WOMBLE BOND DICKINSON

2021

Waste Collection Contract
relating to
the waste collection, street cleansing and other services to be provided by Veolia to the Councils

Dover District Council (1)
The District Council of Folkestone and Hythe (2) and
Veolia ES UK Limited (3)

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DATE

PARTIES

(1) Dover District Council of White Cliffs Business Park, Dover, Kent, CT16 3PJ (**DDC**).

(2) The District Council of Folkestone and Hythe of Castle Hill Avenue, Folkestone, Kent, CT20 2QY (**FHDC**)

(collectively known as the **Councils** and each known as a **Council**).

(3) Veolia ES UK Limited (No. 2215767) whose registered office is 8th Floor, 210 Pentonville Road, London, N1 9JY (**Contractor**).

BACKGROUND

(A) DDC and FHDC are each the waste collection authority for their respective administrative area.

(B) DDC and FHDC have procured the Services (as hereinafter defined) to be provided by its preferred partner upon the terms of this Agreement.

(C) The Contractor has been selected following an EU compliant tender process to provide the Services to DDC and FHDC on the terms set out in this Agreement.

AGREED TERMS

OPERATIVE PROVISIONS

PART 1 - PRELIMINARY

1. DEFINITIONS AND INTERPRETATION

1.1 The definitions and rules of interpretation in Clause 1 apply:

Adjudicator	the person selected in accordance with Clause 53 (Dispute Resolution) to decide a dispute referred to him.
Administering Authority	KCC acting in its capacity as the administering authority of the Fund for the purposes of the LGPS Regulations.
Admission Agreement	the admission agreement entered into in accordance with paragraph 1 of Part 3 of Schedule 2 of the LGPS Regulations by the Administering Authority, the Councils and the Contractor or a Sub-Contractor (as appropriate).
Admission Body	an admission body for the purposes of paragraph 1 of Part 3 of Schedule 2 of the LGPS Regulations 2013.
Affiliate	in relation to any person, any Holding Company or subsidiary of that person or any Subsidiary of such Holding Company.
Agreed Form	a form of document agreed between the Councils and the Contractor in connection with this Agreement prior to the Commencement Date and initialled for the purpose of identification.
Agreement	this agreement and its Schedules.

Ashford WTS	Ashford Waste Transfer Station, Cobbs Wood Industrial Estate, Brunswick Road, Ashford.
Assets	the Authority Assets and the Contractor Assets.
Asset Register	a register detailing both Contractor Assets and Authority Assets maintained in accordance with the terms of Clause 13.3.
Assisted Collection	a collection of Contract Waste by the Contractor from the location at which the Receptacle is normally stored, or in the case of Bulky Waste from within the relevant residential property, and returning any re-usable Receptacles to the same location after they have been emptied, subject to it being reasonably practicable to implement a safe method for doing so in each case in accordance with Legislation, Guidance and Good Industry Practice.
Authorised Officer	any person to whom the Supervising Officer from time to time delegates any of his powers in accordance with Clause 6.
Authority Assets	the Existing Authority Assets and New Authority Assets.
Background Information	all and any materials, documents, drawings, plans, surveys, models or other information relating in any way to the Project and made available by the Councils or their agents to the Contractor in connection with the preparation of this Agreement and during the process of competitive tender and in any subsequent period of refinement prior to the date hereof including inter alia all such materials, documents, drawings, plans, surveys, models or other information provided in connection with pre-qualification for that process.
Base Date	For CPI and all other indices apart from National Living Wage, the February in the year preceding the relevant Contract Year and, for National Living Wage, the April in the year preceding the relevant Contract Year.
Benefit Regulations	the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.
Bulky Waste	Household Waste more particularly described as bulky as set out in Paragraph 2.6 of Schedule 1 (Output Specification).
Bulky Waste Collection Service	that part of the Collection Services comprising the collection of Bulky Waste, as more particularly described in Paragraph 2.6 of Schedule 1 (Output Specification) and in Schedule 2 (Service Delivery Plan).
Business Day	a Day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London.
Capital Expenditure	any expenditure reasonably and necessarily incurred by the Contractor for the sole purpose of delivering the project and which falls to be treated as capital expenditure in accordance with generally acceptable accounting principles in the United Kingdom from time to time.
Cessation Date	any date on which the Contractor ceases to be an Admission Body as referred to in Clause 33.7 (Contractor to become an Admission Body) other than as a result of the termination of this Agreement or because it ceases to employ any Eligible Employees.

Change in Costs in respect of any Relevant Event, the effect of that Relevant Event (whether of a one-off or recurring nature, and whether positive or negative) upon the actual or anticipated costs, losses or liabilities of the Contractor (without double counting), including, as relevant, the following:

(a) the reasonable costs of complying with the requirements of Clause 15 (Change in Law);

(b) the costs of continued employment of, or making redundant, staff who are no longer required;

(c) the costs of employing additional staff;

(d) reasonable professional fees;

(e) the effects of costs on implementation of any insurance reinstatement in accordance with this Agreement, including any adverse effect on the insurance proceeds payable to the Contractor (whether arising from physical damage insurance or business interruption insurance (or their equivalent)) in respect of that insurance reinstatement and any extension of the period of implementation of the insurance reinstatement;

(f) operating costs, or life cycle, maintenance or replacement costs;

(g) Capital Expenditure (or, in the case of a Relevant Event which is a Qualifying Change in Law, Capital Expenditure for which the Councils are responsible);

(h) any deductible or increase in the level of deductible, or any increase in premium under or in respect of any insurance policy.

Change in Law the coming into effect after the date of this Agreement of:

(a) Legislation, other than any Legislation which on the date of this Agreement 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; or

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

(b) any Guidance; or

(c) any applicable judgement of a relevant court of law which changes a binding precedent.

Change in Revenue in respect of any Relevant Event, the effect of that Relevant Event (whether of a one-off or recurring nature, and whether positive or negative) upon the actual or anticipated income of the Contractor from third parties (without double counting).

Change Mechanism the mechanism set out in Clause 14.

Clinical Waste	is described in Paragraph 2.7 of Schedule 1 (Output Specification).
Clinical Waste Collection Service	that part of the Collection Services comprising the collection of Clinical Waste, as is more particularly described in Paragraph 2.7 of Schedule 1 (Output Specification) and Schedule 2 (Service Delivery Plan).
Collection	the gathering and/or sorting of Contract Waste and/or the mixing of Contract Waste for the purposes of transport, and the terms **Collected** and **Collect** shall be interpreted accordingly.
Collection Contract Area	the DDC Administrative Area and FHDC Administrative Area as at the date of this Agreement.
Collection Services	Collection in the relevant Collection Contract Area in accordance the provisions of this Agreement as more particularly described in Schedule 1 (Output Specification) and Schedule 2 (Service Delivery Plan).
Commencement Date	00:00:01 on 16 January 2021.
Commercial Waste	commercial waste as defined in section 75(7) EPA.
Commercially Sensitive Information	the subset of Confidential Information listed in Schedule 12 (Commercially Sensitive Information).
Compensation Regulations	the Local Government (Discretionary Payments) Regulations 1996 and the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.
Composted	has the meaning given in British Standard PAS 100 and **Composting**, **Compost** and **Compostable** shall be interpreted accordingly.
Conduits	all pipes, sewers, drains, mains, ducts, conduits, gutters, water courses, wires, cables, meters, switches, channels, flues and all other conducting media appliances and apparatus including any fixtures, louvres, cowls and other ancillary apparatus.
Confidential Information	(a) information that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) and may include commercially sensitive information, trade secrets, Intellectual Property Rights, know-how of either party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998; and (b) Commercially Sensitive Information.
Contamination	material which does not comply with the relevant Material Acceptance Criteria as detailed within Schedule 1.
Contract Meetings	has the meaning given in Clause 28.
Contract Period	the period from the Commencement Date until the earlier of the Termination Date and the Expiry Date.
Contract Waste	all waste which the WCAs are required to collect under the EPA.
Contract Year	any period of twelve (12) Months commencing on the Commencement Date and each subsequent twelve (12) Month period commencing on the anniversary on the Commencement Date.

Contractor Assets all assets and rights to enable the Contractor, the Councils or a successor contractor (as the case may be) to provide the Services in accordance with this Agreement, including:

(a) any books and records (including operating and maintenance manuals, health and safety manuals and other know how);

(b) any spare parts, tools and other assets (together with any warranties in respect of the same);

(c) any land or buildings;

(d) any revenue and any other contractual rights;

(e) any intellectual property rights,

but excluding any assets (being either Existing Authority Assets or New Authority Assets) and rights in respect of which the Councils are or any of them is the full legal and beneficial owner.

Contractor Default any one of the following events:

(a) a breach by the Contractor of any of its obligations under this Agreement which materially and adversely affects the performance of the Services (or any part thereof);

(b) a Persistent Breach occurs;

(c) a court makes an order that the Contractor be wound up or a resolution for a voluntary winding up of the Contractor is passed;

(d) any receiver or manager in respect of the Contractor is appointed or possession is taken by or on behalf of any creditor of any property that is the subject of a charge;

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

(f) an administration order is made or an administrator is appointed in respect of the Contractor;

(g) a breach of Clause 34 (Contractor Employees) occurs;

(h) a breach by the Contractor of its obligations in Clause 49 (Assignment and Sub-Contracting) occurs;

(i) an accumulation of in excess of [redacted] Performance Points in any rolling twelve (12) Month period, triggering the issue of a Termination Notice pursuant to the terms of Schedule 4 (Performance Mechanism);

(j) the service of more than three (3) Warning Notices pursuant to the terms of Schedule 4 (Performance Mechanism) in a rolling period of forty eight (48) Months; and

(k) if the Contractor's liability cap under Clause 46.1.1(d) is exceeded and the Contractor does not increase the cap to a level that is acceptable to the Councils.

Contractor Notice of Change	has the meaning given in Clause 14.2.1.
Contractor Related Party	(a) an officer, or agent of the Contractor, or any Affiliate of the Contractor and any officer, or agent of such a person; (b) any Sub-Contractor or sub-contractor of the Contractor of any tier and any of their officers, or agents; and (c) any person on or at any of the Sites at the express or implied invitation of the Contractor, but excluding the Councils and any Council Related Party.
Contractor Scheme	has the meaning given in Clause 33.13.
Contractor's Tender Submission	the final tender submission made by the Contractor in response to the OJEU notice issued by the Councils in respect of the Services.
Council Change	a change in Services which the Contractor is obliged to implement under Clause 14.1.
Council Default	one of the following events: (a) a failure by the Lead Authority to make payment of any amount of money exceeding three (3) Months Monthly Charge that is due and payable by the Lead Authority under this Agreement within ninety (90) Days of service of a formal written demand by the Contractor, where that amount fell due and payable two (2) or more Months prior to the date of service of the written demand. (b) a breach by the any of the Councils of Clause 49.1 occurs; or (c) a breach by any of the Councils of its obligations under this Agreement which substantially frustrates or renders it impossible for the Contractor to perform its obligations under this Agreement for a continuous period of two (2) Months.
Council Default Termination Sum	the amount calculated in accordance with Clause 37.2.
Council Employees	the employees of the Councils who immediately prior to the Transfer Date are wholly or mainly engaged in services which will transfer to the Contractor on the Transfer Date.
Council Notice of Change	the notice to be served by the Lead Authority on the Contractor requiring a change in the Services in accordance with Clause 14.1 (Council Change to the Services).
Council Policies	the policies of the Councils set out at Schedule 14.
Councils' Monthly Reply	has the meaning as set out in Clause 18.2.
Councils' Property	has the meaning as set out in Clause 46.1.1(b).
Council Related Party	an officer, department, agent, contractor or sub-contractor of all or any of the Councils, excluding the Contractor and any Contractor Related Party.

Data Loss Event	any event that results, or may result, in unauthorised access to Personal Data under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
Data Protection Legislation	(a) the GDPR, the LED and any applicable national implementing Legislation as amended from time to time; (b) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (c) all applicable Legislation about the processing of personal data and privacy.
Data Subject Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
Day	each period of twenty four (24) hours from midnight to midnight.
DDC	Dover District Council of White Cliffs Business Park, Dover, Kent, CT16 3PJ.
DDC Administrative Area	the administrative area of DDC at the date of this Agreement.
DEFRA	the Department of Environment, Food and Rural Affairs or any successor body from time to time.
Depots	the Ross Depot and the Tower Hamlets Depot together or either of them as the case may be as the same are more particularly described in Part 3 of Schedule 5.
Depot Leases	the Ross Depot Lease and the Tower Hamlets Depot Lease together or either of them as the case may be.
Direct Losses	all damage, losses, liabilities, claims, actions, costs, expenses (including the cost of legal or professional services, legal costs being on an agent/client, client paying basis), proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses.
Dispute Resolution Procedure	the procedure for the resolution of disputes set out in Clause 53.
DPA	the Data Protection Act 2018.
EEA	from time to time the European Economic Area as created by The Agreement on the European Economic Area 1992 of any successor or replacement body, association, entity or organisation which has assumed either or both the function and responsibilities of the European Economic Area.
End Market	corporations, organisations, partnerships or persons willing to purchase for a fee in money or money's worth or accept whether or not for a fee in money or money's worth Recyclable Materials and who are in the business of utilising Recyclable Materials.
Eligible Employees	the Existing Employees who are active members of or eligible to join the LGPS and who were active members or, or eligible to join a broadly comparable scheme immediately before the Transfer Date for

so long as they are employed in connection with the provision of the Services or part of such Services.

Emergency either:

(a) any event causing or, in the reasonable opinion of the Lead Authority, threatening to cause death or serious 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 in each case on a scale beyond the capacity of the emergency services operating under normal circumstances and requiring the mobilisation and organisation of the emergency services (and whether or not an Emergency has arisen shall be determined the case of any dispute by the Lead Authority acting reasonably); or

(b) an event which leads a Relevant Authority to issue either of the Councils with a notice requiring the suspension of a part of parts of the Service or the closure of one or more of the Waste Management Facilities or Transfer Stations.

Environment all or any of the media of air, water and land (wherever occurring) as well as buildings and the built environment and living organisms (including man) or systems supported by those media and, in relation to the media of air and water, includes the air and water within buildings and the air and water within other natural or man-made structures above or below or within ground.

Environment Agency the Environment Agency of England and Wales or any successor from time to time.

Environmental Information Regulations the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to the Environmental Information Regulations 2004.

Environmental Permit has the meaning given to it in regulation 13(1) of the Environmental Permitting (England and Wales) Regulations 2007.

EPA the Environmental Protection Act 1990.

Estimate has the meaning given in Clause 14.

Estimated Change in Project Costs in respect of any Relevant Event in the aggregate of any Change in Costs and/or (without double counting) Change in Revenue (as relevant).

Excusing Cause

(a) any breach of any express provision of this Agreement by any Council or any Council Related Party (unless, and to the extent, caused or contributed by the Contractor or any Contractor Related Party);

(b) any Council exercising its step-in rights under Clause 32.1 (Council Step-in) subject to the rights of such Council to deduct the Council's cost of operation in taking the Required Action under Clause 33.4 (Step-in on Contractor Breach) and any other provisions of this Agreement;

(c) in respect of Performance Failures falling under PC 21-30 of Schedule 4 (Performance Mechanism), the occurrence of

weather such that the carrying out of all or part of the Collection Services would, or would more likely than not, pose an imminent and significant health and safety threat but only in respect of such part of the Collection Services which are so affected; or

(d) in respect of Performance Failures falling under PC 21-30 of Schedule 4 (Performance Mechanism), any shortage of fuel (for Vehicles used in accordance with the Service Delivery Plan) which causes or contributes to a failure to carry out the Collection Services after the first two (2) Business Days of any shortage of fuel from time to time but save that this event shall not apply where the shortage of fuel arises (directly or indirectly) as a result of any wilful default or wilful act of the Contractor or any of its sub-contractors.

Existing Authority Assets the assets owned by the Councils that were previously used by the Contractor in the delivery of the Services and continued to be made available to the Contractor from the Services Commencement Date.

Expiry Date 23.59:59 on the 15 January 2029.

Fees Regulations the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

Final Asset Register has the meaning given to it in Clause 45.8.

Fly Tipped Waste waste illegally deposited on land that is collected by the Contractor as part of the Services.

FHDC The District Council of Folkestone and Hythe of Castle Hill Avenue, Folkestone, Kent, CT20 2QY.

FHDC Administrative Area the administrative area of FHDC at the date of this Agreement.

Food Waste the range of accepted food waste materials includes the following:

(a) dairy;

(b) fish;

(c) fruit & vegetables;

(d) meat & bones;

(e) bread & pastries;

(f) tea & coffee grounds; and

(g) pasta and rice.

FOIA the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to the Freedom of Information Act 2000.

Force Majeure Event the occurrence after the date of this Agreement of:

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

(b) nuclear, chemical or biological contamination unless the source or cause of the contamination is the result of the actions or breach of the Contractor or its sub-contractors of any tier; or

(c) pressure waves caused by devices travelling at supersonic speeds,

which directly causes any Party (**Affected Party**) to be unable to comply with all or a material part of its obligations under this Agreement.

Force Majeure Termination Sum — the amount calculated in accordance with Clause 40.

Fund — Kent Pension Fund.

Garden Waste — separated vegetation and plant waste from household gardens that is suitable for Composting in accordance with Paragraph 2.5 of Schedule 1 (Output Specification).

GDPR — the General Data Protection Regulation (EU) 2016/679.

General Change in Law — a Change in Law which is not a Specific Change in Law.

General Indexation — has the meaning set out in Schedule 3.

Good Industry Practice — the exercise of that degree of skill, diligence, prudence and foresight and operating practice which would reasonably and ordinarily be expected from a skilled and experienced person engaged as the case may be in the same type under the same or similar circumstances at the relevant time for such exercise.

Guidance — any applicable guidance or directions issued by a Relevant Authority with which the Contractor is bound to comply.

Holding Company — a holding company as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of:

(a) another person (or its nominee), whether by way of security or in connection with the taking of security; or

(b) its nominee;

In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:

(i) references in subsections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and

(ii) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to

appoint or remove members holding a majority of the voting rights.

Hope Farm	Hope Farm, Crete Road East, Folkestone, Kent, CT18 7EG.
Household	a unit of residential accommodation listed by the Valuation Office Agency as a unit on which Council Tax is payable.
Household Waste	household waste as defined in section 75(5) EPA and the Controlled Waste (England and Wales) Regulations 2012.
Household Waste	household waste as defined in section 75(5) EPA and the Controlled Waste Regulations 1992.
Household Waste Collection Service	the Waste Collection Service in relation to Household Waste, in accordance with Schedule 1 (Output Specification) and Schedule 2 (Service Delivery Plan).
Incoming Contractor	a replacement service provider taking or to take over the performance of the Services (or any part of the Services) on termination or expiry of this Agreement (which for the avoidance of doubt, shall include each of the Councils or any successor bodies).
Indirect Losses	loss of profits, loss of use, loss of production, loss of business, loss of business opportunity, or any claim for consequential loss or for indirect loss of any nature.
Information	has the meaning given under section 84 of the FOIA.
Instalment Dates	has the meaning given in Clause 49.1.2.
Integrated Service Management System	the management systems to be provided by the Contractor in accordance with Clause 11.4 of this Agreement and Paragraph 1.4 of Schedule 1 (Output Specification) and Schedule 2 (Service Delivery Plan).
Intellectual Property Rights	any and all patents, trade marks, service marks, copyright rights in a design or know-how and any other intellectual property rights having an equivalent or similar effect whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world.
Inter Authority Agreement	the Inter Authority Agreement to be entered into between KCC and DDC with a commencement date of 16 January 2021.
KCC	Kent County Council of County Hall, Maidstone, Kent, ME14 1XQ.
Lead Authority	DDC.
LED	Law Enforcement Directive (Directive (EU) 2016/680).
Legal Ownership	the documentary evidence (whether paper based or in electronic format) containing the information set out in Schedule 18.
Legislation	any Act of Parliament or subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable Community right within the meaning of section 2 of the European Communities Act 1972, in each case in the United Kingdom.

Letter of Comfort	an agreement related to the acquisition documented by way of letter of comfort between the Councils (1) and the Contractor (2) and dated 22 October 2020.
LGPS	the Local Government Pension Scheme established pursuant to regulations made by the relevant Secretary of State in exercise of powers under sections 7 and 12 of the Superannuation Act 1972 (as amended from time to time).
LGPS Regulations	the Transitional Provisions Regulations 2014 (SI 2014/525) and the Local Government Pensions Scheme Regulations 2013 (SI 2013/2356).
Losses	all damages, losses, liabilities, costs, expenses (including legal and other professional charges and expenses), and charges whether arising under statute, contract or at common law or in connection with judgements, proceedings, internal costs or demands.
Material Acceptance Criteria	the range of materials that will be accepted by the onward processor for any given material stream and as detailed within Schedule 1 (Output Specification) and Schedule 13 (Waste Acceptance Protocol).
Major Contamination	is defined as material which is not compliant with the Material Acceptance Criteria and not quickly and easily separated at the time of collection from the compliant waste stream.
Minor Contamination	is defined as material which is not compliant with the Material Acceptance Criteria but is quickly and easily separated at the time of collection from the compliant waste stream.
Month	a calendar month.
Monthly Charge	the payment calculated in accordance with Schedule 3.
Monthly Report	a report in the form set out in Schedule 15 and Schedule 17 provided for each Month by the Contractor which sets out the monitoring data, performance and delivery of the Services in the previous Month.
National Indicators	the national indicators for local Councils and local authority partnerships as issued by the Department of Communities and Local Government.
Necessary Consents	all rights, agreements, approvals, consents, permits, licences, facilities, permissions and certificates including, for the avoidance of doubt: (a) all Environmental Permits; and (b) any planning permissions, (c) lawfully and necessarily required from any competent regulatory or licensing authority or other persons whatsoever in necessary for providing the Services (or any part of the Services) and otherwise for carrying out and completion of the Project in accordance with this Agreement as varied from time to time.

New Authority Assets	(a) such New Vehicles as have been funded by the Councils in accordance with the terms of the Letter of Comfort between the Parties (as varied by the terms of this Agreement); and (b) any other Authority Assets that the Parties agree in writing will be funded by the Councils.
New Contractor	the person who has entered or who will enter into the new contract for some or all of the Services with the Councils (or any of them).
New Employees	all those employees recruited and employed by the Contractor and/or any relevant Sub-Contractor after the Transfer Date and engaged wholly or mainly in the provision of the Services (or any part of the Services).
New Vehicles	the vehicles listed in Appendix 1 of the Letter of Comfort.
Operating Manuals	the operating manuals referred to in Schedule 1.
Operations Manager	the manager appointed by the Contractor to act as the Contractor's agent in connection with the provision of the Services pursuant to Clause 6.
Output Specification	the output specification setting out the Councils' requirements for the Services as set out at Schedule 1.
Parties	the Lead Authority and the Contractor and **Party** shall mean either of them.
Payment Mechanism	the mechanism for payment of the Contractor for provision of the Services to the Councils as set out in Schedule 3 (Payment Mechanism).
Performance Criteria or **PC**	the criteria for compliance with the Output Specification set out in Schedule 4 (Performance Mechanism).
Performance Deductions	the deductions incurred for any Performance Failure calculated in accordance with Schedule 4 (Performance Mechanism).
Performance Failure	a failure to achieve or comply with the Performance Criteria as set out in Schedule 4 (Performance Mechanism).
Performance Points	the points incurred for any Performance Failure calculated in accordance with Schedule 4 (Performance Mechanism).
Persistent Breach	a breach of this Agreement as detailed in Clause 38.2.
Plans	the Environmental Statement, the Quality Management System, Service Delivery Plans and the Annual Action Plan.
Processor Personnel	all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement.
Prohibited Act	(a) offering, giving or agreeing to give any person employed by or on behalf of any of the Councils or any member of the Councils 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 Agreement or any other contract with the Councils; or

(ii) for showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with any of the Councils;

(iii) entering into this Agreement or any other contract with any of the Councils 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 Lead Authority;

(b) committing any offence:

(i) under the Bribery Act 2010;

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

(iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with any of the Councils,

defrauding or attempting to defraud or conspiring to defraud any of the Councils.

Project the provision of the Services by the Contractor.

Project Documents the agreements entered into by the Contractor for the performance of its obligations under this Agreement being the Ross Depot Lease and Tower Hamlets Depot Lease.

Property Matters the matters and documents listed in Schedule 5.

Protective Measures means those actions and measures by the Data Processor which are appropriate, necessary and proportionate to protect against a Data Loss Event.

Qualifying Change in Law (a) a Specific Change in Law; and/or

(b) a General Change in Law which comes into effect after a period of two (2) Years following the Commencement Date and which involves Capital Expenditure,

in each instance, which was not foreseeable at the date of this Agreement.

Quality Management Plan a plan detailing the Quality Management System provided and updated by the Contractor in accordance with Quality Management Plans submitted by the Contractor in accordance with of the requirements of Schedule 1 (Output Specification).

Quality Management System	a certified system, provided by the Contractor for managing the Services in accordance with ISO 9001:2000 or any equivalent standard.
Receptacle	a container (which complies with the requirements of Schedule 1 (Output Specification) and is approved by the Lead Authority) for holding waste.
Rectification Period	has the meaning given in Schedule 4.
Rectification Plan	has the meaning given in Schedule 4.
Recycle	the reprocessing of waste physically, chemically or biologically into a product whether for the original purpose or not and which material has been delivered to an End Market and **Recycled** and **Recycling** shall be construed accordingly.
Recyclable Materials	those materials identified at Paragraphs 2.3, 2.4 and 2.5 of Schedule 1: (a) Collected separately by the Contractor on behalf of the Councils; (b) otherwise separated from Contract Waste; (c) being Contract Waste source separated arisings derived from the Street Cleansing Service; for the purposes of Recycling or Composting which are not Contaminated unless such Contamination arose as a result of Contractor's or Contractor Related Party's actions or failure to act.
Redundancy Modification Order	the Redundancy Payments (Continuity of Employment etc) Order 1999.
Relevant Authority	any court or tribunal with the relevant jurisdiction and any local, national or supra-national agency, local authority, inspectorate, minister, ministry, official or public or statutory person of the Government or Parliament of the United Kingdom (or any part of it) or of the European Union.
Relevant Event	a Change, a Qualifying Change in Law or any other matter as a result of which there may be a revision of the Monthly Charge in accordance with Schedule 3 (Payment Mechanism).
Relevant Transfer	a transfer of employees pursuant to the Transfer Regulations.
Relevant Transfer Date	the date on which an Eligible Employee transfers to the Contractor and/or a Sub-Contractor by virtue of a Relevant Transfer.
Relief Event	(a) fire, 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 (excluding the Councils acting in their capacity as WCA) or other like body to carry out works or provide services; (c) any accidental loss or damage to a Site or any roads servicing it;

(d) any failure or shortage of power, fuel or transport (including but not limited to the road network) to the extent it does not constitute an Excusing Cause;

(e) any blockage or embargo which does not constitute a Force Majeure Event;

(f) any official or unofficial strike, lockout, go slow or other dispute generally affecting the waste management industry or a significant sector of it;

(g) the delivery to the relevant Transfer Station of munitions, hazardous materials or human remains (other than due to the negligence or breach of the Contractor) which results in the requirement by Law or a Relevant Authority that the relevant Transfer Station be closed,

unless any of the events listed in limbs (a) to (g) inclusive above arise (directly or indirectly) as a result of any wilful default or wilful act of the Contractor or any of its sub-contractors.

Request for Information shall have the meaning set out in the FOIA or any apparent request for information under the FOIA or the Environmental Information Regulations.

Required Action has the meaning given in Clause 32.1.

Residual Waste the Contract Waste remaining after the removal of items for Re-Use and Recyclable Materials, either by Service Users or by Treatment.

Return Date the date of termination or expiry of this Agreement.

Returning Employees those employees of the Contractor or any sub-contractor who are engaged wholly or mainly in the provision of the Services immediately before the Return Date (or who would have been so engaged but for any dismissal for a reason relating to a transfer pursuant to the Transfer Regulations included but not limited to any dismissal pursuant to regulation 4(a) of the Transfer Regulations).

Re-use the removal of items from the waste stream (eg furniture from households) for the purposes of re-use without significant processing (other than for repairing or refurbishing).

RIDDOR the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013.

Richborough WTS Richborough Hall Waste Transfer and Recycling Centre, Ramsgate Road, Sandwich, Kent, CT13 9NW.

Ross Depot Ross Depot, Military Road, Folkestone, Kent, CT20 3SP more particularly described in the table set out in Part 3 of Schedule 5 (Depots).

Ross Depot Lease the Lease of Ross Depot in the form agreed between FHDC and the Contractor in accordance with Schedule 5 (Property Matters).

Security Interest any mortgage charge pledge lien or assignment or any other encumbrance, priority or security interest or arrangement of whatsoever nature over or in the relevant property.

Services Commencement Date	00.00.01 on 15 January 2021.
Service Delivery Plan	the plan at Schedule 2 which set out the method of performing the Services and certain of the standards to which the Services must be performed.
Service Users	any person or entity within the Collection Contract Area who uses the Services (or part of the Services).
Services	the Collection Services, Street Cleansing Services, and all other services under this Agreement as described in Schedule 1 (Output Specification) and Schedule 2 (Service Delivery Plan).
Shareholder	any person from time to time holding share capital in the Contractor.
Sites	the Depots and the Transfer Stations, and any other facilities owned or operated by either of the Councils which the Contractor is required to attend in the provision of the Services.
Small Services	those services listed in sections BQ6 and BQ7 of the Bill of Quantities.
Small Services Rates	those rates set out in Schedule 18 for the provision of Small Services.
Specific Change in Law	any Change in Law which specifically refers to the provision of services or works the same as or similar to the Services or to the holding of shares in companies whose main business is providing services or works the same as or similar to the Services.
Staff	all persons whether Council Employees, Existing Employees or New Employees or otherwise employed by the Contractor and/or a sub-contractor in the provision of the Services.
Street Cleansing Services	those street cleansing services under this Agreement as described in Paragraph 3 of Schedule 1 (Output Specification) and Schedule 2 (Service Delivery Plan).
Sub-Contract	contracts between the Contractor and the Sub-Contractors.
Sub-Contractor	for the avoidance of doubt references to Sub-Contractor in this Agreement shall means any other person engaged by the Contractor from time to time to procure the provision of the Services (or any of them) but which includes for the avoidance of doubt any company in the Contractor's group of companies (including any Holding Company, Subsidiary or Affiliate).
Sub-Contractor Breakage Costs	Direct Losses that have been or will be reasonably and properly incurred by the Contractor as a direct result of the termination of this Agreement, but only to the extent that: (a) the Direct Losses are incurred in connection with the Project and in respect of the provision of services, including: (i) any materials or goods ordered or sub-contracts placed that cannot be cancelled without such Direct Losses being incurred; (ii) any expenditure incurred in anticipation of the provision of services in the future;

(iii) the cost of demobilisation including the cost of any relocation of equipment used in connection with the Project;

(iv) redundancy payments;

(b) the Direct Losses are incurred under arrangements and/or Agreements that are consistent with terms that have been entered into in the ordinary course of business and on reasonable commercial terms; and

(c) the Contractor and the relevant Sub-Contractor has each used its reasonable endeavours to mitigate the Direct Losses.

Sub-Processor any third party appointed to process Personal Data on behalf of the Contractor related to this Agreement.

Subsidiary a subsidiary as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of:

(a) another person (or its nominee), whether by way of security or in connection with the taking of security; or

(b) its nominee.

In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:

(i) references in sub sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and

(ii) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

Notwithstanding the provisions of Clause 2.1.6 and/or Clause 15 (Change in Law) this definition shall not be changed in event of any amendment after the date hereof to the definition of “subsidiary” contained in the Companies Act 2006, whether by any subordinate legislation or otherwise.

Suitable Substitute Contractor a person approved by the Lead Authority as:

(a) having the legal capacity, power and authority to become a party to and perform the obligations of the Contractor under this Agreement; and

(b) employing persons having the appropriate qualifications, experience and technical competence and having the resources available to it (including committed financial resources and sub contracts) which are sufficient to enable it to perform the obligations of the Contractor under this Agreement.

Supervising Officer	the officer appointed by the Lead Authority pursuant to Clause 6.5 to liaise with the Operations Manager.
Survey	a survey carried out by or for the Lead Authority pursuant to Clause 12.2 (Surveys).
Tax	the kind of tax, duty, levy or other charge (other than VAT) whether or not similar to any in force at the date of this Agreement and whether imposed by a local, governmental or other Relevant Authority in the United Kingdom or elsewhere.
Termination Date	the date of early termination of this Agreement in accordance with any of Clause 36, Clause 38 and Clause 40.
Termination Sum	any compensation payable by the Councils to the Contractor on an early termination of this Agreement under Clauses 37, 38, 39 and 41.
Tower Hamlets Depot	Tower Hamlets Depot (South), Tower Hamlets Road, CT17 0BL more particularly described in the table set out in Part 3 of Schedule 5 (Property Matters).
Tower Hamlets Depot Lease	the Lease of Tower Hamlets Depot in the form agreed between DDC and the Contractor in accordance with Schedule 5 (Property Matters).
Trade Unions	the trade unions being GMB or such other trade unions representing the Staff from time to time.
Transfer Date	the Services Commencement Date.
Transfer Stations	the following premises to be provided by the Councils for the delivery of Contract Waste by the Contractor: (a) Richborough WTS; (b) Ashford WTS; (c) Whitfield HMRC; (d) Hope Farm; and (e) any other premises designated as such by the Councils.
Existing Employees	all those employees of the Contractor wholly or mainly engaged in the Services or any part of them immediately before the Transfer Date).
Transitional Provisions Regulations	the Local Government Pension Scheme (Transitional Provisions) Regulations 2014 (SI 2014/525).
TUPE or Transfer Regulations	the Transfer of Undertaking (Protection of Employment) Regulations 2006, as subsequently amended.
Utilities	the services of gas, water, electricity, telecommunications, surface water and foul drainage and other similar services.
VAT	Value Added Tax at the rate from time to time payable and includes any successor or equivalent tax payable from time to time.
Vehicles	the existing vehicles provided by the Councils at the Commencement Date to allow the Contractor to deliver the Services and the New Vehicles purchased by the Councils for the purposes of delivering the

	Project and utilised by the Contractor in accordance with the terms of Clause 10.
Warning Notice	a notice associated with poor performance of the Services issued by the Lead Authority to the Contractor pursuant to the terms of Schedule 4 (Performance Mechanism).
Waste Collection Services	that part of the Services provided by the Contractor in accordance with Paragraph 2 of Schedule 1 (Output Specification) and Schedule 2 (Service Delivery Plan).
Waste Electrical and Electronic Equipment (WEEE)	as defined in the Waste Electrical and Electronic Equipment Regulations 2006.
WCAs	DDC and FHDC in their capacity as waste collection Councils as defined by section 30(3) of the EPA.
Whitfield HWRC	Whitfield HWRC, Honeywood Road, Whitfield, Dover, CT16 3EH.
Year	a calendar year.

2. INTERPRETATION

2.1 In this Agreement, except where the context otherwise requires:

2.1.1 the masculine includes the feminine and the neuter and vice versa;

2.1.2 the singular includes the plural and vice versa;

2.1.3 a reference in this Agreement to any Clause, Paragraph, Schedule, Appendix or Annex (or part thereof) is except where it is expressly stated to the contrary, a reference to such Clause, Paragraph, Schedule, Appendix or Annex (or part thereof) of this Agreement;

2.1.4 save where expressly stated to the contrary, any reference to this Agreement or to any other document shall include any permitted variation, amendment or supplements to such document;

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

2.1.6 any reference to any enactment, order, regulation or other similar instrument shall be construed (without prejudice to Clause 15 (Change in Law) as a reference to the enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;

2.1.7 the words **Controller**, **Processor**, **Data Subject**, **Personal Data**, **Personal Data Breach**, **Data Protection Officer** take the meaning given in Data Protection Legislation;

2.1.8 unless the context otherwise requires, for the purpose of this Agreement references to a law of the European Union include a reference to that law as incorporated into the laws of the United Kingdom at any time before or after the United Kingdom ceases to be a Member State of the European Union;

2.1.9 words preceding “include”, “includes”, “including” and “included” shall be construed without limitation by the words which follow those words unless inconsistent with the context, and the rule of interpretation known as ejusdem generis shall not apply;

2.1.10 the list of contents and the headings to the Clauses and Parts of this Agreement and to the Paragraphs of the Schedules are for the ease of reference only and shall not affect the construction of this Agreement; and

2.1.11 the Schedules and Appendices hereof all form part of this Agreement and will have the same force and effect as if expressly set out in the body of this Agreement.

2.2 In the event of any inconsistency between the provisions of Clauses 1 to 69 of this Agreement and any part of any of the Schedules, the conflict will be resolved according to the following order of priority:

2.2.1 Clauses 1 to 69;

2.2.2 Output Specification (Schedule 1);

2.2.3 Payment Mechanism (Schedule 3);

2.2.4 Performance Mechanism (Schedule 4)

2.2.5 Service Delivery Plan (Schedule 2); and

2.2.6 the remaining Schedules equally.

2.3 Within twenty eight (28) Days after the end of each Contract Year, the Contractor shall notify the Lead Authority in writing of the aggregate of any payments to the Councils pursuant to Clause 46 (Indemnity) made up to the date immediately prior to the date of notification pursuant to this Clause 2.3.

2.4 All calculations shall be carried out without rounding. The final result of any calculation shall be rounded as follow:

2.4.1 where a monetary amount, to the nearest penny;

2.4.2 where a weight, to the nearest ten (10) kilograms; and

2.4.3 where a financial ratio or rate of return, to two (2) decimal places.

3. COMMENCEMENT AND DURATION OF CONTRACT

3.1 Duration of Contract

This Agreement and the rights and obligations of the Parties to this Agreement shall take effect on the Commencement Date and subject to Clause 3.2 (Continuation of Obligations) shall terminate on the earlier of the Expiry Date or the Termination Date.

3.2 Continuation of Obligations

3.2.1 The termination of this Agreement is without prejudice to the rights, duties and liabilities on the Parties accrued prior to termination.

3.2.2 The termination of this Agreement for any reason shall not affect this Clause 3, Clause 16 (The Monthly Charge), Clause 18 (Reporting and Invoicing), Clause 23 (Audit Access), Clause 24 (Insurance), Clause 29 (Contractor's Records), Clause 31 (Data Protection), Clause 37 (Compensation on Council Default), Clause 39 (Compensation on Termination for Contractor Default), Clause 40 (Compensation on Termination for Force Majeure), Clause 44 (Calculation and Payment of Compensation on Early Termination), Clause 45 (Expiry of Contract Period or Earlier Termination), Clause 46 (Indemnity) Clause 47 (Conduct and Control of Claims), Clause 49 (Assignment and Sub Contracting), Clause 51 (Freedom of Information and Confidentiality), Clause 52 (Public Relations and Publicity), Clause 53 (Dispute

Resolution), Clause 54 (Waiver), Clause 55 (Severability), Clause 58 (Notices), Clause 66 (Law of Contract and Jurisdiction), Schedule 3 (Payment Mechanism) and Schedule 4 (Performance Mechanism) which shall continue in force after such termination.

3.3 Commencement of Services

The Contractor shall provide to DDC and FHDC the Services on and from the Services Commencement Date until the earlier of the Expiry Date and Termination Date.

4. PRE-CONDITIONS

This Agreement is entered into conditionally upon the matters specified in this Clause.

4.1 Documents to be provided

The Contractor shall provide to each of the Councils in form and substance satisfactory to the Councils upon the signature of this Agreement:

4.1.1 a certified up to date copy of the Contractor's Memorandum and Articles of Association;

4.1.2 certified copies of any powers of attorney, resolutions or other documents evidencing that any persons who have signed or will sign this Agreement and/or the other documents specified in Clause 4.1.1 to 4.1.3 on behalf of the Contractor together with specimen signatures of such persons authenticated in a manner satisfactory to the Councils; and

4.1.3 certified copies of board resolutions of the Contractor authorising its entry into this Agreement in the Agreed Form.

5. WARRANTIES AND GENERAL OBLIGATIONS OF THE PARTIES

5.1 Status of Warranties

All warranties, representations, covenants, undertakings, indemnities and other obligations made, given or undertaken by the Contractor in this Agreement are cumulative and, save as otherwise expressly provided, none shall be given a limited construction by reference to any other.

5.2 Contractor Warranties

The Contractor warrants and represents to the Councils at the date of this Agreement that:

5.2.1 it is properly constituted and incorporated under the laws of England and Wales and has all necessary authority, power and capacity to enter into and perform this Agreement and each of the Project Documents to which it is a party;

5.2.2 the legal and beneficial ownership of the Contractor is as set out in Schedule 18 (Legal Ownership) and that no arrangements are in place that have or may have or result in any sale, transfer or disposal of any legal beneficial, equitable or other interest in any or all of the shares in the Contractor;

5.2.3 there are no material facts or circumstances in relation to the financial position or operational constitution of the Contractor which have not been fully and fairly disclosed to the Councils and which if disclosed might reasonably have been expected to affect the decision of the Councils to enter into this Agreement; and

5.2.4 in entering this Agreement it has not committed any Prohibited Act.

5.3 The Contractor shall, as soon as the same are obtained or entered into (as the case may be) provide evidence to the reasonable satisfaction of the Lead Authority that it has duly and properly:

5.3.1 obtained all Necessary Consents to enable it to operate and to maintain each Site in accordance with this Agreement; and

5.3.2 entered into or procured the entry into of agreements to procure the supply, maintenance and operation of all plant and equipment which are material to the full operation of each Site in accordance with the terms of this Agreement and promptly provide complete copies of the same and any amendments thereto or replacements thereof to the Lead Authority.

5.4 The Contractor shall provide the Supervising Officer, subject to any other supervening and unavoidable legal obligations, with the following business details of the Operations Manager and those members of Staff required to be contactable in an emergency in accordance with the relevant Service Delivery Plan: name, address, e-mail address, facsimile and telephone number(s) and mobile telephone number(s) and promptly update the Supervising Officer with any changes.

5.5 The Contractor shall ensure that plant and equipment are only operated by persons who are licensed and/or trained to do so or are under proper tuition and supervision from such licensed and/or trained persons.

5.6 Council Liabilities to be excluded

5.6.1 Subject to Clause 5.7, the Councils do not give any warranty or undertaking or make any representation (either express or implied) as to the completeness, accuracy or fitness for any purpose of any of the Background Information or any omission in respect thereof.

5.6.2 Subject to Clause 5.7, the Councils and their agents or servants shall not be liable to the Contractor in contract, tort (including negligence or breach of statutory duty), statute or otherwise as a result of any inaccuracy or misrepresentation in any of the Background Information or any omission in respect thereof to the extent that the Contractor has failed to satisfy itself as to the nature and extent of the risks assumed by it in relation to the Project.

5.6.3 Subject to Clause 5.7, nothing in this Agreement or the Background Information or otherwise shall constitute or imply a warranty, undertaking or representation by or on the part of the Councils as to the fitness and suitability of the Site(s) or any part thereof for the Services or for any other purpose.

5.7 Nothing in this Clause 5 shall exclude any liability which the Councils or any of its agents or servants would otherwise have to the Contractor in respect of any fraudulent misrepresentation made prior to the date of this Agreement.

5.8 Subject to Clause 5.7, the Contractor shall not in any way be relieved from any obligation under this Agreement or be entitled to claim against the Councils on grounds that any Background Information, where obtained from the Councils or otherwise (including information made available by the Councils) is incorrect or insufficient and shall make its own enquiries as to the accuracy and adequacy of that information.

5.9 Contractor's Due Diligence

The Contractor shall be deemed to have:

5.9.1 satisfied itself as to the assets to which it will acquire rights and the nature and extent of the risks assumed by it under this Agreement; and

5.9.2 gathered all information necessary to perform its obligations under this Agreement and other obligations assumed including:

(a) information as to the nature, location and condition of the Sites (including hydrological, geological, geotechnical and sub-surface conditions);

(b) current and projected tonnages, trends and composition of Recyclable Materials;

(c) information relating to archaeological finds, areas of archaeological scientific or natural interest, local conditions and facilities and the quality of existing structures; and

(d) the lay out and topography of the DDC Administrative Area and FHDC Administrative Area.

5.10 General Obligations of the Councils

The Councils undertake to the Contractor that in relation to this Project:

5.10.1 they will each to the extent that any Necessary Consents concern the carrying out of the Project, comply with such Necessary Consents as are applicable to it;

5.10.2 save as is required in the proper performance of their statutory duties and save as is expressly authorised under and/or enforcing the express terms of this Agreement, they will not wilfully impede or wilfully interfere with the Contractor in the performance of its obligations under this Agreement (for the avoidance of doubt, this shall not prohibit the Councils from seeking to challenge the decision of a Relevant Authority). In addition the Councils shall ensure that any matters (including any activities and properties) within their responsibility and control which are required to ensure the proper performance of the Services by the Contractor shall be provided including, but not limited to, the availability of all Transfer Stations at the times and days set out in Schedule 1 (Output Specification); and

5.10.3 they shall not during the Contract Period enter into a contract with any other person for the provision during the Contract Period of a service the same or equivalent to the Services or any part thereof save:

(a) (for the avoidance of doubt) any grounds maintenance contracts undertaken by or on behalf of DDC and FHDC; and

(b) that the Councils shall be entitled to enter into contracts to replace (in whole or in part) this Agreement where the obligation to carry out works and/or to provide services within such contracts will commence on or after the expiry or earlier termination of this Agreement.

5.11 Responsibility for Related Parties

Subject to the provisions of this Agreement, the Contractor shall be responsible to the Councils for the acts and omissions of the Contractor Related Parties as if they were the acts and omissions of the Contractor and the Councils shall be responsible to the Contractor for the acts and omissions of the Councils Related Parties as if they were the acts and omissions of the Councils.

6. ADVISERS AND REPRESENTATIVES

6.1 Operations Manager

The Contractor shall appoint an Operations Manager throughout the term of this Agreement in accordance with Schedule 1 (Output Specification), the identity of whom from time to time shall

be notified in writing to the Supervising Officer. The identity of the Operations Manager shall be approved by the Supervising Officer, such approval not to be unreasonably withheld or delayed.

6.2 Authority of Operations Manager

The Operations Manager shall have full authority to act on behalf of the Contractor for all purposes of this Agreement. The Councils shall be entitled to treat any act of the Operations Manager in connection with this Agreement as being expressly authorised by the Contractor (save for acts undertaken after the Contractor has notified the Supervising Officer that such authority has been revoked) and the Councils shall not be required to determine whether any such authority has in fact or in law been given. The Operations Manager may from time to time delegate any of the powers he is entitled to exercise to a suitable alternative officer of the Contractor.

6.3 Replacement of Operations Manager

The Contractor may remove or replace the Operations Manager from time to time and must give written notice to the Supervising Officer promptly after so doing.

6.4 Absence of Appointment of Operations Manager

If at any time the Supervising Officer shall:

6.4.1 not have received notification from the Contractor of the identity of the Operations Manager; or

6.4.2 have received notification from the Contractor that the Operations Manager has been removed and does not immediately receive notification of the replacement of such person by the appointment of a new Operations Manager (as appropriate),

the Contractor shall be deemed to have appointed and properly notified the Supervising Officer of the appointment as Operations Manager of the Regional Manager of the Contractor and in default of appointment of a Regional Manager of the Contractor any other director of the Contractor until such time as the Contractor properly notifies the Supervising Officer of an appointment under Clause 6.1 (Operations Manager).

6.5 Supervising Officer

The Lead Authority shall appoint throughout the Contract Period a Supervising Officer to liaise with the Operations Manager and shall keep the Contractor informed of the identity from time to time of the Supervising Officer.

6.6 Removal of Supervising Officer

The Lead Authority may remove or replace the Supervising Officer from time to time and must give written notice to the Contractor promptly after so doing.

6.7 Absence of Appointment of the Supervising Officer

If at any time the Contractor shall:

6.7.1 not have received notification from the Lead Authority of the identity of the Supervising Officer; or

6.7.2 have received notification from the Lead Authority that the Supervising Officer has been removed and does not receive notification immediately of the replacement of such person by the appointment of a new supervising officer,

the Lead Authority shall be deemed to have appointed and properly notified the Contractor of the appointment of the Chief Executive (from time to time) of the Lead Authority to be the Supervising Officer until such time as the Lead Authority properly notifies the Contractor of the appointment of a replacement or alternative supervising officer in accordance with Clause 6.6.

6.8 Authority of Supervising Officer

The Supervising Officer shall have full authority, save where any matter is expressly reserved to the Lead Authority or any of the Councils to act on behalf of the Councils in connection with this Agreement and the Contractor and the Operations Manager shall be entitled (subject to the saving words in this Clause) to treat any act of the Supervising Officer as being expressly authorised by the Councils (save for acts undertaken after the Lead Authority has notified to the Contractor in writing that such authority has been revoked) and the Contractor and the Operations Manager shall not be required to determine whether any such authority has in fact or in law been given.

6.9 Supervising Officer's Power to Delegate

The Supervising Officer may from time to time delegate to any Authorised Officer any of the powers he is entitled to exercise.

6.10 Supervising Officer to give Notice of Appointment of Authorised Officer

The Supervising Officer shall give notice in writing to the Contractor of the appointment of any Authorised Officer specifying the extent of the powers of the Supervising Officer which the Supervising Officer is delegating to the Authorised Officer and subject to Clause 6.8 (Authority of the Supervising Officer) if no extent or limit of powers are specified in the notice then the Authorised Officer may exercise all of the powers which the Supervising Officer is able to delegate pursuant to Clause 6.9 (Supervising Officer's Power to Delegate).

6.11 Reliance on Notice of Appointment

The Contractor may treat any notice given pursuant to Clause 6.10 (Supervising Officer to give Notice of Appointment of Authorised Officer) as conclusive evidence of the lawful appointment of such Authorised Officer until such time as the Supervising Officer notifies the Contractor of the revocation of such appointment and the Contractor may treat any act of the Authorised Officer prior to receipt of such notice of revocation as being expressly authorised by the Supervising Officer and further the Contractor shall not be required to determine whether any such authority has in fact or in law been given.

6.12 Communications to be Given in Writing

Subject to any express provisions in this Agreement to the contrary, all instructions, decisions, opinions and other communications from the Supervising Officer and/or Authorised Officer (as the case may be) to the Contractor or the Operations Manager or from the Contractor or Operations Manager to the Supervising Officer and/or Authorised Officer which are intended to have a binding effect on the Contractor or the Councils (as the case may be) shall be in writing or, if given orally, shall be confirmed in writing no later than the next Business Day.

6.13 Conflict Between the Councils, Supervising Officer and Authorised Officer

6.13.1 Where the instructions of the Lead Authority and those of the Supervising Officer or any appointed Authorised Officer conflict, the matter shall be referred to the Lead Authority for resolution, without prejudice to any action taken by the Contractor in reliance on any resolution, decision, opinion or other communication before the conflict becomes apparent.

6.13.2 Where the instructions of the Supervising Officer and those of any appointed Authorised Officer conflict, the matter shall be referred to the Supervising Officer for resolution, without prejudice to any action taken by the Contractor in reliance on any

resolution, decision, opinion or other communication before the conflict becomes apparent.

7. PROPERTY ARRANGEMENTS

The Councils and the Contractor shall observe and perform their respective obligations set out in Schedule 1.

8. NECESSARY CONSENTS

8.1 The Contractor shall at its own expense obtain all Necessary Consents which are from time to time required or necessary and shall promptly supply to the Lead Authority a copy of every application for a Necessary Consent (with a copy of all accompanying drawings and other documents) and a copy of every Necessary Consent obtained.

8.2 The Contractor shall, and shall procure that all Sub-Contractors shall:

8.2.1 comply with the conditions of and requirements attached to all Necessary Consents;

8.2.2 save for as a result of an act or omission of the Councils, procure that none of the Necessary Consents are revoked and that all Necessary Consents continue in full force and effect; and

8.2.3 notify the Lead Authority promptly of any notices received (whether from any Relevant Authority or any other person) relating in any way to any Necessary Consent and shall provide a copy of any such notice within two Business Days of receipt of the same to the Lead Authority.

8.3 The Contractor shall not (and shall procure that no other person under its control shall) without the prior written consent of the Lead Authority apply for or agree to any material variation, relaxation or waiver of any Necessary Consents (whether obtained before or after the date of this Agreement) or any condition attached to such Necessary Consents as from time to time varied, relaxed or waived.

9. DELAYS DUE TO A RELIEF EVENT

9.1 If and to the extent that a Relief Event adversely affects the ability of the Contractor to perform any of its obligations under this Agreement, then the Contractor is entitled to apply for relief from any rights of the Councils arising under Clause 38 (Termination on Contractor Default).

9.2 To obtain relief, the Contractor must:

9.2.1 as soon as practicable, and in any event within ten (10) Business Days, after it becomes aware that the Relief Event has caused or is likely to cause delay and/or adversely affect the ability of the Contractor to perform its other obligations under this Agreement give to the Lead Authority a notice of its claim for relief from its obligations under this Agreement, including full details of the nature of the Relief Event, the date of occurrence and its likely duration;

9.2.2 within ten (10) Business Days, of receipt by the Lead Authority of the notice referred to in Clause 9.2.1 above, give full details of the relief claimed;

9.2.3 demonstrate to the reasonable satisfaction of the Lead Authority that:

(a) the Contractor and its 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;

(b) the time lost and/or relief from the obligations under this Agreement claimed could not reasonably be expected to be mitigated or recovered by the

Contractor acting in accordance with Good Industry Practice, without incurring material expenditure; and

(c) the Contractor is using reasonable endeavours to perform its obligations under this Agreement.

9.3 In the event that the Contractor has complied with its obligations under Clause 9.2 above, then the Lead Authority shall not be entitled to exercise its rights to terminate this Agreement under Clause 38 (Termination on Contractor Default) and, subject to Clause 9.4, shall give such other relief as has been requested by the Contractor.

9.4 Nothing in Clause 9.3 above shall affect any entitlement to make Performance Deductions or allocate Performance Points or any Performance Deductions made or Performance Points allocated as a result of Schedule 3 (Payment Mechanism) or Schedule 4 (Performance Mechanism) in respect of the period during which the Relief Event is subsisting.

9.5 In the event that information required by Clause 9.2 above is provided after the dates referred to in that Clause, then the Contractor shall not be entitled to any relief in respect of the period for which the information is delayed.

9.6 The Contractor shall notify the Lead Authority if at any time it receives or becomes aware of any further information relating to the Relief Event, giving details of that information to the extent that such information is new or renders information previously submitted materially inaccurate or misleading.

9.7 If the Parties cannot agree the extent of the relief required, or the Lead Authority disagrees that a Relief Event has occurred and/or relief from other obligations under this Agreement, the Parties shall resolve the matter in accordance with Clause 53.

9.8 For the avoidance of doubt, and subject to the terms of Clause 9.4, the Lead Authority shall pay the Monthly Charge for Services provided by the Contractor on the same basis as if the Relief Event had not occurred where the Services have either not been provided, or provided late, due to the Relief Event, but taking into account any savings accrued to the Contractor as a consequence of such Relief Event, and also the Contractor shall not profit from the Relief Event having occurred.

10. PROVISION OF ASSETS

10.1 Councils Assets

10.1.1 The Contractor acknowledges that the Existing Authority Assets are owned by the Councils and shall remain so owned for the Contract Period.

10.1.2 The Councils confirm, and the Contractor acknowledges, that:

(a) the Existing Authority Assets will continue to be supplied by the Councils on an "as is" basis; and

(b) the Councils make no representation or warranty as to the condition, quality, suitability or fitness for any purpose of the Existing Authority Assets.

10.1.3 The Contractor shall satisfy itself in relation to each of the Existing Authority Assets as to whether it is suitable for use in providing the Services.

10.1.4 Where instructed to do so by the Councils, the Contractor shall procure any New Authority Assets on behalf of the Councils and, for the avoidance of doubt, the Contractor is deemed to have been so instructed by the Councils in respect of any New Vehicles identified in the Contractor's Tender Submission as being required for the Services or in the Letter of Comfort. The Councils will only acquire such New

Authority Assets new and unused. The Contractor shall procure the New Authority Assets as follows:

(a) the Contractor shall arrange for the purchase of all New Authority Assets required to provide the Services and shall arrange for the supplier of the New Authority Assets to produce an invoice to the Contractor for the New Authority Assets which acknowledges that the New Authority Assets are being procured on behalf of the Councils;

(b) upon receipt of a relevant invoice from a supplier in relation to the New Authority Assets, the Contractor shall forthwith issue a New Authority Asset Invoice to the Councils (**New Authority Assets Invoice**) provided that the amount payable under the New Authority Assets Invoice shall only include a pass-through of the invoiced amount from the supplier and shall not include any additional costs or margin. For the avoidance of doubt such pass-through (including for Authority Funded Replacement Assets at Clause 13.2.1 below) may include any unavoidable increase in charges over and above any originally quoted prices in the Letter of Comfort, or, if not dealt with or updated in the Letter of Comfort, the prices quoted in the Tender Submission;

(c) the Councils shall make payments to the Contractor in respect of New Authority Asset Invoices no later than five (5) Business Days before that payment falls due in respect of the relevant invoice from the supplier of the New Authority Assets, provided that the New Authority Assets have been received and accepted by the Contractor before such date. Where New Authority Assets are received and accepted by the Contractor after a relevant invoice from the supplier of a New Authority Asset falls due for payment, the Councils shall pay the Contractor in respect of the relevant New Authority Asset Invoice on the same Day as the relevant New Authority Assets are received and accepted by the Contractor;

(d) the Contractor undertakes to pay to the supplier of the New Authority Assets the total purchase sums identified in the invoices; and

(e) on the payment of any New Authority Asset Invoice, the ownership of and title to the New Authority Assets shall transfer to the Councils.

10.1.5 In the event that additional Assets to those identified in the Contractor's Tender Submission are required, the additional Assets shall be provided by the Contractor at no additional cost to the Councils above that which is identified in the Pricing Schedule and where financed by the Contractor those Assets shall remain Contractor Assets. The provisions regarding the replacement of Assets are set out in Clause 13.2.

10.1.6 Pursuant to Clause 10.1.5, where additional Assets to those identified in the Contractor's Tender Submission are reasonably required for the provision of the Services, the Contractor shall notify the Councils of this requirement and prior to acquiring the additional Assets shall enter discussions with the Councils to determine whether the Councils can provide a more cost-effective financing solution relative to the Contractor. Where this is the case, such Assets shall be procured by the Contractor as New Authority Assets upon such terms as the Parties agree.

10.1.7 Where the Councils grant the right to access and use any Authority Assets to the Contractor:

(a) the Councils grant such right to access and use of those Authority Assets solely to the extent necessary for providing the Services unless otherwise agreed in writing by the Authorised Officer;

(b) such right to access and use of those Authority Assets shall terminate automatically without notice from the Councils upon the Expiry Date or Termination Date (whichever is earlier);

(c) the Contractor shall (at its own costs) be responsible for the safe return of the Authority Assets to the Councils;

(d) at all times:

(i) the Contractor shall ensure that the Authority Assets are maintained and kept in accordance with Clause 13;

(ii) whilst such Authority Assets are in the Contractor's possession, custody or control:

(A) such Authority Assets shall be at the Contractor's sole risk and the Contractor shall procure that they are kept safe and secure in accordance with the provisions of this Contract;

(B) the Contractor shall ensure that the Authority Assets are located or stored (temporarily or otherwise) at the Depots; and

(C) the Contractor shall be the registered keeper of all Vehicles including those that are Authority Assets; and

(e) the Councils shall have access to all or any of the Authority Assets for the purpose of viewing, inspecting or testing any of the Authority Assets.

10.1.8 In respect of all Authority Assets:

(a) the Contractor acknowledges that neither it nor any Sub-Contractor has any legal or equitable claim to such Authority Assets, and agrees not to contest ownership of such Authority Assets;

(b) the Contractor shall not create (or attempt to create) any legal or equitable interest in such Authority Assets in its favour or otherwise (and shall ensure that no Sub-Contractor will do so);

(c) to the fullest extent permitted by law, the Contractor waives any rights which it may have to take or seek to take a lien over such Authority Assets in respect of any sums due from the Councils to the Contractor pursuant to this Contract;

(d) the Contractor shall notify the Councils as soon as reasonably practicable in the event of any loss or damage to the Authority Assets and such loss or damage shall be recorded in the Asset Register; and

(e) the Contractor shall not (and shall procure that all and any of the Sub-Contractors shall not) delete, remove or deface any labelling or other markings placed on the Authority Assets by or on behalf of the Councils.

10.2 Contractor Assets

10.2.1 The Contractor shall from the relevant Services Commencement Date provide the Contractor Assets and all other equipment required in addition to the Authority Assets to provide the Services.

10.2.2 All Contractor Assets must either be owned by the Contractor or hired by the Contractor pursuant to a contract of simple hire.

10.2.3 The contract of hire for any Contractor Asset referred to in Clause 10.2.2 must:

(a) enable the provision of the Services to continue in the event of any early termination of this Contract;

(b) include a provision that the owner thereof will, on request in writing by the Councils containing an undertaking to pay all hire charges from such date, lease the Contractor Asset to the Councils on the same terms as the Contractor Asset was leased to the Contractor, save that the Councils shall be entitled to permit the use of the Contractor Asset by any other contractor employed to continue providing the Services.

10.3 Depreciation of Contractor Assets

10.3.1 Contractor Assets that are purchased new and unused when deployed on the Services will be depreciated on a straight-line basis over eight (8) Years.

10.3.2 Contractor Assets that are not purchased new and unused when deployed on the Services will be depreciated on a straight-line basis over eight (8) Years from the date at which the Contractor Assets were originally purchased new and unused.

PART II - THE SERVICES

11. PRINCIPAL OBLIGATIONS

11.1 The Contractor shall undertake the provision of the Services in accordance with the provisions of this Agreement.

11.2 Standard of Performance

The Contractor will ensure that the Services will, at all times, be performed by appropriately qualified and trained personnel to such high standards of performance as it is reasonable to expect and in accordance with:

11.2.1 the Output Specification (Schedule 1);

11.2.2 the Service Delivery Plan(s);

11.2.3 the requirements of all Necessary Consents;

11.2.4 Good Industry Practice; and

11.2.5 all Legislation and Guidance.

11.3 Emergencies

11.3.1 If due to an Emergency any one or more of the Councils requires the Contractor to procure or undertake additional or alternative services, or to suspend any part or part of the Services to ensure that the Emergency is dealt with and normal operation of the Services recommences as soon as is reasonably practicable, the Contractor shall use its best endeavours to procure that such additional or alternative services are undertaken by the Contractor as and when required by the Lead Authority in writing and/or to suspend such part or part of the Services immediately to ensure that the emergency is dealt with and normal operation of the Services resumes as soon as is reasonably practicable.

11.3.2 As soon as reasonably practicable following each occasion on which the Lead Authority exercises its rights pursuant to Clause 11.3.1 the Parties shall liaise and seek to agree:

(a) where additional or alternative services are provided, upon the amended charge (if any) to the Councils for provision by the Contractor of any such

additional or alternative services. The Parties hereby agree that the basis of assessment of any additional charge shall be receipted invoices (in the event that such are not available due to a proper reason then reasonable evidence that any additional costs or losses have been reasonably and properly incurred by the Contractor shall be supplied) for such services provided to any one or more the Councils by the Contractor.

(b) where the Services are suspended, the revised charges to be paid to the Contractor taking into account any savings accrued and/or additional costs incurred by the Contractor as a consequence of the Services being suspended.

If such charges are not agreed or determined by the Parties the matter shall be referred on the application of either Party for resolution under Clause 53 (Dispute Resolution). No additional charge shall arise if the emergency is caused by the breach, neglect or default of the Contractor, its agents, employees or any sub-contractor of any tier.

11.3.3 For the period that the Contractor provides additional or alternative services in accordance with Clause 11.3.1 and provided that the Emergency has not arisen through the breach, neglect or default of the Contractor, its agents, employees or any sub-contractor of any tier no Performance Deductions or Performance Points shall arise for the Services affected by the provision of or requirement to provide such additional or alternative services by the Contractor.

11.4 Integrated Service Management System

11.4.1 The Contractor shall provide that all aspects of the Services are managed in accordance with the Integrated Service Management System.

11.4.2 The Contractor shall be entitled (but without prejudice to Clause 11.4.1) from time to time, to amend the Integrated Service Management System and shall submit to the Supervising Officer any proposed changes to that system. The Lead Authority may comment on any such proposed change prior to the same being adopted and the Contractor shall consider and take account of such comments, if any, prior to the same being adopted.

11.4.3 Notwithstanding any other provision of this Clause 11.4, the Contractor shall provide to the Lead Authority such information as it may reasonably require to demonstrate compliance with this Clause 11.4.

12. MAINTENANCE

12.1 Maintenance

The Contractor shall ensure on a continuing basis that at all times its maintenance and operating procedures are sufficient (and it shall adhere to such procedures) to ensure that:

12.1.1 the Service is continuously available in accordance with the provisions of Schedule 1 (Output Specification) and Schedule 2 (Service Delivery Plan);

12.1.2 it maintains the Assets so that they are for fit for purpose and will achieve their full working life; and

12.1.3 the Contractor’s plant, equipment and facilities for providing the Services are maintained to achieve their full working life so as to ensure the provision of the Services without any unnecessary interruption.

12.2 Surveys

12.2.1 If the Lead Authority reasonably believes that the Contractor is in breach of its obligations under Clause 12.1 then it may carry out (or procure) a Survey of the Assets to assess whether the Assets have been and are being maintained by the Contractor in accordance with its obligations under Clauses 12.1 and 13.

12.2.2 The Lead Authority shall notify the Contractor in writing a minimum of fourteen (14) Days in advance of the date it wishes to carry out the Survey. The Lead Authority shall consider in good faith any reasonable request by the Contractor for the Survey to be carried out on a different date if such request is made at least seven (7) Days prior to the notified date and the Contractor (acting reasonably) is able to demonstrate that carrying out the Survey on the notified date would materially prejudice the Contractor's ability to provide the Services.

12.2.3 When carrying out any Survey, the Lead Authority shall use reasonable endeavours to minimise any disruption caused to the provision of the Services by the Contractor. The cost of the Survey shall, except where Clause 12.2.4 applies, be borne by the Councils. The Contractor shall give the Lead Authority (free of charge) any reasonable assistance required by the Lead Authority during the carrying out of any Survey.

12.2.4 If the Survey shows that the Contractor has not complied or is not complying with its obligations under Clause 12, the Lead Authority shall:

(a) notify the Contractor of the standard that the condition of the Assets should be in to comply with its obligations under this Clause 12;

(b) specify a reasonable period within which the Contractor must carry out such rectification and/or maintenance work; and

(c) be entitled to be reimbursed by the Contractor for the total cost of the Survey.

12.2.5 The Contractor shall carry out such rectification and/or maintenance work within the period specified and any costs it incurs in carrying out such rectification and/or maintenance work shall be at its own expense.

13. MAINTENANCE, REPAIR AND REPLACEMENT OF ASSETS AND ASSET REGISTER

13.1 Maintenance and repair

13.1.1 The Contractor shall at its cost maintain and keep the Assets in good repair, condition and working order, serviced, cleaned and maintained in accordance with Good Industry Practice, any relevant Law, any manufacturer's guidelines and (where applicable) in accordance with the obligations contained in Paragraph 1.6 of Schedule 1 (Output Specification) as is necessary for the proper performance of this Contract.

13.1.2 At any time during the Contract Period:

(a) the Supervising Officer may inspect; and/or

(b) the Councils may arrange, at their own cost, for a suitably qualified third party to
inspect,

the condition of one of more of the Assets and the Contractor's maintenance schedules for the Assets.

13.1.3 Following an inspection in accordance with Clause 13.1.2, the Contractor shall undertake repairs, refurbishment or maintenance of any Assets that are less than eight (8) Years old and have not been fully depreciated and update the maintenance schedules for the Assets as identified by the suitably qualified third party or Supervising Officer (as appropriate), as necessary to ensure compliance by the Contractor with its obligations under Clause 13.1.1.

13.1.4 If a dispute arises in relation to whether the identified third party or Supervising Officer is suitably qualified to assess the condition of and the maintenance schedules for the Assets, the dispute will be referred to, in the case of Vehicles, the Institute of Vehicle Engineers, and in the case of other Assets that are not Vehicles, the Chartered Institute of Waste Management, for an opinion, the costs of which shall be borne equally by both Parties.

13.1.5 If the Parties cannot agree on the opinion provided pursuant to Clause 13.1.4, resolution of the dispute shall be dealt with in accordance with the Dispute Resolution Procedure.

13.1.6 The Contractor shall at all times be fully responsible for licensing and for the payment of all licensing fees and taxes required in connection with, or arising out of, the possession or use of all Vehicles and other relevant Assets employed in the performance of the Services.

13.2 Replacement

13.2.1 The Contractor shall replace any of the Assets where such Assets require replacement in order to provide the Services to a standard required by this Contract. Such replacement shall be at the Contractor's cost except in respect of any planned replacement of Assets as identified in the Contractor's Tender Submission as to be funded by the Councils (**Authority Funded Replacement Assets**) in which case such Authority Funded Replacement Assets shall be classified as New Authority Assets and procured in accordance with Clause 10.1.4.

13.2.2 The Contractor shall ensure that all replacement Assets are of a standard which is at least that which meets Good Industry Practice and are fit for the purpose of providing the Services in accordance with this Contract.

13.2.3 The Contractor shall, at its cost, dispose of any defunct Assets that are replaced during the Contract Period, provided that the Contractor seeks the written consent of the Councils to do so and shall account to the Councils for the disposal of any Authority Assets.

13.2.4 In the event that the Contractor wishes to dispose of any Contractor Assets during the term of this Contract, it shall give the Councils a first right to acquire such Contractor Assets at their current market value (such market value to be agreed by the Parties both acting reasonably, or by an independent valuer if the Parties cannot agree the market value within twenty (20) Business Days).

13.3 Plans and Asset Register

13.3.1 The Contractor shall review and update the Plans and the Asset Register in accordance with Schedule 1 (Output Specification) and submit revised Plans and an updated Asset Register to the Councils so that they are at all times complete, accurate and up to date.

13.3.2 The Contractor shall not exchange or swap either the Contractor Assets or Authority Assets for any other assets under the control of the Contractor at any time during the Contract Period without the written consent of the Authorised Officer.

13.3.3 The Contractor shall make the current Asset Register available to the Councils on demand and in any event upon the earlier of:

(a) six (6) Months prior to the Expiry Date;

(b) as soon as reasonably practicable after the Termination Date.

PART III – CHANGES TO THE SERVICES

14. CHANGES TO THE SERVICES

14.1 Council Change to the Services

14.1.1 The Lead Authority has the right to propose changes to the Services in accordance with this Clause 14. The Lead Authority shall not propose a change to the Services which:

(a) would cause any consent to be revoked (or a new consent required to implement the relevant change to the Services to be unobtainable);

(b) requires the Services to be performed in a way that infringes any Legislation or is inconsistent with Good Industry Practice;

(c) would (if implemented) materially and adversely change the nature of the Project;

(d) the Lead Authority does not have the legal power or capacity to require the implementation of;

(e) would materially and adversely affect the health and safety of any persons; or

(f) would require the Contractor to implement the change in an unreasonable period of time.

14.1.2 Other than in relation to Small Services, if the Lead Authority requires a change in the Services, the Lead Authority must serve a Council Notice of Change on the Contractor. The Council Notice of Change shall:

(a) set out the change in Services required in sufficient detail to enable the Contractor to provide the Estimated Change in Project Costs in accordance with Clause 14.1.4 below (**Estimate**);

(b) in the event that the change will require Capital Expenditure, state whether the Lead Authority intends to pay to the Contractor the costs involved in implementing the change or whether the Lead Authority requires the Contractor to use its reasonable efforts to obtain funding in accordance with Clause 14.1.10 below and in the case of a Council Notice of Change in respect of the Services, require the Contractor to provide the Estimate to the Lead Authority within twenty (20) Business Days of receipt of the Council Notice of Change with the Estimate.

14.1.3 If the Contractor believes that it is reasonable to incur third party costs in connection with preparing the relevant Estimate, the Contractor shall notify the Lead Authority within ten (10) Business Days of receiving the Council Notice of Change and the time period for submitting the Estimate shall not commence until the Parties have agreed or determined under Clause 53 (Dispute Resolution) the matters referred to in Clauses (b) and (c).

14.1.4 Subject to Clause 14.1.3, as soon as practicable and in any event within ten (10) Business Days after having received the Council Notice of Change, the Contractor

shall deliver to the Lead Authority the Estimate. The Estimate shall include the opinion of the Contractor on:

(a) whether relief from compliance with obligations is required during the implementation of the change in Service;

(b) any impact on the provision of Services;

(c) any amendment required to this Agreement and/or any Project Document as a result of the change in Services;

(d) any Estimated Change in Project Costs that results from the change in Services;

(e) any Capital Expenditure that is required or no longer required as a result of the change in Services; and

(f) any regulatory approvals which are required.

14.1.5 As soon as practicable after the Lead Authority receives the Estimate, the Parties shall discuss and agree the issues set out in the Estimate, including:

(a) providing evidence that the Contractor has used all reasonable endeavours (including (where practicable) the use of competitive quotes) to oblige its Sub-Contractors to minimise any increase in costs and maximise any reduction in costs;

(b) providing evidence that the Contractor has used all reasonable endeavours to mitigate any decrease in revenue (including income from third parties);

(c) demonstrating how any Capital Expenditure to be incurred or avoided is being measured in a cost effective manner, including showing that when such expenditure is incurred, foreseeable Changes in Law at that time have been taken into account by the Contractor; and

(d) demonstrating that any expenditure that has been avoided, which was anticipated to be incurred to replace or maintain assets that have been affected by the Council Change concerned, has been taken into account in the amount which in the Contractor's opinion has resulted or is required under any of Clauses 14.1.5(a) and/or 14.1.5(b) above.

In such discussions the Lead Authority may, in relation to the Services, modify the Council Notice of Change and (if the estimated increase in Capital Expenditure in respect of the change is expected to [redacted] (or such higher amount from time to time as set out in standing orders of the Lead Authority provided that the higher amount shall only apply if and to the extent that the Lead Authority has given the Contractor prior written notification of the change to the Lead Authority's standing orders) and it is practicable for the Contractor to do so), the Lead Authority may require the Contractor to seek and evaluate competitive tenders for the relevant capital works. In each case the Contractor shall, as soon as practicable, and in any event not more than twenty (20) Business Days after receipt of such modification, notify the Lead Authority of any consequential changes to the Estimate.

14.1.6 If the Contractor does not intend to use its own resources to implement any change it shall comply with Good Industry Practice with the objective of ensuring that it obtains best value for money (taking into account all relevant circumstances including, in particular, the requirement that the Contractor should not be worse off

as a result of the implementation of the change) when procuring any work, services, supplies, materials or equipment required in relation to the Council Change.

14.1.7 If the Parties cannot agree on the contents of the Estimate then the dispute will be determined in accordance with Clause 53.

14.1.8 As soon as practicable after the contents of the Estimate have been agreed or determined pursuant to Clause 53 the Lead Authority shall:

(a) confirm in writing the Estimate (as modified); or

(b) withdraw the Council Notice of Change.

14.1.9 If the Lead Authority does not confirm the Estimate (as modified) within sixty (60) Days of the contents of the Estimate having been agreed in accordance with Clause 14.1.5 above or determined pursuant to Clause 14.1.7 above, then the Council Notice of Change shall be deemed to have been withdrawn. Where there is such a withdrawal (either pursuant to this Clause 14.1.9 or Clause 14.1.8 above) the Lead Authority shall pay to the Contractor the reasonable additional third party costs incurred by the Contractor in preparing such Estimate and such reasonable additional costs reasonably and properly incurred by the Contractor (but only to the extent that the Contractor, had it been an operating sub-contractor, would have incurred such costs (but not otherwise)) in preparing such Estimate, and further provided that:

(a) the Contractor has used all reasonable endeavours to submit a reasonably-priced Estimate;

(b) the Contractor has made available to the Lead Authority a cost breakdown of the Estimate including an estimate of the costs referred to in this Clause 14.1.9, to be incurred by the Lead Authority if the Council Notice of Change is withdrawn or deemed to be withdrawn;

(c) the Lead Authority has:

(i) approved the estimate of costs referred to in Clause (b) pursuant to Clause 14.1.3 above and the type of party to incur such costs prior to any costs being incurred;

(ii) agreed that, given the nature of the proposed Council Change, it is reasonable to expect the relevant Party to incur costs in preparing the Estimate on the basis of the extent of the proposed change to the Services and the work required in submitting an accurate Estimate in compliance with this Clause 14; and

(d) the Contractor has provided the Lead Authority with such evidence as it may reasonably require in order to verify the additional costs incurred by the Contractor.

14.1.10 In the event that the Estimate (as modified) involves estimated Capital Expenditure then the Contractor shall use all reasonable endeavours to obtain funding for the whole of the estimated Capital Expenditure, on terms reasonably satisfactory to it.

14.1.11 If the Contractor has used all reasonable endeavours to obtain funding for the whole of the estimated Capital Expenditure, but has been unable to do so within sixty (60) Days of the date that the Lead Authority confirmed the Estimate, then the Contractor shall have no obligation to carry out the change in Service.

14.1.12 In the event that the Estimate has been confirmed by the Lead Authority, then the Estimated Change in Project Costs shall be, at the Lead Authority's discretion,

payable by an adjustment to the Monthly Charge and/or by way of a lump sum payment. Where there is an adjustment to the Monthly Charge, such adjustment shall be carried out in accordance with the terms of Paragraph 3.2 of Schedule 3 (Payment Mechanism).

14.2 Contractor Change in Services

14.2.1 If the Contractor wishes to introduce a change in the Services, it must serve a notice (**Contractor Notice of Change**) on the Lead Authority.

14.2.2 The Contractor Notice of Change must:

(a) set out the proposed change in the Services in sufficient detail to enable the Lead Authority to evaluate it in full;

(b) specify the Contractor's reasons for proposing the change in the Services;

(c) request the Lead Authority to consult with the Contractor with a view to deciding whether to agree to the change in the Services and, if so, what consequential changes the Lead Authority requires as a result;

(d) indicate any implications of the change in the Services;

(e) indicate, in particular, whether a variation to the Monthly Charge is proposed (and, if so, give a detailed cost estimate of the proposed change);

(f) indicate if there are any dates by which a decision by the Lead Authority is critical; and

(g) set out the timetable for implementing the proposed change to the Services.

14.2.3 The Lead Authority shall evaluate the Contractor's proposed change in the Services, in good faith, taking into account all relevant issues, including whether:

(a) a change in the Monthly Charge will occur;

(b) the change affects the quality of the Services or the likelihood of successful delivery of the Services;

(c) the change will interfere with the relationship of the Councils with third parties;

(d) the financial strength of the Contractor is sufficient to perform the changed Services; or

(e) the change materially affects the risks or costs to which the Councils are exposed.

14.2.4 As soon as practicable after receiving the Contractor Notice of Change, the Parties shall meet and discuss the matter referred to in it. During their discussions the Lead Authority may propose modifications or accept or reject the Contractor Notice of Change.

14.2.5 If the Lead Authority accepts the Contractor Notice of Change (with or without modification), the relevant change in Services shall be implemented within the timetable set out in the Contractor Notice of Change as accepted. Within this period, the Parties shall consult and agree the remaining details as soon as practicable and shall enter into any documents to amend this Agreement or any relevant Project Document which are necessary to give effect to the change in Services.

14.2.6 If the Lead Authority rejects the Contractor Notice of Change (which it may do in its absolute discretion (except where Clause 14.2.9 applies) and which decision may not (except when Clause 14.2.9 applies) be challenged by the Contractor through the Dispute Resolution Procedure or by any other means) the Lead Authority shall notify the Contractor accordingly.

14.2.7 Unless the Lead Authority's acceptance specifically agrees to an increase in the Monthly Charge, there shall be no increase in the Monthly Charge as a result of a change in the Services proposed by the Contractor.

14.2.8 If the change in the Services proposed by the Contractor causes or will cause the Contractor's costs or those of a sub-contractor to decrease, there shall be a decrease in the Monthly Charge calculated in accordance with Paragraph 3.2 of Schedule 3 (Payment Mechanism).

14.2.9 The Lead Authority cannot reject a Change in the Services which is required in order to conform to a Change in Law. The costs of introducing a Change in the Services resulting from a Qualifying Change in Law (including any resulting variation in the Monthly Charge) shall be dealt with in accordance with Clause 15 (Change in Law) and to the extent not dealt with shall be borne by the Contractor.

14.3 Small Services Changes

14.3.1 The value of any Small Services shall be calculated in accordance with the relevant Bill of Quantities or, where such rates are not applicable, in accordance with rates which are fair and reasonable. Any rates agreed for such Small Services shall be deemed to be the Small Services Rates.

14.3.2 Where the Small Services Rates are set out in the Bill of Quantities, these rates shall be indexed in accordance with Schedule 3 (Payment Mechanism).

14.3.3 The Lead Authority shall make any request for Small Services in writing and such request shall include the time proposed by the Lead Authority for implementing the Small Services.

14.3.4 The Contractor shall deliver a written estimate of the cost of the Small Services requested by the Lead Authority pursuant to Clause 14.3.3 within five (5) Business Days of receipt by the Contractor of the Lead Authority's request pursuant to Clause 14.3.3, such estimate to be based on the Small Services Rates for the relevant Contract Year in which the request for Small Services is made.

14.3.5 As soon as reasonably practicable, the Contractor and the Lead Authority shall discuss and seek to agree the time to implement any Small Services, so as to minimise any inconvenience to the Lead Authority. The Contractor shall take all reasonable steps to minimise the time taken to implement any Small Services.

14.3.6 Within five (5) Business Days of receipt of the Contractor's estimate pursuant to Clause 14.3.4 or the conclusion of discussions referred to within Clause 14.3.5 (whichever is the later), the Lead Authority shall confirm whether it wishes the Contractor to proceed to implement the Small Services in accordance with the estimate of costs and timetable for implementation agreed or determined pursuant to Clause 53 (Dispute Resolution).

14.3.7 Any dispute between the parties in relation to Clauses 14.3.1 to 14.3.6 shall be determined in accordance with Clause 53 (Dispute Resolution).

14.3.8 Where the Lead Authority confirms pursuant to Clause 14.3.6 that it wishes the Contractor to proceed to implement the Small Services, the Contractor shall implement the Small Services in accordance with the estimate of costs and the timetable for implementation agreed or determined pursuant to Clause 53 (Dispute

Resolution) and any failure to implement the Small Services in accordance with this Clause 14.3.8 shall be dealt with under Schedule 4 (Performance Mechanism).

14.3.9 Notwithstanding the provisions of this Clause 14.3, where a change which the Lead Authority requires to the Services amounts to Small Services, the Lead Authority may issue a Council Notice of Change and if it wishes to do so, the provisions of Clause 14.1 shall apply.

15. CHANGE IN LAW

15.1 Qualifying Change in Law

15.1.1 If a Qualifying Change in Law occurs or is shortly to occur, then either Party may write to the other to express an opinion on its likely effects, giving details of its opinion of:

(a) whether the Qualifying Change in Law constitutes a Relevant Event;

(b) any necessary change in the Services;

(c) whether any changes are required to the terms of this Agreement to deal with the Qualifying Change in Law;

(d) whether relief from compliance with obligations is required, including the obligation of the Contractor to meet the requirements of the Performance Mechanism during the implementation of any relevant Qualifying Change in Law;

(e) any Estimated Change in Project Costs that directly result from the Qualifying Change in Law to the extent that such costs cannot or may not on the balance of probabilities, the Contractor having used all reasonable endeavours to do so, be able to be passed through to the customers of the Contractor other than Councils; and

(f) any Capital Expenditure that is required or no longer required as a result of a Qualifying Change in Law taking effect during the Contract Period,

in each case giving full details of the procedure for implementing the change in the Services. Responsibility for the costs of implementation (and any resulting variation to the Monthly Charge) shall be dealt with in accordance with Clauses 15.1.2 to 15.1.5 below.

15.1.2 As soon as practicable after receipt of any notice from either Party under Clause 15.1.1, the Parties shall discuss and agree the issues referred to in Clause 15.1.1 and any ways in which the Contractor can reasonably mitigate the effect of the Qualifying Change in Law, including:

(a) providing evidence that the Contractor has used all reasonable endeavours (including, where practicable, the use of competitive quotes) to oblige its sub-contractors to minimise any increase in costs and maximise any reduction in costs;

(b) providing evidence that the Contractor has used all reasonable endeavours to pass any increase in costs to the customers of the Contractor other than the Councils and has demonstrated to the reasonable satisfaction of the Lead Authority that it is more than likely not able to pass any increase in costs to the customers of the Contractor other than the Councils in the future;

(c) providing evidence that the Contractor has used all reasonable endeavours to mitigate any decrease in revenue (including income from third parties);

(d) demonstrating how any Capital Expenditure to be incurred or avoided is being measured in a cost effective manner including showing when such expenditure is incurred or would have been incurred and that foreseeable Changes in Law at that time have been taken into account by the Contractor;

(e) giving evidence as to how the Qualifying Change in Law has affected prices charged by any similar businesses to the Project, including similar businesses in which the Contractor or its Affiliates carry on business; and

(f) demonstrating that any expenditure that has been avoided, which was anticipated to be incurred to replace or maintain assets that have been affected by the Qualifying Change in Law concerned, has been taken into account.

15.1.3 If the Parties agree or it is determined under Clause 53 that the Contractor is to incur additional Capital Expenditure due to a Qualifying Change in Law, then the Contractor shall use all reasonable endeavours to obtain funding for such Capital Expenditure on terms reasonably satisfactory to it.

15.1.4 If the Contractor has failed to obtain funding for the whole of the estimated Capital Expenditure within sixty (60) Days of the date that the Lead Authority confirmed the Estimate, then such failure shall be a Contractor Default and the Lead Authority may terminate this Agreement under Clause 38.

15.1.5 Compensation in respect of any Estimated Change in Project Costs or any additional Capital Expenditure incurred by the Contractor following the application of the principles set out above shall be by means of an adjustment to the Monthly Charge.

PART IV – PAYMENT PROVISIONS

16. THE MONTHLY CHARGE

The Lead Authority shall in respect of the provision of the Services from the Services Commencement Date pay the Contractor in respect of each Month the Monthly Charge determined from time to time in accordance with, and on the basis set out in, Schedule 3 (Payment Mechanism) until the termination or earlier expiry of this Agreement.

17. VAT

17.1 All amounts due under this Agreement are exclusive of VAT.

17.2 If any supply made or referred to in this Agreement is or becomes chargeable to VAT then the person receiving the supply (**Recipient**) shall in addition pay the person making the supply (**Supplier**) the amount of that VAT against receipt by the Recipient from the Supplier of a proper VAT invoice in respect of that supply.

17.3 The Lead Authority shall pay to the Contractor from time to time as the same is incurred by the Contractor sums equal to any Irrecoverable VAT but only to the extent that it arises as a result of a Change in Law. Any such payment shall be made within [redacted] Days of the delivery by the Contractor to the Lead Authority of written details of the amount involved accompanied by details as to the grounds for and computation of the amount claimed. For the purposes of this Clause 17.3, **Irrecoverable VAT** means input VAT incurred by the Contractor on any supply which is made to it which is used or to be used exclusively in performing the Services or any of the obligations or provisions under this Agreement (together with input VAT incurred as part of its overhead in relation to such activities) to the extent that the Contractor is not entitled to the repayment or credit from HM Revenue and Customs in respect of such input VAT.

17.4 The Councils reserve the right after the Commencement Date to make elections to waive the exemption from VAT in accordance with paragraph 2(1) Schedule 1 of the Value Added Tax Act 1994, in respect of any property subject to this Agreement.

17.5 If the Contractor has been paid compensation in accordance with the procedure laid down in Clause 17.3 and the Contractor is repaid by HM Revenue and Customs any part of the input tax previously treated as irrecoverable VAT under Clause 17.3 in respect of which the Contractor has received compensation pursuant to Clause 17.3 the Contractor shall repay to the Lead Authority an amount equal to the lower of the amount paid by the Lead Authority as compensation under Clause 17.3 in the exact period to which the adjustment relates and the amount repaid to the Contractor by HM Customs and Excise. If a repayment to the Lead Authority is due it shall be made within [redacted] Days of the receipt of the refund referred to.

17.6 Where under this Agreement any amount is calculated by reference to any sum which has or may be incurred by any person, the amount shall include any VAT in respect of that amount only to the extent that such VAT is not recoverable as input tax by that person (or a member of the same VAT group), whether by set-off or repayment.

17.7 The Contractor shall provide the Lead Authority with any information reasonably requested by the Lead Authority in relation to the amount of VAT chargeable in accordance with this Agreement and payable by the Lead Authority to the Contractor.

18. REPORT AND INVOICING

18.1 Contractor to Issue Monthly Report

18.1.1 Within ten (10) Business Days after the last Day of each Month during the Contract Period the Contractor shall provide to the Authorised Officer a Monthly Report containing the relevant information required by Schedule 15 (Reporting Proformas) and Schedule 17 (Bill of Quantities) setting out the calculation of the Monthly Charge claimed by the Contractor for the previous Month.

18.1.2 Each Monthly Report shall comprise:

(a) the Monthly Charge for the relevant Month to which the Monthly Report relates;

(b) any Performance Deductions which the Councils are entitled to make pursuant to this Agreement, in each case applicable to the relevant Month to which the Monthly Report relates; and

(c) any amounts due to or owed by either Party under:

(i) Clause 14 (Changes to the Services);

(ii) Clause 15 (Change in Law);

(iii) Clause 46 (Indemnity);

(iv) any other Clause of this Agreement; and/or

(v) Schedule 3 (Payment Mechanism).

18.1.3 The Monthly Report shall be supported by:

(a) all evidence and information that it required under the Output Specification; and

(b) all other evidence and information that the Authorised Officer shall reasonably require supported (where required by the Authorised Officer) by a defined audit trail.

18.1.4 If the Monthly Report shows a net amount owing by the Councils to the Contractor, it shall be accompanied by a valid VAT invoice from the Contractor to the Lead Authority in the amount properly chargeable to VAT.

18.2 Authorised Officer to Reply by Issuing Councils' Monthly Reply

Within twenty (20) Business Days of receiving the Monthly Report, the Authorised Officer shall provide to the Contractor the Councils' response (**Councils' Monthly Reply**) which shall state:

18.2.1 whether or not the Authorised Officer agrees with the relevant Monthly Report; and

18.2.2 if the Authorised Officer does not agree with the relevant Monthly Report, such disagreement and the amount which in the Authorised Officer's opinion is due to the Contractor for such Month together with evidence to support such opinion.

18.3 Councils May Suspend Payment if no Monthly Report

If the Contractor does not deliver a Monthly Report within the specified period the Authorised Officer may suspend payment of the Monthly Charge until such time as the Contractor delivers the relevant Monthly Report.

18.4 Deemed Consent if Council does not Issue Councils' Monthly Reply

If the Authorised Officer does not deliver the Councils' Monthly Reply within the specified period, the Councils shall be deemed to have agreed with the Monthly Report provided by the Contractor.

18.5 Councils Disagree with Monthly Report

If in any Councils' Monthly Reply the Authorised Officer notifies the Contractor that the Councils disagree with such a Monthly Report, the Contractor shall take proper account of such objection and shall thereupon as soon as reasonably practicable and in any event within two (2) Business Days of receipt of the Councils' Monthly Reply notify the Authorised Officer of the Contractor's confirmation or modification (in accordance with Clause 18.6) of the Monthly Report.

18.6 Contractor Disagrees with Councils' Monthly Reply

If the Contractor disputes any matter referred to in the Councils' Monthly Reply the Contractor shall immediately so notify the Authorised Officer giving reasonable details and the Authorised Officer shall take proper account of such objection and shall thereupon as soon as reasonably practicable and in any event within two (2) Business Days of receipt of the Contractor's notification of dispute notify the Contractor of his confirmation or modification of the Councils' Monthly Reply.

18.7 Referral to Dispute Resolution Procedure

18.7.1 If the Authorised Officer and the Contractor do not agree on the amount of the Monthly Charge within sixty (60) Business Day after receipt of the Monthly Report, either Party may refer such dispute for determination in accordance with Clause 53.

18.7.2 If the determination of any dispute conducted pursuant to Clause 18.7.1 shows that:

(a) the Councils have withheld any amount which the Contractor was entitled to be paid; or

(b) the Contractor has claimed under Clause 18.1 any amount which is not entitled to be paid, then

the Lead Authority shall pay such amount to the Contractor or the Contractor shall repay such amount to the Lead Authority with interest in each case on that amount at a rate of [redacted] from time to time calculated on a daily basis from the day after the date on which payment should have been made (in the case of failure to pay by the Councils) or from the date on which over payment was made (in the case of excessive claims by the Contractor) until all relevant monies have been paid in full and whether before or after judgement.

18.8 Lead Authority to Pay Undisputed Amounts

Notwithstanding any such dispute as referred to in Clause 18.7 the Lead Authority shall pay the undisputed amount within thirty (30) Days of the date of the invoice submitted with the Monthly Report pursuant to Clause 18.1.

18.9 Payments by the Contractor

Whenever the Contractor is liable under or in connection with this Agreement to pay any sum of money to the Councils it shall, pay to the Lead Authority (to such account as the Authorised Officer shall have notified to the Contractor in each notice or demand for payment submitted to the Contractor therefore) within thirty (30) Days of the Authorised Officer's demand for payment and if not so paid the Councils shall be entitled to recover interest on any monies due at the rate of [redacted] from time to time calculated on a daily basis from the due date for payment until the date that payment is received by the Lead Authority whether before or after judgement.

18.10 Payment by the Councils

Whenever the Councils are liable under or in connection with this Agreement to pay any sum of money to the Contractor other than the Monthly Charge or pursuant to Clause 37 and Clause 41 then except where this Agreement specifies otherwise, it shall be paid to the Contractor (to such account as the Contractor shall have notified to the Authorised Officer in each notice or demand for payment submitted to the Authorised Officer therefore) within thirty (30) Days of the Contractor's demand for payment and if not so paid the Contractor shall be entitled to recover interest on any monies due at the rate of [redacted] from time to time calculated on a daily basis from the due date for payment until the date that payment is received by the Contractor whether before or after judgement.

19. FAILURE TO PERFORM THE SERVICES

19.1 Where a Performance Failure occurs, the Councils are entitled to allocate Performance Points and/or make Performance Deductions in respect of the relevant Performance Failure in accordance with the provisions of Schedule 4 (Performance Mechanism).

19.2 Any Performance Deductions made in respect of a relevant Performance Failure will be applied to the relevant Monthly Charge in accordance with Schedule 3 (Payment Mechanism).

20. INDEXATION

All amounts stated in this Agreement to be subject to indexation shall be adjusted in accordance with the provisions of Schedule 3 (Payment Mechanism).

21. EXCUSING CAUSES

21.1 Excusing Cause

If and to the extent that an Excusing Cause interferes adversely with, or causes a failure of, the performance of the Contractors' obligations under this Agreement then the Contractor is entitled to relief in accordance with this Clause 21.1 and relief from the provisions of Schedule

4 (Performance Mechanism) where the Excusing Cause causes a Performance Failure and/or the application of any Performance Deductions and/or Performance Points and such failure by the Contractor to perform, and any poor performance of, the affected Services shall not constitute a breach of this Agreement by the Contractor.

21.1.1 To obtain relief, the Contractor must:

(a) as soon as practicable, and in any event within five (5) Business Days after it becomes aware (or ought reasonably to have become so aware) that the Excusing Cause has occurred, give to the Lead Authority a notice of its claim for relief, including full details (to the extent reasonably available to the Contractor) of the nature of the Excusing Cause, the obligations affected, the date of occurrence, its likely duration and the relief claimed;

(b) within fifteen (15) Business Days of receipt by the Lead Authority of the notice referred to in Clause (a) above, give all material details of the relief claimed;

(c) demonstrate to the reasonable satisfaction of the Lead Authority that:

(i) the Contractor or its sub-contractors could not have avoided such occurrence or consequences by steps which it or they might reasonably be expected to have taken, without incurring material expenditure;

(ii) the Excusing Cause had an adverse effect on the ability of the Contractor to perform its obligations; and

(iii) the Contractor is using reasonable endeavours to perform the affected obligations under this Agreement.

21.1.2 To the extent that the Contractor has complied with its obligations above in relation to the affected Services and subject to Clauses 21.1.3 and 21.1.4 then:

(a) such failure by the Contractor to perform, and any poor performance of, any affected obligations shall not constitute a breach of the provisions of this Agreement by the Contractor;

(b) the effect of the Excusing Cause upon the Contractor's performance of its obligations shall be taken account of in measuring the performance of any affected obligation in accordance with Schedule 4 (Performance Mechanism) as though the relevant Excusing Cause had not occurred; and

(c) any such contractual and/or performance failure shall, to the extent caused by the effect of the Excusing Cause upon the relevant obligations, be deemed not to have occurred, such that the Council shall not be entitled to levy any Performance Deductions and/or Performance Points.

21.1.3 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 Agreement including, in relation to an event arising under limbs (c) and (d) of the definition of Excusing Cause, the implementation of the procedures set out within the relevant Method Statements in relation to the delivery of the Waste Collection Services in the circumstances where an Excusing Cause under limbs (c) or (d) (as the case may be) arises. To the extent that the Contractor does not take such steps in accordance with this Clause 21.1.3, the Contractor shall not be entitled to, and shall not receive, the relief specified in this Clause 21.1.

21.1.4 In the event that information required by Clause 21.1.1 above is provided after the dates referred to in Clause 21.1.1(b), then the Contractor shall not be entitled to any relief during the period for which the information is delayed.

21.1.5 The Contractor shall notify the Council if at any time it receives or becomes aware of any further information relating to the Excusing Cause, giving details of that information to the extent that such information is new or renders information previously submitted materially inaccurate or misleading.

21.1.6 If the Parties cannot agree the extent of the relief required under Clause 21.1.2, or the Lead Authority disagrees that an Excusing Cause has occurred or that the Contractor is entitled to any relief under this Clause, the Parties shall resolve the matter in accordance with Clause 53 (Dispute Resolution) of the Agreement.

PART V - PERFORMANCE AND MONITORING

22. PERFORMANCE MONITORING

22.1 Contractor Responsibility

The Contractor acknowledges and agrees that, notwithstanding any provision of this Agreement which contemplates that, in respect of the provision of the Services, the Lead Authority will or may from time to time:

22.1.1 inspect any part of any Site;

22.1.2 check compliance by the Contractor with its obligations;

22.1.3 confirm or indicate approval of or non-objection to proposals made by the Contractor;

22.1.4 request the Contractor to make a change to the Services;

22.1.5 otherwise seek to influence the manner in which the Project is conducted by the Contractor; or

22.1.6 take samples of Contract Waste,

it will always be fully the responsibility of the Contractor, and not the responsibility of the Councils, to ensure that the Project is conducted in all respects in accordance with the Contractor's obligations under this Agreement, and in accordance with all Legislation, Guidance and Necessary Consents and no such action by or on behalf of the Councils will in any way limit or affect such obligations.

22.2 Contractor Monitoring

The Contractor shall diligently carry out performance monitoring in accordance with Schedule 1 (Output Specification) and Schedule 4 (Performance Mechanism).

22.3 Council Monitoring

The Lead Authority may elect to undertake its own performance monitoring exercise at any stage during the Contract Period for any purpose including ensuring that the Services are being provided in accordance with this Agreement, that all information provided by the Contractor is accurate as to the adequacy of the Contractor's own monitoring processes. The Contractor shall co-operate with and assist the Lead Authority with such performance monitoring. In that respect the Lead Authority shall have the right to audit the Contractor's Quality Management System to establish the adequacy or accuracy of the Quality Management System documentation. The Contractor shall assist the Lead Authority in such an exercise.

22.4 Cost of Performance Monitoring

Each Party shall bear its own costs of performance monitoring.

22.5 Legal Requirements

Without prejudice to the generality of Clause 22.1 (Contractor Responsibility), no action taken by or on behalf of the Lead Authority pursuant to Clause 22.1 will in any way lessen the Contractor's responsibility for ensuring that the Project is at all times conducted in a manner which complies with all applicable Legislation, Guidance and any judgement of any court tribunal or other person or body exercising a judicial function and which judgement has the force of law. The Contractor shall, where it believes that there is any conflict between its obligations under this Clause 22.5 and Clause 22.1, seek instructions from the Councils regarding which provision shall take presence.

22.6 Increased Monitoring

If any of the Councils reasonably believes that either the Contractor has failed to observe or perform any of its obligations under this Agreement or the Contractor is likely to fail to observe or perform any of its obligations under this Agreement the Lead Authority may (without prejudice to any other right or remedy available to it) give notice to the Contractor:

22.6.1 requiring the Contractor to carry out additional monitoring in such manner and to such extent as the Lead Authority shall reasonably specify;

22.6.2 requiring the Contractor to supply such additional reports, plans and other information in such manner and to such extent as the Lead Authority shall reasonably specify;

22.6.3 specifying any inspections to be carried out by the Lead Authority its agents or employees in monitoring the performance and observance of the Contractor's obligations under this Agreement as are reasonably considered necessary by the Lead Authority (causing as little disruption and inconvenience to the Contractor as is reasonably practicable).

22.7 In the event of failure by the Contractor to observe or perform its obligations in accordance with Clauses 18 (Report and Invoicing), Clause 22.6 (Increased Monitoring) and Schedule 4 (Performance Mechanism) the Lead Authority may give notice to the Contractor notifying the Contractor that the Lead Authority will undertake all or any part of the future monitoring to such level and extent as would be required of the Contractor pursuant to this Agreement to ensure that the Project is conducted in all respects in accordance with the Contractor's obligations under this Agreement, and in accordance with all Legislation, Guidance and Necessary Consents whereupon the Contractor shall be relieved of future monitoring in such respect until such time as the Lead Authority shall decide.

22.8 The Contractor shall co-operate and assist the Lead Authority with the monitoring by the Lead Authority its agents or employees in accordance with Clause 22.6 or 22.7 and shall make available all the Contractor's records relating to the provision of the Services forthwith on request by the Lead Authority and the Lead Authority its agents and employees shall be permitted access forthwith on request by the Lead Authority to the relevant Site or premises where such records are kept or where the Services are provided or to be provided.

22.9 The Contractor shall pay to the Lead Authority all reasonable and proper costs (including any associated administrative costs and overheads) incurred by the Lead Authority in respect of the inspections referred to in Clause 22.6.3 or in respect of the monitoring referred to in Clause 22.7 where such inspections or monitoring demonstrates that the Contractor has failed to observe or perform any of its obligations under this Agreement.

23. AUDIT ACCESS

23.1 The Contractor shall co-operate fully and in a timely manner with any reasonable request from time to time of any auditor (whether internal or external) of any of the Councils (including any official of the Environment Agency or any other statutory inspectorate) to inspect any Site in connection with any audit regarding the carrying out by the Lead Authority of statutory

functions with regard to the performance or non-performance of this Agreement, such request to be made on the giving of reasonable notice to the Contractor.

23.2 The Contractor shall co-operate fully, and in a timely manner with any request from time to time of any auditor (whether internal or external) of the Lead Authority (including any official of the Environment Agency or any other statutory inspectorate) to provide documents, or to procure the provision of documents, relating to the Project other than where such documents contain Commercially Sensitive Information (except to the extent that the Contractor can be required to provide such information to such persons by law) and to provide, or to procure the provision of, any oral or written explanation relating to the same but only in connection with any audit regarding the carrying out by any of the Councils of its statutory functions with regard to the performance or non-performance of this Agreement.

23.3 For the avoidance of doubt no Party shall be in breach of Clause 51 (Freedom of Information and Confidentiality) by reason of any disclosure properly and reasonably made pursuant to this Clause 23 (Audit Access).

23.4 The Contractor shall procure that reasonably satisfactory office facilities at the relevant Depots are made available to the Lead Authority and any auditor (whether internal or external) of the Councils (including any official of the Environment Agency or any other statutory inspectorate) for the purposes of Clauses 23.1 and 23.2 if requested by the Lead Authority to do so.

24. INSURANCE

24.1 Requirement to Maintain

The Contractor shall at its own cost and for the periods specified in Schedule 9 (Insurance) take out and maintain in force or procure the taking out and maintenance of the insurances specified in Schedule 9 (Insurance), and any other insurances as may be required by Legislation (together the **Required Insurances**), provided that all such insurances must be effective in each case not later than the date on which the relevant risk commences.

24.2 Obligations on Parties

No Party shall (and each Party shall use all reasonable endeavours to procure that no other party shall) take any action or fail to take any reasonable action, or (insofar as it is reasonably within its power) permit anything to occur, which would entitle any insurer to refuse to pay any claim under any insurance policy in which it is an insured, a co insured or additional insured person or noted on the policy.

24.3 Nature of the Insurances

Each of the Required Insurances shall contain a clause waiving the insurers' subrogation rights against the Councils, their directors, employees and agents.

24.4 Evidence of Policies

The Contractor shall provide to the Lead Authority:

24.4.1 copies on request of all insurance policies in respect of the Required Insurances, together with any other information reasonably requested by the Lead Authority relating to such insurance policies; and

24.4.2 evidence that the premiums payable under all insurance policies in respect of the Required Insurances have been paid and that the insurances are in full force and effect in accordance with the requirements of this Clause 24 (Insurance).

24.5 Renewal Certificates

Renewal certificates in relation to the Required Insurances shall be obtained as and when necessary and the Contractor shall use its best endeavours to forward copies (certified in a manner acceptable to the Lead Authority) to the Lead Authority before each renewal date.

24.6 Notification of Cancellation Lapse or Change

The Contractor shall use his reasonable endeavours to notify the Lead Authority:

24.6.1 at least twenty (20) Business Days prior to any cancellation termination expiry lapse or suspension of cover or material reduction in limits coverage or any increase in deductibles under any of the Required Insurances (and shall in any event notify the Lead Authority immediately it becomes aware of any of the aforesaid events); and

24.6.2 as soon as is practicable of any act, omission or event of which the Contractor is aware and which might invalidate or render unenforceable in whole or in part any of the Required Insurances.

24.7 Breach

If the Contractor is in breach of Clause 24.1, the Lead Authority may pay any premiums required to keep the Required Insurances (or part thereof, at the Lead Authority's absolute discretion) in force in respect of the Project only or itself procure such insurance in respect of the Project only and may in either case recover the amount of such premiums, together with any costs incurred in procuring such insurance (including, but not limited to, brokerage) from the Contractor on written demand.

24.8 Notification of Claims

The Contractor shall:

24.8.1 give the Lead Authority notification as soon as is practicable (and in any event within twenty (20) Business Days) upon becoming aware of any claim (or any event or circumstance which is likely to give rise to a claim) on any of the Required Insurances involving damage to any property of any of the Councils, or injury to any employee of any of the Councils or to any third party and (if requested by the Lead Authority) provide full details of the event or circumstance giving rise or likely to give rise to the claim;

24.8.2 promptly and diligently deal with all claims received relating to the Required Insurances and in accordance with all insurer requirements and recommendations.

24.8.3 in relation to all claims (relating to the Project) made under the Required Insurances give the Lead Authority details of the value and nature of all such claims as may from time to time be required by the Lead Authority.

24.9 Limit of Liability

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

24.10 Council Approval

The Required Insurances shall be effected with insurers approved by the Lead Authority, such approval not to be unreasonably withheld or delayed.

24.11 Increase in Insured Amounts

The minimum limits of indemnity, sums insured, maximum deductibles for each of the Required Insurances and any sub-limits specified as being of a minimum amount in Schedule 9 (Insurance) shall be reviewed by the Contractor and increased as necessary on a regular basis.

24.12 Insured Loss

The Contractor shall not pursue any claim against the Councils in relation to this Agreement to the extent that the Contractor is entitled to recover any losses under any of the insurances to be maintained in accordance with this Agreement, (or where any such insurance is not maintained, to the extent that the Contractor would have been entitled to recover any losses were such insurance maintained in accordance with the terms of this Agreement).

25. POLICIES AND SECURITY

25.1 Council Policies

25.1.1 Save to the extent included within requirements set out in Clause 34 (Contractor Employees) or Clause 35 (Equal Opportunity), the Contractor shall, in the performance of the Services, take all necessary measures to comply with the Council Policies. The Contractor shall take all reasonable measures to ensure that all persons employed on any work in connection with this Agreement have notice of the relevant Council Policies.

25.1.2 The Lead Authority shall notify the Contractor of any change to the Council Policies but the Contractor need only comply with such variation if it is implemented by means of a Council Notice of Change and the provisions of Clause 14 (Changes to the Services) shall apply except where such change to the Council Policies arises out of a General Change in Law.

25.1.3 The Contractor shall from the Commencement Date, implement and thereafter comply with an appropriate whistle blowing procedure as approved by the Lead Authority (such approval not to be unreasonably withheld or delayed) which ensures that employees of the Contractor are able to bring to the attention of a Relevant Authority malpractice, fraud and breach of Legislation on the part of the Contractor or any sub-contractor without fear of disciplinary and other retribution or discriminatory action.

25.2 Security

The Contractor shall co-operate with any investigation relating to security which is carried out by or on behalf of the Councils shall, subject to any legal restriction on their disclosure, provide all documents, records or other material of any kind which may reasonably be required by the Lead Authority for the purposes of the investigation. The Lead Authority shall have the right to retain any such material for use in connection with the investigation and shall provide the Contractor with a copy of any material retained.

26. HEALTH AND SAFETY

26.1 Contractor Responsibility

Without prejudice to the Contractor's obligations under Clause 29.3.1 (Contractor's Records) and the obligations within Schedule 1 (Output Specification) the Contractor shall be responsible for the observance by itself, its Staff and sub-contractors of:

26.1.1 all Legislation and Guidance (including maintaining policies) relating to health and safety for all aspects of the Project; and

26.1.2 all precautions necessary for the protection of itself, its Staff, sub-contractors and any other persons invited onto or otherwise visiting any Site.

26.2 Incidents

The Contractor shall immediately report to the Supervising Officer all incidents to the Contractor's or sub-contractors' employees or agents or any other persons on the Site(s) which ordinarily require reporting to the Relevant Authority in accordance with the Health and Safety at Work etc Act 1974 or other Legislation or Guidance in accordance with Schedule 1 (Output Specification).

27. INTELLECTUAL PROPERTY

27.1 Make Data Available

The Contractor shall or shall procure:

27.1.1 the availability to the Lead Authority without charge all data, materials and documents of any nature acquired or brought into existence in any manner whatsoever by the Contractor for the purposes of the Project and which might reasonably be required by the Councils for the purposes of exercising their rights or performing its obligations or statutory duties; and

27.1.2 the availability to the Lead Authority all such data, materials and documents acquired or brought into existence by third parties as may reasonably be required for the purposes of the Project and which might reasonably be required by the Councils for the purposes of exercising their rights or performing its obligations or statutory duties.

27.2 Contractor Licence

The Contractor:

27.2.1 hereby grants to the Councils irrevocable, transferable, non-exclusive royalty free licences (carrying the right to grant sub-licences) to use all and any Intellectual Property Rights which are or which become vested in the Contractor for any purpose relating to the Project; and

27.2.2 where any Intellectual Property Rights relating to the Project are vested in any third party, shall procure the grant of a like licence to that referred to in Clause 27.2.1.

27.3 Execute and Deliver Documents

Each Party undertakes at the request of the other to execute and deliver unconditionally all documents and to do all acts which may be necessary to bring into effect the provisions of this Clause 27.

28. REGULAR MEETINGS OF THE COUNCILS AND CONTRACTOR

28.1 The Contractor shall ensure that appropriate members of Staff attend those meetings as set out in Schedule 1 (Output Specification) and/or agreed as part of the Service Delivery Plan (**Contract Meetings**), together with such other meetings (including meetings of the Councils' Executive, Scrutiny Committees, tenants forums and other relevant local community forums) as are reasonably required by the Supervising Officer in relation to the performance by the Contractor, its employees or its sub-contractors of their respective obligations in respect of the Project.

28.2 Should the most appropriate member of the Staff be unable to attend the meeting, then a suitable replacement shall be fully briefed and shall attend on his behalf or the meeting shall be rearranged.

28.3 If requested, the Contractor shall nominate a suitable representative to attend meetings of the relevant Council or any committee thereof to report to members of the relevant Council concerning the Project.

28.4 The Contractor shall ensure that minutes of all such meetings as set out in Schedule 1 (Output Specification) and/or agreed as part of the relevant Service Delivery Plan are sent to the Supervising Officer no later than ten (10) Business Days after the Day on which such meetings took place.

29. CONTRACTOR'S RECORDS

29.1 The Contractor shall at all times:

29.1.1 maintain a full record of particulars of the costs of performing the Services, including those relating to the design, construction, maintenance, operation and finance (including details of any commitments made by the Contractor for future expenditure and details of any funds held by the Contractor);

29.1.2 when requested by the Lead Authority, provide a summary of any of the costs referred to in Clause 29.1.1 including details of any funds held by the Contractor specifically to cover such costs, in such form and detail as the Lead Authority may reasonably require to enable the relevant Council to monitor the performance by the Contractor of its obligations under this Agreement;

29.1.3 provide such facilities as the Lead Authority may reasonably require for its representatives to visit any place where the records are held and examine the records maintained under this Clause 29 (Contractor's Records); and

29.1.4 provide to the Lead Authority copies of its annual report and accounts within thirty (30) days of publication.

29.2 Compliance with the above Clause 29.1 shall require the Contractor to keep books of account in accordance with best accountancy practice with respect to this Agreement showing in detail:

29.2.1 administrative overheads;

29.2.2 payments made to Sub-Contractors;

29.2.3 capital expenditure and revenue expenditure;

29.2.4 any balances in any account or fund held for the purpose of servicing any debts relating to the Project;

29.2.5 such other items as the Lead Authority may reasonably require to conduct cost audits for verification of cost expenditure or estimated expenditure for the purpose of Clause 14 (Changes to the Services) and Clause 15.1 (Qualifying Change in Law),

and the Contractor shall have the books of account evidencing the items listed in Clauses 29.2.1 to 29.2.5 available for inspection by the Lead Authority (and any experts) upon reasonable notice, and shall present a report of these to the Lead Authority as and when requested.

29.3 The Contractor shall maintain or procure that the following are maintained:

29.3.1 a full record of all incidents relating to health, safety and security which occur during the term of this Agreement; and

29.3.2 full records of all maintenance procedures carried out during the term of this Agreement,

and the Contractor keep the items referred to in Clauses 29.3.1 and 29.3.2 for seven (7) Years and shall make them available for inspection by the Lead Authority upon reasonable notice, and shall present a report of them to the Lead Authority as and when requested.

29.4 The Contractor shall permit records referred to in this Clause 29 (Contractor's Records) to be examined and copied by any auditor of any of the Councils and other representatives of the Councils, and by the Audit Commission and its representatives.

29.5 The records referred to in this Clause 29 (Contractor's Records) shall be retained for a period of at least seven (7) Years after the Contractor's obligations under this Agreement have come to an end.

29.6 Upon termination of this Agreement, and in the event that the Councils wish to enter into another contract for the operation and management of the Project or any part of it the Contractor shall comply with all reasonable requests of the Lead Authority to provide information relating to the Contractor's costs of operating and maintaining the Project.

29.7 All information referred to in this Clause 29 (Contractor's Records) is subject to the obligations set out in Clause 51 (Freedom of Information and Confidentiality).

30. ENVIRONMENTAL PROTECTION

30.1 Without prejudice to its obligations to comply with all applicable Legislation, the Contractor shall at all times comply with its duty of care under section 34 of the EPA.

30.2 The Contractor shall take all and any steps as are necessary to ensure that the impact of the operation of the Contractor upon the Environment in pursuance of its obligations under this Agreement is adequately and sufficiently assessed, controlled, monitored, mitigated and remediated as required by all appropriate enforcement agencies, Legislation and Good Industry Practice.

30.3 The Contractor shall promptly notify the Lead Authority of all circumstances which shall or might reasonably be regarded as a breach of this Clause 30 (Environmental Protection) and shall act at all times in good faith in respect of this Clause 30 (Environmental Protection).

31. DATA PROTECTION

General

31.1 Each Council and the Contractor shall comply with its obligations under Data Protection Legislation.

31.2 The Contractor shall indemnify and keep indemnified each Council against all losses, claims, damages, liabilities, costs and expense (including reasonable legal costs) incurred by each one of them in respect of any breach of this Clause 31 by the Contractor and/or any act or omission of any Sub-Processor.

31.3 Without prejudice to the Contractor's general obligations to provide data and information to either Council on request, either Council shall be entitled to request, and the Contractor shall provide within a reasonable time, employment and relevant Personal Data in relation to Processor Personnel for the purposes of anti-fraud measures. The Contractor shall ensure that it takes any measures necessary pursuant to Data Protection Legislation and any other relevant Legislation to lawfully facilitate such disclosure.

Data Processor

31.4 Each Council and the Contractor acknowledge that for the purposes of the Data Protection Legislation, in relation to the Services, the relevant Council is the Controller and the Contractor is the Processor unless otherwise specified in Schedule 19 (Schedule of Processing, Personal Data and Data Subjects). The only processing that the Contractor is authorised to do on

behalf of the relevant Council is listed in Schedule 19 (Schedule of Processing, Personal Data and Data Subjects) by the Councils and may not be determined by the Contractor.

31.5 The Contractor shall notify the Lead Authority immediately if it considers that any instructions of either Council infringe Data Protection Legislation.

31.6 The Contractor shall provide all reasonable assistance to each Council in the preparation of any data protection impact assessment pursuant to Article 35 of the GDPR (or equivalent provisions of any other Data Protection Legislation) prior to commencing any processing. Such assistance may, at the discretion of the relevant Council, include:

31.6.1 a systematic description of the envisaged processing operations and the purpose of the processing;

31.6.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

31.6.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

31.6.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

31.7 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

31.7.1 process that Personal Data only in accordance with Schedule 19 (Schedule of Processing, Personal Data and Data Subjects), unless the Contractor is required to do otherwise by Legislation. If it is so required, the Contractor shall promptly notify the Lead Authority before processing the Personal Data unless prohibited by Legislation;

31.7.2 ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which either Council may reasonably reject (but failure to reject shall not amount to approval by the Councils of the adequacy of the Protective Measures), having taken account of the:

(a) nature of the data to be protected;

(b) harm that might result from a Data Loss Event;

(c) state of technological development; and

(d) cost of implementing any measures;

31.7.3 ensure that:

(a) the Processor Personnel do not process Personal Data except in accordance with Schedule 19 (Schedule of Processing, Personal Data and Data Subjects);

(b) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

(i) are aware of and comply with the Contractor's duties under this Clause 31;

(ii) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-Processor;

(iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the relevant Council or as otherwise permitted by this Agreement; and

(iv) have undergone adequate training in the use, care, protection and handling of Personal Data;

31.7.4 not transfer Personal Data outside of the UK unless the prior written consent of the relevant Council has been obtained and the following conditions are fulfilled:

(a) the relevant Council or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the relevant Council;

(b) the Data Subject has enforceable rights and effective legal remedies;

(c) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the relevant Council in meeting its obligations); and

(d) the Contractor complies with any reasonable instructions notified to it in advance by the Lead Authority with respect to the processing of the Personal Data;

31.7.5 at the written direction of the Lead Authority, delete or return Personal Data (and any copies of it) to the relevant Council on termination of the Agreement unless the Contractor is required by Legislation to retain the Personal Data.

31.8 Subject to Clause 31.9, the Contractor shall notify the Lead Authority immediately if it:

31.8.1 receives a Data Subject Request (or purported Data Subject Request);

31.8.2 receives a request to rectify, block or erase any Personal Data;

31.8.3 receives any other request, complaint or communication relating to either Council's or the Contractor's obligations under the Data Protection Legislation;

31.8.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

31.8.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Legislation; or

31.8.6 becomes aware of a Data Loss Event.

31.9 The Contractor's obligation to notify under Clause 31.8 shall include the provision of further information to the Lead Authority in phases, as details become available.

31.10 Taking into account the nature of the processing, the Contractor shall provide each Council with full assistance in relation to the relevant Council's or the Contractor's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 31.8 (and insofar as possible within the timescales reasonably required by the relevant Council) including by promptly providing:

31.10.1 the relevant Council with full details and copies of the complaint, communication or request;

31.10.2 such assistance as is reasonably requested by the relevant Council to enable the relevant Council to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;

31.10.3 the relevant Council, at its or the Lead Authority's request, with any Personal Data it holds in relation to a Data Subject;

31.10.4 assistance as requested by the relevant Council following any Data Loss Event;

31.10.5 assistance as requested by the relevant Council with respect to any request from the Information Commissioner's Office, or any consultation by the relevant Council with the Information Commissioner's Office.

31.11 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 31. This requirement does not apply where the Contractor employs fewer than two hundred and fifty (250) staff, unless:

31.11.1 the relevant Council determines that the processing is not occasional;

31.11.2 the relevant Council determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR (or equivalent provisions of any other Data Protection Legislation) or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR (or equivalent provisions of any other Data Protection Legislation); or

31.11.3 the relevant Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

31.12 The Contractor shall allow for audits of its Data Processing activity by the relevant Council or the relevant Council's designated auditor.

31.13 Each Council and the Contractor shall designate its own data protection officer if required by the Data Protection Legislation.

31.14 Before allowing any Sub-Processor to process any Personal Data related to this Agreement, the Contractor must:

31.14.1 notify the Lead Authority in writing of the intended Sub-Processor and processing;

31.14.2 obtain the written consent of the relevant Council;

31.14.3 enter into a written agreement with the Sub-Processor which give effect to the terms set out in this Clause 31 such that they apply to the Sub-Processor; and

31.14.4 provide the Lead Authority with such information regarding the Sub-Processor as either Council may reasonably require.

31.15 The Contractor shall remain fully liable for all acts or omissions of any of its Sub-Processors.

31.16 The Councils may, at any time on not less than thirty (30) Business Days' notice, revise this Clause 31 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

31.17 The Councils and the Contractor agree to take account of any guidance issued by the Information Commissioner's Office. The Lead Authority may on not less than thirty (30) Business Days' notice to the Contractor amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Data Controller

31.18 Each Council and the Contractor acknowledge that for the purposes of the Data Protection Legislation, in certain circumstances, the Contractor acts as an independent Controller. In such circumstances, the following provisions and Schedule 19 (Schedule of Processing, Personal Data and Data Subjects) shall apply.

31.19 Without prejudice to Clause 31.1, the Contractor shall:

31.19.1 provide fair processing information as required by Articles 13 and 14 of the GDPR (or equivalent provisions of any other Data Protection Legislation) to the Data Subjects with whom it interacts;

31.19.2 deal with and respond to Data Subject requests, enquiries or complaints (including any request by a Data Subject to exercise their rights under Data Protection Legislation) it receives;

31.19.3 promptly (and without undue delay) notify the Lead Authority in writing of each Data Loss Event of which it becomes aware relating to the Personal Data to the extent the Security Incident is likely to affect either Council;

31.19.4 at all times process the Personal Data in a manner that ensures appropriate security of the Personal Data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical and organisational measures; and

31.19.5 ensure that, at a minimum, the measures required under Clause 31.19.4 meet the standard required by Data Protection Legislation, including Article 32 of the GDPR (or equivalent provisions of any other Data Protection Legislation) and the Protective Measures.

32. COUNCIL STEP-IN

32.1 Council Step-in

32.1.1 If any of the Councils reasonably believes that it needs to take action in connection with the Services:

(a) because a serious risk exists to the health or safety of persons or property or to the Environment; and/or

(b) to discharge a statutory duty,

then the relevant Council shall be entitled to take action in accordance with Clause 32.1.2 to 32.1.5.

32.1.2 If Clause 32.1.1 applies and the relevant Council wishes to take action, such Council shall notify the Contractor in writing of the following:

(a) the action it wishes to take;

(b) the reason for such action;

(c) the date it wishes to commence such action;

(d) the time period which it believes will be necessary for such action; and

(e) to the extent practicable, the effect on the Contractor and its obligation to provide the Collection Services or Street Cleansing during the period such action is being taken.

32.1.3 Following service of such notice, the relevant Council shall take such action as notified under Clause 32.1.2 and any consequential additional action as it reasonably believes is necessary for the purpose specified in Clause 32.1.1 (together the **Required Action**) and the Contractor shall give all reasonable assistance to the relevant Council while it is taking the Required Action.

32.1.4 Step-in without Contractor Breach

If the Contractor is not in breach of its obligations under this Agreement, then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from providing any part of the Services:

(a) the Contractor shall be relieved from its obligations to provide such part of the Services;

(b) in respect of the period in which the relevant Council is taking the Required Action, such Council shall act in accordance with Good Industry Practice; and

(c) in respect of the period in which the relevant Council is taking the Required Action and provided that the Contractor provides such Council with reasonable assistance (such assistance to be at the expense of the relevant Council to the extent incremental costs are incurred), then:

(i) the Monthly Charge due from the Councils to the Contractor in respect of the relevant Services affected by the Required Action shall equal the amount the Contractor would have received in respect of such Services had the Councils not taken the Required Action as such Monthly Charge is determined in accordance with Schedule 3 (Payment Mechanism) provided that where such amount is not agreed within ten (10) Days of receipt by the Contractor of the notice served by the relevant Council in accordance with Clause 32.1.2, either one may refer (without prejudice to the Councils' right to step-in and carry out the Required Action) the matter for dispute resolution in accordance with Clause 53 (Dispute Resolution) and during the period until the Monthly Charge due from the Councils to the Contractor pursuant to this Clause 32.1.4(c)(i) in accordance with Schedule 3 (Payment Mechanism) has been agreed or determined, the Lead Authority shall pay the amount of the Monthly Charge (on a pro rata basis for the period between the date on which the Required Action commences and the date on which the Monthly Charge in accordance with Schedule 3 (Payment Mechanism) is agreed or determined) which was paid in the relevant Month prior to the Month in which the relevant Council has taken the Required Action and upon agreement or determination of the Monthly Charge in accordance with Schedule 3 (Payment Mechanism), any overpayment or underpayment shall be payable to or from the Contractor (as the case may be) and taken into account in the next succeeding payment of the Monthly Charge or if none, shall be paid in accordance with Clauses 18.9 and 18.10, less

(ii) any costs not incurred by the Contractor as a result of the Councils taking the Required Action which the Contractor would otherwise have incurred.

32.1.5 Step-in on Contractor Breach

If the Required Action is taken as a result of a breach of the obligations of the Contractor under this Agreement, then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from providing any part of the Services:

(a) the Contractor shall be relieved of its obligations to provide such part of the Services;

(b) in respect of the period in which the relevant Council is taking the Required Action:

(i) the Monthly Charge due from the Councils to the Contractor in respect of the Services affected by the Required Action shall equal the amount the Contractor would have received in respect of such Services had the relevant Council not taken the Required Action as such Monthly Charge is determined in accordance with Schedule 3 (Payment Mechanism) which shall be agreed by the Parties provided that where such amount is not agreed within ten (10) Days of receipt by the Contractor of the notice served by the relevant Council in accordance with Clause 32.1.2, either one may refer (without prejudice to the Councils' right to step-in and carry out the Required Action) the matter for dispute resolution in accordance with Clause 53 (Dispute Resolution) and during the period until the Monthly Charge due from the Councils to the Contractor pursuant to this Clause 32.1.5(b)(i) in accordance with Schedule 3 (Payment Mechanism) has been agreed or determined, the Lead Authority shall pay the amount of the Monthly Charge (on a pro rata basis for the period between the date on which the Required Action commences and the date on which the Monthly Charge in accordance with Schedule 3 (Payment Mechanism) is agreed or determined) which was paid in the relevant Month prior to the Month in which the relevant Council has taken the Required Action and upon agreement or determination of the Monthly Charge in accordance with Schedule 3 (Payment Mechanism), any overpayment or underpayment shall be payable to or from the Contractor (as the case may be) and taken into account in the next succeeding payment of the Monthly Charge or if none, shall be paid in accordance with Clauses 18.9 and 18.10, less

(ii) an amount equal to all the relevant Council's costs of operation in taking the Required Action.

32.2 Rights of Access

32.2.1 The Lead Authority or a representative of the Lead Authority may enter upon any property used by the Contractor to perform the Services, to inspect the operation and maintenance of the Assets to monitor compliance by the Contractor with its obligations.

32.2.2 The Lead Authority or a representative of the Lead Authority may at all times enter upon any property used by the Contractor as training or workshop facilities and places where work is being prepared or materials being obtained for the Project.

32.2.3 The Contractor shall procure satisfactory facilities are made available to the Lead Authority and any representatives of the Lead Authority and that reasonable assistance is given for the purposes of Clauses 32.2.1 and 32.2.2, subject to the Contractor's operational requirements not being adversely affected and to reimbursement of any reasonable costs or expenses of the Contractor.

32.2.4 If the Lead Authority is or becomes aware of a breach by the Contractor of its obligations under Clause 12 (Maintenance) then the Lead Authority may exercise its right of access and remedy such breach and shall be entitled to recover any costs or expenses incurred from the Contractor as a debt.

32.2.5 The Lead Authority and its representatives shall at all times comply with any health and safety requirements when exercising its rights under this Clause 32.2.

32.2.6 If the Lead Authority or its representative causes material damage to any facility in exercising any right under this Clause 32.2, then the Councils shall be liable to the Contractor for the reasonable costs directly caused by such damage.

33. TUPE AND PENSIONS

33.1 The Councils and Contractor agree that, as the Contractor is the provider of the Services prior to the Transfer Date the Transfer Regulations shall not apply on the Transfer Date, and that a Relevant Transfer to the Contractor will not take place on such Date. In the event that the Transfer Regulations shall apply to the Contractor on the Transfer Date, then the Parties agree that they will treat the Transfer Regulations as applying and shall comply with all relevant obligations that would otherwise be applicable under the Transfer Regulations had there been a transfer pursuant to such regulations.

33.2 As a consequence of Clause 33.1, and in accordance with the Transfer Regulations, the contracts of employment of all Council Employees shall (subject to regulation 4(7) and 4(9) of the Transfer Regulations) have effect after the Transfer Date as if originally made between those employees and the Contractor except insofar as such contracts relate to those parts of an occupational pension scheme relating to old age, invalidity and survivors benefits.

33.3 The Contractor shall recognise the Trade Unions representing Existing Employees on and after the Transfer Date.

33.4 The Contractor agrees that it will not make any changes to the terms and conditions including for the avoidance of doubt any policies or parts thereof which have contractual effect of any Existing Employees at any time without having followed a collective bargaining procedure with the Trade Unions to consider such changes and with a view to agreeing them with the Trade Unions, but the parties agree that, if an agreement is not reached after all reasonable efforts of the Contractor under any such procedure, the Contractor may make any such changes by following a process in accordance with the contractual rights of the Existing Employees.

33.5 The Contractor agrees to recognise and implement national pay awards set by the National Joint Council for Local Government Services collective bargaining arrangements in respect of the Existing Employees for the duration of this Agreement.

33.6 Existing Employees and Sub-Contractors

33.6.1 The Contractor agrees that it will not engage any Sub-Contractor to perform any part of the Services without the prior written approval of the Lead Authority.

33.6.2 The Contractor agrees that it will not transfer the employment of any Existing Employee to another employer or re-deploy such an employee, from the Services and/or to a Sub-Contractor on either a temporary or permanent basis without the prior written consent of the Existing Employee.

33.6.3 The Councils and the Contractor agree that where the identity of a Sub-Contractor who employs any Existing Employees or New Employees changes pursuant to this Agreement then the change in the identity of such Sub-Contractor shall constitute a Relevant Transfer. On the occasion of each Relevant Transfer the Contractor shall procure that the new Sub-Contractor of the relevant service will comply with all of its obligations under the Transfer Regulations in respect of any relevant employees.

33.6.4 The Contractor shall promptly upon request by the Lead Authority provide to the Councils details of any measures which it or any new Sub-Contractor envisages it or they will take in relation to any Existing Employees or any New Employees who are or who will be the subject of a Relevant Transfer.

33.7 Contractor to Become an Admission Body

Subject to Clause 33.11 (LGPS Funding) where the Contractor or a Sub-Contractor (as the case may be) employs any Eligible Employees from a Relevant Transfer Date, the Contractor shall procure that it and/or each relevant Sub-Contractor (as the case may be) shall offer the Eligible Employees membership of the LGPS. The Contractor shall and shall procure that each relevant Sub-Contractor (as the case may be) shall enter into an Admission Agreement

with the Fund as soon as reasonably practicable after the Relevant Transfer Date in order that the Eligible Employees become active members of the LGPS with effect from and including the Relevant Transfer Date. For the avoidance of doubt, where Eligible Employees are already active members of the LGPS pursuant to an existing Admission Agreement with the Contractor, the existing Admission Agreement shall remain in place in respect of such Eligible Employees.

33.8 Indemnity for a Breach of the Admission Agreement

Without prejudice to the generality of Clause 33.7, but subject to Clause 33.11 (LGPS Funding), the Contractor hereby indemnifies the Councils and/or any New Contractor and, in each case, their Sub-Contractors from and against all Losses suffered or incurred by it or them which arise from any breach by the Contractor or any Sub-Contractor of the terms of the Admission Agreement to the extent that such liability arises after execution of and before or as a result of the termination or expiry of this Agreement (howsoever caused).

33.9 Indemnity, Bond and/or Guarantee

Without prejudice to the generality of the requirements of Clauses 33.7 and 33.8 but subject to Clause 33.11 (LGPS Funding), the Contractor shall procure that it and each relevant Sub-Contractor shall as soon as reasonably practicable obtain any indemnity or bond required in accordance with the Admission Agreement and which indemnity or bond shall be in a form agreed by the parties to the Admission Agreement. Where for any reason it is not desirable for the Contractor or Sub-Contractor (as the case may be) to enter into an indemnity or bond, the Contractor shall procure that it and each relevant Sub-Contractor shall as soon as reasonably practicable secure a guarantee in a form acceptable to the Administering Authority in accordance with the Admission Agreement.

33.10 Rights of Set Off

The Councils shall have a right to set off against any payments due to the Contractor under this Agreement an amount equal to any overdue employer and employee contributions and other payments (and interest payable under the LGPS Regulations) due from the Contractor or from any relevant Sub-Contractor (as the case may be) under the Admission Agreement and this Agreement.

33.11 LGPS Funding

The Councils and the Contractor hereby agree that the following provisions shall apply in respect of the participation of the Contractor and/or any Sub-Contractor (as the case may be) in the LGPS as a result of Clause 33.7 (Contractor to Become an Admission Body):

33.11.1 the Councils shall procure that when the Contractor or a Sub-Contractor (as the case may be) enters into the Admission Agreement pursuant to Clause 33.7 (Contractor to Become an Admission Body), if required, the Contractor or Sub-Contractor (as the case may be) shall be credited by the Administering Authority with a notional fund within the Fund at the Relevant Transfer Date (which for the avoidance of doubt shall not constitute an admission agreement fund for the purposes of regulation 54 of the LGPS Regulations) (**Notional Fund**). The amount of the Notional Fund shall be determined by an actuary appointed by the Administering Authority by reference to the aggregate of the benefits, whether immediate, prospective or contingent, payable under the LGPS immediately before the Relevant Transfer Date in relation to the Eligible Employees who are active members of the LGPS or join the LGPS on the Relevant Transfer Date and such Eligible Employees' spouses and dependants, by reference to the pensionable service in the LGPS up to the Relevant Transfer Date but making proper allowance for projected increases in the rate of pensionable salary of each such Eligible Employee to date of withdrawal, retirement or death and increases in pensions in payment using the demographic and actuarial assumptions which were adopted for the most recent funding valuation of the Fund. The LGPS will at all times be deemed

to be fully funded in respect of the Eligible Employees as at the Transfer Date on an ongoing basis on the basis of the assumptions used in the last statutory valuation of the Fund carried out prior to the Relevant Transfer Date;

33.11.2 subject to Clause 33.11.10 the employer contributions payable to the LGPS by the Contractor and/or any Sub-Contractor (as the case may be) shall at all times be subject to a maximum of twenty two point two per cent (22.2%) of the pensionable pay (as defined in the LGPS Regulations) in each month of the Eligible Employees who are active members of the LGPS at the relevant time (**Maximum LGPS Contribution Rate**);

33.11.3 subject to Clause 33.11.10 where the employer contributions payable by the Contractor and/or any Sub-Contractor(as the case may be) under the LGPS Regulations or the Admission Agreement or otherwise are:

(a) more than the Maximum LGPS Contribution Rate, the Councils agree that they shall pay to the Contractor that part of the actual contributions paid by the Contractor and/or any Sub-Contractor (as the case may be) which are in excess of the Maximum LGPS Contribution Rate; or

(b) less than the Maximum LGPS Contribution Rate, the Contractor shall pay to the Councils an amount which is equivalent to the difference between the employer contributions actually paid to the LGPS by the Contractor and/or any Sub-Contractor(as the case may be) and the Maximum LGPS Contribution Rate (**LGPS Refund Amount**) provided that, if agreed between the Councils and the Contractor the LGPS Refund Amount may be set off against amounts otherwise payable by the Councils to the Contractor under Clause 33.11.3(a).

33.11.4 for the purposes of Clause 33.11.3 above, any payment due to the Contractor from the Councils or due to the Councils from the Contractor shall be calculated by the actuary to the Fund and agreed with the Councils and the Contractor at the end of each Contract Year, or on each anniversary of the date on which the last Contract Year ended, if the calculation is being done after the end of the Contract Period. The Councils and the Contractor agree that any payment shall be made (by whichever Party) within fourteen (14) Days of such calculation being agreed. If the amount of such payment is not agreed within twenty one (21) Days of the end of the Contract Year or anniversary of the date on which the last Contract Year ended (as the case may be), the matter shall be determined in accordance with the Dispute Resolution Procedure, and for the purposes of this Clause, the Dispute Resolution Procedure shall continue to apply after the end of the Contract Period;

33.11.5 where any Eligible Employee retires early on ill-health grounds in accordance with regulation 7 of the LGPS Regulations in circumstances where the Fund requires an additional amount or contribution to be paid to the Fund in respect of such early retirement (**LGPS Ill-Health Costs**), the LGPS Ill-Health Costs shall, after the application of any available surplus in the Fund, be split between the Councils and the Contractor and/or Sub-Contractor (as appropriate) based pro-rata on the employee's period of service with the Councils (as the case may be) prior to the Relevant Transfer Date and the employee's period of service with the Contractor and/or Sub-Contractor (as the case may be) on and after the Relevant Transfer Date but so that any amount to be borne by the Contractor and/or Sub-Contractor shall be calculated on the basis that the LGPS is deemed to be fully funded in respect of the Eligible Employees as at the Relevant Transfer Date on the basis described in Clause 33.11.1 (with any of the additional amount or contribution relating to any underfunding on that basis being borne by the Councils).

33.11.6 The amount of the LGPS Ill-Health Costs to be borne by each Party shall be calculated on the above basis by the actuary to the Fund and agreed with the Councils and the Contractor. The Councils agree that they will pay the amount due from it in respect of the LGPS Ill-Health Costs to the Contractor within fourteen (14)

Days of the amount being agreed. If the amount of the LGPS Ill-Health Costs to be borne by each Party is not agreed within twenty one (21) Days of the date of the notification from the Fund that the LGPS Ill-Health Costs are payable, the matter shall be determined in accordance with the Dispute Resolution Procedure and for the purposes of this Clause, the Dispute Resolution Procedure shall continue to apply after the end of the Contract Period;

33.11.7 where any Eligible Employee retires early on grounds of redundancy or business efficiency in accordance with regulation 30(7) of the LGPS Regulations, in circumstances where the Fund requires an additional amount or contribution to be paid representing the actuarial strain on the LGPS resulting from the early payment of that employee's benefits (as assessed by the actuary to the Fund) such amount or contribution shall be payable by the Contractor or Sub-Contractor (as appropriate) within twenty one (21) Days of the notification from the Fund that an additional amount or contribution is required. To the extent that the additional amount or contribution is not calculated on the basis that the LGPS is deemed to be fully funded in respect of the Eligible Employees as at the Relevant Transfer Date on the basis described in Clause 33.11.1 the part of the additional amount or contribution relating to any underfunding on that basis shall be borne by the Councils and paid to the Contractor within fourteen (14) Days of being agreed and if the amount is not agreed within twenty one (21) Days of the date of the notification from the Fund, the matter shall be determined in accordance with the Dispute Resolution Procedure and for the purposes of this Paragraph, the Dispute Resolution Procedure shall continue to apply after the end of the Contract Period;

33.11.8 where the Contractor or Sub-Contractor (as the case may be) grants any pay award to the Eligible Employees which, in aggregate, exceeds the greater of:

(a) the pay increases assumed by the actuary to the Fund in the most recent triennial valuation for the Fund as at the date on which the pay rises are given; and

(b) the increases in rates of pay as agreed by the Joint Negotiating Committee for Local Authority Employees (or any replacement body); and

(c) such higher amount as is agreed between the Contractor and the Councils,

(the aggregate excess being called the **Excess Pay**) the Contractor or Sub-Contractor (as the case may be) shall be responsible for funding the cost of the increase in liabilities caused by the Excess Pay after carrying forward an allowance reasonably determined by the actuary to the Fund as reflecting previous awards of pay below the rate described in Clauses 33.11.8 (a) - (c) and allowing for any subsequent lower awards.

33.11.9 Save where Clause 33.15 (Discretionary Benefits) applies where any of the following circumstances arise, the Contractor or Sub-Contractor (as the case may be) shall be responsible for funding the cost of any additional amount or contribution that the Fund may reasonably require to be paid where it has not been allowed for in the maximum LGPS Contribution Rate:

(a) early retirement of an Eligible Employee where consent was given to such retirement by the Contractor or Sub-Contractor (as the case may be);

(b) the Contractor or Sub-Contractor (as the case may be) granting an augmentation of benefits or any other discretionary award in relation to an Eligible Employee; and

(c) the Contractor or Sub-Contractor (as the case may be) reducing or waiving any contributions due from any Eligible Employee.

33.11.10 For the purposes of Clause 33.11.2, the Maximum LGPS Contribution Rate (and the contributions to be measured against this for the purposes of Clause 33.11.3) shall exclude any contributions or payments (or part of any contributions or payments) for which the Contractor and/or any Sub-Contractor (as the case may be) is or are liable in accordance with Clauses 33.11.5, 33.11.6, 33.11.7, 33.11.8 and 33.11.9 but shall include any contributions or payments (or part of any contributions or payments) which may be required to be paid by the Contractor and/or any Sub-Contractor (as the case may be) which relate to discretionary benefits provided in accordance with Clause 33.15.

33.11.11 The Councils agree that they shall reimburse the Contractor on demand in respect of all amounts payable to the LGPS by the Contractor or Sub-Contractor (as the case may be) under regulation 64(4) the LGPS Regulations or the Admission Agreement or otherwise on, following or as a result of the termination of the Admission Agreement. However, this shall exclude any amounts for which the Contractor and/or Sub-Contractor is or are liable in accordance with Clauses 33.11.5, 33.11.6, 33.11.7, 33.11.8 and 33.11.9 and shall exclude any administrative costs and/or administrative expenses owing to the LGPS by the Contractor or the Sub-Contractor (as the case may be) under the Admission Agreement.

33.11.12 Other than as set out in this Clause 33.11 and other than the payment of any fees and costs payable to the Fund by the Contractor or the Sub-Contractor (as the case may be) which relate solely to the Contractor's or Sub-Contractor's participation in the Fund, the Councils and the Contractor agree that no contributions or payments shall at any time be payable by the Contractor or any Sub-Contractor to the LGPS under the LGPS Regulations or the Admission Agreement or otherwise in respect of the membership of the LGPS of the Eligible Employees, any former Eligible Employees or any other person. For the avoidance of doubt this excludes any financial penalty or interest incurred by the Contractor or Sub-Contractor (as the case may be) by virtue of its having failed to make payment of any fees and costs payable to the Fund within the time limits set out in this Agreement and/or the Admission Agreement.

33.11.13 The provisions of this Clause 33.11 shall continue to apply after the Expiry Date or Termination Date (as applicable).

33.12 Contractor Ceases to be an Admission Body

If the Contractor or any Sub-Contractor (as the case may be) employs any Eligible Employees from a Relevant Transfer Date and:

33.12.1 the Councils and the Contractor (or any relevant Sub-Contractor) are of the opinion that it is not possible to operate the provisions of Clause 33.7 (Contractor to Become an Admission Body) to Clause 33.11 (LGPS Funding) inclusive; or

33.12.2 if for any reason after the Relevant Transfer Date the Contractor or any relevant Sub-Contractor ceases to be an Admission Body other than on the date of termination or expiry of this Agreement or because it ceases to employ any Eligible Employees,

then the provisions of Clause 33.7 (Contractor to Become an Admission Body) to 33.11 (LGPS Funding) inclusive shall not apply (without prejudice to any rights of the Councils or the Contractor under those Clauses) and the provisions of Clause 33.13 (Contractor Scheme) shall apply.

33.13 Contractor Scheme

33.13.1 The Contractor shall or shall procure that any relevant Sub-Contractor shall not later than the Relevant Transfer Date or the Cessation Date (as the case may be) nominate to the Councils in writing the occupational pension scheme or schemes

which it proposes shall be the **Contractor Scheme** for the purposes of this Clause 33.13 (Contractor Scheme). Such pension scheme or schemes must be:

(a) established within three (3) Months of the Relevant Transfer Date or the Cessation Date (as the case may be) or such other date as the Councils and the Contractor may agree and maintained throughout the remainder of the Contract Period;

(b) reasonably acceptable to the Councils (such acceptance not to be unreasonably withheld or delayed);

(c) registered within the meaning of the Finance Act 2004; and

(d) certified by the Government Actuary's Department or an actuary nominated by the Councils in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the LGPS.

33.13.2 The Contractor undertakes to the Councils (for the benefit of the Councils itself and for the Councils as agent and trustee for the benefit of the Eligible Employees) that it shall and shall procure that any relevant Sub-Contractor shall procure that:

(a) the Eligible Employees shall by three (3) Months before the Transfer Date or Cessation Date (as the case may be) be offered membership of the Contractor Scheme with effect from and including the Relevant Transfer Date or Cessation Date (as the case may be);

(b) the Contractor Scheme shall provide benefits in respect of the Eligible Employees' periods of service on and after the Relevant Transfer Date or Cessation Date (as the case may be) which the Government Actuary’s Department or an actuary nominated by the Councils in accordance with relevant guidance produced by the Government Actuary's Department shall certify to be broadly comparable to the benefits which the Eligible Employees would have been entitled to under the LGPS had they continued in membership of the LGPS. This shall not apply to service after the date of termination or expiry of this Agreement;

(c) if the Contractor Scheme is terminated before the date of termination or expiry of this Agreement, a replacement pension scheme shall be provided with immediate effect for those Eligible Employees who are still employed by the Contractor. The replacement scheme must comply with this Clause 33.13 (Contractor Scheme) as if it were the Contractor Scheme;

(d) before the Relevant Transfer Date or Cessation Date (as the case may be) the trustees of the Contractor Scheme shall undertake by deed to the Councils that they shall comply with the provisions of Clauses 33.13.1(a) to 33.13.2(d) (Contractor Scheme), 33.14 (Undertaking from the Contractor);

(e) where the Contractor Scheme has not been established at the Relevant Transfer Date or the Cessation Date (as the case may be), the Contractor shall provide death benefits for and in respect of the Eligible Employees on and from the Relevant Transfer Date or Cessation Date (as the case may be) which are certified by the Government Actuary's Department or an actuary nominated by the Councils in accordance with relevant guidance produced by the Government Actuary's Department as being broadly comparable to those that would otherwise have been provided in respect of those Eligible Employees by the LGPS. Such benefits will continue to be provided until death-in-service benefits are provided by the Contractor Scheme is established, unless they decline to join the Contractor Scheme.

33.14 Undertaking from the Contractor

The Contractor undertakes to the Councils (for the benefit of the Councils themselves and for each Council as agent and trustee for the benefit of the Eligible Employees) that:

33.14.1 all information which the Councils or the Administering Authority or their respective professional advisers may reasonably request from the Contractor or any relevant Sub-Contractor (as the case may be) for the administration of the LGPS or concerning any other matters raised in Clause 33.13 (Contractor Scheme) and 33.14 (Undertaking from the Contractor) shall be supplied to them as expeditiously as possible;

33.14.2 subject to Clause 33.11 (LGPS Funding) it shall not and shall procure that any relevant Sub-Contractor shall not, without the consent in writing of the Councils (which shall only be given subject to the payment by the Contractor or the relevant Sub-Contractor of such reasonable costs as the Councils or the Administering Authority may require) consent to instigate, encourage or assist any event which could impose on the LGPS or on the Councils a cost in respect of any Eligible Employee greater than the cost which would have been payable in respect of that Eligible Employee had that consent, instigation, encouragement or assistance not been given;

33.14.3 until the Relevant Transfer Date, it shall not and shall procure that any relevant Sub-Contractor shall not, issue any announcements (whether in writing or not) to the Eligible Employees concerning the matters stated in Clauses 33.7 (Contractor to Become an Admission Body) to 33.12 (Contractor ceases to be an Admission Body) inclusive without the consent in writing of the Councils and the Administrating Authority (not to be unreasonably withheld or delayed);

33.14.4 it shall not and shall procure that any relevant Sub-Contractor (as the case may be) shall not take or omit to take any action which would materially affect the accrued benefits under the LGPS or under the Contractor Scheme of any Eligible Employees who are or will be employed wholly or partially in connection with the Services without the prior written agreement of the Councils (not to be unreasonably withheld or delayed) provided that the Contractor and/or such contractor will be so entitled without the requirement of consent to give effect to any pre-existing contractual obligations to any Eligible Employees; and

33.14.5 it shall and shall procure that any relevant Sub-Contractor shall offer any of its Eligible Employees who cease to be engaged in the provision of the Services and thereby cease to be eligible for membership of the LGPS or membership of the Contractor Scheme (as appropriate) immediately after ceasing to be so engaged save in the following circumstances:

(a) where such Eligible Employee has ceased to be engaged in the Services on the date of termination or expiry of this Agreement;

(b) where such Eligible Employee has voluntarily ceased to be engaged in the Services and/or ceased to be employed by the Contractor or Sub-Contractor (as the case may be);

(c) where the Contractor or Sub-Contractor and such Eligible Employee agree alternative pension arrangements and/or compensation in cash or other terms;

(d) where the Councils and the Contractor agree the need to redeploy any such Eligible Employee; or

(e) where the Councils and the Contractor agree a change in the provision of the Services in accordance with the Change Mechanism or where the Services are terminated in accordance with the terms of this Agreement.

This shall not apply to service after the date of termination or expiry of this Agreement.

33.15 Discretionary Benefits

33.15.1 The Contractor shall and/or shall procure that any relevant Sub-Contractor shall award benefits (where permitted) to the Eligible Employees under the LGPS in circumstances where the Eligible Employees would have received such benefits had they still been employed by the Councils.

33.15.2 Where the award of benefits in Clause 33.15.1 is not permitted under the LGPS, the Contractor shall and/or shall procure that any Sub-Contractor shall award benefits to the Eligible Employees which are no less favourable than the benefits the Eligible Employees would have received under the LGPS in circumstances where the Eligible Employees would have received such benefits had they still been employed by the Councils.

33.15.3 Under Clauses 33.15.1 and 33.15.2 (Discretionary Benefits), where such benefits are of a discretionary nature, they shall be awarded on the basis of the Councils' written policy in relation to such benefits at the time of the Transfer Date (which the Councils shall provide upon request). Where the payment of such benefits is not, for whatever reason, possible, the Contractor shall and/or shall procure that any relevant Sub-Contractor shall compensate the Eligible Employees in a manner which is broadly comparable or equivalent in cash terms.

33.16 Claims from Eligible Employees or Trade Unions

The Contractor hereby indemnifies and shall procure that any relevant Sub-Contractor indemnifies the Councils and/or any successor provider of services the same as or similar to the Services from and against all Losses suffered or incurred by it or them which arise from claims by Eligible Employees or by any trade unions, elected employee representatives or staff associations in respect of all or any such Eligible Employees which losses:

33.16.1 relate to pension rights in respect of periods of employment on and after the Transfer Date until the date of termination or expiry of this Agreement; or

33.16.2 arise out of the failure of the Contractor and/or any relevant Sub-Contractor to comply with the provisions of Clauses 33.7 to 33.22.18 before the date of termination or expiry of this Agreement.

33.17 Liability for Costs

The costs of the Councils necessarily and reasonably incurred in connection with the Admission Agreement and/or of obtaining the necessary certification of comparability in accordance with Clause 33.13 (Contractor Scheme) shall be borne by the Contractor.

33.18 Transfer to another Employer

Save on expiry or termination of this Agreement, if the employment of any Eligible Employee transfers to another employer (by way of a transfer under TUPE) the Contractor shall and shall procure that any relevant Sub-Contractor shall:

33.18.1 consult with and inform those Eligible Employees of the pension provisions relating to that transfer; and

33.18.2 procure that the employer to which the Eligible Employees are transferred (**New Employer**) complies with the provisions of Clauses 33.7 to 33.22.18 provided that references to the **Sub-Contractor** will become references to the New Employer, references to **Relevant Transfer Date** will become references to the date of the

transfer to the New Employer and references to **Eligible Employees** will become references to the Eligible Employees so transferred to the New Employer.

33.19 Pension Issues on Expiry or Termination

The Contractor shall (and shall procure that any relevant Sub-Contractor shall):

33.19.1 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Contractor or any Sub-Contractor in the provision of the Services on the expiry or termination of this Agreement (including without limitation identification of the Eligible Employees);

33.19.2 promptly provide to the Councils such documents and information mentioned in Clause 33.19.1 which the Councils or Administering Authority may reasonably request in advance of the expiry or termination of this Agreement; and

33.19.3 fully co-operate (and procure that the trustees of the Contractor's Scheme shall fully co-operate) with the reasonable requests of the Councils or Administering Authority relating to any administrative tasks necessary to deal with the pension rights of and aspects of any onward transfer of any person engaged or employed by the Contractor or any Sub-Contractor in the provision of the Services on the expiry or termination of this Agreement.

33.20 Compliance with Part 1 of the Pensions Act 2008

The Contractor shall and shall procure that any relevant Sub-Contractor shall comply with the requirements from time to time under Part 1 of the Pensions Act 2008 to make a minimum level of contributions to a qualifying scheme and/or an automatic enrolment scheme as appropriate.

33.21 Compliance with section 257 and 258 of the Pensions Act 2004

The Contractor shall and shall procure that any relevant Sub-Contractor shall comply with sections 257 and 258 of the Pensions Act 2004 in relation to any Transferring Employee (excluding, for the avoidance of doubt any Eligible Employees) who is on or immediately prior to the Transfer Date:

33.21.1 a member of or is entitled to be a member of their employer's occupational pension scheme; or

33.21.2 would have become eligible to be a member of their employer's occupational pension scheme had he served out the usual waiting period.

33.22 Exit Provisions

33.22.1 The provisions of this Clause 33.22 shall apply on the termination or expiry of this Agreement. The Contractor and Councils agree that it is their intention that the Transfer Regulations will apply on the termination or expiry of this Agreement but the position shall be determined in accordance with Legislation at the termination or expiry of this Agreement and the following provisions are without prejudice to such determination.

33.22.2 During the final twelve (12) Months of the Contract Period (where this expires by effluxion of time) or during the period of any notice of termination of this Agreement or of any of the Services, the Contractor shall co-operate fully with the transfer of responsibility for the Services (or any of the Services) to the Incoming Contractor, and for the purposes of this Clause 33.22.2 the meaning of the term "**co-operate**" shall include:

(a) liaising with the Councils and/or any Incoming Contractor and providing reasonable assistance and advice concerning the Services and their transfer to the Councils and/or to such Incoming Contractor;

(b) allowing the Councils or any Incoming Contractor access to and contact with (at reasonable times and on reasonable notice) any Returning Employee during working hours for the purposes of announcements, discussions or meetings and/or to any Site; and

(c) providing to the Councils and/or to any Incoming Contractor all and any information concerning any Site and the Services which is required for the efficient transfer of responsibility for their operation and performance.

33.22.3 The Contractor shall use all reasonable endeavours so as to facilitate the smooth transfer of responsibility for the Services to the Councils and/or an Incoming Contractor and the Contractor shall take no action at any time during the Contract Period or thereafter which is calculated or intended, directly or indirectly, to prejudice or frustrate such transfer.

33.22.4 The Contractor shall not:

(a) in the event of notice of termination of this Agreement for any reason with effect from the date on which such notice is given; or

(b) from a date twelve (12) Months before the Expiry Date,

carry out an Inappropriate Act (as defined below) in relation to any of its Staff who are wholly or mainly engaged in the provision of the Services.

33.22.5 For the purposes of this Clause 33.22, **Inappropriate Acts** are:

(a) the termination of the employment of any of the Staff who are wholly or mainly engaged in the provision of the Services for any reason without the Lead Authority's consent (such consent not to be unreasonably withheld or delayed);

(b) the material alteration or change in any way of any terms and conditions of employment of any of the Staff who are wholly or mainly engaged in the provision of the Services (whether with or without the consent of the Staff who are wholly or mainly engaged in the provision of the Services) other than for wage or salary awards which are in line with those offered generally for similar status individuals or as is required by law or as agreed with the Lead Authority such agreement not to be unreasonably withheld or delayed;

(c) soliciting or enticing away or endeavouring to solicit or entice away from any relevant sub-contractor (whether by itself or by any of the Contractor's group companies) any person employed in a managerial, supervisory or technical capacity in the Services;

(d) the relocation or assignment to new duties unconnected with the Services of any of the Staff who are wholly or mainly engaged in the provision of the Services without the prior written consent of the Project Director (such consent not to be unreasonably withheld or delayed); or

(e) the relocation of other employees from elsewhere in the business who have not previously been employed or engaged in providing the Services to provide the Services (or any part).

33.22.6 The Contractor shall comply with all applicable Legislation relating to the provision of information to and/or consultation with employees and/or any representative of any

of them in connection with the transfer of their contracts of employment upon termination of this Agreement to the Councils or an Incoming Contractor.

33.22.7 During the final twelve (12) Months of the Contract Period (where this expires by effluxion of time) or during the period of any notice of termination of this Agreement or of any of the Services, the Contractor shall within ten (10) Business Days of a written request by the Lead Authority subject to its obligations under data protection legislation (but providing anonymised information where necessary) give the Lead Authority full details of all its Staff who are wholly or mainly engaged in the provision of the Services including, but not limited to, age, sex, length of service, job title, grade, salary and terms and conditions of employment and benefits applicable to all of its Staff who are wholly or mainly engaged in the provision of the Services (including but not limited to those particulars of employment that an employer is obliged to give to an employee pursuant to section 1 of Employment Rights Act 1996 and any bonus, incentive, profit sharing scheme, employee share scheme and life, accident and health insurance), working arrangements, outstanding obligations to increase remuneration and redundancy schemes and including details of those persons who are absent from work for any reason other than holiday or short term sickness (being less than one (1) Month) including reason for absence and duration, pension fund membership, and any recognition or collective agreement which will have effect after the Return Date pursuant to the Transfer Regulations (together the **Key Employee Information**). The Contractor shall provide three (3) updates to the Key Employee Information within ten (10) Business Days of a written request for such information as the Lead Authority may reasonably request. Thereafter the Contractor shall provide any subsequent updates to the Key Employee Information within five (5) Business Days of a written request by the Lead Authority. It is expressly acknowledged by the Contractor that the Lead Authority may pass Key Employee Information on to an Incoming Contractor or a prospective Incoming Contractor.

33.22.8 The Contractor shall give to the Lead Authority copies of all personnel and employment records (including without limitation National Insurance and PAYE records), employment contracts and statements of terms and conditions of employment and disciplinary records relating to the Staff who are wholly or mainly engaged in the provision of the Services within five (5) Business Days of the Return Date PROVIDED that in any event the Contractor shall give to the Lead Authority all such information relating to the Staff who are wholly or mainly engaged in the provision of the Services as required by regulation 11 of the Transfer Regulations. It is expressly acknowledged that the Lead Authority can pass all such information received on to the Incoming Contractor or a prospective Incoming Contractor.

33.22.9 The Contractor shall in respect of the Returning Employees employed by the Contractor perform and discharge all obligations and duties of the employer under the relevant Returning Employees' contract of employment arising from the Transfer Date to the Return Date.

33.22.10 The Councils will use all reasonable endeavours to procure that the wages, salaries and other benefits of Returning Employees and all PAYE tax deductions and national insurance contributions relating thereto in respect of the employment of such employees on and after the Return Date are satisfied.

33.22.11 The Councils shall use reasonable endeavours to procure that any Incoming Contractor shall comply with its obligations under the Transfer Regulations (including but not limited to its obligations under regulation 13(4) of the Transfer Regulations) on termination of the Services and the Contractor shall comply with its obligations under the Transfer Regulations on termination of the Services and each of the Councils shall indemnify the Contractor and the Contractor shall indemnify the Councils and any Incoming Contractor against any Losses sustained as a result of breach by the party in default.

33.22.12 The Contractor shall and shall procure that all wages, salaries and other benefits of all Returning Employees and all PAYE tax deductions and national insurance contributions relating thereto in respect of the employment of such employees up to the Return Date are satisfied and shall indemnify and keep indemnified the Councils and any Incoming Contractor against all Losses incurred by the Councils or any Incoming Contractor in respect of such payments.

33.22.13 The Contractor shall remain responsible for all of its employees (other than the Returning Employees) on or after the Return Date and shall indemnify the Councils and any Incoming Contractor against all Losses incurred by the Councils or any Incoming Contractor resulting from any claim whether arising before, on or after the Return Date against the Councils or any Incoming Contractor by or on behalf of such employees.

33.22.14 In respect of Returning Employees, the Contractor shall indemnify the Councils and any Incoming Contractor against all Losses incurred by the Councils or any Incoming Contractor resulting from any claim whatsoever, by or on behalf of, any of the Returning Employees in respect of the period before the Return Date (whether any such claim, attributable to the period up to and on the Return Date, arises before, on or after the Return Date) including but not limited to any failure by the Contractor to comply with its or their obligations under regulations 13 and 14 of TUPE and any award of compensation under regulation 15 of TUPE save to the extent that any such failure to comply arises as a result of an act or omission of the Councils or any Incoming Contractor in circumstances where the Contractor has complied with its obligations to provide employee information pursuant to regulation 11 of TUPE.

33.22.15 The Councils shall be entitled to assign the benefit of the Contractor's indemnities in this Clause 33 to any Incoming Contractor.

33.22.16 The Contractor shall:

(a) maintain such documents and information as will reasonably be required to manage the pension aspects of any transfer of any Returning Employees (including without limitation identification of the Existing Employees and New Employees and their existing pension arrangements);

(b) promptly provide to the Lead Authority such documents and information mentioned in Clause (a) which the Lead Authority may request in advance of the expiry or termination of this Agreement; and

(c) fully co-operate (and procure that the trustees of the Contractor's Scheme shall fully co-operate) with the requests of the Lead Authority relating to any administrative tasks necessary to deal with the pension aspects of any transfer of any Returning Employees.

33.22.17 If the Transfer Regulations do not apply on expiry or termination of this Agreement the Councils shall procure that any Incoming Contractor shall offer employment to Returning Employees on the same terms and conditions that applied immediately before the Return Date except in so far as such terms relate to any provisions of an occupational pension scheme which are exempt under the Transfer Regulations.

33.22.18 Where any offer of employment made pursuant to Clause 33.22.17 is accepted the Contractor shall immediately indemnify and keep indemnified the Councils and any Incoming Contractors on the same terms as set out in Clause 33.22.11 as if there had been a Relevant Transfer in respect of each and every employee who has accepted any such offer and for the purposes of this Clause 33.22 each and every such employee shall be treated as if they were a Returning Employee.

34. CONTRACTOR EMPLOYEES

34.1 Whilst engaged at any Sites the Contractor shall comply with the Lead Authority's requests relating to the conduct of its respective Staff (including those in respect of security arrangements) as may be made by the Lead Authority from time to time whilst at such facilities and shall ensure that its employees, servants and agents do likewise.

34.2 Subject to Clause 33 (TUPE and Pensions), the Contractor shall be entirely responsible for the employment and conditions of service of the Contractor's employees and shall procure that any Sub-Contractor is likewise responsible for its employees. The Contractor shall procure that all New Employees (whether of the Contractor or of any Sub-Contractor) engaged in the provision of the Services have the right to work in the UK and will conduct appropriate checks and monitoring as required by the Immigration, Asylum and Nationality Act 2006.

34.3 The Contractor shall procure that in respect of all potential staff or persons performing any of the Services who become New Employees (**Named Employee**) before a Named Employee begins to perform the Services and only to the extent required under the Home Office Guidance for the role in question:

34.3.1 each Named Employee is questioned as to whether he or she has any Convictions or Asbos or Criminal Behaviour Orders;

34.3.2 the results are obtained of a check of the most extensive available kind made with the Disclosure and Barring Service in respect of each Named Employee; and

34.3.3 a copy of the results of such checks are notified to the Councils.

34.4 The Contractor shall procure that only to the extent required under the Home Office Guidance in relation to the Services:

34.4.1 no person who appears on a Barred List following the results of a Disclosure and Barring Service check shall be employed or engaged in the performance of any Services; and

34.4.2 it shall and shall procure that all sub-contractors shall comply with all reporting requirements to the Disclosure and Barring Service.

34.5 The Contractor shall procure that no person who discloses any Convictions or Asbos, or who is found to have any Convictions or Asbos following the results of a Disclosure and Barring Service check, is employed or engaged without the Lead Authority's prior written consent (such consent not to be unreasonably withheld or delayed and on the presumption that such consent will not be withheld in respect of any persons disclosing Convictions or Asbos which have no material likelihood of adversely affecting the performance of the Services, or impacting on Service Users.

34.6 The Contractor shall take and/or procure that appropriate disciplinary action is taken against any person employed by the Contractor and/or any Sub-Contractor who contravenes any requests made by the Lead Authority pursuant to Clauses 34.1 to 34.6 relating to the conduct of their Staff who are wholly or mainly engaged in the provision of the Services at any Sites (which may in appropriate cases include the removal of such person from such Sites or from carrying out any work in connection with the Services).

35. EQUAL OPPORTUNITY

35.1 The Contractor shall at all times comply with and maintain policies to require that both it and its Sub-Contractors comply with their obligations prohibiting discrimination on the grounds of sex, sexuality, marital status, colour, race, nationality (including citizenship), national or ethnic origin, gender or age or on the grounds of their disability in decisions to recruit, train, promote, discipline or dismiss employees and, accordingly, shall not and shall use its best endeavours

to secure that all servants, employees or agents of the Contractor including its Sub-Contractors do not discriminate against any person on these grounds.

35.2 The Contractor shall and shall procure that the Sub-Contractors shall understand the aims of the Equality Standard for Local Government in England published in October 2007 and agree to work within its terms and shall observe, as far as is reasonably practicable, the Equal Opportunities Commission's Codes of Practice for employment and equal pay, the Commission for Racial Equality's Code of Practice for employment, the Disability Rights Commission Codes of Practice and the Code of Practice for employment issued by the then Department for Education and Employment as approved by Parliament in 1996 (or any codes which replace these).

35.3 In the event of any finding of unlawful discrimination being made against the Contractor or any Sub-Contractors during the Contract Period by any court or tribunal, or of an adverse finding in any formal investigation by the Equality and Human Rights Commission over the same period, the Contractor shall inform the Lead Authority of this finding forthwith and shall take appropriate steps to the reasonable satisfaction of the Lead Authority to prevent repetition of the unlawful discrimination.

35.4 The Contractor shall promptly provide the Lead Authority with full written details of any steps taken under Clause 35.3 above.

35.5 The Contractor's equal opportunities policy shall be set out in instructions circulated to those members of the Contractor's Staff who are wholly or mainly engaged in the provision of the Services and Sub-Contractor's Staff who are wholly or mainly engaged in the provision of the Services concerned with recruitment, training and promotion, in relevant documentation available to Staff who are wholly or mainly engaged in the provision of the Services and others and in its recruitment advertisements and other relevant literature.

35.6 The Contractor shall, as soon as reasonably practicable, provide such information as the Lead Authority may reasonably request for the purpose of assessing the Contractor's compliance with the above conditions and for the purposes of the Lead Authority ensuring that it complies with its statutory obligations to undertake and complete equality impact assessments, including, if requested, examples of any instructions, recruitment advertisements or other literature and details of the monitoring of applicants and employees.

PART VII - TERMINATION

36. TERMINATION ON COUNCIL DEFAULT

36.1 If a Council Default has occurred and the Contractor wishes to terminate the Agreement, it must serve a termination notice on the Lead Authority within forty five (45) Days of becoming aware of the Council Default.

36.2 The termination notice must specify the type of Council Default which has occurred entitling the Contractor to terminate (with detailed supporting information enabling the Lead Authority to identify the substance of the Council Default and any requirements on the Councils to remedy the default).

36.3 The Agreement will terminate on the Day falling ninety (90) Days after the date the Lead Authority received the termination notice, unless the Councils rectify the Council Default within ninety (90) Days of receipt of the termination notice.

37. COMPENSATION ON COUNCIL DEFAULT

37.1 On termination of this Agreement under Clause 36 (Termination on Council Default) the Lead Authority shall pay the Contractor the Council Default Termination Sum in accordance with Clause 44 (Calculation and Payment of Compensation on Early Termination) on the Termination Date.

37.2 The Council Default Termination Sum shall be the amount calculated by reference to the lower of three (3) Years profit, or profit for the remainder of the Contract Period, to be calculated on an open book basis, together with any amortised Capital Expenditure in respect of any Contractor Assets together with any Sub-Contractor Breakage Costs.

37.3 On payment of the amount referred to in Clause 37.1 above, the Councils shall have the option to require the Contractor to transfer its right, title and interest in any of the Contractor Assets to the Councils, or as directed by the Lead Authority.

38. TERMINATION ON CONTRACTOR DEFAULT

38.1 Right to Terminate on Contractor Default

38.1.1 If a Contractor Default has occurred and the Councils wish to terminate the Agreement, the Lead Authority must serve a termination notice on the Contractor.

38.1.2 The termination notice must specify:

(a) the type and nature of the Contractor Default that has occurred, giving reasonable details; and

(b) that in the case of any Contractor Default falling within limbs (b), (c), (d), (e), (f) or (i) of the definition of Contractor Default, this Agreement will terminate on the day falling sixty (60) Days after the date the Contractor receives the termination notice; or

(c) that in the case of any other Contractor Default (not being one which falls under limb (b), (c), (d), (e), (f) or (i)), this Agreement will terminate on the day falling sixty (60) Days after the date the Contractor receives the termination notice, unless the Contractor puts forward an acceptable rectification programme within thirty (30) Days (and implements such programme in accordance with its terms and rectifies the Contractor Default in accordance with the programme) or rectifies the Contractor Default within sixty (60) Days.

38.1.3 If the Contractor either rectifies the Contractor Default within the time period specified in the termination notice, or implements the rectification programme, if applicable, in accordance with its terms, the termination notice will be deemed to be revoked and this Agreement will continue.

38.1.4 If the Contractor fails to rectify the Contractor Default within the time period specified in the termination notice, this Agreement will terminate on the date falling sixty (60) Days after the date of receipt of the termination notice unless a rectification programme has been agreed between the Parties.

38.1.5 If the Contractor fails to implement any rectification programme in accordance with its terms, this Agreement will terminate on the date falling sixty (60) Days after the date of the notification to the Contractor.

38.2 Persistent Breach

38.2.1 If a particular breach, other than any breach for which Performance Points could have been awarded and/or Performance Deductions could have been made, has continued for more than thirty (30) Days or occurred more than four times in any four (4) Month period then the Lead Authority may serve a notice on the Contractor:

(a) specifying that it is a formal warning notice;

(b) giving reasonable details of the breach; and

(c) stating that such breach is a breach which, if it recurs frequently or continues, may result in a termination of this Agreement.

38.2.2 If, following service of such a warning notice, the breach specified has continued beyond thirty (30) Days or recurred in two (2) or more Months within the six (6) Month period after the date of service of a notice under Clause 38.2.1, then the Lead Authority may serve another notice on the Contractor:

(a) specifying that it is a final warning notice;

(b) stating that the breach specified has been the subject of a warning notice served within the twelve (12) Month period prior to the date of service of the final warning notice; and

(c) stating that if the breach continues for more than thirty (30) Days or recurred in two (2) or more Months within the six (6) Month period after the date of service of the final warning notice, this Agreement may be terminated for Persistent Breach.

38.2.3 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.

39. COMPENSATION ON TERMINATION ON CONTRACTOR DEFAULT

39.1 On termination under Clause 38 (Termination on Contractor Default) for reasons other than Contractor Insolvency, the Lead Authority may exercise its rights in accordance with Clause 45.2 in relation to the transfer of Contractor Assets.

39.2 Without prejudice to Clause 46 (Indemnity) and subject to Clause 46.1.2, if this Agreement is lawfully terminated by the Lead Authority pursuant to Clause 38 (Termination on Contractor Default), the Contractor shall indemnify the Councils (**Indemnified Parties** and each one shall be an **Indemnified Party**) for all Direct Losses arising out of or in connection with the Contractor Default.

39.3 The Contractor shall pay all such amounts referred to in Clause 39.2 to the relevant Indemnified Party within thirty (30) Days of receipt of a valid invoice (including any VAT payable) for the same, together with all supporting information for any such cost and expense incurred.

40. TERMINATION ON FORCE MAJEURE

40.1 No Party shall be entitled to bring a claim for breach of obligation under this Agreement by the other Party nor incur any liability to the other Party for any losses or damages incurred by that other Party to the extent that a Force Majeure Event occurs and it is prevented from carrying out obligations by that Force Majeure Event. For the avoidance of doubt, the Councils shall not be entitled to terminate this Agreement for a Contractor Default if such Contractor Default arises from a Force Majeure Event (but without prejudice to Clauses 40.5 or 40.7).

40.2 Nothing in Clause 40.1 above shall affect the Councils' entitlement to make Performance Deductions as a result of Schedule 3 (Payment Mechanism) and Schedule 4 (Performance Mechanism) in respect of the Services unaffected by the Force Majeure Event in the period during which the Force Majeure Event is subsisting.

40.3 On the occurrence of a Force Majeure Event, the Affected Party shall notify the other Party as soon as practicable. The notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the Affected Party and any action proposed to mitigate its effect.

40.4 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 Agreement.

40.5 If no such terms are agreed on or before the date falling thirty (30) Days after the date of commencement of the Force Majeure Event and such Force Majeure Event is continuing or its consequence remains such that the Affected Party is unable to comply with its obligations under this Agreement for a period of more than thirty (30) Days, then, subject to Clause 40.6 below, either Party may terminate this Agreement by giving ninety (90) Days written notice to the other Party.

40.6 If this Agreement is terminated under Clause 40.5 above or 40.7 below:

40.6.1 compensation shall be payable by the Councils in accordance with Clause 41; and

40.6.2 the Lead Authority may exercise its right in accordance with Clause 45.2 in relation to the transfer of Contractor Assets.

40.7 If the Contractor gives notice to the Lead Authority under Clause 40.5 that it wishes to terminate this Agreement, then the Lead Authority has the option either to accept such notice or to respond in writing on or before the date falling ten (10) Days after the date of its receipt stating that it requires this Agreement to continue. If the Lead Authority gives the Contractor such notice, then:

40.7.1 the Lead Authority shall pay to the Contractor the Monthly Charge from the day after the date on which the Agreement would have terminated under Clause 40.5 as if the Services were being fully provided; and

40.7.2 this Agreement will not terminate until expiry of written notice (of at least thirty (30) Days) from the Lead Authority to the Contractor that it wishes this Agreement to terminate.

40.8 The Parties shall at all times following the occurrence of a Force Majeure Event use all reasonable endeavours to prevent and mitigate the effects of any delay and the Contractor shall at all times during which a Force Majeure Event is subsisting take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

40.9 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 Agreement. Following such notification this Agreement shall continue to be performed on the terms existing immediately prior to the occurrence of the Force Majeure Event and where a Party has served a notice under Clause 40.5, such notice may be withdrawn by the Party which served it. Where such notice is withdraw, this Agreement will not terminate on the date specified in the notice.

41. COMPENSATION ON TERMINATION FOR FORCE MAJEURE

41.1 On termination of this Agreement under Clause 40 (Termination on Force Majeure), the Lead Authority shall pay to the Contractor the Force Majeure Termination Sum in accordance with Clause 44 (Calculation and Payment of Compensation on Early Termination).

41.2 The Force Majeure Termination Sum shall be the amount equal to:

41.2.1 the aggregate of amortised Capital Expenditure in respect of Contractor Assets and operating costs (calculated on an arm's length basis) incurred as at the Termination Date, less

41.2.2 total Monthly Charges paid to the Termination Date; plus

41.2.3 redundancy payments for employees of the Contractor that have been or will be reasonably incurred by the Contractor as a direct result of termination of this Agreement and any Sub-Contractor Breakage Costs.

41.3 If the sum calculated in accordance with Clause 41.2 is less than zero (0) such sum shall be deemed to be zero (0).

41.4 On termination, the Lead Authority may exercise its rights in accordance with Clause 45.2 in relation to the transfer of Contractor Assets.

42. TERMINATION ON CORRUPT GIFTS AND FRAUD

42.1 The Contractor warrants that, in entering this Agreement, it has not committed any Prohibited Act.

42.2 If the Contractor or any Sub-Contractor (or anyone employed by or acting on behalf of any of them) or any of its or their agents or shareholders commits any Prohibited Act, then the Lead Authority shall be entitled to act in accordance with this Clause 42 (Termination on Corrupt Gifts and Fraud).

42.3 If a Prohibited Act is committed by the Contractor or by an employee not acting independently of the Contractor, then the Lead Authority may terminate this Agreement by giving notice to the Contractor.

42.4 If the Prohibited Act is committed by an employee of the Contractor acting independently of the Contractor, then the Lead Authority may give notice to the Contractor of termination and this Agreement will terminate, unless within thirty (30) Business Days of receipt of such notice the Contractor terminates the employee's employment and (if necessary) procures the performance of such part of the Services by another person.

42.5 If the Prohibited Act is committed by a Sub-Contractor or by an employee of that Sub-Contractor not acting independently of that Sub-Contractor, then the Lead Authority may give notice to the Contractor of termination and this Agreement will terminate, unless within thirty (30) Business Days of receipt of such notice the Contractor terminates the relevant Project Document and procures the performance of such part of the Services by another person.

42.6 If the Prohibited Act is committed by an employee of a Sub-Contractor acting independently of that Sub-Contractor, then the Lead Authority may give notice to the Contractor of termination and this Agreement will terminate, unless within thirty (30) Business Days of receipt of such notice the Sub-Contractor terminates the employee's employment and (if necessary) procures the performance of such part of the Services by another person.

42.7 If the Prohibited Act is committed by any other person not specified in Clauses 42.3 to 42.6 above, then the Lead Authority may give notice to the Contractor of termination and this Agreement will terminate unless, within thirty (30) Business Days of receipt of such notice, the Contractor procures the termination of such person's employment and of the appointment of their employer (where not employed by the Contractor or the Sub-Contractors) and, if necessary, procures the performance of such part of the Services by another person.

42.8 Any notice of termination under this Clause 42 (Termination on Corrupt Gifts and Fraud) shall specify:

42.8.1 the nature of the Prohibited Act;

42.8.2 the identity of the party whom the Lead Authority believes has committed the Prohibited Act;

42.8.3 the date on which this Agreement will terminate, in accordance with the applicable provision of this Clause 42 (Termination on Corrupt Gifts and Fraud); and

42.8.4 the Lead Authority's chosen option under Clause 43 (Compensation on Termination on Corrupt Gifts and Fraud).

43. COMPENSATION ON TERMINATION ON CORRUPT GIFTS AND FRAUD

43.1 Corrupt Gifts and Fraud

43.1.1 On termination of this Agreement in accordance with Clause 42 (Termination on Corrupt Gifts and Fraud) then the Councils shall not be obliged to pay a Termination Sum to the Contractor.

43.1.2 If termination occurs then the Lead Authority may require the Contractor to transfer its rights, title and interest in and to the Contractor Assets to the Councils or as directed by the Lead Authority in accordance with Clause 45.2.

44. CALCULATION AND PAYMENT OF COMPENSATION ON EARLY TERMINATION

44.1 Method of Payment

44.1.1 The Councils shall pay to the Contractor the Termination Sum on or before the date falling forty five (45) Days after the Termination Date in accordance with Clause 44.1.2 below.

44.1.2 The Councils may, other than on a Council Default, elect to pay the Termination Sum payable pursuant to Clauses 40 (Termination on Force Majeure) on such dates as the parties may agree (**Instalment Dates**).

44.1.3 From the Termination Date until the date of payment, interest shall accrue on any unpaid element of the Termination Sum at the rate set out in Clause 18.9 and be payable on the next occurring Instalment Date.

44.1.4 If the Lead Authority has elected to pay in accordance with Clause 44.1.2 above, it may (on thirty (30) Days' prior written notice to the Contractor) elect to pay any outstanding Termination Sum in full on any Instalment Date.

44.1.5 If the Lead Authority:

(a) fails to make a payment to the Contractor in accordance with Clause 44.1.1 and/or Clause 44.1.2 and/or Clause 44.1.3 above; or

(b) breaches Clause 49.1 (Restrictions on the Transfer of the Agreement by the Council),

the Contractor may issue a notice to the Lead Authority declaring any unpaid and outstanding element of the Termination Sum and any accrued but unpaid interest to be immediately due and payable.

44.2 Sole Remedy

Any payment of compensation shall be in full satisfaction of any claim which can be made against the Councils by the Contractor in relation to termination of this Agreement or any Project Document. The compensation payable under Clause 37 (Compensation on Council Default) and Clause 40 (Compensation on Termination for Force Majeure) shall be the sole remedy of the Contractor against the Councils in respect of termination of this Agreement.

44.3 Tax

If any amount of compensation payable by the Councils under Clause 37 (Compensation on the Council Default) or Clause 41 (Compensation on Termination for Force Majeure) is subject to Tax payable to a Relevant Authority in the United Kingdom, then the Lead Authority shall

pay to the Contractor such additional amount as will put the Contractor in the same after Tax position as it would have been had the payment not been subject to Tax, taking account of any relief, allowances deduction, setting off credit in respect of Tax (whether available by choice or not) which may be available to the Contractor to reduce the Tax to which the payment is subject.

45. EXPIRY OF CONTRACT PERIOD OR EARLIER TERMINATION

45.1 On or before a date falling no more than thirty six (36) Months prior to the Expiry Date, the Lead Authority shall notify the Contractor in writing whether it wishes:

45.1.1 to retender the provision of the Services; and/or

45.1.2 the Contractor to transfer all of its rights, title and interest in and to the Contractor Assets to the Councils.

45.2 The Councils then may exercise their option to acquire the Contractor Assets which shall transfer as directed by the Lead Authority on the Expiry Date and the Contractor shall do any necessary acts (including entering into any Contracts) to ensure that the Councils obtains all of its rights, title and interest in the Assets with effect on and from the Expiry Date.

45.3 If the Councils wish to retender the provision of the Services then the Contractor shall do all necessary acts (including entering into any contracts) to ensure that the successor contractor obtains all of its rights, title and interest in and to the Contractor Assets transferred under Clause 45.2 above with effect on and from the Expiry Date, and subject to Clauses 38, 39 and 43, the Councils will bear all costs of any retendering of the Agreement on expiry.

45.4 In carrying out these obligations under Clauses 45.2, 45.3 and 45.4 the Parties shall agree detailed activities and timescales (having regard to the fact that following the end of the Contract Period the Contractor shall be under no obligation to provide the Services including the maintenance of a Depot) to implement the following:

45.4.1 transfer Contractor Assets to be transferred to the Councils in accordance with Clause 45.2;

45.4.2 transfer Staff;

45.4.3 transfer plans, manuals and maintenance records for all Assets (including the Operating Manuals) in accordance with Schedule 1; and

45.4.4 transfer or procure transfer of third party contracts,.

45.5 Where the Parties are unable to promptly agree the items detailed activities and/or timescales then the matter may be referred by either Party for determination under Clause 53.

45.6 The Contractor and the Lead Authority shall thereafter together consult, agree, co-operate and implement an orderly and effective process for the smooth transfer of the items listed in Clause 45.4, so that any continuation of the Services is achieved with the minimum of disruption and so as to prevent or mitigate any inconvenience or risk to health and safety of the employees of the Councils, the employees of an incoming contractor and/or members of the public.

45.7 Following the end of the Contract Period the Contractor shall transfer to the Councils or such other person as the Lead Authority directs those items referred to in Clause 45.4 in accordance with the timescales agreed or determined pursuant to Clause 45.4 and in so doing each Party shall enter in to such agreements and execute such deeds and documents as may be reasonably necessary to execute such transfers.

45.8 Final Asset Register

Six (6) Months prior to the Expiry Date, or, in the case of early termination of this Agreement, as soon as reasonably practicable following service of the relevant notice of termination (and in any event prior to the Termination Date), the Contractor shall prepare and provide to the Lead Authority a final Asset Register (**Final Asset Register**) and provide, all plans, manuals (including up to date Operating Manuals) and maintenance records for all Assets.

45.9 Handback

45.9.1 Where the Councils exercise their right under Clause 37.3 to acquire Contractor Assets, with effect from the earlier of the Termination Date and the Expiry Date, the Contractor (to the extent it is able and is required by the Councils) shall transfer back to the Councils all the Contractor Assets requested by the Councils that are listed in the Final Asset Register in accordance with Clause 37.3, and shall execute such further documentation as may prove necessary in order to effect such transfer provided that at the handback of such assets the Contractor shall ensure that the Assets are of no less state and condition (fair wear and tear excepted) than at the date of the Asset Register prior to the Final Asset Register.

45.9.2 With respect to any Contractor Assets that are being leased by the Contractor from a third party or which the Contractor has taken on hire purchase or other similar arrangement (together **Leased Assets**), the Councils shall be entitled to take such Contractor Assets subject to the terms of the relevant lease, hire purchase or other relevant arrangement, provided that nothing in this Clause 45.9.2 will make the Councils liable in respect of anything done or omitted to be done by the Contractor after the Termination Date or Expiry Date and the Contractor will indemnify the Councils against any loss or damage or any liability (which liability will include all losses or costs, claims, expenses and damages including legal and other professional fees and expenses) which the Councils may suffer or incur as a direct result of anything so done or omitted to be done by the Contractor.

45.10 During the period of any termination notice of this Agreement, and for a reasonable period thereafter, the Contractor shall cooperate fully with the transfer of responsibility for the Services to the Councils or any New Contractor.

45.11 Duty to Co-operate

During the final six (6) Months of the Contract Period (where this expires by effluxion of time) or during the period from Services of any termination notice until the Termination Date, and in either case for a reasonable period thereafter, the Contractor shall fully co-operate with the transfer of responsibility for the Services (or any part of the Services) to the Councils or any New Contractor of such services the same or similar to the Services, and for the purposes of this Clause 45.11 the meaning of the term **co-operate** shall include:

45.11.1 liaising with the Authority and/or any New Contractor, and providing reasonable assistance and advice concerning the Services and their transfer to the Authority or to such New Contractor;

45.11.2 allowing any New Contractor access (at reasonable times and on reasonable notice) to the Sites but not so as to interfere with or impede the provision of the Services;

45.11.3 providing to the Lead Authority and/or to any New Contractor all and any information concerning the Sites and the Services which is reasonably required for the efficient transfer of responsibility for performance of the Project but information which is commercially sensitive to the Contractor or a Sub-Contractor shall not be provided (and for the purposes of this Clause 45.11, **commercially sensitive** shall mean information which would if disclosed to a competitor of the Contractor or a Sub-Contractor give that competitor a competitive advantage over the Contractor or a Sub-Contractor and thereby prejudice the business of the Contractor or a Sub-

Contractor but shall, to avoid doubt, not include any information referred to in Schedule 12 (Commercially Sensitive Information); and

45.11.4 transferring its rights, title and interest in such part of the Assets as may be required by the Lead Authority in accordance with Clause 45.8 to the New Contractor with effect on and from the Termination Date or the Expiry Date.

45A TREATMENT OF CONTRACTOR ASSETS IN EVENT OF INSOLVENCY

45A.1 Upon the happening of an Insolvency Event of Default and in addition to its Step-In Rights, the Councils shall during the period commencing on the date of that Insolvency Event of Default and expiring six (6) Months thereafter (**Insolvency Option Period**), have the right to purchase (in their own name or in the name of a nominee designated by it) any or all of the Contractor Assets at market value, such value to be agreed by the parties acting reasonably, or failing agreement, to be determined by an independent valuer experienced in the valuation of similar assets.

45A.2 The Contractor agrees that it will not at any time during any Insolvency Option Period, offer or agree to sell or otherwise in any way dispose of or transfer or part with possession or control of any part or all of either of its legal or beneficial interest in any or all of the Contractor Assets unless and until it has first offered the same to the Councils to purchase in accordance with the Insolvency Option and received written notification from the Councils that it does not wish to purchase those Contractor Assets.

45A.3 The Councils may exercise the Insolvency Option by giving written notice to the Contractor that they wish to exercise the Insolvency Option.

45A.4 In the event that the Councils wish to exercise the Insolvency Option, the Contractor shall use all reasonable endeavours and co-operate to procure that the Contractor Assets are sold to the Councils free from any security, charges, lien or other encumbrance.

45A.5 The Councils' rights under this Clause 45A are without prejudice to, and in addition to, its rights under Clause 61 of this Contract.

PART VIII - GENERAL

46. INDEMNITY

46.1 Contractor Indemnities

46.1.1 The Contractor shall, subject to Clause 46.1.2, be responsible for, and shall release and indemnify the Councils, their employees, agents and contractors on demand from and against, all liability for:

(a) death or personal injury;

(b) loss of or damage to property (including property belonging to any of the Councils or for which it is responsible (**Councils' Property**) but excluding the Waste Management Facilities);

(c) breach of any statutory duty of any of the Councils if and to the extent that the provision of the Services or compliance with the terms of this Agreement would have discharged, such statutory duty; and

(d) actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis), which may arise out of, or in consequence of, the operation or maintenance of the Waste Management Facilities or Assets or the performance or non-performance by the Contractor of its obligations under this Agreement or the presence on the Councils' Property, property of

the Contractor, a sub-contractor of the Contractor (of any tier), their employees or agents.

To the extent that any such liabilities and losses arising at (d) are not required to be fully covered by the Required Insurances such liabilities and losses shall be capped at [redacted] in the aggregate during the Contract Period. Should this cap be exceeded then the Councils shall have the right to terminate this Agreement for Contractor Default unless the Contractor increases its overall liability cap to a level acceptable to the Councils.

46.1.2 The Contractor shall not be responsible or be obliged to indemnify the Councils for:

(a) any of the matters referred to in Clauses 46.1.1(a) to (d) above which arises as a direct result of the Contractor acting (whether or not on the instruction of the Councils or any one of them) properly in accordance with this Agreement; and/or

(b) any injury, loss, damage, cost and expense caused by the negligence or wilful misconduct of the Councils or any one of them, their employees, agents or contractors or by the breach by any of the Councils or any one of them of their respective obligations under this Agreement.

46.2 An indemnity by either the Councils or the Contractor under any provision of this Agreement shall be without limitation to any indemnity by that Party under any other provision of this Agreement.

47. CONDUCT AND CONTROL OF CLAIMS

47.1 In this Clause 47:

47.1.1 **Beneficiary** means, in relation to an indemnity, warranty, covenant, representation or undertaking, the person receiving the benefit of the indemnity, warranty, covenant, representation or undertaking;

47.1.2 **Claim** means any claim by a third party (including a trade union or Relevant Authority) against any of the Councils and/or the Contractor; and

47.1.3 **Covenantor** means in relation to an indemnity, warranty, covenant, representation or undertaking given in this Agreement the person giving the indemnity, warranty, covenant, representation or undertaking to the Beneficiary.

47.2 If the Beneficiary becomes aware of any Claim which might give rise to a claim by the Beneficiary under an indemnity, warranty, representation or undertaking from the Covenantor, the following provisions shall apply:

47.2.1 the Beneficiary shall as soon as reasonably practicable and in any event within ten (10) Business Days give written notice to the Covenantor of such Claim (stating in reasonable detail the nature of the matter and, so far as practicable, the amount claimed) and shall consult with the Covenantor with respect to the matter. If the matter has become the subject of any proceedings the Beneficiary shall (so far as it is able) give the notice within sufficient time to enable the Covenantor to contest the proceedings before any first instance judgement in respect of such proceedings is given;

47.2.2 the Beneficiary shall:

(a) take such action and institute such proceedings and give such information and assistance as the Covenantor or its insurers may reasonably request to dispute, resist, appeal, compromise, defend, remedy or mitigate the matter or

enforce against any person (other than the Covenantor) the rights of the Beneficiary or its insurers in relation to the matter;

(b) in connection with any proceedings related to the matter (other than against the Covenantor) use professional advisers nominated by the Covenantor or its insurers and, if the Covenantor or its insurers so request, allow the Covenantor or its insurers the exclusive conduct of the proceedings in each case on the basis that the Covenantor shall fully consult with the Beneficiary and keep the Beneficiary fully informed and the Covenantor shall fully indemnify the Beneficiary for all costs reasonably and properly incurred as a result of any such request or nomination by the Covenantor or its insurers; and

(c) not admit liability in respect of or settle the matter without the prior written consent of the Covenantor, such consent not to be unreasonably withheld or delayed.

47.3 If the Covenantor has notice of any actual or potential Claim it shall inform the Beneficiary and if the Covenantor has conduct of any litigation and negotiations in connection with such Claim, the Covenantor shall promptly take all proper action to deal with the Claim so as not, by any act or omission in connection with the Claim, to cause the Beneficiary's interests to be materially prejudiced.

47.4 If the Covenantor does not elect to have conduct of any litigation and negotiations in connection with a Claim by notice in writing to the Beneficiary within seven (7) Days of the Beneficiary giving notice of the matter in accordance with Clause 47.2.1 the Beneficiary shall be at liberty to take such action in relation to that Claim as it considers expedient to dispute, resist, appeal, compromise, defend, remedy or mitigate the matter in question subject to a duty to use all reasonable endeavours to mitigate the liability of the Covenantor in respect of that Claim.

47.5 The Covenantor shall not pay or settle any Claim without the prior written consent of the Beneficiary, such consent not to be unreasonably withheld or delayed.

47.6 The Beneficiary shall be entitled at any time to give notice to the Covenantor that it is retaining or taking over (as the case may be) the conduct of any defence, dispute, compromise or appeal of any Claim (or of any incidental negotiations). On receipt of such notice the Covenantor shall promptly take all steps necessary to transfer conduct of such Claim to the Beneficiary and shall provide to the Beneficiaries all reasonable co-operation, access and assistance for the purposes of considering and resisting such Claim. Once the Beneficiary has taken over or retained (as the case may be) the conduct of any defence, dispute, compromise or appeal of any Claim it shall thereafter be solely responsible for any costs it incurs and the Covenantor shall be released from the relevant indemnity, warranty, covenant, representation or undertaking in respect of such Claim.

48. SET OFF

48.1 The Contractor shall not be entitled to retain or set-off any amount due to the Councils by it, but the Lead Authority may retain or set-off any amount owed to it by the Contractor under this Agreement which has fallen due and payable against any amount due to the Contractor under this Agreement.

48.2 If the payment or deduction of any amount referred to in Clause 48.1 is disputed then any undisputed element of that amount shall be paid and the disputed element shall be dealt with in accordance with Clause 53 (Dispute Resolution).

49. ASSIGNMENT AND SUB-CONTRACTING

49.1 Restriction on the Transfer of the Agreement by Councils

The rights and obligations of the Councils under this Agreement 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 to any public body (being a single entity) acquiring the whole of the Agreement and having the legal capacity power and authority to become a party to and to perform the obligations of the Councils under this Agreement being:

49.1.1 a Minister of the Crown pursuant to an Order under the Ministers of Crown Act 1975;

49.1.2 any local authority which has sufficient financial standing or financial resources to perform the obligations of the Councils under this Agreement; or

49.1.3 any other public body whose obligations under this Agreement are unconditionally and irrevocably guaranteed (in a form reasonably acceptable to the Contractor) by the Councils or a Minister of the Crown having the legal capacity power and authority to perform the obligations under the guarantee and the obligations of the Councils under this Agreement.

49.2 Restriction on the Contractor

49.2.1 The Contractor shall not give, bargain, sell, assign, underlet, charge, or otherwise deal in any way with the benefit of this Agreement in whole or in part except with the prior written consent of the Lead Authority.

49.2.2 Where the consent referred to in Clause 49.2.1 is given by the Lead Authority the Contractor shall assign the Ross Depot Lease and the Tower Hamlets Depot Lease to the purchaser assignee or underlessee of the benefit of this Agreement (as applicable) provided that such purchaser assignee or underlessee provides a direct covenant with the relevant Council to perform and observe the obligations conditions and other matters contained in the Ross Depot Lease and the Tower Hamlets Depot Lease.

49.3 Exception

49.3.1 Nothing in this Agreement shall prohibit the Contractor from providing or procuring the provision of the Services from a sub-contractor of sound financial standing, technical ability and good repute and whose identity has been notified to the Lead Authority by the Contractor and approved by the Lead Authority in writing prior to the appointment of such new sub-contractor (such approval not to be unreasonably withheld or delayed) provided also that the Contractor shall remain primarily liable for the Contractor's obligations under this Agreement. The Lead Authority shall have the right to require the Contractor to submit such information as the Lead Authority shall reasonably require regarding the financial standing, technical ability and good repute of the sub-contractor.

49.3.2 For the purposes of Clause 49.3.1, the Lead Authority hereby approves the sub-contractors listed in the Service Delivery Plan.

49.4 Contractor's obligations

The Contractor shall perform its obligations under and observe all the terms of any sub-contract.

49.5 Sub-Contractors

Nothing in this Agreement shall prohibit or prevent any sub-contractor employed by the Contractor from being employed by the Councils at any establishments of the Councils.

50. STATUTORY RESPONSIBILITIES

50.1 In carrying out their statutory duties, the powers, duties, rights and obligations of the Councils shall not be fettered or otherwise affected save as provided by the terms of this Agreement.

50.2 Save to the extent that this Agreement sets out a procedure for the application for or obtaining of any Necessary Consent, approval or consent the Contractor will apply for any Necessary Consent, approval or consent in the normal way.

51. FREEDOM OF INFORMATION AND CONFIDENTIALITY

51.1 The Councils and Contractor agree that provisions of this Agreement and each Project Document shall, subject to Clause 51.2, not be treated as Confidential Information and may be disclosed without restriction.

51.2 Clause 51.1 shall not apply to provisions of this Agreement or a Project Document designated as Commercially Sensitive Information and listed in Schedule 12 (Commercially Sensitive Information) to this Contract which shall, subject to Clause 51.4, be kept confidential for the periods specified in Schedule 12 (Commercially Sensitive Information).

51.3 The Councils and Contractor shall keep confidential all Confidential Information received by one Party from the other Party relating to this Agreement and Project Documents or the Project and shall use all reasonable endeavours to prevent their employees, agents and sub-contractors from making any disclosure to any person of any such Confidential Information.

51.4 Clauses 51.1 to 51.3 shall not apply to:

51.4.1 any disclosure of information that is reasonably required by any person engaged in the performance of their obligations under the Agreement for the performance of those obligations;

51.4.2 any matter which the Contractor or any of the Councils can demonstrate is already or becomes generally available and in the public domain otherwise than as a result of a breach of this Clause 51;

51.4.3 any disclosure to enable a determination to be made under Clause 53 (Dispute Resolution) or in connection with a dispute between the Contractor and any of its Sub-Contractors;

51.4.4 any disclosure which is required pursuant to any statutory, legal (including any order of a court of competent jurisdiction), or any Parliamentary obligation placed upon the Party making the disclosure or the rules of any stock exchange or governmental or regulatory authority having the force of law or if not having the force of law, compliance with which is in accordance with the general practice of persons subject to the stock exchange or governmental or regulatory authority concerned;

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

51.4.6 any provision of information to the parties' own professional advisers or insurance advisers or to the Contractor to enable it to carry out its obligations under this Agreement, or may wish to acquire shares in the Contractor in accordance with the provisions of this Agreement to that person or their respective professional advisers, but only to the extent reasonably necessary to enable a decision to be taken on the proposal;

51.4.7 any disclosure by the Councils of information relating to the design, construction, operation and maintenance of the Project and such other information as may be reasonably required for the purpose of conducting a due diligence exercise to any proposed new contractor, its advisers and lenders (should the Councils decide to re-tender this Agreement);

51.4.8 any registration or recording of the Necessary Consents, consents obtained in accordance with Clause 8 (Necessary Consents) and property registration required;

51.4.9 any necessary disclosure of information by any of the Councils to any other department, office or agency of the Government or their respective advisers or to any person engaged in providing services to the Council for any purpose related to or ancillary to this Agreement;

51.4.10 any disclosure for the purpose of:

(a) the examination and certification of any of the Councils' or the Contractor's accounts;

(b) any examination pursuant to the Local Government Act 1999 of the economy, efficiency and effectiveness with which any of the Councils have used their resources;

(c) complying with a proper request from either Party's insurance adviser, or insurer on placing or renewing any insurance policies; or

(d) without prejudice to the generality of Clause 51.4.4, compliance with the FOIA and/or Environmental Information Regulations,

provided that, for the avoidance of doubt, neither Clause (d) nor Clause 51.4.4 shall permit disclosure of Confidential Information otherwise prohibited by Clause 51.3 where that information is exempt from disclosure under section 41 of the FOIA or any equivalent provisions in the Environmental Information Regulations.

51.5 Where disclosure is permitted under Clause 51.4, other than Clause 51.4.2, 51.4.5 and 51.4.10, the recipient of the information shall be placed under a binding obligation of confidentiality the same as that contained in this Agreement that the recipient of such information enters into a confidentiality undertaking to the Contractor expressly stating that they will be bound by the obligation of confidentiality in relation to such information.

51.6 For the purposes of the Audit Commission Act 1998, an auditor may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Contractor and any Sub-Contractor and may require the Contractor and any Sub-Contractor to produce such oral or written explanations as he considers necessary. For the avoidance of doubt it is hereby declared that the carrying out of an examination under the Audit Commission Act 1998 in relation to the Contractor is not a function exercisable under this Agreement.

51.7 The Contractor shall not make use of this Agreement or any information issued or provided by or on behalf of any of the Councils in connection with this Agreement otherwise than for the purpose of this Agreement, except with the written consent of the Lead Authority.

51.8 Where the Contractor, in carrying out its obligations under the Agreement, is provided with information relating to Service Users the Contractor shall not disclose or make use of any such information otherwise than for the purpose for which it was provided, unless the Contractor has sought the prior written consent of that Service Users and has obtained the prior written consent of the Lead Authority.

51.9 On or before the Expiry Date, the Contractor shall ensure that all documents or computer records in its possession, custody or control, which contain information relating to Service Users (including any documents in the possession, custody or control of a Sub-Contractor) are

delivered up to the Lead Authority. Subject to the requirements of Data Protection Act 1998, FOIA and the Environmental Information Regulations the Contractor may retain copies of documents where they are required as evidence of a debt or default (in contract or tort).

51.10 The parties acknowledge that the Audit Commission has the right to publish details of the Agreement (including commercially sensitive information) in its relevant reports to Parliament.

51.11 The provisions of this Clause 51 (Freedom of Information and Confidentiality) are without prejudice to the application of the Official Secrets Act 1911 to 1989.

51.12 The Contractor acknowledges that the Councils are subject to the requirements of the FOIA and the Environmental Information Regulations and shall facilitate the Councils' compliance with its Information disclosure requirements pursuant to the same in the manner provided for in Clauses 51.13 to 51.18.

51.13 Where any of the Councils receives a Request for Information that the Contractor is holding on its behalf and which the relevant Council does not hold itself the relevant Council shall refer to the Contractor such Request for Information that it receives as soon as practicable and in any event within five Business Days of receiving a Request for Information and the Contractor shall:

51.13.1 provide the relevant Council with a copy of all such Information in the form that the Council requires as soon as practicable and in any event within ten (10) Business Days (or such other period as the Council acting reasonably may specify) of the Council's request; and

51.13.2 provide all necessary assistance as reasonably requested by the relevant Council in connection with any such Information, to enable the Council to respond to a Request for Information within time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

51.14 Following notification under Clause 51.13, and up until such time as the Contractor has provided the relevant Council with all the Information specified in Clause 51.13.2, the Contractor may make representations to the Council as to whether or not or on what basis Information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the information requested, provided always that the relevant Council shall be responsible for determining at its absolute discretion:

51.14.1 whether Information is exempt from disclosure under the FOIA and the Environmental Information Regulations;

51.14.2 whether Information is to be disclosed in response to a Request for Information, and

in no event shall the Contractor respond directly, or allow its sub-contractors to respond directly, to a Request for Information unless expressly authorised to do so by the relevant Council.

51.15 The Contractor shall ensure that all Information held on behalf of the Council is retained for disclosure for at least one (1) Year (from the date it is acquired) and shall permit the Council to inspect such Information as requested from time to time.

51.16 The Contractor shall transfer to the Council any Request for Information received by the Contractor as soon as practicable and in any event within two (2) Business Days of receiving it.

51.17 The Contractor acknowledges that any lists provided by him listing or outlining Confidential Information, are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with the requirements of the FOIA and the Environmental Information Regulations.

51.18 In the event of a request from any of the Councils pursuant to Clause 51.13, the Contractor shall as soon as practicable, and in any event within five (5) Business Days of receipt of such request, inform the relevant Council of the Contractor's estimated costs of complying with the request to the extent these would be recoverable if incurred by the Council under section 12(1) of the FOIA and the Fees Regulations. Where such costs (either on their own or in conjunction with the Council's own such costs in respect of such Request for Information) will exceed the appropriate limit referred to in section 12(1) of the FOIA and as set out in the Fees Regulations (**Appropriate Limit**) the Council shall inform the Contractor in writing whether or not it still requires the Contractor to comply with the request and where it does require the Contractor to comply with the request the ten (10) Business Days period for compliance shall be extended by such number of additional days for compliance as the Council is entitled to under section 10 of the FOIA. In such case, the Council shall notify the Contractor of such additional days as soon as practicable after becoming aware of them and shall reimburse the Contractor for such costs as the Contractor incurs in complying with the request to the extent it is itself entitled to reimbursement of such costs in accordance with its own FOIA policy from time to time.

51.19 The Contractor acknowledges that (notwithstanding the provisions of Clause 51) the Councils may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Councils under Part I of the FOIA (**FOIA Code**), be obliged under the FOIA, or the Environmental Information Regulations to disclose Information concerning the Contractor or the Project:

51.19.1 in certain circumstances without consulting with the Contractor; or

51.19.2 following consultation with the Contractor and having taken their views into account,

provided always that where Clause 51.19.1 applies the Council shall, in accordance with the recommendations of the FOIA Code, draw this to the attention of the Contractor prior to any disclosure.

51.20 If a Change in Law occurs which requires or imposes an obligation on the Contractor to respond to requests for information in the same or similar manner to the Councils' obligations to comply with Requests for Information under FOIA and the Environmental Information Regulations, then the provisions of Clauses 51.12 to 51.19 shall apply mutatis mutandis in relation to the obligations on the Contractor to consult and liaise with the relevant Council following such requests for information.

52. PUBLIC RELATIONS AND PUBLICITY

The Contractor shall comply with the provisions of Schedule 1 (Output Specification) in respect of public relations, publicity and branding for and promotion of the Services.

53. DISPUTE RESOLUTION

53.1 Any dispute arising in relation to any aspect of this Agreement shall be resolved in accordance with this Clause 53. If any dispute arises in relation to any aspect of this Agreement, the Contractor and the Lead Authority shall first consult in good faith in an attempt to come to an agreement in relation to the disputed matter.

53.2 If at any time either Party is of the opinion that any dispute is not likely to be resolved by consultation under Clause 53.1 that Party may invite the other to attempt to resolve the dispute through mediation administered by the Centre for Effective Dispute Resolution, International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU.

53.3 If the Contractor and the Lead Authority fail to resolve the dispute through consultation under Clause 53.1 within seven (7) Days or, where the dispute was referred to mediation pursuant to Clause 53.2, the dispute has not been resolved through that process, either Party may refer the matter to an Adjudicator selected in accordance with Clause 53.4 below, provided that, without prejudice to Clause 53.1, either Party may at any time give the other Party notice of

intention to refer the dispute to adjudication and the adjudicator shall be selected in accordance with Clause 53.4 below.

53.4 The Adjudicator nominated to consider a dispute referred to him shall be selected on a strictly rotational basis from the relevant panel of experts in accordance with the following:

53.4.1 the Operational Panel shall be comprised of three (3) experts who shall be appointed jointly by the Contractor and the Lead Authority. Such appointments shall take place within forty (40) Business Days of the date of this Agreement;

53.4.2 if any member of a panel resigns during the term of this Agreement, a replacement expert shall be appointed by the Contractor and the Lead Authority as soon as practicable;

53.4.3 if the Lead Authority and the Contractor are unable to agree on the identity of the experts to be appointed to the panel(s), the President for the time being of the Chartered Institute of Arbitrators shall appoint such expert(s) within thirty (30) Days of any application for such appointment by either Party.

53.5 Within seven (7) Days of appointment in relation to a particular dispute, the Adjudicator shall require the parties to submit in writing their respective arguments. The Adjudicator shall, in his absolute discretion, consider whether a hearing is necessary in order to resolve the dispute.

53.6 In any event, the Adjudicator shall provide to both Parties his written decision on the dispute, within twenty eight (28) Days of appointment (or such other period as the Parties may agree after the reference, or forty two (42) Days from the date of reference if the Party which referred the dispute agrees). Unless the Parties agree otherwise, the Adjudicator shall give reasons for his decision. Unless and until revised, cancelled or varied by the Arbitrator, the Adjudicator's decision shall be binding on both Parties who shall forthwith give effect to the decision.

53.7 The Adjudicator's costs of any reference shall be borne as the Adjudicator shall specify or, in default, equally by the Contractor and the Councils. Each Party shall bear its own costs arising out of the reference, including legal costs and the costs and expenses of any witnesses.

53.8 The Adjudicator shall be deemed not to be an arbitrator but shall render his decision as an expert and the provisions of the Arbitration Act 1996 and the law relating to arbitration shall not apply to the Adjudicator or his determination or the procedure by which he reached his determination.

53.9 The Adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law. The Adjudicator shall have the power to open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature, given or made under this Agreement.

53.10 All information, data or documentation disclosed or delivered by a Party to the Adjudicator in consequence of or in connection with his appointment as Adjudicator shall be treated as confidential. The Adjudicator shall not, save as permitted by Clause 51 (Freedom of Information and Confidentiality), disclose to any person or company any such information, data or documentation and all such information, data or documentation shall remain the property of the Party disclosing or delivering the same and all copies shall be returned to such Party on completion of the Adjudicator's work.

53.11 The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is in bad faith. Any employee or agent of the Adjudicator is similarly protected from liability.

53.12 If:

53.12.1 there is any dispute in respect of matters referred to in Clause 14 (Changes to the Services), Clause 15 (Change in Law), Clause 37 (Compensation on Council Default), Clause 39 (Compensation on Termination for Contractor Default) or Clause 41 (Compensation on Termination for Force Majeure); or

53.12.2 either Party is dissatisfied with or otherwise wishes to challenge the Adjudicator's decision made in accordance with Clauses 53.6 or 53.13; or

53.12.3 both Parties agree,

then either Party may (within twenty eight (28) Days of receipt of the Adjudicator's decision including any decision of the Adjudicator pursuant to Clause 53.13, where appropriate), notify the other Party of its intention to refer the dispute to the courts of England and Wales.

53.13 Notwithstanding the provisions of Clause 53.6, where any dispute relates to Clause 18 (Report and Invoicing), the Adjudicator shall consider any representations made the Parties which either put forward their own case or deal with that of the other Party within seven (7) Days after referral of the dispute to the Adjudicator and the Adjudicator shall deliver his decision on such dispute as soon as practicable in the particular circumstances of the dispute to which his decision relates and in any event within fourteen (14) Days of referral of the dispute to him and give written notice of his decision to the Parties as soon as practicable thereafter. The Adjudicator shall provide reasons for his decision following delivery of such notice.

53.14 The courts shall have the power to open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given or made under this Agreement, to vary or cancel the decision of the Adjudicator and, where appropriate, to order financial compensation to be paid by one Party to the other.

53.15 The Parties shall continue to comply with, observe and perform all their obligations hereunder regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution under this Clause 53 and shall give effect forthwith to every decision of the Adjudicator and the courts delivered under this Clause 53.

53.16 Nothing in this Clause 53 shall prevent either the Contractor or the Councils from resisting enforcement of any decision on the grounds that the decision is invalid in law, whether through excess of jurisdiction by the Adjudicator or by breach of the rules of natural justice or in conflict of interest or in bad faith or otherwise.

54. WAIVER

54.1 No term or provision of this Agreement shall be considered as waived by any of the Councils or the Contractor unless a waiver is given in writing by that Party.

54.2 No waiver under Clause 54.1 shall be a waiver of a past or future default or breach, nor shall it amend, delete or add to the terms, conditions or provisions of this Agreement unless (and then only to the extent) expressly stated in that waiver.

55. SEVERABILITY

If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent such term, condition or provision shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.

56. COUNTERPARTS

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

57. RELATIONSHIP OF THE PARTIES

Each of the Councils and the Contractor is an independent contractor and nothing contained in this Agreement shall be construed to imply that there is any relationship between them of partnership or (except as expressly provided in this Agreement or in the case of the Councils the Inter Authority Agreement) of principal/agent or of employer/employee or as engaging in a joint venture through participation in the Project. The Contractor shall not have any right to act on behalf of any of the Councils nor to bind any of the Councils by contract or otherwise, and the Councils shall not have any right to act on behalf of the Contractor nor to bind the Contractor by contract or otherwise, except to the extent expressly permitted by the terms of this Agreement.

58. NOTICES

58.1 Form of Notice

Any demand, notice or other communication given in connection with or required by this Agreement shall be made in writing (entirely in the English language) and shall be delivered to, or sent by pre-paid first class post to, the recipient at its registered office or its address stated in this Agreement (or such other address as may be notified in writing from time to time) or sent by facsimile transmission to the recipient (but not, for the avoidance of doubt, by electronic mail), in the case of:

58.1.1 the Councils, to Roger Walton, Head of Property, Leisure & Waste Management, Dover District Council, Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ;

58.1.2 the Contractor, to David Fitzgerald, Veolia ES (UK) Limited, Tower Hamlets Depot, Tower Hamlets Road, Dover, Kent, CT17 OBL;

and unless otherwise expressly stated in this Agreement marked for the attention of the Supervising Officer in the case of the Councils, and the Operations Manager in the case of the Contractor.

58.2 Service

Any such demand, notice or communication shall be deemed to have been duly served:

58.2.1 if delivered by hand, when left at the proper address for service; or

58.2.2 if given or made by pre-paid first class post, two (2) Business Days after being posted; or

58.2.3 if sent by facsimile, on the day of transmission provided that a confirmatory copy is on the same day that the facsimile is transmitted, sent by pre-paid first class post in the manner provided for in this Clause 58.2,

provided in each case that if the time of such deemed service is either after 4.00pm on a Business Day or on a day other than a Business Day service shall be deemed to occur instead at 10.00am on the following Business Day.

59. ENTIRE AGREEMENT

This Agreement and the Project Documents set forth the entire agreement between the Councils and the Contractor with respect to the subject matter covered by them and supersede and replace all prior communications, representations (other than fraudulent representations), warranties, stipulations, undertakings and agreements whether oral or written between the Councils and the Contractor. The Councils and the Contractor acknowledge they do not enter into this Agreement or the Project Documents in reliance on any warranty, representation or undertaking by any other Party other than those contained in this Agreement, or the Project

Documents and that all its remedies for any breach of this Agreement or the Project Documents are set out in this Agreement or the Project Documents provided that this shall not exclude any liability:

59.1 which the Councils would otherwise have to the Contractor in respect of any statements made fraudulently or negligently by or on behalf of the Councils prior to the date of this Agreement; or

59.2 which the Contractor would otherwise have to the Councils in respect of any statements made fraudulently or negligently by or on behalf of the Contractor prior to the date of this Agreement.

60. AMENDMENTS

No amendment to or modification of this Agreement shall be valid or binding on any of the Councils or the Contractor unless it is made in writing, refers expressly to this Agreement and is executed by the Parties concerned or their duly authorised representative.

61. TREATMENT OF ASSETS ON EXPIRY / TERMINATION

61.1 Upon the Expiry Date or Termination Date (whichever is earlier):

61.1.1 all Authority Assets will revert to the Councils (at no cost to the Councils);

61.1.2 the Councils shall serve a notice on the Contractor as soon as practicable thereafter, indicating which, if any Contractor Assets, the Councils require to be transferred to them for the purpose of continuing the performance of the Services or services the same as or similar to the Services;

61.1.3 the Councils reserve the right for any fully depreciated Contractor Assets to be transferred to the Councils at no cost to the Councils; and

61.1.4 the price payable in respect of the transfer to the Councils in respect of any Contractor Assets that are not fully depreciated shall be calculated in accordance with Clauses 61.2 and 61.3.

61.2 Upon receipt of a notice in accordance with Clause 61.1.2 the Contractor shall notify the Councils in writing of the value of any Contractor Assets that are not fully depreciated being the current market value (exclusive of VAT) fixed by a valuer approved by both Parties acting as an expert and not an arbitrator (**Value**).

61.3 Following determination of the Value of the Contractor Assets, the Councils shall confirm which Contractor Assets are to transfer to the Councils and the date of transfer. Following such confirmation:

61.3.1 the Contractor shall transfer such Contractor Assets to the Councils on the required date of transfer in such condition as is required pursuant to Clause 61.5 and/or 61.6 (as appropriate); and

61.3.2 the Councils shall pay the Value to the Contractor on the required date of transfer in respect of any transferring Contractor Assets that are not fully depreciated.

61.4 In respect of any Assets to be transferred to the Councils pursuant to this Clause 61, the Contractor shall:

61.4.1 use all reasonable endeavours and co-operate to procure that the Assets are transferred to the Councils free from any security, charges, lien or other encumbrance;

61.4.2 pay to the Councils any outstanding sums due in respect of Outstanding Work due pursuant to Clause 61.5 and/or 61.6;

61.4.3 provide the Councils with copies of all plans, manuals and maintenance records for the Assets.

61.5 Assets Survey

61.5.1 Eighteen (18) Months prior to the Expiry Date or upon the early termination of this Contract, the Councils shall be entitled to procure the carrying out by a suitably qualified independent surveyor (**Independent Surveyor**) (the identity of the Independent Surveyor to be agreed in writing between the Parties or, in the absence of such agreement, to be determined by the Chartered Institute of Waste Management) of a survey of those Assets which are:

(a) less than eight (8) Years old; and

(b) have not been fully depreciated;

to assess whether they have been and are being maintained by the Contractor in accordance with its obligations under Clause 13 (such survey being the **Assets Survey**).

61.5.2 The Councils shall notify the Contractor in writing a minimum of twenty five (25) Business Days in advance of the date it wishes to procure the carrying out of the Assets Survey. The Councils shall consider in good faith any reasonable request by the Contractor for the Assets Survey to be carried out on a different date if such request is made at least two (2) Business Days prior to the notified date and the Contractor (acting reasonably) is able to demonstrate that carrying out the Assets Survey on the notified date would materially prejudice the Contractor's ability to provide the Services.

61.5.3 The Contractor shall afford the Independent Surveyor (free of charge) any reasonable assistance during the carrying out of the Assets Survey.

61.5.4 Subject to Clause 61.5.5(c), the costs of the Independent Surveyor in respect of the Assets Survey shall be met in the following proportions:

(a) [redacted] by the Councils (collectively) (**Councils' Contribution**); and

(b) [redacted] by the Contractor.

61.5.5 If the Assets Survey shows that the Contractor has not complied with or is not complying with its obligations under Clause 13 the Councils shall:

(a) notify the Contractor of the rectification and/or maintenance work which is required to bring the condition of the relevant Assets to the standard it would have been in if the Contractor had complied or was complying with its obligations under Clause 13 (**Required Standard**);

(b) specify a reasonable period within which the Contractor must carry out such rectification and/or maintenance work; and

(c) recover the Councils' Contribution from the Contractor by means of a deduction from the next payment of the Monthly Charge.

61.5.6 The Contractor shall carry out such rectification and/or maintenance work notified pursuant to Clause 61.5.5(a) (**Outstanding Work**) in order to reach the Required Standard within the period specified and any costs it incurs in carrying out the Outstanding Works shall be at its own expense.

61.5.7 If and to the extent that the Contractor fails to carry out Outstanding Work to the Councils' reasonable satisfaction within the period specified in Clause 61.5.5(b), the Councils shall be entitled to carry out themselves, or procure, such rectification and/or maintenance work at the Contractor's expense and shall make deductions from the Service Payment to pay for such rectification and/or maintenance work or recover such amounts from the Contractor as a debt payable on demand.

61.6 Final Survey

Notwithstanding any Assets Survey carried out pursuant to Clause 61.5, in the event that the Councils reasonably consider that there has been any:

61.6.1 deterioration of the condition of any of those Assets which are less than eight (8) Years old and not full depreciated (other than reasonable wear and tear); and/or

61.6.2 failure of the Contractor to comply with its obligations under Clause 13,

in each case arising subsequent to the carrying out the Assets Survey by the Independent Surveyor, then the Councils may require a further survey to be carried out by the Independent Surveyor (**Final Survey**) at such date as reasonably agreed by the Parties and the provisions of Clause 61.5 shall apply mutatis mutandis to the Final Survey.

61.7 The Councils' rights under this Clause 61 are without prejudice to, and in addition to, its rights under Clauses 45A and 47 of this Contract.

62. NOT USED

63. THIRD PARTY CONTRACTS

Save as provided in Clause 33, the parties do not intend that any term of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the Parties.

64. OWNERSHIP OF CONTRACT WASTE

As between the Councils and the Contractor all Contract Waste and Recyclable Materials received by or in the possession of the Contractor or any of its sub-contractors shall thereupon become, or where applicable, shall remain, in the ownership and at the risk of the Councils who shall take full responsibility for it except to the extent of the Contractor's responsibilities pursuant to the Services for the periods during which the Contract Waste and Recyclable Materials are in the possession and control of the Contractor or any of its sub-contractors.

65. COMPLAINTS

65.1 The Contractor shall investigate complaints in accordance with Schedule 1 (Output Specification) and Service Delivery Plan and shall take such steps as necessary to comply with the outcome of that investigation. Subject to Clause 65.2, any dispute between the Parties as regards the investigations and/or compliance with the outcome of that investigation shall be determined in accordance with Clause 53 (Dispute Resolution).

65.2 For the avoidance of doubt, the Contractor shall co-operate fully with the Local Ombudsman as defined in the Local Government Act 1974 and with each of the Councils in the investigation of a complaint against a Council which relates to the defective or non-performance of this Agreement by the Contractor.

66. LAW OF CONTRACT AND JURISDICTION

This Agreement shall be governed by the laws of England and Wales and subject to Clause 53 (Dispute Resolution), the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

67. NOT USED

68. JOINT AND SEVERAL LIABILITY

68.1 Each of the Councils has entered into this Agreement as a co-obligor of each of the other Councils on a joint and several basis.

68.2 The Councils shall each be jointly and severally liable for obligations and liabilities arising under or in connection with the entering into, performance or non-performance of this Agreement by the Councils and the Contractor may take action against, or release or compromise the liability of any Council or grant time or any other indulgence to any Council without in each case affecting the liability of any other Council.

69. NO DOUBLE RECOVERY

Notwithstanding any other provision of this Agreement no cost, loss, expenses or damage may be recovered more than once under the terms of this Agreement.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1 - OUTPUT SPECIFICATION

1. INTRODUCTION AND GENERAL

1.1 General Scope

1.1.1 The contractor is required to provide the following services for Dover District Council (**DDC**) and The District Council of Folkestone and Hythe (**FHDC**):

(a) Waste Collection and Recycling Services;

(b) Street Cleansing Services.

1.1.2 Arrangements for the transfer, haulage and disposal of all collected waste streams will be undertaken by Kent County Council (**KCC**), with the exception of the temporary transfer of street cleansing arisings from midday on Saturday to 7:00am Monday when KCC transfer facilities are not available. Contractors will have to provide for the storage of any collected waste streams until KCC facilities have reopened. KCC have advised that vehicle turnaround times are expected to be within twenty five (25) minutes at all facilities.

1.1.3 DDC and FHDC first tendered a joint waste collection and cleansing service in 2011. They have worked and continue to work with other partners including KCC to deliver the most cost-efficient and effective collection services and provide high quality street cleansing.

1.1.4 The collection methodology adopted in 2011 was as follows:

(a) Weekly Collection of food waste;

(b) Fortnightly collection of residual waste, (alternating with recycling collections);

(c) Fortnightly collection of dry recyclables (alternating with residual collections). Dry recycling to be collected as two streams:

(i) commingled paper and card;

(ii) commingled glass, cans and plastic;

(d) Fortnightly collection of charged garden waste.

1.1.5 The waste collection service is delivered to over one hundred and five thousand (105,000) households across the two (2) areas. The change in service has seen recycling rates driven up from around thirty one per cent (31%) in DDC and thirty seven per cent (37%) in FHDC to just under forty eight per cent (48%) in both districts in 2018/19.

1.1.6 The Waste stream tonnages collected in 2017/18 are detailed below:

Tonnages2018/19			
Description	**DDC**	**FHDC**	**Total**
Kerbside Collected Residual	17,349	17,839	35,187
Kerbside Collected Paper and Card	3,704	2,539	6,244
Kerbside Collected Comingled Glass/Cans/Plastic	5,922	5,751	11,673
Garden Waste	2,586	4,423	7,010
Food Waste	3,806	3,457	7,263
Bring	108	91	198
Clinical	29	13	42
Streets (St Litter abnd Mech sweeper)	1,386	2,255	3,642
Other (Bulky & HMA)	1,029	929	1,958
Total	**35,919**	**37,298**	**73,217**

1.1.7 The street cleansing service faces future increased pressures from housing, economic development and substantial tourist flows to and through the districts. High intensity tourist flows during spells of hot weather and busy high-speed roads present challenges to delivering cost effective cleansing services.

1.2 Statutory Requirements:

1.2.1 It is important that Contractors carry out the services in accordance with all statutory requirements on behalf of the Partner Authorities. Any penalties prescribed by law and any consequential costs resulting from the Contractor failing to carry out those statutory duties must be paid by the Contractor. Payments may be deducted from any monies due to the Contractor.

1.2.2 The Contractor will be expected to comply with all relevant legislation, guidance and good industry practice. The Contractors attention is drawn to the provisions of the Environmental Protection Act 1990; The Controlled Waste Regulations 2012; Public Health Act, The Clean Neighbourhood Act and Environment Act 2005, The Control of the Pollution Act, 1974; and the Health and Safety at Work Act, 1974 and all other acts and regulations that have relevance to this Contract. Contractors should also be aware of the 'Our Waste, Our Resources – A Strategy for England' published in December 2018 and ensure submissions are compliant with the commitments contained within it.

1.2.3 The Contractor shall comply with all relevant statutory requirements in respect of waste facilities and ensure the wellbeing and welfare of his employees on the Contract. The Contractor is to provide facilities which comply with necessary consents and do not give rise to any statutory nuisance. The facilities must, in the opinion of the Supervising Officer or his representatives as appropriate, be adequate for complying with this and relevant legislation particularly the Health and Safety at Work Act 1974. This shall include adequate first aid, cleaning and washing and mess facilities.

1.2.4 The Contractor is required to complete an Annual Review of the Contractors Health and Safety policies and plans in respect of the Contract Services and submit a report to the Supervising Officer. The report is to be submitted by 15 January in respect of the preceding Contract Years' performance. The report should include the following:

(a) summary of RIDDOR and Non RIDDOR Reports;

(b) breakdown of incidents by severity;

(c) summary of Health and Safety training completed within the year and action plan for Health and Safety training in the coming year;

(d) summary of method statements/risk assessments reviewed in the year and action plan for the coming year;

(e) summary of Health and Safety Leading and Lagging Performance indicators including, (but not limited to):

(i) Total Days lost though injury/accident/ work related illness by work type;

(ii) number of incidents leading to injuries requiring more than five (5) working day absences by work type;

(iii) average number of days lost by job type;

(iv) number of training days per employee completed;

(v) percentage of staff are up to date with their DSE training and self-assessment;

(vi) percentage of high-risk user action reports are actioned by a DSE administrator and assessor within 4-weeks of the self-assessment date;

(vii) percentage of violent or aggressive situations experienced by staff are reported on an internal report form;

(viii) percentage of staff who submit an ill health report for Work Related Stress be allocated to a named member of staff to explore the root causes within two (2) weeks of being reported.

1.2.5 The Contractor throughout the year is required to:

(a) provide a monthly Health and Safety report detailing:

(i) details of near misses, incidents and accidents resulting in injuries to staff or members of the public;

(ii) breakdown of days lost through illness and causes by job type;

(iii) details of training provided and numbers of attendees;

(iv) details of any violent or aggressive incidents experienced by staff;

(b) maintain an up to date record of all Health and Safety training provided to employees and a record of which employees have completed the training;

(c) comply with all statutory requirements in the recording of accidents, near misses, dangerous occurrences;

(d) comply with all statutory requirements in the recording and reporting of RIDDOR accidents;

(e) ensure that all staff as appropriate to current and future legislation are subject to the necessary DBS checks in advance of their deployment in relevant services.

1.3 Contract Monitoring and Supervision:

1.3.1 The Contractor shall ensure that a competent person, with good management and supervisory experience be responsible for the overall operation and performance of the Contract within the relevant areas covered by the Partnership Authorities. The person shall liaise with the Supervising Officer and his supervisory staff daily or as need arises for the efficient management of the service. The Contractor will inform the Supervising Officer of the name of this person and notify him in advance of when a change of personnel occurs (where appropriate). The Contractor shall arrange for a competent person to be in charge of the daily activities of his staff and vehicles.

1.3.2 The Contractor shall ensure all staff providing Contract Services:

(a) act in accordance with the Contractors staff code of conduct;

(b) are qualified to a standard acceptable to the Supervising Officer for carrying out this work;

(c) are at all times properly and sufficiently trained, skilled and instructed with regard to the task or tasks that they have to perform;

(d) wear the appropriate uniform and PPE;

(e) do not bring the council into disrepute.

1.3.3 The Contractor shall monitor its performance in accordance with the contract documentation including the Contractors Quality Management Plan.

1.3.4 The Contractor must submit self-monitoring reports in real time daily to enable the Supervising Officer to monitor the performance of street cleansing services and the action being taken by the Contractor to maintain standards.

1.3.5 The Contractor must submit a weekly Performance Summary identifying:

(a) incidents where standards have been identified as not acceptable and rectified within the Rectification Period;

(b) incidents where standards have been identified as not acceptable and rectified outside of the Rectification Period;

(c) incidents where standards been identified as not acceptable and have not as yet been rectified;

(d) Partner Authorities will exercise a quality control and a random checking system of all aspects of the Street and Public Areas Cleansing work performed by the Contractor.

1.4 Contractor's Service Management Systems (CSMS)

1.4.1 Both Councils are committed to making the best use of technology to improve customer service and drive efficiencies. The Contractor's Service Management System (**CSMS**) is defined as the IT system or linked IT systems that the contractor uses to manage its operations including:

(a) telematics (ie vehicle tracking)

(b) mobile in-cab technology

(c) round data (including locations of assisted and clinical waste collections)

(d) round completion including refused collections (ie Contamination)

(e) complaints management

(f) street cleansing rounds and monitoring

(g) service requests

(h) managements reports and business analytics

(i) service level monitoring

(j) complaints handling

1.4.2 Service Requests and Complaints will be received either directly from the public via the Councils website portal or through the two Council call centres to provide a one stop shop for the public.

1.4.3 The CSMS are slightly different across the two councils and the Contractor must make provision to accommodate both requirements:

(a) DDC – the CSMS will be directly accessible to the public and the Council to input service requests and complaints. All publicly accessible pages to be agreed with the Councils;

(b) FHDC – the CSMS will integrate with the Councils Complaints management system which will be used by Council staff and the public to input service requests and complaints.

1.4.4 The CSMS should be operational for reporting, updating and monitoring twenty four (24) hours a day, seven (7) days a week for the duration of the contract subject to any downtime required for system modification/update that has been agreed with the Supervising Officer.

1.4.5 The CSMS will be introduced and configuration of that system will take place during mobilisation. It will be configured and tested prior to the go live date of the new contract and operational from contract commencement.

General Requirements for both Councils.

1.4.6 The Contractor must provide for a comprehensive CSMS system that:

(a) allows both the Council and the public to report service requests and complaints across all services provided by the contractor under this contract. The report function should be easy to navigate and access to facilitate reporting by the Councils and public;

(b) can be updated by the Contractors staff at the time of receipt and when response actions have been undertaken via in cab and/or handheld devices. The system should include for log times and dates of all commentary made;

(c) the public and Council staff should be able to create, update and monitor the progress of any service request or actions taken to address complaints and update the relevant log;

(d) allows the Councils Client Team and contact centres to view at their offices real time maps of scheduled collection and cleansing rounds, which, using GPS data, update as roads/collections/cleansing services are completed, detail work outstanding. This functionality is essential to the provision of accurate and up to date information to the public;

(e) provides resources and performance monitoring information as detailed elsewhere within the Specification;

(f) the Contractor will provide access to such management information held within the SMS to the Council contract management staff through the provision of reports and dashboards;

(g) the Contractor's CSMS must be cloud based and integrate with MS365, be able to integrate with the Councils own GIS layer and with Esri and allow the councils' digital teams access the database for future projects.

1.4.7 The Contractor is required, within their costs, to provide the software and hardware to fulfil the CSMS functionality detailed above and within the Contractor's Service Delivery Plan and to undertake the migration of data. The Councils will provide their data in a csv format. It is the responsibility of the contractor to ensure they can input and utilise the data provided by the Councils.

1.4.8 The CSMS must include provision for information to be received, passed to relevant operations personnel, acted upon and reported back to the Councils in real time. A response or holding response to the call, enquiry or complaint must be made and appear on the CSMS system within twenty four (24) hours, and a full response within the performance framework response time or five (5) working days, whichever is the shorter.

1.4.9 The CSMS must include for all the hardware and software required to facilitate mobile communications including the following:

(a) For all collection and cleansing crews to enable them to receive and respond to calls immediately and facilitate escalation to supervisors and managers as appropriate.

(b) For all licences to facilitate a minimum of six (6) officers in each Council (twelve (12) in total) to track service delivery and report service requests or log service failures, including the administration of the garden waste service.

(c) To allow for the taking and storing of photographs by service staff and Council officers.

(d) To provide an audit trail identifying times, dates and comment authors as well as capturing comments themselves.

(e) To incorporate Council property and resident management information enabling event history and planned actions to be identified to crews quickly and easily. The Contractor is to specify what Gazetteer/ Address information is required from the council and how that information is to be updated as property information changes (eg new build housing estates).

1.4.10 The Contractor must comply with all the GDPR requirements of the Councils and their relevant retention policies.

1.4.11 The Council will manage the receipt of income with respect to:

(a) Bulky waste bookings;

(b) Garden waste services: new applicants and renewal of annual service;

(c) Sales of wheeled bins.

The Contractor will be advised by service requests to undertake services accordingly.

1.4.12 The Contractor is required to provide sufficient information for the Council to respond to public enquiries, complaints and queries. The system must be updateable in real time and responses provided in accordance with the contract performance framework timescales relevant to the service request or complaint. The Contractor is also required to provide sufficient information in a timely manner for the Council to respond to representatives of the press, television, radio or other communications media on any matters concerning the Contract.

1.4.13 The Contractor is required, within their costs, to provide the software and hardware to fulfil the functionality detailed and within the Contractor's Service Delivery Plan.

1.4.14 All data records including service performance, assets, round structures street cleansing records etc that relate to the performance of this contract must be provided in an accessible electronic format at contract end.

1.4.15 FHDC Requirements

(a) FHDC is currently implementing a new Salesforce based Customer Relationship Management (**CRM**) system provided by Arcus Global (**Arcus**). As part of this project a Customer Self Service Portal is being implemented with a "My Account" portal whereby customers will be able to log in securely and report issues, track the progress of requests and view their transaction history across a number of council services.

(b) FHDC will provide the My Account portal and web forms for customers who wish to transact via the website but who do not wish to create a "My Account" login.

(c) In terms of waste and street cleansing the type of requests that will be handled by the councils CRM system include, but are not limited to, such things as:

(i) Missed bins

(ii) Bulky collections

(iii) Bin replacements

(iv) Assisted collections

(v) Service complaints

(vi) Street cleansing requests/complaints

(vii) Graffiti removal

(viii) Fly tipping reporting

(ix) Garden waste services: new applicants and renewal of annual service

(x) Bulky waste collections

(xi) Christmas trees collections

(xii) Sharps collections

1.4.16 Integration between FHDC CRM and Contractor's SMS

(a) There is a requirement for a two-way integration between the Council's Salesforce platform and the Contractors Waste Service Management System so that requests for the contractor are passed automatically from the council's

CRM to the contractor system and updates and closures entered on the contractor system are passed back to the Council's CRM.

(b) In order for customers to be able to self-serve 24 x 7 or as close as possible to that, the Contractor's system should be resilient and therefore contractors are required state what their normal SLA for system availability would be including allowing for routine maintenance.

(c) While the customer facing systems will be provided by FHDC there will be a requirement for the contractor to provide an interface to their preferred Service Management System. The table below provides a list of the required integration capabilities in order to successfully establish and maintain a web services integration between the councils Salesforce CRM and the contractors Service Management System (**SMS**).

(d) The general requirements as set by Arcus for the SMS to allow for integration to Salesforce are:

(i) The SMS must have well-documented SOAP or REST APIs (REST preferred): Salesforce supports integrations either using the SOAP or REST API architecture1 and can develop an integration to a third party system using either of these approaches. It is generally easier to develop using the more modern REST architecture so prefer this when it is available. Regardless of if we are using REST or SOAP, it is imperative that the API is fully documented including details of establishing a secure connection, a list of the API calls that can be made and examples for the API calls and responses. In the case of SOAP, we also require a Web Services Definition Language (WSDL) that is consistent with the documentation.

(ii) The SMS must have a means for a secure connection to be established (not reliant on IP or OAUTH 1.0): Salesforce is a public multi-tenanted cloud-hosted system which means that the API calls from Salesforce to the Waste system will potentially originate from one of thousands of different IP addresses each of which are shared by many other organisations. As a result, the older practices of securing integrations by means of IP restrictions is completely non-viable. The Services Management System API hence must support messages being sent over https (encrypted) and secured either via a username - password (or token) mechanisms or by the exchange of signed SSL certs. For Signed SSL certs self-signed certs are not acceptable and should be signed by a recognised certifying authority.

(iii) Be highly available (high uptime): The API integration between Salesforce and the waste system will work in real-time and so will be reliant on both systems being online and available for API requests 24/7. If the waste system is unavailable for API requests this will prevent customers on My Account completing and submitting forms etc.

(iv) APIs should be versioned; older versions should continue to work and be supported for a reasonable period: Arcus will build a Salesforce implementation against a given version of the Waste API and would expect that generally when a new version of the Waste API is released then the prevision version will remain available and usable. If this isn't the case then it will be necessary for the integrations to be periodically rebuilt when new API versions are released.

Note:[1]Please see https://help.salesforce.com/articleView?id=integrate_what_is_API.htm&type=5 for a summary of Salesforce Supported APIs.

(v) There should be a test environment that has API access.

(e) The integrations themselves will still need to be developed between Salesforce and the Waste system by an integration developer against based on the specific use cases for which integration is required. It is possible that the contractor may already have such integrations otherwise they will be required to provide them. Any additional pricing around access to the APIs or the use of them should be well documented.

Examples of where successful integrations between Salesforce and commonly used waste management systems are:

System	Customer	Details of integration
Whitespace PowerSuite (version 1.8)	[redacted]	Secured via username and password. Can get details for a site by supplying URPN (eg collection dates) and also log requests for a site (eg missed bin)
Echo	[redacted]	Secured via signed SSL cert. From Salesforce can supply UPRN to the waste system to get the details of that site including previous and upcoming collection dates. These are then displayed on MyAccount.

1.5 Performance Management

1.5.1 The Contractor is required to comply with the Performance standards detailed within the Performance Mechanism and submit electronic performance management reports as defined within the Contract Documentation including:

(a) Output Specification;

(b) within the Contractors Quality Management Plan;

(c) as detailed within the Performance Mechanism and Performance Criteria;

(d) as detailed in the Payment Mechanism as set out in Schedule 4 of the Project Agreement;

(e) Contractor's final submission.

1.5.2 The Contractor is required to provide and/or ensure all control, monitoring and information systems provide timely and sufficient data for good operational and environmental practice in delivering the Service.

1.5.3 The Contractor is required to maintain accurate records, evidenced by defined audit trails in respect of all performance, tonnage, complaints and finance reports.

1.5.4 The Contractor should provide **daily** online information accessible by the Councils Contract management team detailing:

(a) staffing resources deployed, the collection round or cleansing service area on which they are working, time started and time finished;

(b) vehicle resources that are being deployed; the collection rounds or cleansing service area to which they have been allocated; the time commenced, any breakdown/accident/damage issues on arising that day; time completed.

1.5.5 The Contractor is required to notify the Supervising Officer promptly of any Performance Failures or events that hinder the Contractor from complying with the Agreement.

1.5.6 The Contractor is required to produce and adhere to a Performance Failure Rectification Plan when any refresh period has been repeated in excess of three (3) times and as reasonably required by the Supervising Officer.

1.5.7 The Contractor is required to supply to the Supervising Officer an electronic weekly data report of all weighbridge transactions under the Contract during the previous seven days in a format to be approved by the Supervising Officer. The Contractor must submit this Report on the third Business day following the end of the previous week.

1.5.8 The Contractor is required to submit by the twentieth working day after the last day of each Month a Monthly Service Report to the Supervising Officer. The report to contain a detailed monthly report of all materials collected during the course of its collection and cleansing obligations detailing all the following streams: residual, food and garden waste, paper and card and mixed dry recyclables, batteries and any other separately collected waste streams. Details to include tonnage deposited at each of the relevant transfer facilities and identifying any relevant Contamination levels.

1.5.9 The Contractor is required:

(a) to undertake a review of the Quality Management Plans as part of the Annual Review and provide an Action Plan to continuously improve performance during the life of the contract. Annual Action Plans for the new Contract Year are to be submitted to the Supervising Officer by 31 December preceding the Start of the new Contract Year;

(b) to provide information and all reasonable assistance to enable audits to be completed by the Council, where directed by the Supervising Officer in accordance with the Agreement.

1.6 Fleet Management

1.6.1 The Contractor is required to supply and maintain all vehicles in connection with the Contract Services and is responsible for all operational costs in respect of their use.

1.6.2 New vehicles must be used at the commencement of the New Contract unless expressly agreed otherwise by the Supervising Officer, in response to extended vehicle delivery dates in which case the new fleet should be implemented within three (3) Months of the commencement date.

1.6.3 All permanent contract vehicles must be liveried in accordance with the Partners agreed livery markings (white base fleet colour). Costs must include for provision and application of agreed livery markings. All collection vehicles must have body panelling suitable to accept grip flex signage and signage panels to facilitate the display of Council waste messaging. The Contractor shall include within his costs for the annual replacement of messaging contained within the grip flex panels.

1.6.4 Contract vehicles should only be used to provide Contract Services unless expressly authorised by the Supervising Officer.

1.6.5 A suitable training plan for the use of new vehicles by contract staff needs to be submitted to the Council prior to contract commencement to ensure all drivers and operatives have been suitably trained in their safe use.

1.6.6 For all new vehicles procured for new services there is no restriction requiring their replacement at a given age. However, they:

(a) must be fit for purpose;

(b) must be maintained sufficiently to enable Contract Services to be delivered efficiently and reliably;

(c) comply with emissions standards at time of purchase and as a minimum Euro 6 standard;

(d) must be kept in a clean and in a suitable condition so as not to bring the Partner Authorities into disrepute as determined by the Supervising Officer;

(e) at the Supervising Officers determination the contractors vehicles must be repainted and re-liveried if necessary to maintain good external appearance at the Contractors expense.

1.6.7 The Contractor must employ sufficient vehicles within the contract fleet so as to allow for vehicles maintenance and repair without detracting from frontline service provision.

1.6.8 The Contractor is required to:

(a) accurately record and supply mileage data for all vehicles used for the Services;

(b) provide information on the type of vehicles used;

(c) where applicable the percentage split of their time/mileage carrying out functions within DDC and in FHDC.

This is required in order for the Authorities to report against National Performance Indicator NI 185/194.

1.6.9 All vehicles used to provide the Services must have ‘in-cab’ technology that allows for:

(a) two-way communication with the Contractor’s depot;

(b) direct interaction with the Contractors CSMS allowing viewing and responding to service requests and complaints logged onto the CSMS in real time;

(c) seeing and uploading photographic evidence;

(d) recording of activity around the loading bay at the rear of the vehicle.

1.6.10 Waste must not be stored on collection vehicles overnight unless previously agreed with the Supervising Officer and permitted within planning and Waste Licence conditions.

1.7 Environmental Considerations

1.7.1 The Qualified Bidder is required to provide an **Environmental Statement** in respect of the provision of Contract Services in accordance with the Response Requirements. The Environmental Statement will be refined through the competitive dialogue process and will be included within the final Contract Documentation and will be contractually binding.

1.7.2 Qualified Bidders are required within the Environmental Statement to complete two (2) elements:

(a) PART A the Qualified Bidder is required to detail what steps they will implement to minimise the environmental impact of Contract Services and comply with ISO 14001:2004.

(b) PART B Qualified Bidders are required to provide details as to what steps they will implement in respect of the Contract Services to assist the Partnership in reducing their Carbon Emissions. The partnership has a target to reduce to net zero carbon emissions by 2030 and is looking to work towards this target throughout the term of this contract. The partnership in assessing and evaluating the technical, environmental and social value aspects of bids will expect bidders to present proposals on how their submission will seek to assist in meeting this target at a local level, this is to take into account all environmental aspects of achieving zero net carbon and to include a fleet management programme that considers the potential use and cost impact of low or zero emission vehicles from start of the contract and to set out how advances in low/zero emission vehicle technology can be incorporated throughout the course of the contract.

Note: Definition - **Net Zero Carbon**:

Aim to get as close to zero as possible (eg following stretching target), then offset residual emissions, with good quality offsets.

1.7.3 Qualified Bidders are required to supply information in respect of the Contract Services that enable the Partner Authorities to comply with their requirement to report on National Indicator 185.

(Note: National Indicator 185 is a measure of the total carbon emissions arising from the local authority estate and includes outsourced services, such as waste collection. Local authorities are required to report this data annually based on financial year to the Department for Food and Rural Affairs (Defra)).

1.7.4 The Supervising Officer may from time to time during the Contract Period agree with the Contractor further requirements on the Contractor for the protection of the environment. The Contractor shall comply with such requirements.

1.7.5 Approval by the Authority shall not relieve the Contractor of any of his legal responsibilities or obligations under the Contract.

1.8 Reporting Damage, Repairs and Vandalism

The Contractor shall notify the Supervising Officer through the Contractors CSMS Management system in real time and by way of a summary report by:

1.8.1 16:00 hours each day, Monday to Friday.

1.8.2 9:00am Monday in respect of Saturday and Sunday working

1.8.3 of all incidents of damage and vandalism.

These reports shall cover damaged street furniture, litter bins and shelters. The Supervising Officer will take appropriate steps to initiate the carrying out of all repairs and replacements which in his opinion are necessary and can be carried out with funds budgeted for this purpose. The Supervising Officer will inform the Contractor of the steps he has taken to ensure that repairs and replacements are carried out.

1.9 Compliance with Council Policy

The Contractor is required to comply with Council Policies in delivering these Contract Services. Policies on:

1.9.1 Child protection policy.

1.9.2 Equalities policy.

1.9.3 Complaints procedure.

1.9.4 Fraud and whistleblowing.

1.9.5 Kent Environment Strategy.

1.9.6 Data Protection policy (currently being reviewed, revised version due later this year).

1.9.7 Joint Municipal Waste Management Strategy (formally adopted by both DDC and FHDC).

The above have been provided for information. For the purpose of clarity, policies provided by DDC, as the Awarding Authority, will take precedence over other Partner Authorities where there is any conflict or confusion.

1.10 Livery and Branding

The Contractor is required to ensure that uniforms, waste management facilities, vehicles, receptacles and promotional/educational materials are branded and liveried in accordance with the Supervising Officers instructions:

1.10.1 all uniforms and vehicles should carry the Contractors logo and both the logos of the two authorities;

1.10.2 all receptacles should carry only the logo of the relevant authority;

1.10.3 (livery and logos are to be agreed by the Partner Authorities).

1.11 Education and Awareness

1.11.1 The Contractor is required to use its resources in the course of providing the Services to promote waste reduction, re-use and recycling.

1.11.2 The Contractor is required to ensure that all information, promotions and displays promoting the Services are in accordance with good industry practise.

1.12 Mobilisation and Service Delivery Plans

1.12.1 The Contractor is required to submit Mobilisation and Service Delivery Plans (**SDPs**) as part of their Tender Submission. These SDPs will form part of their Contract obligations and failure to comply with them will render the Contractor liable to a contract deduction and/or default and penalty points in accordance with the Performance Mechanism and Criteria.

1.12.2 The Contractor is required to undertake an Annual Review of Performance of the contract and provide and agree an Action Plan for the coming year with the Supervising Officer. Annual Action Plans for the new Contract Year are to be submitted to the Supervising Officer by 31 December preceding the Start of the new contract year.

1.13 Sub-Contractor Approval

The Contractor is required to seek the approval of the Council in respect of any services that are to be subcontracted to third parties. The Contractor is required to provide supporting documentation as required by the Supervising Officer re: experience, references, method statements/risk assessments.

1.14 Household Growth

1.14.1 The table below provides the forecast increases in household numbers across the two (2) districts:

Projected Household Growth			
Description	**DDC**	**FHDC**	**Total**
Total Number of Households as at January 2019	53,733	51,788	105,521
2020	54,362	52,344	106,706
2021	54,991	52,900	107,891
2022	55,620	53,456	109,076
2023	56,249	54,012	110,261
2024	56,878	54,568	111,446
2025	57,507	55,124	112,631
2026	58,136	55,680	113,816
2027	58,765	56,236	115,001
2028	59,394	56,792	116,186
2029	60,023	57,348	117,371
2030	60,652	57,904	118,556

1.14.2 The Payment Mechanism contains provisions for the review of the impact of household growth on collection costs.

2. WASTE COLLECTION AND RECYCLING SERVICES

2.1 Collection Service Objective

2.1.1 The Contractor is required to provide the following Waste Collection Services in DDC and FHDC:

(a) domestic residual waste collection.

(b) domestic dry recycling collection.

(c) domestic garden waste collection.

(d) domestic food waste collection.

(e) bulky waste collection.

(f) clinical waste collection.

(g) management, storage and delivery of replacement waste containers.

2.1.2 The Partner Authorities have already implemented what they believe to be the most efficient collection/processing solution (referred to as the Standard Collection Method or SCM). This collection methodology requires the following materials to be collected as separated streams:

(a) Fortnightly collection of residual waste, (alternating with recycling collections on the same day of the week).

(b) Weekly Collection of food waste.

(c) Fortnightly collection of dry recyclables (alternating with residual collections). Dry recycling to be collected as two streams:

(i) commingled paper and card.

(ii) commingled glass, cans and plastic.

(d) Fortnightly collection of charged garden waste.

(e) Fortnightly collection of batteries.

(f) The contractor is required to undertake such measures as is reasonably necessary to ensure streams are not mixed at the time of collection.

2.1.3 Qualified bidders are required to provide Contract Submissions including Financial Proformas, Bill of Quantities, SDPs, Quality Management Plans, Environmental and Social Value Statements in respect of providing this collection methodology and complying with the requirements of this Output Specification.

2.1.4 The table below details the total number of collections by frequency and type as at September 2019:

Household Collection Data			
Description	**DDC**	**FHDC**	**Total**
Total Number of Households as at January 2019	53,733	51,788	105,521
Collection Frequency			
No of Individual Households with Alternate Weekly C	46,079	45,332	91,411
No of Individual Households with Weekly Collections	326	1,012	1,338
No of Communal Households with Alternate Weekly	6,545	3,833	10,378
No of Communal Households with Weekly Collection	783	1,611	2,394
Collection Container Type	**DDC**	**FHDC**	**Total**
Total No of Households on sack collections	9,317	3,070	12,387
No of Households on Bulk Bins	3,311	5,444	8,755
No of Households on standard collections	41,105	43,274	84,379

Note: Detailed collection information is provided within Data file Ref: DDCFHDC Contract Data 2020.

2.2 Residual Waste Collection

2.2.1 Objective Requirement

(a) The Contractor is required to provide for the collection of residual household waste in DDC and FHDC in accordance with the requirements detailed in this section.

(b) The Contractor is required to deliver residual waste to the designated waste transfer locations below as directed by the Supervising Officer and facilitated by KCC within the opening times detailed below:

Location	Hours of Access
Dover Residual Waste:	The Site must be open continuously for the reception of Waste throughout the following opening hours (as a minimum):

Location	Hours of Access
Subject to completion of standstill period **Thanet Waste Services** **Richborough Hall Waste Transfer and Recycling Centre, Ramsgate Road, Sandwich, Kent, CT13 9NW.**	(a) 07:00 to 17:00 hours Monday to Friday, including Public Bank Holidays in England & Wales (the only exception being Christmas Day and Boxing Day – for the avoidance of doubt opening hours on Christmas Eve and New Year's Eve where these fall on a Monday to Friday will be 07:00 to 17:00 hours unless otherwise agreed by the authority); (b) 07:00 to 13:00 hours on Saturday; (c) By exception and with advance notice from the Council: 07:00 to 17:00 on occasional Saturdays following a Public and Bank Holiday to meet any exceptional service demands; (d) By exception and with advance notice from the Council: 07:00 to 17:00 on Saturdays prior to the Christmas/New Year holidays; and (e) By exception and with the mutual agreement of both parties: the Site must be open on Boxing Day.
FHDC Residual Waste: **Ashford Waste Transfer Station, Cobbs Wood Industrial Estate, Brunswick Road, Ashford *or an alternative within the locality.***	The Facility must be open continuously for the reception of Contract Waste as a minimum throughout the following opening hours: (a) 07:00 to 17:00 hours Monday to Friday (including Public Bank Holidays in England & Wales, counting New Year's Day; the only exception being Christmas Day and Boxing Day; (b) 07:00 to 12:00 hours Saturday; (c) Following a Public Bank Holiday the Facility must be open for occasional Saturday afternoons up to 17:00 hours to meet any exceptional service demands. This would be agreed in advance with KCC's Contract Manager; (d) Exceptionally by agreement, the Facility must be open on Boxing Day.

(c) If the Supervising Officer designates a site for any particular waste stream which is different to the usual destination Site for that waste stream, such designation shall be dealt with as a Council Change under Clause 14.1 unless it is a one-off or temporary redirection in which case the cost shall remain with the Contractor.

2.2.2 Containerisation

(a) The standard bin issue is 1x180l residual waste bin. All containers must be procured in accordance with the Partners specification requirements. Exceptions to this policy are shown under 'Standard Bin Exceptions' and 'Sack Collections from exempt properties'.

(b) Where additional capacity is granted additional recycling capacity should take precedence. In the case of exceptionally large families the Supervising Officer will work to produce an acceptable solution with the emphasis on additional recycling capacity. Households who are deemed unable to have a standard collection will be supplied with alternative containment at the discretion of the Supervising Officer in accordance with the relevant sections below.

(c) The Supervising Officer shall have the final determination as to those households that are to be exempt from wheeled bin collections. Exempt Households shall be served weekly/fortnightly by 'purple' sack collection service as specified below.

2.2.3 Standard Bin Exceptions

(a) The Council allows for alternative containment solutions in the following circumstances:

(i) Large families: where a household has dry recycling and food waste collections then families of six (6) or more permanent residents will be entitled to a larger bin (subject to assessment and family size and agreement by the Supervising Officer).

(ii) where a household is not serviced with dry and or food waste collections then families of five (5) or more permanent residents will be entitled to a larger bin (subject to assessment and family size). Provided they can demonstrate that they have insufficient capacity.

(iii) Where any member of the family is suffering from a medical condition that requires additional residual or recycling collections.

(iv) In situations where residents are not able to handle the 180litre bin, eg frailty or incapacity, and there is no-one else in the household who is able bodied then alternative containers may be considered more appropriate.

(v) Any other reason as determined by the Supervising Officer.

(A) Houses with multiple occupancy and flats with limited storage capacity may be supplied with larger bins subject to agreement with the Supervising Officer.

(B) Landlords or tenants of flats and houses of multiple occupation requiring additional wheeled bins for new properties will need to purchase such bins from the Council.

2.2.4 Sack Collections from Exempt Properties

(a) The following households have sack collections in each district:

Sack Collections	DDC	FHDC	TOTAL
No of Households with Weekly Sack Collections	326	1,012	1,338
No of Households with AWC Sack Collections	8,991	2,058	11,049
Total No of Households with Sack Collections	**9,317**	**3,070**	**12,387**

Note: The households having sack collections are detailed in DDCFHDC Contract Data File 2020.

(b) Where residents are not able to accommodate wheeled bins (including where they have no physical space to store bins within their property boundary) then they must be provided with a 'purple' sack collection service. Where possible, in keeping with FHDC and wheeled bin collections in general, these households will receive a fortnightly service (providing they are also receiving a food waste collection service on the alternate week). Where households have insufficient storage capacity, not receiving a food waste service for any reason or for other reasons identified by the Supervising Officer then they must receive a weekly collection service.

(c) The Contractor will only collect refuse contained within the purple sacks. Purple sack waste is to be collected from the boundary position of the property except where assisted collections or 'pullouts' have been agreed.

(d) Some properties have been issued with reusable seagull proof sacks to help contain and protect their purple sacks. Where these have been used the contractor is required to return the seagull proof sack to the collection point for future use by the householder. The contractor will be liable for all the costs associated with the replacement of reusable seagull proof sacks lost/damaged as a consequence of the Contractor's collection service.

(e) The Contractor shall supply purple plastic refuse sacks of the type and quality specified in Appendix B3 to all exempt households in the FHDC and DDC Administrative Areas. The Contractor shall supply and deliver 26 refuse sacks, delivered once per quarter. The sacks shall be suitably packaged to facilitate delivery via a domestic letter box.

(f) The Contractor is required to make provision for information to be overprinted on the sacks with the FHDC and DDC logos as appropriate to the Administrative Area of the receiving Household, giving details of bank holidays and other criteria to be determined and supplied by the Supervising Officer.

(g) All sacks must be delivered via the letter box of each Household unless a sub-standard size letter box makes this impractical, in which case the sacks are to be left immediately adjacent to the main door of the Household unit and the Supervising Officer informed. Sacks left in any other location will be deemed not to have been delivered. The contractor is required to keep a record of all sack deliveries and any deliveries which have been attempted but not been completed along with an explanation for the failure to complete the delivery.

(h) For new Households with a sack collection, the Contractor will ensure that a supply of refuse sacks is delivered to the property within 48 hours of notification by the Supervising Officer.

(i) The Contractor should make purple sacks available to the partner authority as required to fulfil the public requirement of residents calling council offices.

2.2.5 Bulk Bins

(a) The following number of Households have Bulk bins across the two (2) districts:

Bulk Bin Collections	DDC	FHDC	TOTAL

No of Households with Bulk Bin Collections	3,272	5,444	8,716
No of Property locations	248	497	745

Note: The households having bulk collections are detailed in DDCFHDC Contract Data File 2020.

(b) The Contractor shall ensure that Households using bulk bins have their food waste collected weekly (where provided) and all other streams at least fortnightly or more frequently where required to prevent bins from becoming full. Where purpose built compartments or storage areas for the keeping of individual household wheeled bins or bulk wheeled bins are provided to serve flats or maisonettes, caravan sites or at such domestic property units or composite hereditaments as the Supervising Officer may decide, the refuse collector shall wheel the bin(s) out from the storage areas and return the bin(s), after emptying, to the same position with the lid in the closed position. The decision as to whether individual wheeled bins or collectively used bulk wheeled bins shall be provided will be entirely at the discretion of the Supervising Officer.

(c) Some bulk bins may be locked to posts or located within a secure enclosure, in such cases the Contractor will be provided with a key and must ensure locks are secured after collection.

2.2.6 Boundary Collection Point

(a) A "Boundary Position" fortnightly residual waste service will operate in the DDC and FHDC Administrative Areas (except as specified in this Paragraph 2.2.6). All bins, sacks, boxes and bags for all services should be placed at the boundary of the property nearest the Highway which is used by the refuse collection vehicle.

(b) If bins are left on the Highway for collection it is the householder's responsibility to ensure that they do not cause an obstruction. In such cases the Contractor shall return the bin to an appropriate boundary position following collection taking care where possible to avoid blocking the pavement, entranceway or driveways.

(c) Subject to the Supervising Officers written approval, there being no obstruction or objections from a third party, the Contractor shall be permitted to agree an alternative location with the occupier.

(d) By custom and practice, a small number of individual properties may have different collection arrangements. These must be continued.

(e) Boundary Positions will not be applied in respect of Assisted Collections, see Paragraph 2.2.8 below.

2.2.7 Collection Days

(a) The Contractor will collect Residual, Recycling and Food waste from each Household unit or composite hereditament on the same day each fortnight (or weekly for properties as specified for weekly collections in FHDC and DDC Administrative District). The existing arrangements are detailed in Appendix A5 (DDC) and B5 (FHDC).

(b) 'Annual Direct Mailing (ADM)' which currently includes calendars detailing the collections days for residual, recycling, food and garden waste collections will be agreed annually with the Supervising Officer. The Council will undertake the design and printing of the ADM. The Contractor is required to undertake

the delivery of the ADM to each household each year within their annual contract sums. Any changes to collections, initiated by the Contractor and agreed with the Council, requiring changes to the ADM will be undertaken at the Contractors expense prior to the implementation of the change.

(c) The Contractor shall agree with the Supervising Officer, in advance, any proposed changes to the regular collection day or time (including those operating prior to the commencement date).The Contractor must provide and agree with the Supervising Officer plan detailing an action detailing how and when the changes are to be implemented, the resources to be deployed and the public notification process.

(d) The Contractor will, at his own expense, notify each affected household in writing at least two weeks but not more than four weeks, prior to the change being made.

(e) Should the Contractor alter the scheduled collection route without the prior written approval of the Supervising Officer, the Supervising Officer may instruct the Contractor to forthwith visit any “missed collections” at the Contractor's own cost.

(f) Collections for all services will be made between the hours of 07:00 and 18:00 Monday to Friday. In exceptional circumstances this may vary with the Supervisor’s approval. The Contractor shall avoid collections from within the vicinity of schools around school start and finish times.

(g) The Contractor is required to undertake refuse, recycling and food waste collections on the same day of the week on alternate weeks, including when there is a Bank Holiday with the exception of Christmas Day/Boxing Day. Following Boxing Day all households will be collected within ten (10) working days with the earliest missed collections being completed first and thereafter normal collection services will resume.

(h) No additional payment will be made for collections taking place at the weekend prior to or following Christmas Day / Boxing Day.

2.2.8 Assisted Collections

(a) Where, by reason of age disability or infirmity, an occupier is unable to comply with the requirement to place the refuse container at the boundary for collection, the Household should be eligible for an assisted collection service from a non-boundary collection point. The Supervising Officer will determine whether households are eligible for an Assisted Collection.

(b) In 2018/19 there were the following number of assisted collections:

Assisted Collections	DDC	FHDC	TOTAL
No. of Households with Assisted Collections	1,118	1,248	2,366

Note: The location of households requiring assisted collections are detailed within Data file Ref: DDCFHDC Contract Data 2020.

The Councils are undertaking a blanket review of the assisted collections which will be completed prior to tender.

(c) The Supervising Officer will supply a list of such Households prior to the service commencement date and provide any amendments to the list as they are approved by the Supervising Officer. The Contractors CSMS should allow

the Council to directly update Assisted Collection requirements. The Contractor will be entitled to recover additional costs in respect of assisted collections through the Bill of Quantities Small/Additional Services.

(d) The Contractor shall on the scheduled collection day visit the relevant Household or composite hereditament on the list and collect the waste from its usual storage position and return any container, after it has been emptied, to the same position.

(e) When leaving the property or after removing the refuse from the refuse store cupboard, the Contractor shall close all doors, gates and refuse cupboards including securing catches where these are provided. Some waste storage has secured access with coded locks. Secured bin stores should be re-secured after collection.

2.2.9 Collection Code of Practice

(a) The Contractor shall take reasonable and practicable steps – including training, supervision, design of working methods, use of suitable equipment, compliance with Good Industry Practice etc. – to ensure the collection crews carry out all household collections in a manner that:

(i) is safe to themselves and others.

(ii) is as quiet as possible.

(iii) ensures no damage to property.

(iv) ensures no undue inconvenience to residents or others and does not prejudice their amenity.

(v) minimises the spillage of waste and provides for the immediate removal of any spillage that may occur.

(b) Where wheeled or bulk bins or other containers are lost or damaged by the actions of the Contractor rendering them unfit for further use, the Contractor must:

(i) use in cab technology to immediately inform the Council (call centre and client team) of the damage/loss detailing the address, bin description and cause of damage/loss.

(ii) repair or replace the bin or other container within twenty four (24) hours at no cost to the Councils.

(c) Any refuse spilt whilst the refuse is being removed from the refuse store or sack holder or whilst being carried out from the property and deposited in the refuse collection vehicle or which arises where sacks or bins are grouped together prior to loading shall be cleaned up by the Contractor at the same time as the waste is removed. This will apply to all collections.

2.2.10 Non-Collection Advice Notes

(a) If as a consequence of any of the following:

(i) A receptacle cannot be collected because it is too heavy to be moved by one person.

(ii) A receptacle cannot be collected because it contained the wrong materials.

(iii) The waste was in the wrong container.

(iv) The bin is damaged.

bins were unable to be emptied, then a bin hanger/sticker/ or card (as agreed with the Supervising Officer) must be left by the Contractor for the householder at the time of non-collection indicating the reason(s) why bins were not emptied.

(b) If additional bags (excluding purple sacks left out from adjacent Exempt Properties – see paragraph 2.2.4 above) are left by/on the bin by the householder then the bin will be emptied but the excess bags will be left and a non-collection advice note left either attached to the excess waste/or posted through the householders letterbox.

(c) Crews must notify the call centre and client of the addresses of all non-collection advice notes via in cab CSMS as soon as possible after issue of the note.

(d) Where prior notification of road closures is received the contractor shall notify residents at his own cost and should agree alternative collection arrangements with the Supervising Officer at his own cost.

2.2.11 Missed Collections

(a) A collection is missed if:

it is scheduled to be collected at the same time as adjacent properties but it is not collected before the collection vehicle leaves the street in which the property is located and a Non-Collection Advice Note has not been left in accordance with 2.2.10; then these will be termed unjustified missed collections.

(b) The Contractor is required to:

(i) rectify missed collections the same day if reported before midday; or

(ii) rectify the omission before midday the following day if reported after midday.

(c) The Contractor is required to seek to minimize the number of missed collections. In accordance with Performance Criteria the Contractor is required to provide reports of the number of missed bins across all collection services weekly. The thresholds for deductions and penalty points in respect of missed collections are identified in the Performance Criteria and will be applied as appropriate.

(d) Where:

(i) Bins are not collected due to the resident not making them available, or the bin contains contaminated wastes; or

(ii) Excess residual waste is put out by the Householder.

then providing the Contractor has used the CSMS to immediately advise the Council of the address, bin type and reason for non-collection then the collection will not be deemed to have been missed for the purposes of performance reporting and will not be collected until the next scheduled collection. These collections will be termed as justified missed collections.

Contractors should make provision for providing evidence including photographs in respect of repeated collection issues.

2.2.12 Side Waste

(a) Where a householder has put out more waste than can be stored within the wheeled bin the Contractor is required to leave a bin hanger (or sticker or card as agreed with the Supervising Officer) for the householder explaining the reason(s) for the waste being left. The Contractor should use 'incab' technology in real time to update the CSMS of the presentation of side waste and confirming the delivery of the advice note.

(b) The Contractor is required to provide real time reporting to the Councils call centre and a weekly summary report to the Supervising Officer of those properties where side waste has been presented.

(c) Excess waste will however be collected following any disruption to the collection service or after Christmas Day / Boxing Day collection changes.

2.2.13 Exceptional Severe Weather

(a) If, in the opinion of the Contractor, the weather on any particular day or part of day is so severe as to make work impracticable or unsafe, then if agreed by the Supervising Officer, the Contractor will suspend the normal collection service for that day or part of a day. The Contractor will, however, be required to complete all the missed collections in date order (unless agreed otherwise with the Supervising Officer) and be undertaking normal collections within the following timescales:

(i) 1-2 days Missed Collections within five (5) days of the return to normal collection services.

(ii) 3-10 days within two (2) weeks of the return to normal collection services.

(b) No additional payments will be made to the Contractor in respect of any additional expenses he may incur in complying with these requirements.

2.3 Dry Recycling Collection

2.3.1 Objective Requirement

(a) The Contractor is required to provide for the collection of Dry Recycling materials from households in DDC and FHDC in accordance with the requirements detailed in this section.

(b) The Contractor will deliver the recycling streams to the designated transfer facilities listed below as advised by the Supervising Officer and facilitated by KCC and within the Sites' stated opening times. At the time of writing the designated Sites and opening times are as follows:

Location	Hours of Access
Dover Kerbside Dry Recyclables **Batteries to be confirmed.**	The Site must be open continuously for the reception of Waste throughout the following opening hours (as a minimum): (a) 07:00 to 17:00 hours Monday to Friday, including Public Bank Holidays in England & Wales (the only exception being Christmas Day and Boxing Day – for the avoidance of doubt opening hours on Christmas

Location	Hours of Access
Subject to completion of standstill period **Thanet Waste Services** **Richborough Hall Waste Transfer and Recycling Centre, Ramsgate Road, Sandwich, Kent, CT13 9NW.**	Eve and New Year's Eve where these fall on a Monday to Friday will be 07:00 to 17:00 hours unless otherwise agreed by the authority); (b) 07:00 to 13:00 hours on Saturday; (c) By exception and with advance notice from the Council: 07:00 to 17:00 on occasional Saturdays following a Public and Bank Holiday to meet any exceptional service demands; (d) By exception and with advance notice from the Council: 07:00 to 17:00 on Saturdays prior to the Christmas/New Year holidays; and (e) By exception and with the mutual agreement of both parties: the Site must be open on Boxing Day.
FHDC Dry Recyclables: **Ashford Waste Transfer Station, Cobbs Wood Industrial Estate, Brunswick Road, Ashford** ***or an alternative within the locality.***	The Facility must be open continuously for the reception of Contract Waste as a minimum throughout the following opening hours: (a) 07:00 to 17:00 hours Monday to Friday (including Public Bank Holidays in England & Wales, counting New Year's Day; the only exception being Christmas Day and Boxing Day; (b) 07:00 to 12:00 hours Saturday; (c) Following a Public Bank Holiday the Facility must be open for occasional Saturday afternoons up to 17:00 hours to meet any exceptional service demands. This would be agreed in advance with KCC's Contract Manager; (d) Exceptionally by agreement, the Facility must be open on Boxing Day.

If the Supervising Officer designates a site for any particular waste stream which is different to the usual destination Site for that waste stream, such designation shall be dealt with as a Council Change under Clause 14.1 unless it is a one-off or temporary redirection in which case the cost shall remain with the Contractor.

2.3.2 Containers and Materials to be collected

(a) Boxes/bags will be used for the storage and collection of mixed paper and cardboard. Most residents have already been supplied with these but where collection services are being extended to cover new households the Contractor is required to supply and deliver two (2) containers to each new household (1 box/1 bag or equivalent combination). The cost of delivery will be at Bill of Quantity rates.

(b) The Material Acceptance Criteria for the collection of paper and cardboard collection is as follows:

(i) cardboard - packaging such as cereal packets and pizza boxes. Any large cardboard boxes are flattened and left at the side of the black box.

(ii) paper - newspaper, magazines, brochures, junk mail, office paper.

(iii) large items of brown cardboard may also be left loose for collection.

(c) Paper and cardboard must be stored separately from other dry recyclables on the vehicle to prevent Contamination.

(d) A 240l wheeled bin will be used for the storage and collection of the other dry recyclables. The Material Acceptance Criteria for other dry recyclables is as follows:

(i) Glass – bottles and jars of any colour

(ii) Cans – drink, food cans, empty aerosol cans.

(iii) Plastic bottles – HDPE and PET Bottles - drink, household detergent and cleaner bottles.

(iv) Mixed Plastic Containers

(v) Plastic Film

(e) Where wheeled bins are not suitable householders may purchase additional recycling containers from the Council. The contractor is required to deliver the additional boxes and bags at Bill of Quantity Rates. These additional containers must be supplied within ten (10) days to the householder.

(f) The contractor is also required to facilitate the collection of household batteries as part of the kerbside service (and potentially storage and onward sale pending the outcome of discussions with KCC).

2.3.3 General Requirements for Collections

(a) Where relevant the same Specification details apply to the collection of recyclable materials as for wheeled bin and sack refuse collections eg Missed Collections, Boundary Collection Point, Assisted Collections, Non-Collection Advice notes, Collection Code of Practice. The specification relating to Residual Side waste does not apply in respect of recyclables, see 2.3.3(l) (Surplus Recycling).

(b) Collections are to be made, at least, on a fortnightly frequency on the same day alternating with residual waste collections.

(c) The contractor will provide electronically (in a format to be agreed with the Supervising Officer. Weekly summaries of tonnages collected by waste stream, round reference, registration, number, day and date. Records of tonnages collected from each relevant Council shall be kept separately. Cross boundary collection tonnages to be split between authorities as agreed with the Supervising Officer.

(d) Any failure by the Contractor to provide adequate data to enable the Partner Authorities to identify the waste streams collected will result in a deduction from sums due to him under the contract to cover the loss of income incurred by the Councils.

(e) All acceptable recyclable material left out for collection is to be collected provided that it may be removed without risk of personal injury to the

Contractor's operatives. Temporary containers such as carrier bags are to be stored separately for later recycling where possible or disposal within the residual waste stream.

(f) The Contractor is to take all reasonable precautions to ensure material collected is compliant with the relevant Material Acceptance Criteria and take the following action when non-compliant materials are detected:

(i) If Minor Contamination is identified it is to be removed while the acceptable material is tipped into the collection vehicle. The contaminated material is to be returned within the container and an advice note (hanger / sticker/card - supplied by the Council) explaining why the material has not been taken, placed on the container or delivered to the Household.

(ii) If Major Contamination is identified then the food waste will not be collected. However, the Contractor is required to deliver an advice note (hanger / sticker/card – supplied by the Council) attached to the container or delivered to the Householder, explaining why the material has not been taken.

(g) The Contractor is required to update the CSMS in real time with regards to the identification of Minor and Major levels of Contamination detailing the addresses concerned and the nature of the Contamination.

(h) If material is rejected at the recycling outlet due to Contamination, then the Contractor shall be responsible for removing Contamination where possible and recycling the remainder and disposing of the contaminated material. The cost of sorting and disposing of contaminated material will borne by the Contractor. (No loads have been rejected in the last five (5) years.)

(i) The Contractor shall return to each Household the same receptacle in which the material was presented; it is to be returned to the same boundary position from where it was collected, or, if necessary, to an appropriate boundary position to avoid causing obstruction. Bags should be left within the box or clamped between the wheeled bin lid and the bin to avoid being blown away by the wind.

(j) The Contractor shall be mindful of the need to maintain a high profile and efficient recycling service. Client expectations and resident’s attitudes to recycling should be taken into account and within reason, every effort should be made to support collections and not deter future participation.

(k) All standard communication notices to households are to be agreed with the Supervising Officer.

(l) **Surplus Recycling** - If additional recycling material, that is compliant with the Material Acceptance Criteria, is put out for collection but not contained within the relevant receptacle because of a lack of space then the Contractor is required to collect the additional recyclables and use in-cab technology to update the CSMS accordingly. The Contractor is required to supply to the Supervising Officer monthly reports of households where excess recycling is taking place.

2.4 Food Waste Collection

2.4.1 Objective Requirement

(a) The Contractor is required to provide for the weekly collection of Food waste from households in DDC and FHDC in accordance with the requirements detailed in this section.

(b) The Contractor will deliver the recycling streams to the designated transfer facilities listed below as advised by the Supervising Officer and facilitated by KCC and within the Sites' stated opening times. At the time of writing the designated Sites and opening times are as follows:

Location	Hours of Access
Dover Food Waste: ***Subject to completion of standstill period*** **Thanet Waste Services** **Richborough Hall Waste Transfer and Recycling Centre, Ramsgate Road, Sandwich, Kent, CT13 9NW.**	The Site must be open continuously for the reception of Waste throughout the following opening hours (as a minimum): (a) 07:00 to 17:00 hours Monday to Friday, including Public Bank Holidays in England & Wales (the only exception being Christmas Day and Boxing Day – for the avoidance of doubt opening hours on Christmas Eve and New Year's Eve where these fall on a Monday to Friday will be 07:00 to 17:00 hours unless otherwise agreed by the authority); (b) 07:00 to 13:00 hours on Saturday; (c) By exception and with advance notice from the Council: 07:00 to 17:00 on occasional Saturdays following a Public and Bank Holiday to meet any exceptional service demands; (d) By exception and with advance notice from the Council: 07:00 to 17:00 on Saturdays prior to the Christmas/New Year holidays; and (e) By exception and with the mutual agreement of both parties: the Site must be open on Boxing Day.
FHDC Food Waste: **Ashford Waste Transfer Station, Cobbs Wood Industrial Estate, Brunswick Road, Ashford *or an alternative within the locality.***	The Facility must be open continuously for the reception of Contract Waste as a minimum throughout the following opening hours: (a) 07:00 to 17:00 hours Monday to Friday (including Public Bank Holidays in England & Wales, counting New Year's Day; the only exception being Christmas Day and Boxing Day; (b) 07:00 to 12:00 hours Saturday; (c) Following a Public Bank Holiday the Facility must be open for occasional Saturday afternoons up to 17:00 hours to meet any exceptional service demands. This would be agreed in advance with KCC's Contract Manager;

Location	Hours of Access
	(d) Exceptionally by agreement, the Facility must be open on Boxing Day.

If the Supervising Officer designates a site for any particular waste stream which is different to the usual destination Site for that waste stream, such designation shall be dealt with as a Council Change under Clause 14.1 unless it is a one-off or temporary redirection in which case the cost shall remain with the Contractor.

2.4.2 Containers and Materials to be Collected

(a) Households is both Districts have been supplied with 7l and 25l food waste containers for the internal and external storage of food waste respectively. Where collection services are being extended to cover new households the Contractor is required to supply and deliver two (2) containers to each new household (1x7L Caddy/1x 25l Food waste container in accordance with Container Specifications in the appendices). The cost of delivery will be at Bill of Quantity rates.

(b) The Material Acceptance Criteria for food waste is as follows:

(i) dairy

(ii) fish

(iii) fruit & vegetables

(iv) meat & bones

(v) bread & pastries

(vi) tea & coffee grounds

(vii) pasta and rice

2.4.3 General Requirement for Collections

(a) Unless specified otherwise the same Specification details apply to the collection of food waste as for wheeled bin and sack refuse collections eg Missed Collections, Boundary Collection Point, Assisted Collections, Non-Collection Advice notes, Collection Code of Practice.

(b) The Contractor is required to only collect food waste presented in the appropriate container. The Contractor should check that food waste is either unwrapped within the collection container, wrapped in approved biodegradable food waste bags or newspaper. In particular, the Contractor is required to ensure no plastic bags are collected with the food waste.

(c) The Contractor is to take all reasonable precautions to reduce Contamination of the food waste:

(i) If Minor Contamination is identified it is to be removed while the acceptable material is tipped into the collection vehicle. The contaminated material is to be returned within the container and an advice note (hanger / sticker/card - supplied by the Council) explaining why the

material has not been taken, placed on the container or delivered to the Household.

(ii) If Major Contamination is identified then the food waste will not be collected. However, the Contractor is required to deliver an advice note (hanger / sticker/card – supplied by the Council) attached to the container or delivered to the Householder, explaining why the material has not been taken.

(d) The Contractor is required to update the CSMS in real time with regards to the identification of Minor and Major levels of Contamination detailing the addresses concerned and the nature of the Contamination.

(e) If material is rejected at the recycling outlet due to Contamination, then the Contractor shall be responsible for removing Contamination where possible and recycling the remainder and disposing of the contaminated material. The cost of sorting and disposing of contaminated material will borne by the Contractor.

2.5 Garden Waste Collection

2.5.1 Objective Requirement

(a) The Contractor is required to provide for the fortnightly collection of Garden Waste from households in DDC and FHDC in accordance with the requirements detailed in this section. Both DDC and FHDC operate charged garden waste collection services.

(b) The Contractor will deliver the garden waste to the designated transfer facilities listed below as advised by the Supervising Officer and facilitated by KCC and within the Site's stated opening times. At the time of writing the designated Site and opening times are as follows (although this may change during the course of the contract):

Waste Stream	Site	Opening Hours
DDC and FHDC Garden Waste	Hope Farm Crete Road East Folkestone Kent CT18 7EG.	7am-5pm Mon to Fri 7am-1pm Sat & Bank holidays excluding Xmas Day, Boxing Day and New Year's Day.

If the Supervising Officer designates a site for any particular waste stream which is different to the usual destination Site for that waste stream, such designation shall be dealt with as a Council Change under Clause 14.1 unless it is a one-off or temporary redirection in which case the cost shall remain with the Contractor.

(c) In DDC the service currently allows householders who purchase a green waste licence to place out up to six (6) garden waste sacks for collection fortnightly. The licence runs from 1 April each year.

Please Note: DDC is currently reviewing the provision of this service and the possible transition of the garden waste service into a wheeled bin only service. Contractors are asked to ensure their vehicle specification allows for the possibility that the Council either continues as is or changes to a wheeled bin service. Should agreement to transition be reached the Councils existing sack would have to be provided up to 1 April in any contract year. Contractors are

asked to identify the service costs and savings arising from implementing and operating such a change within their ISFT submission.

(d) In FHDC the Council provides a 180L wheeled bin for subscribers. This is an opt in service. Waste is stored in 180 litre bins supplied to the householder by the Contractor. This service is not changing.

(e) As at January 2019 the table below details the number of Households with collections and the number of sacks/bins to be collected:

Collection Type	DDC	FHDC	TOTAL
No of Garden Waste Sack Licences/Bins collected	6,444	13,583	20,027
No of Households with Garden Waste Collections	6,397	12,887	19,284

Contractors should note that in FHDC there are currently three hundred and thirty nine (339) households with two (2) or more bins (696 bins in total) and in DDC forty seven (47) households with more than one (1) garden waste subscription.

2.5.2 Containers and Materials to be Collected

(a) The Contractor is required to supply and deliver new customers with a garden waste bins and details of the garden waste service within ten (10) working days of the council notification and complete the first collection on the next due date for collections within the appropriate collection area and no more than ten (10) working days from the date of bin delivery.

(b) The Material Acceptance Criteria for Garden waste is as follows:

(i) grass cuttings

(ii) leaves

(iii) weeds

(iv) dead flowers and plants from the garden

(v) light garden prunings

(vi) hedge trimmings

(vii) small branches (up to three (3) inches in diameter)

(viii) untreated wood chippings

(ix) windfalls of fruit

(x) Christmas trees

2.5.3 General Requirement for Collections

(a) Where relevant the same Specification details apply to the collection of Garden Waste as for wheeled bin and sack refuse collections eg Missed Collections,

Boundary Collection Point, Assisted Collections, Non-Collection Advice notes, Collection Code of Practice.

(b) In FHDC Garden Waste will only to be collected if presented in the appropriate container.

(c) In DDC residents garden waste sacks are to be returned to the householder's property.

(d) The Contractor is to take all reasonable precautions to ensure waste collected is consistent with the relevant material acceptance criteria and detect Contamination.

(i) If Minor Contamination is identified it is to be removed while the acceptable material is tipped into the collection vehicle. The contaminated material is to be returned within the container and an advice note (supplied by the Council) explaining why the material has not been taken, delivered to the Household.

(ii) If Major Contamination is identified then the garden waste will not be collected. However, the Contractor is required to leave a bin hanger (or sticker/card) as agreed and supplied by the Council to the Household, explaining why the material has not been taken.

(e) The Contractor is required to update the CSMS in real time with regards to the identification of Minor and Major levels of Contamination detailing the addresses concerned and the nature of the Contamination.

(f) If material is rejected at the Designated waste transfer facility due to Contamination then the Contractor shall be responsible for disposing of the contaminated materials as directed and any associated costs.

2.5.4 Christmas Tree Collections

(a) The Contractor is required to provide within their Garden Waste service a free collection of real Christmas trees to all households within both districts. The collection period will commence from the first Monday after New Year and operate for four weeks providing at least two (2) collections from all households. This will be included within the garden waste service cost.

(b) The Contractor will deliver the collected Christmas Trees to the designated transfer locations for Garden Waste shown above.

2.5.5 Bring Banks

There are no Bring Banks that require servicing by the Contractor in either FHDC or DDC. The sites shown in the data file for DDC are serviced by third parties. There is no similar data for FHDC currently available.

2.6 Bulky Household Waste Collection

2.6.1 Objective Requirement

(a) The Contractor is required to collect bulky household waste in DDC and FHDC in accordance with this service specification. Bulky Waste will be collected separately from the normal refuse collection service. This service will include for the collection of furniture, cookers, Waste Electrical and Electronic Equipment (WEEE) items, freezers, fridges etc.

(b) The Contractor will deliver the Bulky Waste to the designated transfer facilities listed below as advised by the Supervising Officer and facilitated by KCC and within the Sites' stated opening times. At the time of writing the designated Sites and opening times are as follows:

Location	Hours of Access
Dover Bulky Waste: ***Subject to completion of standstill period*** **Thanet Waste Services** **Richborough Hall Waste Transfer and Recycling Centre, Ramsgate Road, Sandwich, Kent, CT13 9NW.**	The Site must be open continuously for the reception of Waste throughout the following opening hours (as a minimum): (a) 07:00 to 17:00 hours Monday to Friday, including Public Bank Holidays in England & Wales (the only exception being Christmas Day and Boxing Day – for the avoidance of doubt opening hours on Christmas Eve and New Year's Eve where these fall on a Monday to Friday will be 07:00 to 17:00 hours unless otherwise agreed by the authority); (b) 07:00 to 13:00 hours on Saturday; (c) By exception and with advance notice from the Council: 07:00 to 17:00 on occasional Saturdays following a Public and Bank Holiday to meet any exceptional service demands; (d) By exception and with advance notice from the Council: 07:00 to 17:00 on Saturdays prior to the Christmas/New Year holidays; and (e) By exception and with the mutual agreement of both parties: the Site must be open on Boxing Day.
FHDC Bulky Waste: **Ashford Waste Transfer Station, Cobbs Wood Industrial Estate, Brunswick Road, Ashford *or an alternative within the locality.***	The Facility must be open continuously for the reception of Contract Waste as a minimum throughout the following opening hours: (a) 07:00 to 17:00 hours Monday to Friday (including Public Bank Holidays in England & Wales, counting New Year's Day; the only exception being Christmas Day and Boxing Day; (b) 07:00 to 12:00 hours Saturday; (c) Following a Public Bank Holiday the Facility must be open for occasional Saturday afternoons up to 17:00 hours to meet any exceptional service demands. This would be agreed in advance with KCC's Contract Manager; (d) Exceptionally by agreement, the Facility must be open on Boxing Day.

If the Supervising Officer designates a site for any particular waste stream which is different to the usual destination Site for that waste stream, such designation shall be dealt with as a Council Change under Clause 14.1 unless it is a one-off or temporary redirection in which case the cost shall remain with the Contractor.

(c) The table below details the average number of Bulky Waste Collections over the last three years and the numbers of items collected:

Collection Type	DDC	FHDC	TOTAL
No of Households Bulky Waste Collections	1,768	1,754	3,522
No of Bulky Waste Items collected	3,390	4,390	7,780

2.6.2 General Requirements for Collections

(a) Bookings will be made via the Council call centre or website but the Contractors CSMS must provide the facility for the Partner Authorities/Supervising Officer to book collection slots.

(b) The Contractor is required to provide online reporting functionality through the CSMS that enables the Council to generate bulky waste performance reports detailing:

(i) Calls received,

(ii) Bookings made,

(iii) Bookings Completed,

(iv) Bookings Not Completed because Householder not present.

(v) Bookings not Completed other,

(vi) Number and type of items collected

(c) Payment will be received by the Council prior to the booking being made. Collection days are given to householders at the time of their first contact in line with collections days previously agreed between contractor and client.

(d) The Collections are restricted to up to five (5) individual items unless additional charges of five pounds (£5) per item have been paid (eg dining room suite of four (4) chairs and table equals five (5) items). Most items are collected except for:

(i) Car parts

(ii) Window Units/ mirrors

(iii) Garage and Patio doors

(iv) Hazardous Waste

(v) Builder’s rubble and glass

(vi) Lengths of metal or wood above two (2) metres

(vii) Any item that two (2) operatives cannot safely lift

(viii) Commercial Waste

(ix) Industrial Waste

(x) Garden waste

(e) The Contractor is required to collect items from within the vicinity of the front boundary of the Household. If this is not possible owing to age, disability infirmity, refer to Assisted Collection Clause below.

(f) The Contractor is required to complete collections within one (1) week of a request for service being received and communicated to the Contractor.

(g) Should an abortive visit be made owing to the householder failing to meet the agreed arrangement, then the crew should use incab technology to report the non-collection onto the CSMS at the time of collection. Subject to confirmation by the Council the contractor is required at no additional cost to make one further visit to facilitate collection but if the agreed arrangement is again not met then the Contractor will be deemed to have fulfilled his obligation and the CSMS updated accordingly.

(h) Refrigerators and Freezers etc - The Contractor is required to provide a service for the safe collection and transportation of fridges and freezers etc without causing any damage to the collected appliances. The appliances are to be deposited at the designated KCC facility. KCC will arrange for the safe treatment and disposal of these items.

(i) Assisted Collection - When elderly or infirm householders require an assisted collection of bulky items, these will be charged individually according to the items and nature of the collection in accordance with a schedule of charges to be agreed, prior to service commencement, with the Supervising Officer.

(j) The Contractor will segregate collected bulky waste at the point of transfer as required by the Supervising Officer in conjunction with KCC to facilitate the re-use and recycling of bulky waste.

2.7 Clinical Waste Collection

2.7.1 Objective Requirement

(a) The Contractor is required to provide a clinical waste collection service within the FHDC and DDC Administrative Areas to Households on request from a district nurse or other medical professional and undertaken at the specified frequency.

(b) The designated transfer locations for Clinical waste items are as follows:

DDC: Whitfield HWRC, Honeywood Road, Whitfield, Dover, CT16 3EH.

FHDC: Ashford Waste Transfer Station, Cobbs Wood Industrial Estate, Brunswick Road, Ashford.

(c) The numbers of scheduled and Ad Hoc Clinical Waste Collections are detailed in the table below:

Collection Type	DDC	FHDC	TOTAL
No of scheduled collection from Properties	1,988	446	2,434

No of scheduled collections from Chemists	84	71	155
Bags	10,055	2,026	12,081

Note: A list of households receiving a clinical waste collection is included an Contract Data Disc Ref: DDCFHDC 2020

2.7.2 Containers

(a) The Contractor is required to supply replacement purpose-designed yellow sacks/receptacles to households at the time of collection.

(b) The Contractor is required to provide 50l or appropriately sized containers to the Pharmacy to assist in the collection and storage of sharps boxes.

(c) The Contractor will be paid for the supply and delivery of sacks to Householders and containers to Pharmacies in accordance with Bill of Quantity Rates. The CSMS must facilitate recording of clinical waste bag deliveries detailing date of request, date of delivery, property address, number and type of container supplied.

2.7.3 General Requirements for Collections

(a) The Contractor is required to provide online reporting functionality through the CSMS that enables the Council to generate Clinical waste performance reports detailing:

(i) Calls received.

(ii) Bookings made.

(iii) Bookings Completed.

(iv) Bookings Not Completed because Householder not present.

(v) Bookings not Completed other.

(b) The Contractor shall abide by all reasonable requests of the occupier of the premises relating to arrangements for storage and point collection of Clinical and/or sharps waste.

(c) The Contractor shall be discreet as possible, whilst collecting Clinical Waste, ensuring that the service is provided in a manner which is sensitive to the needs of service recipients.

(d) The Contractor shall immediately notify the Supervising Officer via the CSMS of any collections that are cancelled or cease to be left out for collection.

(e) Clinical Waste shall be collected strictly in accordance with the “Safe Collection of Clinical Waste” and “The Duty of Care – A Code of Practice”.

(f) Clinical Waste collections shall be made separately from any other collections and the two waste streams kept apart for disposal using a separate vehicle which shall not be used to carry any other material or waste whilst engaged in the collection and transportation of Clinical Waste.

(g) FHDC and DDC also operate a Household Sharps Box collection service from participating local pharmacies. The Contractor is required to provide for the

collection of Household used sharps boxes from fifteen (15) Pharmacy collection points across the two districts.

(h) Collections are made on request from the pharmacy and will be collected by the Contractor on instruction from the Supervising Officer in accordance with the Specification. Occasionally collections are undertaken from Households that cannot access a pharmacy. The Contractor must provide for the collection from each pharmacy on a request basis but should as a minimum undertake a collection monthly.

(i) Clinical Waste collections from premises other than Households or Sharps Boxes from pharmacies shall not form part of the Contract but the Contractor shall be permitted to use the vehicle provided for the purposes of the Agreement to collect other clinical waste but not at the same time as it is being used for clinical waste collections forming part of the Contract. Council collections must be collected separately and have a clear audit trail from point of collection to point of disposal. All disposal costs arising from non-contract collections must be borne by the Contractors. A clearly identifiable audit trail in respect of contract and non-contract clinical waste must be supplied if requested by the Supervising Officer.

2.8 Bin Supply and Delivery

2.8.1 Objective Requirement

(a) The Contractor is responsible for the supply and delivery of all types of waste service containers across the two Districts, including:

(i) Residual Waste/Recycling and Garden Waste wheeled bins.

(ii) Paper and Card Boxes/Bags.

(iii) Internal and External Food Waste Containers.

(iv) Reuseable Garden Waste Bags.

(v) Clinical Waste Sacks and Containers.

(b) The Contractor must carry sufficient stock to facilitate the delivery of containers to householders within ten (10) working days of the request from the Householder.

(c) The Supply and delivery will be undertaken at Bill of Quantity Rates.

(d) A schedule detailing the types of containers and the reason for their replacement is provided for DDC and FHDC in the Contract Data File DDCFHDC2020.

3. STREET CLEANSING REQUIREMENTS

3.1 Objective Requirement

3.1.1 The Contractor is required to provide Street Cleansing Services within the FHDC and DDC Administrative Areas. Street Cleansing Services must reflect the differing needs and priorities of FHDC and DDC. Services, which are flexible enough to develop in line with the strategic visions and seasonal demands of both districts and meet the legal requirements of the authority's as Principal Litter Authorities.

3.1.2 The DDC Vision statement is ‘Securing a prosperous future for the Dover district, which will be a place where people want to live, work, invest and visit’ and detailed within DDC’s Corporate Plan.

3.1.3 The FHDC Corporate plan has a clear commitment to ‘Appearance Matters’ and provide a clean and attractive environment.

3.1.4 The Contractor is required to achieve or improve on the standards set out in the Code of Practice on Litter and Refuse, issued under Section 89 of the Environmental Protection Act 1990 and subsequent amendments.

3.1.5 The Contractor is required to provide for the following Street Cleansing Services as defined within the FHDC and DDC Administrative Areas:

(a) Street Cleansing of all highway areas.

(b) Cleansing of all public footpaths and bridle ways.

(c) Removal of large fly-tips from private highway as directed by the Supervising Officer.

(d) Litter picking and removal of fly-tips, from currently unadopted highway.

(e) Cleansing of promenades, foreshores and beach areas.

(f) Cleansing of public car parks.

(g) Cleansing of specified Parks, open spaces and relevant housing land including flower beds, grass verges and water features.

(h) emergency Cleansing of roads, relevant land, beaches following spillages or an accident, including removal of debris, animal carcasses and the provision and the spreading of sand and/or chemical alternative.

(i) emptying of all litter and dog bins within the districts including the supply and replacement of disposable liners where applicable.

(j) removal of Fly tips (including small amounts of hazardous waste) within the district.

(k) Cleansing of Council bus shelters.

(l) Cleansing of the banking of watercourses and retrieval of litter items from the river where safely achievable.

(m) provision of staff resources in the event of an emergency / incident requiring support by FHDC and DDC.

(n) removal of graffiti.

(o) removal of fly posting.

(p) chewing gum removal and staining.

3.2 Definition of terms

3.2.1 In this Specification the term "**Public Highways**" shall include:

(a) street, road or pedestrian area including the carriageway, the adjoining footways, roundabouts, service roads, cycle tracks, drainage channels, the adjoining verges, central reservations, paved areas and bus shelters;

(b) separate footpaths, alleyways, cycleways and adjoining verges and drainage channels where provided;

(c) some private and currently unadopted highway as specified.

3.2.2 In this Specification the terms "**Clean**", "**Cleaning**", "**Cleanse**" and "**Cleansing**" shall where the context so admits include:

(a) the removal and disposal of litter, debris, detritus, mud, weeds and grass, loose chippings, animal carcasses, human/animal fouling, accident debris, sharps, oil and other deposits;

(b) the removal and disposal of leaf and blossom fall;

(c) the removal and disposal of deposits arising from fly tipping.

3.3 Overall Requirement

3.3.1 The Contractor is required to undertake the Street Cleansing Services specified at 3.1 to ensure that the public areas covered by the Agreement are maintained to the standards of cleanliness detailed below.

3.3.2 The Contractor is also required to undertake the emptying and cleansing of litter bins and dog faeces bins and to remove all collected material to an authorised disposal site.

3.3.3 The Contractor will deliver the Street Cleansing Arisings to the designated transfer stations listed below as advised by the Supervising Officer and facilitated by KCC and within the Sites' stated opening times. At the time of writing the designated Sites and opening times are as follows:

Location	Hours of Access
Dover Street Cleansing: ***Subject to completion of standstill period*** **Thanet Waste Services** **Richborough Hall Waste Transfer and Recycling Centre, Ramsgate Road, Sandwich, Kent, CT13 9NW.**	The Site must be open continuously for the reception of Waste throughout the following opening hours (as a minimum): (a) 07:00 to 17:00 hours Monday to Friday, including Public Bank Holidays in England & Wales (the only exception being Christmas Day and Boxing Day – for the avoidance of doubt opening hours on Christmas Eve and New Year's Eve where these fall on a Monday to Friday will be 07:00 to 17:00 hours unless otherwise agreed by the authority); (b) 07:00 to 13:00 hours on Saturday; (c) By exception and with advance notice from the Council: 07:00 to 17:00 on occasional Saturdays following a Public and Bank Holiday to meet any exceptional service demands; (d) By exception and with advance notice from the Council: 07:00 to 17:00 on Saturdays prior to the Christmas/New Year holidays; and

Location	Hours of Access
	(e) By exception and with the mutual agreement of both parties: the Site must be open on Boxing Day.
Dover Street Sweeping Arisings within the locality of Whitfield HWRC: **Whitfield HWRC, Honeywood Road, Whitfield, Dover, CT16 3EH.**	(a) Monday to Saturday: 8am to 4:30pm (b) Sunday and bank holidays: 9am to 4pm (c) Closed: Christmas Day, Boxing Day and New Year's Day.
FHDC Street Cleansing: **Ashford Waste Transfer Station, Cobbs Wood Industrial Estate, Brunswick Road, Ashford *or an alternative within the locality.***	The Facility must be open continuously for the reception of Contract Waste as a minimum throughout the following opening hours: (a) 07:00 to 17:00 hours Monday to Friday (including Public Bank Holidays in England & Wales, counting New Year's Day; the only exception being Christmas Day and Boxing Day; (b) 07:00 to 12:00 hours Saturday; (c) Following a Public Bank Holiday the Facility must be open for occasional Saturday afternoons up to 17:00 hours to meet any exceptional service demands. This would be agreed in advance with KCC's Contract Manager; (d) Exceptionally by agreement, the Facility must be open on Boxing Day.

If the Supervising Officer designates a site for any particular waste stream which is different to the usual destination Site for that waste stream, such designation shall be dealt with as a Council Change under Clause 14.1 unless it is a one-off or temporary redirection in which case the cost shall remain with the Contractor.

3.3.4 Agreement Standards

(a) The Contractor is required to achieve the levels of cleanliness in accordance with those in the Environmental Protection Act 1990: Code of Practice on Litter and Refuse, and subsequent relevant legislation and guidance.

(i) For Litter and Refuse:

Grade	Level of Cleanliness
Grade A	No litter or refuse.
Grade B	Area predominantly free from litter and/or refuse apart from some small items such as cigarette ends, ring pulls etc.

Grade	Level of Cleanliness
Grade C	Widespread distribution of litter and/or refuse with minor accumulations of small items as Grade B and larger items including beverage containers, fast food packs, animal faeces etc.
Grade D	Area heavily littered by litter and/or refuse with small and large items with significant accumulations along boundaries.

(ii) For Detritus:

Grade	Level of Cleanliness
Grade A	No detritus
Grade B	Predominantly free of detritus except for some light scattering
Grade C	Widespread distribution of detritus with minor accumulations.
Grade D	Heavily affected by detritus with significant accumulations

Examples of areas littered to the above four levels are given in Environmental Protection Act 1990: Code of Practice on Litter and Refuse.

(b) The Contractor shall Cleanse all areas covered by the Agreement so that they are Grade A standard. If a shortfall in the standard of Cleansing is noted, observed or reported then the Contractor shall Cleanse the areas as necessary, returning it to Grade A within the time limits set out in the table below, subject only to specified exceptions also set out at 3.3.4(e).

(c) The Partner Authorities have zoned all the streets and areas covered by this Agreement as recommended within the Code of Practice, taking account of local priorities. The principal town centre areas have been placed in a special locally designated zone (Zone Z) within which enhanced performance standards apply as set out at 3.3.4(e) are required. The Contractor is required to resource these areas sufficiently to adhere to these enhanced performance standards.

(d) Details of the zoned highways and areas for the FHDC and DDC Administrative Areas are provided in DDC FHDC Waste Contract Data File 2019. At zone boundaries the first twenty (20) metres of any side street adjoining a street in a different zone should be treated as being in the higher category.

(e) The Contractor is required to monitor Cleansing performance daily and provide live update reports to the CSMS via handheld monitoring devices. Monitoring will also be undertaken by client officers and via public complaints both through the CSMS. Following notification of a shortfall in Cleansing standards, the time limits for the restoration of that street or area to Grade A are as follows:

If the standard has fallen to	Time limits within which the street must be restored to Grade A				
	Zone Z (Town Centre)	Zone 2a (High Intensity)	Zone 2b and U (Medium Intensity)	Zone 3 and 4 (Low Intensity)	Zone 4 (Special Circumstances)
Grade B	6 hours	Next Day	3 days	14 days	
Grade C	3 hours	6 hours	Next Day	7 days	14 days
Grade D	1 hour	3 hours	6 hours	3 days	

(f) These rectification times will apply only within the permitted working time periods. The exceptions to the obligations imposed above are as follows:

(i) when operations are suspended due to severe weather conditions.

(ii) when operations are suspended on Christmas Day.

(g) The levels and standards of cleansing specified for each zone indicate that a person following immediately behind an operative of the Contractor engaged in Cleansing any area will expect to see a totally litter free surface cleansed to Grade A standards. It is recognised that the area will deteriorate to Grade B, C or D standards over a period of time dependent on the amount of litter produced by the public. The Contractor is required to fully comply with the times specified for restoration of any area to Grade A standards and therefore the frequency of cleansing shall be as necessary to achieve the levels and standards of cleanliness required by this Specification.

3.3.5 Extent of Contract Requirements:

(a) The Contractor is required to maintain standards of cleanliness to the following locations and areas within the FHDC and DDC Administrative Areas;

(i) Public Highways (including carriageways, splitter islands, roundabouts, central reservations and channels) and as specified on the accompanying supporting File Ref: DDC FHDC Contract Data 2019.

(ii) footways (including those isolated from adjacent carriageways by a grass verge).

(iii) footpaths.

(iv) alleys.

(v) lay-bys.

(vi) car parks and parking areas.

(vii) forecourts.

(viii) precincts,

(ix) bus shelters, dog and litter bins.

(x) underpasses.

(xi) hard surfaces in parks, promenades, cemeteries, recreation areas.

(xii) housing estates and other public open spaces.

(xiii) grass verges to public highway.

(xiv) tree and shrub planters, flower beds.

(xv) Amenity Beaches and foreshores.

(xvi) specified rivers and ponds, excluding spawning season unless advised by the EA otherwise.

(xvii) footpaths leading to public conveniences.

(xviii) grassed areas in parks, cemeteries, recreation areas, housing estates, and other public open spaces.

(xix) Bring Bank sites.

(xx) Watercourses.

(b) In addition to the above the Contractor is required to:

(i) Undertake litter picking, detritus and removal of Fly Tips from on Unadopted Roads. These roads are to be treated in accordance with Zone 2B standards and response times.

(ii) Undertake the removal of fly tips in accordance with Bill of Quantity rates from private highway at the discretion of the Supervising Officer.

3.3.6 Mechanical Cleansing Operations

(a) In order to ensure the effective clearance of detritus from the public highway the Contractor will be required to undertake mechanical cleansing of all public highways in accordance with the following defined minimum frequencies:

(i) Zone Z: daily mechanical sweeping.

(ii) Zone 2a: daily inspection and mechanically swept as required.

(iii) Zone 2b: weekly inspection and mechanically swept as required.

(iv) Zone 3: monthly inspection and mechanically swept as required.

(v) Zone 4: quarterly inspection and mechanically swept as required.

3.3.7 The Contractor is required via it CSMS/Quality Management systems to record:

(a) the location and results of inspections as they are undertake.

(b) track in real time mechanical sweepers whilst engaged in sweeping activities and provide summary tracking of mechanical sweeping undertaken.

3.4 General Requirements

3.4.1 Working Times

(a) Normal permitted working hours shall be from 06:00 hours to 22:00 hours between 1 April (or Easter if earlier) and 30 September in the summer season. During the winter season 1 October to 31 March, permitted hours will be between 06:00 hours and 18:00 hours. The period from the relevant permitted finish time to 06:00 hours will be discounted for the purposes of assessing compliance with the levels of cleanliness required and for the restoration to required levels stated above. The only exception to this requirement is in Zone Z areas, should the level of cleanliness fall to Grade B or below during the period from the relevant finishing time to 06:00 hours the area shall be restored to Grade A by 08:00 hours.

(b) In Zones 2a and 2b mechanical plant shall not be used before 07:00 hours or after 20:00 hours without the prior approval, in writing, of the Supervising Officer.

(c) The Contractor is required to undertake Cleansing Services seven (7) days a week fifty two (52) weeks of the year with the exception of Christmas Day. The Contractor will however still provide emergency cover on Christmas Day.

3.4.2 Materials

The Contractor shall provide all materials, plant, tools and protective clothing for the maintenance and running of the Contract.

3.4.3 Exceptional Inclement Weather

(a) If, in the opinion of the Contractor, the weather on any particular day or part of day is so inclement as to make work impracticable, then if agreed by the Supervising Officer, the Contractor may suspend the Street Cleansing Service for that day or part of a day. The Contractor will, however, be required to resume Cleansing as soon as possible and within the same working week where practicable attend to those areas omitted from the cleansing rounds as a result of the inclement weather. No additional payments will be made to the Contractor in respect of any additional expenses he may incur in complying with this requirement.

(b) If services are suspended due to snow the Contractor may be required to use labour, which would otherwise have been used for this Contract, for the clearance of snow as directed in discussion with Kent Highway Services, at no additional cost to DDC and FHDC.

3.4.4 Traffic Safety and Pedestrian Safety

(a) The Contractor shall carry out his operations generally in a safe and workmanlike manner, including the provision of advance warning signs, traffic lights and traffic barriers and cones where necessary, all in accordance with Chapter 8 of the Traffic Signs Manual. The Contractor is required to comply with the Good Industry Practice.

(b) In carrying out Street Cleansing Service the Contractor shall take all reasonably practicable steps to minimise inconvenience or obstruction to traffic including pedestrians.

3.4.5 Disposal of street cleansing arisings

(a) Any refuse, litter or other arising collated during the performance of the services will be disposed of at facilities designated by and strictly in accordance with the requirements of Kent County Council as the Waste Disposal Authority. Currently DDC arisings are tipped at Whitfield Transfer Site and FHDC arisings at Ashford Transfer site.

(b) The Contractor shall provide for the temporary storage of street cleansing arisings over the weekend period and at other times when Disposal Authority facilities are not available. The Contractor will also provide for the transfer of these arisings to the appropriate waste transfer facility as soon as these facilities are available/reopened.

3.4.6 Unacceptable Methods

Methods of cleansing which would impair safe working arrangements or give rise to nuisance or damage to private or public property or inconvenience to the public are unacceptable. The Contractor shall, at the direction of the Supervising Officer, investigate all unacceptable methods reported to the Supervising Officer and take appropriate action to ensure it does not continue.

3.5 Highway

3.5.1 The Contractor shall include in his annual sums for the following work:

(a) The cleansing of Highways summarised in the table at 3.4.2 and detailed on the accompanying specification data, in accordance with the standards set out at 3.2. For the avoidance of doubt this area also includes adjacent grass verges, tree and shrub planters, flower beds, footpaths, lay-bys, parking areas, forecourts; precinct areas, underpasses, housing estates and other public open spaces and pathways.

(b) The keeping free of hard surfaces, and street furniture from litter, weeds, grass, moss and other growths at all times.

(c) The removal of all collected material to an authorised disposal site.

(d) To provide for appropriate traffic management in accordance with Chapter 8 requirements including high speed roads.

3.5.2 The tables below provide summaries of the linear meterage of Public Highway within each Administrative Area that the contractor is required to cleanse in accordance with the specified cleansing standards unless specifically detailed otherwise. The figure given is simply the length of road and qualified bidders must adjust these for carriage way and pavement widths, front and back lines etc.). Contractors should note that the U classification used in the FHDC table below identifies lengths of unadopted roads. The Contractor is required to undertake litter picking, mechanical sweeping and the removal of fly tips from these unadopted roads and to meet standards and response times for 2b Zoning.

(a) DDC: Highways

EPA Zone	2019 Linear Metres
Z	3,877
2A	22,097
2B	379,104
3	312,114
4	16,649
High Speed Roads	69,560
Private/U	103
Total	**803,504**

Note: Centre Line distances only provided.

(b) DDC Footpaths, Alleys and Bridleways

DDC Footpaths, Alleys and Bridleways							
	Zone						
Area	**Z**	**2a**	**2b**	**3**	**4**	**5a**	**Total**
Capel					29,035		29,035
Deal & Walmer	334		6,782	250	13,575		20,941
Alkham					28,220		28,220
Total	**334**	**-**	**6,782**	**250**	**70,830**	**-**	**78,196**

Note: Centre Line distances only provided.

(c) FHDC Highways

FHDC Road Lengths and Zoning	
EPA Zone	**2019 Linear Metres**
Z	3,010
2A	18,072
2B	281,746
3	478,725
High Speed Roads included within specification	17,197
Total Highway	**798,750**
P2A	105
P2B	
P3-4	13,098

FHDC Road Lengths and Zoning	
Total Pathways/Openspace adjacent to Highway	**13,202**
Private – Fly tips only	60,688
2B - Unadopted – Litter picking and Fly tips	6,826
Total Private and Unadopted	**67,515**
Total	**879,467**

Note: Centre Line distances only provided.

Note: Detailed lists of the Highways/Footpaths/Bridleways in the DDC and FHDC Administrative Areas, including the zone designation and lengths are included on the file ref: DDCFHDC Contract Data File 2020.

3.5.3 Areas Adjacent to the Highway

In addition to the above, and for the purpose of clarity, within both FHDC and DDC there are areas of pathways and open space which are adjacent to the Highway that the Contractor is required to cleanse as noted in 3.5.1.

(a) DDC: Footpaths/Alleys and Bridleways are shown in a separate table

(b) FHDC: are included within the Highway Data detailed within the Contract File: DDCFHDC Contract Data 2020 Road Lengths and Zoning Tab Streets P2A, P2B, P3-4.

(c) These areas are to be cleansed in accordance with the standards applicable to the adjacent Highway. Where two differing highway standards abutt a single green area the contractor is required to cleanse to the higher of the two standards. The Contractor should note that whilst this detailed information is not available for DDC the Contractor is required to undertake the cleansing of grass verges, tree and shrub planters, flower beds, pathways and footpaths, laybys, parking areas, forecourts; precinct areas, underpasses, housing estates and other public open spaces within its Overarching Cleansing and Highway Cleansing responsibilities.

3.5.4 The Contractor is required to Cleanse the drainage channels to roundabouts, central reservations, traffic islands and the approaches to traffic islands to the levels and standards of cleanliness required for the highest relevant zone.

3.5.5 Consideration should be given to the provision and setting out of signage to facilitate cleansing in accordance with best practice, Waste Industry Safety and Health (WISH) guidance, etc.

3.5.6 Some streets in the Administrative Areas are regularly parked with cars which can cause difficulties in thoroughly cleansing the edges of the carriageways. The Contractor will, however, be expected to thoroughly cleanse such streets by:

(a) using any special equipment necessary;

(b) arranging temporary suspension of parking; and

(c) working with the Supervising Officer and Highways Agency to ensure street cleansing standards are met.

3.5.7 The Contractor is required to undertake cleansing operations on the A20 but is not required to undertake cleansing of the M20 Motorway from the junction east of the Round Hill tunnels or the lengths of Highway identified within the Highways tab of the DDCFHDC Contract Data File 2020.

3.5.8 High-Speed Roads, laybys and Litter bins

(a) The Contractor is required to undertake cleansing services as part of this Contract on high-speed roads and shall be responsible for ensuring traffic management regulations have been complied with and appropriate precautions have been implemented to protect staff and the public.

(b) All staff engaged on High Speed Road cleansing must have been suitably trained and qualified. Method Statements and Risk Assessments must have been undertaken in advance of all high-speed road activities to ensure tailored precautions are implemented for the area of activity.

(c) All High-Speed Roads will be cleansed at least twice annually once between 15 March and 15 April and once between 15 September and 15 October or as agreed with the Supervising Officer. Additional cleansing may be required and will be undertaken in accordance with Bill of Quantity rates.

(d) The Contractor should provide a High-Speed Road Cleansing programme as part of the Annual Service Review detailing when the designated roads are programmed for cleaning.

(e) All High-Speed Road Laybys including the slip in and out will however be treated in accordance with Zone 2b response times as set out below:

(i) Grade B - Restored to Grade A within 3 days.

(ii) Grade C - Restored to Grade A next day.

(iii) Grade D - Restored to Grade A within 6 hours

(f) All High-Speed Road Litter bins will be serviced in accordance with the standards detailed at 3.10 in respect of all Litter Bins.

3.6 Car Parks

3.6.1 The Contractor shall include in his annual sums for the following work:

(a) the cleansing of car parks summarised in the table at 3.5.2 and 3.5.3 and detailed on the accompanying specification data in accordance with the standards set out at 3.3;

(b) keeping hard surfaces in Car Parks free from weeds, grass, moss and other growths at all times;

(c) the removal of all collected material to an authorised disposal site.

3.6.2 The table below details the extent of the DDC and FHDC Administrative Area Car Park areas included within the contractors cleansing responsibilities and the relevant zoning designation:

Car Parks					
Area	Zone				Total
	Z	2a	2b	3	
DDC Car Parks	**1912.70**	**46,224**	**108,589**	**9,975**	**166,700**
FHDC Car Parks			**75,750**		**75,750**

Note: Tables details area in metres squared.

Note: Detailed lists of the Car Parks in the DDC and FHDC Areas, including the zone designation and area are included on the file ref: DDCFHDC Contract Data File 2020

3.7 Beaches

3.7.1 The Contractor is required to undertake the Cleansing of all beaches identified in 3.7.2 in accordance with the specified designation and accompanying standards.

3.7.2 Designation of Beaches - The following beaches are designated Amenity Beaches for the purpose of the Environmental Protection Act 1990 and are to be cleansed in accordance with the standards set out below.

DDC Amenity Beaches and Foreshore:

DDC Amenity Beaches		
Area	Area	Zone
Deal and Walmer Amenity Beach (Sandown Castle to Walmer Castle)	210,300	5
Kingsdown Amenity Beach (Walmer Castle to Oldestairs Road)	149,600	5
St Margarets Bay Amenity Beach (Between the two headlands)	6,810	5
Dover Beach – Edge of Jubilee Way From Eastern Docks to first toilet block	750	5
Total	**367,460**	**5**

Note: Tables details area in metres squared.

DDC Non Amenity Beaches:

DDC Non - Amenity Beaches		
Area	Area	Zone
There are no Non Amenity Beaches in DDC that fall within the contract for cleansing.		

FHDC Amenity Beaches:

Type	FHDC Amenity Beaches	Area
Amenity	Sunny Sands, Folkestone	Nominal
Amenity	Sandgate Castle to Seaview Bridge, Sandgate	70,800
Amenity	Twiss Road to St Leonards Road, Hythe	36,461
Amenity	Sycamore Gardens to Martello Car Park, Dymchurch	8,427
Amenity	The Fairway to River Fallout, St Marys Bay	18,062
Amenity	Madeira Road water tower to Clark Road, New Romney	29,713
Amenity	Jolly Fisherman to Seaview Road, Greatstone-on-Sea	20,613
Total		**184,076**

Note: Tables details area in metres squared.

FHDC Non Amenity Beaches:

Type	FHDC Non Amenity Beaches	Area
Non Amenity	West Cliff Bridge to Sandgate Castle, Sandgate	72,771
Non Amenity	Seaview Bridge to Twiss Road, Hythe	44,515
Non Amenity	Drop Redoubt to Sycamore Gardens, Dymchurch	57,030
Non Amenity	Martello Car Park to The Fairway, St Marys Bay	13,188
Non Amenity	River Fallout to Madeira Road water tower, New Romney	54,851
Non Amenity	Clark Road to Jolly Fisherman, Greatstone-on-Sea	41,373
Non Amenity	Seaview Road to Battery Road, Lydd-on-Sea	188,290
Total		**472,018**

Note: Detailed lists of the Amenity Beaches in the DDC and FHDC Administrative Areas, including the zone designation area are included on the file ref: DDCFHDC Contract Data File 2020

3.7.3 The cleanliness standard and response time throughout the year for all the above **Amenity** beaches, which will be treated as **Zone 5a,** are as follows:

Grade B - Restored to Grade A within 3 days.

Grade C - Restored to Grade A next day.

Grade D - Restored to Grade A within 6 hours

3.7.4 The cleanliness standard and response time for **Other** beaches which will be treated as **Zone 5b,** are as follows:

(a) From Good Friday to 30 September:

Grade B - Restored to Grade A within 14 days.

Grade C - Restored to Grade A within 7 days.

Grade D - Restored to Grade A within 3 days.

(b) From 1 October up to but not including Good Fridays:

Grade B - Restored to Grade A within 60 days.

Grade C - Restored to Grade A within 30 days.

Grade D - Restored to Grade A within 14 days.

3.7.5 The Contractor is required to:

(a) undertake by mechanical or other means the Cleansing of beaches listed above to remove litter, debris, detritus, animal carcasses, animal/human fouling and other deposits;

(b) remove small quantities of oil, hazardous substances or any other pollution from amenity beaches and foreshores by whatever method approved by the Supervising Officer;

(c) remove all collected material to the designated disposal site.

3.7.6 For the purpose of clarity foreshore areas, **other than East Cliff (FHDC amenity beach),** are those areas on and between mean highwater mark and the cliff face and include the beach, sea walls or promenades and all access-ways and steps to the cliff top, or nearest public footpath or highway.

3.7.7 Where the mean highwater mark is the face of the cliff, sea wall or promenade, then the contractor, where it is safe to do so, is required to remove litter from the base of the cliff, seawall or promenade.

3.7.8 The definition of foreshore for East Cliff/Sunny Sands (**FHDC amenity beach**) shall include the area from the sea wall to the mean low water mark. The contractor is required to remove litter from beach, seawall, and promenade and where practicable to schedule beach cleansing to take advantage of the low tide.

3.7.9 The removal of seaweed does not form part of the Service but the Contractor is required to remove all litter and manmade items from seaweed deposits at high water mark.

3.7.10 The Contractor is required to as a minimum to remove all litter, refuse and other debris from Amenity beaches along the high tide line daily at a suitable time during a falling tide between Good Friday and 30 September. This applies to items or materials originating from discharges directly to the Marine Environment as well as items discarded by beach users.

3.8 Parks, Cemeteries and Open Spaces

3.8.1 The Contractor is required to:

(a) cleanse all areas (as summarised in table 3.8.2 and 3.8.3 and accompanying detailed listings) in accordance with the standards at 3.3.

(b) remove all collected material to the designated disposal site.

3.8.2 The table below details the extent of the park areas and open space within DDC Administrative Area included within the Contractors Cleansing responsibilities and the zoning designation.

DDC Parks and Openspaces						
Area	Zone					Total
	Z	2a	2b	3	4	
Dover	78	46,333	82,549	890		129,850
Sandwich		55,127	15,975			71,102
Rural			166,250		213,341	379,591
Deal & Walmer		187,192	97,528	65,947		350,667
Total	**78**	**288,652**	**362,302**	**66,837**	**213,341**	**931,210**

Note: Tables details area in metres squared.

3.8.3 The table below details the extent of the park areas and open space within the FHDC Administrative Area included within the Contractors Cleansing responsibilities and the zoning designation:

FHDC Parks and Openspace						
Area	Zone					Total
	Z	2A	2B	3	4	
FHDC		194,753	489,383	135,933		820,068

Note: Tables details area in metres squared.

Note: Detailed list of the Parks and Openspaces in the DDC and FHDC Administrative Areas, including the zone designation and areas are included on the file ref: DDC FHDC Contract Data File 2019

3.8.4 The Contractor should note that other Contractors are employed by the Partner Authorities in the above areas and these Contractors will be carrying out litter picking prior to certain operations such as grass cutting or work on shrub or rose beds.

3.8.5 Parks, cemeteries and open spaces included within this Agreement include all amenity grass areas, horticultural features, walkways, shelters, open sports area etc. with the exception of the following parks which are to be cleansed by others:

DDC:

(a) Connaught Park

(b) Russell Gardens/Bushy Ruff

(c) Kearnsey Abbey

FHDC:

(a) East Cliff (top area)

(b) Coastal Park

(c) Kingsnorth Gardens

(d) Radnor Park Upper and Lower

(e) Morehall Recreation Ground

(f) Canterbury Road Recreation Ground

(g) Cheriton Recreation

(h) Christchurch Tower

(i) Civic Centre

(j) The Bayle Pond

(k) Payers Park

(l) Sections of Royal Military Canal

(m) Spring Lane Cemetery

(n) Cheriton Road Cemetery

(o) St Martins Cemetery

(p) Hawkinge Cemetery

(q) Lydd Cemetery

(r) New Romney Cemetery

(s) Brenzett Cemetery

3.8.6 The Contractor is however still required to provide for the emptying of litter bins, collection and transfer of the litter arisings from the above identified parks/areas to the designated disposal facility. The Contractor is required to undertake collections sufficiently frequently as to prevent the storage facility/area from overflowing.

3.8.7 Cleansing operations to include for the removal of litter, debris, detritus, animal carcasses, animal/ human fouling, accident debris, sharps, oil and other deposits but excluding any floral tributes placed on graves.

3.8.8 The Contractor is required to undertake the occasional cleansing of The Leas Cliff banking and similar hard to access areas and a separate rate is to be included within the Bill of Quantities for such areas with special cleansing requirements.

3.8.9 The Contractor is also required to pick up and transfer to the designated disposal facility, waste collected by residents and voluntary groups who have undertaken an area clean up. Approximately fifty (50) requests are received annually at each district and the Contractor will be notified by the Supervising Officer of the collection arrangements.

3.8.10 The contractor is required to support neighbourhood ambassadors / caretakers / community groups who routinely work in the public realm to improve environmental conditions (or something similar).

3.9 Watercourses

3.9.1 The Contractor is required to undertake the Cleansing of the following areas and the removal of all collected material to the designated disposal facility:

(a) areas of the **River Dour** to be included;

(b) the pond by Buckland Mill (left hand side of the bridge);

(c) Buckland Bridge area (by car park, right hand side of bridge);

(d) either side of Lorne Road,;

(e) whole length of the Barton Path;

(f) whole length from where Park Place joins Ladywell to Castle Street;

(g) Dolphin House to Bench Street Grills;

(h) areas of the River Stour in Sandwich which falls within the Partner Authority's parks and open spaces, eg The Butts, Delf Stream and the Ropewalk;

(i) The Royal Military Canal, Hythe Town centre between Twiss Road Bridge and Scanlon's Bridge, is to be fully cleansed as per specification. The remaining length of the Royal Military Canal requires litter bin emptying accessed via bridges or car parks.

3.9.2 All areas are to be treated as Zone 2b and are to be maintained to the standards of cleanliness and times for restoring to a clean condition be as set out below:

(a) Grade A: no litter or refuse.

(b) Grade B: predominantly free of litter except for light littering of small items.

(c) Grade C: accumulations of litter or larger items, eg supermarket trolleys, car wheels, etc.

(d) Grade D: significant accumulations of litter, bags of refuse and any debris on the screens at entrances to culverts, etc.

3.9.3 These areas are to be restored to Grade A standard within the following times:

(a) Grade B: should be restored to Grade A within 3 days.

(b) Grade C: should be restored to Grade A next day.

(c) Grade D: should be restored to Grade A within 6 hours.

3.9.4 In addition to cleansing the areas surrounding the above whilst the Contractors staff are not expected to enter the watercourses they are required to use nets and long handled pickers to remove litter and waste from the water's edge where it is safe for them to do so.

3.10 Dog and Litter Bins

3.10.1 The numbers of **dog and litter bins** and their zoning in DDC is detailed in the table below:

DDC Litter and Dog Bin Summary			
Zoning	**Litter**	**Dog**	**Total**
Zone Z	68	0	68
Zone 2A	201	13	214
Zone 2B	365	122	487
Zone 3	135	37	172
Zone 4	8	0	8
Total	**777**	**172**	**949**

Note: Detailed lists of the litter bin locations in DDC and FHDC Administrative Areas along with their zone designation is included on file ref: DDC FHDC Contract Data File 2019.

The numbers of **dog and litter bins** and their zoning in FHDC is detailed in the following table:

FHDC Litter and Dog Bin Summary	
Zone Z	46
Zone 2A	338
Zone 2B	364
Zone 3	61
Total	**809**

Note: Detailed lists of the litter bin locations in DDC and FHDC Administrative Areas along with their zone designation is included on file ref: DDC FHDC Contract Data File 2019

Litter Bins

3.10.2 The Contractor is required to empty each bin, remove any litter surrounding the bin after the bin has been emptied and transfer all waste to the designated disposal facility in accordance with the Environmental Protection Act 1990. The contractor is required to update CSMS data at the time of emptying identifying the bin, its location and any comments including requirements for repair/maintenance. The following standard descriptions will be applied to define the appropriate response times:

(a) Category A - Empty litt.er bin.

(b) Category B - Any litter

(c) Category C - ½ full.

(d) Category D - ¾ or more full.

3.10.3 The Contractor is required to restore these bins to grade A in the following times:

(a) If a bin reaches Grade D it must be returned to Grade A within 1 hour.

(b) If a bin reaches Grade C it must be returned to Grade A within 6 Hours.

(c) If a bin reaches Grade B it must be returned to Grade A within 7 days.

These standards apply to all bins for within the DDC and FHDC Administrative Areas as detailed within the supporting DDC FHDC Contract Data File.

3.10.4 The Contractor is required to ensure that litter bins are serviced sufficiently frequently to prevent them ever becoming full and overflowing.

3.10.5 The Contractor is required to supply and install disposable liners to each bin on emptying.

3.10.6 The Contractor is required to wash and disinfect all bins twice a year, once during the period 1 March to 30 April and once again during period 1 September to 30 October. The Contractor is required to provide a cleaning schedule in advance of each periodic wash identifying the date each bin is to be washed and a daily summary, preferably via the Contractors CSMS, during the cleaning period confirming which bins have been cleaned that day.

Dog Faeces Bins

3.10.7 The Contractor is required to:

(a) Empty each bin and dispose of all contents to the designated transfer facility.

(b) Empty each bin as frequently as necessary to prevent the bin from becoming full but as a minimum of three (3) times per week.

(c) Supply and install disposable liners to each bin on each visit.

(d) Wash and disinfect the inside and outside of each bin quarterly and as necessary in intervening periods to ensure the bins are in a safe and clean condition for public use. The disinfectant to be supplied and used by the contractor should be of a type that will not harm any surrounding grass areas or other vegetation.

(e) Update CSMS data at the time of emptying and cleansing, identifying the bin, its location and any comments including requirements for repair/maintenance.

Litter and Dog Bins

3.10.8 The Contractor should note that some litter and dog bins are contained in lockable containers. The keys to the containers will be handed to Contractor on commencement of the service by the Supervising Officer. The Contractor shall include in his price for litter and dog bins the unlocking and locking of containers on each visit and the servicing of the lock, hinges and other moving parts to the container.

3.10.9 FHDC and DDC may decide to install additional litter and dog bins at any location and the Contractor will be required to carry out the above operations to these additional bins. Payment for work in relation to additional or reduced bins will be at the rate stated in the Bill of Quantities.

3.10.10 The Contractor is required to notify the Council of all damaged or defective litter and dog bins via the Contractors CSMS daily and submit to the Supervising Officer a summary report once per month of outstanding damaged or defective bins throughout the Contract Period.

3.11 Compactor Litter Bins

3.11.1 The Councils have compactor litter bins at the following locations:

(a) DDC

	DDC Big Belly Compactor Locations

1	Beach Street Deal opposite King Street
2	Beach Street Deal opposite 61
3	Beach Street Deal opposite 49
4	Beach Street Deal opposite 2
5	The Strand Walmer by the Bus Stop opposite 49
6	The Strand Walmer (grassed area) opposite 38 by PROW ED26
7	On the Quay opposite Bell Lane, Sandwich
8	On the Quay adjacent toilets, Sandwich
9	On the Quay grassed area near children playground, Sandwich

(b) FHDC

There are currently no Big Belly Bins within FHDC but this is being reviewed and the contractor is required to include within the Bill of quantities for the supply and delivery to location additional big belly bins.

3.11.2 The Contractor is required to ensure that Compactor Bins are emptied sufficiently to prevent them becoming full or when notified by the bins telemetry systems. The contractor is required to provide replacement bin liners at the time of emptying.

3.11.3 With the exception of emptying standards and response time and the provision of bin liners, all other requirements relating to Litter Bins apply equally to Compactor Litter Bins.

3.11.4 Contractors should be aware that emptying frequencies vary hugely over the year. During winter months bins may not need emptying for a month or more. During the summer some bins particularly during the carnival period will need emptying 3 - 4 times a day or more.

3.12 On Street Recycling Litter Bins

3.12.1 The Contractor is required to provide collections from recycling litter bins and transfer the arisings to the designated recycling waste transfer facility. The number of recycling litter bins in each District is detailed below:

	DDC	FHDC	Total
Recycling Litter Bins	6	28	34

Detailed lists of the recycling litter bin locations in FHDC and DDC Administrative Areas are included on file ref: DDC FHDC Contract Data File 2020

3.12.2 These bins provide for the recycling of paper and card in one section and tins/cans in the other. The Contractor is required to:

(a) Take reasonable endeavours to identify waste that is not within the material acceptance criteria for recycling.

(b) Take reasonable endeavours to segregate recyclable waste from contaminated waste.

(c) Transfer recyclable waste to the appropriate transfer point.

(d) Transfer contaminants to the designated disposal facility.

(e) Provide a monthly report of Contamination levels and tonnage collected

3.12.3 The Contractor is required to ensure these bins are emptied in accordance with the standards and response time for litter bins as detailed at 3.11.1 and 3.11.2.

3.12.4 All requirements relating to Litter Bins apply equally to Litter Recycling Bins. The provision of additional recycling bins will be at the rate stated in the Bill of Quantities.

3.13 Bus, Park and Seafront Shelters

3.13.1 The Contractor is required to:

(a) Cleanse around all shelters including those owned by agencies such as Adshel and Addspace 2000 within FHDC and DDC Administrative Areas;

(b) Cleanse the glazing of all shelters owned by DDC and FHDC authorities on a monthly cycle FHDC and DDC Administrative Areas;

(c) Cleanse the inside of all DDC and FHDC owned shelters monthly within FHDC and DDC Administrative Areas;

(d) Update the CSMS when shelter cleansing has been completed.

Note 1: For the purpose of Cleansing the standards required will be those that apply to the particular zone in which the shelter is located.

Note 2: The removal of graffiti and fly posting from all DDC and FHDC owned shelters is allowed for elsewhere in the Agreement.

3.13.2 The table below provide a summary of the council owned shelters in DDC:

DDC Shelter Summary	
Sea Front Shelters	5
DDC Glazed Bus Shelters	33
DDC Non Glazed Bus Shelters	49
Parks Shelters	
Total	**87**

3.13.3 The table below provides a summary of the Council owned shelters in FHDC:

FHDC Shelter Summary	
Sea Front Shelters	
DDC Glazed Bus Shelters	41
DDC Non Glazed Bus Shelters	
Parks Shelters	7
Total	**48**

Detailed lists of the Shelter locations in FHDC and DDC Administrative Areas are included on file ref: DDC FHDC Contract Data File 2019

3.14 Gullies

3.14.1 The Contractor is required to ensure that all gulley gratings on Public Highways and car parks are not blocked with refuse, fallen leaves, weeds and blossoms, or any other matter as part of his normal cleansing duties.

3.14.2 The Cleaning, flushing out etc. of gullies on a public highway is not included as part of this Contract. When Gullies are found to be blocked even after the grating has

been cleared, or in need of repair, the Contractor should report the issue using the CSMS identifying the location of the gully and details of problem identified.

3.15 Leaf and Blossom Fall

3.15.1 The Contractor is required to undertake the collection and disposal of leaf and blossom fall within the DDC and FHDC Administrative Areas.

3.15.2 The contractor should submit an Annual Leafing and Blossom Fall Plan by 31 March each year with the first one being required on 31 March 2021. The plan should detail what resources are being deployed to respond to Leaf and Blossom Fall and must address issues across the Administrative Areas but must in particular address the High Priority Roads detailed in the DDC FHDC Contract Data File.

3.15.3 Fallen leaves and blossom shall be classified as litter as follows:

(a) Leaf Fall Priority Roads, Zones Z and 2a

Fallen leaves and blossom shall be treated as litter for the purposes of assessing the grade of littering of all areas categorised as Zone Z or Zone 2a or on the Leaf Fall Priority List included on Contract data file ref: DDC FHDC Contract Data File 2019. This is to include both highways and open spaces with the exception of amenity grassed areas.

(b) All other Zones

In all Zones except Z and 2a and excluding Leaf Fall Priority Roads, fallen leaves and blossom shall be excluded for the purposes of assessing the grade of littering but cleared from all paved surfaces within seven (7) days of a service request.

3.16 Dead Animals

3.16.1 The Contractor is required within Contract sums to undertake the collection of dead animals from the Public Highway, Car parks, areas of openspace and beaches. In 2019 the number of dead animals reported was as follows:

Dead Animal Reports by Zone in 2019	DDC	FHDC	Total
Zone Z	2	3	5
2A	8	10	18
2B	65	114	179
3	20	43	63
Private/Special Circumstances	4	12	16
Total	**99**	**182**	**281**

3.16.2 The types of dead animals typically collected from roads are: dogs, cats, foxes, badgers and the occasional sheep. With regards marine life in total for the two district there are circa eight (8) marine animal deaths per annum typically porpoises up to 1.5m. The contractor is not responsible for any treatment and disposal costs.

3.16.3 Domestic animals should be returned to the depot and scanned by the Contractor for owner details. (Scanner to be supplied and maintained by the Contractor). If owner details are found then the animal should be stored in a freezer whilst attempts are made to contact the owner.

3.16.4 The Contractor is required to store all dead animals collected in a freezer until taken by the contractor for clinical waste disposal to the designated clinical waste treatment site. The Contractor is responsible for completing all appropriate permit requirements and waste transfer documentation in respect of dead animals but is not responsible for the cost of disposal.

3.16.5 The above does not apply to large dead marine animals found on the beach or dead farm animals found on the Highway and associated cleansing areas. These will be dealt with under Bill of Quantity hour/day rates as applicable.

4. OTHER SERVICES

4.1 Illegally Dumped Rubbish (Fly Tipping)

4.1.1 The Contractor is required to remove all illegally dumped rubbish occurring within Zones Z, 2a, and 2b at no additional charge. Removal of Fly tips from these areas must be achieved within 24 hours of notification of the Contractors notification. In 2019 the number of reported fly tips by Zone was as follows:

Fly Tips by Zone in 2019	DDC	FHDC	Total
Zone Z	22	17	39
2A	54	108	162
2B	514	690	1204
3	155	375	530
Private/Special Circumstances	4	23	27
Total	**749**	**1213**	**1962**

4.1.2 The Contractor shall also be required to remove all fly tipped arisings of less than $1m^3$ in volume from all Zones.

4.1.3 The Contractor is required to remove fly tipped arisings, comprising of items in excess of $1m^3$ in volume, outside of zones Z, 2A and 2B in accordance with the schedule of rates set out in the Bill of Quantities. This may require the use of a hi ab vehicle. Removal of Fly tips from these areas must be achieved within three (3) days of the Contractors notification.

4.1.4 With regards the removal of fly tipped hazardous waste or unidentified/ identified chemicals the Council can assist in the identification of unknown chemicals but the contractor will be obliged to remove anything that is not a risk. KCC will provide the disposal outlet.

4.1.5 The Contractor is required to remove fly tips from Private Roads in accordance with the Supervising Officers instructions and Bill of Quantity rates.

4.1.6 The Contractor is responsible for completing all appropriate waste transfer documentation in respect of illegally dumped rubbish but is not responsible for the cost of disposal.

4.2 Street and Pedestrian Area Washing

4.2.1 The Contractor is to provide the following services as and when required in accordance with the schedule of rates contained within the Bill of Quantities:

(a) washing of underpasses including ceilings, walls and steps.

(b) washing of pavement areas.

4.2.2 In providing rates for these services the Contractor is required to:

(a) provide all appropriate signage and barrier provision required to maintain a safe working site for operatives and members of the public.

(b) remove all litter and debris prior to and after cleansing.

(c) provide all appropriate equipment necessary for the task including PPE.

(d) provide water and cleaning agents.

4.2.3 The Contractor must seek approval from the Supervising Officer for the type of Cleansing Agents to be used.

4.2.4 Street Washing shall generally be undertaken within seven (7)days of notification by the Supervising Officer unless the washing is required urgently in which case it shall be removed within twenty four (24) hours of notification by the Supervising Officer.

4.3 Emergency Services

4.3.1 The Contractor shall provide an emergency service, twenty-four hours a day, seven days a week to deal with emergencies resulting from road traffic accidents, accidental spillages, removal of dead animals and any other emergency that may arise. The service must be available to respond to the emergency within thirty (30) minutes of notification by the Supervising Officer.

4.3.2 The Contractor is also required to assist the DDC and FHDC in responding to the aftereffects of incidents such as, but not limited to flooding, storms, accidental spillages and traffic incidents. The Contractor is required to maintain a minimum stock of one hundred (100) filled sandbags that can be deployed in accordance with the Supervising Officer's instruction.

4.3.3 The Contractor is required to remove shingle and debris from streets, promenades and maintenance gangways within standard Street Cleansing Services, however where substantial quantities of shingle are driven onto these areas, bill of quantity rates will be applied at the discretion of the Supervising Officer.

4.3.4 Payment for emergency services provided will be in accordance with the rates set out in the Bill of Quantities. Where staff are prevented from undertaking their normal duties because of emergency conditions and are re-deployed to assist in an emergency (eg street cleansing staff re-deployed to undertake snow clearance) then no additional payment will be due.

4.3.5 Other emergency service situations requiring the assistance of the contractor are detailed below. These are not exhaustive or exclusive merely indicative:

(a) dealing with the aftereffects of snow and ice, ie loose grit disturbed or frost damaged surfacing etc.

(b) additional sweeping after surface dressing of carriageways.

(c) removal of oil, hazardous substances or any other pollution from all beaches and foreshores by whatever method approved by the Supervising Officer.

(d) Where request, removal of mud from development sites.

(e) These will be undertaken within Street Cleansing Services unless in the view of the Supervising Officer they are exceptional occurrences when Bill of Quantities rates will be applied.

4.4 Regular and Special Events

4.4.1 The Contractor is required as part of Street Cleansing Services to Cleanse streets in a timely manner and empty litter bins to avoid them overflowing in areas affected by regular events.

4.4.2 With regards Special Events in DDC any additional litter bin provision or staffing instructed by the Council will be agreed in advance and charged in accordance with Bill of Quantity rates.

4.4.3 With regards Special Events in FHDC contractors are required to respond to Special Events in the same way as they would respond to a sunny weekend and ensure they have the resources in place to maintain cleansing standards across the contract area, but particularly on access and egress routes and high-profile tourist areas before, during and after the event.

4.4.4 Contractors should note that the organisers of events are generally responsible for the cleansing within the immediate area of the event at the time of the event.

4.4.5 Special Events in **FHDC** include the following:

FHDC	When	Requirements
Sandgate Sea Festival	Late August BH W/E	High footfall mainly litter bins emptying and sweeping
Radnor Park, Boot fairs and Circus	All through Summer	High footfall mainly litter bins emptying and sweeping around the event
Ventian Fete	Mid August - One Tuesday Evening	High footfall mainly litter bins emptying and sweeping around the event
Air Show (East Cliff & The Leas)	Not every Summer	High footfall mainly litter bins emptying and sweeping at the event, extra bins installed

4.5 Graffiti Removal

4.5.1 The Contractor is required to remove all graffiti in Zone Z areas, in the course of daily cleansing service. This is to be included within the Contractors general cleansing rates and no additional payment will be made by the Councils.

4.5.2 Outside of Zone Z tags and small graffiti will be removed in the course of the daily cleansing service at no additional cost. However, notification should be made via CSMS of how many tags are cleared during the daily cleanse (or similar) and photographic evidence provided.

4.5.3 Outside of Zone Z areas graffiti shall be removed from the exterior of all public buildings, bus shelters other than Adshelters and Adspace 2000shelters in open areas such as parks, promenades, seats, street furniture, foreshores etc., street name plates and direction and information signs in any open area, walls and fences in any open area, the exterior of public conveniences, the interior and exterior of multi-storey car parks and generally any surface not part of a private residence or

business. Payment for this work will be made at an hourly rate, as contained within the Bill of Quantities.

4.5.4 Graffiti shall generally be removed within twenty four (24) hours of notification by the Supervising Officer unless the graffiti is considered offensive in which case it shall be removed within four (4) hours of notification by the Supervising Officer. Completed tasks should be recorded in real time via the CSMS.

4.5.5 The number of Graffiti reports in 2019 by Zone was as follows:

Graffiti Reports by Zone in 2019	DDC	FHDC	Total
Zone Z	2	5	7
2A	5	18	23
2B	49	86	135
3	8	2	10
Private/Special Circumstances	0	3	3
Total	**64**	**114**	**178**

Note: the number of reports of graffiti in Zone Z areas does not necessarily the actual numbers as these are routinely removed as part of the service.

4.6 Fly posting

4.6.1 The Contractor is required to remove all unauthorised advertisements (fly posters) in Zone Z areas in the course of the daily cleansing service. This is included within the Contractors general cleansing rates and no additional payment will be made by the Councils.

4.6.2 Outside of Zone Z areas fly posting will be removed as instructed by the Supervising Officer. Payment for this work will be made at an hourly rate, as contained within the Bill of Quantities.

Notification of what is removed should be made via the CSMS to the supervising officer providing photographic evidence.

4.6.3 The number of flyposting incidents reported in 2019 was as follows:

Flyposting Reports by Zone in 2019	DDC	FHDC	Total
2A	1	2	3
2B	2	6	8
3	1	10	11
Private/Special Circumstances		2	2
Total	**4**	**20**	**24**

Note: there is no record kept of flyposting reports in Zone Z as these are routinely removed.

4.7 Weeds and Grass

The Contractor is required to remove weeds and unwanted grass from all hard surfaces within Public Highways and car parks through the usual method of regular cleansing.

Appendix 1 – Supporting Data

PLEASE SEE SUPPORTING Excel File Re: DDC FHDC Contract Data 2020

Appendix 2 - Container Specifications

1. RESIDUAL WASTE RECEPTACLES

1.1 Standard Container

The standard container to be supplied is a 180 litre wheeled bin, manufactured to BS EN 840 standards, green with green lid in FHDC and grey with grey lid in DDC. Bins to display the logo of either DDC or FHDC and associated text as agreed by the Supervising Officer hot stamped onto the front of the bin.

1.2 Exempt Property Receptacles

The contractor shall supply purple refuse sacks to the following specification:

Dimensions – 455mm x 735mm x 990mm

Gauge – m3

Supplied in rolls – 13 sacks per roll

1.3 Standard Container Exemptions

Where for the reasons set out in Paragraph 2.2.3 of the Output Specification an alternative container is to be provided, wheeled bins of either 240 litre, 360 litre, 660 litre or 1100 litre capacity will be provided, manufactured to BS EN 840 standards, green with green lid in FHDC or grey with grey lid in DDC. Bins to display the logo of either DDC or FHDC and associated text as agreed by the Supervising Officer embossed or hot stamped onto the front of the bin.

2. RECYCLING COLLECTION RECEPTACLES

2.1 Dry Recyclables

The standard container for the collection of glass/cans/plastic/cartons to be supplied in a 240 litre wheeled bin manufactured to BS EN 840 standards, green with a blue lid and to include the logo of either DDC or FHDC hot stamped on the front of the bin and appropriate graphics stating 'Recyclable Materials Only' to be agreed with the Supervising Officer.

The standard container to be supplied for the collection of paper and card is a kerbside box, 55 litres, black to include the logo of either DDC or FHDC and specific text regarding the recycling service to be agreed with the Supervising Officer.

3. FOOD WASTE RECEPTACLES

3.1 Kerbside Caddy

The preferred container for the collection of food waste at the kerbside is the 23 litre container manufactured by Straight plc or similar, to be agreed with the Supervising Officer, green with green lid and to include the logo of either DDC or FHDC and appropriate graphics stating 'Food Waste Only'.

3.2 Kitchen Caddy

The preferred container for the collection of food waste within the property is the 5 litre kitchen caddy manufactured by Straight plc or similar to be agreed with the Supervising Officer, brown with brown lid and to include the logo of either DDC or FHDC and appropriate graphics staging 'Food Waste Only'.

4. GREEN WASTE COLLECTIONS

4.1 FHDC

The standard container for the subscription service involving the collection of garden waste to be supplied is a 180 litre wheeled bin manufactured to BS EN 840 standards, green with a brown lid and to include the logo of FHDC hot stamped on the front of the bin and appropriate graphics stating 'Garden Waste Only' to be agreed with the Supervising Office.

As an alternative, where wheeled bins are unsuitable, reusable sacks will be supplied for sale to residents. These sacks will provide 90l capacity, be made of ultra-violet protected material, be long lasting, weighted and self-standing to prevent them being blown away, be two colour printed with user information incorporated within the design.

4.2 DDC

Green waste within the DDC area shall be contained in customer supplied containers. However, one free 90l litre sack shall be provided to each resident added to the scheme. Specification as FHDC Green waste bag above.

SCHEDULE 2 - SERVICE DELIVERY PLAN

[redacted]

SCHEDULE 3 - PAYMENT MECHANISM

1. CONTRACT SUM AND MONTHLY CHARGE

1.1 The Contract Sum shall be the annual payment for the Services due and payable to the Contactor and shall be derived from the calculation set out at Annex A to this Schedule 3, based on the Bills of Quantities applicable in each Contract Year. The Contract Sum in each Contract Year shall be the total of the twelve (12) Monthly Charges paid in each such year.

1.2 The Monthly Charge due and payable to the Contractor in respect of each Contract Month shall be calculated as follows:

[redacted]

where:

[redacted]

where:

[redacted]

[redacted]

1.3 The Bill of Quantities prices shall be fully inclusive of all costs for labour, plant and materials, including all overheads, maintenance, insurance, taxation, running and fuel costs, etc), supervisory and administrative costs and Contractor's profit.

2. PAYMENTS

2.1 The Contractor shall be paid in accordance with the rates and prices contained in the Bills of Quantities and the provisions of this Schedule 3. So far as practicable, any variation from the Bills of Quantities in quantities or type of work, provided it is of a similar nature and executed under similar conditions, shall be valued at such rates and prices in the Bills of Quantities as may be applicable. The rates and prices in the Bills of Quantities shall be used as a basis for valuation so far as may be reasonable for any other variations in the work including household growth and such variations shall be effected in accordance with Paragraph 4.5 and Paragraph 9 of this Schedule. Where pricing set out in the Bill of Quantities is not relevant to such variations, the variation shall be treated as a Relevant Event under Paragraph 3.2 below and costed in accordance with the terms of that Paragraph.

2.2 Within ten (10) Business Days after the end of each Contract Month, the Contractor shall submit to the Supervising Officer a Monthly Report in respect of the Services provided during such Contract Month in accordance with the terms of Clause 18 of the Contract. The Contractor shall be responsible for obtaining, retaining, ensuring the accuracy of, and recording all weighbridge information and other documentary evidence required to support claims for payment. The Lead Authority will seek to implement a BACS payment process to the Contractor for payment of the Monthly Charge.

2.3 The Monthly Report referred to in Paragraph 2.2 above shall be submitted in an electronic and hard copy format to be approved by the Supervising Officer.

2.4 Within thirty (30) days after the receipt of the Monthly Report referred to in Paragraph 2.2, the Council shall pay the Monthly Charge having particular regard to any Additional Services and Dayworks charges or Deductions required or authorised by the Contract.

2.5 The Lead Authority shall pay to the Contractor such Value Added Tax as may be properly chargeable by the Contractor in respect of each invoice detailing the Monthly Charge in connection with the provision of the Services provided the Contractor shall have first issued a VAT invoice in respect thereof.

3. INDEXATION AND RELEVANT EVENTS

3.1 Indexation

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]	
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

3.1.5 Changes to Indices affecting any Indexation Factor

(a) If there is a material change in the nature or basis of [redacted] or if an index is discontinued, the Parties shall seek to agree upon an alternative to the affected index which as closely replicates that index as is possible, and such consequential changes shall be made to the calculations provided for in this Paragraph as are necessary to ensure that all payments to be made pursuant to this Contract shall be the same as if such change had not occurred. Any dispute regarding changes to an index and/or calculations may be referred by either Party to the Dispute Resolution Procedure set out in Clause 53 of the Contract.

(b) If any error or mistake shall occur in the publication for the figures for [redacted]) which have been used at any time in any calculation pursuant to this Schedule which is subsequently duly acknowledged and corrected by the entity responsible for publishing that index, the calculations in which the incorrect figures were used for the adjustments of any part of the Monthly Charge shall be recalculated using the correct figures and the relevant provisions of Paragraph 3.2.3 shall apply. Any dispute regarding the recalculations pursuant to this Paragraph may be referred at the request by either Party to the Disputes Resolution Procedure. Any overpayment or underpayment by either Party to the other which has occurred as a result of the incorrect figures shall be paid or repaid by the Party to the other within [redacted] Days of the recalculation being agreed or determined (as the case may be).

3.2 Relevant Events

3.2.1 Where the Parties agree that the financial consequences of any Relevant Event or the payment of or release from any sum are best dealt with without a revision to any or all of the Bills of Quantities, they shall agree to make such revision to the Monthly Charge as necessary on a one-off or recurrent basis.

3.2.2 Except for revisions due to a Contractor Change which results in costs savings, the Monthly Charge shall be revised so as to ensure that the Contractor is in no better and no worse position (as defined by Paragraph 3.2.4) than it was prior to the revision date and the event which gave rise to the need for the revision.

3.2.3 The Contractor shall take all reasonable and appropriate steps to mitigate the effects of any revision including, in particular but without limitation, mitigating any adverse impact upon the Councils.

3.2.4 Any reference in this Contract to “no better and no worse” and to leaving the Contractor being in a “no better and no worse position”, shall be construed as to ensure that the ability of the Contractor to comply with this Contract is not adversely affected or improved as a consequence of the Relevant Event.

3.2.5 In adjusting the Monthly Charge any changes to the individual components of the Monthly Charge being the individual elements within the Bills of Quantities (including the Additional Services and Dayworks rates) and the agreed levels for Performance Deductions which make up the calculation of the Monthly Charge should reflect the same drivers and methodology used to determine those components at the time of entering into this Contract, taking into account the way in which those drivers and methodology has been reflected in the Bills of Quantities and the Contractor’s Financial Model.

4. PRELIMINARIES CHARGE AND WASTE COLLECTION FOR RESIDUAL / RECYCLING / FOOD / GARDEN WASTE

4.1 The Preliminaries Charge is quantified in BQ1 of the Bill of Quantities. The Monthly Charge for Preliminaries is calculated as one-twelfth of each "Annual Sum" specified.

4.2 All Waste Collection Services for Residual/Recycling/Food/Garden Waste are quantified within the Bill of Quantities and the associated DDCFHDC Waste Data file.

4.3 The cost of Residual Waste Collection for the Councils is detailed by reference to "Annual Sums" in BQ2 in the Bill of Quantities. The Monthly Charge for Residual Waste Collection is calculated as one-twelfth of each "Annual Sum" specified.

4.4 The cost of Recycling, Food Waste and Garden Waste Collection for the Councils is detailed by reference to "Annual Sums" in BQ3 in the Bill of Quantities. The Monthly Charge for Recycling and Garden Waste Collection is calculated as one-twelfth of each "Annual Sum" specified.

4.5 Where the Supervising Officer revises the number of households/subscription numbers as part of the Annual Review pursuant to Paragraph 9 of this Schedule 3, the relevant "Annual Sums" within the Bill of Quantities will be adjusted up or down pro rata to the change in the baseline quantity. Prior to making any changes to any or all of the Bills of Quantities, the Parties shall agree the date for the change and the basis of the revision to the relevant component of the Monthly Charge.

4.6 Where appropriate the cost of supplying a replacement or new receptacle for either Residual or Recycling Collections will be reimbursed to the Contractor in accordance with Bill of Quantities rates.

4.7 The Supervising Officer will advise the Contractor each Contract Year of the new household numbers requiring Residual/Recycling and Food Waste Collection Services based upon data derived from the Councils' Local Land and Property Gazetteer (**LLPG**) and Council Tax records. The household numbers derived from the Council Tax and LLPG database at the end of the Contract Year will replace the baseline households numbers detailed in the Bill of Quantities for the new Contract Year and the relevant element within the Bill of Quantities shall be revised accordingly.

4.8 The Contractor is required to collect from new households as and when advised by the Council to do so in each Contract Month. The Contractor shall absorb the impact of increased numbers of households during the Contract Year at its own cost.

4.9 The baseline household numbers for the first Contract Year are detailed below:

4.9.1 Residual Waste

Type of Collection	Dover District Council	Folkestone and Hythe District Council	Total
Weekly Sack	326	1.012	1,338
Fortnightly Sack	8,991	2,058	11,049
Bulk Bin	3,272	5,444	8,716
180l Wheeled Bin	41,144	43,274	84,418
Total	53,733	51,788	105,521

4.9.2 Recycling and Food Waste Collections

Type of Collection	Dover District Council	Folkestone and Hythe District Council	Total
Dry Recycling Collections	53,733	51,788	105,521
Food Waste	53,733	51,788	105,521

4.9.3 Assisted Collections

Type of Collection	Dover District Council	Folkestone and Hythe District Council	Total
Assisted Collections	[800]	857	[1657]

4.10 With regard to Garden Waste Collection the change in the number of subscriptions will be drawn from the Councils' Garden Waste customer service information. The baseline Garden Waste Collection numbers for the first Contract Year are detailed below:

Type of Collection	Dover District Council	Folkestone and Hythe District Council	Total
Garden Waste	9,235	15,123	24,358

4.11 The first review of subscription numbers for Garden Waste Collection will be applied from the Services Commencement Date to allow for any increase in subscriptions from the issue of tender documentation to the commencement of the Services to be reflected in the calculation of the Monthly Payment.

4.12 A second review of household numbers/Garden Waste Collection numbers will be undertaken to take effect from 1 April 2022 with subsequent reviews annually thereafter with effect from 1 April in each Contract Year.

[redacted]

5. BULKY AND CLINICAL WASTE COLLECTIONS

These will be calculated monthly based on the number of Bulky and Clinical Waste Collections made by the Contractor in the relevant Contract Month multiplied by the relevant rates for the individual requirements associated with Bulky and Clinical Waste Collections, which are specified in BQ2 in the Bill of Quantities.

6. STREET CLEANSING

6.1 All street cleansing services are quantified within the Bill of Quantities and the associated DDCFHDC Waste Data file.

6.2 Ignoring for the purpose of this Paragraph 6 the pricing of Services charged by the Contractor in response to Fly Tipping, the cost of Street Cleansing Services for Folkestone and Hythe District Council is detailed by reference to both "Annual Sums" and a "Litter Bin per Annum Sums" in BQ4 in the Bill of Quantities. The Monthly Charge for Street Cleansing Services is calculated as one-twelfth of each "Annual Sum" and "Litter Bin per Annum Sum" specified.

6.3 Ignoring for the purpose of this Paragraph 6 the pricing of Services charged by the Contractor in response to Fly Tipping, the cost of Street Cleansing Services for Dover District Council is detailed by reference to both "Annual Sums" and a "Litter Bin per Annum Sums" in BQ5 in the Bill of Quantities. The Monthly Charge for Street Cleansing Services is calculated as one-twelfth of each "Annual Sum" and "Litter Bin per Annum Sum" specified.

6.4 Where the Supervising Officer revises the quantity to be cleansed by the Contractor as part of the Annual Review the Bills of Quantities sum payable will be adjusted pro rata to the change in the baseline quantity. Where applicable, this will include Monthly Payment being adjusted down if the Contractor can demonstrate its service delivery costs will reduce as a result of the reduction in the baseline quantity.

7. ADDITIONAL SERVICES – SMALL SERVICES AND DAYWORKS

7.1 These will be calculated monthly based on the amount of Additional Services provided by the Contractor in the relevant Contract Month.

7.2 Rates for Additional or Small Services are set out in each of BQ4, BQ5 and BQ6 in the Bill of Quantities. Each such Service is described by reference to a "Per Request", "Per Item" or day rate specified within BQ4, BQ5 and BQ6 (as applicable). The value of the relevant item shall be multiplied by the number of times it is requested per month by the Councils to derive the Additional Services Charge.

7.3 Rates for Dayworks are set out in BQ7 in the Bill of Quantities. Each Service (being either specified labour rates, or rates for specific Services such as Graffiti Removal, Fly Poster Removal and Street and Pedestrian Area Washing) is priced on the basis of an hourly rate or day rate. The value of works carried out in the relevant Contract Month shall be calculated by multiplying the relevant hourly or day rate by the number of actual hours or days worked by the Contractor, to derive the Dayworks Services Charge.

8. PERFORMANCE DEDUCTIONS

8.1 The Contractor shall provide monthly reports on the Contractor's performance against each Performance Criteria. If the Contractor fails to meet any of the Performance Criteria then the Council may make Performance Deductions on a monthly basis in accordance with Schedule 4 (Performance Mechanism).

8.2 No Performance Deductions shall be incurred if, and to the extent that, an Excusing Cause causes a failure in the performance of the Services, provided that the Contractor first complies with the obligations set out in Clause 13.3 (Excusing Causes) of this Contract.

8.3 Performance Deductions and Performance Failure Points shall apply from the date after the Service Commencement Date and throughout the Contract Period other than in respect of the Collection Services for the period from 12 April 2021 to 11 May 2021 (during and for which no Performance Deductions or Performance Failure Points shall be applied). In the event that the revised Collection Services schedules are not implemented on 12 April 2021 the one (1) month deduction relief period referred to above shall run from such other date as the revised Services schedules take effect.

8.4 The aggregate of all Performance Deductions calculated in respect of any Contract Year shall not exceed (and shall be capped at) [redacted] of the Contract Sum in any Contract Year.

8.5 Performance Deductions shall be indexed on an annual basis on the same basis as the various elements that make up the Monthly Charge, as set out in Paragraph 3 above.

9. ANNUAL REVIEW

Within [redacted] days of each anniversary of this Contract, the Supervising Officer shall:

9.1 undertake a review of the number of households and subscriptions from which the Contractor collects Waste in each of the Council Collection Areas, and revise the Annual Sums for the following Contract Year due under the Bills of Quantities in accordance with Paragraph 4.5 of this Schedule 3; and

9.2 review the Contractor's performance against the Performance Criteria and if he considers appropriate, amend the Performance Criteria for the following Contract Year, with the agreement of the Contractor. In the absence of agreement between the Supervising Officer and the Contractor the existing Performance Criteria will remain in effect; and

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

(b) [redacted]

[redacted]

ANNEX A

Contract Sum – Breakdown of Contract Sum

Item	Service Area	Description	Bill of Quantities Reference
1	Preliminaries		[redacted]
	Waste Collection Services		[redacted]
2		Residual/Recycling/Food/Garden Waste Collection DDC	
3		Residual/Recycling/Food/Garden Waste Collection SDC	
4		Bulky/Clinical/Bring Bank Collections SDC and DDC	
	Sub Total Collection Services		
	Street Cleansing Services		
5		Street Cleansing Services SDC	[redacted]
6		Street Cleansing Services DDC	[redacted]
	Sub Total Street Cleansing Services		
	Additional Services		
7		Additional/Small Services	[redacted]
8		Dayworks	[redacted]
	Sub- Total Additional Services		
	SUB TOTAL Contract Services		
12	Less Performance Deductions/Adjustments		
13	Contract Sum Payable		

SCHEDULE 4 - PERFORMANCE MECHANISM

Performance Mechanism DDC & FHDC – Final Stage Version March 2020

Part 1 – Performance Framework

1. INTRODUCTION

1.1 The Contractor will be responsible for the monitoring and accurate recording at all times of its own performance of the Services and of compliance with, or default under, the requirements of the Performance Mechanism. The Councils however reserves the right to undertake its own monitoring and will be able to apply the performance criteria, mechanism and associated deductions as appropriate.

1.2 The Contractor is required to submit reports in accordance with the frequencies set out in the Agreement and the Performance Criteria.

1.3 The Performance Criteria details the level of Deductions and Performance Points associated with failures in performing the Services. Except where expressly covered within the Performance Criteria, failure to provide Services in accordance with the Agreement will qualify as a D Performance deduction. If the failure is rectified within one (1) Business Day no performance deduction will be applied. The failure will however result in Performance Points being accrued.

1.4 At the end of each Month the Contractor will be required to report to the Councils the level of Performance Points and Deductions to be applied in the Monthly Report. These and any Performance Failures and Deductions reported by the Councils to the Contractor will be deducted from the Monthly Payment due to the Contractor.

1.5 The level of Performance Points incurred in any Month, together with the cumulative Performance Points incurred in that Contract Year, will also be itemised and agreed in the Monthly Report by the Contractor to the Councils.

1.6 The Performance Criteria will apply in full for the duration of the Contract Period except for the thirty (30) day period following the Services Commencement Date.

1.7 All Refresh Periods (as set out in the Performance Criteria Table) are capped after three (3) Repeats and thereafter a Rectification Plan is required by the Councils in accordance with PC17.

2. RECTIFICATION PLAN

2.1 A Rectification Plan means a plan set out in accordance with a prescribed format (to be drafted by the Councils) on which details of the Performance Failure are described and the actions to be taken by the Contractor and, where appropriate, the Councils, to resolve the Performance Failure and prevent future Performance Failures are detailed and time-lined.

2.2 Rectification Plans must be agreed and signed off by the Supervising Officer and the Contractor. The period of time in which to provide a Rectification plan is to be agreed with the Authorised Officer and in the absence of any agreed timescale it must not be longer than five (5) Business Days from the Performance Failure that gave rise to the Rectification Plan requirement. Failure to carry out a Rectification Plan will result in escalation to the Councils' and Contractor's Management teams for urgent resolution and consideration of Council step-in measures in accordance with Clause 32.1.

3. PERFORMANCE DEDUCTIONS AND PERFORMANCE POINTS

3.1 If the Contractor fails to meet any of the Performance Criteria, the applicable number of Performance Deductions and Performance Points set out in Table 1 below will apply to the Contractor depending on the category of the Performance Failure.

Table 1: Performance Deductions and Performance Points

Performance Failure Category	Performance Deduction	Performance Points
A	[redacted]	[redacted]
B	[redacted]	[redacted]
C	[redacted]	[redacted]
D	[redacted]	[redacted]

3.2 If the Performance Failure is rectified within the specified Rectification Period then no Performance Deduction will be applicable.

3.3 If the Performance Failure has no Rectification Period or is not rectified within the specified Rectification Period then a Performance Deduction and Performance Points will be applied.

3.4 In respect of a Performance Failure which continues beyond the applicable Rectification Period (if any) the Lead Authority may allot further Performance Points and Performance Deductions for that continuing Performance Failure for up to a maximum of three Refresh Periods.

3.5 Bidders should note that all Refresh Periods are limited to three repeated Performance Failures and then a Rectification Plan is required in accordance with PC17.

4. WARNING AND TERMINATION NOTICES

4.1 Any Performance Points allotted will remain valid for a rolling twelve (12) Month period and thresholds for the issue of a Warning or Termination Notice shall be calculated by reference to such twelve (12) Month periods.

4.2 The respective thresholds which trigger issuing a Warning and/or Termination Notice over such periods are detailed below:

	Warning Notice	Termination Notice
Performance Points	[redacted]	[redacted]

4.3 The consequences for the Contractor in terms of potential for Contractor Default following the issue of a Warning Notice or Termination Notice are set out in the Agreement.

Part 2 – Performance Criteria

Ref.	Output Spec. Ref.	Performance Criteria	Reporting Period	Performance Deduction Category	Initial Rectification Period if Applicable	Refresh Period
		General				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
		[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
		[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Ref.	Output Spec. Ref.	Performance Criteria	Reporting Period	Performance Deduction Category	Initial Rectification Period if Applicable	Refresh Period
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
		[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Ref.	Output Spec. Ref.	Performance Criteria	Reporting Period	Performance Deduction Category	Initial Rectification Period if Applicable	Refresh Period
		[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
		[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Ref.	Output Spec. Ref.	Performance Criteria	Reporting Period	Performance Deduction Category	Initial Rectification Period if Applicable	Refresh Period
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
		[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
		[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
		[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Ref.	Output Spec. Ref.	Performance Criteria	Reporting Period	Performance Deduction Category	Initial Rectification Period if Applicable	Refresh Period
		[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Ref.	Output Spec. Ref.	Performance Criteria	Reporting Period	Performance Deduction Category	Initial Rectification Period if Applicable	Refresh Period
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

All Refresh Periods capped after [redacted] Repeats and Rectification Plan required in accordance with PC17.

SCHEDULE 5 - PROPERTY MATTERS

Part 1 - Definitions

For the purposes of this Schedule 5 the following words and expressions shall have the following meanings:

Act	Landlord and Tenant Act 1954 Part II (as amended by the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (2003 SI No 3096)).
Commercial Conditions	the Standard Commercial Property Conditions (Second Edition).
Condition Date	the date of the Schedules of Condition in relation to any Contractor's Lease.
Contracting Out Procedure	in relation to any Contractor's Lease: (a) the Councils having served on the Contractor a notice (for the purposes of this definition the **Notice**) in relation to the tenancy to be created by such Lease in a form complying with the requirements of Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (for the purposes of this definition the **Order**); and (b) the Contractor in relation to the Notice having made a statutory declaration in a form complying with Schedule 2 to the Order.
Encumbrance	any estate interest easement right mortgage charge lease tenancy licence restrictive covenant right of pre-emption option trust arrangement or other matter whatsoever whether legal or equitable affecting the relevant Depot or title.
Leases	the leases of the Depots in the form agreed for each Depot.
Lease Commencement Date	the date on (and including) which the term of the relevant Lease commences as set out in the table contained at Part 3 of this Schedule 5.
Lease Expiry Date	the date on (and including) which the term of the relevant Lease expires as set out in the table contained at Part 3 of this Schedule 5.
Ross Depot	the depot known as Ross Depot, Military Road, Folkestone as more particularly described in row 2 of Part 3 of this Schedule 5.
Schedules of Condition	such photographic Schedules of condition identifying the state and condition of the Depots prior to the Lease Commencement Date and such photographic Schedules of condition shall identify through the use of photographic images only without limitation the state and condition of all access roads, forecourts, footpaths, hard standing areas, landscaped areas, conduits within and serving the Depots, but such photographic Schedules of condition need not identify the state and condition of any Assets, as appended to the Leases.
Standard Contractor's Investigation Matters	(a) matters that are or should have been revealed by the following (on the assumption that the items at (a)(i) to (a)(viii) below have been obtained or undertaken) on or before 15 January 2021:

(i) Official Copies of the Title Numbers;

(ii) Official Copies of all documents and plans referred to in the Official Copies of the Title Numbers referred to in limb (a) of this definition;

(iii) OS Searches at HM Land Registry in respect of each of the title numbers referred to in limb (a) of this definition;

(iv) Local Authority Search (LLC1 and Con29 Part 1) together with optional enquiries 4, 5, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 19, 20 and 21;

(v) Commons Registration search;

(vi) Index Map Search;

(vii) enquiries of the Local Highways Authority to establish the extent of the adopted highways and public footpaths at or near the Depots;

(viii) CROW - public rights of access are searched; and

(b) any matters which, prior to the date of the Lease are within the actual knowledge of the Contractor or a Contractor Party; and

(c) matters revealed or identified by a physical inspection of the Depots.

Title Numbers K850965 (Tower Hamlets Depot); K402794 (Ross Depot).

Tower Hamlets Depot the depot known as Tower Hamlets Depot, Tower Hamlets Road, Dover as more particularly described in row 1 of Part 3 of this Schedule 5.

Part 2 – Agreement for Lease Provisions

1. GRANT OF LEASE

1.1 The Councils will on the relevant Lease Commencement Date for each Depot as set out in the table at Part 3 of this Schedule 5 grant a Lease of each of the Depots to the Contractor commencing on the relevant Lease Commencement Date and the Contractor will accept such lease.

1.2 The Councils and the Contractor have agreed to exclude the provisions of sections 24 to 28 of the Act in relation to the tenancy to be created by each of the Leases to be granted after the date of this Agreement. The Contractor confirms that before the date of this Agreement:

1.2.1 the Councils served on the Contractor notices (**Notices**) dated 6 April 2021 (for Tower Hamlets Depot) and 7 June 2021 (for Ross Depot) in relation to the tenancies to be created by the relevant Leases in a form complying with the requirements of Schedule 1 to The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003;

1.2.2 the Contractor, or a person duly authorised by the Contractor, in relation to the Notices made statutory declarations (**Declarations**) dated 21 April 2021 (for Tower Hamlets Depot) and 9 June 2021 (for Ross Depot) in a form complying with the requirements of Schedule 2 to The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003; and

1.2.3 where the Declarations were made by a person other than the Contractor, that person was duly authorised by the Contractor to make the Declarations on the Contractor's behalf.

1.3 The Commercial Conditions shall apply to the agreement to grant the Leases herein contained save insofar as such conditions are inconsistent with the terms of this Agreement in which event the terms of this Agreement shall prevail.

1.4 The Councils shall use all reasonable endeavours to assist the Contractor in dealing with any requisitions raised by the Land Registry in connection with the Contractor's application to register any of the Leases (including without limitation assisting with the preparation of any revised plans necessary to satisfy Land Registry requirements).

1.5 As soon as reasonably practicable after the date of each of the Leases, the Contractor is to apply to the Land Registry for first registration of title to each of the Leases and apply for a note of the Leases to be entered on the title numbers set out in LR2.1 of the Land Registry Particulars in the relevant Lease. As part of the applications, the Contractor is to use all reasonable endeavours to ensure that Land Registry notes the benefit of the rights granted by the Lease and the burdens of the rights reserved by the Lease on the Councils' title to the relevant Depot.

1.6 If the Land Registry require sight of any part of this Agreement pursuant to the Contractor making the applications to the Land Registry for the registration of the Lease the Contractor will only produce certified copy extracts from the Agreement such as have received the prior approval of the Councils (such approval not to be unreasonably withheld or delayed) and to be issued in the event that the Land Registry will not register the relevant Lease without disclosure of the relevant extract from the Agreement (and will make an application to the Land Registry on form EX1 and EX1a, each signed by the Councils (to be provided by the Councils without delay), to apply for this Agreement to be designated as an Exempt Information Document by the Land Registry).

2. STATE AND CONDITION OF THE DEPOTS

2.1 The relevant Schedule of Condition shall be Annexed to the relevant Lease prior to completion of such Lease such that the relevant Schedule of Condition will constitute the Photographic Schedule of Condition as referred to in the relevant Lease.

2.2 An inventory of Assets will be prepared by the Councils in respect of each Depot and agreed by the Contractor and shall be Annexed to the relevant Lease prior to completion of such Lease.

3. SDLT LIABILITY

3.1 Within thirty (30) days following the grant of each of the relevant Leases for the Depots the Contractor will submit to HM Revenue and Customs a stamp duty land tax return for each of the Leases and shall deal promptly with any requisitions raised by HM Customs and Revenue within the timescales required by HM Customs and Revenue.

3.2 The Contractor shall pay and comply with all requirements in relation to Stamp Duty Land Tax in respect of the grant of each Lease of a Depot within the timescales prescribed by HM Revenue and Customs.

3.3 The Councils will assist the Contractor in responding to any enquiries raised by HM Revenue and Customs in relation to Stamp Duty Land Tax due on the Leases of the Depots.

4. TITLE

4.1 Subject to the provisions of this Paragraph 4 the Contractor shall take the Leases subject to:

4.1.1 all Standard Contractor's Investigation Matters;

4.1.2 all charges and other outgoings which affect or are charged on the Depots including national non domestic rates (save for any which relate purely to the Councils' reversionary interest);

4.1.3 any unregistered interest that overrides the disposition effected pursuant to this Agreement under Schedules 1, 3 or 12 of the Land Registration Act 2002 which are Standard Contractor's Investigation Matters;

4.1.4 all public or private rights of way and other rights, easements or quasi-easements and wayleaves affecting the Depots which are Standard Contractor's Investigation Matters;

4.1.5 all liability to repair and maintain roads, paths, conduits, fences and other like matters or to contribute to the cost of their repair or maintenance which are Standard Contractor's Investigation Matters;

4.1.6 the Encumbrances which are Standard Contractor's Investigation Matters,

and the Contractor shall not be entitled to raise any requisition or objection in relation to them save in relation to any such matters revealed by pre-completion searches which did not exist at the date of this Agreement.

4.2 After the date of this Agreement the Councils agree in respect of each of the Depots that other than with the agreement of the Contractor (not to be unreasonably withheld or delayed) not to:

4.2.1 create or knowingly to permit the creation of any Encumbrance over any of the Depots;

4.2.2 vary or terminate any Encumbrance benefiting any of the Depots.

Part 3 - Depots

Depot Number	Depot Definition	Facility type	Depot Address	Lease Commencement Date	Lease Expiry Date
1.	The premises known as Tower Hamlets Depot, Tower Hamlets Road, Dover, shown edged red on the plan attached to the Tower Hamlets Depot Lease including all land and buildings, alterations, improvements, additions made to them during the Term, landlord's fixtures and tools conduits serving such premises at any time during the Contract Period	Depot	Tower Hamlet Depot, Tower Hamlets Road, Dover	Services Commencement Date	the Expiry Date
2.	The premises known as Ross Depot, shown edged red on Plan 2 attached to the Ross Depot Lease including all land and buildings, alterations, improvements, additions made to them during the Term, landlord's fixtures and tools conduits serving such premises at any time during the Contract Period	Depot	Ross Depot, Military Road, Folkestone, Kent, CT20 3SP	To be agreed by the Parties acting reasonably	the Expiry Date

SCHEDULE 6 - COUNCIL POLICIES

Part 1 – DDC Policies

1. Equality Policy
2. Data Protection Act Policy
3. Child Protection Policy
4. The Complaints Booklet
5. Policy Statement on Fraud & Whistleblowing
6. Kent Environmental Strategy
7. Kent Joint Municipal Waste Management Strategy

Part 2 - FHDC Policies

1. Anti Fraud & Corruption Framework
2. Equality & Diversity Policy
3. DPA Guidelines
4. Customer Feedback & Complaints Policy
5. Children & Vulnerable Adults Safeguarding Policy

SCHEDULE 7 - NOT USED

SCHEDULE 8 - NOT USED

SCHEDULE 9 - INSURANCE

1. THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE

1.1 Insured

The Contractor

1.2 Indemnity

1.2.1 To indemnify the Insured in respect of all sums that they may become legally liable (whether contractually or otherwise) to pay as damages and claimants' costs and expenses in respect of accidental death, or bodily injury, illness, death, disease contracted by any person.

1.2.2 Loss or damage to property.

1.2.3 Interference to property or any easement right of air, light, water or way or the enjoyment or use thereof by obstruction, trespass, nuisance, loss of amenities, or any like cause.

happening during the Period of Insurance and arising out of or in connection with the Services.

1.3 Limit of Indemnity

Not less than [redacted] in respect of any one occurrence, the number of occurrences being unlimited, but in the aggregate in respect of pollution and products liability.

1.4 Maximum Deductible

[redacted] for each and every occurrence of property damage (personal injury claims will be paid in full) (escalated periodically as appropriate).

1.5 Territorial Limits

United Kingdom (and elsewhere in the world in respect of non-manual visits).

1.6 Jurisdiction

Worldwide (excluding USA/Canada).

1.7 Period of Insurance

From the Commencement Date and throughout the Contract Period (renewable on an annual basis unless agreed otherwise by the Parties and maintained on a losses occurring basis throughout).

1.8 Cover Features and Extensions

1.8.1 Munitions of war

1.8.2 Cross liability clause

1.8.3 Contingent motor

1.8.4 Legal defence costs

1.8.5 Indemnity to Principals

1.8.6 Contractual liability

1.8.7 Health & Safety at Work Act(s) clause

1.8.8 Costs in addition to limit (other than USA / Canada)

1.8.9 Data Protection Act Clause

1.8.10 Insured to include directors, officer and employees of the insured parties

1.8.11 Consumer Protection Act 1987

1.8.12 Libel and slander

1.8.13 Social functions and activities

1.8.14 Infringement of privacy and wrongful arrest

1.8.15 Defence, appeal and Prosecution costs relating to the Corporate Manslaughter and Corporate Homicide Act 2007

1.8.16 Liability for loss of or damage to property in the custody or control of the Contractor

2. EMPLOYERS LIABILITY INSURANCE

2.1 Insured

The Contractor

2.2 Indemnity

To indemnify the Insured up to the limit of indemnity for all sums that the Insured shall become legally liable to pay in respect of death disease or injury sustained by any employee of the Insured, including costs and expenses, where the injury death or disease has occurred during the Period of Insurance and has arisen out of and in the course of employment with the Insured.

2.3 Limit of Indemnity

Not less than [redacted] in respect of any one claim or series of claims arising from one cause.

2.4 Territorial Limits

United Kingdom (and elsewhere in the world in respect of non-manual visits).

2.5 Jurisdiction

Worldwide (excluding USA/Canada).

2.6 Period of Insurance

From the Commencement Date and throughout the Contract Period (renewable on an annual basis unless agreed otherwise by the Parties and maintained on a losses occurring basis throughout).

3. MOTOR INSURANCE

3.1 Insureds

The Contractor

3.2 Indemnity

3.2.1 To indemnify the Insured in respect of all sums that they may become legally liable (whether contractually or otherwise) to pay as damages and claimants' costs and expenses in connection with accidents caused by, or arising in connection with, any vehicle used by the Insured in connection with the Services;

3.2.2 To provide comprehensive cover to the Insured in respect of loss of or damage to any vehicle used by the Insured in connection with the Services;

3.3 Limit of Indemnity

3.3.1 Unlimited in respect of legal liability for personal injury and death. In respect of damage to property, the limit of indemnity shall be a sum not less [redacted] in respect of any one occurrence, the number of occurrences being unlimited;

3.3.2 The limit of indemnity in respect of the interest specified in Paragraph 3.2.2 shall be not less than the replacement value of all Vehicles used by the Insured in connection with the Services.

3.4 Territorial Limits

Great Britain, Northern Ireland, The Isle of Man and the Channel Islands.

3.5 Jurisdiction

Great Britain, Northern Ireland, The Isle of Man, the Channel Islands and any member state of the European Union.

3.6 Period of Insurance

From the Services Commencement Date and thereafter throughout the Contract Period (renewable on an annual basis unless agreed otherwise by the Parties and maintained on a losses occurring basis throughout).

4. PROPERTY DAMAGE INSURANCE

4.1 Insured

The Contractor

4.2 Indemnity

"All risks" of physical loss of or damage to the Insured Property from any cause not excluded.

4.3 Sum Insured

At all times an amount not less than the total reinstatement or replacement value of the Insured Property (increased periodically as appropriate).

4.4 Insured Property

The Receptacles.

4.5 Territorial Limits

United Kingdom including whilst in inland transit.

4.6 Period of Insurance

In respect of each Receptacle, from the Commencement Date until the date when risk in and ownership of the Receptacle passes to the applicable Council in accordance with the provisions of the Project Agreement.

SCHEDULE 10 - NOT USED

SCHEDULE 11 - NOT USED

SCHEDULE 12 - COMMERCIALLY SENSITIVE INFORMATION

The Contractor believes that the information set out below is Commercially Sensitive Information, disclosure of which is likely to prejudice its commercial interests.

This Schedule 12 is subject to the provisions of Clause 51 (Freedom of Information and Confidentiality) of the Contract and the Contractor accepts that notwithstanding its belief that the information set out below is Commercially Sensitive Information, the Councils shall nevertheless to the extent set out in Clause 51 (Freedom of Information and Confidentiality) of the Contract be entitled to disclose such information internally to its employees and to any external advisers, consultants, insurance brokers and actuaries engaged by the Councils in relation to the preparation of this Contract and the ongoing management of this Contract.

Commercially Sensitive Contractual Provisions	**FOIA reason**	**For period ending on date below**
Clause 24 (Insurance) – values only	Breach of section 43 (2) FOIA 2000	The expiry date or the Termination Date if earlier
All method statements and Veolia created operational know how and methodology	Breach of section 43 (2) FOIA 2000	Three (3) years after the expiry date or the Termination Date if earlier
Service Delivery Plans – in their entirety	Breach of section 43 (2) FOIA 2000	The expiry date or the Termination Date if earlier
Schedule 3 (Payment Mechanism) and Schedule 4 (Performance Mechanism) – all numbers, figures and percentages in the Schedule and the Annex to the Schedule	Breach of section 43 (2) FOIA 2000	The expiry date or the Termination Date if earlier
Information relating to the costing mechanisms of the Contractor or any subcontractor, including profit margins, overheads, overhead and profit element, preliminaries and payment terms	Breach of section 43 (2) FOIA 2000	Two (2) years from the Commencement Date
The Contractor's bid together with correspondence and clarifications arising during the bid process and other documents concerning negotiations between the Councils and the Contractor prior to the Commencement date	Breach of section 43 (2) FOIA 2000	Two (2) years from the Commencement Date

SCHEDULE 13 - WASTE ACCEPTANCE PROTOCOL

Waste Stream	Material Specification
Residual	No hazardous waste
Dry Recycling Collections	<10% Contamination
Bulky	No asbestos
Food	No plastic
Garden	<0.5% Contamination
Assisted Collections	No hazardous waste
Street Cleansing – litter & dog Waste	Mix to be maximum 70/30% of litter to dog waste
Street Cleansing – Mechanical	<1% Contamination ***Subject to change*

SCHEDULE 14 - NOT USED

SCHEDULE 15 - REPORTING PROFORMAS

SCHEDULE 16 - NOT USED

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

Preamble

1	These Bills of Quantities are to be read in conjunction with the other elements of the Project Agreement and in particular Schedule 1; Output Specification, Schedule 3 Payment Mechanism and Schedule 4 Performance Mechanism.
2	In completing the Bill of Quantities the Contractor must have satisfied himself as to the local conditions, the full extent and character of the operation, parking conditions and general traffic levels, the supply and conditions affecting labour and all other factors which could affect the execution of the Contract generally as no claims on the grounds of want of knowledge will be entertained.
3	Each item shall be priced independently of any other works scheduled in the Bills of Quantities and shall, unless otherwise specified, include every item of work necessary to undertake each task to the entire satisfaction of the Supervising Officer. Each item in the Bills of Quantities shall be priced.
4	The prices and rates to be inserted in the Bills of Quantities shall be the full inclusive value of the work described under the several items, including all costs and expenses which may be required to provide a satisfactory service together with all general risks, liabilities and obligations set forth in or implied as necessary to comply with the Output Specification and all documents forming part of the Project Agreement.
5	THE CONTRACTOR IS REMINDED THAT THERE IS A PRELIMINARIES BILL INCLUDED WITH THESE DOCUMENTS AND ALL ADMINISTRATIVE AND SUPPORTING CHARGES AS IDENTIFIED ABOVE MUST BE INCLUDED IN THE RATES FOR THE VARIOUS ITEMS OF WORK IN THE AVAILABLE BILL OF QUANTITIES UNLESS SEPARATELY IDENTIFIED WITHIN THE PRELIMINARIES BILL.
6	Every item of the Bill of Quantities shall be priced for one year's work of operation unless specified as a dayrate item. The final summary sheet will detail the calculations required to give a Tender total.
7	Provisional Quantities of services are not a contractual commitment to undertake any given amount. Actual quantities will be used for services with provisional quantities and payments to the contractor will reflect these.
8	Items identified as Provisional items may not be taken up by the Partners and accordingly if not taken up there must be no impact on other service prices.
9	The Capex Schedule is for information only.

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

INDEX

BQ Ref	Core Services	Detail	Item No
1	Preliminaries		1.0-1.9d
2	Residual Waste Collection	Residual/Bulky/Clinical/Trade	2.0-2.13
3	Recycling Collection	Dry Recycling/Food Waste/Garden Waste	3.0-3.5
4	Street Cleansing – Folkestone & Hythe District Council		4.0-4.29
5	Street Cleansing – Dover District Council		5.0-5.29
6	Additional or Small Service Costs		6.0-6.8
7	Day Works Schedule		7.0-7.14
-			
BQ Ref	**Summary Service Costs**		
Summary	Capex Schedule Fleet		

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ1
PRELIMINARY SERVICES

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	1	**PRELIMINARIES**				
	1.1	Provision of a Parent Company Guarantee.	1	Annual Sum	[redacted]	[redacted]
	1.2	Provision of Pension Bond	1	Annual Sum	[redacted]	[redacted]
	1.3	Insurance against damage to persons or property.	1	Annual Sum	[redacted]	[redacted]
	1.4	Insurance of Contractor's Employees.	1	Annual Sum	[redacted]	[redacted]
	1.5	Insurance of premises, vehicles and plant.	1	Annual Sum	[redacted]	[redacted]
	1.6	Allow for full time staff to manage and supervise the works including linkage to Council Call Centre	1	Annual Sum	[redacted]	[redacted]
	1.7	Allow for liaison with Supervising Officer and his staff in the management and supervision of the Contract.	1	Annual Sum	[redacted]	[redacted]
	1.8	Provision of Emergency Service in accordance with output specification.	1	Annual Sum	[redacted]	[redacted]
	1.9	Depot costs: Including rates, utilities, licences and maintenance cost etc, excluding transition modification/Set up cost:-			[redacted]	[redacted]
	1.9a	Ross Depot:	1	Annual Sum	[redacted]	[redacted]
	1.9b	Tower Hamlets:	1	Annual Sum	[redacted]	[redacted]
	1.9c	Other 1 Specify:	1	Annual Sum		[redacted]
	1.9d	Other 2 Specify:	1	Annual Sum		[redacted]
		The tenderer shall enter below the Clause number and title of any clause which he may wish to price, together with his rate or price inserted in the appropriate column.				

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ1
PRELIMINARY SERVICES

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
		Note. Clauses not entered and priced hereunder shall be deemed to be covered by the rates and or prices of all other items in the Bill of Quantities.				
	PRELIMINARIES COSTS CARRIED FORWARD TO SUMMARY					[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ2
CORE RESIDUAL SERVICES

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
2	**RESIDUAL WASTE COLLECTIONS** Note: Fixed Sums are used in respect of year 1 services as this allows for the split between the price for providing As Is Services and the price for providing New Services. The value attached to each will be determined in accordance with the Bidders roll out programme.				
	Dover Residual Waste Collection				
2.1	Supply sacks, collect waste contained in sacks **weekly** and transfer waste to designated transfer site, from 326 Households (suject to survey) within Dover DC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
2.2	Supply sacks, collect waste contained in sacks **fortnightly** and transfer waste to designated transfer site, from 8,991 Households (subject to Survey) within Dover DC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
2.3	Collect waste and transfer to designated transfer site, from 3,311 Bulk Bins servicing Households (subject to Survey) within Dover DC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
2.4	Collect **fortnightly** and transfer to designated waste transfer site, household waste contained in wheeled bins or similar containers from 41,105 Households within Dover DC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
	Folkestone & Hythe Residual Waste Collection				
2.5	Supply sacks, collect waste contained in sacks **weekly** and transfer to designated transfer site, from 1,012 Households within FHDC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
2.6	Supply sacks, collect waste contained in sacks **fortnightly** weekly and transfer to designated transfer site, from 2,058 Households within FHDC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
2.7	Collect waste and transfer to designated transfer site, household waste contained in bulk bins, from 5,444 Households within FHDC in accordance with the Output Specification.	1	Per Annum	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ2
CORE RESIDUAL SERVICES

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
2.8	Collect **fortnightly** and transfer to designated transfer site, household waste contained in wheeled bins or similar containers from 43,274 premises within FHDC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
2.9	**Bulky Waste Collection – Provisional amount** Collect, re-use,recycle and transfer to designated Waste Transfer Site, special collections of bulky waste from households within FHDC and DDC in accordance with the Output Specification.	3,522	Per Household per annum	[redacted]	[redacted]
2.10	**Clinical Waste Collection – Provisional amounts** Collect clinical waste contained in prescribed plastic sacks and deliver replacement sacks (supplied by the Contractor in accordance with 2.13) on request from private dwellings within FHDC and DDC and transport to the designated transfer/disposal point.	203	Per Household per annum	[redacted]	[redacted]
2.11	Collect clinical waste contained in prescribed containers (supplied by the Contractor in accordance with 2.14) on request from pharmacies and transport to the designated transfer/disposal point.	13	Per Pharmacy per annum	[redacted]	[redacted]
2.12	Cost for the supply of clinical waste sacks for private dwellings within FHDC and DDC.	12,081	Rate per sack	[redacted]	[redacted]
2.13	Cost for the supply and delivery of 2l Clinical Waste Containers.**(Provisional Item)** Note: Assisted Collections – See ‘ ADDITIONAL OR SMALL SERVICES’ Schedule	200	Rate per Box	[redacted]	[redacted]
TOTAL REFUSE COLLECTION COSTS CARRIED FORWARD TO SUMMARY					[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ3
CORE RECYCLING SERVICES

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
3	**RECYCLING COLLECTIONS**				
	Dry Recycling Collection **NOTE:If this item cannot be priced separately from other Collection Costs with any degree of accuracy then Bidders may insert a cross reference to the relevant Bill of Quantities item: Reference..... .....** **Dover**				
3.1	Collect **fortnightly**, dry recyclable materials contained in bags, boxes, wheeled bins or similar containers from 53,733 Households within Dover DC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
	Folkestone & Hythe District Council				
3.2	Collect fortnightly, dry recyclable materials contained in bags, boxes, wheeled bins or similar containers from 51,788 households within Folkestone & Hythe District Council in accordance with the Output Specification. Note: Assisted Collections – See ' ADDITIONAL OR SMALL SERVICES' Schedule - **Food Waste Collection** Note: Where Food Waste collection is provided as part of another collection service eg residual/recycling waste collection then bidders should detail here the additional cost of providing the food waste collection over and above the residual/recycling resource requirement. **NOTE:If this item cannot be priced separately from other Collection Costs with any degree of accuracy then Bidders may insert a cross reference to the relevant Bill of**	1	Annual Sum	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ3
CORE RECYCLING SERVICES

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	Quantities item: Reference.....				
	Dover				
3.3	Collect **weekly**, food waste contained in kerbside caddies, or similar containers from 53,733 Households within Dover DC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
	Folkestone & Hythe District Council				
3.4	Collect weekly, food waste contained in kerbside caddies, or similar containers from 51,788 Households within Folkestone & Hythe District Council in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
	Note: Assisted Collections – See ' ADDITIONAL OR SMALL SERVICES' Schedule				
	Garden Waste				
	Dover				
3.5	Collect **fortnightly**, garden waste contained in Re-useable bags or customer supplied containers from 6,397 households within Dover DC in accordance with the Output Specification.	1	Annual Sum	[redacted]	[redacted]
	Note: re - Assisted Garden Waste Collections : See ' ADDITIONAL OR SMALL SERVICES' Schedule				
	Folkestone & Hythe District Council				
3.6	Collect fortnightly, garden waste contained in Re-useable bags, or wheeled bins from 12,887 households within Folkestone & Hythe District Council in accordance with the Output Specification	1	Annual Sum	[redacted]	[redacted]
	Note: re Assisted Garden Waste Collections See ' ADDITIONAL OR SMALL SERVICES' Schedule				

Dover and Folkestone & Hythe Joint Waste Contract 2021						
BILL OF QUANTITIES						
BQ3 **CORE RECYCLING SERVICES**						
	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
TOTAL RECYCLING COLLECTION COSTS CARRIED FORWARD TO SUMMARY						[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ4
CORE STREET CLEANING SERVICES - FOLKESTONE & HYTHE DISTRICT COUNCIL

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	4	**FOLKESTIONE & HYTHE DISTRICT COUNCIL STREET CLEANISNG** Cleansing includes reference to the removal of waste arisings and their transfer to the designated waste transfer facility:				
		Public Highways				
		Zone Z				
	4.1	Cleanse all areas designated RE (Qty: 3,010 Metres)	1	Annual Sum	[redacted]	[redacted]
		Zone 2A				
	4.2	Cleanse all areas designated (Qty: 18,072 Metres Highways and 105 Metres of Specified Pathways)	1	Annual Sum	[redacted]	[redacted]
		Zone 2B				
	4.3	Cleanse all areas designated (Qty: 281,746 Metres of Highways and 0 Metres Specified Pathway)	1	Annual Sum	[redacted]	[redacted]
		Zone 3/4				
	4.4	Cleanse all areas designated (Qty: 478,725 Metres, 13,098 Metres of Specified Pathway)	1	Annual Sum	[redacted]	[redacted]
		High Speed Roads				
	4.5	Cleanse all areas designated High Speed Roads (Qty: 17,197 Metres)	1	Annual Sum	[redacted]	[redacted]
		Unadopted Roads				
	4.6	Litter Picking and Fly tip removal in accordance with Zone 2b (Qty: 6,826 Metres)	1	Annual Sum	[redacted]	[redacted]
		Car Parks				
	4.7	Cleanse all areas designated 1t 2B (Qty: 75,750 Metres)	1	Annual Sum	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ4
CORE STREET CLEANING SERVICES - FOLKESTONE & HYTHE DISTRICT COUNCIL

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
		Beaches				
	4.8	Cleanse all areas designated 5A	1	Annual Sum	[redacted]	[redacted]
	4.9	Cleanse all areas designated 5B.	1	Annual Sum	[redacted]	[redacted]
		Parks, Cemeteries, Open Spaces				
	4.1	Cleanse all areas designated to 2A (Qty: 194,765 Metres^2)	1	Annual Sum	[redacted]	[redacted]
	4.11	Cleanse all areas designated to 2B (Qty: 489,383 Metres^2)	1	Annual Sum	[redacted]	[redacted]
	4.12	Cleanse all areas designated to 3/4 (Qty: 135,933 Metres^2)	1	Annual Sum	[redacted]	[redacted]
		Water Courses				
	4.13	Cleanse all areas designated.	1	Annual Sum	[redacted]	[redacted]
		Litter Bins				
	4.15	Emptying and cleansing of litter bins within Zone Z and transfer of waste to designated transfer site in accordance with the Output Specification.	46	Per Litter Bin per annum	[redacted]	[redacted]
	4.16	Emptying and cleansing of litter bins within Zone 2A and transfer of waste to designated transfer site in accordance with the Output Specification.	338	Per Litter Bin per annum	[redacted]	[redacted]
	4.17	Emptying and cleansing of litter bins within Zone 2A Parks and Open Spaces and transfer of waste to designated transfer site in accordance with the Output Specification.	86	Per Litter Bin per annum	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ4
CORE STREET CLEANING SERVICES - FOLKESTONE & HYTHE DISTRICT COUNCIL

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	4.18	Emptying and cleansing of litter bins within Zone 2B and transfer of waste to designated transfer site in accordance with the Output Specification	364	Per Litter Bin per annum	[redacted]	[redacted]
	4.19	Emptying and cleansing of other litter bins outwith Zones Z,2A and 2B and transfer of waste to designated transfer site in accordance with the Output Specification.	61	Per Litter Bin per annum	[redacted]	[redacted]
	4.20	Collection of recyclables from recycling bins, removal of contaminant, cleansing of bin, transfer of recyclables to processing site and contaminant to designated waste transfer site in accordance with the Output Specification.	17	Per Site per annum	[redacted]	[redacted]
	4.21	Emptying and cleansing of ALL dog litter bins and transfer of waste to designated transfer site in accordance with the Output Specification.	Included above	Included above	[redacted]	[redacted]
	4.22	**Bus, Park, Seafront Shelters** Cleanse all designated areas in accordance with the Output Specification	1	Annual Sum	[redacted]	[redacted]
	4.23	**Fly tipping** Removal of All Fly tips within Zone Z, 2A,2B	n/a	Included	[redacted]	[redacted]
	4.24	Removal of Fly tips less than 1m3 outwith zones Z,2A and 2B.	n/a	Included	[redacted]	[redacted]
	4.25	Removal of Fly tips of 1m3 plus but less than 5m3 and not requiring specialist equipment outwith Zones	95	Per Incident	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ4
CORE STREET CLEANING SERVICES - FOLKESTONE & HYTHE DISTRICT COUNCIL

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
		Z,2A and 2B. ***(Provisional Quantity)***				
	4.26	Removal of Fly tips of 5m3 plus or 1m3 plus requiring specialist equipment outwith Zones Z,2A and 2B. ***(Provisional Quantity)***	5	Per Incident	[redacted]	[redacted]
		Street and Pedestrian Area Washing			[redacted]	[redacted]
	4.27	See day rates section BQ7	Day Rates	Day Rates	[redacted]	[redacted]
		Emergency Services			[redacted]	[redacted]
	4.28	See day rates section BQ7	Day Rates	Day Rates	[redacted]	[redacted]
		Graffiti Removal			[redacted]	[redacted]
	4.29	See day rates section BQ7	Day Rates	Day Rates	[redacted]	[redacted]
		Removal of Fly Posting			[redacted]	[redacted]
	4.30	See day rates section BQ7	Day Rates	Day Rates	[redacted]	[redacted]
TOTAL Folkestone & Hythe District Council STREET CLEANING						[redacted]

FHDC Road Lengths and Zoning	
EPA Zone	**2019 Linear Metres**
Z	3,010
2A	18,072
2B	281,746
3	478,725
High Speed Roads included within specification	17,197
Total Highway	**798,750**
P2A	105
P2B	
P3-4	13,098
Total Pathways/Openspace adjacent to Highway	**13,202**
Private – Fly tips only	60,688
2B - Unadopted – Litter picking and Fly tips	6,826
Total Private and Unadopted	67,515
Total All	**879,467**

Car Parks					
Area	Zone				Total
	Z	2a	2b	3	
DDC Car Parks					
FHDC Car Parks					

Type	FHDC Amenity Beaches	Area
Amenity	Sunny Sands, Folkestone	
Amenity	Sandgate Castle to Seaview Bridge, Sandgate	
Amenity	Twiss Road to St Leonards Road, Hythe	
Amenity	Sycamore Gardens to Martello Car Park, Dymchurch	
Amenity	The Fairway to River Fallout, St Marys Bay	
Amenity	Madeira Road water tower to Clark Road, New Romney	
Amenity	Jolly Fisherman to Seaview Road, Greatstone-on-Sea	
Total		

Type	FHDC Non Amenity Beaches	Area
Non Amenity	West Cliff Bridge to Sandgate Castle, Sandgate	
Non Amenity	Seaview Bridge to Twiss Road, Hythe	
Non Amenity	Drop Redoubt to Sycamore Gardens, Dymchurch	
Non Amenity	Martello Car Park to The Fairway, St Marys Bay	
Non Amenity	River Fallout to Madeira Road water tower, New Romne	
Non Amenity	Clark Road to Jolly Fisherman, Greatstone-on-Sea	
Non Amenity	Seaview Road to Battery Road, Lydd-on-Sea	
Total		

FHDC Parks and Openspace						
Area	Zone					Total
	Z	2A	2B	3	4	
FHDC						

FHDC Litter and Dog Bin Summary	
Zone Z	
Zone 2A	
Zone 2B	
Zone 3	
Total	

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ5
CORE STREET CLEANING SERVICES - DOVER

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	5.0	**DOVER STREET CLEANING** Cleansing includes reference to the removal of waste arisings and their transfer to the designated waste transfer facility:				
		Public Highways				
		Zone Z				
	5.1	Cleanse all areas designated (Qty: 3,877 Metre of Highway and 334m of specified paths)	1	Annual Sum	[redacted]	[redacted]
		Zone 2A				
	5.2	Cleanse all areas designated (Qty: 22,097 Metre of Highway and 0m of specified paths)	1	Annual Sum	[redacted]	[redacted]
		Zone 2B				
	5.3	Cleanse all areas designated (Qty: 379,104 Metre of Highway and 6,782m of specified paths)	1	Annual Sum	[redacted]	[redacted]
		Zone 3/4				
	5.4	Cleanse all areas designated (Qty: 328,763 Metre of Highway and 71,080m of specified paths)	1	Annual Sum	[redacted]	[redacted]
		High Speed Roads				
	5.5	Cleanse all areas designated High Speed Roads (Qty: 69,560 Metres)	1	Annual Sum	[redacted]	[redacted]
		Unadopted Roads				
	5.6	Litter Picking and Fly tip removal in accordance with Zone 2b (Qty: 103 Metres)	1	Annual Sum	[redacted]	[redacted]
		Car Parks				
	5.7	Cleanse all areas designated Zone Z(Qty: 1,913 Metre^2)	1	Annual Sum	[redacted]	[redacted]
	5.8	Cleanse all areas designated 2A (Qty: 46,224 Metre^2)	1	Annual Sum	[redacted]	[redacted]
	5.9	Cleanse all areas designated 2B (Qty: 108,589 Metre^2)	1	Annual Sum	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ5
CORE STREET CLEANING SERVICES - DOVER

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	5.10	Cleanse all areas designated 3(Qty: 9,975 Metre^2)	1	Annual Sum	[redacted]	[redacted]
		Beaches			[redacted]	[redacted]
	5.11	Cleanse all areas designated 5A	1	Annual Sum	[redacted]	[redacted]
	5.12	Cleanse all areas designated 5B.	0	N/A	[redacted]	[redacted]
		Parks, Cemeteries, Open Spaces			[redacted]	[redacted]
	5.13	Cleanse all areas designated to Z (Qty: 78 Metre^2)	1	Annual Sum	[redacted]	[redacted]
	5.14	Cleanse all areas designated 2A (Qty: 288,652 Metre^2)	1	Annual Sum	[redacted]	[redacted]
	5.15	Cleanse all areas designated 2B (Qty: 362,302 Metre^2)	1	Annual Sum	[redacted]	[redacted]
	5.16	Cleanse all areas designated 3/4 (Qty: 280,178Metre^2)	1	Annual Sum	[redacted]	[redacted]
		Water Courses			[redacted]	[redacted]
	5.17	Cleanse all areas designated.	1	Annual Sum	[redacted]	[redacted]
		Litter Bins			[redacted]	[redacted]
	5.18	Emptying and cleansing of litter bins within Zone Z and transfer of waste to designated transfer site in accordance with the Output Specification.	68	Per Litter Bin per annum	[redacted]	[redacted]
	5.19	Emptying and cleansing of litter bins within Zone 2A and transfer of waste to designated transfer site in accordance with the Output Specification.	201	Per Litter Bin per annum	[redacted]	[redacted]
	5.2	Emptying and cleansing of litter bins within Zone 2B and transfer of waste to designated transfer site in accordance with the Output Specification.	365	Per Litter Bin per annum	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ5
CORE STREET CLEANING SERVICES - DOVER

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	5.21	Emptying and cleansing of litter bins outwith Zones Z, 2A and 2B and transfer of waste to designated transfer site in accordance with the Output Specification.	143	Per Litter Bin per annum	[redacted]	[redacted]
	5.22	Collection of recyclables from recycling bins, removal of contaminant, cleansing of bin, transfer of recyclables to processing site and contaminant to designated waste transfer site in accordance with the Output Specification.	1	Per Site	[redacted]	[redacted]
	5.23	Emptying and cleansing of dog litter bins Zones Z, 2 and 3 and transfer of waste to designated transfer site in accordance with the Output Specification.	172	Per Bin per annum	[redacted]	[redacted]
		Bus, Park, Seafront Shelters				
	5.24	Cleanse all designated areas in accordance with the Output Specification	1	Annual Sum	[redacted]	[redacted]
		Fly tipping				
	5.25	Removal of All Fly tips within Zone Z, 2A,2B	Included	Included	[redacted]	[redacted]
	5.26	Removal of Fly tips less than 1m3 outwith zones Z,2A and 2B.	Included	Included	[redacted]	[redacted]
	5.27	Removal of Fly tips of 1m3 plus but less than 5m3 and not requiring specialist equipment outwith Zones Z,2A and 2B. ***(Provisional Quantity)***	45	Per Incident	[redacted]	[redacted]
	5.28	Removal of Fly tips of 5m3 plus or 1m3 plus requiring specialist equipment outwith Zones Z,2A and 2B. ***(Provisional Quantity)***	5	Per Incident	[redacted]	[redacted]
		Street and Pedestrian Area Washing				
	5.29	See day rates section	Day rates	Day rates	[redacted]	[redacted]
		Emergency Services				
	5.30	See day rates section	Day rates	Day rates	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ5
CORE STREET CLEANING SERVICES - DOVER

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
		Graffiti Removal				
	5.31	See day rates section	Day rates	Day rates	[redacted]	[redacted]
		Removal of Fly Posting				
	5.32	See day rates section	Day rates	Day rates	[redacted]	[redacted]
TOTAL DOVER STREET CLEANING						[redacted]

EPA Zone	2019 Linear Metres
Z	3,877
2A	22,097
2B	379,104
3	312,114
4	16,649
High Speed Roads	69,560
Private/U	103
Total	**803,504**

DDC Footpaths, Alleys and Bridleways							
Area	Zone						Total
	Z	2a	2b	3	4	5a	
Capel							
Deal & Walmer							
Alkham							
Total							

Car Parks					
Area	Zone				Total
	Z	2a	2b	3	
DDC Car Parks					
FHDC Car Parks					

DDC Parks and Openspaces						
Area	Zone					Total
	Z	2a	2b	3	4	
Dover						
Sandwich						
Rural						
Deal & Walmer						
Total						

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ6
ADDITIONAL OR SMALL SERVICE COSTS

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
6	**REFUSE COLLECTIONS - Additional**				
6.1	**Residual/Recycling/Food and Garden Waste Collections** Reviews of the number of collection services will be adjusted in accordance with the Payment Mechanism Schedule A.	n/a	n/a		
6.2	**Additional GW Bin** To collect an additional garden waste bin from an existing garden waste customer at the same address and bin location.(Provisional quantity)	743	Per Additional Bin		
6.3	**Assisted Collections** Total additional cost for undertaking Assisted Collections for residual/dry recycling/food and garden waste in accordance with the Output Specification from 2,366 households. ***(Provisional quantity)***	2366	Per Property per annum		
6.4	**Additional Assisted Collections** Will be adjusted in accordance with the actual number of Assisted Collections and the rate detailed at 8.2	n/a	n/a		
6.5	**Bulky Waste Collection** Will be adjusted in accordance with the actual number of Bulky waste collections from Households and the rate detailed at 2.11.	n/a	n/a		
6.6	**Clinical Waste Collection** Will be adjusted in accordance with the actual number of Clinical waste collections from Households and the rate detailed at 2.12 and 2.13 as appropriate	n/a	n/a		
6.7	**Surplus Residual Waste Sack Collectn Service** Collect Surplus Residual waste contained in prescribed plastic sacks or containers supplied by the Contractor as requested from private dwellings and other properties and transport to designated residual waste transfer facility. (Provisional)	250	Per Household per annum		

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ6
ADDITIONAL OR SMALL SERVICE COSTS

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	ADDITIONAL WORKS - STREET CLEANING				
6.8	Leas Cliff Cleansing Cleaning of Leas Cliff in accordance with the Output Specification. ***(Provisional Quantity)***	2	Per Request	[redacted]	[redacted]
6.9	High Speed Road Cleansing High Speed Road Cleansing and all associated traffic management costs (to undertake an additional cleanse of all specified High Speed Roads over and above the twice annual cleansing provided for in the Core Service costs ***(Provisional Quantity)***	1	Per Request	[redacted]	[redacted]
6.10	High Speed Road Cleansing and all associated traffic management costs **- Dual Carriageway** - (in excess of the twice annual cleansing provided for in the Core Service costs ***(Provisional Quantity)***	5	Day Rate	[redacted]	[redacted]
6.11	High Speed Road Cleansing and all associated traffic management costs - **Single Carriagway** (in excess of the twice annual cleansing provided for in the Core Service costs ***(Provisional Quantity)***	5	Day Rate	[redacted]	[redacted]
6.12	High Speed Road Cleansing **excluding all associated traffic management costs - Dual Carriageway** - assumed to be undertaken in conjunction with third party /Highways traffic management/road closure ***(Provisional Quantity)***	5	Day Rate	[redacted]	[redacted]
6.13	**CONTAINERISATION (Additional Containers)** ***(Provisional – rates only)*** Bidders to provide rates for the supply, storage and delivery to householders of the following containers:				
A	1100L Metal Wheeled Bins	11	Per Bank	[redacted]	[redacted]
B	1100L Plastic Wheeled Bins	147	Per Bin	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ6
ADDITIONAL OR SMALL SERVICE COSTS

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
C	660L Plastic Metal Bins	30	Per Bin	[redacted]	[redacted]
D	660L Plastic Wheeled Bins	30	Per Bin	[redacted]	[redacted]
E	360L Wheeled Bins	127	Per Bin	[redacted]	[redacted]
F	240L Wheeled Bins	469	Per Bin	[redacted]	[redacted]
G	180L Wheeled Bins	2,433	Per Bin	[redacted]	[redacted]
H	140L Wheeled Bins	48	Per Bin	[redacted]	[redacted]
I	55L Black Recycling Box	1,423	Per Box	[redacted]	[redacted]
J	55L Purple Recycling Box	212	Per Box	[redacted]	[redacted]
K	5/7L Kitchen Caddy	333	Per Caddy	[redacted]	[redacted]
L	23L Kitchen Caddy	2,575	Per Caddy	[redacted]	[redacted]
M	Service Launch pack	1,185	Per Pack	[redacted]	[redacted]
N	60l Green Waste Bag	50	Per Bag	[redacted]	[redacted]
0	Undertake Bin Repairs	5	Per Repair	[redacted]	[redacted]
P	Bin Removal Fee	5	Per Removal	[redacted]	[redacted]
M	- Other (Specify)		Per Unit		
TOTAL ADDITIONAL / SMALL SERVICES TO SUMMARY					[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ7
ADDITIONAL SERVICES - DAYWORKS SCHEDULE

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	7	**Provisional Item:** **DAYWORK - SCHEDULE OF WORKS -** The rates to be inserted in the following schedule are to be the full inclusive costs for labour, plant and materials. The rates must include all overheads, supervisory and administrative costs and Contractor's profit. Rates must also include all maintenance, insurance, taxation, running and fuel costs. NB Please note the estimated annual quantities set out below are provisional and are the figures that the Council will use when evaluating the Tenders. They are not guaranteed figures and the actual requirement may vary. No additions to these rates will be allowed other than as provided in the Price Fluctuation Clause in the Conditions of Contract. **LABOUR** Chargehand				
	7.1a	- between 7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive.	50	per hour	[redacted]	[redacted]
	7.1b	- between 6.00 p.m. and 7.00 a.m. on Mondays to Fridays	50	per hour	[redacted]	[redacted]
	7.1c	- Saturdays	10	per hour	[redacted]	[redacted]
	7.1d	- Sundays	10	per hour	[redacted]	[redacted]
	7.1e	- Banks Holidays.	10	per hour	[redacted]	[redacted]
		Driver - Non HGV				
	7.2a	- between 7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive.	50	per hour	[redacted]	[redacted]
	7.2b	- between 6.00 p.m. and 7.00 a.m. on Mondays to Fridays	50	per hour	[redacted]	[redacted]
	7.2c	- Saturdays	10	per hour	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ7
ADDITIONAL SERVICES - DAYWORKS SCHEDULE

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
	7.2d	- Sundays	10	per hour	[redacted]	[redacted]
	7.2e	- Banks Holidays.	10	per hour	[redacted]	[redacted]
		Driver - HGV				
	7.3a	- between 7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive.	50	per hour	[redacted]	[redacted]
	7.3b	- between 6.00 p.m. and 7.00 a.m. on Mondays to Fridays	50	per hour	[redacted]	[redacted]
	7.3c	- Saturdays	50	per hour	[redacted]	[redacted]
	7.3d	- Sundays	50	per hour	[redacted]	[redacted]
	7.3e	- Banks Holidays.	50	per hour	[redacted]	[redacted]
		Cleansing Operative				
	7.4a	- between 7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive.	50	per hour	[redacted]	[redacted]
	7.4b	- between 6.00 p.m. and 7.00 a.m. on Mondays to Fridays	50	per hour	[redacted]	[redacted]
	7.4c	- Saturdays	10	per hour	[redacted]	[redacted]
	7.4d	- Sundays	10	per hour	[redacted]	[redacted]
	7.4e	- Banks Holidays.	10	per hour	[redacted]	[redacted]
		Refuse Loader:				
	7.5a	- between 7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive.	50	per hour	[redacted]	[redacted]
	7.5b	- between 6.00 p.m. and 7.00 a.m. on Mondays to Fridays	50	per hour	[redacted]	[redacted]
	7.5c	- Saturdays	10	per hour	[redacted]	[redacted]
	7.5d	- Sundays	10	per hour	[redacted]	[redacted]
	7.5e	- Banks Holidays.	10	per hour	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ7
ADDITIONAL SERVICES - DAYWORKS SCHEDULE

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
		VEHICLES:				
		The Contractors own vehicles are not included in the aforementioned Schedule of Dayworks and therefore the rates shall be inserted below and are to be the full inclusive cost. The rates must include all overheads, supervisory and administrative costs and Contractors profit. Rates must also include, all maintenance, insurance, taxation, running and full costs.				
		The Contractor shall insert below the comprehensive hourly rates he requires to cover all expenses including overheads, administration and supervision, and all other costs incurred directly or indirectly in providing the additional items outside the normal Specification.				
		VEHICLES AT ANY TIME				
		Fleet vehicle provision:				
	7.6	Refuse collecting vehicle less than 7.5 tonne gross.	75	per hour	[redacted]	[redacted]
	7.7	Refuse collecting vehicle more than 7.5 tonne gross.	75	per hour	[redacted]	[redacted]
	7.8	Mechanical sweeper (non-ped-opp) less than 5 tonne gross.	75	per hour	[redacted]	[redacted]
	7.9	Mechanical sweeper (non-ped-opp) less than 14 tonnes gross.	75	per hour	[redacted]	[redacted]
	7.10	Caged Vehicle/Van	75	per hour	[redacted]	[redacted]
		SERVICES:				
	7.11	**Graffiti Removal**				
	7.11a	Provision of Resources to undertake the removal of graffiti in accordance with the Output specification for 1 Hour. **(Provisional Quantity).**	150	per hour	[redacted]	[redacted]
	7.11b	Provision of Resources to undertake the removal of graffiti in accordance with	1	per day	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ7
ADDITIONAL SERVICES - DAYWORKS SCHEDULE

	ITEM NO.	DESCRIPTION	QUANTITY	UNIT	RATE £	£
		the Output specification for 1 Working Day.				
	7.12	**Fly posting Removal**				
	7.12a	Provision of Resources to undertake the removal of Fly posting outwith Zone Z areas in accordance with the Output specification Hourly Rate.	10	per hour	[redacted]	[redacted]
	7.12b	Provision of Resources to undertake the removal of Fly posting outwith Zone Z areas in accordance with the Output specification for 1 working day.	1	per day	[redacted]	[redacted]
	7.13	**Street and Pedestrian Area Washing**				
	7.13a	Provision of resources to undertake washing of footways and pavements in accordance with the Output Specification per hour. ***(Provisional Quantity)***	30	per hour	[redacted]	[redacted]
	7.13b	Provision of resources to undertake washing of footways and pavements in accordance with the Output Specification per day. ***(Provisional Quantity)***	1	per day	[redacted]	[redacted]
		Emergency Services				
	7.14	Provision of resources for emergency Services will be done, where applicable, in accordance with the labour and vehicle rates detailed between 9.1 and 9.10 above.	Dayworks	Dayworks	[redacted]	[redacted]
TOTAL DAYWORKS SCHEDULE TO SUMMARY						[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021			
BILL OF QUANTITIES			
SUMMARY			
ITEM NO.	**DESCRIPTION**	**Annual Year 1-8 £**	**Total Contract Period Year 1-8 £**
	SUMMARY SHEET		
BQ1	Total Preliminaries	[redacted]	[redacted]
BQ2	Total Refuse Collection Costs	[redacted]	[redacted]
BQ3	Total Recycling Collection Costs	[redacted]	[redacted]
BQ4	Total Street Cleaning: Folkestone & Hythe	[redacted]	[redacted]
BQ5	Total Street Cleaning: Dover	[redacted]	[redacted]
BQ6	Total Additional/ Small Services	[redacted]	[redacted]
BQ7	Total Dayworks Schedule	[redacted]	[redacted]
Total Contract Costs		[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ9
Capex Schedule - Fleet

Contractors % Cost of Capital	

ITEM NO.	VEHICLE DESCRIPTION	QUANTITY DDC	QUANTITY FHDC	UNIT	Cost per Unit £	Write Down Period	Total Cost £
		3		Per vehicle	[redacted]	[redacted]	[redacted]
		1			[redacted]	[redacted]	[redacted]
		1			[redacted]	[redacted]	[redacted]
		3			[redacted]	[redacted]	[redacted]
		1			[redacted]	[redacted]	[redacted]
		4			[redacted]	[redacted]	[redacted]
		1	1		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
			3		[redacted]	[redacted]	[redacted]
			1		[redacted]	[redacted]	[redacted]
			1		[redacted]	[redacted]	[redacted]
			3		[redacted]	[redacted]	[redacted]
			1		[redacted]	[redacted]	[redacted]
			4		[redacted]	[redacted]	[redacted]
		1.5	1.5		[redacted]	[redacted]	[redacted]
		1			[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
			1		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
					[redacted]	[redacted]	[redacted]

Dover and Folkestone & Hythe Joint Waste Contract 2021

BILL OF QUANTITIES

BQ9
Capex Schedule - Fleet

Contractors % Cost of Capital	

ITEM NO.	VEHICLE DESCRIPTION	QUANTITY DDC	QUANTITY FHDC	UNIT	Cost per Unit £	Write Down Period	Total Cost £
		0.5	0.5		[redacted]	[redacted]	[redacted]
					[redacted]	[redacted]	[redacted]
		1	1		[redacted]	[redacted]	[redacted]
					[redacted]	[redacted]	[redacted]
		2	2		[redacted]	[redacted]	[redacted]
		3	3		[redacted]	[redacted]	[redacted]
		1	1		[redacted]	[redacted]	[redacted]
		2.5	2.5		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
		1	1		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
		1	1		[redacted]	[redacted]	[redacted]
		0.5	0.5		[redacted]	[redacted]	[redacted]
	-	1	1		[redacted]	[redacted]	[redacted]
		1	1		[redacted]	[redacted]	[redacted]
		5	5		[redacted]	[redacted]	[redacted]
					[redacted]	[redacted]	[redacted]
					[redacted]	[redacted]	[redacted]
					[redacted]	[redacted]	[redacted]
TOTAL CAPEX SCHEDULE							[redacted]

Contractors Cost of Capital	Total Capital Outlay outstanding at Commencement of Contract Year	Cost of Capital Charge arising during Contract Year
Year One	[redacted]	[redacted]
Year Two	[redacted]	[redacted]
Year Three	[redacted]	[redacted]
Year Four	[redacted]	[redacted]
Year Five	[redacted]	[redacted]
Year Six	[redacted]	[redacted]
Year Seven	[redacted]	[redacted]
Year Eight	[redacted]	[redacted]
Total	[redacted]	[redacted]

SCHEDULE 18 - LEGAL OWNERSHIP

1.	**Name**	:	Veolia ES UK Limited London, N1 9JY
2.	**Date of Incorporation**	:	16 March 1990
3.	**Registered number**	:	02481991
	Registered office	:	8th Floor, 210 Pentonville Road, London, N1 9JY
4.	**Directors**		

Name	Address
Celia Gough	8th Floor, 210 Pentonville Road, London N1 9JY
John Abraham	8th Floor, 210 Pentonville Road, London N1 9JY
David Gerrard	8th Floor, 210 Pentonville Road, London N1 9JY
Gavin Graveson	8th Floor, 210 Pentonville Road, London N1 9JY
Pascal Hauret	8th Floor, 210 Pentonville Road, London N1 9JY
Donald Macphail	8th Floor, 210 Pentonville Road, London N1 9JY
Kevin Hurst	8th Floor, 210 Pentonville Road, London N1 9JY
Keith McGurk	8th Floor, 210 Pentonville Road, London N1 9JY

5.	**Secretary**	:	Celia Gough
6.	**Subsidiary undertakings at the date of this Agreement**	:	

AWS Group Holdings Limited

Eneteq Group Limited

Equinox Recycling Limited

KDC Holdings Limited

Primeshade Limited

Recycled UK Limited

Veolia Environmental Services Peterborough UK Limited

Veolia ES Plastics UK Limited

Veolia ES Resource Efficiency (UK) Limited

Veolia Water Capital Services Limited

7.	**Dormant companies it holds [redacted] of:**	[redacted] [redacted]
8.	**Authorised and issued share capital at the date of this Agreement:**	[redacted] ordinary shares of [redacted] each
9.	**Name and address of registered holder:**	Veolia Environmental Services (UK) PLC, 210 Pentonville Road, London N1 9JY
10.	**Number and class held:**	[redacted] ordinary shares of [redacted] each
11.	**Amount paid up:**	[redacted]

SCHEDULE 19 - SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS

General

1. The contact details of the DDC's Data Protection Officer are: Harvey Rudd, Data Protection Officer, Dover District Council, Council Offices, White Cliffs Business Park, Dover, CT16 3PJ (dataprotection@dover.gov.uk)

2. The contact details of the FHDC's Data Protection Officer are: Jamie Naylor, Information Officer, Folkestone and Hythe of Castle Hill Avenue, Folkestone, Kent, CT20 2QY

3. The contact details of the Contractor's Data Protection Officer are: John Hield, Data Protection and Information Governance Leader, Veolia UK & Ireland, Kingswood House, Kingswood Crescent, Cannock, Staffordshire WS11 8JP, [redacted]

4. To the extent it acts as a Processor on behalf of either of the Councils, the Contractor shall comply with any further written instructions with respect to processing by the Lead Authority.

5. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Councils are the Controller and the Contractor is the Processor in accordance with Clause 31.4.
Subject matter of the processing	The processing is needed in order to ensure that the Contractor can effectively deliver this Agreement to provide a service to members of the public.
Duration of the processing	From the Commencement Date and subject to Clause 3.2 (Continuation of Obligations) until the earlier of the Expiry Date or the Termination Date.
Nature and purposes of the processing	The purpose of the processing is for the Contractor to provide the Services to enable the Councils to meet their respective obligations under the Environmental Protection Act 1990 as the local waste collection authority. Personal data will be collected directly from the data subject and processed on Echo Software by the Parties.
Type of Personal Data being Processed	Name, address, e-mail address, telephone number.
Categories of Data Subject	Members of the public.
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Personal data of the data subjects will be processed throughout the contract to carry out the services on behalf of the Councils as the local waste authority. Personal data is only processed for the purpose it was collected and retained for no longer than is necessary to provide the Services. Once the contract ends all personal data processed must either be deleted or shared securely to the Councils. This decision of retention of personal data will be made by the Data Controller.

SCHEDULE 20 – NOT USED

Executed as a deed by affixing the common seal of **Dover District Council** in the presence of:

Insert Common Seal

.....
Authorised Signatory

Executed as a deed by affixing the common seal of The District Council of **Folkestone and Hythe** in the presence of:

Insert Common Seal

.....
Authorised Signatory

Executed as a deed by **Veolia ES (UK) Limited** acting by a director, in the presence of:

.....
Director

Signature (Witness) .....

Print Name .....

Address .....

.....

Occupation .....