if not applicable) |  |
| 1.1(p) | Details of ultimate parent company:  - Full name of the ultimate parent company  - Registered office address (if applicable)  - Registration number (if applicable)  - Head office DUNS number (if applicable)  - Head office VAT number (if applicable)  (Please enter N/A if not applicable) |  |

Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

Please provide the following information about your approach to this procurement:

|  |  |  |
| --- | --- | --- |
| Section 1 | Bidding model | |
| Question number | Question | Response |
| 1.2(a) - (i) | Are you bidding as the lead contact for a group of economic operators? | Yes ☐  No ☐  If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3.  If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3. |
| 1.2(a) - (ii) | Name of group of economic operators (if applicable) |  |
| 1.2(a) - (iii) | Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure. |  |
| 1.2(b) - (i) | Are you or, if applicable, the group of economic operators proposing to use sub-contractors? | Yes ☐  No ☐ |
| 1.2(b) - (ii) | If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | Name |  |  |  |  |  | | Registered address |  |  |  |  |  | | Trading status |  |  |  |  |  | | Company registration number |  |  |  |  |  | | Head Office DUNS number (if applicable) |  |  |  |  |  | | Registered VAT number |  |  |  |  |  | | Type of organisation |  |  |  |  |  | | SME (Yes/No) |  |  |  |  |  | | The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables |  |  |  |  |  | | The approximate % of contractual obligations assigned to each sub-contractor |  |  |  |  |  | | |

**Contact details and declaration**

I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

I understand that the information will be used in the selection process to assess my organisation’s suitability to be invited to participate further in this procurement.

I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

|  |  |  |
| --- | --- | --- |
| Section 1 | Contact details and declaration | |
| Question number | Question | Response |
| 1.3(a) | Contact name |  |
| 1.3(b) | Name of organisation |  |
| 1.3(c) | Role in organisation |  |
| 1.3(d) | Phone number |  |
| 1.3(e) | E-mail address |  |
| 1.3(f) | Postal address |  |
| 1.3(g) | Signature (electronic is acceptable) |  |
| 1.3(h) | Date |  |

**Part 2: Selection Questions**[[5]](#footnote-5)

|  |  |  |  |
| --- | --- | --- | --- |
| **Section 2** | **Economic and Financial Standing** | | |
|  | Question | Response | |
| **2.1** | Are you able to provide a copy of your audited accounts for the last two years, if requested?  If no, can you provide **one** of the following: answer with Y/N in the relevant box. | | Yes ☐  No ☐ |
| (a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation. | | Yes ☐  No ☐ |
| (b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position. | | Yes ☐  No ☐ |
|  | (c) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status). | | Yes ☐  No ☐ |
| **2.2** | Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering ‘Yes’ or ‘No’ that you meet the requirements set out. | | Yes ☐  No ☐ |

|  |  |  |
| --- | --- | --- |
| **Section 3** | **If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below:** | |
| **Name of organisation** | |  |
| **Relationship to the Supplier completing these questions** | |  |

|  |  |  |
| --- | --- | --- |
| **3.1** | Are you able to provide parent company accounts if requested to at a later stage? | Yes ☐  No ☐ |
| **3.2** | If yes, would the parent company be willing to provide a guarantee if necessary? | Yes ☐  No ☐ |
| **3.3** | If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)? | Yes ☐  No ☐ |

**4. Additional Questions**

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

|  |  |
| --- | --- |
| **Section 4** | **Additional Questions** |
| **4.1** | **Project Specific** |
| A | Please provide the address details for the Delivery Point you wish to be submitted onto the Approved List.  *Information only* |
| b. | Has your organisation obtained planning permission relating to the proposed Delivery Point? If yes, please provide a copy of the approved planning permission, including any modifications relative to the Service.  *Threshold* |
| c. | Has your organisation obtained an Environmental Permit relating to the proposed facility? If yes, please provide a copy of the approved environmental permit, including any modifications relative to the Service.  *Threshold* |
| d. | Confirm the maximum permitted annual and daily tonnages accepted.  *Information only* |
| e. | If your Organisation proposes to use a Delivery Point that is not in your own control, please submit evidence demonstrating that a contractual arrangement exists at the date of tender submission that will allow you to fulfil your obligations under the Contract. Where applicable this includes a copy of the planning permission and the environmental permit.  *Threshold – where the Delivery Point is in your own control, this threshold will be passed automatically.* |
| f. | Please provide your most recent CAR report received from the Environment Agency.  *Threshold* |
| g. | Have you received any prosecutions or notices from the Health and Safety Executive or Environment Agency in the past 5 years?  If yes, please provide further information regarding what the prosecution/notice was for and what action you have taken to prevent reoccurrence.  *Threshold – The Supplier can still pass the threshold if they answer yes. It will depend on what the notice or prosecution was for and the action taken to prevent reoccurrence. It will be for the description to meet the Company’s satisfaction.* |
| h. | Please provide the length of the Delivery Point life at maximum input tonnage (indicate the closure date)  *Information only* |
| i. | Please provide the opening hours and operating days available at the Delivery Point.  *Information only* |
| j. | Please provide example Risk Assessments and Method statements.  *Threshold* |
| k. | Please confirm your organisation has a health and safety policy.  *Threshold* |
| l. | Please confirm if you are Safecontractor / CHAS / or alternative SSIP accredited.  *Threshold* |
| **5.2** | **Insurance** |
| a. | Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below:  Y/N  Employer’s (Compulsory) Liability Insurance = £10,000,000  Public Liability Insurance = £10,000,000  \*It is a legal requirement that all companies hold Employer’s (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders. |

# CONTRACT ACCEPTANCE

Approved List for the Asbestos Disposal

To Yorwaste Limited

I/we the undersigned DO HEREBY UNDERTAKE to provide the Goods and or Services upon and subject to the terms and conditions set out, Specification, and the pricing and rates contained in the pricing schedule and other documents as are contained or incorporated herein.

Signature ...............................................................

*Duly authorised agent of the Supplier*

(Electronic/typed signatures are acceptable)

Position held ...............................................................

Name and Address ...............................................................

of Supplier

...............................................................

...............................................................

...............................................................

Dated ..............................................................

It must be clearly shown whether the Supplier is a Limited Company, Corporation, Partnership, or Single Individual, trading in his own or another name, and also if the person signing is not the actual Supplier, the capacity in which he signs or is employed.

*Note – Electronic signatures or typed names are acceptable. In the event that your organisation is successful you will be required to resign this form with an original signature*

**APPROVED LIST CONTRACT CONDITIONS**

**CONTENTS**

1. Definitions and Interpretations
2. Term of Approved List
3. Scope of Agreement
4. Contractors Appointment
5. Non-Exclusivity
6. Award Procedures
7. Form of Order
8. Accepting and Declining Orders
9. Call-Off Conditions Performance
10. Transfer and Sub-Contracting
11. Variations to the Approved List
12. Contractor’s Obligations
13. Contractor’s Staff
14. Health and Safety, Data Protection and other Statutory Requirements
15. Agency
16. Warranties and Liability
17. Indemnity and Insurance
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21. Dispute Resolution
22. Termination
23. Notices
24. Waiver
25. Complaints Procedure
26. Satisfaction Surveys
27. Sustainability
28. Best Value, Price Reduction and Technological Improvements
29. Entire Agreement

SCHEDULE 1 – SPECIFICATION

SCHEDULE 2 – CALL-OFF AWARD CRITERIA

SCHEDULE 3 – ORDER FORM

SCHEDULE 4 – CALL-OFF CONDITIONS AND SPECIAL CONDITIONS

SCHEDULE 5 – THE TENDER

1.0 **Definitions and Interpretation**

1.1 The following terms have the following meanings in the Approved List Contract: -

|  |  |
| --- | --- |
| ***Approved List Contract*** | this agreement and all Appendices to this agreement including the Specification and the Call-Off Conditions |
| ***Award Criteria*** | the award criteria as set out in the Invitation to Tender. |
| ***Call-Off******Award Criteria*** | the award criteria to be used for call –off contracts as set out in the Invitation to Tender. |
| ***Call-Off Conditions*** | the conditions set out at Schedule 4 of this Approved List Contract |
| ***Call-Off Contract*** | the legally binding agreement (made pursuant to the provisions of this Approved List Contract) for the provision of Services made between the Company and the Contractor comprising:  (i) the Order Form;  (ii) the Call-Off Conditions;  (iii) any Special Conditions. |
|  |  |
| ***Commencement Date*** | 1st March 2017 |
| ***Company*** | Yorwaste Limited |
| ***Company Representative*** | the person duly appointed by the Company and notified in writing to the Contractor to act as the representative of the Company for the purpose of the Approved List Contract. |
|  |  |
| ***Contractor*** | the contractor who has been appointed under the Approved List Contract and where applicable this shall include the contractor's employees, sub-contractors, agents, representatives, and permitted assigns and, if the Contractor is a consortium or consortium leader, the consortium members. |
| ***Contract Charges*** | the charges payable by the Company to the Contractor for the provision of the Services. |
| ***Contract Standards*** | The standards in the Approved List Contract, Call-Off Conditions and Special Conditions, including, but not limited to, the key performance indicators and:   1. the KPI’s 2. with due skill, care and diligence in accordance with the highest professional standards and industry practice; 3. generally to the Company’s satisfaction |
|  |  |
|  |  |
| ***Guidance*** | means any guidance issued or updated by the UK Government from time to time in relation to the Regulations |
| ***Invitation to Tender*** | the Company’s invitation to tender for the Services including all the Appendices and Schedules |
| ***KPI’s*** | the key performance indicators set out in paragraph 7 of the Specification |
| ***Order*** | an order for Services served by the Company on a Contractor in accordance with the Ordering Procedures |
| ***Order Form*** | a document setting out details of an Order in a form to be specified by the Company |
| ***Ordering Procedures*** | the ordering and award procedures specified in clauses 6, 7 and 8 |
| ***Party*** | the Company or the Contractor |
| ***Regulations*** | means the Public Contracts Regulations 2015 |
| ***Service*** | the services described in the Specification, to be provided by the Contractor in accordance with the Approved List Contract, the Order Form, the Call-Off Conditions and any Special Conditions |
| ***Special Conditions*** | any terms or conditions included at the discretion of the Company in the Call-Off Contract |
| ***Specification*** | the specification set out in Schedule 1 |
| ***Tender*** | the Contractor's Tender for the provision of the Services |
| ***Term*** | the period of five years from the Commencement Date subject to clause 2 |

1.2 This Approved List Contract shall be governed by English Law.

1.3 References to: -

(a) any Act, Order, Regulation, Statutory Instrument, etc, include any amendment or re-enactment.

(b) one gender include any other gender

(c) persons include corporations

(d) singular includes the plural

(e) clauses are to clauses in the Conditions

(f) the Contractor's staff include the Contractor's partners, directors, employees, agents and sub-contractors.

2.0 **Term of APPROVED LIST CONTRACT**

2.1 The Approved List Contract shall take effect on the Commencement Date for a period of 5 years unless it is otherwise terminated in accordance with clause 22.

2.2 Clause 2.1 shall not apply to any Call-Off Conditions made under this Approved List Contract which is due to expire after the end of the Term which shall expire in accordance with the terms of the Call-Off Conditions.

3.0 **SCOPE OF APPROVED LIST CONTRACT**

3.1 This Approved List Contract governs the relationship between the Company and the Contractor in respect of the provision of the Services by the Contractor to the Company.

3.2 The Company may at their absolute discretion and from time to time order Services from the Contractor in accordance with the Ordering Procedure during the Term.

3.3 The Contractor acknowledges that there is no obligation for the Company to purchase any Services from the Contractor during the Term.

3.4 No undertaking or any form of statement, promise, representation or obligation shall be deemed to have been made by the Company in respect of the total quantities or values of the Services to be ordered by them pursuant to this Approved List Contract and the Contractor acknowledges and agrees that it has not entered into this Approved List Contract on the basis of any such undertaking, statement, promise or representation.

4.0 **CONTRACTOR’S APPOINTMENT**

4.1 The Company appoints the Contractor as a potential supplier of the Services referred to in the Invitation to Tender and the Contractor shall be eligible to be considered for the award of Orders for such Services by the Company during the Term.

1. 1. **NON-EXCLUSIVITY**
   2. The Contractor acknowledges that, in entering this Approved List Contract, no form of exclusivity or volume guarantee has been granted by the Company for Services from the Contractor and that the Company is at all times entitled to enter into other contracts and agreements with other Contractors for the provision of any of the Services.

6.0 **AwarD PROCEDURES**

6.1 Call-Off Contracts shall be awarded using one of the procedures set out in this clause 6.

6.2 **Direct Award**

6.2.1 In exceptional circumstances, where the Company is able to identify one Contractor who offers best value for money for its required Services on the basis of the price(s) submitted by the Contractor in its Tender and who is able to provide the Services within the time required, the Company may place an Order directly with that Contractor using the process set out in clause 6.2.2.

6.2.2 When ordering Services under the Approved List Contract directly from one Contractor the Company shall:-

6.2.2.1 identify the relevant Services to meet its requirements;

6.2.2.2 refine and supplement the Call-Off Conditions with Special Conditions only to the extent permitted by and in accordance with the requirements of the Regulations and Guidance where applicable;

6.2.2.3 (subject to 6.2.3 below) place an Order with the successful Contractor which:-

(a) states the requirements;

(b) identifies the Services;

(c) states the price payable in accordance with the Tender submitted by the successful Contractor; and

(d) incorporates the Call-Off Conditions and any Special Conditions.

6.2.3 Notwithstanding the fact that the Company has followed the procedure set out above in this clause 6.2, a Company shall be entitled at all times to decline to make an award. Nothing in this Approved List Contract shall oblige the Company to place any Order.

6.3 **Further Competition**

6.3.1 Where there is more than one Contractor capable of providing the Services identified by the Company the Company shall:-

6.3.1.1 identify the relevant Services to meet its requirements;

6.3.1.2 identify the Contractors capable of performing the Call-Off Contract for the Services requirements;

6.3.1.3 supplement and refine the Call-Off Conditions only to the extent permitted by and in accordance with the requirements of the Regulations and Guidance;

6.3.1.4 invite tenders by conducting a further-competition for its Services requirements in accordance with the Regulations and Guidance and in particular:-

(a) consult in writing the Contractors capable of performing the Call-Off Contract for the Services requirements and invite them within a specified time limit to submit a tender in writing for each specific contract to be awarded;

(b) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the contract and the time needed to submit tenders; and

(c) keep each tender confidential until the expiry of the time limit for the receipt by it of tenders;

6.3.1.5 apply the Call-Off Award Criteria to the Contractors' compliant tenders submitted through the further competition as the basis of its decision to award a Call-Off Contract for its Services requirements; and

6.3.1.6 award its Services requirements by placing an Order with the successful Contractor which:-

(a) states the Services requirements;

(b) states the price payable for the Services requirements in accordance with the tender submitted by the successful Contractor; and

(c) incorporates the Call-Off Conditions and any Special Conditions applicable as modified by the Services requirements.

6.3.2 The Contractor agrees that all tenders submitted by the Contractor in relation to a further competition held pursuant to this Clause 6 shall remain open for acceptance for ninety (90) days (or such other period specified in the invitation to tender issued by the relevant Company in accordance with the Ordering Procedure).

6.3.3 Notwithstanding the fact that the Company has followed the procedure set out above in this Clause 6, the Company shall be entitled at all times to decline to make an award for its Services requirements. Nothing in this Approved List Contract shall oblige the Company to place any Order for Services.

7.0 **FORM OF ORDER**

7.1 Subject to clause 6 above, the Company may place an Order with the Contractor by serving an Order Form in writing in such form agreed with the Contractor including systems of ordering involving facsimile, electronic mail or other on-line solutions.

7.2 The Order constitutes an offer by the Company to purchase the Services subject to the Call-Off Contract.

8.0 **ACCEPTING AND DECLINING ORDERS**

8.1 Following receipt of an Order, the Contractor shall promptly, and in any event within a reasonable period determined by the Company and notified to the Contractor in writing at the same time as the submission of the Order (which in any event shall not exceed three (3) Working Days), acknowledge receipt of the Order and either:-

8.1.1 notify the Company in writing that it declines to accept the Order; or

8.1.2 notify the Company in writing that it accepts the Order.

8.2 If the Contractor:-

8.2.1 notifies the Company that it declines to accept an Order; or

8.2.2 the time-limit referred to in clause 8.1 has expired;

then the offer from the Company to the Contractor shall lapse and the Company may offer that Order to the Contractor that submitted the next most economically advantageous tender in accordance with the relevant Call Off Award Criteria or, if there is only one Contractor appointed under the Approved List Contract, or there is no other capable contractor, the Company may make alternative arrangements for the provision of the Services.

8.3 The Contractor in agreeing to accept such an Order pursuant to clause 8.1 above shall agree to the Call-Off Conditions with the Company for the provision of Services referred to in that Order. The Call-Off Conditions shall be formed on the Company’s receipt of the written confirmation of acceptance of the Order provided by the Contractor (or such similar or analogous form agreed with the Contractor) pursuant to clause 8.2.

9.0 **CALL-OFF CONTRACT PERFORMANCE**

9.1 The Contractor shall perform all Call-Off Contracts entered into with the Company in accordance with:-

9.1.1 the requirements of this Approved List Contract; and

9.1.2 the Call-Off Conditions, including any Special Conditions.

9.1.3 In the event of, and only to the extent of, any conflict between the terms and conditions of this Approved List Contract, the Call-Off Conditions, and any Special Conditions, the application of the clauses shall prevail in the following order:

1. Approved List Contract
2. Call-Off Conditions
3. Special Conditions

10.0 **TRANSFER AND SUB-CONTRACTING**

10.1 The Approved List Contract is personal to the Contractor and the Contractor shall not assign, novate or otherwise dispose of the Approved List Contract or any part thereof without the previous consent in writing of the Company. The Contractor shall not be entitled to sub-contract any of its rights or obligations under this Approved List Contract.

10.2 The Company shall be entitled to assign, novate, or otherwise dispose of its rights and obligations under the Approved List Contract or any part thereof to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Company provided that such assignment, novation or disposal shall not increase the burden of the Contractor’s obligations under the Approved List Contract.

11.0 **VARIATIONS TO THE APPROVED LIST CONTRACT**

11.1 Any variations to the Approved List Contract must be made in writing and agreed by the Company and all Contractors on the Approved List Contract.

11.2 Any variation to the Approved List Contract must not amount to a material change in the Approved List Contract or the Services.

12.0 **THE CONTRACTOR’S OBLIGATIONS**

12.1 The Contractor shall provide the Services for the Term in accordance with the Specification, the Order, the Call-Off Conditions and any Special Conditions and this Approved List Contract and to the Contract Standards.

12.2 The Contractor shall inform the Company Representative immediately if it is unable to provide the Services or if the Contractor is aware of anything which may prevent the Contractor from complying with the Approved List Contract.

12.3 Without prejudice to the Company’s other powers under the Approved List Contract, if the Contractor fails to provide the Services in accordance with this clause 12, the Company may pay another firm to provide part or all of the Services and the costs incurred may be deducted from the Contract Charges or shall be recoverable as a debt.

13.0 **CONTRACTORS STAFF**

13.1 The Contractor shall employ sufficient staff to ensure that the Services are provided in accordance with the Approved List Contract and to the Contract Standards and shall efficiently and competently direct and supervise its employees, agents and subcontractors who are to provide the Services

13.2 The Contractor's staff shall be adequately qualified, competent and suitable in all other respects to provide the Services

13.3 The Company Representative may reasonably require the Contractor in writing to remove from the provision of the Services any member of the Contractor's staff. The Contractor shall immediately remove such staff from the provision of the Services and provide a replacement.

13.4 The Company shall not be liable either to the Contractor or to the staff in question in respect of any cost, expenses, liability, loss or damage occasioned by such removal and the Contractor shall indemnify the Company in respect of any claim made.

1. **HEALTH AND SAFETY, DATA PROTECTION AND OTHER STATUTORY REQUIREMENTS**

**14.1 Health and Safety**

14.1.1 The Contractor shall comply with the requirements of the Health and Safety at Work Act 1974 so far as they apply to the provision of the Service and throughout the Contract Period the Contractor shall have in place a health and safety policy which complies with all statutory requirements.

14.1.2 The Contractor shall promptly notify the Company of any health and safety hazards which may arise in connection with the performance of the Contract and cease all works until the site manager has signed off the hazard.

14.1.3 The Company shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Company’s premises and which may affect the Contractor in the performance of the Contract.

14.1.4 The Contractor and the Company shall ensure the following rules are adhered to at all times:

14.1.4.1 The Contractor shall submit a copy of their health and safety policy to the Company upon request.

14.1.4.2 The Contractor shall ensure it’s staff are familiar with the Company’s health & safety policy. Please see Appendix Six.

14.1.4.3 The Company shall ensure its site managers carry out inductions with the Contractor’s staff prior to work starting at any site.

14.1.4.4 Where practicable, the Contractor’s employees are made identifiable by the Contractors name or company logo affixed to their safety helmet or overalls.

14.1.4.5 The Contractor ensures that employees and other persons under their control have the expertise, experience and competency necessary to enable them to perform that service with due regard for their own health and safety and that of employees and other persons who may be affected by their actions

.

14.1.4.6 The Contractor shall ensure its staff sign in upon arrival on site and subsequently sign out when leaving.

14.1.4.7 The Contractor shall ensure it’s staff comply with the Company’s “Yorsafety Basic Standards”. Please see Appendix Eight.

14.1.4.8 The Contractor shall ensure its staff have the following personal protective equipment (“PPE”) for when working on the Company’s sites:

14.1.4.8.1 Safety helmets to BS EN 397, neither damaged nor time expired

14.1.4.8.2 Full body high visibility clothing to BS EN 471 Class 2

14.1.4.8.3 Eye protection to BS EN 166

14.1.4.8.4 Ear protection – plugs to BS EN 352-2

14.1.4.8.5 Hand protection – to BS EN 388, 407, 420 or 511 as appropriate.

14.1.4.9 The only exceptions to these PPE requirements are:

14.1.4.9.1 Personnel inside offices, weighbridge cabins or welfare accommodation

14.1.4.9.2 Personnel operating vehicles or mobile plant with fully enclosed cabs. If operating in an open cabin, or with the window / door open, then eye protection shall be worn.

14.1.4.9.3 Personnel walking directly to or from the car park to the office, reception or welfare block.

14.1.4.9.4 The requirement to wear high visibility trousers may be relaxed for short term visitors whilst under the close supervisor of the site manager. All other PPE requirements shall remain.

14.1.4.9.5 Where any specific task requires changes to the mandatory minimum requirements detailed above, this must be based on a specific written risk assessment and agreed with the Company Representative.

14.1.4.10 The Contractor shall ensure instructions or commands depicted on safety signs are complied with at all times.

14.1.4.11 The Contractor shall ensure that staff only carry out tasks for which they are competent and authorised.

14.1.4.12 The Contractor shall ensure that staff only operate and use plant and equipment for which they are trained and authorised.

14.1.4.13 In order to ensure the safety of all personnel involved, the use of a “Permit to Work” system will be necessary in certain circumstances. A Permit to Work will be required in the following instances:

14.1.4.13.1 Maintenance or removal of in-situ asbestos

14.1.4.13.2 Confined space entry including entry into any enclosed spaces such as tanks, sumps, wells (including baler entry)

14.1.4.13.3 Hot works – including any burning, welding, flame cutting or use of any equipment which may give rise to a source of ignition, e.g. disc cutters, grinders, blow torches

14.1.4.13.4 Work at height, including roof work

14.1.4.13.5 Work on electrical systems

14.1.4.13.6 Construction and demolition

14.1.4.13.7 Crane operations

14.1.4.13.8 Excavation

14.1.4.13.9 Any work on the landfill gas system

14.1.5 Other occasion may arise where a Permit to Work is considered necessary, due to the high risk nature of the project.

14.1.6 Permits shall only be issued by the Company’s site managers on a daily basis. The Contractor shall give prior notice and submit an acceptable method statement and risk assessment to the Company Representative before a Permit to Work can be issued. The Contract Manager shall nominate an authorised supervisor to complete, sign and accept the conditions of the Permit to Work and thoroughly brief the entire working party on its requirements.

14.1.7 Smoking is not allowed in any part of the premises other than the designated smoking area agreed by consultation with the Company Representative. This includes conventional and electronic cigarettes (e-cigarettes).

14.1.8 Welding, burning, grinding or any spark producing procedure or the use of open flames is not carried out until suitable arrangements have been agreed with the Company Representative.

14.1.9 All fires, no matter how small must be reported to the site manager and Company Representative.

14.1.10 In the event of a site evacuation being necessary, the Contractor’s staff shall obey any direction given by the Company’s staff on site.

14.1.11 Employees of the Contractor are not permitted to use any equipment or machinery belonging to the Company.

14.1.12 Equipment that is the property of another contractor shall not be used unless the specific permission of the owner has been obtained.

14.1.13 All portable electrical equipment / power tools used on site must be 110v and be covered by a valid PAT safety test.

14.1.14 Guards or fencing shall not be moved from machines or equipment without exception.

14.1.15 Car parking is only permitted in designated areas. Vehicles shall not be parked outside of these areas unless prior permission has been obtained from the site manager.

14.1.16 Reverse parking shall be operated wherever practicable.

14.1.17 The Contractor shall ensure that only competent, licensed and authorised personnel are permitted to operate any vehicle.

14.1.18 All vehicles shall observe the site speed limits as indicated by local signage.

14.1.19 Vehicles left unattended shall be securely braked, the engine switched off and ignition keys removed.

14.1.20 Hand held mobile telephones shall not be used whilst any vehicle or plant is being operated.

14.1.21 Ladders shall only be used as a means of access or for very simple, short duration tasks.

14.1.22 Where ladders are used, they shall be of a suitable industrial standard, in good condition and subject to regular formal inspection.

14.1.23 The Contractor shall notify the Company immediately in the event of any accident, incident or “near miss” occurring in the performance of the Contract on the Company’s premises where that accident, incident or “near miss” causes, or may cause, any personal injury or damage to property which could give rise to personal injury.

14.1.24 The Contractor shall take all necessary measures to comply with the requirements of the Health and Safety at Work etc Act 1974 and any other Acts, orders, regulations and Codes of Practice relating to Health and Safety which may apply to staff in the performance of the Call Off Contract.

14.1.25 The Contractor shall ensure that his health and safety policy statement and health and safety management arrangements (as required by the Health and Safety at Work etc Act 1974) are made available to the Company on request.

**14.2 Data Protection**

14.2.1 The Contractor’s attention is drawn to the Data Protection Act 1998 (‘DPA’).

14.2.2 The Contractor shall comply with the Data Protection principles contained within DPA and shall observe any other obligation under DPA which arises in connection with this Approved List Contract.

14.2.3 In this condition “DPA” means the Data Protection Act 1998 and “Personal Data” means information defined as such in DPA which is supplied and /or processed by the Contractor on behalf of the Company.

14.2.3.1 The Company is the Data Controller and the Contractor is the Data Processor under DPA.

14.2.3.2 The Contractor shall maintain appropriate confidentiality and security arrangements in respect of Personal Data and must comply with the principles of DPA when processing Personal Data.

14.2.3.3 The Contractor shall ensure that Personal Data will:

1. be processed fairly and lawfully in accordance with the requirements of the first principle of DPA;
2. be processed only for the purpose of the provision of the service and will not be processed for any other purpose without the Company’s approval;
3. be adequate, relevant, and not excessive in relation to the purpose specified;
4. be accurate and, where necessary kept up to date;
5. be secured to prevent unauthorised or unlawful processing and to protect against loss destruction or damage;
6. be held for only as long as necessary to meet the purpose and shall be destroyed when the Company requires;
7. not to be transferred to any country outside the European Economic Area without the Company’s approval;
8. be processed in accordance with the rights afforded to individuals under DPA.

14.2.4 Under no circumstances shall the Contractor sell or give any personal data including e-mail addresses to any third party.

14.2.5 When the Personal Data is no longer needed for the Purpose:-

14.2.5.1 the Data Processor shall cease to access, use or process any of the Personal Data (and shall ensure that its permitted sub-contractors do likewise); and

14.2.5.2 the Data Processor will return all Personal Data and all other information belonging to the Company and which is provided or disclosed to the Data Processor for the Purpose and all copies of such Personal Data and information to the Company forthwith or, at the Company’s written instruction, will destroy all such Personal Data and information, together with any and all copies of all such Personal Data and information and certify in writing to the Company that it has done so, save to the extent that the Data Processor is prevented by law from destroying all or part of all such Personal Data and information, in which event the Data Processor undertakes that all such Personal Data and information will be kept confidential and will not be disclosed to any third party or used or processed for any purpose.

14.2.5.3 The Contractor shall indemnify and hold the Company harmless (and keep indemnified and hold harmless not withstanding termination of this Agreement) against any loss or damage suffered by the Company as a result of the Contractor's breach of this clause 14.

**14.3 Human Rights Act and Other Legislation**

14.3.1 The Contractor shall comply with all other relevant statutory and other provisions relating to the provision of the Services including (but without limitation) the Human Rights Act 1998.

**14.4 New Legislation**

14.4.1 Without prejudice to clauses 14.1 – 14.3, where new legislation is enacted during the Term which has the effect of changing the manner in which the Services or any part of them are to be provided the Contractor shall ensure that:

1. the Company Representative is informed of the nature and effect of such legislation and the changes necessitated by it in the Services;
2. the Services are provided in accordance with such legislation.

**14.5 Rights of Third Parties**

14.5.1 A person who is not a Party to this Approved List Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Approved List Contract.

**14.6 Equal Opportunities**

14.6.1 The Contractors attention is drawn to the Equalities Act 2010 (‘the Act’)

14.6.2 The Contractor and any subcontractor employed by the Contractor shall adopt a policy to comply with the Act and any subsequent legislation in respect of equalities which may be enacted during the Contract Period (‘the Equalities Legislation’). Accordingly, the Contractor and any employee or subcontractor employed by the Contractor shall not discriminate directly or indirectly against any person because of their age, sex, disability, religion, beliefs, sexual orientation, gender reassignment, pregnancy, maternity or race.

14.6.3 In the event of any finding of unlawful discrimination being made against the Contractor or any Sub-contractor employed by the Contractor during the Contract Period by any court or industrial tribunal or in comparable proceedings in any other jurisdiction, or of an adverse finding in any formal investigation by the Commission for Racial Equality and/or any comparable statutory body relating to the Equalities Legislation over the same period, the Contractor shall inform the Company of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.

14.6.4 The Contractor shall, on request, provide the Company with details of any steps taken under clause 14.6.3 above.

14.6.5 The Contractor shall comply with the Equalities Legislation and shall satisfy the Company that:-

1. its working practices do not involve the treatment of one group or individual less favourably than any others because of their age, sex, colour, race, nationality, ethnic origin, disability, religious beliefs or sexual orientation on any decision relating to their recruitment or employment with the Contractor and in relation to the delivery of the Services under this Agreement;
2. policies on discrimination are set out:-
   1. in instructions to those concerned with recruitment, training and promotion;
   2. in documents available to employees, recognised trade unions or other representative groups of employees;
   3. in recruitment advertisements or other literature
   4. in instructions to those concerned with the delivery of the Services.

14.6.6 The Contractor shall provide such information as the Company may reasonably request for the purpose of assessing the Contractor’s compliance with this clause 14.6.6 including, if requested, examples of any instructions or other documents, recruitment advertisements or other literature containing details of monitoring of recruitment and employees such information not to unreasonably withheld or delayed.

**14.7 Freedom of Information**

14.7.1 “FOI” means the Freedom of Information Act 2000, “Exempt Information” means information falling into the exemptions set out in the FOI, “Confidential Information” means information to which the confidentiality or commercial interests exemptions within the FOI may apply and “Working Day” means Monday to Friday inclusive except bank holidays.

14.7.1.1 The Company is bound by the provision of the FOI and information relating to this Contract may need to be disclosed to third parties in order for the Company to meet its obligations under the FOI.

14.7.1.2 The Contractor shall make all reasonable efforts to assist the Council in meeting its obligations under the FOI. If the Company receives an access request under the FOI, the Contractor shall upon request provide:

14.7.1.2.1 To the Company a copy of information requested which is held by the Contractor on behalf of the Company within a period of 5 Working Days;

14.7.1.2.2 Access to the Company Representative, within a period of 5 Working Days, to inspect information held by the Contractor on behalf of the Company.

14.7.1.3 Where it is necessary for the Contractor to provide information to the Company which it believes to be Exempt Information it shall state in writing to the Company the nature of the information and the relevant exemption. The Company will use reasonable endeavours to consult with the Contractor before disclosing such information under the FOI. The Contractor acknowledges that the final decision whether to disclose such information will rest with the Company and not with the Contractor. Nothing contained in this Contract or any documents or negotiations relating to this Contract shall prevent the Company from disclosing any information which (in the Company’s reasonable opinion or in accordance with any recommendation, notice or decision of a competent authority) it is required to disclose under FOI.

14.7.1.4 The Contractor shall observe the Company’s Retention and Destruction Policy (details of which shall be provided by the Company to the Contractor upon request) and shall not destroy information other than in accordance with this policy. If the Company notifies the Contractor of a request for information held by the Contraction which is due for destruction the Contractor shall immediately suspend destruction of that information to allow disclosure to take place. Upon the termination of this Contract the Parties shall agree with Party has the control of the retained information. Should the Contractor retain control of the information, this clause 7.7 shall remain in force beyond the termination of this Contract.

14.7.1.5 The Contractor shall maintain an adequate records management system which will enable it to access the information within the time limits prescribed.

14.7.1.6 The Contractor shall indemnify the Company against all claims, demands, actions, costs, proceedings and liabilities that the Company directly incurs due to the Contractor’s or any sub-contractors breach of this clause 7.7 or any part of it.

**14.8 Confidentiality**

14.8.1 The Contractor shall keep confidential all information obtained from the Company or through its provision of the Services which is Confidential Information whether or not the Company designates or marks that Confidential Information as confidential.

14.8.2 The provisions of clauses 14.7.1 shall not apply to any information which:

1. is or becomes public knowledge (otherwise than by a breach of this clause 14.7.1);
2. was in the possession of the Party concerned without restriction as to its disclosure before receiving it from the other party; or
3. is received from a third Party who lawfully acquired it and who is under no obligation restricting its disclosure.

14.8.3 Nothing in this clause shall prevent the Company or the Contractor from disclosing information under or in accordance with any legal requirement, or in accordance with any lawful requirements made by the Courts or by any regulatory body or inspectorate established by law.

14.8.4 The Contractor shall ensure that all employees engaged in the provision of the Services or otherwise with access to information relating to the Services will abide by this confidentiality clause.

14.8.5 The Contractor shall ensure that the terms of any sub-contract fully reflect the provisions of this clause 14.14.

1. **AGENCY**

15.1 The Contractor shall not represent itself as being: -

(a) the servant or agent of the Company (except as may be authorised under the Approved List Contract);

(b) authorised to enter into any contract or other obligation on the Company's behalf except as may be authorised under the Approved List Contract.

1. **WARRANTIES AND LIABILITY**

16.1 The Contractor warrants to the Company that it will provide the Services in accordance with the Specification and exercising such skill and care as is specified in clause 12 and in accordance with the Contract Standards and the terms of this Approved List Contract, the Order, the Call-Off Conditions and Special Conditions.

1. **INDEMNITY AND INSURANCE**
   1. The Contractor shall indemnify the Company against all actions, claims, damages, costs and other expenses in relation to the injury to, or death of, any person, and loss of, or damage to, any property, real or personal which is attributable to the negligent act or default of the Contractor or any breach of this Approved List Contract in connection with the provision of the Services
   2. The Contractor shall take out and maintain insurance against its liabilities under clause 17.1 for the minimum sum of £10 million in respect of any one incident.
   3. The Contractor must take out and maintain employer’s liability insurance in a minimum amount for each and every claim, act or occurrence or series of claims, acts or occurrences which complies with statutory requirements (which at the date of this Approved List Contract is £10 million).
   4. The Contractor shall supply to the Company on request copies of all insurance policies, cover notes, premium receipts and other documents necessary to establish compliance with clause 17.2 – 3 inclusive.
2. **PAYMENT**
   1. The Company will pay the Contract Charges to the Contractor as detailed in the Call-Off Contract.
   2. Such payment shall be made by BACS wherever possible
   3. Unless expressly provided to the contrary in the Call-Off Contract no prices or charges additional to those specified in the Tender shall be payable by the Company to the Contractor for the Services. The Contract Charges are payable in pounds sterling and there shall be no increase attributable to any relevant currency exchange rate or for any other reason.
   4. The Contract Price is referred to in the Contract exclusive of VAT.
   5. If any sum of money shall be recoverable by the Company from the Contractor or payable by the Contractor to the Company pursuant to this Approved List Contract, the same may be deducted by the Company from any sum then due to the Contractor or which at any time may become due to the Contractor.
   6. Invoices shall be in such a form as may be agreed between the Company and the Contractor and the Company will pay the invoices within 30 days of receipt of an undisputed invoice.
   7. The Company reserves the right to vary its invoicing policy at any time and to require electronic invoices to be directly submitted by the Contractor. Any expenses of the Contractor involved in the submission of electronic invoices shall be met by the Contractor.
3. **VAT**
   1. The Company shall be liable to pay to the Contractor such Value Added Tax as may be properly chargeable by the Contractor in respect of the provision of the Services to the Company (except to the extent that any such Value Added Tax or related penalties are chargeable because of the breach by the Contractor of the relevant statutory provisions).
4. **LEGAL PROCEEDINGS AND DISCLOSURE OF RELEVANT INFORMATION**
   1. The Contractor shall notify the Company Representative of any accident, damage, claim or breach of any statutory provision relating to the supply of the provision of the Services as soon as reasonably possible after becoming aware of such matter.
   2. If required by the Company Representative, the Contractor shall provide relevant information and assistance in connection with any legal inquiry, arbitration, court proceedings or internal disciplinary proceedings relating to the provision of the Services and if required shall give evidence in such inquiries or proceedings or hearings.
   3. If at any time during the Contract Period the Contractor is convicted of any offence referred to in Regulation 57(1) of the Regulations or if an event occurs which would have entitled the Company to treat the Contractor as ineligible for selection under Regulation 57(8) of the Regulations then the Contractor shall immediately inform the Company of this fact and shall provide such further information as the Company may require.
5. **DISPUTE RESOLUTION**
   1. Any dispute or difference (in this clause ‘**the dispute**’) which arises between the Company and the Contractor as to the construction of this Approved List Contract, as to their respective rights, duties and obligations or as to any other matter arising out of or connected with the Approved List Contract shall be determined in accordance with the provisions of this clause.
   2. The parties shall attempt in good faith to negotiate a settlement to any Dispute between them arising out of or in connection with this Contract within twenty (20) working days of either party notifying the other of the Dispute and such efforts shall involve the escalation of the Dispute to the Company Representative and the Contract Manager.
   3. If the Dispute cannot be resolved pursuant to clause 21.2 it shall be referred to a relevant Director of the Company and an equivalent officer at the Contractor.
   4. If the Dispute cannot be resolved pursuant to clause 21.3 it shall be referred to the Managing Director of Yorwaste and the equivalent officer at the Contractor.
   5. If that parties are unable to reach an agreement following the escalation referred to in clause 21.2 to 21.4, the Company and the Contractor shall submit the dispute to a neutral adviser appointed by agreement between them to assist them in resolving the dispute. Either Party may give written notice to the other describing the nature of the dispute, requiring it to be submitted to such a neutral adviser and proposing the name of a suitable person to be appointed. If no such person is appointed by agreement within 14 days after such notice is given, or, if no such notice is given within 28 days after the dispute has arisen, either Party may request the Centre for Dispute Resolution to appoint a neutral adviser acceptable to both Parties.
   6. The Parties shall, with the assistance of the neutral adviser appointed in accordance with clause 21.1 and 21.2 above, seek to resolve the dispute by using an alternative dispute resolution (in this clause ‘**ADR**’) procedure agreed between the Parties or, in default of such agreement established by a mutual adviser.
   7. If the Parties accept any recommendations made by the neutral adviser or otherwise reach agreement as to the resolution of the dispute, such agreement shall be recorded in writing and signed by the Parties and, if applicable, the neutral adviser and it shall be binding upon both Parties.
   8. If: -
6. The dispute has not been resolved to the satisfaction of the Parties within 60 days after the appointment of the neutral adviser; or
7. Either Party fails or refuses to agree or participate in the ADR procedure; or
8. In any event the dispute is not resolved within 90 days after it has arisen

then the dispute shall be resolved under clause 21.6 below.

* 1. Any dispute which is to be resolved under this clause 21 shall be resolved by the decision of an expert whose decision shall, save as to manifest error, be final and binding on the Parties. The expert shall be appointed by agreement between the Parties or, if within ten days after the dispute fails to be resolved, the Parties have been unable to agree then on application of either of the Parties to the President for the time being of the Chartered Institute of Arbitrators.
  2. Any costs and fees incurred by the Parties which are not met in accordance with an agreement reached through the ADR procedure or in accordance with a decision reached by the expert under clause 21.6 above shall be borne by the Parties by whom they were incurred.

1. **TERMINATION**
   1. If the Contractor:-
2. has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this Approved List or any other contract with the Company; or
3. has committed an offence under the Bribery Act 2010; or
4. becomes bankrupt; or
5. has a receiving order made against it; or
6. presents its petition in bankruptcy; or
7. is subject to a winding up order; or
8. has a receiver appointed; or
9. at any time during the Contract Period is convicted of any offence referred to in Regulation 57(1) of the Public Contracts Regulations 2012 or if an event occurs which would have entitled the Council to treat the Contractor as ineligible for selection under Regulation 57(8), or
10. is in persistent and/or material breach of contract (by failure to achieve the Contract Standards or otherwise); or
11. changes its composition on staffing so as seriously to affect its ability to provide the Services

the Company may terminate the Approved List Contract immediately and recover its losses resulting from such termination under clause 22.3 below.

* 1. The Company has relied on the information provided by the Contractor contained in the Tender and any material misrepresentation contained in the Tender shall entitle the Company to rescind or terminate this Approved List Contract at its option.
  2. If the Approved List Contract is terminated or rescinded under clause 22.1 or 22.2, the Company shall:

1. cease to be under any obligation to pay the Contract Charges until the costs of the termination have been calculated and provided such calculation then shows an amount due to the Contractor;
2. be entitled to reoccupy any premises and any other resources licensed or leased to the Contractor in connection with the Approved List Contract;
3. be entitled to use an alternative contractor to provide the Services or to do so itself;
4. be entitled, in respect of any costs directly resulting from the termination of the Approved List Contract, to deduct them from any amount which would have been due to the Contractor under this or any other contract with the Contractor or to recover them from the Contractor as a debt. Such costs shall include the reasonable costs of the Company in terminating the Approved List Contract and making alternative arrangements for the and provision of the Services;
5. when the total costs, resulting from the termination of the Approved List Contract have been calculated and after taking into account any deduction made by the Company from any sum which would (but for (a) above) have been due to the Contractor, be entitled to any balance due to the Company which shall be recoverable as a debt, or alternatively the Company, subject to clause 22.4, shall pay to the Contractor any balance due.
   1. The rights of the Company under this clause 22 are in addition to and without prejudice to any other rights or remedies the Company may have whether against the Contractor directly or pursuant to any guarantee or indemnity.
6. **NOTICES**

25.1 Notices under the Approved List Contract must be in writing and may be served by either fax, personal delivery or recorded delivery to the addresses referred to in the Approved List Contract.

1. **WAIVER**
   1. Failure by the Company to enforce the provisions of the Approved List Contract shall not be construed as a waiver of or as creating an estoppel in connection with any such provision and shall not affect the validity of the Approved List Contract or the right of the Company to enforce any provision in the Approved List Contract.
2. **COMPLAINTS PROCEDURE**
   1. The Contractor shall: -
      1. Draw up a complaints procedure.
      2. Operate it from the beginning of the Contract Period.
      3. At the Company’s request provide a copy to it.
   2. The complaints procedure must either:

25.2.1 Be approved by the Company (and the Company will not be unreasonable or delay in giving its approval); or

* + 1. Comply with the requirements of any regulatory body to which the Contractor is subject including any change in such requirements.

25.3 At the Company’s reasonable request the Contractor shall supply it with a copy of the Contractor’s records relating to complaints made in relation to the provision of the Services and the Contractor’s response.

1. **SATISFACTION SURVEYS**
   1. In order to assess the level of performance of the Contractor, the Company may undertake satisfaction surveys on an annual basis in respect of the Contractor's provision of the Services.
   2. The Company shall be entitled to notify the Contractor of any aspects of their performance of the Services which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with the Approved List Contract
   3. All other suggestions for improvements to the Services shall be dealt in the monthly quarterly meetings.
2. **SUSTAINABILITY**
   1. In providing the Services the Contractor shall meet the sustainability requirements set out in the Specification.
   2. The Contractor shall comply with the provisions of its environmental policy in relation to the provision of the Services.
   3. The Company shall monitor compliance with this clause 29.
   4. Throughout the Term the Contractor shall make all reasonable endeavours to reduce any negative impact on the environment caused by the provision of the Services. If during the Term the Contractor wishes to change any of the materials, technologies or working practices used in connection with the provision of the Services, the Contractor must notify the Company detailing the changes, any possible impact on the Contract Charges or the Contract Standards and must also include an evaluation of the environmental impact of the proposed changes. If the Company agrees to the variation the Contractor shall implement the changes in accordance with the Variation Clause. The application must define the proposed changes, indicate the impact on the Contract Charges or the Contract Standards and must contain an evaluation of the environmental impact of the proposed changes. If the Company agrees to the variation the Contractor shall be free to implement the proposed changes.
3. **BEST VALUE, PRICE REDUCTION AND TECHNOLOGICAL IMPROVEMENTS**
   1. The Company may from time to time review the provision of the Service in pursuance of the Company’s commitment to continuing service improvement, having regard to a combination of economy, efficiency and effectiveness and the Contractor shall: -
      1. Participate in and fully co-operate with such reviews; and
      2. Provide such assistance and information including, but without limitation, accounting and other record books, business plans, quality assurance, service records and service plans as may be reasonably required by the Company in relation to the provision of the Service.
   2. The Contractor shall at all times during the Term use all reasonable endeavours to ensure that the Company receives the benefit of improvements in the available technology and reduced third party costs and charges relevant to the provision of the Services (including, without limitation, endeavouring to source equipment and software from suppliers with competitive rates).
   3. Where the Contractor identifies such a potential benefit, it shall promptly inform the Company and shall advise the Company whether, in the Contractor's professional opinion, the implementation of any change necessary to enable the Company to enjoy that benefit is desirable (in view of quality, reliability and other relevant factors as well as price).
   4. If the Company shall conclude that the implementation of the necessary change is desirable, the Contractor shall implement the change.
   5. Any benefits arising from any such change as is referred to in this clause 30 (including any consequent reductions in the Charges) shall accrue solely to the Company (subject to any costs reasonable incurred by the Contractor in implementing the necessary change being taken into account).
4. **ENTIRE AGREEMENT**
   1. This Approved List Contract including all Appendices and Schedules constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels or nullifies any previous agreement between the Parties in relation to such matters.
   2. Each of the Parties acknowledges and agrees that in entering into this Approved List Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Approved List Contract. The only remedy available to either Party of such statements, representation, warranty or understanding shall be for breach of contract under the terms of this Approved List Contract.
   3. Nothing in this Clause 32 shall operate to exclude Fraud or fraudulent misrepresentation

**SCHEDULE 1**

**SPECIFICATION**

*[to be inserted on contract award]*

**SCHEDULE 2**

**CALL-OFF AWARD CRITERIA**

Contracts will be awarded to Contractors by way of further competition following the process set out in clause 6 of the Approved List Contract. When the Company has a specific requirement it will confirm to Contractors the tonnage of asbestos available. Contractors will be invited to submit tenders for the requirement. Submitted tenders will be evaluated in accordance with the following criteria:

1. **Quality (Minimum 10%, maximum 20%)**

Contractors will be required to confirm that they continue to satisfy the quality criteria passed in order to be appointed to the Approved List Contract and that the facility still has an Environmental Permit and planning permission and it is operational. Only those Contractors who meet these criteria will progress to financial evaluation.

1. **Evaluation of price (Minimum 80%, maximum 90%)**

The Company will calculate direct costs for each Delivery Point. This will include the prices submitted by the Contractors and any other items considered by the Company to be a direct cost to the Company incurred by the award of the Call Off Contract for example, the Company’s estimates of the cost of the transportation of waste by District or Borough Councils.

* 1. The Company will then select from across the range of quotes submitted a combination of capacity and price that provides the lowest overall price solution to dispose of the Waste available.

**SCHEDULE 3**

**ORDER FORM**

***[the final form of Order Form will be inserted prior to any further competition]***

**SCHEDULE 4**

**CALL-OFF CONDITIONS AND SPECIAL CONDITIONS**

[To be completed on award of a call-off contract]

CONTENTS

1. Definitions and Interpretation

2. The Contract - General

3. Company Representative

4. The Contractor's Obligations

5. Contractor's Staff

6. Contract Manager

7. Variations

8. Health and Safety, Data Protection and Other Statutory Requirements

[9. Agency](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885478)

[10. Indemnity and Insurance](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885479)

[11. Use of Contracting Authoity Premises](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885480)

[12. Security](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885481)

[13. Payment](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885482)

[14. VAT](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885483)

[15. Assignment and Sub-Contracting](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885484)

[16. Legal Proceedings and Disclosure of Relevant Information](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885485)

[17. Best Value](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885489)

[18. Dispute Resolution](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885490)

[19. Termination](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885491)

[20. Recovery of Sums Due to the Council](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885492)

[21. Notices](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885493)

[22. Waiver](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885494)

[23. Default](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885495)

[24. Complaints Procedure](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885498)

[25. DBS Checking](file:///C:\Users\cmmoore\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\9HSRXSK0\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc#_Toc365885499)

[26. Sustainability](file:///C:\\Users\\cmmoore\\AppData\\Local\\Microsoft\\Windows\\Temporary%20Internet%20Files\\Content.Outlook\\9HSRXSK0\\Disposal%20and%20composting%20Waste%20Contract%202015%20clean%20(3).doc" \l "_Toc365885500)

27. Monitoring of Call Off Contract Performance

Appendix 1 – Special Conditions

1. Definitions and Interpretation
   1. The following terms have the following meanings in the Call Off Contract: -

**Company Representative** the Company Representative referred to in Condition 3

**Call Off Conditions** these conditions

**Call Off Contract** this legally binding agreement (made pursuant to the provisions of the Approved List) for the provision of Services made between the Company and the Contractor comprising:

(i) the Order;

(ii) the Call-Off Conditions;

(iii) any Special Conditions.

**Commencement Date** [DATE]

**Company** Yorwaste Limited

**Confidential Information** any information which has been designated as confidential by either party in writing or ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to secrets, intellectual property rights and all personal data and sensitive data within the meaning of the Data Protection Act 1998

**Contract Charges** the charges payable by the Company to the Contractor for the Service as set out in the Order

**Contract Documents** the contract documents referred to in the Call Off Contract

**Contract Manager** the Contract Manager referred to in Clause 5

**Contract Period** the period of the Call Off Contract as set out in the Order Form

**Contract Standards** i) the KPI’s

ii) the standards in the Call Off Contract; and

iii) with all the skill, care and diligence to be expected of a competent provider of services of a similar kind to the Service; and

iv) generally to the Company’s satisfaction

**Contractor** the contractor who has been appointed under the Approved List and where applicable this shall include the contractor's Employees, sub-contractors, agents, representatives, and permitted assigns and, if the Contractor is a consortium or consortium leader, the consortium members;

**Framework Agreement/** the legally binding agreement dated [DATE]

**Dynamic Purchasing System** including all Schedules to the Agreement, the

**Agreement** Invitation to Tender and the Tender.

**Invitation to Tender** the Company’s invitation to tender for the Services including all the attached Schedules

**KPI’s** the key performance indicators set out in paragraph 7 of the Specification

**Order** the Company’s order for the provision of the Services

**Service** the service to be provided under the Call Off Contract

**Special Conditions** any terms or conditions included by the Company in the Call-Off Conditions and set out in Appendix 1

**Specification** the Specification forming part of the Approved List Contract

**Tender** the Contractor's tender for the Service

* 1. The Call Off Contract shall be governed by English Law.
  2. References to: -
     1. any Act, Order, Regulation, Statutory Instrument, etc, include any amendment or re-enactment.
     2. one gender include any other gender
     3. persons include corporations
     4. singular includes the plural
     5. clauses are to clauses in the Call Off Contract
     6. the Contractor's staff include the Contractor's partners, directors, employees, agents and subcontractors.

1. The Call Off Contract - General
   1. This Call-Off Contract is made pursuant to the Approved List Contract.
   2. In the event of, and only to the extent of, any conflict between the terms and conditions of the Approved List Contract, the Order, the Call-Off Conditions and any Special Conditions, the application of the clauses shall prevail in the following order:
2. Approved List Contract
3. Order
4. Call-Off Conditions
5. Special Conditions
6. Company Representative
   1. The Company Representative is the person nominated by the Company to act on its behalf for the purposes of the Contract and may:
      1. issue instructions to the Contractor on any matter relating to the Call Off Contract; and
      2. appoint representatives to act upon his behalf and shall notify the Contractor of such appointment(s).
7. The Contractor's Obligations
   1. The Contractor shall provide the Service in accordance with the Call Off Contract for the Contract Period to the Contract Standards.
   2. The Contractor shall inform the Company Representative immediately if it is unable to provide the Service or if the Contractor is aware of anything which may prevent the Contractor from complying with the Call Off Contract.
   3. To enable the Company Representative to monitor the provision of the Service the Contractor authorises access by him to:
      1. the Contractor's work place
      2. relevant records and documents held by the Contractor in connection with the Service
      3. the Contractor's staff
      4. technology, resources and systems used or proposed to be used in connection with the Service.
   4. Without prejudice to the Company’s other powers under the Call Off Contract, if the Contractor fails to provide the Service in accordance with Clause 3, the Company may provide the Service itself or may pay another firm to provide part or all of the Service and the costs incurred may be deducted from the Contract Charges or shall be recoverable as a debt.
   5. If requested by the Company Representative the Contractor shall provide a copy of its audited accounts within six months of the relevant accounting reference date subsequent to those provided in accordance with the Tender.
8. Contractor's Staff
   1. The Contractor shall employ sufficient staff to ensure that the Service is provided to the Contract Standards.
   2. The Contractor's staff shall be adequately qualified, competent and suitable in all other respects to provide the Service.
   3. The Company Representative may reasonably require the Contractor in writing to remove from the provision of the Service any member of the Contractor's staff. The Contractor shall immediately remove such staff from the provision of the Service and provide a replacement.
   4. The Company shall not be liable either to the Contractor or to the staff in question in respect of any cost, expenses, liability, loss or damage occasioned by such removal and the Contractor shall indemnify the Company in respect of any claim made.
9. Contract Manager
   1. The Contractor shall appoint a Contract Manager approved by the Company. Any notice, instruction or other information given to the Contract Manager shall be deemed to have been given to the Contractor.
   2. The Contractor shall notify the Company Representative in writing of the name, address and contact numbers of the Contract Manager and any deputy.
   3. The Contractor shall provide and shall ensure that its staff wear at all times, when engaged in the provision of the Service on Company premises such identification as the Company may require.
10. Variations
    1. The Company Representative may require the Contractor in writing to:-
       1. provide additional services of a similar nature to the Service;
       2. increase or decrease the scope of the Service or any part of it;
    2. The valuation of variations made under this clause shall be calculated by the Company Representative as follows:-
       1. wherever appropriate the valuation shall be ascertained in accordance with the principles used and the rates and prices contained in the Tender;
       2. if the rates and prices in the Tender are not relevant to the variation then the ascertainment of the valuation shall be on a fair and reasonable basis agreed by the parties and if agreement is not possible the matter shall be referred for dispute resolution under Clause 19.
11. Health and Safety, Data Protection and Other Statutory Requirements
    1. **Health and Safety**
       1. The Contractor shall comply with the requirements of the Health and Safety at Work Act 1974 so far as they apply to the provision of the Service and throughout the Contract Period the Contractor shall have in place a health and safety policy which complies with all statutory requirements.
       2. The Contractor shall promptly notify the Company of any health and safety hazards which may arise in connection with the performance of the Contract.
       3. The Company shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Company’s premises and which may affect the Contractor in the performance of the Contract.
       4. While on the Company premises, the Contractor shall comply with any health and safety measures implemented by the Company in respect of personnel and other persons working on those premises.
       5. The Contractor shall notify the Company immediately in the event of any incident or “near miss” occurring in the performance of the Contract on the Company’s premises where that incident or “near miss” causes, or may cause, any personal injury or damage to property which could give rise to personal injury.
       6. The Contractor shall take all necessary measures to comply with the requirements of the Health and Safety at Work etc Act 1974 and any other Acts, orders, regulations and Codes of Practice relating to Health and Safety which may apply to staff in the performance of the Call Off Contract.
       7. The Contractor shall ensure that his health and safety policy statement and health and safety management arrangements (as required by the Health and Safety at Work etc Act 1974) are made available to the Company on request.
    2. **Data Protection**
       1. In this clause “DPA” means the Data Protection Act 1998 and “Personal Data” means information defined as such in DPA which is supplied and/or processed by the Contractor on behalf of the Company.
       2. The Contractor shall comply with the Data Protection principles contained within DPA and shall observe any other obligation under DPA which arises in connection with this Contract.
       3. The Company is the Data Controller and the Contractor is the Data Processor under DPA.
       4. The Contractor shall maintain appropriate confidentiality and security arrangements in respect of Personal Data and must comply with the principles of DPA when processing that Personal Data.
       5. The Contractor shall ensure that Personal Data will: -
          1. be processed fairly and lawfully in accordance with the requirements of the first principle of DPA;
          2. be processed only for the purpose of the provision of the Service and will not be processed for any other purpose without the Company’s approval;
          3. be adequate, relevant and not excessive in relation to the purpose specified;
          4. be accurate and, where necessary, kept up to date;
          5. be secured to prevent unauthorised or unlawful processing and to protect against loss, destruction or damage;
          6. be held for only as long as necessary to meet the purpose
          7. not to be transferred to any country outside the European Economic Area without the Company’s approval;
          8. be processed in accordance with the rights afforded to individuals under DPA
       6. The Contractor shall ensure that its staff, agents or subcontractor who have access to the Company’s data comply with the requirements in this clause and shall ensure that such employees, agents or subcontractor receive appropriate data protection training and understand the responsibilities under the DPA in respect of Personal Data.
       7. If the Contractor receives any subject request for Personal Data such request will be referred to the Company’s Data Protection Officer as soon as practicable after receipt.
       8. If the Contractor sub-contracts any part of the Service then the Contractor shall ensure that any subcontractor or other arrangement with any such subcontractor shall include a binding legal obligation upon the subcontractor to comply with the obligations set out in this clause. For the avoidance of doubt such sub-contracting shall not relieve the Contractor of its obligation to comply with this clause.
       9. The Contractor shall be liable for and shall indemnify the Company against all claims, demands, actions, costs, proceedings and liabilities of any sort which the Company incurs due to the Contractor’s or any subcontractors breach of this clause.
       10. The Contractor shall provide to the Company on request evidence of its compliance with this clause to the Company’s reasonable satisfaction.
       11. The Company shall monitor compliance with the clause and non-compliance may constitute a ground for termination of the Contract.
       12. The obligations set out in this clause shall remain in force notwithstanding termination of the Call Off Contract.
    3. **Other Legislation** 
       1. The Contractor shall comply with all relevant statutory and other provisions relating to the Service.
    4. **New Legislation**
       1. Without prejudice to clause 8.1 – 8.3, where new legislation is enacted during the Contract Period which has the effect of changing the manner in which the Service or any part of it is to be provided the Contractor shall ensure that:
          1. the Company Representative is informed of the nature and effect of such legislation and the changes necessitated by it in the Service;
          2. the Service is provided in accordance with such legislation.
    5. **Rights of Third Parties**
       1. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.
    6. **Equal Opportunities**
       1. The Contractors attention is drawn to the Equality Act 2010 (‘the Act’)
       2. The Contractor and any subcontractor employed by the Contractor shall adopt a policy to comply with the Act and any subsequent legislation in respect of equalities which may be enacted during the Contract Period (‘the Equalities Legislation’). Accordingly, the Contractor and any employee or subcontractor employed by the Contractor shall not discriminate directly or indirectly against any person because of their age, sex, disability, religion, beliefs, sexual orientation, gender reassignment, pregnancy, maternity or race.
       3. The Contractor and any sub-contractor employed by it shall observe as far as possible, all statutory codes relating to the Equalities Legislation. These give practical guidance to employers and others on the elimination of racial discrimination and the promotion of equality of opportunity in employment, including monitoring of workforce matters and steps that can be taken to encourage people from minority groups to apply for jobs or take up training opportunities.
       4. In the event of any finding of unlawful discrimination being made against the Contractor or any subcontractor employed by the Contractor during the contract period by any court or industrial tribunal or in comparable proceedings in any other jurisdiction, or of an adverse finding in any formal investigation by the Equalities and Human Rights Commission and/or any comparable statutory body relating to the Equalities Legislation over the same period the Contractor shall inform the Company of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
       5. The Contractor shall, on request, provide the Company with details of any steps taken under Condition 8.6.4 above.
       6. The Contractor shall comply with the Equalities Legislation and shall satisfy the Company that:-
          1. its working practices do not involve the treatment of one group or individual less favourably than any others because of their age, sex, colour, race, nationality, ethnic origin, disability, religious beliefs or sexual orientation on any decision relating to their recruitment or employment with the Contractor and in relation to the delivery of the Services under this Agreement;
          2. policies on discrimination are set out:-

1. in instructions to those concerned with recruitment, training and promotion;
2. in documents available to employees, recognised trade unions or other representative groups of employees;
3. in recruitment advertisements or other literature
4. in instructions to those concerned with the delivery of the Services.
   * 1. The Contractor shall provide such information as the Company may reasonably request for the purpose of assessing the Contractor’s compliance with this clause 8.6 including, if requested, examples of any instructions or other documents, recruitment advertisements or other literature containing details of monitoring of recruitment and employees.
   1. **Confidentiality**
      1. Each party shall treat all Confidential Information belonging to the other party as confidential and safeguard it accordingly subject to any statutory, legal or parliamentary obligation placed upon the Company.
      2. The Contractor shall keep confidential all information obtained from the Company or through its provision of the Service which is Confidential Information whether or not the Company designates or marks that Confidential Information as confidential.
      3. The Contractor shall not use any Confidential Information it receives from the Company otherwise than for the purposes of this Call Off Contract.
      4. Notwithstanding any other term of this Call Off Contract, the Contractor hereby gives his consent for the Company to publish the Call Off Contract in its entirety, including from time to time agreed changes to the Call Off Contract, to the general public.
5. Agency
   1. The Contractor shall not represent itself as being: -
      1. the servant or agent of the Company (except as may be authorised under the Call Off Contract);
      2. authorised to enter into any contract or other obligation on the Company's behalf except as may be authorised under the Contract
6. Indemnity and Insurance
   1. The Contractor shall indemnify the Company against all actions, claims, damages, costs and other expenses in relation to the injury to, or death of, any person, and loss of, or damage to, any property, real or personal which is attributable to the negligent act or default of the Contractor in connection with the Service.
   2. The Contractor shall take out and maintain insurance against its liabilities under clause 10.1 for the minimum sum of £10 million in respect of any one incident.
   3. The Contractor shall take out and maintain employer’s liability insurance in a minimum amount for each and every claim, act or occurrence or series of claims, acts or occurrences which complies with statutory requirements (which at the date of this Call Off Contract is £10 million).
   4. The Contractor shall have professional indemnity insurance in an amount for each and every claim, act or occurrence or series of claims, acts or occurrences which is sufficient to cover its liabilities under this Call Off Contract.
   5. The Contractor shall supply to the Company on request copies of all insurance policies, cover notes, premium receipts and other documents necessary to establish compliance with clauses 10.2 – 4 inclusive.
7. Use of Company Premises
   1. The Contractor shall not carry out any work at any premises owned or occupied by the Company (including any premises leased by the Company to the Contractor) other than the Service or acts, incidental to it.
8. Security
   1. The Contractor shall comply with the Company’s security procedures at Company premises used or occupied by the Contractor in connection with the Service.
   2. The Contractor shall use its best endeavours to ensure that access to any such premises is restricted to its staff and essential visitors.
   3. The Contractor shall issue to its staff who have access to any relevant premises security passes in such form as the Company may require.
   4. The Contractor shall be responsible for the safekeeping of any keys, passes and other means of access provided by the Company and shall only permit them to be given to the staff whose names and addresses have been supplied to the Company and then only to the extent required for the purposes of providing the Service. The Contractor shall ensure that the Company Representative is informed immediately of the loss of any keys, passes and other means of access and shall pay the cost of replacement and/or any reasonable security measures implemented as a result of such loss.
9. Payment
   1. The Company will pay the Contract Charges by monthly payments in arrears. Such payment shall be made by BACS wherever possible.
   2. All accounting periods other than the first and last shall begin on the first and end on the last day of each calendar month during the Contact Period (“Accounting Period”).
   3. The first accounting period shall begin on the Commencement Date and end on the last day of the calendar month following the Commencement Date.
   4. The last accounting period shall begin on the first day of the calendar month preceding the month in which the Contract Period expires and end on the date of termination or expiration.
   5. Within 7 days (excluding Bank Holidays and weekends) following the end of each Accounting Period the Contractor shall submit to the Company Representative an invoice in respect of the Service provided during the Accounting Period. All invoices shall be supplied with backing information sufficient to confirm the accuracy of the claim. The Contractor shall be paid the amounts due not later than 28 days following the end of the Accounting Period or receipt of the invoice (whichever is the later) except in the case of disputed invoices. Interest on Late Payments will be made at a rate of 2% per annum below the UK base rate calculated on a daily basis.
   6. In the case of a disputed invoice the Company Representative will notify the Contractor. Interest will be payable in accordance with clause 13.5 above after 28 days of the receipt of a disputed invoice if the Company fails to notify the Contractor within 14 days of its receipt of the reason for the dispute. Failure to notify the Contractor of a disputed invoice within such period of 14 days shall not prejudice the Company’s right subsequently to dispute such invoice.
   7. Where a disputed invoice is resolved, in the case of the invoice being accepted by the Company as correct, the Company shall pay the invoice within 14 days of the resolution of the dispute or within the original 28 day period, whichever is the later. Where the disputed invoice is accepted as incorrect by the Contractor, the Contractor shall issue a credit note or additional invoice for the relevant amount and the balance of the invoice shall be paid within 28 days of receipt of the credit note or additional invoice, or the original 28 day period, whichever is the later.
   8. Where the Contractor is registered for VAT, all invoices and credit notes shall comply with all VAT legislation and regulations.
   9. The Contractor shall provide the Company Representative with such details as to VAT and, where applicable, Landfill Tax as the Company may from time to time require. The Contractor shall comply with all Customs and Excise Regulations relating to the Service. All VAT and Landfill Tax charged shall be at the statutory rate.
   10. The overall remedy for late payment by either party is a substantial remedy within the meaning of Part II of the Late Payment of Commercial Debts (Interest) Act 1998. This term is not imposed by either party to the detriment of the other and the Contractor does not receive any inducement to agree to this term.
   11. For the avoidance of doubt, the Contractor shall only be entitled, at the most, to such monies as are shown on the submitted accounts, and in respect of services actually supplied to the Company by the Contractor or on its behalf.
   12. The Company reserves the right to vary its invoicing policy at any time and to require electronic invoices to be directly submitted by the Contractor. Any expenses of the Contractor involved in the submission of electronic invoices shall be met by the Contractor.
   13. Where the Contractor enters into a sub-contract with a supplier or contractor for the purpose of performing its obligations under the Call Off Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
10. VAT
    1. The Company shall be liable to pay to the Contractor such Value Added Tax as may be properly chargeable on the Contractor in respect of the supply of the Service to the Company (except to the extent that any such Value Added Tax or related penalties are chargeable because of the breach by the Contractor of the relevant statutory provisions).
11. Assignment and Sub-Contracting
    1. The Company shall be entitled to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to any other body (including any private or public sector body) which substantially performs any of the function that previously had been performed by the Company provided that such assignment, novation or disposal shall not increase the burden of the Contractor’s obligations under the Contract.
    2. The Contractor shall not:
       1. assign the Call Off Contract in whole or in part;
       2. sub-contract the provision of the Service in whole or in part without the previous written consent of the Company Representative which shall not relieve the Contractor from any liability under the Call Off Contract. The Contractor shall be responsible for the acts, defaults or neglect of any subcontractors, as if they were the acts, defaults or neglect of the Contractor.
    3. Where the Company has agreed that the provision of the Service may be sub contracted in whole or in part then the Contractor shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the subcontractor within a specified period not exceeding 30 days from the receipt of a valid invoice. In addition, any contract between the Contractor and any sub-contractor, conditions of contract shall be included which replicate clauses 15.1 and 15.2 above together with such other provisions which the Company may from time to time specify shall be included in any such sub contract.
12. Legal Proceedings and Disclosure of Relevant Information
    1. The Contractor shall notify the Company Representative of any accident, damage, claim or breach of any statutory provision relating to the Service as soon as reasonably possible after becoming aware of such matter.
    2. If required by the Company Representative, the Contractor shall provide relevant information and assistance in connection with any legal inquiry, arbitration, court proceedings or internal disciplinary proceedings relating to the Service and if required shall give evidence in such inquiries or proceedings or hearings.
    3. If at any time during the Contract Period the Contractor is convicted of any offence referred to in Regulation 57(1) of the Public Contracts Regulations 2015 (in this clause ‘the Regulations’) or if an event occurs which would have entitled the Company to treat the Contractor as ineligible for selection under Regulation 57(8) of the Regulations then the Contractor shall immediately inform the Company of this fact and shall provide such further information as the Company may require.
13. Best Value
    1. The Company may from time to time review the Service in pursuance of the Company’s commitment to continuing Service improvement, having regard to a combination of economy, efficiency and effectiveness and the Contractor shall: -
       1. participate in and fully co-operate with such reviews; and
       2. provide such assistance and information including, but without limitation, accounting and other record books, business plans, quality assurance, service records and service plans as may be reasonably required by the Company in relation to the Service.
14. Dispute Resolution
    1. Any dispute or difference (in this clause ‘the dispute’) which arises between the Company and the Contractor as to the construction of this Call Off Contract, as to their respective rights, duties and obligations or as to any other matter arising out of or connected with the Call Off Contract shall be determined in accordance with the provisions of this clause.
    2. The parties shall attempt in good faith to negotiate a settlement to any Dispute between them arising out of or in connection with this Contract within twenty (20) working days of either part notifying the other of the Dispute and such efforts shall involve the escalation of the Dispute to the Company Representative and the Contract Manager.
    3. If the Dispute cannot be resolved pursuant to clause 19.2 it shall be referred to a relevant Director of the company an equivalent officer at the Contractor.
    4. If the Dispute cannot be resolved pursuant to clause 19.3 it shall be referred to the Managing Director of Yorwaste and the equivalent officer at the Contractor.
    5. If the parties are unable to reach an agreement following the escalations referred to in clause 19.2 to 19.4, the Company and the Contractor shall submit the dispute to a neutral adviser appointed by agreement between them to assist them in resolving the dispute. Either party may give written notice to the other describing the nature of the dispute, requiring it to be submitted to such a neutral adviser and proposing the name of a suitable person to be appointed. If no such person is appointed by agreement within 14 days after such notice is given, or, if no such notice is given within 28 days after the dispute has arisen, either party may request the Centre for Dispute Resolution to appoint a neutral adviser acceptable to both parties.
    6. The parties shall, with the assistance of the neutral adviser appointed in accordance with clause 19.2 above, seek to resolve the dispute by using an alternative dispute resolution (in this clause ‘ADR’) procedure agreed between the parties or, in default of such agreement established by a mutual adviser.
    7. If the parties accept any recommendations made by the neutral adviser or otherwise reach agreement as to the resolution of the dispute, such agreement shall be recorded in writing and signed by the parties and, if applicable, the neutral adviser and it shall be binding upon both parties.
    8. If: -
       1. the dispute has not been resolved to the satisfaction of the parties within 60 days after the appointment of the neutral adviser; or
       2. either party fails or refuses to agree or participate in the ADR procedure; or
       3. in any event the dispute is not resolved within 90 days after it has arisen

then the dispute shall be resolved under clause 19.6 below.

* 1. Any dispute which is to be resolved under this clause shall be resolved by the decision of an expert whose decision shall, save as to manifest error, be final and binding on the parties. The expert shall be appointed by agreement between the parties or, if within ten days after the dispute fails to be resolved, the parties have been unable to agree then on application of either of the parties to the President for the time being of the Chartered Institute of Arbitrators.
  2. Any costs and fees incurred by the parties which are not met in accordance with an agreement reached through the ADR procedure or in accordance with a decision reached by the expert under clause 19.6 above shall be borne by the parties by whom they were incurred.

1. Termination
   1. If the Contractor:-
      1. has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this Call Off Contract or any other contract with the Company; or
      2. has committed an offence under the Bribery Act 2010; or
      3. becomes bankrupt; or
      4. has a receiving order made against it; or
      5. presents its petition in bankruptcy; or
      6. is subject to a winding up order; or
      7. has a receiver appointed; or
      8. At any time during the contract period is convicted of any offence referred to in Regulation 57(1) of the Public Contracts Regulations 2015 or if an event occurs which would have entitled the Company to treat the Contractor as ineligible for selection under Regulation 57(8), or
      9. is in persistent and/or material breach of contract (by failure to achieve the Contract Standards or otherwise); or
      10. changes its composition on staffing so as seriously to affect its ability to provide the Service; or

the Company may terminate the Call Off Contract immediately and recover its losses resulting from such termination under clause 20.3 below.

* 1. The Company has relied on the information provided by the Contractor contained in the Tender and any material misrepresentation contained in the Tender shall entitle the Company to rescind or terminate this Call Off Contract at its option.
  2. If the Call Off Contract is terminated or rescinded under clause 20.1 or 20.2, the Company shall:
     1. cease to be under any obligation to pay the Contract Charges until the costs of the termination have been calculated and provided such calculation then shows an amount due to the Contractor;
     2. be entitled to reoccupy any premises and any other resources licensed or leased to the Contractor in connection with the Call Off Contract;
     3. be entitled to use an alternative contractor to provide the Service or to provide it itself;
     4. be entitled, in respect of any costs directly resulting from the termination of the Call Off Contract, to deduct them from any amount which would have been due to the Contractor under this or any other contract with the Contractor or to recover them from the Contractor as a debt. Such costs shall include the reasonable costs of the Company in terminating the Call Off Contract and making alternative arrangements for the Service;
     5. when the total costs, resulting from the termination of the Call Off Contract have been calculated and after taking into account any deduction made by the Company from any sum which would (but for (a) above) have been due to the Contractor, be entitled to any balance due to the Company which shall be recoverable as a debt, or alternatively the Company, subject to clause 21, shall pay to the Contractor any balance due.
  3. The rights of the Company under clause 20 are in addition to and without prejudice to any other rights or remedies the Company may have whether against the Contractor directly or pursuant to any guarantee or indemnity.

1. Recovery of Sums Due to the Company
   1. If any amount is payable by the Contractor to the Company they may be deducted from the Contract Charges or any amount payable under any other contract with the Company.
2. Notices
   1. Notices under the Call Off Contract must be in writing and may be served by either fax, personal delivery or recorded delivery to the addresses referred to in the Call Off Contract.
3. Waiver
   1. Failure by the Company to enforce the provisions of the Call Off Contract shall not be construed as a waiver of or as creating an estoppel in connection with any such provision and shall not affect the validity of the Call Off Contract or the right of the Company to enforce any provision in the Call Off Contract.
4. Default
   1. If the Contractor has defaulted in the provision of the Service (whether through failure to adhere to the Contract Standards or otherwise) and the Company has either suffered a direct loss in consequence and/or the reputation of the Company has been, or is likely to be, adversely affected then the Company may, without prejudice to any other remedy available to it, either:
      1. make such deduction from the Contract Charges(if payable) as the Company may reasonably determine by way of compensation; or
      2. without terminating the Call Off Contract itself provide or arrange for the provision of the Service or any part of it until such time as the Contractor has satisfied the Company that the Contractor is able to provide the Service or the relevant part of it to the Contract Standard and during such period the Contractor's provision of the Service in whole or in part shall be suspended; or
      3. without terminating the whole of the Call Off Contract determine the Call Off Contract in respect of part of the Service and provide or arrange to be provided such part of the Service itself or by a third party; or
      4. determine the whole Call Off Contract.
   2. The Company may charge the Contractor any cost reasonably incurred by it together with any reasonable administration costs in respect of the provision of the Service in whole or in part by itself or by a third party to the extent that such costs exceed the relevant Contract Charges.
   3. Where the failure to reach the Contract Standard is capable of remedy by the Contractor then the Company may require the Contractor at its own cost to remedy the failure and for the avoidance of doubt a failure to perform includes a failure to remedy.
5. Complaints Procedure
   1. The Contractor shall: -
      1. draw up a complaints procedure.
      2. operate it from the beginning of the Contract Period.
      3. at the Company’s request provide a copy to it.
   2. The complaints procedure must either: -
      1. be approved by the Company (and the Company will not be unreasonable or delay in giving its approval); or
      2. comply with the requirements of any regulatory body to which the Contractor is subject including any change in such requirements.
   3. At the Company’s reasonable request the Contractor shall supply it with a copy of the Contractor’s records relating to complaints made in relation to the Service and the Contractor’s response.
6. DBS Checking
   1. The Contractor shall carry out all necessary checks with the Disclosure and Barring Service on all staff employed or (if any) volunteers engaged to provide or supervise the provision of the Service if this is a statutory requirement.
7. Sustainability
   1. In providing the Services the Contractor shall meet the sustainability requirements set out in the Specification.
   2. The Contractor shall comply with the provisions of its environmental policy in relation to the provisions of the Service.
   3. The Company shall monitor compliance with this clause and the provisions of clause 4.4 will apply.
   4. Throughout the Contract Period the Contractor shall make all reasonable endeavours to reduce any negative impact on the environment caused by the Service. If during the Contract Period the Contractor wishes to change any of the materials, technologies or working practices used in connection with the Service, the Contractor must notify the Company detailing the changes, any possible impact on the Contract Charges or the Contract Standards and must also include an evaluation of the environmental impact of the proposed changes. If the Company agrees to the variation the Contractor shall implement the changes in accordance with the Variation clause. The application must define the proposed changes, indicate the impact on the Contract Charges or the Contract Standards and must contain an evaluation of the environmental impact of the proposed changes. If the Company agrees to the variation the Contractor shall be free to implement the proposed changes.
8. Monitoring of Call Off Contract Performance
   1. The Contractor shall comply with the monitoring arrangements set out in this clause 29 including, but not limited to, providing such data and information as the Contractor may be required to produce under this Call Off Contract.
   2. Within 20 working days of the Commencement Date the Contractor shall provide the Company with details of the system that it will implement in order to monitor and report on KPI performance ("Performance Monitoring System") and the Parties will endeavour to agree such process as soon as reasonably possible. The Contractor agrees that, as a minimum the reports generated as part of the Performance Monitoring System ("Performance Monitoring Reports”) shall contain, as a minimum, the following information in respect of the relevant period just ended:
      1. for each KPI, the actual performance achieved over the KPI for the relevant period;
      2. a summary of all failures to achieve KPI’s that occurred during that period;
      3. for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence; and
      4. such other details as the Company may reasonably require from time to time.
   3. Once agreed, the Contractor shall comply with the Performance Monitoring System.
   4. The Performance Monitoring Reports shall be submitted by the Contractor at such time and in such form as may be specified or as otherwise agreed between the Parties.

* 1. The submission and receipt of the Performance Monitoring Reports shall not prejudice the rights of either Party under the Call Off Contract.
  2. The Parties shall attend meetings to discuss KPI reports ("Performance Review Meetings") on a quarterly basis throughout the Contract Period or at a frequency to be agreed between the Parties. The Performance Review Meetings will be the forum for the review by the Contractor and the Company of the Performance Monitoring Reports. The Performance Review Meetings shall (unless otherwise agreed):
     1. take place within one (1) week of the Performance Monitoring Reports being issued by the Contractor;
     2. take place at such location and time (within normal business hours) as the Company shall reasonably require unless otherwise agreed in advance;
     3. be attended by the Contract Manager and the Company Representative; and
     4. be fully minuted by the Contractor. The prepared minutes will be circulated by the Contractor to all attendees at the relevant meeting and also to the Company's representative and any other recipients agreed at the relevant meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Contract Manager and the Company Representative at each meeting.
  3. The Company shall be entitled to raise any additional questions and/or request any further information regarding any failure to achieve the KPI’s.
  4. The Contractor shall provide to the Company such supporting documentation as the Company may reasonably require in order to verify the level of the performance by the Contractor.
  5. The Contractor shall meet with the Company following completion of significant elements of the Services (including, but not limited to, specific projects) to discuss whether the Parties' objectives were met, whether anticipated benefits had been achieved and to identify any lessons learned for future projects.

**APPENDIX 1**

**SPECIAL CONDITIONS**

***[to be inserted upon the conduct of a further competition in accordance with clause 6]***

1. See PCR 2015 regulations 71 (8)-(9) [↑](#footnote-ref-1)
2. See EU definition of SME <https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en> [↑](#footnote-ref-2)
3. UK companies, Societates European (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. [See PSC guidance](https://www.gov.uk/government/publications/guidance-to-the-people-with-significant-control-requirements-for-companies-and-limited-liability-partnerships). [↑](#footnote-ref-3)
4. Central Government contracting authorities should use this information to have the PSC information for the preferred supplier checked before award. [↑](#footnote-ref-4)
5. [See Action Note 8/16 Updated Standard Selection Questionnaire](https://www.gov.uk/government/collections/procurement-policy-notes) [↑](#footnote-ref-5)