Dated 2020

Waste Treatment and Disposable Waste Agreement

Between:

(1) Bournemouth, Christchurch and Poole Council and
(2) XXX

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DATE **2020**

PARTIES

(1) **Bournemouth Christchurch and Poole Council** of Town Hall, Bourne Avenue, Bournemouth BH2 ("**BCP**"); and

(2) **[●]** whose registered office is at **[●]** company number **[●]** (**Contractor**),

together the **Parties** and each a **Party**.

BACKGROUND

(A) BCP is the waste collection authority and waste disposal authority for the purposes of the Environmental Protection Act 1990. As such BCP has a statutory duty to make arrangements for the disposal and recycling of waste collected by, or on behalf of, BCP or delivered to its facilities.

(B) By an advertisement dated [● 2020] in the Supplement to the Official Journal of the European Union, BCP sought proposals for the provision of a waste disposal service and, following a selection process, BCP has selected the Contractor and the Contractor has agreed to provide such services on the terms set out below.

IT IS AGREED

PART 1: PRELIMINARY

1 DEFINITIONS AND INTERPRETATION

1.1 The provisions of Schedule 1 (Definitions and Interpretation) shall apply to the interpretation of this Contract.

1.2 Responsibility for Related Parties

Subject to the provisions of this Contract, the Contractor shall be responsible to BCP for the acts and omissions of the Contractor Related Parties as if they were the acts and omissions of the Contractor and BCP shall be responsible to the Contractor for the acts and omissions of BCP Related Parties as if they were the acts and omissions of BCP. The Contractor shall, as between itself and BCP, be responsible for the selection of and pricing by all Contractor Related Parties.

2 COMMENCEMENT AND DURATION

2.1 This Contract and the rights and obligations of the Parties shall take effect on the Commencement Date and shall continue until 23:59:59 on the earlier of:

2.1.1 the Expiry Date; or

2.1.2 the Termination Date.

2.2 BCP may elect (at its sole discretion) to extend the Expiry Date for a period or succession of consecutive periods (each to be not less than twelve (12)

months in duration) in total not exceeding three (3) years, on each occasion by giving not less than three (3) months' written notice to the Contractor.

3 PERFORMANCE SECURITY

3.1 [No later than the date which is five (5) Business Days before the Services Commencement Date, the Contractor shall procure the execution and delivery to BCP of a Bond in the sum of [*insert amount in words*] pounds sterling (£[●]) in favour of BCP to secure the due performance by the Contractor of its obligations to BCP and shall maintain the Bond for the first Contract Year.

3.2 On each anniversary of the Services Commencement Date, the Contractor shall procure the execution and delivery to BCP of a Bond in a sum to be notified to the Contractor by BCP which shall be no greater than ten per cent (10%) of the forecast Annual Services Payment in respect of the new Contract Year in favour of BCP to secure the due performance by the Contractor of its obligations to BCP and shall maintain the Bond for the relevant Contract Year.]

OR

3.3 No later than the date which is five (5) Business Days before the Services Commencement Date, the Contractor shall procure the execution and delivery to BCP of a Parent Company Guarantee to secure the due performance by the Contractor of its obligations to BCP.]

[***NOTE TO BIDDERS: the inclusion of either clause 3.1/3.2 or 3.3 will be dependent on the financial information received by BCP as part of the tender process – see Tender Guidance Document***]

3.4 Any breach of this clause 3 by the Contractor shall constitute a Contractor Default.

4 DUE DILIGENCE

4.1 Subject to clause 4.4, BCP makes no representation as to the accuracy or completeness of any information provided by or on behalf of BCP prior to the Commencement Date and shall accept no responsibility for any statement, representation or omission in any document or other instruction provided by BCP prior to the Commencement Date.

4.2 Subject to clause 4.4, the Contractor shall not in any way be relieved from any obligation under this Contract nor shall it be entitled to claim against BCP (whether for additional payment or otherwise) on grounds that any information, whether or not provided by or on behalf of BCP, is incorrect or insufficient and the Contractor shall make its own enquiries as to the accuracy and adequacy of that information.

4.3 Without prejudice to clauses 4.1 and 4.2, the Contractor shall be deemed to have satisfied itself as regards the means of communication with BCP, the nature of the Services, the conditions under which the Services may be carried out, the supply of and conditions affecting labour and generally is deemed to have obtained its own information on all matters affecting the

execution of the Services and the price of delivering of the Services (whether reflected in the Monthly Services Payment or otherwise).

4.4 Nothing in this clause 4 shall exclude any liability which BCP or any of its agents or employees would otherwise have to the Contractor in respect of any statements made fraudulently prior to the Commencement Date.

PART 2 THE SERVICES

5 PROVISION OF THE SERVICES

5.1 Environmental Permits

5.1.1 Without prejudice to clause 5.1.1, the Parties agree to take all reasonable steps and to cooperate with each other and the Environment Agency in order to procure that the Environmental Permit for each Facility is in place with effect from 00:00.00 on the Services Commencement Date. The obligation for the Contractor to obtain an Environmental Permit for each Facility shall be a condition precedent to commencement of the Services.

5.2 Obligation to provide

5.2.1 Without prejudice to clause 5.1 but subject to clause 5.3, the Contractor shall provide:

5.2.1.1 the Services with effect from the Services Commencement Date; and

5.2.1.2 any Additional Services.

5.2.2 The Contractor shall provide the Services to BCP in accordance with:

5.2.2.1 this Contract;

5.2.2.2 the Specifications;

5.2.2.3 the SDP;

5.2.2.4 all applicable Legislation;

5.2.2.5 all Planning Permissions and Necessary Consents; and

5.2.2.6 Good Industry Practice.

5.3 Save to the extent provided for in the Specifications, the Contractor acknowledges and agrees that nothing in this Contract shall be deemed to provide the Contractor with an exclusive right to:

5.3.1 perform or procure the performance of waste disposal on behalf of BCP; or

5.3.2 receive any particular proportion of the Contract Waste arising in the Administrative Area from BCP.

5.4 **Acceptance, rejection and processing of Waste**

5.4.1 Without prejudice to clause 5.2, the Contractor shall:

5.4.1.1 accept, in the manner prescribed in the Waste Acceptance Protocol, all Contract Waste which is delivered to a Delivery Point and which satisfies the Technical Requirements;

5.4.1.2 identify and segregate, in the manner prescribed in the Waste Acceptance Protocol, any Objectionable Waste and/or Prohibited Waste which is delivered to a Delivery Point;

5.4.1.3 perform any ancillary services in respect of Objectionable Waste and/or Prohibited Waste which are set out in the Technical Requirements;

5.4.1.4 procure the transportation of all Contract Waste which is accepted by the Contractor at a Delivery Point to a Treatment Facility or Disposal Facility;

5.4.1.5 procure the Treatment and/or Disposal of all Contract Waste at a Treatment Facility or Disposal Facility in the manner prescribed in the Specifications and the SDP; and

5.4.1.6 procure the Treatment and/or Disposal of all Treatment Residues at a Treatment Facility or Disposal Facility in the manner prescribed in the Specifications and the SDP.

5.4.2 The Parties acknowledge and agree that:

5.4.2.1 each load of Waste shall be assessed by the Contractor in accordance with the Waste Acceptance Protocol following acceptance of that Waste by the Contractor at a Delivery Point; and

5.4.2.2 if it is agreed or determined in accordance with the Waste Acceptance Protocol that more than the Threshold Percentage of the relevant load is Waste which is not the expected Material Category for that load, the entire vehicle load of Waste shall be deemed to be **Objectionable Waste** for the purposes of this Contract.

5.5 **Management of Contract Waste**

5.5.1 The Contractor shall ensure that fit and proper entities are used for:

5.5.1.1 the handling, haulage, Treatment and/or Disposal of Contract Waste (including final destinations for materials);

5.5.1.2 the handling, haulage, Treatment and/or Disposal of Objectionable Waste and/or Prohibited Waste; and

5.5.1.3 the handling, haulage, Treatment and/or Disposal of Treatment Residues (including final destinations for materials).

5.5.2 The Contractor shall use all reasonable endeavours to ensure no embarrassment or reputational damage to BCP results from any activity undertaken by the Contractor or a Contractor Related Party in connection with:

5.5.2.1 the handling, haulage, Treatment, Disposal and/or end of use of Contract Waste;

5.5.2.2 the handling, haulage, Treatment, Disposal and/or end use of Objectionable Waste and/or Prohibited Waste; or

5.5.2.3 the handling, haulage, Treatment, Disposal and/or end of use of Treatment Residues.

5.5.3 To the extent the Contractor has knowledge, or should have reasonably been expected to have such knowledge, that current or past hauliers, operators of Treatment Facilities or Disposal Facilities or other reprocessors of Contract Waste, Objectionable Waste, Prohibited Waste and/or Treatment Residues are under investigation by regulatory bodies (in the UK and/or overseas) for suspected illegal practices, it shall inform BCP immediately on becoming aware of such investigations.

5.6 **Service Scope Reductions**

5.6.1 The Contractor acknowledges and agrees that, pursuant to the Variation Procedure:

5.6.1.1 BCP shall be entitled to remove elements of the Services from the scope of this Contract (a **Service Scope Reduction**);

5.6.1.2 following any Service Scope Reduction, the Contractor shall have no right or obligation to perform those elements of the Services which have been removed from the scope of this Contract; and

5.6.1.3 the Contractor shall be entitled to receive compensation in respect of any reasonable and unavoidable breakage costs which result directly from a Service Scope Reduction but, otherwise, shall not be entitled to receive any compensation in connection with any

Service Scope Reduction (including in respect of loss of profit, risk premia or overheads).

5.7 **Additions to the Services**

The Contractor acknowledges and agrees that, pursuant to the Variation Procedure, BCP may seek to increase the scope of the Services.

6 MAINTENANCE OF THE FACILITIES

6.1 Obligation to Maintain Delivery Points

6.1.1 The Contractor shall ensure on a continuing basis that at all times during Services Period its maintenance and operating procedures set out in the SDP are sufficient to and do ensure that:

6.1.1.1 the Delivery Points are available;

6.1.1.2 the Delivery Points are operated in a safe and efficient manner in accordance with the Specifications;

6.1.1.3 without prejudice to clause 6.3, the Delivery Points are kept in good structural and working order in accordance with this Contract; and

6.1.1.4 the Contractor can deliver the Services in accordance with this Contract.

6.2 Surveys and Inspections

6.2.1 If BCP believes that the Contractor is in breach of its obligations under clause 6.1 (Obligation to Maintain Delivery Points), then it may carry out or procure the carrying out of a survey or inspection of any of the Delivery Points in accordance with this clause 6.2 to assess whether the relevant Delivery Point and associated Site has been and is being maintained by the Contractor in accordance with its obligations under clause 6.1 (Obligation to Maintain Delivery Points).

6.2.2 If a survey or inspection shows that the Contractor has not complied or is not complying with its obligations under clause 6.1 (Obligation to Maintain Delivery Points), the Contractor shall rectify the condition of the relevant Delivery Point and associated Site within the period specified by BCP (acting reasonably) and reimburse BCP for the cost of the survey or inspection and any administrative costs incurred by BCP in relation to the survey or inspection.

6.3 Planned Maintenance

During the Services Period, the Contractor shall undertake routine repair and maintenance of the Delivery Points in accordance with the Specifications and the SDP.

7 SECURITY

7.1 During the Services Period:

7.1.1 the Contractor shall be responsible for twenty four (24) hour security at the Delivery Points and shall employ such security measures as are required in the Specifications;

7.1.2 the Contractor shall keep a log of all security incidents at the Delivery Points and shall promptly notify BCP of any serious security incident which occurs at any of the Delivery Points; and

7.1.3 the Contractor shall co-operate fully with the police and other emergency services during the occurrence of any security incidents at the Delivery Points and/or during the course of any investigation of such incidents.

8 ENVIRONMENTAL ISSUES

8.1 Without prejudice to its obligations to comply with all applicable Legislation, the Contractor shall at all times during the Services Period comply with its duty of care under Section 34 of the Environmental Protection Act 1990.

8.2 The Contractor shall take all and any steps as are necessary to ensure that the impact of the Services upon the environment is adequately and sufficiently assessed, considered, supervised, controlled, monitored, mitigated and remedied as required by all appropriate enforcement agencies, Legislation and Good Industry Practice.

8.3 The Contractor shall use its reasonable endeavours to provide the Services in such a way as to minimise any actual or potential damage to the environment.

8.4 The Contractor shall carry out environmental monitoring of the Services in accordance with the Specifications on the basis proposed in the SDP and the results of such monitoring shall be provided to BCP in the Service Report pursuant to clause 15 (Service Report).

8.5 The Contractor shall promptly notify BCP of all circumstances which shall or might reasonably be regarded as a breach of this clause 8 and shall act at all times in good faith in respect of this clause 8.

9 OWNERSHIP OF WASTE

9.1 Subject to clause 9.2, as between BCP and the Contractor, ownership and risk in all Waste delivered to a Delivery Point by or on behalf of BCP shall transfer to the Contractor at the point in time at which such Contract Waste is delivered to the relevant Delivery Point and the Contractor shall take full responsibility for it.

9.2 In the event that:

9.2.1 the Contractor identifies and segregates any Objectionable Waste and/or Prohibited Waste delivered to a Delivery Point in

circumstances where BCP has agreed to procure the removal such Objectionable Waste and/or Prohibited Waste from the relevant Delivery Point, ownership and risk in such Objectionable Waste and/or Prohibited Waste shall transfer back to BCP at the point in time at which such Objectionable Waste and/or Prohibited Waste is placed onto the vehicle made available by BCP;

9.2.2 the Contractor identifies and segregates any Objectionable Waste and/or Prohibited Waste delivered to a Delivery Point in circumstances where the Contractor is required to transport such Objectionable Waste and/or Prohibited Waste to a site designated by BCP, ownership and risk in such Objectionable Waste and/or Prohibited Waste shall transfer back to BCP at the point in time at which such Objectionable Waste and/or Prohibited Waste is delivered to the site designated by BCP; or

9.2.3 the Contractor identifies and segregates any Objectionable Waste and/or Prohibited Waste delivered to a Delivery Point in circumstances where the Contractor is required to dispose of such Objectionable Waste and/or Prohibited Waste on behalf of BCP, ownership and risk in such Objectionable Waste and/or Prohibited Waste shall transfer to the Contractor in accordance with clause 9.1.

10 EMERGENCIES

10.1 If an Emergency arises during the Contract Period (and whether or not an Emergency has arisen shall be determined in the case of any dispute by BCP's Representative acting reasonably) which cannot be dealt with by performance of the Services, BCP may issue a Stop Notice to cover the period of Emergency on the Contractor to:

10.1.1 suspend delivery of Waste to any Delivery Point;

10.1.2 remove all or part of the Services from this Contract; or

10.1.3 require the Contractor to use its best endeavours to procure that such additional or alternative services are undertaken by the Contractor as and when required by BCP to ensure that the Emergency is dealt with and normal operation of the relevant Delivery Point is resumed as soon as is reasonably practicable.

10.2 The proper cost incurred by the Contractor of any additional or alternative services provided to BCP under clause 10.1.3 shall be borne by BCP and paid in accordance with clause 21 (Monthly Services Payment), except where the Emergency arises from the act or omission, breach, neglect or default of the Contractor or any Contractor Related Party in which case any associated costs shall be borne by the Contractor.

10.3 As soon as reasonably practicable following the point in time at which BCP becomes aware that the relevant Emergency has ceased or will cease, BCP will notify the Contractor in writing of the date on which the Services are to recommence (such date to be not less than 1 day following the date of

BCP's notice) and the Contractor shall ensure that the Services shall recommence on that date.

11 CONTINUOUS IMPROVEMENT

11.1 The Contractor acknowledges that BCP is subject to the Best Value Duty.

11.2 The Contractor shall, but only to the extent of its obligations in this Contract, make arrangements to secure continuous improvement in the way in which the Services are provided, having regard to a combination of economy, efficiency and effectiveness.

11.3 The Contractor shall undertake such actions as BCP shall reasonably request to enable BCP to comply with part 1 of the Local Government Act 1999, including:

11.3.1 supporting and assisting BCP in conducting Best Value Reviews in relation to the Services;

11.3.2 complying with requests for information, data or other assistance made by BCP in pursuance of its Best Value Duty; and

11.3.3 permitting any officer, agent or employee of any competent authority empowered to inspect BCP’s compliance with part 1 of the Local Government Act 1999, in connection with the exercise of his statutory powers and duties, at all reasonable times and upon reasonable notice, access to the Facilities and any document or data relating to the Services.

PART 3 PERFORMANCE MONITORING AND RECORDS

12 PERFORMANCE MONITORING

12.1 The Contractor shall monitor its performance in the delivery of the Services in accordance with Specifications, the SDP and the Performance Framework. In particular, the Contractor shall perform such monitoring as may be required in order to enable the Contractor to develop and submit the Service Reports to be provided pursuant to clause 15 (Service Report).

12.2 BCP may elect, at its own cost, to undertake its own performance monitoring at any stage during the Services Period for any purpose, including in order to ensure that:

12.2.1 the Services are being provided in accordance with this Contract; and/or

12.2.2 any information submitted by the Contractor to BCP (including the information contained in the Service Reports) is accurate.

12.3 The Contractor shall use its reasonable endeavours to assist BCP in undertaking performance monitoring activities under clause 12.2.

12.4 BCP shall be entitled to notify the Contractor of the outcome of the performance monitoring activities undertaken under clause 12.2 and the Contractor shall respond to and, where required by BCP, take action to address BCP's comments in relation to the future provision of the Services.

13 INSPECTION

13.1 Right of Inspection

The Contractor shall procure that BCP or any representative or adviser of BCP shall have, at all reasonable times, the right (but not so as to delay or impede the provisions of the Services) to enter any of the Facilities in order to inspect the state and progress of the Services and to monitor compliance by the Contractor with its obligations under this Contract (including for the purposes of performance monitoring in accordance with clause 12.2 (Performance Monitoring)).

13.2 Contractor’s Assistance

The Contractor shall procure that satisfactory welfare facilities are made available to BCP and any representative of BCP and that reasonable assistance is given for the purposes of clause 13.1 (Right of Inspection), subject to the provision of the Services not being adversely affected.

13.3 Supply of Information

The Contractor shall supply to BCP and any representative or adviser of BCP visiting any of the Facilities pursuant to clause 13.1 (Right of Inspection) such information in respect of the Services as may reasonably be required.

13.4 **Damage**

If BCP or its representative causes material damage to any of the Facilities in exercising any right under clause 13.1 (Right of Inspection), then BCP shall be liable to the Contractor for the reasonable costs incurred by the Contractor in rectifying such damage (provided that the Contractor uses reasonable endeavours to mitigate such costs).

14 RECORDS AND AUDIT

14.1 **Records** The Contractor shall provide to BCP's Representative all information, documents, records and the like in the possession of, or available to, the Contractor (and to this end the Contractor shall use all reasonable endeavours to procure that all such items in the possession of the Contractor or any Contractor Related Party shall be available to BCP's Representative and the Contractor has included, or shall include, relevant terms in all contracts with Contractor Related Parties to this effect) as may be reasonably requested by BCP's Representative for any purposes in connection with this Contract.

14.2 **Audit**

14.2.1 Any relevant competent authority (including any successor body to the Audit Commission) may examine such documents as he/she or it may reasonably require which are owned, held or otherwise within the control of the Contractor and any Contractor Related Party and may require the Contractor and any Contractor Related Party to produce such oral or written explanations as he/she or it considers necessary for the purposes of:

14.2.1.1 the examination and certification of BCP's accounts;

14.2.1.2 the Local Audit and Accountability Act 2014 (and any other Legislation relating to the inspection, examination and auditing of BCP's accounts); and/or

14.2.1.3 an examination pursuant to the Local Government Act 1999 of the economy, efficiency and effectiveness with which BCP has performed its functions.

15 SERVICE REPORT

15.1 The Contractor shall provide to BCP a service report (the **Service Report**) within five (5) Business Days of the end of each month which commences during the Services Period in electronic form in the format specified in the Core Specification or as otherwise notified by BCP's Representative from time to time (acting reasonably) and any other reporting requirements set out in the Core Specification.

15.2 Each Service Report shall include the information prescribed by the Core Specification in respect of the immediately preceding month.

PART 4 PROPERTY ISSUES

16 FACILITIES

16.1 The Contractor shall be responsible for providing all Facilities.

16.2 The Contractor shall:

16.2.1 obtain and maintain any Necessary Consents to use the Facilities for the Services;

16.2.2 ensure that the Delivery Points are available during the Services Period or such shorter term as the Parties may agree in writing;

16.2.3 be responsible for the payment of all fees, charges, rates and all other outgoings or expenses (including, but not limited to all Environmental Liability) in relation to the Facilities;

16.2.4 operate, keep in repair and maintain the Facilities in accordance with all Legislation and Good Industry Practice;

16.2.5 be solely responsible for the condition of the Facilities;

16.2.6 insure the Facilities in accordance clause 27 (Insurance); and

16.2.7 ensure that it possesses such property rights (whether via a freehold interest, leasehold interest or licence) as may be required to enable it to lawfully occupy and operate each Site.

17 PLANNING PERMISSIONS AND NECESSARY CONSENTS

17.1 Subject to clause 5.1 (Mobilisation and Environmental Permits), the Contractor shall comply with and maintain all Planning Permissions and Necessary Consents required or necessary to provide the Services in accordance with this Contract.

17.2 With effect from Services Commencement Date, the Contractor shall and shall procure that all Contractor Related Parties shall:

17.2.1 comply with the conditions and requirements attached to all Planning Permissions and Necessary Consents;

17.2.2 take all reasonable steps to ensure that none of the Planning Permissions or Necessary Consents are revoked and that all Planning Permissions and Necessary Consents continue in full force and effect;

17.2.3 notify BCP immediately of any complaints, investigative procedures or enforcement notices received by the Contractor relating in any way to the Facilities and supply a copy of every such notice to BCP within five (5) Business Days after the receipt of the same; and

17.2.4 notify BCP promptly of any notices received relating in any way to any Planning Permission or Necessary Consent and shall provide a

copy of any such notice within two (2) Business Days of receipt of the same to BCP by email and by post.

PART 5 EMPLOYMENT MATTERS

18 EMPLOYMENT MATTERS

18.1 No Employee Transfer

BCP and the Contractor agree that there are no individuals presently employed by BCP whose contracts of employment will, by virtue of the transfer to the Contractor of responsibility for the provision of any part of the Services in accordance with this Contract and in accordance with TUPE, have effect after the Services Commencement Date as if originally made between those persons and the Contractor.

18.2 Exit Provisions

It is acknowledged by the Parties that a Relevant Transfer may occur upon the Contractor (or any Contractor Related Party) ceasing to provide the Services or any part of the Services upon expiry or termination of this Contract (a **Service Transfer**). It is agreed that the following provisions of this clause 18.2 shall apply in relation to each Service Transfer which amounts to a Relevant Transfer:

18.2.1 The Contractor agrees that, within fourteen (14) days of the earliest of:

18.2.1.1 receipt of a notification from BCP of a Service Transfer or intended Service Transfer;

18.2.1.2 receipt or the giving of notice of early termination of this Contract or any part thereof; or

18.2.1.3 the date which is twelve (12) months before the Expiry Date, and, in any event, on receipt of a written request of BCP at any time,

it shall provide the Contractor's Provisional Personnel List and the Personnel Information to BCP or, at the direction of BCP, to a New Contractor and it shall provide an updated Contractor's Provisional Personnel List when reasonably requested by BCP or any New Contractor.

18.2.2 At least twenty eight (28) days before the Service Transfer Date, the Contractor shall prepare and provide to BCP and/or, at the direction of BCP, to the New Contractor, the Contractor's Final Personnel List, which shall be complete and accurate in all material respects. The Contractor's Final Personnel List shall identify which of the Personnel named are Transferring Employees.

18.2.3 BCP shall be permitted to use and disclose the Contractor's Provisional Personnel List, the Contractor's Final Personnel List

and the Personnel Information for informing any tenderer or other prospective New Contractor for any services which are substantially the same type of services (or any part thereof) as the Services.

18.2.4 On reasonable request by BCP the Contractor shall provide BCP or at the request of BCP, the New Contractor, with access (on reasonable notice and during normal working hours) to such employment records (and provide copies) as BCP reasonably requests.

18.2.5 The Contractor warrants that the Contractor's Provisional Personnel List, the Contractor's Final Personnel List and the Personnel Information will be true and accurate in all material respects.

18.2.6 From the date of the earliest event referred to in clause 18.2.1 above, the Contractor agrees that it shall not without the prior written consent of BCP, assign any person to the provision of the Services (or the relevant part which is the subject of a Service Transfer) who is not listed in the Contractor's Provisional Personnel List and shall not without the prior written consent of BCP (such consent not to be unreasonably withheld or delayed):

18.2.6.1 increase the total number of employees listed on the Contractor's Provisional Personnel List save for fulfilling assignments and projects previously scheduled and agreed with BCP;

18.2.6.2 make, propose or permit any changes to the terms and conditions of employment of any employees listed on the Contractor's Provisional Personnel List;

18.2.6.3 increase the proportion of working time spent on the Services (or the relevant part) by any of the Personnel save for fulfilling assignments and projects previously scheduled and agreed with BCP;

18.2.6.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Contractor's Provisional Personnel List; and/or

18.2.6.5 replace any of the Personnel listed on the Contractor's Provisional Personnel List or deploy any other person to perform the Services (or the relevant part) or increase the number of employees or terminate or give notice to terminate the employment or contracts of any persons on the Contractor's Provisional Personnel List.

18.2.7 The Contractor will promptly notify BCP or, at the direction of BCP, the New Contractor of any notice to terminate employment

received from any persons listed on the Contractor's Provisional Personnel List regardless of when such notice takes effect.

18.2.8 At least twenty eight (28) days before the expected Service Transfer Date, the Contractor shall provide to BCP or any New Contractor, in respect of each person on the Contractor's Final Personnel List who is a Transferring Employee, their:

18.2.8.1 pay slip data for the most recent month;

18.2.8.2 cumulative pay for tax and pension purposes;

18.2.8.3 cumulative tax paid;

18.2.8.4 tax code;

18.2.8.5 voluntary deductions from pay; and

18.2.8.6 bank or building society account details for payroll purposes.

18.2.9 In connection with a Service Transfer which is a Relevant Transfer, the Parties agree that the Contractor shall perform and discharge all its obligations in respect of all the Transferring Employees and their representatives for its own account up to and including the Service Transfer Date. The Contractor shall indemnify BCP and any New Contractor in full for and against all Direct Losses and Indirect Losses whatsoever and howsoever arising, incurred or suffered by BCP or any New Contractor including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to:

18.2.9.1 the Contractor's failure to perform and discharge any such obligation;

18.2.9.2 any act or omission by the Contractor or any Contractor Related Party on or before the Service Transfer Date or any other matter, event or circumstance occurring before the Service Transfer Date;

18.2.9.3 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contributions and otherwise) payable in respect of any period on or before the Service Transfer Date;

18.2.9.4 any claim arising out of the provision of, or proposal by the Contractor to offer any change to any benefit, term or condition or working condition of any Transferring Employee arising on or before the Service Transfer Date;

18.2.9.5 any claim made by or in respect of any person employed or formerly employed by the Contractor or any Contractor Related Party other than a Transferring Employee for which it is alleged BCP or any New Contractor may be liable by virtue of this Contract and/or TUPE;

18.2.9.6 any act or omission of the Contractor in relation to its obligations under regulation 11 of TUPE, or in respect of an award of compensation under regulation 12 of TUPE except to the extent that the liability arises from BCP or New Contractor's failure to comply with regulation 11 of TUPE; and

18.2.9.7 any statement communicated to or action done by the Contractor or any Contractor Related Party in respect of any Transferring Employee on or before the Service Transfer Date regarding the Service Transfer which has not been agreed in advance with BCP in writing.

18.2.10 The Contractor shall indemnify BCP and any New Contractor in respect of any claims arising from any act or omission of the Contractor or any Contractor Related Party in relation to any other member of Personnel who is not a Transferring Employee during any period whether before, on or after the Service Transfer Date.

18.2.11 BCP shall indemnify the Contractor against all claims arising from BCP's or the New Contractor's failure to perform and discharge any obligation and against any claims in respect of any Transferring Employees arising from or as a result of:

18.2.11.1 any act or omission by BCP or the New Contractor relating to a Transferring Employee occurring on or after the Service Transfer Date; and

18.2.11.2 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contribution and otherwise) accrued and payable after the Service Transfer Date.

18.2.12 The Parties shall co-operate to ensure that any requirement to inform and consult employee representatives in relation to any relevant transfer as a consequence of a Service Transfer will be fulfilled. The Contractor agrees that it will consent to, and co-operate with, pre-transfer consultation by any New Contractor under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992.

18.2.13 Each party (the **notifying party**) shall promptly notify the other party (the **indemnifying party**) in writing of any claims in respect of which the notifying party may be entitled to claim indemnity under this clause 18 and the notifying party shall not settle any such

claims without prior written authority from the indemnifying party (which shall not be unreasonably withheld or delayed) and, if the indemnifying party shall so request in writing, the notifying party shall entrust to the indemnifying party the care and conduct of contesting any such claim.

18.2.14 BCP shall assume (or shall procure that the New Contractor shall assume) the outstanding obligations of the Contractor in relation to any Transferring Employees in respect of accrued holiday entitlements and accrued holiday remuneration before the Service Transfer Date.

18.2.15 The Parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to clauses 18.2.1 to 18.2.14 of this Contract to the extent necessary to ensure that any New Contractor shall have the right to enforce the obligations owed to, and indemnities given to, the New Contractor by the Contractor or BCP to the Contractor under clauses 18.2.1 to 18.2.14 in its own right pursuant to section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

18.2.16 Notwithstanding clause 18.2.15, BCP and the Contractor do not require the consent of the New Contractor to terminate or vary this Contract at any time, even if that termination or variation affects the benefits conferred on such New Contractor.

18.2.17 In the event of a Service Transfer which is not a Relevant Transfer and to which TUPE does not apply, the following provisions shall apply:

18.2.17.1 BCP or the New Contractor can, at its discretion, make to any of the Personnel listed on the Contractor's Provisional Personnel List or any other member of Personnel assigned to the Services an offer, in writing, to employ or engage the relevant individual under a new contractual arrangement to take effect at the earliest reasonable opportunity;

18.2.17.2 when the offer has been made by BCP or New Contractor and accepted by a member of the Personnel, the Contractor shall permit the relevant individual to leave his or her employment or engagement as soon as practicable depending on the business needs of the Contractor, which could be without the individual having worked his or her full notice period if the individual so requests and where operational obligations allow;

18.2.17.3 if the relevant member of the Personnel does not accept an offer of employment or engagement made by BCP or New Contractor, the individual shall remain employed or engaged by the Contractor or the relevant Contractor Related Party and all claims in relation to the individual shall remain with the Contractor or relevant Contractor Related Party; and

18.2.17.4 if BCP or the New Contractor does not make an offer to any of the Personnel on the Contractor's Provisional Personnel List or any other member of Personnel, then any such individual and all claims in relation to that individual remains with the Contractor or relevant Contractor Related Party.

19 SUITABILITY OF EMPLOYEES

19.1 Skills and training

19.1.1 Without prejudice to the requirements of the Core Specification:

19.1.1.1 the Contractor shall (and shall procure that any Contractor Related Parties shall) procure that only such Personnel who are skilled and experienced and have such qualifications and training as may be required by Legislation are employed or engaged in the provision of the Services; and

19.1.1.2 the Contractor shall (and shall procure that any Contractor Related Parties shall) procure that all Personnel engaged in the provision of the Services are at all times properly and adequately trained, notified and instructed with regard to the duties of their job, all relevant health and safety rules, fire risks and fire precautions and any other statutory or mandatory requirements.

19.2 Conduct of Employees

19.2.1 The Contractor shall (and shall procure that any Contractor Related Parties shall):

19.2.1.1 comply with any reasonable requirements specified by BCP from time to time relating to the conduct of staff and security arrangements and shall ensure that Personnel do likewise; and

19.2.1.2 with effect from the Services Commencement Date, comply with such rules, regulations and requirements relating to the conduct of Personnel (including those in respect of security arrangements) as may be made and enforced by BCP from time to time (acting reasonably).

19.2.2 The Contractor shall take and/or procure appropriate disciplinary action against any Personnel or Contractor Related Parties who transgress any Legislation, rules, regulations and requirements (which may include the removal from the provision of the Services of any such person).

19.3 **Removal of Personnel**

The Contractor shall comply with and/or procure compliance with any notice issued by BCP from time to time requiring the removal from any of the Services of any member of the Personnel who in the opinion of BCP (which it shall not be required to explain or disclose to the Contractor) is engaging or has engaged in conduct which is detrimental to the reputation of BCP and the Contractor shall further procure that such persons shall not be engaged again in connection with the provision of the Services without the written consent of BCP.

19.4 **Contractor's Employees**

Other than as expressly provided in this Contract, the Contractor shall be entirely responsible for all of the costs and obligations in respect of the employment and conditions of service of the Personnel and shall procure that any Contractor Related Party is likewise responsible for its employees and other Personnel.

20 EQUAL OPPORTUNITIES, HUMAN RIGHTS ACT 1998 AND MODERN SLAVERY

ACT 2015

20.1 The Contractor shall comply with the Equality Act 2010 and any other legislation or binding guidance relating to equality and non-discrimination. The Contractor shall adopt a policy to comply with its statutory obligations relating to equality and nondiscrimination and, accordingly, will not treat one group of people less favourably than others because of any protected characteristic (for example, their age, disability, gender reassignment, marriage or civil partnership status, pregnancy and maternity status, race, religion or belief, sex or sexual orientation) in relation to decisions to recruit, train, promote, discipline or dismiss its personnel.

20.2 In the event of any finding of unlawful racial discrimination being made against the Contractor by any court or employment tribunal, or of any adverse finding in any formal investigation by the Equality and Human Rights Commission, the Contractor shall inform BCP of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.

20.3 The Contractor shall, on request, provide BCP with details of any steps taken under clause 20.2.

20.4 The Contractor shall set out its policy on equal opportunities in:

20.4.1 instructions to those concerned with recruitment, training and promotion;

20.4.2 documents available to its personnel, recognised trade unions or other representative groups of its personnel; and

20.4.3 recruitment advertisements and other literature.

20.5 The Contractor shall procure that any Contractor Related Party which employs or engages Personnel in connection with the delivery of the Services complies with the obligations set out in this clause 20.

20.6 In the performance of the Services the Contractor shall comply with the Human Rights Act 1998 (**HRA**) as if it was a "Public Authority" within the meaning of the HRA and where necessary, the Contractor shall comply with any instructions of BCP to make modifications to this Contract to enable the Parties to comply with such obligations. The Contractor shall not in any way cause BCP to breach the HRA.

20.7 The Contractor undertakes, warrants and represents that neither the Contractor nor any of its Employees, agents or Sub-Contractors:

20.7.1 has committed an offence under the Modern Slavery Act 2015 (a **MSA Offence**);

20.7.2 has been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or

20.7.3 is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015.

20.8 The Contractor shall comply with the Modern Slavery Act 2015 at all times (and procure the compliance of its Sub-Contractors and Employees).

20.9 The Contractor warrants that its responses to any modern slavery and human trafficking due diligence questionnaire issued to it by BCP are and will at all times be complete and accurate.

20.10 The Contractor shall notify BCP immediately in writing if it becomes aware or has reason to believe that it or any of its Employees, agents or Sub-Contractors have breached or potentially breached any of the Contractor's obligations under this clause 20.7 or committed a MSA Offence. Such notice shall set out full details of the circumstances concerning the breach or potential breach of the Contractor's obligations or the Modern Slavery Act 2015.

20.11 Any breach of any of clauses 20.6 to 20.10 by the Contractor shall be deemed a material breach of the Contract and shall entitle BCP to terminate the Contract in accordance with clause 30 (Termination for Contractor Default).

PART 6 PAYMENT

21 MONTHLY SERVICES PAYMENT

21.1 In consideration for receiving the Services from the Contractor, BCP shall pay the Monthly Services Payment to the Contractor.

21.2 The Monthly Services Payment shall be calculated in accordance with Schedule 4 (Payment Mechanism) and shall become due and payable on a

monthly basis within thirty (30) days of receipt by BCP of a valid invoice in accordance with clause 22 (Invoices).

21.3 The Contractor shall be responsible for payment of National Non-Domestic Rates, consents to discharge under the Environmental Permitting (England and Wales) Regulations 2010 and trade effluent agreements under the Water Industry Act 1991 and the Contractor shall be responsible for payment of all other taxes, levies and/or charges arising in relation to this Contract (including those arising in respect of or pursuant to any Necessary Consent or Planning Permission).

22 INVOICES

22.1 The Contractor shall submit a single invoice to BCP in arrears within five (5) Business Days of the end of each month which commences during the Services Period.

22.2 Each invoice shall contain:

22.2.1 the Contractor's name and contact address;

22.2.2 a purchase order number;

22.2.3 the invoicing period to which the invoice relates; and

22.2.4 the Contractor's registration details for VAT purposes.

22.3 The Contractor must ensure that the invoice includes (in each case in respect of the relevant month) details of:

22.3.1 each of the Component Payments which form part of the Monthly Services Payment, as specified in Schedule 4 (Payment Mechanism), together with the underlying calculations;

22.3.2 each of the adjustments which form part of the Monthly Services Payment, together with the underlying calculations; and

22.3.3 the total sum due to the Contractor in respect of the relevant

month, in the form reasonably specified by BCP from time to time.

22.4 Each invoice shall be accompanied by the Service Report for the corresponding month in accordance with clause 15 (Service Report).

22.5 Invoices are payable within thirty (30) days from the date of receipt by BCP of a valid invoice in accordance with Part 6 (Payment) of this Contract.

22.6 Disputed invoices will be dealt with in accordance with the Dispute Resolution Procedure.

23 INTEREST ON LATE PAYMENT

In the event that any sum properly due by either party to the other party under this Contract becomes overdue, the party at fault shall pay such overdue amount to the other party as soon as reasonably practicable,

together with interest on that amount calculated on a daily basis at the Interest Rate until all relevant monies have been paid in full, whether before or after judgment.

24 SET OFF AND VAT

24.1 Set Off

24.1.1 The Contractor shall not be entitled to retain or set off any amount due to BCP by it.

24.1.2 BCP may retain or set off any amount owed to it by the Contractor under this Contract which has fallen due and payable against any amount due to the Contractor under this Contract.

24.2 VAT

24.2.1 VAT, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

24.2.2 Any invoice or other request for payment of monies due to the Contractor under this Contract, shall, if it is a taxable person, be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the Value Added Tax Act 1994.

24.2.3 The Contractor shall, if so requested by BCP, furnish such information as may reasonably be required by BCP as to the amount of VAT chargeable on the value of the Services and payable by BCP to the Contractor in addition to the Monthly Services Payment. Any overpayments by BCP to the Contractor shall be a sum of money recoverable from the Contractor on demand for the purposes of this Contract.

PART 7 INDEMNITIES, LIABILITY AND INSURANCE

25 CONTRACTOR INDEMNITY

25.1 The Contractor indemnifies and keeps indemnified BCP against all Direct Losses whatsoever arising out of, in respect of or in connection with the provision of the Services or this Contract during the Contract Period other than where the same is caused by or arises from the negligence, breach of this Contract, breach of statutory duty, breach of Legislation or other wrongful act or omission of BCP.

25.2 The Contractor indemnifies and keeps indemnified BCP against all Direct Losses (including additional costs) which have been or will be incurred or suffered by BCP in connection with the implementation of the Delivery Point Contingency
Plan, the TD Facilities Contingency Plan or any other contingency arrangement. The Contractor acknowledges and agrees that BCP shall be entitled to claim and recover any additional haulage costs which it incurs as a result of the implementation of the Delivery Point Contingency Plan, the TD

Facilities Contingency Plan or any other contingency arrangement pursuant to the indemnity set out in this clause 25.2. BCP shall be entitled to submit an invoice in respect of any indemnity claim pursuant this clause 25.2 at any time and Contractor shall (subject to clause 22.6) pay the amount specified in any such invoice within thirty (30) days of receipt.

26 LIMITATIONS OF LIABILITY

26.1 Contractor Limitation of Liability

26.1.1 Subject to clauses 26.2 and 26.4, the maximum aggregate liability of the Contractor to BCP under, pursuant to or in connection with this Contract (whether in contract, in tort (including negligence), for breach of statutory duty or otherwise), including liabilities arising from termination of this Contract, shall not in any Contract Year (as appropriate) exceed:

26.1.1.2 during each Contract Year five million pounds sterling (£5,000,000).,

(the **Contractor Annual Cap**).

26.2 Insured Liabilities

26.2.1 Notwithstanding the provisions of clause 26.1 but subject to the provisions of clause 26.3:

26.2.1.1 the maximum aggregate liability of either party under, pursuant to or in connection with this Contract (whether in contract, in tort (including negligence), for breach of statutory duty or otherwise) for any loss, damage, cost or expense arising as a result of the occurrence of an insurable risk which is insured under a policy of insurance maintained by the relevant party (an **Insured Liability**) shall be limited to the amount actually recoverable from the relevant insurer; and

26.2.1.2 all Insured Liabilities shall be excluded from the scope of (and not count towards) the Contractor Annual Cap.

26.3 Subject to any express provision of this Contract to the contrary, neither party shall be liable to the other party in connection with the provision of the Services or this Contract for any Indirect Losses howsoever caused.

26.4 Notwithstanding any other provision of this Contract, neither party limits or excludes its liability:

26.4.1 for fraud or fraudulent misrepresentation;

26.4.2 for death or personal injury caused by that party's negligence;

26.4.3 in the case of the Contractor only:

26.4.3.1 arising from breach of any obligation as to title implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982;

26.4.3.2 arising under or in connection with clause 18 (Employment Matters), clause 19.4 (Contractor's Employees), clause 38.2 (Intellectual Property) or clause 39.3 (Data Protection);

26.4.3.3 for any liability incurred by BCP or any Authority Related Party as a result of failure by the Contractor to comply with the requirements of the Environmental Permits or any related instructions of the Environment Agency (whether any such failure becomes apparent before or after termination or expiry of this Contract).

27 INSURANCE

27.1 The Contractor shall take out and maintain in force or procure the taking out and maintenance of:

27.1.1 public liability insurance in the sum of ten million pounds (£10,000,000) per claim or series of connected claims;

27.1.2 employers liability insurance in the sum of ten million pounds (£10,000,000) per claim or series of connected claims;

27.1.3 [if and only to the extent that:

27.1.3.1 the Contractor is required to procure the performance of works pursuant to the Variation Procedure as set out in clause 35 (Variation Procedure) of this Contract; and

27.1.3.2 the performance of such works necessitates the performance by the Contractor of design services,

professional indemnity insurance with an indemnity limit of [five million] pounds (£[5,000,000]) per claim or series of connected claims;] and

[NOTE TO BIDDERS: Bidders are not required to hold Professional Indemnity insurance as at the Commencement Date. This will only be required in the event that a Variation requires design work to be carried out by the Contractor in relation to a works variation]

27.1.4 any other insurances as may be required by Legislation.

27.2 The Contractor shall provide, on request, to BCP:

27.2.1 copies of all policies relating to the insurances required under clause 27.1 (including all documents evidencing any amendments, extensions or variations to all such policies) and BCP shall be entitled to inspect them during ordinary business hours; and

27.2.2 evidence that the premiums payable under the insurances required under clause 27.1 have been paid and that the insurances are in full force and effect.

27.3 The Contractor shall:

27.3.1 notify BCP within twenty (20) Business Days of any claim arising in connection with the provision of the Services or this Contract in excess of ten thousand pounds (£10,000) under the insurances required under clause 27.1 and (if required by BCP) give full details of the incident giving rise to the claim; and

27.3.2 promptly and diligently deal with all claims received relating to the insurances required under clause 27.1 in accordance with insurers' requirements.

27.4 Neither failure to comply nor full compliance with the insurance provisions of this Contract shall limit or relieve the Contractor of its liabilities and obligations under this Contract.

PART 8 DISPUTE RESOLUTION AND TERMINATION

28 DISPUTE RESOLUTION

28.1 Escalation

If a dispute arises in relation to any aspect of this Contract which cannot be resolved between BCP's Representative and the Contractor's Representative within a reasonable period (not to exceed twenty (20) Business Days or such other period as the parties may agree, both acting reasonably), the dispute shall be escalated to the relevant Executive Director of BCP and the Contractor, and the Parties shall use all reasonable endeavours to resolve the dispute to the Parties' mutual satisfaction.

28.2 Mediation

28.2.1 If the dispute is not resolved within twenty (20) Business Days of escalation of the dispute in accordance with clause 28.1, the Parties shall refer the dispute to mediation in accordance with the CEDR Model Mediation Procedure.

28.2.2 If the Parties cannot agree on a mediator, the Parties shall appoint a mediator nominated by CEDR.

28.2.3 The Parties shall use their best endeavours to conclude the mediation within forty (40) Business Days of referral of the dispute to mediation.

28.2.4 The parties shall bear their own costs in relation to any mediation undertaken in accordance with this clause 28.2 and the costs and expenses of the mediator shall be shared equally between the parties, save to the extent that the parties agree otherwise (both acting reasonably).

28.3 Litigation

28.3.1 If the dispute is not resolved in accordance with clause 28.2 within forty (40) Business Days of referral of the dispute to mediation, either party may refer the dispute to the courts of England and Wales for final determination. For the avoidance of doubt, the Parties cannot commence court proceedings prior to the expiry of the period referred to in clause 28.2.3.

28.3.2 Nothing in this clause 28.3 shall prevent or restrict the right of BCP to seek injunctive relief or a decree of specific performance or other discretionary remedies of the court.

28.4 No suspension of obligations during a dispute

Subject to the operation of clause 36 (Supervening Events), during the subsistence of any dispute between the parties (including in any period during which the parties are engaged in any form of dispute resolution process pursuant to this clause 28), each party shall continue to perform its

obligations under this Contract in accordance with the terms of this Contract, save to the extent that the parties agree otherwise.

29 TERMINATION FOR CORRUPT GIFTS AND FRAUD

29.1 BCP shall be entitled to terminate this Contract by serving a termination notice on the Contractor if the Contractor or any Sub-Contractor commits a Prohibited Act. Following service of a termination notice, this Contract will terminate on the date specified in the termination notice (which shall be not less than twenty (20 Business Days and not more than six (6) months following the date of issue of the termination notice).

30 TERMINATION FOR CONTRACTOR DEFAULT

30.1 Within a reasonable period (which shall not be more than ninety (90) days) following the occurrence of a Contractor Default, BCP may serve a termination notice on the Contractor specifying the type and nature of the Contractor Default.

30.2 Without prejudice to clause 33 (Consequences of Termination or Expiry) and subject to clause 30.3, this Contract will terminate:

30.2.1 in the case of a Contractor Default which is remediable, where:

30.2.1.1 the Contractor fails to put forward a remediation plan which has been approved by BCP; or

30.2.1.2 the Contractor fails to take the actions specified in a remediation plan which has been approved by BCP within the timescales set out therein,

on the date specified in the termination notice (which shall be not less than twenty (20 Business Days and not more than six (6) months following the date of occurrence of the Contractor Default; or

30.2.2 in the case of a Contractor Default which is not remediable, on the date specified in the termination notice (which shall be not less than twenty (20 Business Days and not more than six (6) months following the date of issue of the termination notice).

31 TERMINATION FOR AUTHORITY DEFAULT

31.1 The Contractor shall not exercise, or purport to exercise, any right to terminate this Contract (or accept any repudiation of this Contract) except as expressly set out in this Contract.

31.2 If an Authority Default has occurred and the Contractor wishes to terminate this Contract, the Contractor must serve a termination notice on BCP within twenty (20) Business Days of becoming aware of BCP Default.

31.3 The termination notice must specify the type of Authority Default which has occurred entitling the Contractor to terminate.

31.4 Without prejudice to clause 33 (Consequences of Termination or Expiry), this Contract will terminate on the day falling six (6) months after the date BCP receives the Contractor's termination notice, unless BCP rectifies BCP Default within thirty (30) Business Days of receipt of the Contractor's termination notice.

32 PERSISTENT BREACH

32.1 If a particular breach during the Services Period (other than any breach for which adjustments and/or deductions could have been made in accordance with Schedule 4 (Payment Mechanism)) has continued for more than twenty (20) days or occurred more than three times in any six (6) month period then BCP may serve a notice on the Contractor:

32.1.1 specifying that it is a formal warning notice;

32.1.2 giving reasonable details of the breach; and

32.1.3 stating that the breach is a breach which, if it recurs frequently or continues, may result in a termination of this Contract.

32.2 If, following service of a warning notice the breach specified has continued beyond twenty (20) Business Days or recurred two (2) or more times in the six (6) month period after the date of service, then BCP may serve another notice (a **Final Warning Notice**) on the Contractor:

32.2.1 specifying that it is a Final Warning Notice;

32.2.2 stating that the breach specified has been the subject of a warning notice served within the six (6) month period prior to the date of service of the Final Warning Notice; and

32.2.3 stating that if the breach continues or recurs for more than twenty (20) days or recurs two (2) or more times within the six (6) month period after the date of service of the Final Warning Notice, this Contract may be terminated.

32.3 A warning notice may not be served in respect of any breach which has previously been counted in the making of a separate warning notice.

33 CONSEQUENCES OF TERMINATION OR EXPIRY

33.1 Compensation on Termination for Corrupt Gifts and Fraud and Contractor Default

The Contractor acknowledges and agrees that termination of this Contract pursuant to clause 28.4 (Termination for Corrupt Gifts and Fraud) or clause 30 (Termination for Contractor Default) shall be deemed to be a termination for breach of condition and BCP shall, subject to clause 26 (Limitations of Liability), be entitled to claim and recover its Direct Losses in respect of such termination as flowing from the relevant breach of condition.

33.2 **Compensation on Termination for Authority Default**

33.2.1 BCP acknowledges and agrees that on termination for Authority Default or Authority voluntary termination pursuant to clause 33 (Voluntary Termination by BCP), BCP shall be liable to pay the Demobilisation Payment (AD) to the Contractor within twenty (20) Business Days of the Termination Date. The Contractor acknowledges and agrees that any payment by BCP of the Demobilisiation Payment (AD) pursuant to this clause 33.2.1 shall:

33.2.1.1 be in full satisfaction of any claim which can be made against BCP in relation to termination of this Contract; and

33.2.1.2 constitute the sole remedy of the Contractor against BCP in respect of termination of this Contract.

33.3 **Compensation on Termination for Force Majeure**

33.3.1 BCP acknowledges and agrees that on termination for a continuing Force Majeure Event pursuant to clause 36.2.4 (Force Majeure), BCP shall be liable to pay the Demobilisation Payment (FM) to the Contractor within twenty (20) Business Days of the Termination Date. The Contractor acknowledges and agrees that any payment by BCP of the Demobilisation pursuant to this clause 33.3.1 shall:

33.3.1.1 be in full satisfaction of any claim which can be made against BCP in relation to termination of this Contract; and

33.3.1.2 constitute the sole remedy of the Contractor against BCP in respect of termination of this Contract.

33.4 **Accrued Rights**

The Parties acknowledge and agree that, save where this Contract expressly provides otherwise, termination or expiry of this Contract shall be without prejudice to any rights, remedies or obligations accrued under this Contract prior to termination or expiration and nothing in this Contract shall prejudice the right of either party to recover any amount outstanding at such termination or expiry.

33.5 **Survival**

Clauses 14 (Records and Audit), 18.2 (Exit Provisions), 22 (Invoices), 24 (Set Off and VAT), 26 (Limitations of Liability), 28 (Dispute Resolution), 33 (Consequences of Termination or Expiry), 38 (Intellectual Property), 39 (Data Protection), 40 (Confidentiality), 41 (Publicity), 42 (Advertisements), 47 (Notices), 48 (Severability), 49 (No Waiver), 50 (Third Party Rights) and 51 (Governing Law and Jurisdiction) and any provision of the Specifications or Payment Mechanism which is stated to apply following expiry or termination of this Contract shall continue to be enforceable notwithstanding expiry or termination of this Contract.

33.6 **Transition to a New Contractor**

33.6.1 Subject to clause 33.6.2, during the final six (6) months prior to the Expiry Date or during the period of any notice of termination of this Contract, and in either case for a period of six (6) months thereafter, the Contractor shall (at no cost to BCP) co–operate fully with the transfer of responsibility for the Services (or any of the Services) to BCP or any New Contractor, including:

33.6.1.1 liaising with BCP/any New Contractor, and providing reasonable assistance and advice concerning the Services and their transfer to the New Contractor;

33.6.1.2 providing to BCP/any New Contractor all and any information concerning the Facilities and the Services which is required for the efficient transfer of responsibility for their performance; and

33.6.1.3 not taking any action at any time during the Contract Period or thereafter which is calculated or intended, directly or indirectly, to prejudice or frustrate or make more difficult the transfer of the Services to BCP/any New Contractor.

33.6.2 Notwithstanding clause 33.6.1, the

Contractor shall not be required to perform the Services (or any services equivalent to the Services) following expiry of the period of notice of termination of this Contract.

PART 9 CHANGE IN LAW AND VARIATIONS

34 **CHANGE IN LAW**

34.1 The Contractor acknowledges and agrees that it shall not be entitled to any:

34.1.1 relief from any of its obligations under this Contract; or

34.1.2 payment or other form of compensation from BCP,

as a result of the occurrence of a General Change in Law during the Contract Period.

34.2 In the event that a Services Specific Change in Law occurs, the Parties acknowledge and agree that the Services Specific Change in Law shall be discussed and implemented in accordance with the Variation Procedure, as modified by the procedure set out in this clause 34.

34.3 As soon as a Party becomes aware that a Services Specific Change in Law has occurred or is reasonably likely to occur during the Contract Period, that

Party shall promptly notify the other Party. As soon as reasonably practicable and in any event within twenty (20) Business Days following the date upon which the Contractor becomes aware of the Services Specific Change in Law, the Contractor shall issue to BCP an Estimate which includes details of:

34.3.1 the Services Specific Change in Law; and

34.3.2 the consequences of such Services Specific Change in Law for this Contract including:

34.3.2.1 whether any Variation is required to any of the Services or any term of this Contract; and

34.3.2.2 whether any relief from compliance with the Contractor's obligations under this Contract is required.

34.4 As soon as practicable after receipt of an Estimate pursuant to clause 34.3, the Parties shall discuss and agree the matters referred to in the Variation Procedure and any ways in which the Contractor can mitigate the effect of the Services Specific Change in Law.

34.5 During such discussions, the Contractor shall:

34.5.1 provide evidence that the Contractor and relevant Contractor Related Parties have taken all reasonable steps to minimise any increase in costs and/or maximise any reduction in costs;

34.5.2 give evidence as to how the Services Specific Change in Law has affected the cost of providing the Services; and

34.5.3 demonstrate that any expenditure that has been avoided has been taken into account in amending the Monthly Services Payment.

34.6 In relation to a Services Specific Change in Law, any increase in or reduction to the Monthly Services Payment pursuant to this clause 34 shall be calculated on the basis that the Contractor shall be placed in no better or worse position than it would have been in had the Services Specific Change in Law not occurred.

35 VARIATION PROCEDURE

35.1 BCP's Representative may require a Variation (including but without limitation the provision of Additional Services and/or a Service Scope Reduction) by serving a Variation Notice on the Contractor.

35.2 BCP's Representative shall not issue a Variation Notice which:

35.2.1 requires the Services to be performed in a way that infringes Legislation;

35.2.2 would cause any Planning Permission or Necessary Consent to be revoked;

35.2.3 would materially and adversely affect the health and safety of any person; or

35.2.4 would materially reduce the scope of the Services.

35.3 Within fifteen (15) Business Days of receipt of the Variation Notice, the Contractor shall provide to BCP an Estimate setting out:

35.3.1 an estimate of any changes required to Schedule 4 (Payment Mechanism), including any changes required to the Monthly Services Payment, which are necessary in order to effect the Variation;

35.3.2 any amendments required to this Contract which are necessary in order to effect the Variation; and

35.3.3 any new Planning Permissions and/or Necessary Consents required or any changes to existing Planning Permissions and/or Necessary Consents which are necessary in order to effect the Variation.

35.5 Subject to clause 35.6, BCP may (in its absolute discretion):

35.5.1 confirm in writing the Estimate in the form submitted by the Contractor;

35.5.2 suggest reasonable amendments to the Estimate (which shall be deemed to be incorporated into the Estimate) and either concurrently or subsequently confirm in writing the Estimate (in the form incorporating BCP's reasonable amendments); or

35.5.3 withdraw the Variation Notice.

35.6 If BCP does not confirm in writing the Estimate within twenty (20) Business Days of the provision of the Estimate, the Variation Notice shall be deemed to have been withdrawn, provided that the Parties may agree to extend this period in the event that discussions are required in relation to the terms of the Estimate.

35.7 If BCP confirms in writing the Estimate, the Variation shall be effected as an agreed Variation to this Contract.

35.8 The Contractor may request that BCP issues a Variation Notice pursuant to this clause 35 and BCP shall decide in its absolute discretion whether or not to issue such a Variation Notice.

PART 10 GENERAL

36 SUPERVENING EVENTS

36.1 Excusing Causes

36.1.1 Subject to clause 36.1.2, if during the Services Period an Excusing Cause interferes adversely with, or causes a failure of, the performance of the Services at any of the Facilities then, provided that the effect of such Excusing Cause is claimed within ten (10) Business Days of the date upon which the Contractor became aware (or ought reasonably to have become so aware) of the occurrence of the Excusing Cause then, to the extent such failure or interference arises as a result of such Excusing Cause:

36.1.1.1 such failure by the Contractor to perform, and any poor performance of, any affected Service at the relevant Facility shall not constitute a breach of the provisions of this Contract by the Contractor;

36.1.1.2 such interference shall not be taken account of in measuring the performance of the Services at the relevant Facility in accordance with Schedule 4 (Payment Mechanism), which shall be operated as though the relevant Services had been performed at the relevant Facility free from such adverse interference; and

36.1.1.3 any such failure to perform the Services at the relevant Facility shall be deemed not to have occurred,

so that the Contractor shall be entitled to payment of the relevant Monthly Services Fee under this Contract as if there had been no such interference with the performance of the Services at the relevant Facility.

36.1.2 The Contractor shall take all reasonable steps to mitigate the consequences of an Excusing Cause on the Contractor's ability to perform its obligations under this Contract. To the extent that the Contractor does not take such steps, the Contractor shall not be entitled to, and shall not receive, the relief specified in this clause 36.1.

36.2 Force Majeure

36.2.1 No party shall be entitled to bring a claim for a breach of obligations under this Contract by the other party or incur any liability to the other party for any Direct Losses (including Performance Deductions) or Indirect Losses incurred by that other party to the extent that a Force Majeure Event occurs.

36.2.2 On the occurrence of a Force Majeure Event, the affected party shall notify the other party as soon as practicable and in any event within ten (10) Business Days, including details of the Force

Majeure Event, its effect on the obligations of the affected party and action proposed to mitigate its effect.

36.2.3 As soon as practicable following such notification, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued performance of this Contract.

36.2.4 If no such terms are agreed on or before the date falling eighty (80) Business Days after the date of commencement of the Force Majeure Event and such Force Majeure Event is continuing or its consequences remain such that the affected party is unable to comply with all or substantially all of its obligations under this Contract for a period of more than one hundred and twenty (120) Business Days then, subject to clause 33 (Consequences of Termination or Expiry), either party may terminate this Contract by giving twenty (20) Business Days' written notice to the other party.

36.2.5 The affected party shall notify the other party as soon as practicable after the Force Majeure Event ceases or no longer causes the affected party to be unable to comply with its obligations under this Contract and, following such notification, this Contract shall continue to be performed on the terms existing immediately prior to the occurrence of the Force Majeure Event.

36.3 **Relief Events**

36.3.1 If and to the extent that a Relief Event adversely affects the ability of the Contractor to perform any of its obligations under this Contract then the Contractor shall be entitled to apply from relief from any rights of BCP arising under clause 30 (Termination for Contractor Default).

36.3.2 To obtain relief from termination, the Contractor must:

36.3.2.1 as soon as practicable, any in any event within ten (10) Business Days after it becomes aware that the Relief Event has adversely affected or is likely to adversely affect the ability of the Contractor to perform its obligations, give to BCP a notice of its claim for relief from termination, including full details of the Relief Event and its likely duration; and

36.3.2.2 demonstrate to the reasonable satisfaction of BCP that:

36.3.2.2.1 the Contractor or relevant Sub-Contractors could not have avoided such occurrence or consequences by steps which they might reasonably be expected to have taken, without incurring material expenditure;

36.3.2.2.2 the Relief Event directly caused the need for relief from termination;

36.3.2.2.3 the relief from termination claimed could not have been mitigated or overcome by the Contractor acting in accordance with Good Industry Practice; and

36.3.2.2.4 the Contractor is using reasonable endeavours to perform its obligations under this Contract.

36.3.3 In the event that the Contractor has complied with its obligations under clause 36.3.2, BCP shall not be entitled to exercise its right terminate this Contract under clause 30 (Termination for Contractor Default) as a result of the failures and/or breaches caused by the relevant Relief Event.

36.3.4 Nothing in clause 36.3.3 shall affect any entitlement of BCP to make or apply adjustments or deductions in accordance with Schedule 4 (Payment Mechanism) during the period in which the Relief Event is subsisting.

37 COMMON LAW RIGHTS

Where this Contract provides specifically for any right of a party on breach of the other party's obligations under this Contract, the entitlement to exercise (and conferring of) that right will be to the exclusion of all other rights (other than available equitable remedies including injunction or their equivalent in any other jurisdiction) of the first mentioned party howsoever arising at common law, under statute or in equity in respect of the circumstances constituting such breach.

38 INTELLECTUAL PROPERTY

38.1 The Contractor shall not in connection with this Contract use, manufacture, supply or deliver any process, article, matter or thing which would be an infringement of Intellectual Property Rights.

38.2 The Contractor shall indemnify and keep indemnified BCP against all Direct Losses and Indirect Losses incurred by it in respect of any breach of clause 38.1 by the Contractor and/or any related act or omission of any Contractor Related Party.

38.3 All Intellectual Property Rights created in connection with this Contract shall vest in and be the property of BCP.

38.4 BCP grants to the Contractor a royalty free non-exclusive non-transferable licence for the Contract Period to use any Intellectual Property Rights which vest in it under clause 38.3 solely for the purpose of providing the Services.

39 DATA PROTECTION

39.1 The Contractor shall and shall procure that any Contractor Related Parties only undertake processing of Personal Data reasonably required in connection with the provision of the Services and shall not transfer any Personal Data to any country or territory outside the European Economic Area.

39.2 In relation to all Personal Data, the Contractor shall and shall procure that any Contractor Related Parties comply with the provisions of the applicable Data Protection Legislation.

39.3 The Contractor shall indemnify and keep indemnified BCP against all Direct Losses and Indirect Losses incurred by it in respect of any breach of this clause 39 by the Contractor and/or any related act or omission of any Contractor Related Party.

40 CONFIDENTIALITY

40.1 Duty of Confidentiality

40.1.1 Subject to clause 40.1.2, the Parties shall, and shall use reasonable endeavours to ensure that their employees, agents and sub-contractors shall, keep confidential all information and documents received by them in connection with and all matters relating to the Services and/or this Contract.

40.1.2 Clause 40.1.1 shall not apply to:

40.1.2.1 any disclosure of information that is reasonably required by any person engaged in the performance of their obligations under this Contract for the performance of their obligations;

40.1.2.2 any matter which a party can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of this clause 40;

40.1.2.3 any disclosure which is required by Legislation or by an order of a court of competent jurisdiction, any Parliamentary obligation or the rules of any stock exchange or governmental or regulatory authority having the force of law;

40.1.2.4 any disclosure of information which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

40.1.2.5 any disclosure by BCP of information as may be reasonably required for the purpose of conducting a due diligence exercise to any proposed new contractor or its advisers should BCP decide to re-tender the Services;

40.1.2.6 any registration or recording of the Planning Permissions or Necessary Consents and any property registration required;

40.1.2.7 any disclosure of information by BCP to any other department, office or agency of the Government or their respective advisors for the purpose of the examination and certification of BCP's accounts or any examination or investigation; or

40.1.2.8 any disclosure of information which is required to ensure compliance with the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004.

40.1.3 Where disclosure is permitted under clause 40.1.2, the party providing the information shall:

40.1.3.1 in the circumstances described in clauses 40.1.2.1, 40.1.2.2, 40.1.2.4 and 40.1.2.5, procure that; or

40.1.3.2 in the circumstances described in clauses 40.1.2.3, 40.1.2.6, 40.1.2.7 and 40.1.2.8, use best endeavours to procure that,

the recipient of the information shall be subject to the same obligation of
confidentiality as that contained in this Contract.

40.1.4 The Contractor shall not make use of this Contract or any information issued or provided by or on behalf of BCP in connection with this Contract otherwise than for the purposes of this Contract, except with the written consent of BCP.

40.1.5 On or before the Expiry Date or the Termination Date (as relevant), the Contractor shall ensure that all documents or computer records in its possession, custody or control which contain Personal Data, including any documents in the possession, custody or control of a Contractor Related Party are delivered up to BCP or destroyed (as directed by BCP).

40.2 **Freedom of Information**

40.2.1 Where BCP receives a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004

in relation to information that the Contractor is holding on its behalf, BCP shall transfer to the Contractor such request for information that it receives as soon as practicable and the Contractor shall:

40.2.1.1 provide BCP with a copy of all such information in the form that BCP requires within five (5) Business Days

(or such other period as BCP may specify) of BCP's request; and

40.2.1.2 provide all necessary assistance as reasonably requested by BCP in connection with any such information to enable BCP to respond to the request for information within the time for compliance set out in the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004.

40.2.2 BCP shall be responsible for determining at its absolute discretion:

40.2.2.1 whether information is exempt from disclosure under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004; and

40.2.2.2 whether the existence of information is to be confirmed or denied, and whether information is to be disclosed in response to a request for information,

and in no event shall the Contractor respond directly to a request for information unless expressly authorised to do so by BCP.

40.2.3 Without prejudice to the rest of this clause 40, BCP may (at its absolute discretion) consult with the Contractor to ascertain whether the Contractor believes that information provided by or relating to the Contractor is exempt from disclosure under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004, provided that BCP's decision as to whether or not an exemption does in fact apply is final for the purposes of this Contract.

41 PUBLICITY

The Contractor shall not and shall procure that the Contractor Related Parties shall not communicate with representatives of the press, television, radio or other communications media on any matter concerning this Contract or the Services without the prior written approval of BCP.

42 ADVERTISEMENTS

The Contractor shall not exhibit or attach to any Delivery Point any notice or advertisement without the prior written permission of BCP, save where otherwise required to comply with Legislation.

43 ASSIGNMENT AND SUB–CONTRACTING

43.1 The rights and obligations of BCP under this Contract shall not be assigned, novated or otherwise transferred (whether by virtue of any Legislation or any scheme pursuant to any Legislation or otherwise) to any person other than any public body

(being a single entity) having the legal capacity, power and authority to become a party to and to perform the obligations of BCP.

43.2 In the event that this Contract is assigned, novated or otherwise transferred to a public body having the legal capacity, power and authority to become a party to and to perform the obligations of BCP, the Contractor shall enter into and give effect to any such assignment or novation of this Contract and the Contractor hereby irrevocably and unconditionally appoints BCP as the Contractor's lawful attorney (and to the complete exclusion of any rights that the Contractor may have in such regard) for the purpose of generally executing or approving such deeds or documents and doing any such acts or things necessary to give effect to the provisions of this clause 43.2 as the attorney may think fit.

43.3 The Contractor shall not assign, underlet, charge, sell, bargain or otherwise deal in any way with the benefit of this Contract in whole or in part except with the prior written consent of BCP.

44 NO AGENCY

44.1 Nothing in this Contract shall be construed as creating a partnership, a trust or a contract of employment between BCP and the Contractor.

44.2 Save as expressly provided otherwise in this Contract, the Contractor shall not be, or be deemed to be, an agent of BCP and the Contractor shall not hold itself out as having authority or power to bind BCP in any way.

45 ENTIRE AGREEMENT

Except where expressly provided in this Contract, this Contract constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Contract.

46 REPRESENTATIVES

46.1 BCP's Representative and the Contractor's Representative shall act as the Parties' representatives in connection with the provision of the Services and generally in connection with this Contract.

46.2 The Contractor cannot replace its representative without the prior approval of BCP.

46.3 BCP is permitted to replace its representative in accordance with the Contract Management Plan.

46.4 Each party's representative shall have full authority to act on behalf of that party for all purposes of this Contract.

47 NOTICES

47.1 All notices under this Contract shall be in writing and all certificates, notices or written instructions to be given under the terms of this Contract shall be served by sending the same by first class post, email (confirmed by hard copy notice delivered by first class post) or by hand, or leaving the same at:

Contractor	**Authority**
	[●] Service Director, Environment
	Bournemouth, Christchurch and Poole Council
	Town Hall
	Bourne Avenue
	Bournemouth
	BH2 6DY

47.2 Notices given by:

47.2.1 post shall be effective upon the earlier of actual receipt and two (2) Business Days after mailing;

47.2.2 hand shall be effective upon delivery; and

47.2.3 email shall be deemed to have been received by the other party:

47.2.3.1 within two (2) hours after sending, if sent on a Business Day between the hours of 9am and 4pm; or

47.2.3.2 by 11am on the next following Business Day, if sent after 4pm, on a Business Day but before 9am on that next following Business Day,

provided that the sending party can provide evidence of the time of transmission of the relevant email, the sending party has not received an automated confirmation that the email has not been received by the receiving party and a hard copy of the information in the relevant email is sent to the other party by first class post.

48 SEVERABILITY

If any term, condition or provision of this Contract shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality and enforceability of the other provisions of or any other documents referred to in this Contract.

49 NO WAIVER

No term or provision of this Contract shall be considered as waived by any party to this Contract unless a waiver is given in writing by that party.

50 THIRD PARTY RIGHTS

No term of this Contract is enforceable under the Contracts (Rights of Third Parties)
Act 1999 by a person who is not a party to this Contract, other than clause 18.2.15 (Exit Provisions).

51 GOVERNING LAW AND JURISDICTION

This Contract shall be governed by and construed in all respects in the accordance with the laws of England and Wales. Subject to clause 28 (Dispute Resolution), the courts of England and Wales shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Contract.

52 COUNTERPARTS

This Contract may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

THIS CONTRACT has been signed on the date stated at the beginning of this Contract.

EXECUTED as a **Deed**
by affixing the **COMMON SEAL** of
BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
in the presence of:-

Authorised Signatory

EXECUTED as a **Deed** by
[●] acting by [●] (a Director)

In the presence of

Witness signature:

Witness name:

Witness address

SCHEDULE 1 DEFINITIONS AND INTERPRETATION

1 DEFINITIONS

1.1 In this Contract unless the context otherwise requires the following terms shall have the meanings given to them below:

Additional Services means any services which:

(a) are additional to the Services described in the Specifications as at the Commencement Date; and

(b) BCP requires the Contractor to provide following the Services Commencement Date pursuant to a Variation which is agreed pursuant to the Variation Procedure.

Administrative Area means the area defined within Schedule 1 (Wards of Bournemouth, Christchurch and Poole) of The Bournemouth, Dorset and Poole (Structural Changes) Order 2018.

Annual Services Payment means an amount equal to the aggregate of the Monthly Services Payments payable in respect of the twelve (12) months comprising a Contract Year.

Annual Tonnage means the annual tonnages set out in paragraph 2 of the Material Category Specifications.

Authority Default means one or more the following events: (a) a failure by BCP to make payment of any amount of money exceeding [*insert amount in words*] pounds sterling (£[●])[1] (Indexed) that is due and payable by BCP under this Contract within twenty (20) Business Days of service of a formal written demand by the Contractor, where that amount fell due and payable twenty (20) or more Business Days prior to the date of service of the written demand; (b) any breach by BCP of its obligations under this Contract which substantially frustrates or renders it impossible for the Contractor to perform its obligations under this Contract for a continuous period of forty (40) Business Days; or (c) a breach by BCP of clause 43.1 (Assignment and Sub-contracting).

Authority Related Party means any officer, servant, employee or agent or the Authority or any contractor or sub-contractor of the Authority and their directors, officers, servants, employees or agents acting in that capacity, but

[1] ***NOTE TO BIDDERS***: Figure will be inserted following BCP receipt of financial information from Contractor.

	excluding in any case the Contractor and any Contractor Related Parties.
Authority's Representative	means the Executive Director, or such other person as notified to the Contractor by BCP in accordance with the scheme of delegation set out in the Contract Management Plan.
Best Value Duty	means the duty imposed on BCP by section 3 of the Local Government Act 1999 in relation to, inter alia, any one or more of the Services.
Best Value Review	means the review which is required to be conducted by BCP in accordance with section 5 of the Local Government Act 1999.
[**Bond**	means a Bond in favour of BCP in the form set out in Schedule 6 (Form of Bond).]
Business Day	means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London.
CEDR	means the Centre for Effective Dispute Resolution.
Change in Law	means the coming into effect after the date of this Contract of: (a) Legislation; (b) any binding guidance; or (c) any applicable judgment of a relevant court of law which changes a binding precedent.
Commencement Date	means the date of this Contract.
Compliance Assessment Reports	means any report issued pursuant to any monitoring carried out by the Environment Agency.
Component Payments	means the payments calculated pursuant to paragraphs 2.2 to 2.9 (inclusive) of Schedule 4 (Payment Mechanism) which are used in the calculation of the Monthly Services Payment.
Compost	means Organic Waste that has been processed such that it satisfies the requirements set out in the former N1192 definition.
Composted	means the controlled biological decomposition and stabilisation of Organic Waste, under conditions that are permanently aerobic and that allow the development of thermophilic temperatures as a result of biologically produced heat, in order to produce Compost and **Composting** shall be construed accordingly.

Contingency Delivery Points	means the contingency Delivery Points for acceptance of Waste specified in Part B of Schedule 5 (Delivery Points), or any other delivery point specified by BCP pursuant to paragraph 19.2 of the Core Specification.
Contingency Disposal Facilities	means the contingency Disposal Facilities specified by the Contractor and listed in Part F of Schedule 5 (Facilities).
Contingency Event	has the meaning given to it paragraph 19.1.2 of the Core Specification.
Contingency Facilities	means the Contingency Treatment Facilities and the Contingency Disposal Facilities, or such other location specified by BCP pursuant to paragraph 19.3 of the Core Specification.
Contingency Treatment Facilities	means the contingency Treatment Facilities specified by the Contractor and listed in Part D of Schedule 5 (Facilities).
Contract	means this contract, including the Schedules, Appendices and Annexures.
Contract Management Plan	means the plan set out in Schedule 10 (Contract Management Plan).
Contract Month	means any calendar month falling in a Contract Year.
Contract Period	means the period from and including the Commencement Date to the Expiry Date, or if earlier, the Termination Date.
Contract Waste	means those of the Material Categories allocated to the Contractor in Schedule 9 (Selected Services), excluding Objectionable Waste and Prohibited Waste, which arise in the Administrative Area and which are delivered by or on behalf of BCP to a Delivery Point for acceptance, removal and disposal by the Contractor.
Contract Year	means a period of twelve (12) months commencing on the first Services Commencement Date.
Contractor Annual Cap	has the meaning given to it in clause 26.1.1 (Contractor Limitation of Liability).
Contractor Assets	means any assets, plant or equipment provided or procured by the Contractor in order to enable the Contractor to deliver the Services.
Contractor Default	means any one or more of the following: (a) a court makes an order that the Contractor be wound up or a resolution for a voluntary winding-up of the Contractor is passed; (b) any receiver or manager in respect of the Contractor appointed or possession is taken

by or on behalf of any creditor of any property that is the subject of a charge;

(c) any voluntary arrangement is made against the Contractor for a composition of debts or a scheme of arrangement is approved under the Insolvency Act 1986 or the Companies Act 2006;

(d) an administration order is made against the Contractor;

(e) a breach by the Contractor of any of its obligations under this Contract which materially and adversely affects the performance of the Services;

(f) the occurrence of the circumstances described in clause 3.4 (Performance Security);

(g) the occurrence of the circumstances described in clause 20.11 (Equal Opportunities, Human Rights Act 1998 and Modern Slavery Act 2015);

(h) a breach by the Contractor of its obligations under clause 27 (Insurance);

(i) a material breach by the Contractor of health and safety Legislation;

(j) a material breach by the Contractor of any Planning Permission or Necessary Consent;

(k) a breach by the Contractor of its obligations under clause 43.3 (Assignment and Sub-contracting);

(l) the Contractor incurs relevant liabilities to BCP in any Contract Year in an amount equal to or greater than eighty percent (80%) of the value of the Contractor Annual Cap;

(m) a Persistent Breach occurs;

(n) the Contractor receives five (5) or more Performance Failure Notices during any Contract Year; or

(o) the occurrence of any of the specified termination events set out in the relevant Material Category Specifications.

Contractor's Final Personnel List	means the list of all the Contractor's Personnel engaged in or wholly or mainly assigned to the provision of the Services or any part of the Services at the Service Transfer Date.
Contractor's Provisional Personnel List	means a list prepared and updated by the Contractor of all the Contractor's Personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the date of preparation of the list.
Contractor Related Party	means the Contractor's agents and sub-contractors of any tier and its or their directors, officers, employees and workmen in relation to the Services and any person on or at any of the Facilities at the express or implied invitation of the Contractor (other than BCP or any Authority Related Party).
Contractor's Representative	means a person appointed by the Contractor to represent the Contractor on all day to day activities relating to this Contract or, if no-one is appointed, the Contractor.
Core Specification	means the specification containing BCP's general service requirements set out in Part 1 of Schedule 2 (Specifications).
Data Protection Legislation	means the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (*SI 2000/2699*), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (*SI 2426/2003*), the General Data Protection Regulation 2016 (*EU 2016/679*), the Data Protection Act 2018 and all applicable laws and regulations that relate to the protection and processing of personal data and privacy, including together with any mandatory guidance and codes of practice issued by the United Kingdom's Information Commissioner, all as amended, replaced or superseded from time to time.
Delivery Points	means the Primary Delivery Points and the Contingency Delivery Points and **Delivery Point** means any one of them, as the context may require.
Delivery Point Contingency Plan	has the meaning given to it in paragraph 19.1.1 of the Core Specification.
Direct Losses	means all damages, losses, liabilities, claims, actions, costs, expenses (including legal and professional expenses), proceedings, demands and charges whether arising under statute, contract or common law, excluding Indirect Losses.
Disposal	means the permanent disposal of Contract Waste [by way of Landfill and **Dispose** shall be construed accordingly.

Disposal Facilities	means the Primary Disposal Facilities and/or Contingency Disposal Facilities, as the context may require.
Dispute Resolution Procedure	means the procedure for the resolution of disputes set out in clause 28 (Dispute Resolution).
Disposal Diversion	means the Treatment of Contract Waste (and any associated Treatment Residues) such that the Contract Waste (and any associated Treatment Residues) are Recycled, Reused or Recovered (and are therefore not subject to Disposal).
Emergency	means an event causing or, in the reasonable opinion of BCP, threatening to cause death or injury to any individual, or serious disruption to the lives of a number of people or extensive damage to property, or contamination of the environment, which prevents the Services operating under normal circumstances and which either: (a) is on a scale beyond the capacity of the emergency services; or (b) requires the mobilisation and organisation of the emergency services.
Employees	means the Contractor's employees engaged in the provision of the Services.
Environmental Liability	all costs, expenses, liabilities, claims, damages, penalties or fines arising from any criminal or civil liability under any Law or any obligation under any Law to take, or to pay for, remedial action or to prevent pollution of the environment.
Environmental Permit	means a permit required and issued by the Environment Agency (or any successor or replacement body which assumes responsibility for issuing Environmental Permits) in respect of any Facility pursuant to the Environmental Permitting (England and Wales) Regulations 2010 or any predecessor or successor Legislation.
Estimate	means the estimate to be provided by the Contractor to BCP in accordance with the Variation Procedure.
European Economic Area	means from time to time the European Economic Area as created by The Agreement on the European Economic Area 1992 or any successor or replacement body, association, entity or organisation which has assumed either or both the function and responsibilities of the European Economic Area.
European Waste Catalogue Code	means those codes set out in The List of Wastes (England) Regulations 2005.

an **Excusing Cause** shall occur where:

(a) an Emergency which is not caused by any act or omission of the Contractor or any Contractor Related Party arises at any Facility which cannot be dealt with by the performance of the Services; or

(b) there has been a material breach of this Contract by BCP.

Expiry Date means [*insert date*] 20[●].

Facility means any Delivery Point, Disposal Facility or Treatment Facility, each as listed in the relevant part of Schedule 5 (Facilities), and **Facilities** shall be construed accordingly.

Final Warning Notice has the meaning given to it in clause 32.2 (Persistent Breach).

Force Majeure Event means the occurrence after the date of this Contract of:

(a) war, civil war, armed conflict, terrorism, endemic or pandemic;

(b) nuclear, chemical or biological contamination unless the source or cause of the contamination is the result of the action of the Contractor or any Contractor Related Party; or

(c) pressure waves caused by devices travelling at supersonic speeds, which directly causes either party to be unable to comply with all or substantially all of its obligations under this Contract.

Foreseeable Change in Law means:

(a) a Change in Law which on the date of this Contract has been published:

(i) in a draft bill as part of a government departmental consultation paper;

(ii) in a bill;

(iii) in a draft statutory instrument;

(iv) as a proposal in the Official Journal of the European Union; and/or

(b) any of the following Changes in Law, including but not limited to:

(i) an increase in the standard rate of Landfill Tax;

(ii) the introduction of a tax on the incineration of Waste; and/or

(iii) the introduction by any customs authority or non-UK government regulatory body of any tax or duty in respect of the export of Waste from the UK.

Food Waste means food waste which satisfies the requirements of the Food Waste Material Category Specification. ***[NOTE TO BIDDERS: This will only be included to the extent the Contractor has been awarded this Service]***

General Change in Law means any Change in Law (including a Foreseeable Change in Law) other than a Services Specific Change in Law.

Good Industry Practice means that degree of skill, care, prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced contractor engaged in the same type of undertaking as that of the Contractor under the same or similar circumstances.

Green Waste means vegetation and other garden waste which satisfies the requirements of the Green Waste Material Category Specification. ***[NOTE TO BIDDERS: This will only be included to the extent the Contractor has been awarded this Service]***

Household Recycling Centre or **HRC** means a waste management facility provided to fulfil the statutory duty of BCP as waste disposal authority under section 51(1)(b) of the Environmental Protection Act 1990 at which service users may deposit Contract Waste.

Indirect Losses

means loss of profits, loss of use, loss of production, loss of business, loss of business opportunity or any claim for consequential or indirect loss of any nature.

Insured Liability has the meaning given to it in clause 26.2.1.1 (Insured Liabilities).

Intellectual Property Rights	means any and all patents, trademarks, service marks, copyright, database rights, moral rights, rights in a design, know–how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating or attached thereto.
Interest Rate	means the rate of two per cent (2%) above the base rate of the Bank of England current at the day for payment of the relevant sum.
KeyPerformance Indicators or **KPIs**	has the meaning given to it in the Performance Framework.
Landfill	has the meaning given to it in section 65(1) of the Finance Act 1996.
Legislation	means in relation to the United Kingdom: (a) any Act of Parliament; (b) any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978; (c) any exercise of the Royal Prerogative; and (d) any enforceable community right within the meaning of section 2 of the European Communities Act 1972.
Maintenance Plan	has the meaning given to it in paragraph 20.1 of the Core Specification.
Material Category	means the categories of Contract Waste set out in Schedule 9 (Selected Services) and **Material Categories** shall be construed accordingly.
Material Category Specifications	means each of the specifications which applies solely to a Material Category set out in Part 2 of Schedule 2 (Specifications) and **Material Category Specification** means any one of them.
MHSAWR	means the Management of Health and Safety at Work Regulations 1999.
Monthly Services Payment	is the sum payable to the Contractor in accordance with clause 21 (Monthly Services Payment) and calculated in accordance with paragraph 2.1 of Schedule 4 (Payment Mechanism).
MSA Offence	has the meaning given to it in clause 20.7.1 (Equal Opportunities, Human Rights Act 1998 and Modern Slavery Act 2015).

Necessary Consents	means all rights, agreements, approvals, consents, permits, facilities, permissions and certificates, including for the avoidance of doubt all Environmental Permits, lawfully and necessarily required from any competent regulatory or licensing authority or any other persons whatsoever in connection with the provision of the Services.
New Contractor	means the person or persons (which may include BCP) which take over provision of all or part of the Services immediately after the Contractor.
Objectionable Waste	has the meaning given to it in clause 5.4.2.2 (Acceptance, rejection and processing of Waste).
Opening Hours	means, in respect of each Facility, the Opening Hours designated in the Specifications.
Parent Company Guarantee	means a parent company guarantee in favour of BCP in the form set out in Schedule 4 (Form of Parent Company Guarantee).]
Performance Framework	means the performance framework set out in Appendix 1 to Schedule 4 (Payment Mechanism).
Performance Deductions	has the meaning given to it in the Performance Framework.
Performance Points	has the meaning given to it in the Performance Framework.
Persistent Breach	means a breach for which a Final Warning Notice (referred to in clause 32.2 (Persistent Breach)) has been issued, which has continued or recurs for more than twenty (20) days or recurs two (2) or more times within six (6) Months after the date on which such Final Warning Notice is served on the Contractor.
Personal Data	shall have the meaning given to it in the applicable Data Protection Legislation.
Personnel	means the Employees and any other individuals engaged by the Contractor or any Contractor Related Party (whether on an agency or consultancy basis or otherwise) to perform any element of the Services from time to time.
Personnel Information	means, in relation to all persons detailed on the Contractor's Provisional Staff List, such information as BCP may reasonably request, but including in an anonymised format: (a) their ages, dates of commencement of employment or engagement and gender; (b) details of whether they are employees, workers, selfemployed, contractors or consultants, agency workers or otherwise;

(c) the identity of their employer or relevant contracting party;

(d) their relevant notice periods and any other terms relating to termination of employment or engagement, including any redundancy procedures and contractual redundancy payment schemes;

(e) the current wages, salaries, profit sharing, incentive and bonus arrangements applicable to them;

(f) details of other employment-related benefits including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and customer car schemes applicable to them;

(g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);

(h) details of any such individuals on long-term sickness absence, maternity or other statutory leave or otherwise absent from work; and

(i) copies of all relevant documents and materials relating to such information including copies of relevant contracts of employment or engagement (or relevant standard contracts if applied generally in respect of such individuals).

Planning Authority means any local or national Planning authority.

Planning Permission means all planning permissions in respect of the Facilities which are in place at the Services Commencement Date or which may be granted in respect of any new facility pursuant to the Variation Procedure during the Contract Period.

Primary Delivery Points means the primary delivery points for acceptance of Waste specified in Part A of Schedule 5 (Delivery Points).

Primary Disposal Facilities means the primary Disposal Facilities specified by the Contractor and listed in Part E of Schedule 5 (Facilities).

Primary Treatment Facilities means the primary Treatment Facilities specified by the Contractor and listed in Part C of Schedule 5 (Facilities).

Prohibited Act means:

(a) offering, giving or agreeing to give to any servant of BCP any gift or consideration of any kind as

an inducement or reward:

(i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Contract or any other contract with BCP; or

(ii) for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with BCP;

(b) entering into this Contract or any other contract with BCP in connection with which commission has been paid or has been agreed to be paid by the Contractor or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the

Authority; or

(c) committing any offence:

(i) under the Bribery Act 2010 or the Prevention of Corruption Acts 1889 - 1916;

(ii) under Legislation creating offences in respect of fraudulent acts; or

(iii) at common law in respect of fraudulent acts in relation to this Contract or any other contract with BCP; or

(d) defrauding or attempting to defraud or conspiring to defraud BCP.

Prohibited Waste means any Waste delivered to a Delivery Point which the Contractor is unable to accept for Treatment or Disposal pursuant to the terms of the Environmental Permit and/or or Planning Permission which applies to the relevant Delivery Point, provided that Prohibited Waste shall not include anything listed as being "Acceptable" in the Material Category Specifications.

Recovery means anaerobic digestion, incineration with energy recovery, gasification and pyrolysis which produce energy fuels (fuels, heat and power) and materials from waste, and **Recovered** shall be construed accordingly.

Recycling means the reprocessing of material separated from the waste stream to produce a usable and marketable product, and **Recycling** shall be construed accordingly.

Relevant Transfer has the meaning given to it in TUPE.

Relief Event means:

(a) explosion, lightning, storm, tempest, flood, bursting or overflowing of water tanks, apparatus or pipes, ionising radiation (to the extent it does not constitute a Force Majeure Event), earthquakes, riot and civil commotion;

(b) failure by any statutory undertaker, utility company, local authority or other like body (but excluding for the avoidance of doubt BCP as purchaser) to carry out works or provide services;

(c) failure or shortage of power, fuel or transport;

(d) blockade or embargo which does not constitute a Force Majeure Event;

(e) official or unofficial strike, lockout, go-slow or other dispute generally affecting the haulage, construction or waste management industries or a significant sector of them; or

(f) the delivery to any Facility as part of a delivery of Waste of munitions or human remains which directly results in a closure of the relevant Facility, provided that such Waste has been accepted and processed by the Contractor in accordance with this Contract, unless any of the events listed above arises (whether directly or indirect) as a result of any wilful default, wilful act or negligence of the Contractor or any Contractor Related Party.

Residual Waste	means any residual which satisfies the requirements of the Residual Waste Material Category Specification. ***[NOTE TO BIDDERS: This will only be included to the extent the Contractor has been awarded this Service]***
Reused	means that products or components within Contract Waste have been used again for the same purpose for which they were conceived.
RIDDOR	means the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013.
Schedule of Rates	means the schedule of rates set out in Appendix 2 to Schedule 4 (Payment Mechanism).
SDP or **Service Delivery Plan**	means the Contractor's method statement contained in Schedule 3 (Service Delivery Plan).
Service Report	has the meaning given to it in clause 15 (Service Report).
Service Scope Reduction	has the meaning given to it in clause 5.6.1.1 (Service Scope Reductions).
Services	means, in respect of the Material Categories allocated to the Contractor in Schedule 9 (Selected Services) only, the acceptance of Contract Waste at the Delivery Points, the identification and segregation of Objectionable Waste and/or Prohibited Waste at the Delivery Points (and performance of ancillary services), the transportation of Contract Waste from Delivery Points to Treatment Facilities or Disposal Facilities, the Treatment and/or Disposal of Contract Waste at Treatment Facilities or Disposal Facilities and the performance of other services as may be required to satisfy the Specifications and the SDP, including the any Additional Services introduced pursuant to a Variation in respect of which BCP has approved the associated Estimate in accordance with the Variation Procedure.
Services Commencement Date	means 00:00:00 on [●] 2020 or earlier as agreed in writing between the Parties;
Services Period	means, in respect of each Service, the period from and including the Services Commencement Date to the Expiry Date, or if earlier, the Termination Date.

Services Specific Change in Law means any Change in Law which:

(a) specifically refers to the provision of services the same as or similar to the Services;

(b) specifically refers to the provision of waste management services by local authorities; and/or

(c) is not a Foreseeable Change in Law.

Service Transfer has the meaning given to it in clause 18.2 (Exit Provisions).

Service Transfer Date means the date on which the Services (or any part of the Services) for whatever reason transfer from the Contractor

or any Contractor Related Party to BCP or any New Contractor.

Site means any site upon which a Facility is situated.

Specifications means the Core Specification and the Material Category Specifications contained in Schedule 2 (Specification).

Stop Notice means a notice issued by BCP in accordance with clause 10 (Emergencies).

Street Sweepings means street sweepings waste which satisfies the requirements of the Street Sweepings Material Category Specification. ***[NOTE TO BIDDERS: This will only be included to the extent the Contractor has been awarded this Service]***

Sub-Contractor means any sub-contractor engaged by the Contractor in connection with the provision of the Services.

[**Succession Plan** means the plan agreed by BCP and the Contractor prior to the date of this Contract which describes the steps to be taken in order to ensure the continued performance of the Contractor's obligations under this Contract in the event that a Contractor Default of the type described in limb (o) of that definition occurs.]

TD Facilities Contingency Plan has the meaning given to it in paragraph 19.3.1 of the Core Specification.

Technical Requirements	means the Core Specification, the relevant Material Category Specification(s), the Waste Acceptance Protocol and the SDP.
Termination Date	means the date of early termination of this Contract in accordance with clauses 30 (Termination for Contractor Default) or 31 (Termination for Authority Default).
Termination Payment (AD)	means an amount which is the Demobilisation Payment.
Third Party Waste	means any Waste which may be accepted, handled, processed, treated or disposed of by the Contractor but which has not been supplied to the Contractor pursuant to the operation of this Contract.
Threshold Percentage	means, for the purposes of assessing whether a load of Waste constitutes Objectionable Waste, the maximum percentage (by weight) of that load which is not the expected Material Category for that load, as specified in the relevant Material Category Specification.
Transferring Employee	means a person whose employment transfers to BCP or a New Contractor under the provisions of TUPE in the event of a Service Transfer.
Treatment	means a process whereby waste is treated by a physical, thermal, chemical or biological process (including sorting), provided that; (a) the aim of that process is to reduce the waste's volume, reduce its hazardous nature, facilitate its handling or enhance its recovery; and (b) the result of that process is that the characteristics of the relevant Material Category are intentionally permanently changed, and **Treat** shall be construed accordingly, including but not limited to Composting, Recovery and/or Recycling.
Treatment Facilities	means the Primary Treatment Facilities and/or Contingency Treatment Facilities, as the context may require.
Treatment Residues	means the end product of any Treatment process which, to the extent is no longer Waste, is used as a product, or, to the extent such Treatment Residue remains to be Waste, is either Disposed of or submitted for further Treatment.
TUPE	means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Turnaround Times means those time periods referred to in KPI 4 set out in Annex 1 (Key Performance Indicators) to the Performance Framework.

Variation means any variation to this Contract or the arrangements contemplated by it (including the Services) which may be agreed and implemented in accordance with the Variation Procedure.

Variation Notice means a notice served by BCP on the Contractor requesting a Variation and setting out the requested Variation in sufficient detail to enable the Contractor to provide an Estimate in accordance with the Variation Procedure.

Variation Procedure means the procedure set out in clause 35 (Variation Procedure).

VAT means value added tax.

Waste means Waste as defined in Section 75 of the Environmental Protection Act 1990.

Waste Acceptance Protocol means the waste acceptance protocol set out in Schedule 7.

Waste Data Flow means the web based system for municipal waste data reporting by UK local authorities to government (http://www.wastedataflow.org/).

Wood Waste means wood waste which satisfies the requirements of the Wood Waste Material Category Specification. ***[NOTE TO BIDDERS: This will only be included to the extent the Contractor has been awarded this Service]***

2 **INTERPRETATION**

2.1 In this Contract except where the context otherwise requires:

2.1.1 the masculine includes the feminine and vice-versa;

2.1.2 the singular includes the plural and vice versa;

2.1.3 a reference in this Contract to any clause, sub-clause, Schedule, Appendix or Annexure is, except where expressly stated to the contrary, a reference to such clause, sub-clause, schedule, appendix or annexure of this Contract;

2.1.4 any reference in this Contract to any other document shall include any permitted variation, amendment or supplement to such document;

2.1.5 any reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment,

order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;

2.1.6 a reference to a person includes firms, partnerships, and corporations and their successors and permitted assignees or transferees;

2.1.7 headings are for convenience of reference only; and

2.1.8 words preceding **include**, **includes**, **including** and **included** shall be construed without limitation by the words which follow those words.

3.1 In the event of any inconsistency between the provisions of the body of this Contract and the Schedules, or between any of the Schedules, the conflict shall be resolved according to the following descending order of priority:

3.1.1 the main body of this Contract;

3.1.2 Schedule 2 (Specifications);

3.1.3 Schedule 4 (Payment Mechanism); and

3.1.4 the remaining Schedules.

SCHEDULE 2

PART 1 –SPECIFICATION FOR ALL LOTS

1 Scope

1.1. On 1 April 2019 Bournemouth Borough Council (BBC), Christchurch Borough Council (CBC) and Borough of Poole (BoP) were replaced by a new council named Bournemouth, Christchurch and Poole Council (BCP Council).

1.2. BCP Council (the Council) covers the areas of Bournemouth, Christchurch and Poole.

1.3. Prior to 1 April 2019 Bournemouth and Poole were operating as separate unitary authorities.

1.4. Prior to 1 April 2019 Christchurch waste services were part of an organisation lead by Dorset County Council, known as Dorset Waste Partnership (DWP).

1.5. From 1 April 2019 to 31 March 2020 Christchurch waste services was operated by Dorset Council. Responsibility for Christchurch waste services transfers to BCP Council on 1 April 2020.

1.6. Due to the arrangements of the previous councils there is a long term contract with Viridor Waste Management which runs until 2027 for the collection and disposal of green and wood waste from the Poole area.

1.7. BCP Council requires its Contractor to have a site within the local area to enable Council vehicles to directly tip waste materials after collecting from domestic properties.

1.8. Some material streams require a haulier to collect and take the waste from a Council owned depot to the Contractor's site.

2. Contract Principles

2.1. The Contractor shall manage all waste in accordance with the waste hierarchy and principals of the circular economy.

2.2. The Contractor shall endeavour to provide the services at the least cost to the Council and to the environment.

2.3. The Contractor shall comply with all reasonable verbal or written instructions issued by the Council's Representative within the timescale notified at the time the instructions are issued. If the Contractor considers an instruction to constitute a variation, the Contractor shall notify the Council before the work is carried out.

3. Key Performance Indicators (KPIs)

3.1. The Contractor's performance of the Services will be assessed against KPIs.

3.2. All KPIs will be reviewed annually by the Council and the Contractor, any additional or changes to KPIs will be agreed by both parties before the 01th November each year following the commencement date of the contract.

3.3. If an amendment to the KPIs results in a change to the contract then both parties shall agree and complete a variation to the contract.

4. Operational Contact

4.1. The Contractor shall name at least one member of staff to act as a direct contact point 24 hours a day with the Council in case of any major fault that would prohibit the service from being carried out.

5. Location and tipping times

5.1. The Contractor's site will need to be located within one or more of the following postcode areas: BH1, BH2, BH3, BH4, BH5, BH6, BH7, BH8, BH9, BH10, BH11, BH12, BH13, BH14, BH15, BH16, BH17, BH18, BH21, BH22, BH23 and BH24.

5.2. The Contractor shall give the Council priority access and egress to/from site to ensure that Council vehicles have minimum turnaround time. If such Council priority adversely impacts Third Party waste contracts then the Contractor shall not be entitled to bring any claim against the Council for any losses that it may suffer.

6. Site Access for Disposal

6.1. The site shall be accessible by articulated lorries or equivalent.

6.2. The Contractor shall maintain a suitable roadway between the public highway and points where the Council is required to deposit waste material. All vehicle types up to an articulated lorry size shall be able to access the roadway and tipping point. This includes a vehicle carry its maximum legal payload. Low clearance vehicles such as street sweepers shall also be unhindered by the layout of the site.

6.3. The design of the Contractor's site shall be accessible all year round and through any inclement weather.

6.4. Where Council vehicles will be tipping the waste materials the Contractor shall ensure that the turnaround times are on average no longer than 20 minutes.

6.5. The Council will not tolerate the use of abusive/bad language or intolerant behaviour to any staff or visitors to the Site(s).

6.6. The Contractor shall not permit children (with the exception of organised visits) or domestic animals onto Site or in any vehicles/machines used in the performance of the Services.

7. Contingency for Site

7.1. The Contractor shall have a contingency plan to accept all material from the Council in the event that the Contractor is unable to accept material at the Contractor's site. This plan should not cause any unreasonable delays or cost to the Council.

7.2. The Contractor shall notify the Council immediately if it is required to implement its contingency plan.

7.3. The Council reserves the right to divert material to a more convenient location should the location identified in the contingency plan be deemed unsuitable. The Council will not hold liability of any cost this may occur to the Contractor through not completing the service during the contingency plan's implementation.

8. Health and Safety

8.1. The Contractor when required shall provide site induction and training to Council staff utilising the Contractor's site. The induction shall include:

8.1.1. provision of a copy of the Site rules;

8.1.2. reporting and recording procedures on Site;

8.1.3. traffic flow arrangements and speed restrictions;

8.1.4. access and tipping arrangements for the different types of vehicles;

8.1.5. correct use of facilities;

8.1.6. specific safe unloading practices and considerations;

8.1.7. accident/incident reporting procedures;

8.1.8. breakdown procedures; and

8.1.9. site emergency procedures.

9. Haulage requirements

9.1. Nuffield Recycling Centre

Waste can be removed via the haulage operator, Monday to Friday between 9am to 2pm. This excludes Christmas, Boxing Day and New Years Day when the site is closed.

9.2. Millhams Recycling Centre

Waste can be removed via the haulage operator, Monday to Friday between:

9.2.1. 9am to 3:30pm in the Winter period (1st October to 31st March inclusive).
9.2.2. 9am to 4:30pm in the Summer period (1st April to 30th September inclusive).
9.2.3. This excludes Christmas, Boxing Day and New Years Day when the site is closed.

9.3. The haulage operator will keep all operational vehicles in a safe and roadworthy condition.

9.4. The haulage operators should adhere to all site safe working practices and traffic management plans.

9.5. The Contractor will provide Haulage Operators with their own Personal Protective Equipment (PPE) which should comply with the Council's standards. There should be no need to utilise the site facilities. However use of the toilet on site is available providing there is prior agreement from a Council representative.

9.6. BCP Council's health and safety rules take precedence above all others.

9.7. The Loading Operator(s) on site will communicate with the Haulage Operator for example via telephone, to advise when the haulage vehicles may access the site.

9.8. Two-way site radio communication with Site Supervisor, Weighbridge and Loading Plant Operators will be available if the site is accessed between 8:30am – 5pm when weighbridge staff are present to hand out radios.

9.9. Vehicles may not be loaded on the weighbridge. Any vehicles requiring additional loading to maximise capacity will need to return to the loading area.

9.10. The Contractor shall control, in accordance with Good Industry Practice, the conveyance of loose and wet loads on the highway, the removal of mud, refuse, etc. from the wheels of vehicles before passing onto a highway.

9.11. The Contractor shall cleanse the highway of any mud, refuse, etc. falling onto the road from a vehicle.

9.12. BCP Council will decide when loads leave the Council owned sites and will be organised and approved by named Council management/ supervisory staff.

9.13. The Haulage Operator will receive direction from site entrance to the Service Area using radio communication (if available) and on site traffic lights which are controlled by the Loading Operators.

9.14. The Haulage Operator will receive direction from site entrance to the Service Area using radio communication (if available) and on site traffic lights which are controlled by the Weighbridge.

10. Contract Monitoring and Records

10.1. The Council shall with 24 hours notice have the right to undertake spot checks of the Contractor's systems and working methods and its site to ensure compliance with the Contract and, in particular, environmental and health & safety legislation. These spot checks may be undertaken at any time during the Contract Period. This includes any assets used by the Contractor to complete all parts of the service.

10.2. The Contractor will make available copies of the waste carrier's licences required to perform all services under this contract. If any licences are renewed or change the Contractor shall within 5 working days submit copies to the Council.

10.3. The Contractor shall submit an end destination report detailing the location and process used for all material that is managed under the contract. Any changes to this information will be reported to the Council within 5 working days.

10.4. The Contractor will be required to provide records of how and where the material is processed including any further treatment if the material is transported away from the Contractor's site.

10.5. The Contractor shall ensure that any processing of material is handled in compliance with the requirements of the Environment Agency.

10.6. All material shall be handled in the process described in the End Destination Report.

10.7. The Contractor is required upon request to make the details of further documentation available to the Council to check its compliance with legislation (e.g. relevant Environment Agency permits, waste carrier's licenses etc.)

10.8. Any incidents or compliance issues raised by the Environment Agency, Planning Authority or other appropriate bodies which may affect the operation of this Contract will be reported within 2 working days to the Council. The Contractor will keep the Council up to date with any developments from these issues.

10.9. The Contractor shall operate procedures that ensure the Council is charged only for the services delivered under this contract.

11. Weighbridge Records

11.1. The Contractor shall have a weighbridge at its site which meets the following criteria:

11.1.1. The weighbridge meets the Non-automatic Weighing Instruments Regulations 2016;

11.1.2. The Contractor will calibrate the weighbridge annually as a minimum;

11.1.3. The capacity of the weighbridge will be no less than 50 tonnes;

11.1.4. The procedure for weighing will be able to produce electronic records containing the information as in clause 11.2 as follows:

11.2. The Contractor shall provide a monthly report to the Council to include each transaction of material. Each record shall include:

11.2.1. unique weigh ticket serial number;

11.2.2. operator name;

11.2.3. name of Site/Facility;

11.2.4. type of waste, including European Waste Catalogue Code;

11.2.5. in the case of Delivery Points, the Council collection round number/origin of the waste;

11.2.6. delivery vehicle registration number;

11.2.7. date of delivery;

11.2.8. time of entry and exit;

11.2.9. gross, tare and net vehicle weight;

11.2.10. unit price;

11.2.11. cost per load; and

11.2.12. Landfill Tax, where applicable;

12. Dealing with Objectionable Waste

12.1. The Council gives no guarantee or undertaking as to the composition of Contract Waste. The Contractor shall accept and make provision for potential changes in quantity and composition of Contract Waste over the Contract Period.

12.2. The Contractor shall make assessments of any possible future trends for changes in materials and end process and factor this in their response.

12.3. Due to the open nature of the Recycling Centres the waste materials will be exposed to the weather. The Contractor shall not reject any material load if it contains wet material.

12.4. Where the Contractor reasonably considers that any single load of Waste delivered to a Delivery Point pursuant to this Contract constitutes Objectionable Waste, the relevant load shall be segregated from all other Waste at the Delivery Point, reported to the Council within 1 working day and retained for inspection by the Council.

12.5. Objectionable waste shall be stored at the Contractor's site until transported to a facility appropriate for the treatment or processing of the material.

13. Future Variations

13.1. The Council may have changes during the course of the contract as follows:

13.1.1. Food waste collections in the Poole area. This would include food waste to be collected from both domestic and commercial properties. Additionally waste may be collected at the Poole Recycling Centre. All waste collected as part of this would require the same disposal route as the other food waste under this contract.

13.1.2. Increasing the amount of waste sent for reuse is a priority for the Council. The Council operates reuse shops which may take proportions of the wood waste to sell or reuse for furniture projects.

PART 2 – SPECIFICATION FOR LOT 1 GREEN WASTE

1.1. Green waste is collected by the Council on a fortnightly collection service from households in varying bin sizes across the BCP area.

1.2. Bidders note that green waste collected in Poole is contracted separately and is therefore out of scope for the duration of this contract.

1.3. Green waste collected by the Council from households will be tipped at the Contractor's site in 26 tonne refuse collection vehicles or similar.

1.4. Green waste is collected at the Recycling Centres located in Bournemouth and Christchurch in dedicated tipping areas.

1.5. The Contractor will haul the green waste collected at the Bournemouth Recycling Centre to the Contractor's site. The waste is collected loose in a concrete bay. A third-party contractor load the green waste into the Contractor's vehicles on site at Bournemouth Recycling Centre.

1.6. The green waste collected at Christchurch Recycling Centre will be hauled to and tipped at the Contractor's site by a separate contractor.

1.7. The waste is classified as the European Waste Catalogue code in the table below.

Category of Waste	EWC – European Waste Catalogue Code
Biodegradable waste	20 02 01

1.8. Estimate of tonnages collected in each area during 2019. This is for indicative purposes only.

Area	Annual Tonnage Estimate
Bournemouth Households	6,962
Christchurch Households	3,550
Bournemouth Recycling Centre	5,266
Christchurch Recycling Centre	5,410

1.9. The processing of the food waste must produce an output that complies with BSI Specification PAS 100.

1.10. As per the general requirements the Contractor shall provide full information of how all of the waste material is processed including the end destination(s).

1.11. Green waste shall include the materials listed in table 1.12 below. The Supplier shall accept the materials in this list.

Table 1.12 Green Waste Materials
Flowers, plants and weeds
Grass cuttings
Leaves and bark
Pot plant compost
Hedge prunings
Branches
Straw and sawdust
Tree parts
Garden derived fruit and vegetables
Egg boxes
Tea bags

2. KPIs for Green Waste

KPI	Details	Reporting Frequency	KPI Failure Scenario	Timescale for Correction
Monthly reporting	The Contractor shall supply a monthly report by the 7th	Monthly	The report is provided after the 7th date of the month	Two days
Operational Site Depot	The Contractor's depot shall be operational on the agreed days and hours.	Daily	The Contractor's site is not operating and the waste material cannot be tipped during agreed hours.	1 day
Turnaround Time	The maximum turnaround for a Council vehicle to tip the waste on the Contractor's site shall be 40 minutes. The average time for Council vehicles tipping on site during any given calendar month shall be 20 minutes.	Monthly	Either, a single Council's vehicle movement on site is greater than 40 minutes due to the Contractor's operation, or the average for all Council vehicles turnaround times within a calendar month is greater than 20 minutes.	
Haulier Provision	The Contractor shall provide collections to ensure that the waste does not build up to a level which exceeds the storage area at the Council site.	Daily	The waste spills out of the designated Council area due to non-collection.	1 day
Waste Disposal Contingency	Should there be an issue from the normal operation	Daily	The normal operation of the contract is prohibited and the Contractor does	1 day

	of the contract the Contractor shall ensure that an alternative site to hold the waste is immediately made available and agreed to be suitable with a representative of the Council.		not provide a suitable alternative immediately	
Recycling and composting	Recycling and composting of the waste to remain at the minimum levels required by the Council.	Monthly	The Contractor diverts waste to non-recycling processes which have greater levels of disposal than agreed.	1 month
Risk Assessments	The Contractor shall produce risk assessments for all working practices on their site and for haulage related to this contract. This shall be kept updated with copies of the originals provided before the contract commences. Updates to the risk assessments shall be monitored continually and any updated copies provides with 5 Business Days from completion to the Council.	Monthly	The Contractor does not provide amended risk assessments within 5 Business Days from completion.	5 Business Days

PART 3 – SPECIFICATION FOR LOT 2 WOOD WASTE

1.1. Wood waste originates from households that bring material to the Council's Recycling Centres. Commercial customers also bring a smaller proportion of wood waste to the Recycling Centres. Wood waste also can also arise from fly-tips the Council has collected.

1.2. Wood waste is collected at the Recycling Centres located in Bournemouth and Christchurch.

1.3. The Contractor will collect and haul all wood waste from Bournemouth Recycling Centre to the Contractor's site in articulated lorries or equivalent. The waste is collected by the Council loose in a concrete bay. The waste will be loaded by the Council.

1.4. Wood waste collected at Christchurch Recycling Centre will be hauled to and tipped at the Contractor's site by a third-party contractor.

1.5. The wood collected at the Poole Recycling Centre is under contract with a third-party for the duration of this contract.

1.6. The waste material is classified under the following European Waste Catalogue Code.

Category of waste	EWC - European Waste Catalogue Code
Wood other than that mentioned in 20 01 37	20 01 38

1.7. All collected material is classified as Grade C waste wood. The wood being tipped is not always under supervision and will be of mixed varieties in terms of quality and type of wood.

1.8. The below table is for tonnages collected in 2019. This is for indicative purposes only. The Contractor shall have a site that has the capacity to deal with a minimum of the estimated annual tonnage plus an additional 10% of this waste material.

Area	Annual Tonnage Estimate
Bournemouth Recycling Centre	4,894
Christchurch Recycling Centre	3,016

1.9. As per the general requirements the Contractor shall provide full information of how all of the waste material is processed including the end destination(s).

1.10. Wood waste shall include the materials listed in table 1.11 below. The Supplier shall accept the materials in this list.

Table 1.11 Wood Waste Materials
Parrticleboard Products Timber in flat sheets comprising of: - Chipped wood - Wood flakes - Shavings - Sawdust Medium Density Fibreboard (MDF) Painted or wood treated with non-hazardous products Laminated products Furniture Doors Timber Hardwood Softwood Oriented strand board (OBS) Block board Plywood

2. KPIs Relevant to Wood Waste

KPI	Details	Reporting Frequency	KPI Failure Scenario	Timescale for Correction
Monthly reporting	The Contractor shall supply a monthly report by the 7th	Monthly	The report is provided after the 7th date of the month	Two days
Operational Site Depot	The Contractor's depot shall be operational on the agreed days and hours.	Daily	The Contractor's site is not operating and the waste material cannot be tipped during agreed hours.	1 day
Haulier Provision	The Contractor shall provide collections to ensure that the waste does not build up to a level which exceeds the storage area at the Council site.	Daily	The waste spills out of the designated Council area due to non-collection.	1 day
Waste Disposal Contingency	Should there be an issue from the normal operation of the contract the Contractor shall ensure that an alternative site to hold the waste is immediately made available and agreed to be suitable with a representative of the Council.	Daily	The normal operation of the contract is prohibited and the Contractor does not provide a suitable alternative immediately	1 day
Recycling and composting	Recycling and composting of the waste to remain at the minimum levels required by the Council.	Monthly	The Contractor diverts waste to non-recycling processes which have greater levels of disposal than agreed.	1 month
Risk Assessments	The Contractor shall produce risk assessments for all working practices on	Monthly	The Contractor does not provide amended risk assessments within 5 Business Days from completion.	5 Business Days

	their site and for haulage related to this contract. This shall be kept updated with copies of the originals provided before the contract commences. Updates to the risk assessments shall be monitored continually and any updated copies provides with 5 Business Days from completion to the Council.			

PART 4 – SPECIFICATION FOR LOT 3 FOOD WASTE

1.1. Food waste is collected by the Council on a fortnightly collection service from households and commercial properties in the BCP area. There will be collection vehicles that collect every day between Monday and Friday.

1.2. Food waste is collected by the Council from households in the Christchurch and Bournemouth area and will be tipped at the Contractor's site in 26 tonne refuse collection vehicles or similar.

1.3. Bidders note that there are currently no collections of food waste from Poole Households. If this changes during the life of the contract then such waste will fall within scope of this contract.

1.4. The waste is classified as the European Waste Catalogue code in the table below.

Category of Waste	EWC – European Waste Catalogue Code
Biodegradable kitchen and canteen waste	20 01 08

1.5. Estimate of tonnages collected in 2019. This is for indicative purposes only.

Area	Annual Tonnage Estimate
Bournemouth Households	3,220
Christchurch Households	1,532

1.6. The processing of the food waste must produce an output that complies with BSI Specification PAS 110.

1.7. As per the general requirements the Contractor shall provide full information of how all of the waste material is processed including the end destination(s).

1.8. Food waste shall include the materials listed in table 1.9 below. The Supplier shall accept the materials in this list.

Table 1.9 Food Waste Materials
All category 3 animal by-products cooked and uncooked food, including: Meat, fish and bones Fruit and vegetable peelings Cheese and dairy produce Cakes, breads and pastries

Leftovers, including plate scrapings
Tea bags and coffee grounds
Pasta, rice and egg shells
Cut flowers
Compostable and newspaper caddy liners

2. KPIs for Food Waste

KPI	Details	Reporting Frequency	KPI Failure Scenario	Timescale for Correction
Monthly reporting	The Contractor shall supply a monthly report by the 7th	Monthly	The report is provided after the 7th date of the month	Two days
Operational Site Depot	The Contractor's depot shall be operational on the agreed days and hours.	Daily	The Contractor's site is not operating and the waste material cannot be tipped during agreed hours.	1 day
Turnaround Time	The maximum turnaround for a Council vehicle to tip the waste on the Contractor's site shall be 40 minutes. The average time for Council vehicles tipping on site during any given calendar month shall be 20 minutes.	Monthly	Either, a single Council's vehicle movement on site is greater than 40 minutes due to the Contractor's operation, or the average for all Council vehicles turnaround times within a calendar month is greater than 20 minutes.	
Waste Disposal Contingency	Should there be an issue from the normal operation of the contract the Contractor shall ensure that an alternative site to hold the waste is immediately made available and agreed to be suitable with a representative of the	Daily	The normal operation of the contract is prohibited and the Contractor does not provide a suitable alternative immediately	1 day

	Council.			
Recycling and composting	Recycling and composting of the waste to remain at the minimum levels required by the Council.	Monthly	The Contractor diverts waste to non-recycling processes which have greater levels of disposal than agreed.	1 month
Risk Assessments	The Contractor shall produce risk assessments for all working practices on their site and for haulage related to this contract. This shall be kept updated with copies of the originals provided before the contract commences. Updates to the risk assessments shall be monitored continually and any updated copies provides with 5 Business Days from completion to the Council.	Monthly	The Contractor does not provide amended risk assessments within 5 Business Days from completion.	5 Business Days

PART 5 – SPECIFICATION FOR LOT 4 STREET SWEEPINGS

1.1. Street sweepings are derived from the Council's mechanical and manual street sweeping activity carried out within the BCP area.

1.2. Street sweepings are collected and bulked at the Poole Recycling Centre.

1.3. The Contractor shall provide haulage to collect the sweepings from Poole Recycling Centre and deposit at the Contractor's site. The loading of the material will be performed by a third party Contractor.

1.4. The Christchurch street sweeping service will be newly instigated.

1.5. In Christchurch the Council will operate a large street sweeper that will collect the waste material and deliver it directly to the Contractor's site.

1.6. In Christchurch the Council will also operate smaller street sweepers that will tip into a skip located at Grange Road Depot, Christchurch. The Council will haul to and tip this waste at the Contractor's site.

1.7. Bournemouth waste is collected and bulked at the Council's Southcote Road Depot. The Council will haul this waste in a Roll On-Off Skip Vehicle from the Council's Southcote Road Depot to the Contractor's site.

1.8. The Contractor shall provide a suitable tipping point for both small street sweepers and skips to deposit the waste material.

1.9. Some of the Council's street sweepers have low road clearance. The Contractor's on-site traffic-calming measures must not hinder access on entry, exit or within the Contractor's site.

1.10. The Contractor shall collect all waste that is classified under the following European Waste Catalogue Code:

Category of Waste	EWC – European Waste Catalogue Code
Street Cleaning Residues	20 03 03

1.11. Estimate of tonnages collected in 2019. This is for indicative purposes only. Bidders note that Christchurch tonnages are unknown as the service was not previously being performed. The Contractor's site must have capacity to handle no less than the estimated annual tonnage plus an additional 10% of this waste material.

Area	Annual Tonnage Estimate
Bournemouth Depot	1,750

Poole Recycling Centre	1,950

1.12. The Contractor shall use reasonable endeavours to ensure any residues from the treatment process are reused, recycled or composted before disposal is considered.

1.13. As per the general requirements the Contractor shall provide full information of how all of the waste material is processed including the end destination(s).

1.14. Street sweepings shall include the materials listed in table 1.15 below. The Supplier shall accept the materials in this list.

Table 1.15 Street Sweepings Material
Street Cleansing Materials
Leaf Litter
Weeds
Sand
Grit
Gravel
Glass
Soil
Litter and Detritus
Paper
Plastics
Residues from Motor Vehicles

2. KPIs for Street Sweepings

KPI	Details	Reporting Frequency	KPI Failure Scenario	Timescale for Correction
Monthly reporting	The Contractor shall supply a monthly report by the 7th	Monthly	The report is provided after the 7th date of the month	Two days
Operational Site Depot	The Contractor's depot shall be operational on the agreed days and hours.	Daily	The Contractor's site is not operating and the waste material cannot be tipped during agreed hours.	1 day
Turnaround Time	The maximum turnaround for a Council vehicle to tip the waste on the Contractor's site shall be 40 minutes. The average time for Council vehicles tipping on site during any given calendar month shall be 20 minutes.	Monthly	Either, a single Council's vehicle movement on site is greater than 40 minutes due to the Contractor's operation, or the average for all Council vehicles turnaround times within a calendar month is greater than 20 minutes.	
Waste Disposal Contingency	Should there be an issue from the normal operation of the contract the Contractor shall ensure that an alternative site to hold the waste is immediately made available and agreed to be suitable with a representative of the	Daily	The normal operation of the contract is prohibited and the Contractor does not provide a suitable alternative immediately	1 day

	Council.			
Recycling and composting	Recycling and composting of the waste to remain at the minimum levels required by the Council.	Monthly	The Contractor diverts waste to non-recycling processes which have greater levels of disposal than agreed.	1 month
Risk Assessments	The Contractor shall produce risk assessments for all working practices on their site and for haulage related to this contract. This shall be kept updated with copies of the originals provided before the contract commences. Updates to the risk assessments shall be monitored continually and any updated copies provides with 5 Business Days from completion to the Council.	Monthly	The Contractor does not provide amended risk assessments within 5 Business Days from completion.	5 Business Days

SCHEDULE 2 FACILITIES

PART A: PRIMARY DELIVERY FACILITY

Note: To be completed by The Contractor

PART B: CONTINGENCY DELIVERY FACILITY

Note: To be completed by The Contractor

SCHEDULE 3

FORM OF [PERFORMANCE BOND] [PARENT COMPANY GUARANTEE]