

**WIRRAL COUNCIL**

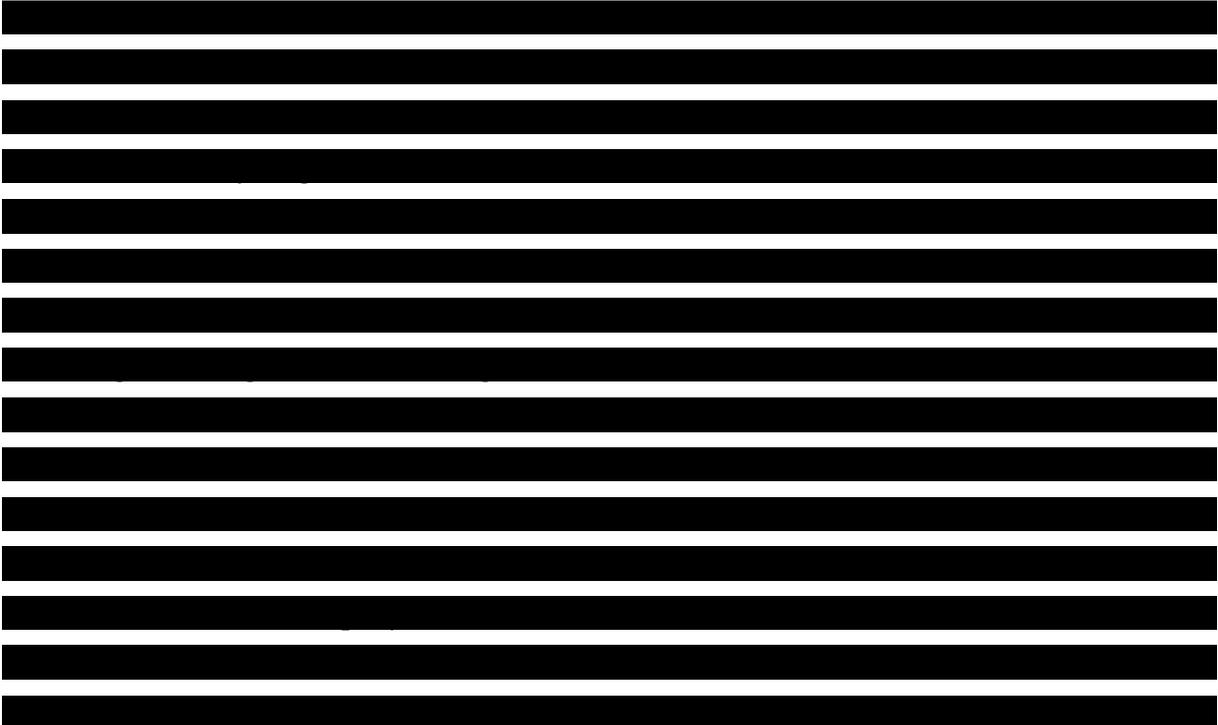
**Environmental Streetscene Services Contract**

**Waste, Recycling and Street Cleansing Services  
2006 – 2020 (2027)**

**[Updated October 2015]**







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## 4. Conditions of Contract

### 4.1 Definitions and Interpretation

- 4.1.1 In this Contract, save where the context otherwise requires, the following expressions shall have the meanings hereby assigned to them.
- 4.1.1.1 "Additional Services" shall mean those Services that are over and above the Services described in the Invitation to Tender to be performed as part of the Contract.
- 4.1.1.2 "Alternate Weekly Collection" means the collection of Residual Waste one Week and the collection of Recyclables on the same day the following Week.
- 4.1.1.3 "Annual Performance and Service Improvement Plan" means the plan to be submitted by the Contractor annually throughout the Contract Period at a date to be determined in consultation with the Authorised Officer. The plan Reviews the performance and delivery of the Services during the previous thirteen Months, as defined in clause 4.1.1.59, and outlines proposals to improve the performance and delivery of the Services for the remaining period of the Contract.
- 4.1.1.4 "Annual Sum" means the Annual Sum stated in the Tender payable by the Council to the Contractor if the Contractor properly performs the Services as calculated in accordance with clauses 4.14 and 4.15.
- 4.1.1.5 "Assisted Collection" means the collection of Waste or Recyclables from a Location within the boundary of a property, as agreed by the Authorised Officer.
- 4.1.1.6 "Authorised Officer" means the Director of Technical Services for the time being of the Council or his successor or any person duly authorised by him in writing to act on his behalf, or duly authorised by the Director of Technical Services of the Council from time to time to act in the name of the Council.
- 4.1.1.7 "Best Value" means, in accordance with the Local Government Act 1999, a duty to deliver Services to clear standards with continuous improvement throughout the Contract Period.
- 4.1.1.8 "Best Value Duty" means the duty imposed on the Council by Part 1 of the Local Government Act 1999 under which the Council is under a statutory duty to continuously improve the way its functions are exercised having regard to a combination of economy, efficiency and effectiveness and to the Guidance issued from time to time by the Office of the Deputy Prime Minister (or any Government Department upon which duties shall have devolved), the Audit Commission or the Chartered Institute of Public Finance and Accountancy pursuant to or in connection with, Part 1 of such Act.
- 4.1.1.9 "Bring Site" means a Location at which the Council or Contractor place Waste Receptacles for the segregated collection of Recyclables.
- [REDACTED]
- [REDACTED]

- 4.1.1.12 "Best Value Review" means the Review that local authorities are required to undertake in accordance with section 5 Local Government Act 1999 of all Services to ensure continuous improvement.
- 4.1.1.13 "Bulky Household Waste" shall mean items that either will not fit inside a wheeled bin with the lid closed or mean that the total weight of the wheeled bin exceeds 25kg but excludes Waste arising from construction or demolition operations. Please refer to Appendix 9.8.10 or a detailed description of the items that are included in or excluded from the Bulk Waste Collection Service.
- 4.1.1.14 "Change in Law" means the coming into effect after the date of this contract of (a) Legislation, other than any Legislation which on the date of this Contract has been published (i) in a draft Bill as part of a Government Department Consultation paper; (ii) in a Bill; (iii) in a draft statutory instrument; (iv) as a proposal in the Official Journal of the European Communities; (b) any



addendum's or schedules, including any written agreements arising from negotiation with the Contractor (including any pre-tender information provided by both parties through the clarification process) and written documentation referring to all matters relating to the provision of the Services.

- 4.1.1.25 "Contract Manager" means the person appointed by the Contractor to administer the Service on his behalf for the Council.
- 4.1.1.26 "Contract Period" means the period commencing at 00:01 on the Commencement Date of this Contract and expiring at 23:59 on 21<sup>st</sup> August 2020 and save as, or such other date as may be determined in accordance with this Contract.
- 4.1.1.27 "Contract Standard" shall mean such standard as complies in each and every respect with all the relevant outputs and requirements of the Contract and to the extent that no specific criterion are stated in the Contract, the standard is to be the reasonable satisfaction of the Authorised Officer.
- 4.1.1.28 "Contract Waste" means all Waste that it is the duty of the Council (pursuant to section 48(1) of the Environmental Protection Act 1990) to deliver for disposal to such place as the Waste Disposal Authority directs and is so delivered and includes Household Waste and Recyclables.
- 4.1.1.29 "Contractor" means the person or persons or company whose tender has been accepted by the Council and where the word "Contractor" must be construed as in the plural all agreements on the part of the Contractor shall be deemed to be made jointly and severally. For the purpose of obligations the term "Contractor" shall where the context so admits include any sub-Contractor engaged by the Contractor or any Employee of the Contractor.
- 4.1.1.30 "Control of Litter" means Cleansing all relevant highway and relevant land in the district.
- 4.1.1.31 "Council" means "WIRRAL COUNCIL" or any assignee or successor authority.
- 4.1.1.32 "Council's Objectives" shall mean the Council's Objectives as detailed in the Corporate Plan.
- 4.1.1.33 "Customer Satisfaction Survey" means any method used to obtain feedback from customers on the performance of Services.
- 4.1.1.34 "Daywork Rates" means the rates for the performance of additional Services described in the Pricing Schedule forming part of the Tender documents;
- 4.1.1.35 "Default Notice" shall mean a notice issued in accordance with clause 4.46 and Schedule One of the Conditions of Contract where the Contractor defaults in performance.
- 4.1.1.36 "Directive" means the European Acquired Rights Directive 11/187 or any re-enactment or equivalent of the same.
- 4.1.1.37 "Dispute Resolution Procedure" means the procedure for resolving disputes set out at clause 4.53.
- 4.1.1.38 "Employee" shall include, agents, subcontractors, persons hired by the Contractor from agencies or on a temporary basis, and where applicable officers of a company.
- 4.1.1.39 "Entries" means a passageway, either adopted, unadopted or gated, for which the Council has assumed the responsibility for Cleansing (see Appendix 9.9.1).
- 4.1.1.40 "Environmental Information Regulations" means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Secretary of State for Constitutional Affairs, the Department for Environment, Food and Rural Affairs (Defra) and/or the Information Commissioner;
- 4.1.1.41 "Expiry Date" means the date specified in clause 4.7.3.
- 4.1.1.42 "Flyposting" shall mean all unauthorised advertising material.
- 4.1.1.43 "FOIA" means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Secretary of State for Constitutional Affairs and/or Information Commissioner in relation to such legislation;
- 4.1.1.44 "Fortnight" means two consecutive Weeks.

- 4.1.1.45 "Garden Waste" shall mean Waste arising from a private residential premises and includes grass, hedge clippings, prunings, tree branches, weeds, dead vegetation and leaves.
- 4.1.1.46 "General Change in Law" means a Change in Law which is not a Specific Change in Law
- 4.1.1.47 "Guidance" means any applicable guidance or directions with which the Council and/or the Contractor is bound to comply
- 4.1.1.48 "Household Waste" has the meaning given in the Controlled Waste Regulations 1992.
- 4.1.1.49 "Index Period" means in the context of clause 4.49 hereof the period of one year commencing one Month prior to each Review Date.
- 4.1.1.50 "Information" has the meaning given under section 84 of the Freedom of Information Act 2000 and/or regulation 2 of the Environmental Information Regulations;
- 4.1.1.51 "Kerbside" means the edge of the pavement nearest the road, except for properties with a rear or side passage where the Kerbside is judged to be the rear or side gate.
- 4.1.1.52 "Kitchen Waste" shall mean Organic Waste arising from private residential kitchens to include fruit and vegetable peelings, meat and fish scraps and any other food Waste.
- 4.1.1.53 "Litter" shall include any Waste and all other material substances discarded or deposited anywhere within the Contract area other than on private land, unless instructed by the Authorised Officer, with no lower or upper size limit. Without prejudice to the generality of the foregoing, dust, sand, soil, discarded ends of cigarettes, cigars and other like products, chewing gum and the remains of other products designed for chewing, detritus, dog fouling, dead animals, leaf fall, grass mowing, twigs, blossom, discarded sacks or Waste or other material whether burst or not, sharps including syringes, household furniture and effects, building material, Garden Waste, shopping trolleys, accident debris, oil and other deposits etc shall be considered to be Litter in accordance with the Contract. "De-Litter" shall be construed accordingly.
- 4.1.1.54 "Local Performance Indicators" are locally defined performance measures set by the Council, not prescribed by central government, as detailed in clause 4.37 of the Conditions of Contract.
- 4.1.1.55 "Location(s)" means the place(s) as indicated on the Site Plans where the Service or any part thereof is to be performed by the Contractor or to which goods, equipment or materials are to be delivered or stored or where work is to be executed by the Contractor or where documents or records are held or stored by or on behalf of the Contractor in connection with the provision of the Service.
- 4.1.1.56 "Major Default Notice" means a Default Notice issued in accordance with clause 4.46 by the Council when the Contractor is substantially failing to perform the Services in accordance with the Contract Standard.
- 4.1.1.57 "Mechanical Sweeping" means Mechanical Sweeping of all Road channels, laybys, traffic islands and roundabouts of any relevant highway or relevant land.
- 4.1.1.58 "Method Statements" means the proposed methods of performing the Service submitted by the Contractor as part of the Tender and accepted by the Council in their original form or as amended.
- 4.1.1.59 "Month" means a four Week period commencing on the 22<sup>nd</sup> day of each calendar month.
- 4.1.1.60 "Municipal Waste" means all Waste collected by the Council including Household Waste and Commercial Waste as set out within the latest DEFRA guidance notes.
- 4.1.1.61 "Operation" means a part of the Services the nature of which is separately referred to and priced in the Pricing Schedule and which is to be performed by the Contractor at a Site, or which is contained in an instruction issued and is to be performed by the Contractor at a Site;
- 4.1.1.62 "Operator's Licence" means the requirements to be achieved by the Contractor as part of the Department for Transport Regulations.
- 4.1.1.63 "Organic Waste" shall mean Waste that will bio-degrade and includes Kitchen Waste and Garden Waste.
- 4.1.1.64 "Party" means a party to this Contract;

- 4.1.1.65 “Performance Management” means the provisions set out in the Specification whereby the Contractor is required to deliver a framework which meets the requirements of the Local Government Act 1999.
- 4.1.1.66 “Plant” shall include all Plant equipment, machinery and vehicles used for this Contract.
- 4.1.1.67 “Pricing Schedule” where applicable means the schedule of rates upon which the Contractor’s tender was based and incorporates the principles of measurement set out therein.
- 4.1.1.68 “Price Review Index” means the index calculated as described within clause 4.49.
- 4.1.1.69 “Rapid Response Service” refers to the provision by the Contractor of sufficient personnel and Plant to respond immediately, upon request from the Authorised Officer, to any matter of an urgent nature in accordance with the Specification.
- 4.1.1.70 “Rectification Notice” means a notice issued in accordance with clause 4.46 hereof where the Contractor fails to provide the Services.
- 4.1.1.71 “Recyclables” means Contract Waste which is reusable or from which substances can be reclaimed in accordance with section 29(6) of the Environmental Protection Act 1990 (EPA).
- 4.1.1.72 “Recyclate” means Recyclables that have been sold or otherwise disposed of to a Reprocessor.
- 4.1.1.73 “Reprocessor” means a Waste recoverer to whom the Contractor or the Council may sell or otherwise dispose of Recyclables or Compost who produces a saleable commodity from the Recyclate or who uses Compost for land cultivation or land restoration.
- 4.1.1.74 "Requests for Information" shall have the meaning set out in FOIA and/or the Environmental Information Regulations and includes any apparent request for such information;
- 4.1.1.75 “Residual Waste” means Waste, after the removal of Recyclates, which requires to be delivered to the disposal point.
- 4.1.1.76 “Review” means the Review of the Annual Sum, insurance, bond or Daywork Rates to be undertaken on the Review Dates.
- 4.1.1.77 “Review Date” means the 21<sup>st</sup> August 2007 and every anniversary thereafter.
- 4.1.1.78 “Road” and “Street” shall include all of the following items and Locations as and where they exist and shall include both adopted and unadopted areas:
- 4.1.1.78.1 Carriageway – surfaced or unsurfaced, including side channels to both sides of carriageway with or without edging kerbs, all gully tops and drainage channels which are to be cleared to allow free passage of water;
- 4.1.1.78.2 Central reservations, traffic islands, traffic separators and roundabouts – including all edging kerbs, channels and surface or grass, shrub or flower beds, or hard surface;
- 4.1.1.78.3 Underpasses and overpasses – for vehicle or pedestrian use including carriageway, footway, steps, ramps and any other features;
- 4.1.1.78.4 Footways, pathways and cycle tracks – with various surface materials and including all drainage slots, channels etc., edging kerbs, access ramps, vehicle driveways;
- 4.1.1.78.5 Passages and Service Roads – of various widths and surface materials both with and without vehicle access;
- 4.1.1.78.6 Other areas – including every Location (other than privately owned property) such as grass areas and verges, flower and shrub beds, open spaces, hard surface areas, play areas, environmental features, Street furniture, advertising hoarding frontages, shelters, ditches, bases of hedges and walls;
- 4.1.1.78.7 Precinct areas – including all the above elements together with sweeping and cleaning of all stairways, landings, Service areas, underground and overground delivery bays, Walkways, Service Roads, bridges, and clearance of all drainage channels;
- 4.1.1.78.8 Car parks – shall include all public car parks and car parks at Council Offices and establishments together with all their associated features as detailed above.

- 4.1.1.78.9 "Qualifying Change in Law" means a Specific Change in Law and/or a General Change in Law which comes into effect during the Contract Period which was not foreseeable at the date of this Contract.
- 4.1.1.79 "Services" means the Services and task to be performed described in the Specification including any goods or materials to be supplied by the Contractor in accordance with the Contract and includes any modifications, amendments or variations thereto made pursuant to this Contract.
- 4.1.1.80 "Service Delivery Plan" means the Contractor's plan for detailing the method of providing the Services incorporating information contained within the Method Statements, the Health and Safety Plan, the Contingency Plan, Environmental Policies and the Equal Opportunities Policies as amended from time to time.
- 4.1.1.81 "Service Schedule" means the schedule to be submitted Monthly by the Contractor detailing each element of the Services, together with valuations, agreed to have been carried out by the Contractor during the previous Month.
- 4.1.1.82 "Site" means in the appropriate context:
- 4.1.1.82.1 An individual property or Location, or
- 4.1.1.82.2 An individual Road and its immediate area, or
- 4.1.1.82.3 An individual passage, car park, precinct area, or
- 4.1.1.82.4 The grass areas at Kings Parade and Leasowe Common, or
- 4.1.1.82.5 The place where any Emergency Services are performed, or,
- 4.1.1.82.6 Any other separate and distinct Location not forming part of the areas mentioned.
- 4.1.1.83 "Specific Change in Law" means any Change in Law which specifically refers to the provision of services the same as or similar to the Service.
- 4.1.1.84 "Specification" means the document entitled "Specification" attached at Schedule Two which provides a description of the Service and shall include any modifications thereof or additions as may be approved from time-to-time in writing by the Authorised Officer.
- 4.1.1.85 "Tender Documents" means the Tender and the documents accompanying or referred to therein relating to Streetscene Services;
- 4.1.1.86 "Termination Date" means any date of early termination of this Contract in accordance with the terms of this Contract.
- 4.1.1.87 "The Act" means The Environmental Protection Act 1990 and any subsequent regulations issued thereunder and any subsequent re-enactment thereof.
- 4.1.1.88 "Third Party" means community groups, charities and other voluntary or non-governmental organisations involved in the collection of dry Recyclables.
- 4.1.1.89 "Transferring Employees" means Employees who are transferred from the employment of the Council to that of the Contractor pursuant to clause 4.31 and whose names are listed in TUPE Schedule as updated on the working day prior to Commencement Date.
- 4.1.1.90 "Transfer Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 1981 (SI No 1794)(as amended).
- 4.1.1.91 "Walkways" and "Alleyways" shall include paved and unpaved areas, verges, gutters and channels, ramps, steps and other landscape features.
- 4.1.1.92 "Waste" shall be the meaning ascribing to Waste in EU Council Directive 91/156/EEC and 91/689/EEC.
- 4.1.1.93 "Waste Collection" means the operation of the Waste Collection Service forming an integral part of the Services to be performed within the Contract.
- 4.1.1.94 "Waste Receptacles" shall mean any wheeled bins or recycling boxes used in the provision of the Services.

- 4.1.1.95 "Week" means seven consecutive days starting on a Sunday and ending on the following Saturday. Reference to time shall be construed, during the period of summer time to British Summer Time and other time to Greenwich Mean Time.
- 4.1.1.96 "Working Day" means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London.
- 4.1.1.97 "Performance Failure" shall mean the failure of the Contractor to meet pre-agreed performance targets for the Key Performance Indicators set out in Method Statement 3.
- 4.1.2 A reference to an Act of Parliament or any Order, Regulation, Statutory Instrument or any other delegated legislation shall include a reference to any amendment or re-enactment of the same.
- 4.1.3 The masculine includes the feminine and in the case of a limited company the indefinite article and the singular includes the plural and vice versa.
- 4.1.4 References to individuals shall be treated as including the organisation they represent.
- 4.1.5 The clause headings shall not be construed as part of these Conditions.
- 4.1.6 The proper law of the Contract shall be English Law.
- 4.1.7 Reference to supervisory staff shall be construed as including all staff performing a supervisory or management function.
- 4.1.8 Words preceding "include", "includes", "including" and "included" shall be construed without limitation by the words which follow those words;

## **4.2 Statutory Requirements**

- 4.2.1 The Contractor shall comply with all current relevant statutes, statutory instruments, and any other relevant provisions including where appropriate any relevant industry guidelines in the performance of the Services. Compliance with the Conditions of Contract does not relieve the Contractor of his obligations under any such statutes.
- 4.2.2 The Contractor shall fully understand the statutory duties of the Council and it is incumbent upon the Contractor to carry out the Services in accordance with those statutory requirements on behalf of the Council. The Contractor shall indemnify the Council against all and any penalties prescribed by law and any consequential costs resulting from the Contractor failing to carry out those statutory duties.
- 4.2.3 The Contractor shall acquaint himself with all relevant legislation for the purposes of all and any area of the Contract, and in particular although not necessarily limited to the relevant provisions of the Control of Pollution Act, 1974, the Controlled Waste Regulations 1992, the Environmental Protection Act, 1990 and the Environment Act, 1995. Environmental Protection (Duty of Care) Regulations 1991, the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991.

## **4.3 Precedence**

- 4.3.1 In the event of any inconsistency between the provisions of the body of this Contract and the Schedules, the body of this Contract shall take precedence. In the event of any inconsistency between Schedule Two (Specifications) and any of the other schedules, Schedule Two (Specifications) shall take precedence.

## **4.4 Warranties**

- 4.4.1 The Contractor in submitting its Form of Tender warrants and represents to and undertakes with the Council that:
- 4.4.1.1 It has not directly or indirectly canvassed any member or official of the Council with a view to gaining more favourable consideration of its tender.
- 4.4.1.2 All information representations and other matters of fact communicated (whether in writing or otherwise) to the Council by the Contractor or its Employees in connection with the Contractor's tender documents (and without prejudice to the generality hereof) particularly the non-collusive tendering certificate are true, complete and accurate in all respects.

- 4.4.1.3 It has not submitted a Form of Tender or entered into the Contract in reliance upon any representation or statement (whether made orally or in writing), which may have been made by the Council or on the Council's behalf.
- 4.4.1.4 It has full power and authority to enter into the Contract and carry out the Services in accordance with the Contract.
- 4.4.1.5 It is of sound financial standing and has sufficient working capital available to carry out the Services in accordance with the Contract for the entire duration of the Contract Period.

## **4.5 Contract and Variation of Contract**

- 4.5.1 For the avoidance of doubt, the obligations set out in the Specification and schedules of the Conditions of Contract shall be deemed to be specifically incorporated into these Conditions.
- 4.5.2 Except as otherwise expressly provided, the documents forming the Contract are to be taken as mutually explanatory of one another. Any ambiguities or discrepancies shall be resolved by the Authorised Officer who shall thereupon issue to the Contractor appropriate instructions in writing and the Contractor shall carry out and be bound by such instructions.
- 4.5.3 Except as otherwise expressly provided and without prejudice to any other of the Conditions hereof no omission from addition to or variation of the Contract shall be valid or of any effect unless it is in writing and signed by the Deputy Chief Executive and Director of Corporate Services and/or Authorised Officer.

## **4.6 The Authorised Officer**

- 4.6.1 The functions rights and powers conferred by this Contract upon the Council shall unless the Council otherwise resolves be exercised by the Authorised Officer. The Contractor shall in no circumstances question the existence or extent of the authority of any person authorised by the Authorised Officer to act on his behalf.
- 4.6.2 The Council shall forthwith give notice in writing to the Contractor of the replacement of the Authorised Officer or if any person ceases to be the Authorised Officer.
- 4.6.3 From time to time the Authorised Officer may appoint one or more representatives to act for the Authorised Officer – generally or for specified purposes or periods. Upon such appointment being made, written notice thereof shall be given to the Contractor.

## **4.7 Contract Period**

- 4.7.1 This Contract and the rights and obligations of the parties to this Contract shall take effect on the Commencement Date.
- 4.7.2 The Contract Period will commence on the Commencement Date and terminate on the earlier of:
- 4.7.2.1 The Expiry Date; and
- 4.7.2.2 The Termination Date.
- 4.7.3 The Expiry Date for this Contract shall be 21<sup>st</sup> August 2020 unless at the Council's absolute discretion, the Council gives the Contractor notice in accordance with clause 4.7.4 or clause 4.7.5 that the Expiry Date shall be:
- 4.7.3.1 21<sup>st</sup> August 2013; or
- 4.7.3.2 21<sup>st</sup> August 2027. *[Implemented through application of Variation Order 24 25 June 2015 "As per the offer from Biffa dated October 2014 and accepted by the Council in writing January 2015 the contract term and financial conditions are changed as per that agreement. Copies of final agreement/ letter attached. In summary, the contract is to be extended until 21st August 2027 (with a break clause option in March 2023 subject to agreed conditions being met as detailed in attached agreement/ letter), in return for a discount off the core contract price."*

- 4.7.4 If the Council wishes to vary the Expiry Date in accordance with clause 4.7.3 to 21<sup>st</sup> August 2013, the Council shall give the Contractor written notice of the revised Expiry Date on or before 21<sup>st</sup> August 2012.
- 4.7.5 If the Council wishes to vary the Expiry Date in accordance with clause 4.7.3 to 21<sup>st</sup> August 2027, the Council shall give the Contractor written notice of the revised Expiry Date on or before 21<sup>st</sup> August 2019.

- 4.7.6 If the Contract is terminated in accordance with clause 4.7.2.1 on the Expiry Date neither the Council nor the Contractor shall have any claim against the other in respect of any loss or damage resulting from or arising out of the termination.
- 4.7.7 For the avoidance of doubt the Council may at any time during the Contract Period exercise its right to terminate the Contract with or without notice in accordance with clause 4.50.
- 4.7.8 Without prejudice to the exercise by the Council of any of its other rights and remedies, if a Performance Failure occurs:
- 4.7.8.1 On or before 21<sup>st</sup> August 2012 the Council shall be entitled to terminate the Contract on 22<sup>nd</sup> August 2013 provided the Council gives the Contractor written notice on or before 21<sup>st</sup> August 2012.
- 4.7.8.2 On or after 22<sup>nd</sup> August 2012 the Council shall be entitled to terminate the Contract provided the Council gives the Contractor twelve months written notice.

## **4.8 Contractor's Obligations**

- 4.8.1 During the Contract Period the Contractor shall perform the Services (and any modifications amendments or variations thereof authorised under these Conditions) in a proper professional skilful and workmanlike manner to the Contract Standard and to the reasonable satisfaction of the Authorised Officer (provided always that a written instruction to provide the Service to the Contract Standard shall not constitute an amendment within clause 4.11 or otherwise).
- 4.8.2 The Contractor shall at all times perform the Services in accordance with Good Industry Practice, Guidance and the Specification and any amendments, variations and modifications thereof authorised under these Conditions or notified to the Contractor by the Authorised Officer.
- 4.8.3 The Contractor shall at all times during the Contract Period allow the Authorised Officer and such persons as may from time to time be nominated by the Authorised Officer access to:
- 4.8.3.1 All premises and land (whether or not owned by the Council) for the purpose of inspecting Services being performed pursuant to the provision of the Services;
- 4.8.3.2 All premises and land (whether or not owned by the Council) for the purpose of inspecting records and documents in the possession of the Contractor in connection with the provision of the Services;
- 4.8.3.3 All records and documents which demonstrate that the Services have been, are being or will be provided;
- 4.8.3.4 Any financial or other information and records to enable the monitoring of the Contract to be carried out to the Authorised Officer's reasonable satisfaction;
- 4.8.3.5 Materials, stores and spare parts in order to ensure that such items comply with manufacturer's specifications and have been obtained from only approved suppliers or otherwise comply with such Conditions as may be included in the Specification;
- 4.8.3.6 Any Employee of the Contractor for the purpose of interviewing him/her/them in connection with the carrying out of all or any part of the Services;
- 4.8.3.7 Plant used or proposed to be used in connection with the performance of the Services for the purpose of ensuring that such Plant meets the requirements of the Specification and relevant statutory requirements and for the purpose of inspections and repair if necessary.
- 4.8.4 The Contractor shall provide statistical data to the Authorised Officer at such regular intervals as may be determined by the Authorised Officer to enable performance to be monitored.
- 4.8.5 Should the Contractor require any further instruction or information for or in connection with the performance of the Services, the Contractor shall make a written application for the same to the Authorised Officer in which the requirement is stated in adequate detail. Such application shall be made on a date which, having regard to the date upon which the Contractor reasonably needs the same for or in connection with the performance of the Services, is neither too far away from nor too close to that date having regard to all circumstances including the time likely to be required by the Authorised Officer to respond to the application.

- 4.8.6 The Contractor shall not in any circumstances use any premises or Plant provided by or belonging to the Council employed in connection with provision of the Services to perform or provide either on its own behalf, or on behalf of any person other than the Council, any work other than the Services without the prior approval in writing of the Authorised Officer and subject to such terms and Conditions as the Authorised Officer may specify. The Contractor shall at all times whilst carrying out the Services employ himself solely in connection with the provision of the Services and for no other purpose whatsoever other than as approved and authorised by the Authorised Officer.
- 4.8.7 The Contractor in providing the Services to the Contract Standard shall not do anything which results or is likely to result in damage to Council's or other person's lands, goods or Plant or any part of them.
- 4.8.8 In accordance with and notwithstanding the provisions of clause 4.2 (Statutory Requirements) herein, the Contractor shall, in carrying out the Services comply with all relevant Acts of Parliament, Statutory Regulations and local and national Codes of Practice including in particular although without prejudice to the generality of the foregoing those detailed in the Specification and such other Acts, Statutory Regulations and local and national Codes of Practice as the Authorised Officer may from time to time require.
- 4.8.9 The Contractor shall comply with the Council's security regulations including although not necessarily limited to any made for the purpose of the Data Protection Act 1998 or any current Data Protection legislation. In particular, although without prejudice to the generality of the foregoing, save as maybe strictly necessary for the performance of the Services, the Contractor shall not, and shall not allow its Employees to, read any documents (whether printed, typed or handwritten and whether or not produced by computer or word processor), or the contents of any documents however produced or information displayed on any screen, or listen to the content of any tape or electronically produced recording of the Council, in contravention of Data Protection legislation.
- 4.8.10 The Contractor shall take all precautions to safeguard the Council's Plant, properties, land and goods and other Plant, properties, land and goods or any part of them against theft, vandalism and damage arising directly or indirectly out of the performance of the Services.
- 4.8.11 The Contractor shall take all necessary precautions including any imposed by law to safeguard its Employees and all other persons against injury or death as a result of the Contractor's performance of the Services.
- 4.8.12 The Contractor shall perform such Additional Services as the Authorised Officer shall direct the Contractor to perform in writing within the time that the Authorised Officer shall specify (or within such extension of time thereof as the Authorised Officer shall have first approved in writing) and payment therefore shall be in accordance with the prices shown by the Contractor for such Services in the Pricing Schedule
- 4.8.13 The Contractor shall not cause a nuisance or annoyance to the Council or any other person as a result of the performance of the Services (including the use of Plant during the performance of the Services).
- 4.8.14 Subject to the Contractor's obligation to perform the Service in a proper and skilful manner and in accordance with the Contract Standard the Method Statements submitted by the Contractor shall be incorporated into the specification to the extent that they have been accepted by the Council.
- 4.9 Bond/Guarantee**
- 4.9.1 Subject to clause 4.9.1.1 below on the execution of the Contract the Contractor shall at his own expense provide a Bond from a Bank, Insurance Company or other Financial Institution approved by the Council for a sum equal to 10% of the Annual Sum to guarantee the due performance of his obligations under the Contract and for the payment by the Contractor to the Council of all sums due hereunder. The Contractor shall ensure that such Bond remains in force throughout the Contract Period and the value of such Bond shall be increased at the anniversary of each Commencement Date in line with any increase in the Annual Sum.
- 4.9.1.1 Subject to clause 4.9.1.2 below and if the Council in their absolute discretion agree if the Contractor is a subsidiary of another Company (as defined by section 737 of the Companies Act

1985 or such other relevant legislation for the time being in force) the Contractor shall procure that such other company or ultimate holding company as the Council may specify enters into the Guarantee in the form set out in clause 3.4 (Parent Company Guarantee Form) contemporaneously with the execution of this Contract.

- 4.9.1.2 If a Guarantee under clause 4.9.1.1 above is provided to the entire satisfaction of the Council then the Council will waive the requirements for the Contractor to provide a Performance Bond. The Council will keep the status of the guarantee under Review and reserve the right to require the Contractor to provide a Performance Bond in accordance with clause 4.9.1 above at anytime during the Contract Period should the financial rating of the Company providing the Guarantee deteriorate to an extent which is unacceptable to the Council.
- 4.9.2 The amount of Bond shall be increased by the cost of living index one Month before the Review Dates for the appropriate Index Period in accordance with clause 4.49 (Method of Review).

#### **4.10 Modification**

- 4.10.1 The Authorised Officer shall be entitled to issue to the Contractor instructions in writing requiring the Contractor to do all or any of the following:
- 4.10.1.1 To omit and to cease to perform any part of the Services for such period as the Authorised Officer may fix. In such cases the Annual Sum payable will be reduced by an amount equal to the value of the omitted Services (as determined where possible by reference to the appropriate rates contained in or derived from the Pricing Schedule)
- 4.10.1.2 To perform such Additional Services outside the scope of the Services as the Authorised Officer may require provided that such Additional Services shall be the same as or similar to the Services under the Contract. The rates for Contract variations or Daywork Rates in the Pricing Schedule shall be applied as appropriate in valuing such Additional Services unless otherwise stated in the Specification or agreed.
- 4.10.1.3 To vary the Service Delivery Plan and to perform the Services in accordance with the Service Delivery Plan as so varied and the Contractor shall forthwith carry out all such instructions.
- 4.10.1.4 To perform the Services or any part thereof in such manner as the Authorised Officer may require in order to achieve the Contract Standard and to ensure that the Services are performed in a proper and skilful manner and the Contractor shall, when directed, carry out all such instructions at no additional cost to the Council. For the avoidance of doubt such instructions may require the Contractor to revise any or all of the Method Statements notwithstanding the Council's earlier acceptance of those Statements.
- 4.10.2 If the Authorised Officer has issued instructions hereunder omitting Services from the Contract or varying their nature so that the cumulative effect of such instructions would be to reduce the amount payable to the Contractor (if he properly performed the Contract) in any year of the Contract to 70% or less of the Annual Sum, then the Contractor may on giving at least 12 Months prior notice in writing to the Council terminate the Contract PROVIDED the notice is given at a time that the said proportion would be 70% or less at the end of the year of the Contract in question if no further instructions were issued by the Authorised Officer under this clause.
- 4.10.3 If the Contract is terminated in accordance with clause 4.10.2 above neither the Council nor the Contractor shall have any claim against the other in respect of any loss or damage resulting from or arising out of the termination.
- 4.10.4 The Contractor shall be bound by and shall forthwith carry out all such instructions given under this clause. Such instructions may initially be given orally and shall be confirmed in writing as soon as possible.

#### **4.11 Variation or Amendment to Contract**

- 4.11.1 The Council may from time to time require changes (outside the scope of the Modifications referred to in clause 4.10 above), which may include significant changes to the Specification or Pricing Schedule and accordingly, upon giving reasonable written notice thereof to the Contractor (to be determined in accordance with clause 4.11.2 below), the Council may add to,

delete from or otherwise amend in any way the provisions of the Specification or Pricing Schedule.

- 4.11.2 Reasonable notice for the purposes of clause 4.11.1 above shall be deemed to have been given if it is:
- 4.11.2.1 One Month's notice for changes to the Specification or Pricing Schedule that the Council considers will result in more or less Employees being required by the Contractor or significantly more costs being incurred by the Contractor. Amendments will be added to the Pricing Schedule as and when they occur. Such changes will be sent to the Contractor within one Month and the Contractor will receive all the Monthly amendments in writing and then receive a new Pricing Schedule update. (All costing for such amendments will be as per the original tender Pricing Schedule rates, including inflation percentage rise.);
- 4.11.2.2 48 hours notice in the case of minor or temporary changes;
- 4.11.2.3 Immediately in the case of major emergencies.
- 4.11.3 The Contractor will ensure that all Contract amendments are included within the Service Delivery Plan to be provided by the Contractor in accordance with clause 5.2 and added to each Service Schedule. The Contractor will ensure that the amended Services are carried out within two Months of receipt of the amendment.
- 4.11.4 In the event of variation or amendment in accordance with clause 4.11.1 above a variation in the payment to be made to the Contractor may also be made. The amount of any such variation in the payment to be made to the Contractor shall be calculated by reference to any increase or reduction in the Contractor's reasonable costs, any likely increase or reduction in income and shall be certified on behalf of the Council and a copy of such certificate shall be sent to the Contractor. The Contractor shall provide to the Council such information and documents as the Council may reasonably require to enable it to reach its determination.
- 4.11.5 For the avoidance of doubt, no increase in the payment to be made to the Contractor shall be made in respect of a variation or amendment if there is a compensating reduction in the Contractor's costs as a result of a reorganisation of any other part of the Services.
- 4.11.6 In the event of a dispute as to whether any variation should give rise to any change in the payment to be made to the Contractor or the amount thereof, the matter shall be determined by the dispute resolution procedure in accordance with the provisions of clause 4.53 (Dispute Resolution).
- 4.11.7 The Authorised Officer may at any time during the Contract term propose revisions to all or any of the Method Statements if in his reasonable opinion such revisions will improve the performance of the Service. As part of his proposals, the Authorised Officer may submit changes to the Pricing Schedule and the rates therein. The Contractor shall carefully consider such proposals and shall not unreasonably refuse to accept them and the consequential alterations or additions or deletions to the Method Statements and Pricing Schedule.

## **4.12 Legislative Change Risk**

- 4.12.1 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:
- 4.12.1.1 Any necessary change in Service;
- 4.12.1.2 Whether any changes are required to the terms of this Contract to deal with the Qualifying Change in Law;
- 4.12.1.3 Whether relief from compliance with obligations is required during implementation of any relevant Qualifying Change in Law;
- 4.12.1.4 Any loss of income that may or will result from the relevant Qualifying Change in Law;
- 4.12.1.5 Any estimated change in the cost of the Contract (as identified in the open book account) that directly results from the Qualifying Change in Law; and
- 4.12.1.6 Any 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 in full detail any proposed procedure for implementing the change in service occasioned, confirming to the other their opinion as to which party has responsibility for the costs of implementation, and any resulting variation to the Contract Price shall be dealt with in accordance with clause 4.12.2 below.

- 4.12.2 As soon as practicable after receipt of any notification from either party under clause 4.12.1, the party shall discuss and agree the issues referred to in clause 4.12.1 and any ways in which the Contractor can mitigate the effect of the Qualifying Change in Law.
- 4.12.2.1 Providing evidence that the Contractor has used reasonable endeavours (including (where practicable) the use of competitive quotes) to oblige its sub-contractors to minimise any increasing costs and maximise any reduction in costs;
- 4.12.2.2 Demonstrating how any expenditure to be incurred or avoided is being measured in a cost effective manner including showing that when such expenditure is incurred or would have been incurred, foreseeable Changes in Law at that time have been taken into account by the Contractor;
- 4.12.2.3 Giving evidence as to how the Qualifying Change in Law has affected prices charged by other similar businesses, including similar businesses in which the shareholders or their affiliates carry on business; and
- 4.12.2.4 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 in the amount which in either parties opinion has resulted or is required under clause 4.12.1.5 and/or 4.12.1.6 above.
- 4.12.3 It is agreed by the parties that the Contractor shall bear the entire risk of any General Change in Law for the duration of the contract and notwithstanding any other provision in the contract any Specific Change in Law whether or not it is foreseen that comes into legal effect or which is published prior to or during the first 3 years of this contract.

#### **4.13 Improvements in Services**

- 4.13.1 The Contractor is encouraged to discuss with the Authorised Officer any alterations to the Services, which may reduce costs, increase receipts or improve the quality of the Services.
- 4.13.2 The Contractor shall from the Commencement Date for the Contract Period, or any other date as instructed by the Authorised Officer, utilise the Customer Relationship Management (CRM) System provided and operated by the Council in order to receive, record and remedy any complaints, enquiries and requests from members of the public relating to any of the Services. This information will be needed by and used for the purpose of preparing and calculating its Best Value Performance Indicators and any other relevant Local Performance Indicators. The Council will provide the Contractor with the necessary training in the Customer Relationship Management System.
- 4.13.3 The Contractor shall ensure that all complaints received by the Contractor and any such action to resolve these complaints will be in compliance with guidelines, which shall be approved by the Authorised Officer. In accordance with clause 4.13.2 above, the Contractor shall ensure they utilise the specified computer hardware and/or software to run an efficient and appropriate complaints system with Internet access.

#### **4.14 Method of Payment**

- 4.14.1 Provided that the Contractor has performed the Services in accordance with the Contract the Council shall pay to the Contractor a Monthly sum subject to the additions and deductions herein set out.
- 4.14.2 The Monthly sum will be made and calculated as follows:
  - 4.14.2.1 At the end of each Month, after the Council has been supplied with the Monthly statement and Service Schedule in accordance with clause 4.15, the Council will supply the Contractor with a further copy of the Service Schedule, amended as necessary, showing each element of the Services agreed to have been carried out by the Contractor during the previous Month. Payment shall be made by the Council in accordance with the agreed Service Schedule;

- 4.14.2.2 For the second year and each successive year of the Contract Period payment shall continue to be calculated and made in accordance with clauses 4.14 and 4.15, save that the total sum to be paid each Month shall be increased or decreased with effect from each Review Date by a percentage equal to the percentage rise or fall in the Price Review Index during the Index Period in question in accordance with clause 4.49 of the Contract;
- 4.14.2.3 The Contractor will have priced its tender on the basis that the outputs and the instructions specified will be achieved and this will be reflected in the submitted tender price;
- 4.14.2.4 The Conditions and Specification specify the Contract minimum requirement. If the Contractor's performance falls below these Contract Standards (other than with the consent of the Authorised Officer), the Authorised Officer shall be entitled to deduct a sum of monies for the uncompleted, defective or non compliant Services from the Monthly invoice sum and issue Rectification Notices or Default Notices as herein provided.
- 4.14.3 Payments for modifications, variations and amendments including Additional Services shall be calculated from rates in the Pricing Schedule or other rates supplied by the Contractor and determined by the Council with due allowance for the Contractor's overhead costs.

#### **4.15 Monthly Statement**

- 4.15.1 The Contractor shall submit to the Authorised Officer or his representative and within five days after the end of each Month a signed statement and Service Schedule showing the Contractor's valuation of Services undertaken in respect of each Contract item up to the end of that Month.
- 4.15.2 All submitted statements and Service Schedules will be evaluated by the Authorised Officer and within five days after receipt a Monthly invoice sum payable by the Council shall be determined by the Authorised Officer based on the following criteria:
- 4.15.2.1 Payment will be made for Services if they have been completed and are of a satisfactory quantity and quality;
- 4.15.2.2 Any amendments in respect of quantity or quality instructed by the Council will be checked as to whether they have been achieved and in the event of any failure to comply, a deduction in accordance with clause 4.16 herein may be made;
- 4.15.2.3 Any default deductions to be made under clause 4.46 (Default in Performance) shall be deducted.
- 4.15.3 The Authorised Officer shall have the right to make the final decision as to any deductions in accordance with clause 4.16 herein:
- 4.15.3.1 Where Additional Services have been required in writing by the Authorised Officer the Contractor shall complete the Additional Services within the agreed time period;
- 4.15.3.2 The Contractor shall submit to the Authorised Officer or his representative within three Weeks after the end of each Month an invoice showing the agreed valuation to which the Contractor considers he is entitled to in connection with additional and/or variation orders duly completed within that Month.
- 4.15.3.3 Such valuations will coincide with clause 4.15.1 as stated above.
- 4.15.4 The Council shall deduct any monies owed for Services rendered by the Council, e.g. payment for use of depots, from the Contractor's Monthly statement.

#### **4.16 Additions, Deductions and Extras**

- 4.16.1 The Authorised Officer shall have the power to amend any Monthly statement in respect of value of the Service carried out including:
- 4.16.1.1 Modifications ascertained in accordance with clause 4.10;
- 4.16.1.2 Variations or amendments ascertained in accordance with clause 4.11;
- 4.16.1.3 Additions or deductions in accordance with clause 4.5;
- 4.16.1.4 Additions or deductions ascertained in accordance with clause 4.16 herein;
- 4.16.1.5 Deductions in accordance with clause 4.46 (Default in Performance);

- 4.16.1.6 Any other additions required by or deductions authorised by these Conditions.
- 4.16.2 Payments for extra Services will be paid to the Contractor as stated in accordance with the Pricing Schedule. This will include:
- 4.16.2.1 Collections from extra domestic properties with bulk containers, wheeled bins, containers or sacks;
- 4.16.2.2 Bulky Household Waste Collections as described in the Specification;
- 4.16.2.3 Services carried out:
- 4.16.2.3.1 Out of normal working hours – Monday to Friday;
- 4.16.2.3.2 At Weekends;
- 4.16.3 A separate invoice for Services carried out within clause 4.16.2, with the exception of clause 4.16.2.1 shall be provided to the Council showing full details of extra Services carried out. Extra Services described in clause 4.16.2 shall be included in the new Monthly Contract sum, which will be calculated as described in clause 4.14.

#### **4.17 Certification**

- 4.17.1 In accordance with clauses 4.14 and 4.15, within 28 days of the date of delivery to the Authorised Officer or his representative of the Monthly statement by the Contractor, the Authorised Officer shall certify and the Council shall pay to the Contractor (after deducting any previous payment on account) the amount which, in the opinion of the Authorised Officer after taking into account the Conditions hereof and without prejudice to the generality of the foregoing clause 4.14 hereof, is due to the Contractor including the adjustment (if any) to be made in respect of income tax and/or Services not completed.

#### **4.18 Copy Certificate**

- 4.18.1 A copy of the valuation, including amendments, which the Authorised Officer has used to prepare the certificate of payment, shall be sent by the Authorised Officer to the Contractor.

#### **4.19 Value Added Tax**

- 4.19.1 Sums payable to the Contractor pursuant to this Contract are exclusive of Value Added Tax (VAT).
- 4.19.2 The Council shall pay to the Contractor in the manner hereinafter set out any VAT properly chargeable on the supply by the Contractor of the Services at the appropriate rate.
- 4.19.3 The Contractor shall not later than the date for the issue of the Monthly certificate in accordance with these Conditions inform the Authorised Officer in writing, in respect of the Services included during that period, as to:
- 4.19.3.1 Which part or parts of such Services are exempt from VAT;
- 4.19.3.2 Which part or parts of such Services bear a zero rate of VAT;
- 4.19.3.3 Which part or parts of such Services bear a rate of VAT greater than zero in each case specifying the exact rate chargeable.
- 4.19.4 Upon receipt of the Contractor's written notices under clause 4.19.3 above unless the Council objects to any part of such notice the Authorised Officer shall calculate the amount of VAT due in accordance with the contents of such notice and shall so certify pursuant to the Conditions.
- 4.19.5 Upon receipt by the Contractor of any payment made by the Council pursuant to the Conditions being a payment including VAT the Contractor shall forthwith issue to the Council an authenticated receipt in such form as may be required by the Value Added Tax Act 1983 or such legislation relating to Value Added Tax as may from time to time be in force.
- 4.19.6 If the Council objects to any part of such notice and such objection cannot be resolved by the parties by agreement the Council may require the Contractor to refer to the Commissioners of Customs and Excise ("the Commissioners") any dispute, difference or question in relation to any of the matters specified in the Act.

- 4.19.7 If the Contractor refers the matter to the Commissioners (whether or not under clause 4.19.3 above) and the Council is dissatisfied with their decision on the matter the Contractor shall at the Council's request refer the matter to a Value Added Tax Tribunal ("the Tribunal") (or such other Tribunal as current Value Added Tax legislation may provide for) by way of appeal under the VAT Act 1994 whether the Contractor is so dissatisfied or not. Should the Contractor be required to deposit a sum of money equal to all or part of the tax claimed under the VAT Act 1994, the Council shall pay an equivalent sum to the Contractor.
- 4.19.8 If the Tribunal finds against the Council the Council shall further reimburse the Contractor any costs or expenses reasonably and properly incurred in making the references (less any costs awarded to the Contractor by the Tribunal).
- 4.19.9 Upon the final adjudication by the Commissioners or in the event of a reference to a Tribunal by the Tribunal, the Council shall pay the amount of the VAT adjudged due to the Contractor. Should the amounts already paid by the Council either by way of payment or VAT or by way of reimbursement of any money required to be deposited by the Contractor with the Commissioners under clause 4.19.7 above exceed the VAT adjudged to be due, the Contractor shall forthwith repay such excess to the Council.
- 4.19.10 Notwithstanding any provision to the contrary in the Conditions the Council shall not be obliged to make any further payment to the Contractor if the Contractor is in default in providing the receipt referred to in clause 4.19.5 above provided that this sub-clause shall only apply where the Council can show that it requires such receipt to validate any claim for credit from VAT paid or payable which the Council is entitled to make to the Commissioners.

## **4.20 Income Tax**

- 4.20.1 For the purposes of the Finance (No. 2) Act 1975 ("the Finance Act") or any amendment or re-enactment thereof the Contractor is deemed to be a "sub-Contractor". The Contractor shall produce to the Council such evidence as the Council shall deem necessary to satisfy the Council that the Contractor shall provide a valid and current certificate in form 714I, form 714P or form 714C (or such other forms as current legislation may provide for) and shall further produce such documents as are set out in the documents published by the Board of Inland Revenue as IR14/15 of 1976 (or any amendment or replacement of that document) to satisfy the Council that the Contractor is entitled to be paid without deduction of tax pursuant to the Finance Act (or any amendment or re-enactment of the Finance Act). Should the Contractor fail to produce the said documents or any of them the Council will deduct tax from any payment due to the Contractor at such rates as are currently in force. However, this clause will only apply if the Contractor carries out Services coming within the definition of "construction operations" as defined by the Finance Act.

## **4.21 Contracts (Rights of Third Parties) Act 1999**

- 4.21.1 The provision of the Contracts (Rights of Third Parties) Act 1999 are expressly excluded in respect of third parties enforcing the Contract.
- 4.21.2 If any part of the Contract work is performed by a sub-Contractor, (subject to clause 4.21.3 below) the Contractor will ensure that the Council has Third Party rights to enforce the Contract in whole, or in part, for that part of the Services to be performed by the sub-Contractor. No reciprocal rights will be acquired by the sub-Contractor against the Council.
- 4.21.3 For the purposes of certainty; the areas under which Third Party rights are required will have been agreed with the Contractor before the award of the Contract and these will be set out in a joint letter signed by the parties. If no discussion took place or it has been agreed the Council does not wish to acquire Third Party rights from the Contractor, then clause 4.21.2 above will not apply.

## **4.22 Assignment**

- 4.22.1 The Council shall be entitled to assign the benefit of this Contract or any part thereof to a statutory or other public body and shall give written notice of any assignment to the Contractor.
- 4.22.2 Subject only to clause 4.22.3 below the Contractor shall not assign, sub-let or purport to assign or sub-let this Contract or any part thereof to any person or organisation whatsoever without the

prior written consent of the Authorised Officer and if that consent is given the Contractor shall not be relieved from any of the Contractor's responsibilities, liabilities or obligations under the Contract, and furthermore the Contractor shall be responsible for the acts, defaults, negligence or any deficiency of Service under the Contract of the sub-Contractor or its agents and operatives in all respects as if they were the acts, defaults, negligence or deficiencies of the Contractor. The Contractor shall require from any sub-Contractor, a direct and assignable warranty and undertaking concerning all aspects of the respective sub-Contracted work relating to the provision of the Service, and compliance with the Contract in all respects.

4.22.3 There is no intention on the part of the Council to create a tenancy of whatsoever nature in favour of the Contractor, and that no such tenancy has or shall come into being and the Council retains the right at any time to use any premises owned or occupied by the Council.

4.22.4 The Council shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation, if the Contractor shall have transferred or assigned, whether directly or indirectly, the benefit of the Contract without the written consent of the Council, or if the Contractor shall have sub-let the Contract (except so far as the sub-letting relates to the supply of patent or propriety articles, raw materials or natural products) without the prior written consent of the Council.

4.22.5 At the Commencement Date all existing Contracts and arrangements, as detailed in Appendix 9.8.7, which the Council has with other Contractors and organisations, will be assigned to the Contractor. Details of these Contracts and arrangements will be available for inspection during the tendering period.

#### **4.23 Premises**

4.23.1 The Contractor shall at all times during the Contract Period provide and maintain such premises, within Borough, as are necessary for the proper performance of the Services having regard to the provisions of the Specification.

4.23.2 All such premises shall be suitable and fit for the purpose and shall satisfy all requirements of relevant legislation. The Contractor shall pay any utility Service charges direct to the supplier.

4.23.3 Without prejudice to clause 4.8 the Contractor shall at all times permit the Authorised Officer access to all premises occupied for the purpose of this Contract (whether the subject of a licence from the Council or not).

#### **4.24 Use of Council's Premises**

4.24.1 The Contractor shall be permitted to use the Council's premises as are detailed in Appendix 9.3 or the purpose of providing all or any part of the Services, in accordance with the terms of the Contract and for no other purpose whatsoever.

4.24.2 The Contractor shall not, without the prior written permission of the Authorised Officer, make use of the premises for any purpose other than the performance of this Contract. This Condition is of the essence of the Contract and, without prejudice to any other right or remedy of the Council and breach of this Condition shall entitle the Council to determine the Contract forthwith. If the Authorised Officer gives his consent to the use of the premises for any purpose other than the performance of the Contract, he may impose such conditions as he may think fit.

4.24.3 The Authorised Officer shall consider any reasonable request from the Contractor to allow access to the premises prior to the Commencement Date and make such arrangements as are reasonably practical to enable the Contractor to operate the Service from that date. During such period the terms of clause 4.24.9 will apply to such occupation.

4.24.4 The Contractor shall reimburse the Council in full upon demand for the cost of repairing any damage arising from any negligent, wilful or criminal act on the part of the Contractor or any Employee or any consequential costs arising from any negligent, wilful or criminal act of the Contractor or its Employee.

4.24.5 For the avoidance of doubt it is hereby declared that any permission to enter and use the Council's premises hereby given is not the grant of a tenancy of any part of such premises and subject to any Conditions imposed in that consent by the Authorised Officer the Contractor may

sub Contract those elements of the Services which the Authorised Officer shall in his entire discretion permit to be subcontracted.

- 4.24.6 Any such permitting of the use of the Council's premises or any part thereof is personal to the Contractor and the Contractor's Employees and shall cease at the end of the Contract Period or upon the termination of the Contractor's employment under the Contract whichever is the earlier.
- 4.24.7 The Contractor will be responsible for the provision of furniture and equipment at the Council's premises.
- 4.24.8 The Contractor shall have elected which, if any, of the premises he wishes to use and, having so elected, shall not be permitted, at some later stage, either to elect to use premises that he has previously elected not to use, or to discontinue the use of premises that he has previously elected to use.
- 4.24.9 The Contractor shall, in respect of the premises or any of them:
- 4.24.9.1 Pay all and any rates, taxes, assessments, duties, charges, outgoings of an annual or periodically recurring nature and, if any of these are first paid by the Council and re-charged to the Contractor, the Contractor shall pay all such monies which shall be deducted from their Monthly payment;
- 4.24.10 The Contractor shall ensure that at all times its Employees strictly observe the Council's conservation of energy policy, a copy of which will be provided upon request;
- 4.24.11 At expiry of the Contract Period or upon the determination of the Contract in accordance with the Conditions whichever shall first occur, the Contractor shall cease his use of the premises and all parts thereof and shall leave them, in all respects, in a clean and tidy condition to the reasonable satisfaction of the Authorised Officer;

## **4.25 Licence**

- 4.25.1 During the Contract Period, the Council will make any of the Council's premises detailed in Appendix 9.3 available to the Contractor on the basis of a non-exclusive licence. The charge for this non-exclusive licence will be a licence fee of £1 per annum, payable on the Commencement Date and the Review Date thereafter of each year of the Contract.
- 4.25.2 The said non-exclusive licence is personal to the Contractor and shall come to an end if the Contract is determined whether by effluxion of time or otherwise.
- 4.25.3 The Contractor shall not, without the prior written permission of the Authorised Officer, carry out any works of adaptation or improvement to the Premises. This Condition is of the essence of the Contract and, without prejudice to any other right or remedy of the Council and breach of this Condition shall entitle the Council to determine the Contract forthwith.

## **4.26 Security**

- 4.26.1 The Contractor shall be responsible for the security of all buildings, Plant and materials used by the Contractor in connection with the provision of the Service, as well as personal belongings of the Contractor and Employees. The Council shall be under no liability whatsoever in respect thereof.
- 4.26.2 The Contractor may be required to hold access keys in respect of certain depot Sites, properties and alley gates particularly where any of the Services are to be undertaken outside normal working hours. In such circumstances the Contractor will be responsible for the security of such depot Sites, properties or alley gates and shall ensure in particular that such depot Sites or properties are properly locked both whilst the Services are being carried out and after any part of the Service has been completed and that any security alarm system installed at any such depot Site is properly activated when leaving such depot Site unattended.
- 4.26.3 The Contractor will be required to issue to any of its Employees who shall at any time have access to any depot Site, property or alley gates, and to pay the Council the cost of, security/access passes in such form as the Council may from time to time determine and issue to the Contractor. Such security/access passes must be carried by the Contractor's Employees at all times during the performance of their duties under the Contract.

- 4.26.4 The Contractor shall be responsible for the safekeeping of any information concerning security alarm systems, any keys provided to it by the Council and any security/access passes and shall only permit such information, keys and security/access passes to be given to those members of its staff whose names and addresses have been previously supplied to the Council and then only to the extent strictly required for the purpose of performing the Services. The Contractor shall ensure that the Council is informed immediately of the loss of any such keys and security/access passes and shall bear all costs of replacing such keys and any locks which need to be replaced as a result of such loss of keys or any loss or damage arising out of the Contractor's failure to activate any security alarm system when leaving a depot Site or property unattended.

#### **4.27 Plant and Materials**

- 4.27.1 The Contractor shall at all times during the Contract Period provide and maintain all such vehicles, Plant, machinery and equipment as are necessary for the proper performance of the Services.
- 4.27.2 All Plant employed by the Contractor in the performance of the Services at any time must be either assigned to the Contractor from the Council, owned by the Contractor or hired by the Contractor pursuant to a Contract of hire (and not hire purchase).
- 4.27.3 Except with the specific approval in each case of the Authorised Officer no vehicle used by the Contractor in the execution of this Contract shall be more than 7 years old.
- 4.27.4 Any Contract of hire for any of the Plant referred to in clause 4.27.2 above which is not owned by the Contractor and which must be available to enable the provision of the Services to continue in the event of a determination of this Contract in accordance with the Conditions, must include a provision that the owner thereof will on request in writing by the Council within seven days after the date on which any determination has become effective and on the Council undertaking to pay all hire charges from such date hire the Plant to the Council on the same terms that the Plant was hired to the Contractor save that the Council shall be entitled to permit the use of the Plant by any other Contractor employed to continue providing the Services.
- 4.27.5 The Council shall make available Plant listed in Appendix 9.4 as the Contractor determines in accordance with clause 4.27.6 for the Contractor's use in carrying out the Service on the terms and Conditions specified in this clause.
- 4.27.6 The Contractor, at the time of submission of its tender shall indicate the number of the various types of Plant listed in Appendix 9.4 which it will require from the Council, for the Contract Period and the number and types of Plant, it will require the Council to provide in addition for the performance of the Contract.
- 4.27.7 The Contractor shall be responsible for making application for and maintaining any Operator's License necessary for the operation of the Contract.
- 4.27.8 The Contractor shall at all times be fully responsible for the payment of operator licensing fees, insurances and any other payments required in connection with or arising out of the possession or use of all Plant employed in the performance of the Services whether or not owned by the Contractor.
- 4.27.9 In addition to the requirements of clauses 4.42 and 4.43 regarding liabilities and insurance the Contractor shall insure each item of Plant against all loss or damage from whatever cause arising during the Contract Period when the Plant is under the Contractor's control, in use by the Contractor or stored by the Contractor including storage by the Contractor at the Council's premises. Such insurance shall be affected with an insurer and in terms approved by the Council, for the value of the Plant shown in Appendix 9.4 or in the event of substitute or replacement Plant a figure to be determined by the Authorised Officer to reflect the value of the Plant.
- 4.27.10 From time to time the value of the Council's Plant for insurance purposes shall be revised and set by the Authorised Officer to properly reflect their value and the Contractor shall make appropriate changes in insurance terms and pay any costs.
- 4.27.11 The Contractor shall be responsible for the provision and cost of fuel for Plant and for the provision and cost of approved materials used in connection with the daily and Weekly checks and cleaning.

- 4.27.12 The Contractor shall be responsible for the payment of the Council's Plant hire charges for the Plant identified in accordance with clause 4.27.6. The hire charges are £1 per item of Plant per annum for the duration of the Contract.
- 4.27.13 Payment by the Contractor to the Council for the Council's Plant hire charges shall be effected by deduction of the hire charges for the concurrent period from any payment due to the Contractor in accordance with clauses 4.14 and 4.15 provided that if after such deduction a sum remains to be paid to the Council or if the Contractor is not entitled to a payment in accordance with this Contract then such sum shall be paid by the Contractor to the Council forthwith on demand.
- 4.27.14 The Contractor shall, prior to the Commencement Date or when Plant is first provided, as applicable, submit for approval by the Authorised Officer a detailed list of daily checks, Weekly checks and cleaning. The Contractor shall ensure that drivers carry out and record such approved daily checks, Weekly checks and cleaning and shall submit copies of such records to the Authorised Officer Weekly.
- 4.27.15 Other than as provided for in clause 4.27.20 in relation to tyres, the Council will, in so far as is practicable, keep its Plant in good repair.
- 4.27.16 The Contractor shall at his own expense put and keep all Plant employed in the performance of the Services at all times in good, clean, safe and Serviceable condition and in such condition as is commensurate with the proper performance by the Contractor of his obligations under this Contract and ensure compliance with all statutory requirements relating to Plant use.
- 4.27.17 The Contractor shall at all times permit the Authorised Officer and such other advisers as the Council may nominate access to all Plant and materials employed for the purpose of this Contract. The Authorised Officer shall be entitled to serve upon the Contractor a notice in writing requiring the Contractor to put any item of Plant into such condition as is required by clause 4.27.9 above and the Contractor shall forthwith upon receipt of such notice cause all necessary Services to be carried out to comply with such notice. In the event of the Contractor failing so to carry out such Services the Council shall be at liberty to have such Services carried out and the Contractor shall pay to the Council by way of liquidated damages such sums as the Authorised Officer shall certify to have been the cost of executing such Services. The Council shall not be responsible for any damage or loss caused to the Contractor's Plant and materials or for storing such materials left on the premises after the completion date.
- 4.27.18 The Contractor shall ensure that the Council's Plant is used with care, that it is properly operated and driven and that it is used within the capacity and in the manner for which it is designed.
- 4.27.19 The Contractor shall reimburse the Council in full upon demand for the cost of repairing and/or replacement of any damage arising from any negligent, wilful or criminal act on the part of the Contractor or any Employee or any consequential costs arising from any negligent, wilful or criminal act of the Contractor or its Employee, e.g. use of Plant beyond its design capacity or use for which it was not designed.
- 4.27.20 The Contractor shall be responsible for all costs associated with the replacement and repair of tyres including punctures where such a repair is safe. At the commencement of the hire period all Council Plant will be supplied with Roadworthy radial tyres with at least the minimum legal depth of tread plus 2mm including one spare tyre per item of Plant. At the end of the hire period, the Contractor shall return all Plant with similar tyres, including the spare, which are Roadworthy and have a minimum tread of the legal minimum requirement applying at that time plus 2mm.
- 4.27.21 At the expiry of the Contract Period or upon the earlier determination of the Contract in accordance with the Conditions, whichever shall first occur, all Plant assigned to the Contractor from the Council and employed in the performance of the Service shall transfer to the ownership of the Council and shall be in a condition commensurate with the age of the Plant.
- 4.27.22 At the expiry of the Contract Period or upon the determination of the Contract in accordance with the Conditions whichever shall first occur the Council shall be entitled to serve upon the Contractor a notice requiring the Contractor to sell to the Council such Plant as may be specified in such notice and to assign to the Council the benefit of all Contracts relating to the hire of such Plant as may be specified in such notice.

- 4.27.23 Upon receipt of the notice under clause 4.27.22 above requiring the Contractor to sell any Plant to the Council the Contractor shall forthwith sell and deliver such item to the Council in such condition as it may be at the date of the notice at a price to be agreed by the parties or in default of such agreement at such price as the Authorised Officer in his discretion may certify to be fair price for such item.
- 4.27.24 Upon receipt of a notice under clause 4.27.22 above requiring the Contractor to assign to the Council the benefit of any agreement for the hiring of any item of Plant the Contractor shall forthwith and without any payment from the Council execute all documents necessary to effect such assignment and shall deliver such item to the Council in such condition as it may be at the date of the notice. The Council shall thereafter indemnify and hold the Contractor harmless in respect of any liability arising under such hiring Contract after the date of such assignment save where such liability arose from or was contributed to by any breach of the hiring Contract by the Contractor prior to such assignment.
- 4.27.25 The Contractor shall cause all Plant to bear such words, devices or insignias as the Authorised Officer may approve and in addition shall cause all new Plant to be painted in such colours as the Authorised Officer may approve. The Contractor shall ensure that no Plant shall bear any advertising matter of any sort without the prior written consent of the Authorised Officer.
- 4.27.26 From time to time during the Contract Period the Council shall be entitled to replace Plant with new Plant. Prior to such replacement the Authorised Officer shall consult with the Contractor and obtain the Contractor's views on the type of Plant required having regard to the Service and to any changed circumstances or anticipated changes in circumstances. If in the opinion of the Authorised Officer replacement Plant is substantially similar in all respects to the original Plant, it shall be provided to the Contractor at the same hire charge as the original Plant, subject to any adjustment in accordance with clause 4.27.12. If the replacement Plant is substantially different from the original Plant and this affects the Council's costs, but reduces the Contractor's costs, the Authorised Officer would expect the Contractor to share the cost saving in line with any Partnering agreement as detailed in clause 4.74.
- 4.27.27 The Contractor shall at all times ensure that all the relevant Plant comply with all relevant legislation including the Road Traffic Acts, the Construction and Use Regulations, The Transport Act, The Goods Vehicle (Operators Licences Qualifications and Fees) Regulations 1984, Health and Safety legislation and guidance notes and any Operator's Licensing Authority recommendation, together with all and any additional legislation appropriate to the vehicles and their use, thereby satisfying requirements of the Operator's Licence by ensuring that all vehicles are safe and in good working order, repair and condition.
- 4.27.28 The Contractor shall produce his Operator's Licence and any other such evidence thereof to the reasonable satisfaction of the Council to demonstrate that any increases or amendments or change of premises made in order to carry out this Contract will be acceptable to the Licensing Authority. The Contractor must immediately inform the Council in writing of all vehicle prohibition orders connected with the relevant Operator's Licence and any other notices issued which are related to the condition of the vehicles whether or not they may necessarily be exclusively applicable to the Contractor's vehicles.
- 4.27.29 The Contractor shall ensure that the Contractor's operators and Employees are trained and thoroughly competent in the safe, efficient and proper use of Plant and materials.
- 4.27.30 The Contractor shall not permit any item of Plant to carry a weight above that prescribed either in terms of gross vehicle weight or weight limits on any individual axle.
- 4.27.31 The Contractor shall exercise particular care in relation to the storage of chemicals, Plant and materials which could be dangerous in the event of a fire and provide suitable storage facilities to ensure that such chemicals, Plant and equipment does not increase risk in the event of a fire. All such chemicals, Plant and equipment shall be stored in compliance with all relevant statutes, statutory instruments, and any other relevant provisions including where appropriate any relevant industry guidelines, particularly the Control of Substances Hazardous to Health (COSHH) regulations and legislation.
- 4.27.32 If, upon expiration or termination of the Contract, any premises, Plant or materials which the Council has assigned to or hired to the Contractor to use are damaged or lost and have not been replaced in accordance with clause 4.27.26 above then the Contractor shall compensate the Council. The Compensation to be paid shall be agreed between the Authorised Officer and the

Contractor. If agreement cannot be reached then the matter will be referred to the dispute resolution procedure under clause 4.53 of these Conditions, the cost of the mediation to be met equally by the Council and the Contractor.

- 4.27.33 Without prejudice to the provisions of the Specification all Plant and materials shall be of good quality and to the standard as stated in the Specification and to the reasonable satisfaction of the Authorised Officer.
- 4.27.34 Where it is found that Plant and materials used or proposed to be used by the Contractor in the provision of the Service do not meet the requirements of the Contract, the Authorised Officer may require the Contractor to remove such Plant or materials from the Council's premises and/or Site with immediate effect in any reasonable manner that he/she determines.
- 4.27.35 The Contractor shall develop Partnerships with suppliers of materials, goods and Services to enable continuous improvements to be made in the supply chain. The Council is committed to the need to minimise Waste and the better management of natural resources. The Contractor shall:
- 4.27.35.1 Encourage and persuade suppliers to investigate and introduce environmentally friendly processes and products;
- 4.27.35.2 Specify, wherever possible and reasonably practicable, the use of environmentally friendly materials and products;
- 4.27.35.3 Where appropriate, ensure that environmental criteria are used in the award of Contracts;
- 4.27.35.4 Ensure that appropriate consideration is given to the costs and benefits of environmentally friendly alternatives and that life long costs are considered.
- 4.27.36 The Authorised Officer shall have the right to carry out any inspection or test any item of Plant and materials used in the provision of the Service at any time.
- 4.27.37 The Contractor shall make provision to ensure that all Plant is kept in a clean condition at all times so as to promote the Service provided. If in the opinion of the Authorised Officer the Contractor fails to keep the Plant clean, he will arrange for the cleaning to be carried out at the Contractor's expenses.
- 4.27.38 From time to time during the Contract Period the Authorised Officer will arrange for the Council's Plant to be tested and Serviced. The Contractor shall make Plant available for testing and servicing when required by the Authorised Officer. The Contractor shall ensure that all Plant is presented in a clean manner sufficient for a full ministry inspection to be carried out. The Contractor should make provision for this cost. The Authorised Officer shall notify the Contractor not less than one Week prior to servicing or testing.
- 4.27.39 Unless otherwise provided in this clause, the Council shall carry out all testing, servicing, repair and any necessary adjustment to the Council's Plant.
- 4.27.40 In the event of any unforeseen defect making the Council's Plant inoperative or unsafe or making the continued use of the Plant unlawful, the Contractor shall notify the Authorised Officer who shall arrange for a Roadside breakdown Service to be provided within two hours of such notification. Where in the opinion of the Authorised Officer it is impracticable or unreasonable to rectify the defect through the Roadside breakdown Service, the Authorised Officer shall arrange for any necessary repairs to be carried out as soon as practicable.
- 4.27.41 The Contractor shall ensure that he has an adequate level of reserve Plant available to him at all times as lack of suitable Plant will not be considered as a valid reason for non-performance of the requirements of the Contract.
- 4.27.42 In the event that any Plant is not available due to repair, servicing, testing etc the Contractor shall arrange, provide and pay for any substitute Plant which is necessary to provide the Service.
- 4.27.43 Subject to any satisfactory alternative arrangements approved by the Authorised Officer in connection with emergency services, all of the Council's Plant shall be stored, when not being used for the Service at premises approved by the Authorised Officer. The Contractor shall remove all Waste from the Plant before storing the Plant.

## **4.28 Contract Manager**

- 4.28.1 The Contractor shall prior to the Commencement Date notify the Authorised Officer in writing of the name, address and telephone number of the duly authorised representative of the Contractor who will be in charge of the Contract at the local level and shall provide further information, as soon as possible, of any subsequent appointments.
- 4.28.2 The Contractor shall ensure that at all times during the Contract Period a Contract Manager is appointed and empowered to act on behalf of the Contractor and available to be contacted by the Authorised Officer at all times during which the Services are to be provided. The Contract Manager shall not be employed in any matter other than the provision of the Services throughout the Contract Period other than with the explicit written consent of the Authorised Officer, which shall be at his sole discretion. In particular although without prejudice to the generality of the foregoing, the Authorised Officer will require to be satisfied that the provision of the Services will not suffer before giving any such consent.
- 4.28.3 The Contractor shall ensure that and be able to demonstrate to the Council's satisfaction that the Contract Manager is competent and suitably qualified and has experience of designing, implementing and managing a diverse range of services comparable to those detailed in the Contract Specification. It is desirable that the Contract Manager should be a Member of the Chartered Institution of Wastes Management and/or have an appropriate Waste management or transport qualification.
- 4.28.4 The Contractor shall inform the Authorised Officer in writing of the identity of any person proposed to be authorised to act for any period as Deputy for the Contract Manager before the start of that period. Any person proposed to be authorised to act as Deputy for the Contract Manager must first be approved in writing by the Council provided that the such approval shall not be unreasonably withheld and in the event that the Council refuses to approve an individual proposed, the Contractor shall continue to propose different persons to be appointed as Deputy Contract Manager until such approval has been given.
- 4.28.5 The Contract Manager or his duly authorised Deputy shall be the authorised representative of the Contractor for all purposes connected with this Contract. Any notice, information, instruction or other communication given or made to the Contract Manager or his Deputy shall be deemed to have been given or made to the Contractor.
- 4.28.6 The Contract Manager or his duly authorised Deputy shall:
- 4.28.6.1 Consult with the Authorised Officer and with such other of the Council's supervisory staff as may from time to time be specified by the Authorised Officer as often as may reasonably be necessary to ensure a continuous and efficient provision of the Services in accordance with the Contract; and
- 4.28.6.2 Follow and comply with any instructions or directions given or issued by the Authorised Officer in connection with the performance of the Services
- 4.28.7 The Contract Manager shall inform the Authorised Officer promptly and in writing of any instances of activity or omission on the part of the Council, which would or may prevent or hinder the Contractor from meeting his contractual obligations. The provision of information under this clause shall not in any way release or excuse the Contractor from any of his obligations under the Contract.
- 4.28.8 In the event of the Contract Manager being unable to obtain any satisfactory response to any enquiry concerning the Conditions of Contract or the Services to be provided hereunder he may refer the matter to the Corporate Director of the Council whose decision shall be final and binding.

## **4.29 Employees**

- 4.29.1 The Contractor shall at all times during the Contract Period employ sufficient persons with appropriate qualifications, abilities and specialist skills for the satisfactory performance of the Services and without prejudice to the generality of the foregoing, the Contractor shall ensure that there are sufficient reserves of Employees to maintain satisfactory performances in times of sickness, annual leave and maternity leave. The Contractor acknowledges that the Council considers good quality customer care to be an important aspect of the Services and adequate

- training as proposed and agreed in Method Statement 15 is required for all operatives carrying out this Service.
- 4.29.2 The Contractor shall at all times during the Contract Period employ sufficient persons with appropriate qualifications, abilities and skills to supervise the performance of the Services in a proper and continuous manner. The Contractor shall supply the Council with a list of the Employees he proposes to employ and include on it the qualifications of each person.
- 4.29.3 The Contractor shall ensure that his Employees are properly and sufficiently trained and instructed at all times with regard to:
- 4.29.3.1 The task or tasks which that person has to perform, including but not limited to the use and operation of equipment and/or the supervision of persons using equipment (including equipment supplied by the Council);
- 4.29.3.2 Relevant provisions of the Specification and the Contract;
- 4.29.3.3 Relevant rules, procedures and standards of the Council and those of the Contractor, as may be notified to the Contractor from time to time;
- 4.29.3.4 All relevant rules, procedures and statutory requirements concerning health and safety at work;
- 4.29.3.5 Fire risks and fire precautions;
- 4.29.3.6 All other relevant legislation, regulations and statutory instruments.
- 4.29.4 Abusive, racist, sexist, prejudicial, discriminatory or any other offensive behaviour by the Contractor's Employees towards other Employees, Council Employees, elected members, customers or other members of the public which might bring the Council into disrepute is not acceptable. The Contractor will be deemed to be in breach of these Conditions if it fails to deal with such matters to the reasonable satisfaction of the Authorised Officer.
- 4.29.5 All monies or other items of value found at any property or depot by the Contractor or his Employees must be handed to the Authorised Officer or other person responsible to the Council for Contract Supervision as soon as possible and a receipt or acknowledgement obtained therefore.
- 4.29.6 Without prejudice to the generality of the Contractor's obligations elsewhere in the Contract to observe the requirements of legislation and guidelines, the Contractor shall in accordance with clause 4.34.1 at all times take all such precautions as are necessary to protect the health and safety of all persons likely to be affected by his acts or omissions and shall comply with the requirements of the Health and Safety at Work etc. Act 1974 ("the 1974 Act") and of any other Acts, Regulations Orders or guidelines pertaining to the health and safety of employed persons, and shall provide all necessary special or protective clothing, equipment and footwear.
- 4.29.7 The Contractor shall have regard to the Council's safety policy when preparing or revising his own statement, a copy of which shall be supplied to the Council prior to the commencement of the Contract and within one Week of revision thereof from time to time. The Contractor shall nominate a person to be responsible for health and safety matters as required by the 1974 Act and shall forthwith notify the Authorised Officer of any changes in nomination from time to time. Whilst on Council owned premises the Contractor shall require his Employees to comply with the lawful requirements of the Council's Safety Officer and advisors.
- 4.29.8 Without prejudice to the Council's rights under clauses 4.46 and 4.50 or elsewhere the Authorised Officer shall be empowered to suspend the provision of the Services or part thereon in the event of non-compliance by the Contractor with this clause or any part thereof. The Contractor shall not resume provision of the Services or such part until the Authorised Officer is satisfied that the non-compliance has been rectified and in respect of any such period of suspension clause 4.47 may be applied.
- 4.29.9 The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions or levies of any kind, relating to or arising out of the employment of any person employed by the Contractor and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof.
- 4.29.10 The Authorised Officer shall be entitled to require the Contractor by notice in writing to remove from the performance of the Services or to discipline any Employee of the Contractor specified in such notice including the Contract Manager. The Council shall in no circumstances be liable

either to the Contractor or to the Employee in respect of any liability, loss or damage occasioned by such removal or disciplinary action and the Contractor shall on demand fully and promptly indemnify the Council against any claim made by such Employee. This entitlement shall be subject to not less than 7 days notice being given by the Authorised Officer to the Contractor except in cases where the Authorised Officer judges that the removal of that person is required as a matter of urgency having regard to issues of health and safety.

- 4.29.11 At any time prior to the expiry of such notice, the Contractor shall have the right to make representations to the Authorised Officer concerning such Employees. After consideration of such representations, the Authorised Officer shall be entitled at his reasonable discretion to withdraw such notice, to suspend its operation upon such Conditions as he shall think fit, or to confirm the notice. If the Authorised Officer confirms such notice then, upon its expiry, the Contractor shall forthwith remove such Employees from the provision of the Service and the Contract.
- 4.29.12 The right contained within this clause 4.29.11 shall not be exercised arbitrarily, unreasonably, vexatiously or capriciously by the Authorised Officer.
- 4.29.13 All training necessary for the entire operation of the Contract will be the responsibility of the Contractor. Training must meet the necessary requirements of:
- 4.29.13.1 Statutory responsibilities;
- 4.29.13.2 The Health and Safety Executive, Health & Safety Officers of the Council or any other Health & Safety enforcing body;
- 4.29.13.3 Such other areas as specified in these Conditions or in the Specification or due to changes in domestic or European Law or good practice as may be notified to the Contractor from time to time in writing.
- 4.29.13.4 Records of staff training in these respects shall be kept and made available for inspection by the Authorised Officer, the Council's Health and Safety Officer or any other duly authorised Council representative.
- 4.29.14 The Contractor shall maintain current, accurate and adequate records of all Employees who are or who are to be engaged in connection with the provision of the Services. These records shall be kept at the local premises of the Contractor and shall include Employee attendances and shall differentiate between those engaged as operatives and those exercising supervision. These records shall be open for inspection by the Authorised Officer or his representative at all reasonable times, and a copy of these records shall be provided to the Authorised Officer or his representative if so requested.
- 4.29.15 At the expiry of the Contract Period or upon the determination of the Contract in accordance with the Conditions whichever shall first occur the Council shall be entitled to offer employment to any person employed by the Contractor in the performance or supervision of the Services and in the event of such person accepting employment with the Council the Contractor shall forthwith release such person from all Contracts of Service without any payment being made to the Contractor by either the Council or the Employee. Any such offer by the Council or acceptance by Employees shall not interfere with or affect in any way whatsoever the statutory duties of the Contractor to such Employees or transfer such duties to the Council or other Contractor.
- 4.29.16 The Contractor shall not (and shall ensure that its Employees do not) make any comment to the press or any other media on any issue concerning the Council (unless agreed by the Authorised Officer) but shall refer any approach from the press or any other media to the Authorised Officer.

### **4.30 Employment Conditions**

- 4.30.1 The Contractor shall, in respect of all persons employed by him or her (whether in execution of this Contract or otherwise) in every factory, workshop or place situate in the United Kingdom and occupied or used by him or her for the execution of the Contract, comply with the following Conditions namely:
- 4.30.1.1 The Contractor shall comply with the provision of the Employment Rights Act, 1996, and the Trade Union and Labour Relations (Consolidation) Act 1992, and in particular shall ensure that

all persons employed by him or her in relation to the execution of the Contract are afforded the rights and facilities specified in those Acts regarding trade union membership;

- 4.30.1.2 The Contractor shall do all such things as may from time to time be reasonably required by the Council during the execution of this Contract in order to secure compliance with Section 71 of the Race Relations Act, 1976, which requires the Council to have regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity, and good relations, between persons of different racial groups;
- 4.30.1.3 The attention of the Contractor is drawn to the importance of complying in all respects with:
- 4.30.1.3.1 The Factories Act, 1961, the Health and Safety at Work Act, 1974 and all Regulations, Statutory Instruments and Codes of Guidance made there under;
- 4.30.1.3.2 The provisions of the Sex Discrimination Act, 1975 in relation to the offering of equal opportunities for Employee; and
- 4.30.1.3.3 The requirements of the Disabled Persons Employment Acts and the Disability Discrimination Act, 1995;
- 4.30.1.3.4 The requirements of the Public Interest Disclosure Act 1998. The Contractor shall ensure that all persons employed by him in relation to the execution of this Contract are provided with a copy of the same guide.
- 4.30.1.4 The Contractor shall be responsible for the observance of clauses 4.30.1.1, 4.30.1.2 and 4.30.1.3 above by subcontractors employed in the execution of the Contract, and shall, if required, notify the Council of the names and addresses of all such subcontractors;
- 4.30.1.5 In the event of any question arising as to whether the foregoing Conditions are being observed, the question shall, if not otherwise disposed of, be referred to an independent tribunal for decision.

### **4.31 Transferring Employees, Acquired Rights Directive and Transfer Regulations**

- 4.31.1 The Contractor when it tendered for the Contract was deemed to have taken into consideration the provisions of the Acquired Rights Directive and/or the Transfer Regulations and to have considered the application or otherwise of those provisions to this Contract and to have taken the appropriate action required under the Acquired Rights Directive and/or the Transfer Regulations.
- 4.31.2 As a result, the Parties accept that the Transfer Regulations will apply to the transferring Council employees as listed in Appendix 9.5 (the "Transferring Council Employees") and to those employees employed by the Outgoing Contractor (the "Outgoing Contractor Employees") and accordingly:
- 4.31.2.1 The Parties understand that on the Commencement Date the contracts of employment of the Transferring Council Employees will transfer to the Contractor as listed and shown in Appendix 9.5 on the terms and Conditions of employment set out in the TUPE Schedule (save insofar as such Contracts relate to any occupational pension scheme).
- 4.31.2.2 The Council shall discharge all wages salaries and honoraria excluding accrued holiday remuneration (if any) of its Transferring Council Employees and all other costs and expenses relating to its Transferring Council Employees and will pay over to the appropriate party all deductions properly made there from (including but not limited to taxation, national insurance, and any pension payments) for the period up to and including the Commencement Date.
- 4.31.2.3 The Council shall indemnify and keep indemnified the Contractor against all claims relating to any of the Transferring Council Employees which arise prior to the Commencement Date and transfer to the Contractor pursuant to the Regulations (save for any claims or part of claims) which arise due to any act or failure of the Contractor.
- 4.31.2.4 Where at the Commencement Date the number of Transferring Council Employees is different to the number of Employees identified by the Council at the time of tendering as detailed in Appendix 9.5, the tendered price shall be adjusted by the Authorised Officer by an amount which takes in to account the effects upon the Contractor's reasonable costs.
- 4.31.2.5 On or within 15 working days after the Commencement Date the Council shall:

- 4.31.2.5.1 Deliver to the Contractor PAYE certificates relating to each of the Transferring Council Employees duly completed up to the Commencement Date; and
- 4.31.2.5.2 Account to the Contractor in respect of accrued holiday entitlement up to the Commencement Date in respect of each of the Transferring Council Employees.
- 4.31.2.6 The Contractor accepts that the Transfer Regulations will also apply to the Outgoing Contractor Employees and therefore accepts that it shall employ those employees from the Commencement Date on the same terms and conditions as they enjoyed with the Outgoing Contractor.
- 4.31.2.7 The Contractor makes no warranty as to the terms and conditions of employment of, or any liability attached to, the Outgoing Contractor Employees.
- 4.31.2.8 The Council is of the opinion that high quality Services are provided by a motivated and committed workforce. The commitment and motivation of employees is helped by good terms and conditions of employment. The Council requires that, as part of the protected employment package of the Transferring Council Employees, those employees receive from the Contractor a pension that is broadly comparable to the LGPS.
- 4.31.3 Without prejudice to the Contractor's obligations to indemnify the Council under clause 4.41, the Contractor shall fully and promptly indemnify and keep indemnified the Council against all claims, expenses, damages, compensation, fines, costs and other liabilities of whatever nature (including legal and other professional fees and expenses) in connection with any claim arising from a cause of action occurring on or subsequent to the Commencement Date by all or any of the Transferring Council Employees or the Outgoing Contractor Employees as a result of their employment with or its termination by the Contractor subsequent to the Commencement Date including but without limitation a claim arising as a result of any failure to provide a pension scheme in accordance with this clause.
- 4.31.4 In the event that the Transfer Regulations are deemed not to apply to any of the employees within the Transferring Council Employees or the Outgoing Contractor Employees, the Contractor will offer employment to any such employees on the same terms and conditions they enjoyed at the Council or the Outgoing Contractor respectively.
- 4.31.5 The indemnities given in this clause are subject to all claims being notified promptly and the indemnifying party to be kept fully informed of the progress of all claims.

#### **4.32 Code of Practice on Workforce Matters**

- 4.32.1 The Contractor must ensure he meets the terms and Conditions of, the Local Government Act 1999, Part 1, Annex C and D.
- 4.32.2 The Council has a statutory duty to certify compliance with the Code of Practice on Workforce Matters and the Contractor shall ensure that it and its subcontractors comply with its provisions and with any Code replacing or modifying its provisions.
- 4.32.3 Throughout the Contract Period the Contractor will be required to provide the Council with information as requested to allow the Council to monitor compliance with the Conditions of the code. This information will include the terms and Conditions for transferred staff and the terms and Conditions for Employees recruited to work on the Contract after the Commencement Date.
- 4.32.4 The Council is responsible for enforcing the obligations on the Contractor created under this code.

#### **4.33 Unlawful Discrimination, Equal Opportunities and Human Rights**

- 4.33.1 In the provision of the Services, the Contractor agrees that as a minimum it will operate within the parameters of the Council's Equal Opportunity Policy and will adhere to the Equal Opportunities policy submitted within the tender.
- 4.33.2 The Contractor shall comply with all legislation in respect of equal opportunities by race, gender, sexual orientation, religion and/or disability. The Contractor will, as much as it is required by law, adopt or incorporate into its Equal Opportunities policy, the Council's Equal Opportunities policy. For the avoidance of doubt, the Equal Opportunities legislation referred to is the Race Relations Act 1976, the Disability Discrimination Act 1995 and the Sex Discrimination Act 1975, Race Relations (Amendment) Act, Employment Equality (Religion or Belief) Regulations

2003, Employment Equality (Sexual or Orientation) Regulations 2003 including Orders, Codes of Practice etc., together with any current, relevant revision or amendments.

- 4.33.3 The Contractor shall, at the request of the Authorised Officer, provide the Council with a breakdown of the workforce by race and grade as the Authorised Officer may reasonably require in order to be satisfied as to the Contractor's compliance with this clause as far as is relevant and to undertake any other duties or steps as the Council may determine are necessary to enable the Council to comply with its duties under the Race Relations Act 1976, Race Relations Amendment Act 2000 or any Codes of Practice referred to in 4.33.2 above.
- 4.33.4 The Contractor shall monitor the representation within the workforce of Employees of different racial groups (meaning groups of persons defined by reference to colour, race, nationality, ethnic or national origins). If it appears to the Contractor that a particular racial group is under-represented in the workforce as a whole or in a particular area of work in the workforce by comparison with the proportion of members of that racial group known or believed to be engaged in such work in the United Kingdom of Great Britain and Northern Ireland as a whole, or in the area from which the Contractor normally recruits, the Contractor shall take such action as the Authorised Officer may consider to be reasonably necessary to remedy the under-representation and encourage members of particular racial groups to apply for jobs or take up training opportunities.
- 4.33.5 The Contractor shall inform the Authorised Officer as soon as becoming aware of any legal proceedings (whether civil or criminal) brought against the Contractor under Race Relations legislation or of any judgments, awards, convictions (not spent or exempted under the Rehabilitation of Offenders Act 1974), or settlements arising there from, and shall provide the Authorised Officer with such further information and documentation as may be required in relation thereto.
- 4.33.6 The Contractor shall provide such information and access to such documents as the Authorised Officer may reasonably require to satisfy itself that the Contractor complies and shall continue to comply in all respects with this Condition.
- 4.33.7 The Contractor shall carry out the Service in a manner which is consistent with the Human Rights Act 1998 as though (for the avoidance of doubt) it is bound by the Act and in such a way that the Council shall not be liable to any person for a breach of its duties under the said Act and shall indemnify the Council against any direct or indirect costs expenses damages compensation liabilities or other claims incurred or suffered by the Council arising from or in relation to a breach or alleged breach of the said Act.
- 4.33.8 The Contractor shall at the Council's direction, within the period of twelve months immediately preceding the Expiry Date (or on the Termination Date in the case of early termination)
- 4.33.8.1 Promptly and at no cost to the Council, provide in respect of any of the employees engaged in providing the Services under this Contract (the "Assigned Employees") such reasonable information as the Council requires so as to allow the contract for the services in this Agreement to be re-tendered (the "Re-Tender Information");
- 4.33.8.2 Notify the Council forthwith in writing of any material changes to the Re-Tendering Information promptly as and when such changes arise and be precluded from making any material increase in the numbers of the Assigned Employees or any of their remuneration;
- 4.33.8.3 Be precluded from transferring any of the Assigned Employees to another part of its business or moving other employees from elsewhere in its, or their business if not previously been employed or engaged wholly or substantially in providing the Services.
- 4.33.9 On the termination of all or part of the Services by the Contractor or the expiry or earlier termination of this Contract for any reason, the Council and the Contractor agree that it is their intention that the Transfer Regulations apply in respect of the provision thereafter of any or all of these Services however, should the Transfer Regulations not apply, and in any event, the Contractor agrees to indemnify and keep indemnified the Council and/or any subsequent contractor in relation to all and any liability in relation to the Assigned Employees which arise during the period between the Commencement Date and the Termination Date or Expiry Date.

#### **4.34 Health and Safety**

- 4.34.1 The Contractor shall in performing the Service, and to the reasonable satisfaction of the Authorised Officer, adopt safe methods of work in order to protect the health and safety of the Contractor's Employees, the Employees of the Council and of all other persons including members of the public. The Contractor shall ensure that all Employees are kept fully informed of all health and safety policies and safe working procedures.
- 4.34.2 The Contractor shall at all times comply with:
- 4.34.2.1 The Health and Safety at Work etc Act, Health and Safety Regulations and any other Codes of Practice that are provided by the Health and Safety Commission (HSC) and Health and Safety Executive (HSE);
- 4.34.2.2 All relevant and appropriate guidance and best practices, as published or stipulated by industry, professional/trade bodies or other similar organisation;
- 4.34.2.3 Its own Health and Safety Policy, health and safety system and procedures. Notwithstanding this, the Contractor shall ensure that their Employees comply at all times with the Council's Health and Safety Procedure in so far as it is relevant to the Contract;
- 4.34.2.4 Any Conditions stipulated by the Council. Such Conditions will override details contained in the Contractor's internal documentation and will ensure that health and safety standards will be maintained or improved;
- 4.34.2.5 Any requests for the provision of health and safety documentation made the Authorised Officer.
- 4.34.3 The Contractor shall nominate a senior representative, to act as a co-ordinator between both parties for matters of health and safety arising out of the Contract.
- 4.34.4 The Contractor shall notify, in writing, the Council's Authorised Officer of all incidents that either could have lead or did lead to injury and/or damage. Where incidents are reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995, a completed copy of the relevant forms must be supplied.
- 4.34.5 The Council's Authorised Officer and Health and Safety Advisers shall be empowered to suspend the provision of the Service in the event of non-compliance by the Contractor with issues concerning health and safety matters. The Contractor shall not resume provision of the Service until the Council's Authorised Officer and/or Advisers are satisfied that the non-compliance has been rectified.
- 4.34.6 In respect of any such period of suspension and/or major or consistent minor breaches of health and safety practice the default provisions as set out in these Conditions of Contract may result in the enforcement of one or more of the following actions:
- 4.34.6.1 Suspension and/or termination of the Contract;
- 4.34.6.2 Restriction from working for the Council, on any Contract, until improvements have been made and adequate and suitable evidence of such is provided;
- 4.34.6.3 Clause 4.47 may be applied.
- 4.34.7 For the avoidance of doubt, it is hereby declared and agreed that the Contractor having undertaken to comply with it's own Health and Safety policies and safe working procedures and the requirements of all relevant Acts, Regulations, Orders and Guidance made under such Acts and Regulations that may be in force from time to time which in any way affect workplace Health, Safety and Welfare, all instructions given and works undertaken in order to secure compliance with such policies and safe working procedures and the requirements of all relevant Acts, Regulations, Orders and Guidance made under such Acts and Regulations that may be in force from time to time which in any way affect workplace Health, Safety and Welfare in accordance with this Condition shall be deemed not to require or involve a variation under clause 4.11 or under any other provision of the Contract and the Contractor shall not be entitled to any payment either for Services not carried out whilst complying with an instruction under this clause or for any additional work or accumulation of tasks or variation of the Service arising out of, or in connection with, any such instruction.
- 4.34.8 The Contractor shall Review the health and safety policy and safe working procedures as often as may be necessary and at least annually, in the light of changing legislation or working practices, and shall notify the Authorised Officer in writing of such revisions. The Contractor shall ensure that as far as possible its health and safety policy and safe working procedures are to

the reasonable satisfaction of the Authorised Officer and the Contractor shall also comply with any changes, amendments or further instructions requested or issued by the Authorised Officer in connection with the Contractor's health and safety policies and safe working procedures.

### **4.35 Monitoring Arrangements and Quality Control**

- 4.35.1 The Authorised Officer reserves the right to inspect and collect information it sees as necessary to enforce the Contractor's performance to ensure that the Contract is complied with.
- 4.35.2 The Contractor shall allow the Authorised Officer and any nominated deputies/representatives access to any premises used to provide the Services at any reasonable time, without notice, for the purpose of carrying out such checks as the Authorised Officer deems necessary for the monitoring of the Service.
- 4.35.3 The Contractor shall allow the Authorised Officer to inspect Plant, buildings, equipment, materials, vehicles, stores, consumables and spare parts used by the Contractor for the purpose of providing the Service at any reasonable time without notice.
- 4.35.4 The Contractor shall provide statistical data to the Authorised Officer at such regular intervals as may be determined by the Authorised Officer, to enable performance to be monitored.
- 4.35.5 The Contractor shall make available to the Authorised Officer without delay any financial or other information and records to enable the monitoring of the Contract to be carried out to the Authorised Officer's reasonable satisfaction.
- 4.35.6 The Authorised Officer may from time to time undertake extra formal quality audits and Customer Satisfaction Surveys, and on such occasions the Contractor shall co-operate fully with any such activities of the Authorised Officer.
- 4.35.7 The Contractor shall throughout the Contract Period institute and maintain a properly documented system of quality assurance designed to ensure that the Services are provided at all times and in all respects in accordance with the Contract at no extra charge to the Council.
- 4.35.8 The Contractor shall at all times provide the Service in accordance with its Method Statements and quality control system. The Authorised Officer may appoint quality assurance assessors of the Council's choice to carry out from time to time an audit of the Contractor's quality management system.
- 4.35.9 The Council has the right to carry out a comprehensive review of the Contractor's performance on an annual basis. The Contractor shall, to the extent required by the Council, provide assistance to the Council to enable the Council to review the performance of the Contractor in accordance with this clause.
- 4.35.10 The Authorised Officer reserves the right to monitor the performance of the Contractor in one or more of the following ways although this list shall be without prejudice to the general power of the Authorised Officer to monitor in whatever way he considers fit:
- 4.35.10.1 Site visits by the Authorised Officer and/or any nominated deputies/representatives, either independent or undertaken in conjunction with the Contractor, as determined by the Authorised Officer;
- 4.35.10.2 Analysis of Service quality as perceived by customers through Customer Satisfaction Surveys;
- 4.35.10.3 Service quality audits, undertaken by an impartial outside agency to be determined by the Authorised Officer;
- 4.35.10.4 Analysis of customer comments via the corporate comments and complaints procedure;
- 4.35.10.5 Listening to customer comments via customer forums and/or Citizens' Panels;
- 4.35.10.6 Analysis of financial records, to be provided by the Contractor;
- 4.35.10.7 Examination of documents relevant to the quality control system;
- 4.35.10.8 Access to management, staff and other persons employed by the Contractor involved with the performance of the Contract or its quality management system;
- 4.35.10.9 Monitoring visits which assess all aspects of the Contractor's performance against the requirements of the Contract;
- 4.35.10.10 Progress reports on at least a quarterly basis provided by the Contractor, which will outline progress achieved, measured by reference to the key objectives and in a format as required by the Authorised Officer.

- 4.35.11 Nothing in these Conditions shall affect *or* prejudice the rights and responsibilities of other statutorily appointed Council officers, who the Contractor shall allow, without notice, to visit and inspect the Contractor's operations for the purposes of carrying out their statutory duties, rights and responsibilities.
- 4.35.12 To formally monitor the performance of the Contractor, the Authorised Officer or his representative will also undertake random surveys by visiting areas immediately following the daily/Weekly work programme. Random surveys will form part of a quality control procedure to assist the Authorised Officer in determining the quality of the Service provided by the Contractor.

#### **4.36 Performance of the Service**

- 4.36.1 The Contractor shall at all times provide the Service in accordance with the Contract in a continuously efficient, effective, economic and competent manner to the Contract Standard and to the reasonable satisfaction of the Authorised Officer and specifically the Council and customers shall suffer no reduction in Service. If any such reduction in Service occurs, the Contractor shall be liable in accordance with clause 4.46 or any other of the Conditions as may be appropriate.
- 4.36.2 The Contractor shall provide the Service safely and in a manner that is not, nor is likely to be, injurious to the health or safety of any person, or detrimental to the environment or any property, nor in any other way prejudicial to the Council and customers.
- 4.36.3 The Contractor shall provide the Service in such a manner and attitude as to promote, enhance and further the image and reputation of the Council.
- 4.36.4 The Contractor shall, if required, and at no extra cost to the Council, attend and participate in meetings with the Authorised Officer, customer representatives and other interested parties, which may be arranged. The Contractor shall submit all reports required by the Authorised Officer in order that these can be used as background papers for use in reports to be submitted to Council meetings or any of the aforesaid meetings which may be arranged. Save in the case of emergency, the Contractor shall be given at least seven days notice in writing by the Authorised Officer of the said meetings, which may be held at any time and no additional payment shall be made to the Contractor for attending such meetings.

#### **4.37 Contract Standards**

- 4.37.1 The Contractor shall provide all of the Service within the Council's Best Value Duty and as a minimum to the standards set out in this Contract.
- 4.37.2 The Contractor shall be required to comply with a range of performance measures/indicators identified by the Council to measure the achievement of the strategic outcomes.
- 4.37.3 The Contractor will be required to meet annual performance targets based on identified strategic outcomes. The Contractor will be required to achieve and surpass year on year a number of performance criteria relating to performance of the Service in accordance with clause 4.38.
- 4.37.4 Notwithstanding anything contained in this Condition, at all times during the continuance of this Contract (whether in connection with the production of performance monitoring reports or otherwise) the Contractor shall notify the Authorised Officer forthwith in a manner agreed by the Authorised Officer if there has been (or if it appears likely that there will be) a material failure on its part to comply with all or any of the standards.
- 4.37.5 The Contract Manager shall meet the Authorised Officer at not less than quarterly intervals for the purpose of considering compliance by the Contractor with the standards and to discuss the performance monitoring information required and supplied under this Condition.
- 4.37.6 The Contractor shall deliver all applicable statutory performance indicators and those recommended by the [REDACTED] together with such Local Performance Indicators as the Council shall determine and in the event of any inconsistency between standards that are national standards and those that are local standards then the latter shall take precedence.
- 4.37.7 Performance of any part of the Services, which is below the performance indicators and/or agreed performance thresholds, may result in the issue of Rectification and/or Default Notices in accordance with clause 4.46 or termination with clause 4.50.

4.37.8 The performance indicators may be amended from time to time during the Contract Period if changes arise in the Local Performance Indicators and/or the national performance indicators in which case such amended performance indicators shall be deemed to be incorporated into this clause from the time at which they come into force.

4.37.9 The key performance indicators will include as a minimum the following: <sup>16)</sup>

[REDACTED]

4.37.10 The Contractor shall continuously throughout the Contract Period both maintain and (at such intervals as the Authorised Officer shall require from time to time) provide performance monitoring information and data (in such format as the Authorised Officer shall require from time to time) and to the frequency indicated against each of the required indicators. This information shall be provided to comply with the Council's Performance Management Framework.

4.37.11 In addition to the requirements set out above the Contractor shall at its own cost prepare and deliver to the Authorised Officer an annual performance report showing performance measured against the required targets, the report will be provided to comply with the Council's Performance Management Framework.

#### **4.38 Performance Management Framework**

4.38.1 The Council considers that Performance Management is a critical part of its continuous improvement process. The Contractor is required to identify the performance management framework it proposes to work within throughout the period of the Contract.

4.38.2 In accordance with the Partnering Agreement detailed in clause 4.74.1, the Council will work with the Contractor to develop a balanced scorecard system that will include as a minimum performance measurements, quality standards and targets for:

4.38.2.1 Financial performance;

4.38.2.2 People management;

4.38.2.3 Quality of service;

4.38.2.4 Contribution to the delivery of Government initiatives and local priorities for the service;

4.38.2.5 Achieving the Environmental Streetscene Service's partnering objectives.

4.38.3 In accordance with clause 4.37 above, the Contractor will be required to supply at specified periods, information required to undertake the performance management process or any equivalent or subsequent scheme that the Council may operate centrally.

4.38.4 The Contractor will be required to meet annual performance targets based on identified strategic outcomes. The Contractor will be required to achieve and surpass year on year a number of performance criteria relating to performance of the Service.

- 4.38.5 Performance of any part of the Services, which is below the performance indicators and/or agreed performance thresholds, may result in the issue of Rectification and/or Default Notices in accordance with clause 4.46 or termination in accordance with the terms of this Contract.

#### **4.39 Uniforms and Identification**

- 4.39.1 The Contractor shall ensure that all persons employed in the performance of the Services shall at all times be properly attired and presentable in appropriately identifiable uniforms or clothing which shall meet the requirements of the Council's Corporate Identity, and have been approved in writing by the Authorised Officer.
- 4.39.2 The Contractor shall ensure that representatives of the Contractor shall carry at all times identity cards in a form approved by the Authorised Officer and make such cards available for inspection on request by any Officer of the Council who similarly discloses his identity or by a member of the general public. The Contractor shall ensure that in the case of drivers and loaders employed within the Service the aforementioned identity cards shall be conspicuously worn on the front of their uniforms/clothing and all text shall be conspicuous and legible to assist the general public with identification.
- 4.39.3 The Contractor shall take all necessary steps to ensure that Employees when requested to do so when communicating with other persons as a representative of the Contractor all persons shall disclose their identity and shall not attempt to avoid doing so.
- 4.39.4 Where the nature or the place of any duties within the Services make the wearing of any special or protective clothing and footwear necessary or appropriate, the Contractor shall provide and shall require its Employees to wear such clothing or footwear. Where the Council's policies, rules, procedures, or standards require any special or protective clothing or footwear to be worn, the Contractor shall ensure that such clothing or footwear is provided for and worn by its Employees. Such special or protective clothing or footwear shall be maintained and replaced by the Contractor as necessary and without prejudice to the generality of the foregoing to comply with relevant legislation to the Council and the Contractor's safety policies and accepted good practices.

#### **4.40 Standard of Service**

- 4.40.1 The Contractor shall maintain a high level of Service at all times and shall implement sound quality assurance standards that incorporate self-monitoring procedures, customer feedback, spot checks and continuous improvement.
- 4.40.2 The Contractor shall operate a documented and externally accredited quality management system to BSEN ISO 9000:2000 or equivalent. Such quality management system shall cover all aspects of the tendered Services to ensure that premises, Plant and materials are well and properly maintained and that the requirements of the Contract are complied with in all respects. It shall include regular procedural audits and the recording of complaints and deficiencies in the provision of the Services.
- 4.40.3 The system to be used by the Contractor shall include daily supervision of the Employees and carrying out frequent, regular inspections, recording the results of such inspections and ensuring compliance with instructions of the Authorised Officer as specified by the appropriate clause.
- 4.40.4 The Contractor's documented system in clause 4.40.1 shall be operated by the Contract Manager, and shall be subject to inspection by the Authorised Officer. If any recommendations to improve such a system are made by the Authorised Officer, such recommendations shall be made in writing and shall be implemented by the Contractor.
- 4.40.5 The Contractor's documented system in clause 4.40.2 shall be further to and shall not prejudice:
- 4.40.5.1 The documentation required by the Authorised Officer in connection with the monitoring and execution of the Service; and
- 4.40.5.2 The Authorised Officer and/or any nominated deputies/representatives may interview any of the Contractor's Employee's in connection with the execution of any part of the Service, and may also inspect any premises before, during or after the execution of the Service.
- 4.40.6 The Authorised Officer may request any information in relation to the execution of the Service and the Contractor shall provide such information forthwith.

- 4.40.7 All quality control records shall be open to inspection by the Authorised Officer at any time to ascertain whether or not the required standard of Service is being provided. Random surveys will form part of a quality control procedure to assist the Authorised Officer in determining the quality of the Services being provided by the Contractor.
- 4.40.8 Missed collections, complaints, customer liaison, damaged bins or bin deficiencies, unsatisfactory storage arrangements and other similar occurrences necessitating remedial action by the team, supervisors or management must be dealt with promptly and efficiently by the Contractor in such a manner as to promote customer satisfaction.

#### **4.41 Agency**

- 4.41.1 The Contractor or the Contractor's Employees shall in no circumstances hold itself out as being the servant or agent of the Council or hold itself out as being authorised to enter into any Contract on behalf of the Council or in any other way to bind the Council to the performance, variation, release or discharge of any obligation.
- 4.41.2 The Contractor has not and shall in no circumstances hold itself out as having the power to make, vary, discharge or waive any bylaw or regulation of any kind.
- 4.41.3 Nothing in this Agreement shall be deemed to constitute or create neither a Partnership as defined in the Partnership Acts 1890 and 1907 nor a limited liability Partnership as defined by the Limited Liability Partnerships Act 2000 or any form of employment between the parties to this Contract.

#### **4.42 Liability of Contractor and Indemnity**

- 4.42.1 The Contractor shall, subject to clause 4.41.2, be responsible for and shall release and indemnify the Council, its employees, agents and contractors on demand from and against all liability for;
- 4.42.1.1 Death or personal injury;
- 4.42.1.2 Loss of or damage to property;
- 4.42.1.3 Breach of statutory duty;
- 4.42.1.4 Actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis)
- which may arise out of or in consequence of the performance or non-performance by the Contractor of its obligations under this Contract.
- 4.42.2 The Contractor shall not be responsible or be obliged to indemnify the Authority for any injury, loss, damage, cost and expense caused by the negligence or wilful misconduct of the Council.
- 4.42.3 An indemnity by the Contractor under any provision of this Contract shall be without limitation to any indemnity given by the Contractor under any other provision of this Contract.
- 4.42.4 The Contractor's liability to indemnify the Council pursuant to clause 4.41.1 includes liability to reimburse the Council for all costs and expenses reasonably incurred by the Council in the replacement, repair or reinstatement of such property to the full replacement value, regardless of whether such replacement, repair or reinstatement results in betterment or improvement in or to such property lost or damaged.

#### **4.43 Insurance**

- 4.43.1 The Contractor shall at all times maintain in force such policies of insurance with reputable insurers or underwriters, approved by the Council as shall fully insure and indemnify the Contractor against liability:
- 4.43.1.1 To the Council and to any Employee of the Council;
- 4.43.1.2 To the Employees of the Contractor;
- 4.43.1.3 To any other person;
- 4.43.1.4 In the sum of at least £10 million for Third Party claims;

- 4.43.1.5 Employers Liability Insurance in the sum of at least £10 million for any one claim, unlimited during any one period of insurance.
- 4.43.2 The Contractor shall at all times maintain in force such policies of insurance with reputable insurers or underwriters approved by the Council in writing and shall fully insure and indemnify the Contractor against liability for damage to and loss of any fixture, chattel or goods whatsoever in the sum of at least £5 million.
- 4.43.3 The sums referred to in clauses 4.43.1 and 4.43.2 above shall be increased every year by a percentage equivalent to the percentage rise in the Price Review Index during the Index Period in question. The sum may also be increased upon the reasonable request by the Authorised Officer.
- 4.43.4 The Contractor shall without prejudice to clause 4.27.9 hereof maintain throughout the Contract Period any comprehensive insurance cover in relation to such Plant as is necessary.
- 4.43.5 The Contractor shall, prior to the commencement of the Contract and thereafter annually, and at such other times as the Authorised Officer may require, supply the Authorised Officer with copies of all insurance policies, cover notes premium receipts and other documents necessary to comply with clauses 4.43.1, 4.43.2, 4.43.3, and 4.43.4 above.
- 4.43.6 The Authorised Officer shall be entitled to notify the Contractor in writing that in the opinion of the Authorised Officer any such policy of insurance does not effect sufficient cover to comply with the Conditions and to require the Contractor to effect such insurance as will so comply. Upon receipt of such notice, the Contractor shall forthwith procure and effect such insurance or the Authorised Officer may himself cause such insurance to be effected whereupon the Contractor shall pay to the Council as liquidated damages such sum as the Authorised Officer shall certify as being the cost to the Council of effecting such insurance.

#### **4.44 Bribery and Corruption**

- 4.44.1 The Council shall be entitled to terminate the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation if:
- 4.44.1.1 The Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining of the Contract or any other Contract with the Council.
- 4.44.1.2 Or
- 4.44.1.3 The like acts shall have been done by any Employee of the Contractor or acting on his behalf (whether with or without the knowledge of the Contractor). If this is done without the prior knowledge of the Contractor then the Council shall not be entitled to terminate the Contract but the Contractor will be required to remove that Employee from the Contract immediately.
- 4.44.1.4 Or
- 4.44.1.5 In relation to any Contract with the Council the Contractor or his Employee or acting on his behalf shall:
- 4.44.1.5.1 Have committed any offence under the Prevention of Corruption Acts 1889 to 1916.
- 4.44.1.6 Or
- 4.44.1.6.1 Have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
- 4.44.2 For the purposes of this clause “loss” shall include the reasonable cost to the Council of the time spent by its Officers in terminating this Contract and in making alternative arrangements for the provision of the Services.

#### **4.45 Gratuities**



#### **4.46 Default in Performance**

- 4.46.1 At any time after the Commencement Date the Authorised Officer may investigate each case where the Contractor has failed to perform the Services completely in accordance with the provisions of the Contract.
- 4.46.2 Without prejudice to the exercise by the Council of any of its other rights and remedies where the Authorised Officer is satisfied that in any particular case the Contractor has failed to perform its obligations in accordance with the provisions of the Contract he shall be entitled to do any one or more of the following:
- 4.46.2.1 Issue a Rectification Notice to remedy the failure and require the Contractor to comply fully therewith within such reasonable period as the Authorised Officer may determine;
- 4.46.2.2 Award Default Notices in accordance with the Schedule One hereto. The Authorised Officer will send written details of all Default Notices to the Contractor.
- 4.46.3 If the Contractor fails to comply with a Rectification Notice issued by the Authorised Officer issued under clause 4.46.2.1 and there is no improvement in the Service, or without a Rectification Notice having first been issued if the Authorised Officer considers the failure to perform the Service is of a serious nature or the breach of Contract is incapable of remedy the Authorised Officer shall be entitled to issue Default Notices in accordance with this clause and may continue to issue Default Notices until all working practices and performances are to the Authorised Officer's reasonable satisfaction.
- 4.46.4 Without prejudice to the Council's exercise of any of the rights or remedies it may possess, if at any time the Contractor (whether by reason of industrial action by the workforce or otherwise) is substantially failing to perform the Services in accordance with the Contract Standard, the Authorised Officer may issue a Major Default Notice. The Authorised Officer may then deduct from the Monthly Sum next due to the Contractor his valuation of the Services not properly performed by the Contractor as determined where possible by reference to the appropriate rates contained in or derived from the Pricing Schedule. If the Contractor disputes any amount deducted by the Council from any Monthly Sum, the Parties shall resolve the matter in accordance with the Dispute Resolution Procedure. For the avoidance of doubt the Contractor shall continue to comply with, observe and perform all its obligations hereunder regardless of whether the Contractor disputes any amount deducted by the Council and notwithstanding the referral of any dispute for resolution under the Dispute Resolution Procedure.
- ██████████ The Authorised Officer shall make deductions as liquidated damages from the Monthly invoice in accordance with clauses 4.46.2.1, 4.46.2.2, and 4.46.3, at the rate of ██████████
- 4.46.6 In addition to any deductions which may be made under clause 4.46.5 above where more than 25 Default Notices are issued or awarded in one Week period or more than 50 are issued or awarded in any one Month period the Council may (without prejudice to any other rights or remedy available to it) do any one or more of the following:
- 4.46.6.1 Without determining the Contract, itself provide or procure the provision of part of the Services in which event the Council shall not be liable for the payment of such part of the costs as the Council shall determine to be attributable to the relevant part of the Services until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Authorised Officer that such part of the Services will once more be provided by the Contractor in accordance with the Contract;
- 4.46.6.2 Without determining the whole of the Contract, determine the Contract in respect of part of the Services only (whereupon a corresponding reduction in the payment to be made to the Contractor under these Conditions shall be made as if such determination was a variation) and thereafter itself provide or procure a Third Party to provide such part of the Services;
- 4.46.6.3 Determine the whole of the Contract on account of breach of the Contractor's obligations under the Contract in accordance with clause 4.50.
- 4.46.7 For the purposes of this clause each individual collection point can be the subject of a separate Default Notice.

- 4.46.8 The Council may charge the full cost incurred of any part of the Services provided by it or by a Third Party under this clause together with administration costs to the Contractor.
- 4.46.9 For the avoidance of doubt, in the event that the Council enforces any of its rights under clause 4.50 the Council may also retake possession of any of its Plant and materials or other goods that the Council has allowed the Contractor to use for the performance of the Contract.
- 4.46.10 The remedies of the Council under the above Conditions may be exercised successively in respect of any one or more defaults by the Contractor.
- 4.46.11 All sums payable by the Contractor to the Council pursuant to this clause shall be paid as liquidated damages for delay and the cost of the Council administering the default system.

#### **4.47 Services by Default**

- 4.47.1 If by reason of any accident or failure of other event occurring to or in connection with any of the Contractors' Employees, premises, depot, Plant or materials or any part thereof either during the performance of the Services or at any other times any remedial or other work or repair shall in the opinion of the Authorised Officer be urgently necessary and the Contractor is unable or unwilling at once to do such work or repair as the Authorised Officer may consider necessary the Council may provide the Service itself or arrange for it to be done and if the Service or repair so done is work which in the opinion of the Authorised Officer the Contractor was liable to do at his own expense under the Contract all costs and charges properly incurred by the Council in so doing shall on demand be paid by the Contractor to the Council from any monies due or which may become due to the Contractor provided always that the Officer shall as soon after the occurrence of such emergency as may be reasonably practical notify the Contractor thereof in writing.
- 4.47.2 If the Contractor for whatever reason, fails to provide or perform the Services in whole or in part completely in accordance with the terms of the Contract then without prejudice to any other remedy contained herein the Council may by its own or other workmen provide and perform such Services or part thereof in which the Contractor has been default. The costs and charges incurred by the Council in so doing shall be paid by the Contractor to the Council on demand or may be deducted by the Council from any monies due or which may become due to the Contractor.
- 4.47.3 The Council may serve a Default Notice on the Contractor setting out the matter or matters giving rise to such notice if:
- 4.47.3.1 At any time the performance monitoring information reveals that the Contractor's performance of any of the Services which have previously been the subject of a Default Notice have fallen below the Contract Standard to such an extent that the Authorised Officer does not consider it appropriate to issue a further Rectification Notice.
- 4.47.4 Any such notice shall state on its face that it is a Default Notice and contain:
- 4.47.4.1 A statement of what action or actions the Council requires the Contractor to undertake to remedy the matter in question and the timescale within which such action or actions are required to be undertaken; and
- 4.47.4.2 A reminder to the Contractor of the implications of such Default Notices.
- 4.47.5 At any time, if the Council considers it appropriate, due to failure of the Contractor to provide the Service satisfactorily in accordance with the Specification the Authorised Officer may issue a Default Notice without referral to a Rectification Notice in the first instance.
- 4.47.6 In addition to deductions in accordance with clause 4.16 above the Council may make deductions in accordance with clause 4.46.11 such that:
- 4.47.6.1 In addition to serving a Default Notice in accordance with clause 4.46 above the Council may in its absolute discretion make a Monthly deduction;
- 4.47.6.2 In addition to serving a Rectification Notice in accordance with clause 4.46.3 the Council will make an additional Monthly deduction;

- 4.47.6.3 In addition to the said deductions, the Council reserves the right in its absolute discretion to serve a Default Notice or a Rectification Notice in respect of any of the said performance indicators as appropriate.

#### **4.48 Complaints**

- 4.48.1 In addition to the Contractor's obligations under clause 4.8 herein, the Contractor shall nominate a person and will ensure the nominated person is available to receive and deal with complaints as stated in clause 4.13.3.
- 4.48.2 The Contractor shall from the Commencement Date for the term of the Contract, or any other date as instructed by the Authorised Officer, have and operate the Customer Relationship Management System provided and maintained by the Council in order to receive and remedy any complaints from members of the public relating to any of the Services. The Council will provide the Contractor with the necessary training in the Customer Relationship Management System.
- 4.48.3 Any action the Contractor takes to resolve complaints will be in compliance with agreed guidelines. The Contractor shall ensure they utilise the specified computer hardware and/or software to run an efficient complaints system with Internet access.
- 4.48.4 The Contractor shall ensure that members of the public who complain directly to the Contractor will have their complaint recorded by the Contractor together with full contact details.
- 4.48.5 The Contractor will forward any complaints that he receives to the Council at the earliest opportunity, but no later than the end of the same Working Day.
- 4.48.6 For the avoidance of doubt the Authorised Officer may award Default Notices in any case where there has been a complaint or where an instruction arising from a complaint has not been complied with by the Contractor, either at all or within the time limit set by the Authorised Officer.
- 4.48.7 If the Contractor has any complaint about the operation of this Contract, the complaint should be made on the next Working Day, or as soon as is practicable, to the Authorised Officer.
- 4.48.8 The obligations in clause 4.48 are the minimum requirement for dealing with complaints. The Contractor shall as part of the Service Delivery Plan submit details of the appropriate procedures and forms it is proposing to adopt.
- 4.48.9 Under the Local Government Act 1974 the Local Government Ombudsman may investigate a complaint relating to an action taken "by or on behalf of" a local authority. This includes the actions of companies or individuals undertaking work on their behalf. The Contractor shall co-operate with the Council and with the Local Government Ombudsman in any investigation by the Ombudsman (including the attendance of witnesses and production of documents) into the provision of the Services.
- 4.48.10 The Contractor acknowledges that the Council requires customers to be able to access the Contractor via the Council's website. The Council will provide the necessary input and resources to the Council's website to enable the public to access the Contractor.

#### **4.49 Method of Review**

- 4.49.1 For the second and subsequent years of the Contract Period the rates as contained within the Pricing Schedule and the performance bond shall be increased on the Review Date by a percentage equivalent to the percentage rise or fall in the Retail Price Index (RPI), all items, during the Index Period in question.
- 4.49.2 The tender sum and rates will be based on the cost of providing the Services for the first period of the Contract, from the Commencement Date until 21<sup>st</sup> August 2007 and each thirteen Month period thereafter as defined in clause 4.1.1.59.
- 4.49.3 The prices in the Pricing Schedule will be fixed until the first Review Date.
- 4.49.4 Such Reviews undertaken to ascertain the increase or decrease on the Annual Sum will be calculated by use of the net total of any increases or decreases due to any changes in these index figures shall be given for that particular year.

- 4.49.5 Tax fluctuations **SHALL NOT** apply except to the extent that they are covered by and incorporated into the relevant indices.
- 4.49.6 The Contractor shall notify the Authorised Officer of the calculated percentage rise or fall in the Annual Sum within one Month of the issue of the relevant indices shown above.

#### **4.50 Termination**

- 4.50.1 Without prejudice to the exercise of any of its other rights and remedies the Council shall be entitled to terminate this Contract forthwith or on notice to the Contractor should any of the following events occur:
- 4.50.1.1 The Contractor has to a material extent failed to perform its obligations under the Contract to achieve the Contract Standard;
- 4.50.1.2 The events referred to in clause 4.46 hereof concerning default in performance or in clause 4.44 hereof concerning bribery and corruption occur;
- 4.50.1.3 The Contractor having failed to perform any part of the Services for a period of two Weeks;
- 4.50.1.4 The Contractor having falsified or materially misstated any information required or supplied to demonstrate compliance with the Contract or management information;
- 4.50.1.5 The Contractor having failed to comply with the requirements of the Money Laundering Regulations 2003;
- 4.50.1.6 The Contractor suffering an execution to be levied on his goods;
- 4.50.1.7 The Contractor becoming bankrupt, or making a composition or arrangement with its creditors, or having a proposal in respect of its company for voluntary arrangements for a composition of debts, or scheme or arrangement approved in accordance with the Insolvency Act 1986 as amended by the Enterprise Act 2002;
- 4.50.1.8 The Contractor having an application made under the Insolvency Act 1986 to the Court to the appointment of an administrative receiver;
- 4.50.1.9 The Contractor having a winding-up order made, or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding-up passed;
- 4.50.1.10 The Contractor having a provisional liquidator, receiver, or manager of its business or undertaking duly appointed;
- 4.50.1.11 The Contractor having possession taken, by or on behalf of the holders or any debentures secured by a floating charge, of any property comprised in, or subject to, the floating charge;
- 4.50.1.12 The Contractor being in circumstances which entitle the Court to appoint a creditor, or have appointed, a receiver, a manager, administrative receiver or administrator, or which entitle the Court to make a winding-up order;
- 4.50.1.13 The Contractor sustaining any change in the control of the Contractor or (where the Contractor is a subsidiary company) its ultimate holding company;
- 4.50.1.14 The Contractor fails to take out and maintain any of the required insurances;
- 4.50.1.15 The Contractor having provided any of the warranties and representations in accordance with the Contract, which subsequently prove untrue or incorrect.
- 4.50.2 Upon any such termination in addition to such consequences as are set in the other provisions of the Contract:
- 4.50.2.1 The Contractor shall forthwith cease to perform all of the Services or any of them.
- 4.50.2.2 The Council shall be under no obligation to make any further payment to the Contractor and shall be entitled to retain any payment which may have fallen due to the Contractor before termination until the Contractor has paid in full to the Council all sums due under this Contract or to deduct there from any sum due from the Contractor to the Council under this Contract.
- 4.50.2.3 The Council shall further be entitled to repossess any of its materials, clothing, Plant or other goods loaned or hired to the Contractor and to exercise a lien over any of the materials, clothing,

- Plant or other goods belonging to the Contractor for any sum hereunder or otherwise due from the Contractor to the Council.
- 4.50.2.4 The Council shall further be entitled to repossess of part or all of the premises licensed and/or leased to the Contractor.
- 4.50.2.5 The rights of the Council under this clause are in addition to and without prejudice to any other rights the Council may have whether against the Contractor directly or pursuant to any guarantee, indemnity or bond.
- 4.50.2.6 If the Council shall omit or require the Contractor to cease to provide a substantial part of the Services, the Council may, notwithstanding clauses 4.10 and 4.11, at its sole discretion, terminate the Contractor's employment by providing 14 days notice in writing and repossess its materials, clothing, equipment, vehicles or other goods loaned or hired to the Contractor. If the Contractor's employment is terminated under this sub-clause neither the Council nor the Contractor shall have claims against the other in respect of any loss or damage resulting from or arising out of the termination of the Contractor's employment. The Contractor shall be entitled to receive from the Council any sum or sums due in respect of Services performed up to the time of termination of the Contractor's employment.
- 4.50.2.7 The license of the premises used by the Contractor in connection with the provision of the Service shall be deemed to have been terminated if this Contract expires or is terminated for any reason whatsoever, and the Council will be entitled to immediate possession thereof.
- 4.50.2.8 In the event of termination or expiration of the Contract, the Council shall be entitled to take possession of all trade secrets, formulae, information, techniques, records, procedures, designs, drawings, data Specification, catalogues, manuals, trade literature, customer lists, records and the like, in the possession of the Contractor in connection with the Contract.
- 4.50.2.9 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor to the Council the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under this Contract or any other Contract with the Council.
- 4.50.2.10 Save for a termination under clauses 4.10 the Contractor shall fully and promptly indemnify the Council in respect of the cost of causing to be performed such Services as would have been performed by the Contractor during the remainder of the Contract Period to the extent that such cost exceeds such sums as would have been lawfully payable to the Contractor for performing such Services. The Council shall be at liberty to have such Services performed by any persons (whether or not servants of the Council) as the Council shall in its entire discretion think fit and shall be under no obligation to employ the least expensive method of having such Services performed.
- 4.50.2.11 When the total costs, loss and/or damage resulting from or arising out of the termination of the Contract have been calculated and deducted so far as practicable from any sum or sums which would otherwise have been due to the Contractor, any balance shown as due to the Council shall be recoverable as a debt, or alternatively, the Council, subject to clause 4.50.2.7 above shall pay to the Contractor any balance shown as due to the Contractor.
- 4.50.2.12 The rights of the Council under these Conditions are in addition and without prejudice to any other right the Council may have to claim the amount of any loss or damage suffered by the Council on account of the acts or omissions of the Contractor whether pursuant to the bond and indemnity given in accordance with the bond or guarantee undertaking or otherwise.
- 4.50.2.13 Termination or expiration of the Contract shall be without prejudice to the respective rights and remedies of the Contractor and the Council, as may have accrued before such termination or expiration, and nothing in the Contract shall prejudice the right of either such party to recover any amount outstanding at the termination or expiration.
- 4.50.2.14 In the event of any termination (for whatever reason) the Contractor shall ensure that any copyrighted materials will be assigned or licenses transferred to the Council without cost to the Council.

## **4.51 Notices**

- 4.51.1 No notice to be served upon the Council shall be valid or effective unless it is delivered by hand, sent by prepaid recorded delivery post, or by telex, electronic mail or facsimile transmission to the address specified in the Instructions to Tenderers or to such other address as the Authorised Officer may notify the Contractor in writing.
- 4.51.2 Any notice to be served upon the Contractor shall be valid and effective if it is delivered by hand, sent by prepaid recorded delivery post or by telex, electronic mail or facsimile transmission to the registered office, principal place of business or other premises referred to in the tender documents or is delivered by hand to a director, proprietor or other responsible representative of the Contractor (including the Contract Manager as set out in clause 4.28 hereof).
- 4.51.3 Where a notice is sent by prepaid recorded delivery post it shall be deemed subject to proof to the contrary that such notice had been received by the addressee on the date of the recorded delivery to the address.
- 4.51.3.1 Forthwith on receipt of any notice transmitted by e-mail the recipient shall acknowledge receipt thereof.

## **4.52 Whole Contract**

- 4.52.1 The Contract constitutes the whole agreement, documents and understanding both in detail and spirit, between both parties as to the subject matter included herein and no prior or other agreements between those parties are of consequence.

## **4.53 Dispute Resolution Procedure and Expert Determination**

- 4.53.1 Initial Meetings in Event of Dispute
- 4.53.1.1 In the first instance each of the parties shall arrange for a senior representative being in the case of the Council its Chief Executive or his/her nominee and in the case of the Contractor its Chief Executive or his/her nominee in order to resolve the matter in dispute. Such meeting(s) shall be minuted and shall be chaired by the party calling for the meeting.
- 4.53.1.2 Such meetings shall be conducted in such manner and at such venue (including a meeting conducted over the telephone) as to promote a consensual resolution of the dispute in question to the mutual satisfaction of the parties
- 4.53.2 Mediation
- 4.53.2.1 If the meeting referred to in the clause 4.53.1 does not resolve the matter in question then the parties will attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure. To initiate mediation a party shall give notice in writing (a "Mediation Notice") to the other party requesting mediation of the dispute and shall send a copy thereof to CEDR asking CEDR to nominate a mediator in the event that the parties shall not be able to agree such appointment by negotiation. The mediation shall commence within 28 days of the mediation notice being served. Neither party will terminate such mediation until each party has made its opening presentation and the mediator has met each party separately for at least one hour. Thereafter paragraph 14 of the "Model Procedure" will apply. Neither party will commence arbitration proceedings against the other until thirty days after such mediation of the dispute in question has failed to resolve the dispute.
- 4.53.2.2 The parties will co-operate with any person appointed as mediator providing him with such information and other assistance as he shall require and each party will pay his costs, as he shall determine.
- 4.53.3 Reference to Courts
- 4.53.3.1 Should the Parties fail to reach agreement on their dispute or difference through such mediation then the dispute or difference may be referred by either Party to the Court.
- 4.53.4 The award of the arbitrator shall be final and binding on the parties.
- 4.53.5 Unless the Contract shall have been determined or abandoned the Contractor shall in every case continue to perform the Service with all due diligence and shall give effect to all the provisions

of the Contract and instructions of the Authorised Officer unless and until the same shall be revised by the arbitrator.

#### **4.54 Parties Obligations**

4.54.1 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.

#### **4.55 British Standards**

4.55.1 Where an appropriate British Standard specification or British Standard Code of Practice issued by the British Standards Institution is current all goods used or supplied and all workmanship shall, as a minimum requirement, be in accordance with that Standard or equivalent European Standard applicable 6 Weeks before the Commencement Date although without prejudice to any higher standard required by the Council.

4.55.2 Where the agreed standard has not been or cannot be met for any reason, prior written approval shall be obtained from the Authorised Officer for corrective or alternative action if it is at variance with any other requirement of the Contract.

#### **4.56 Observance of Statutory Requirements**

4.56.1 Without prejudice to the generality of the Contractor's other obligations herein, the Contractor shall comply with all statutory and other provisions to be observed and performed in connection with the Services provided under the Contract and shall indemnify the Council against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this clause.

#### **4.57 Rights and Duties Reserved**

4.57.1 For the avoidance of doubt nothing herein contained or implied shall prejudice or affect the Council's rights powers duties and obligations in the exercise of its functions as a local authority for the enforcement of or pursuant to any enactment byelaw regulation or order for the time being in force.

#### **4.58 Legal Fees**

4.58.1 Each party shall bear their own legal and other fees in relation to the preparation and submission of the tender documents and the formal Contract Documents arising there from.

#### **4.59 Provision of Statistical Information**

4.59.1 The Contractor shall provide promptly (and in any event no later than fifteen days after being so requested) and in writing any statistical information, which the Council may from time to time require and for the avoidance of doubt this shall include information relating to the Transfer of Undertakings (Protection of Employment) Regulations 1991 which the Council, were it providing the Services itself, would give to potential tenderers.

#### **4.60 Information and Confidentiality**

4.60.1 Duty of Confidentiality

4.60.1.1 The Parties agree that the terms of this Contract shall, subject to clause 4.60.1.2 below, not be treated as Confidential Information and may be disclosed without restriction.

4.60.1.2 Clause 4.60.1.1 above shall not apply to terms of this Contract designated as Commercially Sensitive Information and listed in Schedule Two (Confidential Information) to this Contract.

4.60.1.3 The Parties shall keep confidential all Confidential Information received by one Party from the other Party relating to this Contract and shall use all reasonable endeavours to prevent their employees and agents from making any disclosure to any person of any Confidential Information.

- 4.60.2 Permitted Disclosure
- 4.60.2.1 Clause 4.60.1 (duty of Confidentiality) shall not apply to:
- 4.60.2.1.1 Any disclosure of information that is reasonably required by any person engaged in the performance of their obligations under this Contract for the performance of those obligations;
- 4.60.2.1.2 Any matter which a Party can demonstrate is already or becomes generally available and in the public domain otherwise than as a result of a breach of this clause 4.60.
- 4.60.2.1.3 Any disclosure to enable a determination to be made under the Dispute Resolution Procedure;
- 4.60.2.1.4 Any disclosure which is required pursuant to any statutory, legal (including any order of a court of competent jurisdiction) or 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.
- 4.60.2.1.5 Any disclosure of information which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
- 4.60.2.1.6 Any disclosure for the purpose of:
- 4.60.2.1.6.1 The examination and certification of the Council's or the Contractor's accounts; or
- 4.60.2.1.6.2 Any examination pursuant to the 1999 Act of the economy, efficiency and effectiveness with which the Council has used its resources; or
- 4.60.2.1.6.3 (without prejudice to the generality of clause 4.60.2.4 above) compliance with the FOIA and/or the Environmental Information Regulations.
- 4.60.2.1.7 Any discharge of information by the Council or Contractor to its legal, financial or other professional advisers provided that such advisers have been informed by the respective party in advance of its confidential nature.
- 4.60.3 Obligations Preserved
- 4.60.3.1 Where disclosure is permitted under clause 4.60.2 (other than clauses 4.60.2.2, 4.60.2.4, 4.60.2.5 and 4.60.2.6) in the party providing the information shall procure that the recipient of the information shall be subject to the same obligation of confidentiality as that contained in this Contract.
- 4.60.4 Information, Documents and Records
- 4.60.4.1 The Contractor shall provide to the Council's Representative all information, documents, records and the like in the possession of, or available to, the Contractor (and to this end the Contractor shall use all reasonable endeavours to procure that all such items in the possession of the Contractor or any Sub-Contractor shall be available to it and the Contractor has included, or shall include, relevant terms in all contracts with the Sub-Contractors to this effect) as may be reasonably requested by the Council's Representative for any purposes in connection with this Agreement.
- 4.60.5 Audit
- 4.60.5.1 For the purposes of:
- 4.60.5.1.1 The examination and certification of the Council's accounts;
- 4.60.5.1.2 An examination pursuant to the 1999 Act of the economy, efficiency and effectiveness of which the Authority has performed its functions,
- the District Auditor and the Audit Commission may examine such documents as he or it 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 or it considers necessary.
- 4.60.6 Exploitation of Information
- 4.60.6.1 The Contractor shall not make use of this Agreement or any information issued or provided by or on behalf of the Council in connection with this Agreement otherwise than for the purposes of this Agreement, except with the written consent of the Council.

- 4.60.7 Disclosure by Audit Commission
- 4.60.7.1 The parties acknowledge that the Audit Commission has the right to publish details of this Agreement (including Commercially Sensitive Information) in its relevant reports to Parliament.
- 4.60.8 ITT and Conditions of Contract.
- 4.60.8.1 Copyright of the Conditions of Contract, Specification and the Pricing Schedule except the pricing thereof shall remain with the Council although the Contractor may obtain and make at his own expense any further copies required by him for use in the Contract save for any Ordnance Survey Plans produced by the council under their license.
- 4.60.8.2 All information supplied by the Council in connection with this ITT shall be treated as confidential by prospective tenderers except that such information may be disclosed so far as it is necessary for the purpose of obtaining sureties, guarantees, quotations, insurances, trade and credit references, planning permission and all licences necessary for the preparation and submission of a tender.
- 4.60.8.3 Each tenderer shall at all times keep the fact of and all information and other matters concerning this ITT, any tender and all incidental, related or connected matter strictly confidential unless otherwise expressly agreed in writing by the Council.
- 4.60.8.4 This ITT and all Intellectual Property Rights therein re and shall remain the property of the Council. It must be returned to the Council upon demand together with copies made in whatever format.

#### **4.61 Freedom of Information and Data Protection**

- 4.61.1 The Contractor acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council (at the Contractor's expense) to enable the Council to comply with Information disclosure requirements.
- 4.61.2 The Contractor shall and shall procure that its sub-contractors shall:
- 4.61.2.1 Transfer a Request for Information to the Council as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;
- 4.61.2.2 Provide the Council with a copy of all Information in its possession or power in the form that the council requires within five Working Days (or such other period as the Council may specify) of the Council requesting that Information; and
- 4.61.2.3 Provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or Regulation 5(2) of the Environmental Information Regulations.
- 4.61.3 The Council shall be responsible for determining as its absolute discretion whether:-
- 4.61.3.1 The Information is exempt from disclosure under FOIA and the Environmental Information Regulations;
- 4.61.3.2 The Information is to be disclosed in response to a Request for Information, and
- 4.61.3.3 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 4.61.4 The Contractor acknowledges that the Council may, acting in accordance with the FOIA, or the Environmental Information Regulations disclose Information:-
- 4.61.4.1 Without consulting with the Contractor, or
- 4.61.4.2 Following consultation with the Contractor and having taken its views into account.
- 4.61.5 The Contractor acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with Clause 4.60.2.1.6.3.
- 4.61.6 The Contractor shall ensure that all information produced in the course of the Contract relating to the Contract is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.

#### **4.62 Severance**

- 4.62.1 If any provision of the Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

#### **4.63 Waiver**

- 4.63.1 Failure by the Council at any time to enforce the provisions of the Contract or to require performance by the Contractor of any provisions of the Contract shall not affect the validity of the Contract and shall not be construed as a waiver of any part thereof of the right of the Council to enforce any provision in accordance with the Conditions of the Contract.

#### **4.64 Sufficiency of Information**

- 4.64.1 The Contractor shall be deemed to have satisfied itself before submitting its tender as to the accuracy and sufficiency of the prices stated by the Contractor in its tender which shall (except in so far as is otherwise provided in the Contract) cover all the Contractor's obligations under the Contract and shall be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect the Contractor's tender.

#### **4.65 Patent Rights**

- 4.65.1 The Contractor shall save harmless and indemnify the Council from and against claims and proceedings for or on account of infringement of any patent rights, design trade mark or name or other protected rights in respect of any machine, work or material used for or in connection with the Service and from and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or relation thereto.

#### **4.66 Amendments**

- 4.66.1 No amendments to the Contract which require the consent of both Parties shall be binding unless agreed to by the parties and evidenced in writing and signed by the Council's Chief Legal Officer and the Contractor, and expressed to be for the purpose of such amendment.

#### **4.67 Consent**

- 4.67.1 Where the consent of the Council is required pursuant to this Contract and/or License or any other Contract or agreement between the parties the grant or refusal of a consent pursuant to this Contract or such other Contract and/or License or agreement shall be entirely without prejudice to the grant or refusal of any consent pursuant to any other such Contract and/or License or agreement.

#### **4.68 Litigation and Protection of the Council's Interests**

- 4.68.1 If the Contractor shall become aware of any matter which without limitation shall include burglary, vandalism, accidental damage or breach of statutory provision which affects or is likely to affect the performance of the Service it shall immediately notify the Authorised Officer.
- 4.68.2 The Contractor shall notify the Authorised Officer immediately of any circumstances relating to the Contractor and/or any sub-Contractor and/or concerning the Service (or part thereof), which would or might reasonably justify the Council taking action to protect its interests (including its reputation) and/or lead to litigation by the Council and/or the Contractor for any reason whatsoever.
- 4.68.3 If requested to do so by the Authorised Officer the Contractor shall provide to the Council any relevant information and/or shall arrange the assistance of any Employee or sub-Contractor of the Contractor in connection with any legal inquiry or court proceedings in which the Council may become involved or any relevant disciplinary hearing internal to the Council and shall give evidence in such inquiries or proceedings or hearings.

## **4.69 Maladministration**

- 4.69.1 Without prejudice to the generality of this clause, if the Commission for Local Administration investigates any of the activities or practices of the Contractor or the Council, the Contractor shall promptly and fully co-operate with such investigation (including, without limitation, allowing the Commission and the Council access to all books, accounts and other records and making available directors and Employees of the Contractor to give evidence to the Commission and to the Council).
- 4.69.2 Where, as a result of such investigation, the Commission or the Local Commissioner (as such term is defined in the Local Government Act 1974) (the "Commissioner") issues any report in which it or he is of the opinion that any injustice or maladministration has taken place and the Council is of the opinion that such injustice or maladministration is in whole or in part caused by or attributable to the Contractor, the Contractor shall:
- 4.69.2.1 Fully and promptly co-operate with the Authorised Officer in formulating a reply to such report;
- 4.69.2.2 Take all reasonable steps to rectify or remedy the injustice or maladministration;
- 4.69.2.3 Take all reasonable steps to prevent a recurrence of the injustice or maladministration; and
- 4.69.2.4 Take such other steps as the Authorised Officer may reasonably require in order to comply with any recommendations in the report (or any other report issued by the Commissioner in relation to the Council or the Contractor).
- 4.69.3 The Contractor shall fully and promptly indemnify and keep indemnified the Council against any payment made by the Council following any injustice or maladministration alleged in any report issued by the Commissioner to the extent that the same was or is caused by or attributable to the Contractor.
- 4.69.4 In this clause the term "maladministration" shall include, without limitation, bias, neglect, inattention, delay, incompetence, perversity, turpitude and arbitrariness.

## **4.70 Best Value**

- 4.70.1 The Contractor acknowledges that the Council is subject to the duty of Best Value (the "Best Value Duty") within the terms of the Local Government Act 1999. Best Value requires the continuous improvement of both the quality and cost to the Council of the Services. The Council has a Best Value Duty which is the duty imposed on the Council by Part 1 of the 1999 Local Government Act and under which the Council has a statutory duty to continuously improve the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to the Guidance issued from time to time by the Secretary of State, Audit Commission and the Chartered Institute of Public Finance and Accountancy pursuant to, or in connection with, Part 1 of the 1999 Act.
- 4.70.2 The Contractor shall, throughout the Contract Period and at its own cost, assist the Council in meeting its Best Value Duty.
- 4.70.3 The Contractor will be required to participate in an 'open book' approach to enable the Council to fulfil its obligations under Best Value and any subsequent requirement.
- 4.70.4 In discharging the Best Value Duty the Contractor shall comply with the provisions of this clause and shall undertake or refrain from undertaking such actions as the Council shall request to enable the Council to comply with the Best Value Duty including:
- 4.70.4.1 Actively promoting, supporting and assisting the Council in meeting its Best Value Duty in respect of the Services including being responsible for the delivery of relevant actions from Best Value and other Reviews;
- 4.70.4.2 Complying with all requests by the Council for assistance in preparing its Best Value Performance Plans; and
- 4.70.4.3 Complying with all requests by the Council to participate and assist in the development of the Council's Corporate Plan;
- 4.70.4.4 Complying with all requests by the Council to participate and assist in Best Value Reviews; and

- 4.70.4.5 Complying with requests for information, data or other assistance made by the Council in pursuance of its Best Value Duty including:
- 4.70.4.5.1 Facilitating the inspection of the Council's compliance with its Best Value Duty pursuant to Part 1 of the Local Government Act 1999;
- 4.70.4.5.2 Assisting the Council in relation to any action taken by the Secretary of State under Section 15 of the Local Government Act 1999;
- 4.70.4.5.3 Enabling the Council to comply with the Publication of Information Direction 1999 (England) and the Freedom of Information Act 2000; and
- 4.70.4.5.4 Enabling the Council to participate fully in the benchmarking networks (e.g. APSE).
- 4.70.4.5.5 Complying with all reasonable requests by the Council to procure the attendance of specific Employees at any meetings of the Council at which the Contract is to be discussed.
- 4.70.5 The Service Delivery Plan (Clause 5.2) that the Contractor develops for the performance of the Service shall set out how the Contractor intends to work with the Council to improve the Services and deliver Best Value. The Service Delivery Plan should include specific references to Service provisions and:
- 4.70.5.1 How the Contractor intends to enable the Council to demonstrate continuous improvement in Service delivery over the duration of the Contract Period;
- 4.70.5.2 How flexibility is to be introduced into Service delivery arrangements to meet changing local and national priorities;
- 4.70.5.3 The processes the Contractor will seek to adopt to engage key stakeholders in consultation about Service provision.
- 4.70.6 The Authorised Officer shall at all times act reasonably in making or refraining from making requests of the Contractor in connection with the performance, satisfaction and discharge of the Council's Best Value Duty.
- 4.70.7 There shall be an annual performance Review of the Contract at the Review Date. The Review Date shall be 21<sup>st</sup> August and each anniversary thereof during the Contract Period or such date or dates for a performance Review as may be agreed. This performance Review should be undertaken by the Contractor who shall submit a draft Annual Performance and Service Improvement Plan to the Council for consideration by not later than 21<sup>st</sup> August 2007 and on each 21<sup>st</sup> August thereafter during the Contract Period. The Annual Performance and Service Improvement Plan shall provide modifications to the Service Delivery Plan, which result from the performance Review.
- 4.70.8 The Annual Performance and Service Improvement Plan shall contain:
- 4.70.8.1 A Review of the performance and delivery of the Services against the key objectives during the period of thirteen Months, as defined in clause 4.1.1.59, prior to the Review Date; and
- 4.70.8.2 Proposals to improve the provision and/or performance of the Services and the organisation (or any part) during the thirteen Month period, as defined in clause 4.1.1.59, commencing on 1<sup>st</sup> April of that year having regard to:
- 4.70.8.2.1 The Best Value Duty;
- 4.70.8.2.2 The requirements upon the Council in relation to the contents of the Council's Best Value performance plan concerning the Services for that year;
- 4.70.8.2.3 The results of any Customer Satisfaction Surveys.
- 4.70.9 As part of the Annual Performance and Service Improvement Plan the Authorised Officer and the Contractor shall Review the appropriateness of the Contract Standards and performance monitoring information and shall use their best endeavours to agree revisions where this is necessary to demonstrate the continuing efficient and cost effective delivery of the Service under this Contract within the Performance Management and Evaluation framework. In doing so the parties acknowledge that standards may need to be revised in order to reflect the impact of incremental continuous improvement, changes in statutory and local performance standards, changing user expectations, local demographics, legislative change, technological developments, national trends or guidelines or any other significant reason.

- 4.70.10 The Contractor shall upon a written request from the Authorised Officer promptly and in any event within fourteen days provide such written evidence or other supporting information as the Authorised Officer may reasonably require to verify and audit the information and other material contained in the Annual Performance and Service Improvement Plan.
- 4.70.11 If in the Authorised Officer's reasonable opinion the Annual Performance and Service Improvement Plan discloses under performance by the Contractor in providing the Service (or any part) having regard to the Best Value Duty, then the relevant provision of clause 4.46 (default) and 4.11 (variation) shall apply.
- 4.70.12 The Council currently intend to undertake Best Value Reviews of its Services annually or at greater intervals as specified.
- 4.70.13 The Council shall, at yearly intervals or such longer intervals as it may choose, undertake (or procure the undertaking of) a Customer Satisfaction Survey into, inter alia, the performance of the Services by the Contractor by reference to Best Value Performance Indicators or Local Performance Indicators. The purpose of the surveys shall be to inform the Best Value Review or other Reviews.
- 4.70.14 The Contractor shall agree that the Customer Satisfaction Surveys shall be carried out in good faith and both the Contractor and the Council shall act reasonably in relation to these.
- 4.70.15 The Contractor shall provide all such information and other support to the Council as may be necessary to assist the carrying out or procuring of the Customer Satisfaction Survey and shall have regard to the results of the Customer Satisfaction Survey in the carrying out of the Services.
- 4.70.16 If in the Authorised Officer's reasonable opinion the results of the Best Value or other Reviews undertaken disclose under performance by the Contractor in providing the Service (or any part) having regard to the Best Value Duty, then the relevant provision of clause 4.46 (default) and 4.11 (variation) shall apply.

#### **4.71 Force Majeure**

- 4.71.1 For the purposes of this Contract, the expression "Force Majeure" shall mean any cause affecting the performance by either party of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control, specifically including (although without limiting the generality thereof) fire, flood, any abnormal weather conditions, discovery of unexploded bombs or other munitions or antiquities, act of war, sabotage, terrorist action, explosion, industrial action (whether official or unofficial) which is not specific to and does not originate from the workforce of the Contractor or, in the case of an event upon which the Council is relying, which is not specific to, and does not originate from, the workforce of the Council, blockades and embargoes, acts or omission of statutory undertakers, or any disaster. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected party, its agents or Employees.
- 4.71.2 If a party's performance of its obligations under this Contract is affected by Force Majeure then:
- 4.71.2.1 It shall give written notice to the other party, specifying the nature and extent of the Force Majeure, immediately on becoming aware of the Force Majeure and will at all times use its best endeavours and all available resources to mitigate the severity of the Force Majeure provided always that it shall not be obliged to incur any material additional expense in such mitigation;
- 4.71.2.2 Subject to the provisions of clause 4.71.3 below the date for performance of such obligation shall be deemed suspended for a period equal to the delay caused by such event; and
- 4.71.2.3 The Contractor shall not be entitled to payment by the Council in respect of extra costs and expenses incurred by virtue of the Force Majeure save to the extent that it agrees with the Council to incur material additional expense.
- 4.71.3 If the Force Majeure in question prevails for a continuous period in excess of one Month after the date on which the Force Majeure begins then either party may give notice in writing to the other to terminate this Contract. The notice to terminate must specify the termination date, which must not be less than 10 working days after the date on which the notice to terminate is given. Once a notice to terminate has been validly given, this Contract will terminate on the

termination date set out in the notice unless the Force Majeure no longer prevails on the said termination date.

- 4.71.4 Neither party to this Contract shall be deemed to be in breach of this Contract or otherwise liable to the other party in any manner whatsoever for any failure or delay in performing its obligations under this Contract due to Force Majeure.
- 4.71.5 The Council shall continue to pay the Contractor for any Services that it does receive from the Contractor although the Council shall not pay for any Services that it does not receive from the Contractor notwithstanding the Force Majeure.
- 4.71.6 Neither party shall in any circumstances be liable to the other for any loss of any kind whatsoever, including although not limited to any damages or abatement of costs or charges whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding the foregoing, each party shall use all reasonable endeavours to continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure event.

## **4.72 Emergency Planning**

- 4.72.1 The Contractor will be operating Services that are part of the Council's emergency plan. Therefore, the Contractor will be required to provide a 24-hour contact point to the Authorised Officer and will be required to undertake any instruction given to him by the Council's nominated Emergency Planning Officer.
- 4.72.2 The Contract Manager will be required to liaise with the Council's nominated Emergency Planning Officer and attend appropriate meetings in order to develop plans that avail adequate resources within reasonable timescales as required by the Emergency Planning Officer or any Council Employee acting under the instruction of the Chief Executive in an emergency situation.
- 4.72.3 Any resources required, in terms of staff, vehicles and equipment, to be deployed by the Contractor in dealing with any emergency request from the Emergency Planning Officer or any other Council Employee acting under the instruction of the Chief Executive in an emergency situation must be agreed by the Council's Authorised Officer giving the instruction.
- 4.72.4 Where the Council requests the Contractor to assist the Council in an emergency situation (being a situation outside of the provision of the Services but where the Council wishes to utilise Assets or Employees engaged in the provision of the Services) the Contractor will assist the Council and the Contractor shall be entitled to be fully reimbursed for its reasonable and proper costs of providing such assistance.
- 4.72.5 The Contractor shall report to the Authorised Officer the length of time its resources, in terms of staff, vehicles, Plant and equipment were involved in attending any emergency incident, and a detailed breakdown of the costs that the Contractor intends to charge for such assistance. The Contractor shall also give the name of the officer/s requesting such assistance, and shall report any information gathered by its staff whilst attending the emergency which may enable the Authorised Officer to recover costs from any other party involved in the emergency incident, other Council or Government department or bodies, or which may assist any of the emergency Services.
- 4.72.6 The Contractor, at the Authorised Officers request, will make available drivers to participate in the Council's 'Out of Hours Emergency Service'.

## **4.73 Existing Contracts**

- 4.73.1 Subject to the provisions of this clause the Contractor shall with effect from the Commencement Date adopt, perform and fulfil the requirements of all existing Contracts details of which are provided in Appendix 9.8.7.
- 4.73.2 In so far as the benefit (subject to the burden) of any of the Contracts cannot be transferred by the Council to the Contractor except by way of an agreement or novation or with consent to the assignment from a Third Party then, save to the extent that such consent has been provided in a form to the reasonable satisfaction of the Contractor, this Contract will not operate to transfer the benefit of any such Contracts and:

- 4.73.2.1 The parties shall use all reasonable endeavours to procure that such Contracts are novated or assigned or consent is obtained as soon as is reasonably practicable;
- 4.73.2.2 Subject to clause 4.73.3, unless and until any such Contracts are novated or assigned or consent is obtained, the Council shall hold the benefit of such Contracts upon trust for the Contractor absolutely and shall account to the Contractor for any sums or any other benefits received by the Council in relation thereto;
- 4.73.2.3 Subject to clause 4.73.3 the Contractor shall as the Council's agent, perform all the obligations of the Council in respect of the Contracts relating to the period after the Commencement Date.
- 4.73.3 If notwithstanding the reasonable endeavours of the parties pursuant to clause 4.73.2 the rights and obligations of the Council under any Contracts cannot be transferred to the Contractor whether by way of novation or assignment or because any necessary consent is not forthcoming or is refused, then the Authorised Officer shall be entitled by notice in writing to the Contractor to require the Contractor to perform the Contracts as the Council's agent for the duration thereof whereupon the Council shall indemnify the Contractor in full against any liability or obligation in respect of such Contracts or arising from such Contracts.
- 4.73.4 If any Contracting Third Party imposes a condition in a novation or assignment of any of the Contracts or as a term of giving its consent to the Contractor assuming the rights and obligations of the Council under such Contracts then, subject to the proviso to clause 4.73.2.1 the parties shall co-operate in good faith with a view to finding a mutually acceptable means of satisfying the requirements of that Third Party without varying (otherwise than in any minor terms) the terms of such Contracts or this Contract relating to the rights and obligations to be assumed by the Contractor.
- 4.73.5 Without prejudice to the rights and obligations of the Council and the Contractor pursuant to the provisions of clauses 4.73.3 and 4.73.4 those provisions shall not, so far as concerns any Third Party, constitute any novation or assignment of the rights under the relevant Contracts to the extent that any such novation or assignment would, without the prior consent of the persons who are parties thereto, constitute any breach thereof.

#### **4.74 Partnering**

- 4.74.1 The Council will consider establishing a separate and discrete Partnering agreement (the Agreement) with the Contractor before the Commencement Date, which will be intended to remain in place throughout the Contract Period.
- 4.74.2 The Agreement will be formulated with the Contractor and in accordance with the proposals provided as part of the method statement submissions.
- 4.74.3 The intention of the Agreement will be to establish a structured management approach in providing a forum within which the Council and the Contractor may discuss, develop and agree strategic means to improve the performance of the Services, overcome problems that may arise and enable co-operative team working across contractual boundaries.
- 4.74.4 The Agreement is not intended to interfere in any way with the day to day management of the Contract and the defined duties of the Council, Contractor, Authorised Officer or Contract Manager. Where the Agreement concerns the future performance of the Services, which may involve changes in pricing, use of assets, measurement of performance, methods and technologies these will be incorporated into the Contract.
- 4.74.5 The Contract team should establish, develop and implement their working relationships with the objectives of achieving benefit for the Contract and for the mutual benefit of the team including:
- 4.74.5.1 Trust, fairness, dedication and commitment to common goals and an understanding of each other's expectations and values;
- 4.74.5.2 Finalisation of the required Services, timetables and prices for the Contract;
- 4.74.5.3 Innovation, improved efficiency, cost-effectiveness, and reduction or elimination of Waste;
- 4.74.5.4 Provision of the Services to the agreed quality;
- 4.74.5.5 Measurable continuous improvement by reference to performance indicators;
- 4.74.5.6 Commitment to people including staff and the users of the Services.

- 4.74.6 Each party to the Agreement undertakes to the others to do all that it can, within its agreed role, expertise and responsibilities to pursue for the benefit of the Contract and for the mutual benefit of Partnering members the targets stated in the performance indicators for:
- 4.74.6.1 Reduced Service costs and whole life costs;
  - 4.74.6.2 Reduced defects;
  - 4.74.6.3 Reduced accidents;
  - 4.74.6.4 Increased predictability;
  - 4.74.6.5 Increased productivity;
  - 4.74.6.6 Increased efficiency and profit;
  - 4.74.6.7 Improved quality;
  - 4.74.6.8 Improved sustainability;
  - 4.74.6.9 Any other targets identified for performance indicators.



### Schedule One – Default Notices

The number of Default Notices issued by the Authorised Officer for any incident of non-delivery or poor performance etc. shall be commensurate with the seriousness of the incident and the effect that it will have on the Services. Although it is not practical to set out every incident for which Default Notices may be issued, the following may be used as a guide:

Minor Incidents	One Default Notice per incident (plus one Default Notice for each day until satisfactory).
Serious Incidents	Three Default Notices per incident (plus three Default Notices for each day until satisfactory).
Very Serious Incidents	Five Default Notices per incident (plus five Default Notices for each day until satisfactory).

Minor Incidents shall include:

- (i) Letters of complaint considered by the Authorised Officer to be justified regarding the standard of the Service;
- (ii) Failure of the Contractor's Employees to comply with clause 4.38 regarding uniform and identification badges;
- (iii) Failure to clear away materials, tools and equipment.

Serious Incidents shall include:

- (i) Failure to comply with clause 4.27 hereof as to Plant and materials;
- (ii) Failure to comply with the Specification or Contract with regard to the use of materials;
- (iii) Failing to supply adequate Employees, Plant or supervision as required by the Specification and Contract;
- (iv) Failure to comply with the requirements of the Contract in relation to damaging Council or private property or goods;
- (v) Failure to comply with the provisions of clause 4.15.1.

Very Serious Incidents shall include:

- (i) Any incidents which arise through the Contractor not complying with Health and Safety legislation;
- (ii) Operating any part or parts of the Services contrary to Health and Safety legislation, recommendations or advice;
- (iii) Non compliance with any Acts of Parliament and licence Conditions which prevail at the time relevant to the Services being provided;
- (iv) Failure by the Contractor to seek approval from, comply with the requirements of or give information to, the Authorised Officer as laid down in the Conditions and the Specification;
- (v) Failure to achieve minimum performance requirements as detailed within the Contract.

Note: Consecutive missed bins in an area shall be counted as a single incident, although may be classed as minor, serious or very serious.



## **Schedule Two – Specifications**



## **Schedule Three – Pricing Schedule**



## **Schedule Four – Method Statements**



## **Schedule Five – Commercially Sensitive Information**



## **5. General Specification**

### **5.1 Best Value**

- 5.1.1 The Contractor will comply with all the requirements of Best Value as detailed in clause 4.68 of the Conditions of Contract.
- 5.1.2 The Contractor shall specifically undertake the following actions in order to assist the Council in its formulation of Best Value information requirements:

- 5.1.2.2 Information provision to allow the calculation of locally derived performance indicators as specified by the Council;
- 5.1.2.3 Provide information requested by the Council for benchmarking studies with other local authorities;
- 5.1.2.4 Attend focus group meetings and other Review related activity;
- 5.1.2.5 Attend Review meetings to discuss performance with Council Review staff;
- 5.1.2.6 Assist Best Value inspections of facilities;
- 5.1.2.7 Undertake continual improvement projects in at least three areas to be agreed with the Authorised Officer annually.

### **5.2 Service Delivery Plan**

- 5.2.1 The Contractor shall submit a full and detailed Service Delivery Plan, in both written and mapped format, not later than four Weeks before the commencement of the Contract, or within such time period as agreed with the Authorised Officer.
- 5.2.2 The plan will be subject to the approval of the Authorised Officer. The approval of the plan does not however remove the Contractor from any of his Contractual responsibilities.
- 5.2.3 Variations to the plan will only be permitted subject to the prior approval of the Authorised Officer and failure to seek or gain such approval shall be deemed to be a default in performance as defined in the Conditions of Contract.
- 5.2.4 Breakdowns or other emergencies that cause delay or are likely to affect the level of Service shall be notified immediately to the Authorised Officer, giving the extent of the disruption and the arrangements that will be made to resume the normal Service.
- 5.2.5 The plan shall include details of the monitoring and collection arrangements, planned days, etc.

### **5.3 Supervision**

- 5.3.1 The Contract Manager shall work exclusively for this Contract only, and shall be available in person during the hours of 08.00 – 17.00 Monday to Friday, inclusive, to deal with the management of the Contract. The only exception to this requirement shall be for Christmas Day, Boxing Day and New Year's Day as well as during periods of sickness and annual leave.
- 5.3.2 In the event of the Contract Manager being absent, the Contractor will ensure that a supervisory Employee will be available to cover the Contract Manager's duties in full, and the Authorised Officer will be notified immediately.
- 5.3.3 The Contractor will employ the Contract Manager and all supervisory Employees on a permanent basis. Under no circumstances will temporary, casual or employment agency workers be used to fulfil these roles.
- 5.3.4 The Contractor shall provide a sufficient number of supervisory Employees, in addition to the Contract Manager to ensure that the Employees are at all times adequately supervised and properly perform their duties to the Contract Standard.

## **5.4 Ownership and Commitment**

- 5.4.1 The Contractor should create a culture in which all Employees own responsibility for the Service and for its improvement and development.

## **5.5 Review and Improvement of Leadership**

- 5.5.1 The Contractor's leaders should regularly Review the effectiveness of their leadership style and make the identified improvements.

## **5.6 Waste Disposal**

- 5.6.1 The Waste Disposal Authority is currently Merseyside Waste Disposal Authority (MWDA). They are responsible for the provision of Waste disposal facilities for all Municipal Waste generated within the area by the Council.
- 5.6.2 The Waste Disposal Authority will nominate a disposal Site or Sites where all Waste is to be delivered. Details of current disposal Sites are provided in Appendix 9.6.
- 5.6.3 The Site(s) may, on occasion be temporarily closed for operational reasons. In such events the Contractor will be required to transport the Waste to an alternative disposal point. Notice of impending closure of Waste Disposal facilities is normally given by the Waste Disposal Authorities.
- 5.6.4 Variations in payments for the use of alternative facilities will be determined in accordance with the rates detailed in the Pricing Schedule. The rates will be used for both increases and reductions in the distance Waste is transported from the depot to the alternative disposal point. Where there are changes to the distance Waste is transported, the Contractor will be required to substantiate such costs as necessary and the Council will reimburse or reduce the sum payable as appropriate.
- 5.6.5 The Contractor is required to dispose of all Waste generated within the Contract to a Site nominated by the Waste Disposal Authority.
- 5.6.6 Waste will not be stored in vehicles overnight.
- 5.6.7 Only vehicles registered with the Council are authorised to dispose of Waste using the Council's administration codes. Registered vehicles are required to display an approved, laminated, sign indicating the Waste category being transported, in the windscreen of the vehicle whilst proceeding over the weighbridge. Vehicles failing to display the laminated sign will not be authorised to dispose of Waste.
- 5.6.8 Clinical Waste, fridges, freezers, and bulky items are to be disposed of as instructed within the Specification. See Appendix 9.6 for details of Waste disposal points. In the event that alternative disposal points are nominated, variations in payments shall be as outlined in clause 5.6.4 above.
- 5.6.9 The Contractor is to deliver the items to the appropriate disposal point, within the facility, as directed by the Site staff. In the case of fridges and freezers, the Contractor will be required to produce evidence, in the form of a written instruction from the Council, to demonstrate that the items originated from a domestic property. Records of the number of fridges and freezers disposed of at the disposal Site are to be recorded in a format to be agreed with the Authorised Officer.
- 5.6.10 The periods during which disposal Sites are open to receive Contract Waste are at the discretion of the Waste Disposal Authority and therefore no liability of any kind will be accepted by the Council should such periods be temporarily or permanently varied.

## **5.7 Communications**

- 5.7.1 In carrying out the Service, the Contractor will come into contact with members of the public. The Contractor will communicate with them in a polite, courteous and efficient manner.
- 5.7.2 The Council will be responsible for receiving and dealing with complaints, enquiries and requests arising from all aspects of the operation of the Services. However, if the Contractor does receive complaints, enquiries or requests then the enquiry should be recorded and

forwarded to the Council immediately. It is imperative that the record of the enquiry is sufficiently detailed to enable the Council to at least make further enquiries but also take the necessary action.

- 5.7.3 The Contractor should ensure they adopt measures to provide simple, user friendly methods to give feedback to customers on the Service.
- 5.7.4 The Contractor should ensure that any feedback they receive is reviewed to identify improvement actions.
- 5.7.5 In addition to the above the Contractor shall provide an adequate system of communications to record:
  - 5.7.5.1 Missed collections and whether or not resolved within the stated period;
  - 5.7.5.2 Non presented collections;
  - 5.7.5.3 Wheeled bins which are excessively heavy;
  - 5.7.5.4 Where side Waste is presented for collection and not collected;
  - 5.7.5.5 Wheeled bins/sacks containing an inappropriate type of Waste;
  - 5.7.5.6 Lost or damaged bins;
  - 5.7.5.7 Damage to property;
  - 5.7.5.8 Any accidents involving injury or damage to property or persons.
- 5.7.6 In communication with the Authorised Officer the Contractor shall provide the following:
  - 5.7.6.1 A computerised information system database which is compatible with the Council's software and e-mail address;
  - 5.7.6.2 A separate telephone and facsimile land line for sole use in communication with the Authorised Officer;
  - 5.7.6.3 Information in writing and in electronic format which is compatible with the Council's own computer systems to the Authorised Officer at the frequency indicated:
    - 5.7.6.3.1 Immediately, for any unforeseen matters, which are likely to affect the level of Service, giving the extent of the disruption and the arrangements that will be made to resume the normal Service.
    - 5.7.6.3.2 On a daily basis:
      - 5.7.6.3.2.1 A summary of requests/complaints received directly by the Contractor and the action taken in response;
      - 5.7.6.3.2.2 Collections from new properties;
      - 5.7.6.3.2.3 Details of any incomplete work;
      - 5.7.6.3.2.4 Details of lost and damaged bins/containers.
    - 5.7.6.3.3 On a Weekly basis:
      - 5.7.6.3.3.1 A summary of all requests/complaints received together with details of when the complaint was resolved and what action was taken;
      - 5.7.6.3.3.2 Bin counts per vehicle by day;
      - 5.7.6.3.3.3 Daily tonnages;
      - 5.7.6.3.3.4 Claims for damage to private and public property;
      - 5.7.6.3.3.5 For the Bulk Container Collection Service, details of wheeled bin emptyings. This shall be signed and dated by the Contractor to verify that the information supplied is true and accurate.
    - 5.7.6.3.4 On a Monthly basis:
      - 5.7.6.3.4.1 A summary of all containers emptied at Bring Sites, together with approximate amounts of material collected. This shall be signed and dated by the Contractor to verify that the information is true and accurate.
      - 5.7.6.3.4.2 Weighbridge tickets on tonnages of Recyclate collected and delivered to Reprocessors;



## **5.8 Mobile Communications**

- 5.8.1 In order to promote the efficiency and effectiveness of the Services, all vehicles used in connection with the provision of the Services, including those used or intended to be used by the Contract Manager and supervisors, are to be fitted with a satisfactory means of communication. The Contractor will be required to provide and maintain such equipment at his own expense.

## **5.9 Inclement Weather**

### **5.9.1 Waste Collection and Recycling Services**

- 5.9.1.1 If in the opinion of the Contractor, the weather on any particular day or part of a day is so inclement as to make work impracticable or dangerous, subject to the agreement of the Authorised Officer, the normal collection Service may be suspended for that day or part of that day.

- 5.9.1.2 Similarly, if the Waste Disposal Authorities determine that the Waste Disposal Site(s) have to temporarily close on grounds of safety or other reason, the collection of Waste will be suspended by the Contractor. Notice of impending closure of Waste Disposal facilities is normally given by the Waste Disposal Authorities.

- 5.9.1.3 Following suspended operations due to inclement weather, the Contractor will be required to commence collections as soon as possible from the point where work was suspended and continue in normal sequence unless otherwise agreed by the Authorised Officer.

- 5.9.1.4 No additional payment will be made to the Contractor in respect of any additional expenses he may incur in complying with this requirement.

### **5.9.2 Street Cleansing Services**

- 5.9.2.1 If, in the opinion of the Contractor, the weather on any particular day or part of a day is so inclement as to make work impracticable, and no alternative work is required by the Council, the Authorised Officer may agree to suspend the normal Cleansing and other Service requirements for an appropriate period except for the emergency Rapid Response Service. No payment will be made to the Contractor for work not carried out as a result of this action and no additional payments will be authorised in respect of the removal or accumulations of Litter and other debris when the normal Service is resumed.

- 5.9.2.2 Notwithstanding the provisions of the previous subsection, during periods of heavy snowfall or severe icy conditions the Authorised Officer may decide to suspend all or part of the Street Cleansing Service. In such cases the Contractor shall make all of his labour and vehicles suspended from Street Cleansing duties immediately available to the Authorised Officer, or any other person nominated by him, to undertake any other work directed for the duration of any such suspension.

- 5.9.2.3 The Contractor will not receive any additional payment for any such diversions unless the Authorised Officer requires assistance beyond the normal working hours of the Contractor in which case Daywork Rates shall apply.

## **5.10 Short Cut Methods and Discipline**

- 5.10.1 Employees of the Contractor shall be required to behave in an orderly manner. If in the opinion of the Authorised Officer, the conduct of any of the Contractor's Employees, whilst performing the Service, is unacceptable, the Contractor will investigate the matter and if appropriate, discipline the Employee(s) concerned.

- 5.10.2 Within 24 hours, the Contractor shall submit a written report setting out the findings of his investigations and the details of the disciplinary action taken.

- 5.10.3 Methods of work that would impair safe working arrangements or give rise to nuisance or damage to private property or inconvenience to residents are unacceptable. Totting and bulking up of Waste are not acceptable operations. Evidence of these operations shall be reported to the Contractor for appropriate action.

- 5.10.4 Any damage to property, or any incident involving Employees, which occurs as part of the Service is to be reported to the Authorised Officer. A record of such incidents is to be maintained by the Contractor including any remedial actions taken, or claims made.

## **5.11 Insurance Claims**

- 5.11.1 The Contractor shall at all times maintain adequate Public Liability and Motor Vehicle Insurances and shall indemnify the Council against any claims arising as a result of their accounts in the execution of this Contract.
- 5.11.2 The Contractor shall inform the Council immediately of any claims arising as a result of their actions in the execution of this Contract. The Contractor shall at all times ensure that all insurance claims are dealt with as expeditiously as possible. In all cases the Contractor should notify the Third Party concerned that the claim is being processed, or otherwise, within five working days of initially being informed of the claim.
- 5.11.3 The Contractor is to maintain full records of all insurance claims indicating the nature of the claim, actions and the outcome/findings. The Authorised Officer is to be notified of all claims and the resolution of the incident.

## **5.12 Charges to Individuals**

- 5.12.1 The Contractor shall not make any charge to any individual or organisation in respect of the performance of the Services.
- 5.12.2 No payments or gratuities of any kind will be solicited or accepted by the Contractor or by any of the Contractor's Employees, from any individual or company whilst carrying out the requirements of the Services.
- 5.12.3 The Contractor shall ensure that his Employees fully understand and comply with this requirement.

## **5.13 Additional Requirements in Connection with Council Policies**

- 5.13.1 The Council has adopted a "Sustainability Policy" and the Contractor shall, as far as is reasonably practicable, adhere to this in respect of the delivery of the Services.
- 5.13.2 The Contractor's strategy for the Waste Management Services should be Reviewed and developed so that it is aligned to the Council's Community Strategy, Corporate Plan and the Council's other relevant strategies, e.g. Sustainability Policy, and plans. This process of strategy Review and development should be carried out on a regular basis, based on the issues identified in any consultation, internal performance measurement, stakeholder input and other external factors, which influence the Service; e.g. national initiatives. The strategy should be Reviewed and developed in Partnership with relevant Council functions.
- 5.13.3 The Council has a policy of enforcement in respect of the illegal deposit of Waste wherever it may occur throughout the Borough. The Contractor is required to co-operate with the Authorised Officer in this task by providing evidence as in clauses 7.20.8, 7.23.10 and 7.28.3 and to provide statements in order to instigate legal proceedings against offenders.
- 5.13.4 The Council has a policy of educating the public in respect of the deposit of Waste and campaigns are undertaken to bring specific issues to the attention of residents. The Contractor is required to assist and support the Council in delivering any educational initiative.
- 5.13.5 No additional payments will be made for the requirements of this clause, and the Contractor should allow for this when submitting his tender.
- 5.13.6 The Contractor should submit a copy of his environmental and other relevant policies on submission of the tender.

## **5.14 Duty of Care Regulations**

- 5.14.1 The Contractor shall at all times adhere to the requirements of the Environmental Protection Act 1990, and have particular regard to the Duty of Care Regulations.

5.14.2 It shall be the responsibility of the Contractor to ensure that the Council's Clinical Waste customers complete all Waste transfer notes satisfactorily and for its recycling Bring Sites located on private and public land every thirteen Months, as defined in clause 4.1.1.59.

5.14.3 Copies of all completed transfer notes shall be available for inspection by the Authorised Officer.

5.14.4 The Council will not be liable for criminal proceedings that may result from failure to comply with this provision. Any costs that may be incurred by the Council as a result of this breach shall be recoverable by the Contractor by way of liquidated damages. Default Notices may also be issued.

## **5.15 Publicity**

5.15.1 Neither the Contractor nor his Employees shall give or offer or permit to be given any information concerning the Services for use by or publication in the press or radio, television or cinema screens, or in any other media whatsoever without the written approval of the Authorised Officer.

5.15.2 The Contractor shall in no circumstances use the name of the Council in any advertisement or press release without expression written permission thereof.

5.15.3 The Contractor shall ensure that the Council logo and agreed standard statement/strap line be included on all promotion and marketing literature relating to these Services and that it be in an approved corporate style. The Contractor shall ensure the prior written approval of the Authorised Officer is obtained before any use.

## **5.16 Accidents, Incidents and Dangerous Occurrences**

5.16.1 Notwithstanding any other legal or statutory requirements, the Contractor is required to submit a copy of any accident, incident or dangerous occurrence report in relation to the operation of the Service to the Authorised Officer as soon as practicable.

5.16.2 The Contractor will be required to inform the Authorised Officer of any unsafe feature, risk, hazard or matter of public concern discovered while works are taking place. Where such matters can be simply and safely addressed without reference to the Authorised Officer it shall be the Contractor's duty of care to take any reasonable immediate action to remove or make safe such features, reporting the circumstances in writing to the Council as soon as practicable.

## **5.17 Noise Control**

5.17.1 The Contractor shall ensure that all legislation, guidelines and codes of practice to control noise levels produced by the operations on Sites are complied with.

5.17.2 Plant and equipment should not be left with engines running if they are not being used.

## **5.18 Disturbance to the Public**

5.18.1 Work shall be undertaken in such a way as to cause minimal disturbance or inconvenience to the residents, tenants and the public. The Contractor or their staff shall have a general duty to cooperate with any Council official.

## **5.19 Traffic Management**

5.19.1 The Contractor shall ensure that whenever working on or adjacent to highways, (particularly Roads where speed limits exceed 30mph) his operations shall comply with all aspects and recommendations of Chapter 8 "Traffic Safety and Measures and Signs for Road Works and Temporary Situations" and the code of practice booklet "Safety at Streetworks and Roadworks". This responsibility shall include both specified works and additional or emergency working.

5.19.2 The Contractor will allow in his tender for carrying out his operations generally in a safe and workmanlike manner, including the provision of advance warning signs, traffic cones, temporary traffic lights, for possible lane closures and diversions etc., where necessary and must include in his tender for the cost of this provision and all other expenses which may be incurred in complying with his Contract.

- 5.19.3 The Contractor shall complete all necessary risk assessments, in particular for Works being carried out in such Locations as the A41 bypass (for example) and provide copies to the Authorised Officer prior to the Works taking place.
- 5.19.4 In carrying out Street Cleansing the Contractor shall take all reasonably practical steps to minimise inconvenience or obstruction to Road traffic and pedestrians.
- 5.19.5 Works carried out by the Contractor under this clause shall not affect frequencies of Service in other areas.

## **5.20 Plant Operation**

- 5.20.1 The Contractor shall ensure that:
- 5.20.1.1 Drivers and operators of the Plant are responsible for the operation and use of the Plant;
- 5.20.1.2 Drivers drive safely and correctly at all times in accordance with statutory regulations and instructions of the Contractor. Speed limits are to be observed and reversing should only take place under guidance;
- 5.20.1.3 Drivers are trained and thoroughly competent in the safe use of Plant, paying particular attention to the tipping at disposal Sites;
- 5.20.1.4 The routes to be taken by vehicles for all the purposes required in connection with the performance of the Services are clearly defined and agreed with the Authorised Officer;
- 5.20.1.5 Plant operations are carried out in a reasonable and workmanlike manner without causing obstruction or annoyance to the public;
- 5.20.1.6 Plant is cleaned internally and externally and maintained in such a condition so that it presents a professional pleasant image to the public;
- 5.20.1.7 All vehicles are emptied at the end of each working day;
- 5.20.1.8 All Plant is washed internally and externally at the end of each Week's use.

## **5.21 Streets Database File**

- 5.21.1 The Council maintains for its own uses a database file that details all Roads and other Locations in the Borough together with various information about each Road and Location.
- 5.21.2 The Contractor shall be provided with a copy of the said file specifying the zone classification for every Road or Location in the Borough. These zone classifications shall form part of the Contract.
- 5.21.3 In addition to the above data information will be provided to the Contractor giving length of Roads, etc. In submitting a tender the Contractor shall have confirmed for himself all dimensions, lengths, areas and Location near to each Road or other place which require cleaning and shall not have relied upon any information given by the Council or the Authorised Officer orally or in writing.



householders on the day of collection, whether contained within the wheeled bin with the lid closed or in sacks, shall be removed as part of the Service.

6.3.3.4 **Sack Collections**

6.3.3.4.1 Approximately 600 domestic properties, where wheeled bins are not suitable due to the nature of the property, shall require a Weekly Sack Collection Service. Each Week the Contractor shall remove all sacks and will provide replacement sacks on a one for one basis up to a maximum of three. Replacement sacks will be left in a secure position so as not to represent a safety (security) hazard, cause damage to property or be dislodged and blown away. A list of properties currently receiving a sack collection Service can be found at Appendix 9.8.4. The cost of providing sacks shall be included within the unit price for Waste Collection in the Pricing Schedule.

6.3.3.5 **Communal Bulk Containers**

6.3.3.5.1 Approximately 5% of domestic properties are served by communal bulk containers that are emptied at least Weekly in accordance with clause 6.10.

6.3.4 **Dry Recyclables**

6.3.4.1 The Contractor shall provide a Fortnightly Kerbside Collection Service for co-mingled Dry Recyclables from approximately 95% of domestic properties on or before the 22<sup>nd</sup> October 2007.

6.3.4.2 The Contractor will be required to collect the following Dry Recyclables:

6.3.4.2.1 Paper;

6.3.4.2.2 Cardboard;

6.3.4.2.3 Cans (aluminium and steel);

6.3.4.2.4 Glass;

6.3.4.2.5 Plastic.

6.3.4.3 The Contractor will be required to collect Dry Recyclables using either:

6.3.4.3.1 240 litre or 140 litre wheeled bin wherever possible, or

6.3.4.3.2 55 litre recycling boxes.

6.3.4.4 The tonnage of Recyclables collected by, or on behalf of the Council, from the current Kerbside collection operation is detailed within Appendix 9.8.6.

6.3.5 **Green Waste** .<sup>[3]</sup>

6.3.5.1 The Contractor shall provide a Fortnightly Kerbside Collection Service of Garden Waste using 240 litre wheeled bins from approximately 50,000 properties within the Borough on or before the 22<sup>nd</sup> October 2007. The following materials can be placed in the wheeled bins:

6.3.5.1.1 Grass cuttings;

6.3.5.1.2 Hedge clippings;

6.3.5.1.3 Leaves;

6.3.5.1.4 Dead Plants;

6.3.5.1.5 Garden weeds;

6.3.5.1.6 Cut flowers and house plants;

6.3.5.1.7 Prunings and trimmings;

6.3.5.1.8 Branches and twigs.

## **6.4 Collection Day**

- 6.4.1 Each household shall receive the Residual, Dry Recyclable & Green Waste Collection Service on the same Weekday each Week. The Contractor shall outline within the Method Statements the proposed working arrangements to achieve this level of Service.
- 6.4.2 All rounds must be completed on the appropriate day as described within the Service Delivery Plan.
- 6.4.3 It will be the responsibility of the Contractor to inform the public of any changes to the collection schedule throughout the Contract Period. The Contractor shall observe the following procedure before implementing any changes:
- 6.4.3.1 The Contractor shall request written approval from the Authorised Officer and will be required to submit details of the proposed changes;
- 6.4.3.2 The Contractor must receive prior written approval by the Authorised Officer before implementing any changes to collections.
- 6.4.3.3 Each property must receive a written notice, preferably a sticker, at least fourteen days prior to the change with the details of the new arrangements for collection.
- 6.4.4 Collections from some properties may vary and although collections from most premises will be regular some may be on request. If a request is issued by the Authorised Officer before noon it shall be dealt with on the same day and, if issued after noon, it shall be dealt with before noon on the next working day.

## **6.5 Collection Point**

- 6.5.1 All Waste Receptacles shall be collected from the Kerbside except for those properties:
- 6.5.1.1 Which require an Assisted Collection in accordance with clause 6.7;
- 6.5.1.2 That receive a Weekly Sack Collection Service, in which case the collection point will be from the curtilage of the property (See Appendix 9.8.4).
- 6.5.1.3 With a side or rear passage, in which case the collection point will be from the end of the passage or as otherwise instructed by the Authorised Officer.
- 6.5.1.4 Where Waste Receptacles are kept in a bin store or special area, as agreed by the Authorised Officer, the Waste Receptacles will be collected from the bin store or special area, in accordance with clause 6.10.6, and returned to a safe Location near to the point of collection.
- 6.5.1.5 With restricted access, or the bins are Sited in a locked compound, in such cases the Contractor will be required to maintain keys, access codes or other means to gain access to Service the properties. The Contractor will be responsible for the replacement of lost keys, together with the associated costs, and the decision of the Authorised Officer will be final in this regard.
- 6.5.1.6 With multiple occupation where bin chutes are in operation, in which case the chute is to be closed off using the appropriate baffle plate, whilst the Waste Receptacle is removed/exchanged. The Contractor shall ensure that the bin lid is left open and the baffle is returned to the open position on completion of the operation.
- 6.5.2 Once emptied, Waste Receptacles are to be returned to a safe Location near to the point of collection with their lids closed (unless under a bin chute) in such a way that the footway and driveways are not obstructed and that the visibility of motorists and pedestrians is not impaired. Where wheeled bins are left on the pavement after emptying the Contractor must ensure that they are kept in line so that the public can use the footway without deviating from their course.
- 6.5.3 All gates/doors that the Contractor is required to pass through in order to provide the Service are to be closed after the Service has been provided.
- 6.5.4 For flats and other communal storage points the collection point will be as agreed with the Authorised Officer.

## **6.6 Missed Collections**

- 6.6.1 The Contractor shall record all those collections that are unable to be completed, with reasons, and inform the Authorised Officer of its non-collection stating reasons and indicating what measures are being taken to rectify the problem.
- 6.6.2 The Authorised Officer is to be updated daily on collections that are outstanding and have to be completed.
- 6.6.3 For the avoidance of doubt the Contractor will be required to rectify all missed collections on the normal day of collection unless otherwise agreed by the Authorised Officer.
- 6.6.4 Missed collections should be resolved as soon as practicable by the Contractor but in any event missed collections reported:
- 6.6.4.1 Before noon shall be dealt with by 5pm on the same day;
- 6.6.4.2 After noon, shall be dealt with before noon on the next working day.
- 6.6.5 In cases where non collection of Dry Recyclables or Green Waste is due to contaminated materials, the details of non collection should be passed to the Authorised Officer immediately but no later than 1600 hours the same day and in all cases the householder will be notified by the Contractor.
- 6.6.6 In all cases the details of non collection of Household Waste and lost/damaged wheeled bins/containers should be passed to the Authorised Officer immediately but no later than 1600 hours the same Weekday and in all cases the householder will be notified by the Contractor.
- 6.6.7 All wheeled bins correctly presented for collection shall be emptied except when the weight of the bin is excessively heavy, i.e. more than 25 kg. All such instances should be reported to the Authorised Officer on the day of collection.
- 6.6.8 In the case of disputes the decision of the Authorised Officer shall be final.
- 6.6.9 In all cases householders are to be advised in an appropriate manner agreed with the Authorised Officer.
- 6.6.10 The Authorised Officer will investigate repeat missed collections and issue rectification and/or default notices in accordance with clause 4.46 and Schedule One as appropriate.

## **6.7 Assisted Collection Service**

- 6.7.1 There may be instances where the householder is too infirm, elderly or frail to move the wheeled bins to the kerb edge for emptying. The Contractor shall provide an Assisted Collection Service to the disabled, elderly or infirm as instructed by the Authorised Officer.
- 6.7.2 Households that qualify for an Assisted Collection Service will have Waste Receptacles collected from the Location agreed with the Authorised Officer and returned to a safe Location near to the point of collection with the lid closed. All gates and doors are to be closed and secured after the Service has been provided;
- 6.7.3 The Location of such households will be supplied by the Authorised Officer in list form and the Contractor shall arrange for his operatives to collect bins in accordance with this instruction.
- 6.7.4 All applicants for inclusion on the help list will be initially assessed and annually reviewed by the Authorised Officer. However it is incumbent on the Contractor to periodically review the help list and to inform the Authorised Officer if there has been a change in circumstances that may warrant the withdrawal of help. Such referrals will be investigated by the Authorised Officer and as circumstances change amendments to the 'help list' will be issued to the Contractor who shall instruct his crews accordingly.
- 6.7.5 It is anticipated that there will be no more than 7,000 households requiring help at any one time and the Contractor should include for this in the Pricing Schedule.



**6.9 School & Council Office Dry Recyclables Collection Service (Provisional Item)**

6.9.1 The Contractor will provide a Dry Recyclables Collection Service from Schools and Council Offices located throughout the Borough. The Contractor shall provide suitable Waste Receptacles at the designated collection point and empty them as necessary in order that they are not overflowing.

6.9.2 The Contractor shall provide details of the tonnage of Waste collected in this Service to the Authorised Officer. Material collected as part of this Service is defined as Municipal Waste, not Household Waste.

## **6.10 Bulk Container Collection Service**

- 6.10.1 The Contractor is required to provide a bulk container Service to Council and other premises as detailed below.
- 6.10.2 The Contractor is required to offer a completely separate Commercial Waste Collection Service, which is to be marketed and delivered by the Contractor at no cost to the Council.
- 6.10.3 Bulk Containers currently in use include 1100, 660, 360 and 240 litre capacities wheeled bins and Chamberlains. In accordance with clause 6.21.5 the Contractor will be responsible for providing all bulk containers for the provision of this Service.
- 6.10.4 The Contractor shall be permitted to offer other sizes or types of container as he wishes, but the constraint of existing storage bays, housings and chutes must be taken account of.
- 6.10.5 The Contractor shall collect free of charge all Waste from the premises within the areas identified in Appendix 9.8.9 at the frequencies specified. This list is not exhaustive and may be varied by the Authorised Officer at any time.
- 6.10.6 The Contractor shall not limit the volume of Waste he collects from any of the premises in clause 6.10.5 above whether stored in bulk containers or not. All Waste intended for disposal must be collected at every visit however stored i.e., in the bulk container, in the vicinity of the bulk container or loose on the floor. Any bulky household items that could reasonably be removed by one operative without mechanical or other assistance must also be removed at the time of each visit.
- 6.10.7 All bulk container bin houses and storage areas are to be left clean, tidy and free of any item of Waste or Litter on each visit with all doors and gates closed and secured.
- 6.10.8 The Contractor shall empty all bulk containers Weekly with a second and third visit where necessary to empty containers as required at Sites where additional containers cannot be provided due to limited storage space being available or where a large volume of Waste is generated.
- 6.10.9 The Contractor shall visit Sites as and when requested by the Authorised Officer to empty out and thoroughly Cleanse and disinfect individual bulk containers both inside and out. The Contractor will be reimbursed at the rate quoted in the Pricing Schedule per container per occasion.
- 6.10.10 Waste Receptacles that become defective and are owned by the Contractor shall be repaired or replaced without delay and in any event before the next scheduled day of collection following written notification by the Authorised Officer. Temporary replacements must be provided whilst Waste Receptacles are removed from Site for repair. Details of defective Waste Receptacles not owned by the Contractor should be referred to the Authorised Officer so that repair or replacement can be arranged with the owner.

## **6.11 Bulky Waste Collection Service (Provisional Item)**

- 6.11.1 The Contractor shall be required to collect bulky Waste from either:
- 6.11.1.1 Domestic properties;
- 6.11.1.2 Any other Location as instructed by the Authorised Officer.
- 6.11.2 Collections shall be arranged and undertaken as proposed and agreed in Method Statement 20.
- 6.11.3 Collections shall be made no later than ten working days after the receipt of a request for the Service.
- 6.11.4 The administration of the appointment system is to be agreed with the Authorised Officer. Any amendments to the agreed system are to receive prior approval from the Authorised Officer.
- 6.11.5 Only those items listed on the authorised instruction are to be collected as part of the Service.
- 6.11.6 In the event that the listed items are not available or not accessible for collection the Authorised Officer is to be advised giving reasons and times of attendance, details of which are to be forwarded to the Authorised Officer on a daily basis on the day the collection should have taken place. The customer is to be advised, in a format agreed with the Authorised Officer, of the reasons for non-collection of the items, at the time of collection.

- 6.11.7 The Contractor will be required to collect fridges and freezers from domestic properties at the request of the Authorised Officer and deliver them to the designated Waste disposal point, as agreed between the Council and the Waste Disposal Authority. The Contractor is required to maintain a record (format to be agreed) of number of fridges/freezers delivered to the disposal point. Details of the number of collections carried out during the previous thirteen Month period, as defined in clause 4.1.1.59, are provided in Appendix 9.8.6.
- 6.11.8 Details of the Waste disposal points for bulky Waste, fridges and freezers are provided within clause 5.6.8 and Appendix 9.6.
- 6.11.9 Missed collections should be resolved as soon as practicable by the Contractor but no later than 24 hours after the matter has been reported. No additional payments will be made for the requirements of this clause.

**6.12 Commercial Waste**

- 6.12.1 One collection per Week of Household Waste is given free to every domestically occupied hereditament including living accommodation being part of or attached to shop premises if it is in full time use as a domestic residence.
- 6.12.2 Collection from shops, offices, hotels, guest and boarding houses, restaurants, hostels, public houses and other commercial concerns are to be made in accordance with a Trade Waste Agreement.
- 6.12.3 No guarantee is given or implied by the Council that the Contractor will attract all or any of the Commercial Waste accounts available within the Borough as most businesses already have contracts with established providers. The Contractor is responsible for all marketing, invoicing and collection of any revenues due for trade Waste Collection Services offered and given.
- 6.12.4 The Contractor is required to submit a list annually to the Council giving details of any Commercial Waste accounts current at that time. The list is to include names, addresses and Waste Receptacles contracted for collection. Copies of any additions or deletions to the list are to be submitted to the Authorised Officer as and when they occur. The sensitive nature of the information supplied is recognised and will be kept in strictest confidence.
- 6.12.5 In the event of any dispute arising as to whether a premise is to be considered as trade and therefore chargeable or domestic and therefore to be given a "free" collection by the Contractor the Authorised Officer shall make a decision which shall be submitted in writing to the Contractor and shall be binding.
- 6.12.6 The Contractor is required as a minimum to offer Commercial Waste Collections in sacks, wheeled bins and Eurocarts of various sizes.
- 6.12.7 The Contractor is also permitted, subject to the approval of the Authorised Officer, to offer to supply any other Commercial Waste Collection Service where the Contractor feels there is a need or marketing potential within the Borough.
- 6.12.8 Any Commercial Waste Services provided by the Contractor must be kept completely separate from the domestic Waste Collection Service at all times. Mixed collections of Commercial and Household Waste are not permitted.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



**6.14 Sale of Recovered Materials**

- 6.14.1 The Contractor will be responsible for delivering materials recovered as part of the performance of the Contract to the bulking facilities nominated by the Council in accordance with clause 5.6 (Waste Disposal).
- 6.14.2 The Council will expect the Contractor to work proactively with the Council in order to avoid contamination, enhance the quality of materials recovered and achieve the highest possible resale price.
- 6.14.3 The Council will be responsible for securing outlets for Recyclables and will retain all income.
- 6.14.4 All Waste for recycling, once collected, becomes the property of the Council until disposed of at a designated Waste disposal Site, transfer station or bulking facility. Under no circumstances is the Contractor, or his Employees, to collect, remove or otherwise dispose of the materials for personal gain.

**6.15 Hours of Operation**

- 6.15.1 Daily collections shall be undertaken from Monday – Friday inclusive and must not commence prior to 0700 hours, nor continue after 2000 hours on any day in order to avoid nuisance and complaint. Each days scheduled work shall be completed on that day.
- 6.15.2 The Authorised Officer is to be advised when the Service is provided after 1700 hours.
- 6.15.3 Operations shall only be carried out on a Saturday with the approval of the Authorised Officer (refer to bank holiday arrangements).
- 6.15.4 No alteration to collection days or the sequence of operations shall be permitted without the prior written approval of the Authorised Officer (collection day).
- 6.15.5 If the Contractor receives approval to alter the collection days, then the Contractor shall bear the cost of informing each occupier of the affected properties of the new collection day. Each property must receive a written notice at least seven days prior to the change with the details of the new arrangements for collection.

- 6.15.6 The Contractor must note that the opening hours of the Waste disposal points could be a constraint on his operations, and he must ascertain from the Waste Disposal Authority details of when they are open. Details of the Waste Disposal Points can be found in Appendix 9.6. If the Contractor wishes to operate outside these hours, he shall then make arrangements with the Waste Disposal Authority and be responsible for any additional or consequent charges.

## **6.16 Parking and Access Difficulties**

- 6.16.1 Some Streets in the Council area are regularly parked with vehicles, which can cause access difficulties in the collection of Waste and Recyclables. In accordance with clauses 6.4 and 6.6 the Contractor shall ensure that all properties receive a collection on the normal day, irrespective of any access problems.
- 6.16.2 A list of properties which are unable to be Serviced on the normal collection day are to be advised to the Authorised Officer on the day the Service was scheduled to take place, giving reasons for non collection and measures to implement collections. All properties are to have the Waste collected no later than 24 hours after the scheduled collection day. The Authorised Officer is to be advised when the non-collections have been rectified.
- 6.16.3 The Contractor is to be aware of 'Principal Routes' that may have time limits restricting Services during specified hours. The Contractor shall take into account and observe the restrictions.
- 6.16.4 The Contractor will be required to absorb any collection round route changes due to Roadworks, Road closures and any other disturbances, whether temporary or permanent and to amend his routes accordingly. No claims for the cost of such disturbance will be accepted. Householders affected are to be advised of the alterations to the Service. The Authorised Officer is to be notified of any alterations.
- 6.16.5 The Authorised Officer is to be informed in writing of all proposed route changes at least one Week prior to implementation and the Contractor will be responsible for advising affected householders of any such changes.
- 6.16.6 The Contractor should be aware that some of the Bring Sites are Sited on public car parks, which may cause difficulties when emptying and returning the containers. It is expected that the Contractor will have made himself familiar with the problems that could be expected and should allow for this in submitting his tender.
- 6.16.7 If there is a persistent problem with a particular Site, then the Contractor should inform the Authorised Officer immediately with recommendations for action. No alterations to the Service shall be made without the prior approval of the Authorised Officer.
- 6.16.8 Special arrangements should be made to collect Waste on the designated day from properties rendered inaccessible due to Road works, parked vehicles, or any other form of obstruction. The Authorised Officer is to be advised of any special arrangements.

## **6.17 Unusual Locations**

- 6.17.1 There are a number of properties at which the collection point is along private Roads, driveways or tracks. The Contractor shall use appropriate vehicles for these off highway collections having regard to width, gradient, alignment and quality of the Roads. The Contractor shall only use such Roads, driveways or tracks for vehicular access with the approval of the owners.
- 6.17.2 In some Locations such as housing estates, properties are separated from the public highway by areas such as village greens or other public open spaces. In other Locations there are considerable numbers of properties that are situated on private Roads. There are also certain households situated on land attached to schools etc. In these circumstances the Kerbside may not be the edge of the public highway but the Contractor will still be required to make collections on the designated collection day and should therefore make allowance for this in his method of working.

## **6.18 Spillages**

- 6.18.1 All collections are to be made in a tidy manner and any Waste spilt from the wheeled bin, sacks or bulk containers prior to or at the time of collection, whether arising on the public highway or

on private property, must be swept up and removed immediately. All vehicles and Plant must carry suitable tools, including a brush and shovel, to clean up any spillages.

- 6.18.2 Spillages by collection crews notified to the Contractor by the Authorised Officer are to be rectified within 2 hours of receiving the notification.
- 6.18.3 Liquid spillages caused during the collection process, such as oil or paint including loss of oil/fluids from the Plant used, shall be cleared by the Contractor at the time of collection or as near as is practicable.
- 6.18.4 All incidents are to be reported to the Authorised Officer indicating the remedial action taken.
- 6.18.5 Any leak beyond the immediate capability of the Contractor is to be reported to the Authorised Officer for corrective action by the Council's Services. Any costs incurred will be the responsibility of the Contractor.

## **6.19 Household Property Count**

- 6.19.1 Within the Council the current number of domestic households, according to Council Tax records, is 146,440.
- 6.19.2 With regards to the Residual Waste Collection Service for domestic properties, it is estimated that approximately:
  - 6.19.2.1 95% of properties have wheeled bins;
  - 6.19.2.2 5% of properties are served by communal bulk containers;
  - 6.19.2.3 600 properties receive a Weekly Sack Collection Service.
- 6.19.3 The Contractor will be required to provide the Services to additional properties throughout the Borough as and when they become operational.
- 6.19.4 The total number of households throughout the Borough will be evaluated annually on the Review Date. On this date and every year thereafter the Authorised Officer will notify the Contractor of the updated figure for the number of households, as taken from Council Tax Records.
- 6.19.5 The Annual Sum will be calculated as stated in the Pricing Schedule for every fifty additional properties per annum by which the actual number of households exceeds the threshold number detailed in clause 6.19.1 above. The adjustment will be effective for the following financial year. The Contractor will then calculate the Monthly sum based upon the increased Annual Sum.
- 6.19.6 The Council will notify the Contractor of any new properties to ensure the necessary amendments and inclusions can be made to records and schedules.

## **6.20 Bank and Public Holidays**

- 6.20.1 Waste shall be collected on a Bank Holiday.
- 6.20.2 Separate arrangements shall be made for collections at Christmas and New Year in agreement with the Authorised Officer. No collections shall be undertaken on Christmas Day, Boxing Day and New Year's Day. The Contractor will submit proposals for collections over this period to the Authorised Officer at least 30 days prior to the holiday period.
- 6.20.3 In the case of Weeks where Public or Statutory Holidays occur, the Contractor shall employ a method of working such that premises are cleared in the same order as normal and during the same Week in which the Bank or Public Holiday(s) occurs.
- 6.20.4 The Contractor will be responsible for publicising the revised arrangements in advance of a Bank/Public Holiday. This shall include wheeled bin stickers that are used to notify residents of the collection arrangements over the Christmas period. Tenderers should make allowance in the tendered rates for the purchasing and application of these stickers.
- 6.20.5 Separate arrangements shall be made for the collection of Bulk containers during the holiday periods, which shall be agreed with the Authorised Officer at least 30 days in advance of the holiday period concerned.

6.20.6 The method of working employed for Bank Holidays shall be as proposed and agreed in Method Statement 20. No payment will be made to the Contractor for any additional expenses that may be necessary to comply with the requirements of the Service over this period.

6.20.7 The Contractor shall allow for extra staffing at busy periods and after Public or Statutory holidays to ensure that the collection schedules are not disrupted and the Services are provided.

## **6.21 Waste Receptacles**

6.21.1 Household Waste Kerbside Collection Service

6.21.2 The Council shall be responsible for:

6.21.2.1 Providing all Waste Receptacles required for the provision of the Services, with the exception of:

6.21.2.1.1 Those Waste Receptacles that are lost or damaged by the Contractor through a failure to comply with clause 6.21.3.1 below;

6.21.2.1.2 Replacement sacks issued to properties that require a Weekly Sack Collection Service for Residual Waste in accordance with clause 6.3.2.2;

6.21.2.1.3 Communal bulk containers in accordance with clause 6.21.5 below.

6.21.3 The Contractor shall be responsible for:

6.21.3.1 Ensuring that whilst handling any Waste Receptacle during the collection operations all diligence is exercised by his Employees to safeguard the integrity of the Waste Receptacle and in any event to prevent losses due to mechanical failure of emptying equipment or carelessness.

6.21.3.2 Replacing all Waste Receptacles that are lost or damaged through a failure to comply with clause 6.21.2.1 above at no charge to the Council or the householder within three working days and in any event before the next scheduled day of collection.. All Waste Receptacles provided by the Contractor at the Contractor's expense during the Contract Period will become the property of the Council at nil cost at the end of the Contract Period, or earlier termination.

6.21.3.3 Purchasing and delivering replacement sacks to properties that require a Weekly Sack Collection Service for Residual Waste in accordance with clause 6.3.2.2.

6.21.3.4 Replacing Waste Receptacles at the written instruction of the Authorised Officer. The value of such replacements will be assessed at the annual Review of the Contract and full reimbursement of the purchase price will be made. Any claim for reimbursement of the cost of providing replacement Waste Receptacles must be accompanied by confirmation of the purchase price paid by the Contractor for such replacements.

6.21.3.5 Delivering and collecting Waste Receptacles at the written instruction of the Authorised Officer on an as and when basis, regardless of number, from specified Locations within three working days of receipt of a request or a loss being identified. When Waste Receptacles are delivered the Contractor shall inform the occupier in writing of the Collection Day, Bank Holiday arrangements and any other information relating to the Service as directed by the Authorised Officer.

6.21.3.6 Providing sufficient secure storage space within the depot facilities for 500 wheeled bins. The Contractor is required to carry a stock of at least 500 wheeled bins at all times to enable the delivery requirements to be met. Such stock of bins are to be purchased by the Contractor and stored on his premises.

6.21.3.7 Refurbishing and cleaning all Waste Receptacles returned to stock. All such repairs and refurbishments are to be made using approved materials to an acceptable standard. Waste Receptacles are to be returned to stock for re-use within seven working days of receipt. All chemicals/detergents used are to be approved and environmentally acceptable.

6.21.4 The size of wheeled bins currently in use is predominantly of 240 litre capacity. However 120 litre or 2 X 240 litre bins have been issued to households with particular needs at the discretion of the Authorised Officer and after discussion with the Contractor.

### Bulk Container Collection Service

6.21.5 Bulk containers in use at domestic premises and Council establishments are owned by the current Contractor. However all these containers are subject to rental agreements with the users.

The incoming Contractor must make a decision on whether to negotiate the purchase of bulk containers from the current Contractor or to replace them from his own resources.

- 6.21.6 It is envisaged that bulk containers will still be subject to rental agreements except for the private residential category where bins are to be provided free of charge by the Contractor. The Contractor shall be responsible for securing payment for all rental agreements and liaising with the relevant parties.
- 6.21.7 A list of premises where bulk containers are currently in use can be found at Appendix 9.8.9.
- 6.21.8 The Contractor should enter the unit price and Annual Sum for the emptying of bulk containers in Item 3 of the Pricing Schedules 1A, 1B, 2A and 2B.
- 6.21.9 From time to time new residential property is built and the Contractor is required to provide and deliver a wheeled bin for use at the premises. The Contractor will be reimbursed for the Service at any new property by reference to the appropriate rate in the Bill of Quantities and will be assessed at the annual Review of the Contract.

## **6.22 Education and Awareness**

- 6.22.1 Waste minimisation will form an important component of Waste management within the Council throughout the Contract Period.
- 6.22.2 The Contractor will be required to work proactively with the Council through co-operation with Waste minimisation initiatives and engaging in the promotion of Recycling and Composting within the Council's area.
- 6.22.3 The manner in which the Contractor will engage with the Council in this respect should be outlined by the tenderer in Method Statement 26 and should include details of the educational and other processes that will be sustained by the Contractor over the Contract Period with outline budgets being provided.
- 6.22.4 The Council intend to introduce various methods to educate the public, one method being the production of advisory leaflets and/or stickers for fixing to wheeled bins. The Contractor will be required to deliver these to householders as part of the Service. The Contractor will be required to notify the Authorised Officer of any problems relating to Waste minimisation procedures.
- 6.22.5 No additional payments will be made for the requirements of this clause, and the Contractor should allow for this when submitting his tender.

## **7. Street Cleansing Specification**

### **7.1 General Description of Services**

- 7.1.1 The Council requires the highest possible standard of Street Cleansing throughout the Borough. The standards to be achieved by the Contractor are specified and are in line with the standard required by the Environmental Protection Act 1990 (hereafter known as The Act) and in particular the Code of Practice on Litter and Refuse (CoPLR) as it applies to the zone classification of every Location throughout the Borough.
- 7.1.2 The Contractor should not rely upon any assistance being given by any other organisation to keep the Borough free of all Litter.
- 7.1.3 The Contractor shall provide for:
- 7.1.3.1 Removal of all Litter, bulky items, hazardous Waste and other specified materials from every Location specified, irrespective of size or type of material and irrespective of how the material arrived at the Location;
- 7.1.3.2 Clearance of leaf, blossom and fruit fall from every Location specified;
- 7.1.3.3 The clearance and disposal of all unwanted vegetation from all hard areas, grass margins, obstructions, shrub beds and other ad-hoc Locations as requested by the Authorised Officer, shall form part of the normal Street Cleansing work.
- 7.1.3.4 Collection of other categories of Waste including flytipping, dead animals and other items from any Location, public spaces, highways, lay-bys, Roadside verges, watercourses, etc. as instructed by the Authorised Officer.
- 7.1.3.5 Collection of Waste from other Cleansing activities as required at fairs, markets, and any other public or special events;
- 7.1.3.6 Clearance of sand and tidal debris;
- 7.1.3.7 Cleansing of rear passages and Entries;
- 7.1.3.8 Cleansing of car parks;
- 7.1.3.9 Cleansing of promenades, embankments, revetments and associated areas;
- 7.1.3.10 Emptying of Litter bins as specified;
- 7.1.3.11 Removal of graffiti and flyposters (Provisional Item);
- 7.1.3.12 Provision of a Rapid Response Service (Provisional Item);
- 7.1.3.13 Removal of abandoned shopping trolleys (Provisional Item);
- 7.1.3.14 Street washing in specified areas (Provisional Item).
- 7.1.3.15 Gritting of zone 1 town centre Locations (Provisional Item);

### **7.2 Hours of Operation**

- 7.2.1 In zone 2, zone 3 and zone 4 areas normal daily Cleansing Services may take place from Monday to Sunday inclusive and should not normally commence prior to 0600 hours and not normally continue after 2000 hours in order to avoid nuisance and complaint. However, it is recognised that works outside these hours may be required to satisfy the requirements of the Code of Practice on Litter and Refuse or the requirements of certain Services. The Contractor should request written approval from the Authorised Officer prior to commencing Cleansing Services between the hours of 2000 hours and 0600 hours.
- 7.2.2 In zone 1 areas normal daily Cleansing Services may take place from Monday to Sunday inclusive. There are no specified core Service hours for zone 1 areas.
- 7.2.3 The Contractor should be aware that Mechanical Sweeping should not be undertaken in some residential areas at times that will cause reduction in amenity, statutory nuisance or complaint.

7.2.4 The Contractor must note that the opening hours of the Waste disposal Sites could be a constraint on his operations and he must ascertain from the Waste Disposal Authority when the facilities are open. If the Contractor wants to operate outside these hours then he shall make arrangements with the Waste Disposal Authority and be responsible for any additional special charges made by the Authority in complying with the Contractor's request.

### 7.3 Bank and Public Holidays

7.3.1 Bank and public holidays are to be treated as normal working days.

7.3.2 The Contractor shall provide the Service 362 days per year, the only exception being Christmas Day.

### 7.4 Area Zoning

7.4.1 The whole Borough has been zoned in accordance with the Code of Practice on Litter and Refuse and can be described as follows:

7.4.1.1 Zone 1 – Town centres, shopping centres, shopping Streets, major transport centres, central car parks and Locations adjacent to these;

7.4.1.2 Zone 2 – High density residential areas, suburban car parks and transport centres;

7.4.1.3 Zone 3 – Low density residential areas, other transport centres and areas of industrial estates;

7.4.1.4 Zone 4 – All other areas.

### 7.5 Cleansing Standards

7.5.1 The Code of Practice on Litter and Refuse prescribes four standards of cleanliness:

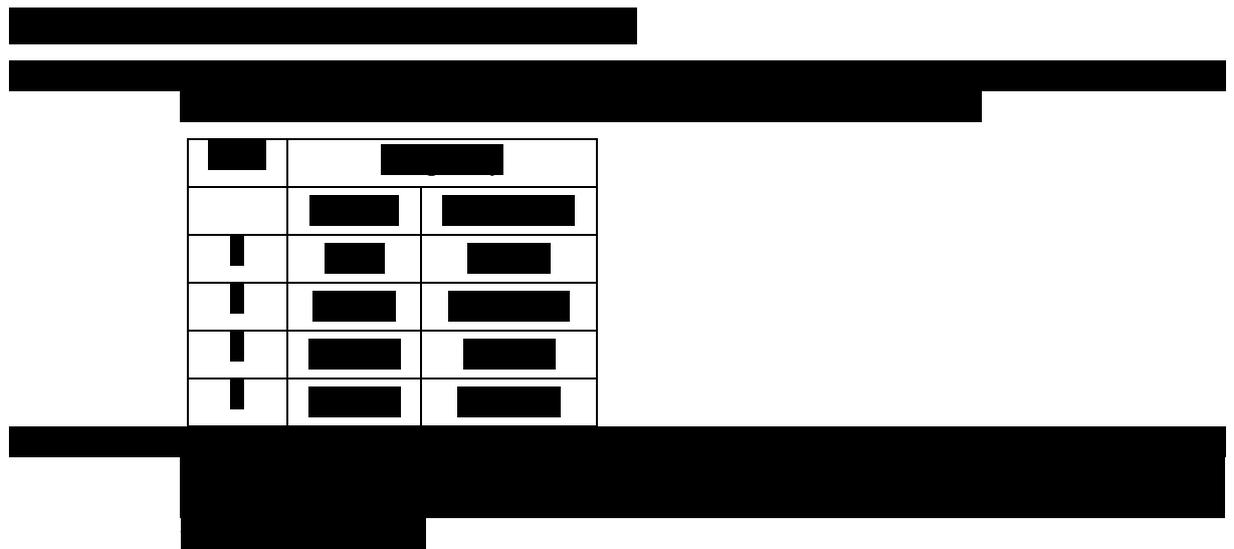
7.5.1.1 No Litter or refuse, known as grade A;

7.5.1.2 Predominantly free of Litter and refuse apart from small items, known as grade B;

7.5.1.3 Widespread distribution of Litter and refuse with minor accumulations, known as grade C;

7.5.1.4 Heavily Littered with accumulations, known as grade D.

7.5.2 Grade A shall be achieved by the Contractor after Cleansing and shall conform to the photographic standard contained within Appendix 9.9.3 and contained in the CoPLR.



### 7.7 Carriageway Sweeping

7.7.1 Road Channels and the adjoining carriageway on each side of the Road and car parks shall be thoroughly swept and de-Littered at the minimum frequencies stated, or as otherwise directed by the Authorised Officer in accordance with the Act.

- 7.7.2 No additional payment will be made for hand sweeping at the heads of cul-de-sacs, traffic islands or other areas and the Contractor shall include for this work within the tender.
- 7.7.3 Pedestrian refuges and similar features may require additional manual sweeping. Manual sweeping shall be done concurrently with the sweeping operation to the standards set out in the COPLR, or as otherwise directed by the Authorised Officer. The areas shall be thoroughly Cleansed to ensure all litter, detritus and vegetation is removed and the area is left clean. No additional payment will be made for this work and the Contractor shall include for this work within the tender.
- 7.7.4 The minimum frequencies stated do not replace the requirement for the Contractor to achieve the standards required under the COPLR and the Contractor will be required to alter frequencies and provide additional resources to ensure these standards are met.

## **7.8 Footway Sweeping**

- 7.8.1 All areas designated for footway sweeping shall be thoroughly swept and de-Littered at the minimum frequencies stated, or as otherwise directed by the Authorised Officer in accordance with the Act.
- 7.8.2 Areas around Street furniture, where it is impossible or impractical for the footway to be mechanically swept, shall be concurrently Cleansed by hand to ensure all litter, detritus and vegetation is removed and the area is left clean. No additional payment will be made for this work and the Contractor shall include for this work within the tender.

## **7.9 Shopping Areas and Precincts**

- 7.9.1 The main shopping areas in the Borough are located at Birkenhead and Liscard and are listed in the Streets Data File, contained within Appendix SC2, with maps of these areas contained in Appendix 9.9.1. The areas of the covered precincts in Liscard and Birkenhead are privately owned and are Cleansed by others. All other shopping Streets are identified in the Streets Data File.
- 7.9.2 The Contractor is to include for the Daily Cleansing of all surface areas within and around shopping areas, frontage to frontage, incorporating all features such as furniture, shrub beds, grass areas, hard surfaces, passageways, pathways, drainage slots and channels, Service Roads, delivery bays and Walkways, etc.
- 7.9.3 All drainage channels and gratings, etc., shall be kept cleared of Litter, sludge and debris.

## **7.10 Inner Area Cleansing**

- 7.10.1 The Inner Area of the Borough is delineated on the map contained within Appendix 9.9.4 The area comprises part or all of the districts of New Brighton, Liscard, Egremont, Seacombe, and the Birkenhead areas of North End, Central, Tranmere and Rock Ferry together with part of New Ferry.
- 7.10.2 The Contractors attention is drawn to the problems that exist within these areas, particularly where property is terraced with rear Entries. The Contractor must include for the thorough Cleansing of the areas in accordance with this Specification irrespective of the volume of material to be removed.

## **7.11 Cleansing of Entries**

- 7.11.1 The Contractor is required to thoroughly Cleanse all Entries in the Borough, as detailed in Appendix 9.9.1, once every four Weeks, in accordance with this Specification irrespective of the volume or type of material to be removed.
- 7.11.2 All Cleansing operations shall be carried out at the time of visit to include the removal:
- 7.11.2.1 Flytipping;
  - 7.11.2.2 Litter (including animal faeces);
  - 7.11.2.3 Detritus;
  - 7.11.2.4 Dead weeds;

- 7.11.2.5 Flyposters;
- 7.11.2.6 Graffiti.
- 7.11.2.7 Any other items.
- 7.11.3 Some Entries are gated. The Authorised Officer will issue gate keys to the Contractor at the commencement of the Contract. Should the Contractor lose any keys, then the Contractor shall be liable for the cost of replacement keys.
- 7.11.4 The Contractor shall allow for this within the tendered price, and no additional payment shall be made.
- 7.11.5 The Contractor shall submit a schedule for these Works to the Authorised Officer for approval prior to the commencement of the Contract. The Contractor is required to request prior written approval from the Authorised Officer before amending the agreed work schedule.

## **7.12 Cleansing of Estates and Low Density Residential Areas**

- 7.12.1 A significant proportion of the residential areas of the Borough have been included within zones 3 and 4 and include most of the private and social housing estates as well as the lower density residential areas. The Contractor's attention is drawn to the Litter problems on some of the estates where there are large open spaces which will need to be maintained to the standard prescribed in the Environmental Protection Act 1990.

## **7.13 Schools**

- 7.13.1 The Contractor is advised that, in addition to scheduled Cleansing, the Contractor is required to provide an additional Weekly Cleanse to the areas surrounding secondary schools within the Borough. These schools, along with details of the surrounding areas, are listed in Appendix SC11.
- 7.13.2 The Contractor shall allow for this within the tendered price, and no additional payment shall be made.

## **7.14 Car Parks**

- 7.14.1 Pay and Display car parks are provided adjacent to all the main commercial areas in the Borough and are heavily used. The Contractor is required to maintain the standard of all Pay and Display car parks.
- 7.14.2 All other car parks, including those at Council offices, are required to be Cleansed regularly, except for those identified in clause 7.15 of this specification which form part of the summer Cleansing requirement.
- 7.14.3 Car parks shall be classified as the same area zone as the adjacent Road and shall be Cleansed accordingly. Locations and sizes of car parks can be found within the Streets Data File, contained within Appendix 9.9.1.

## **7.15 Promenades, Revetment Walls and Associated Areas**

- 7.15.1 For the purpose of this Contract, "Promenade" shall be defined as the end lengths of Road, pavement and associated features at Seacombe Promenade, Sandon Promenade, Egremont Promenade, Magazine Promenade, Tower Promenade, Marine Promenade, Marine Promenade Car Park, Kings Parade, Coastal Drive, former Derby Pool car park and access Road, Leasowe Common Roadway from Leasowe Road to the rear of the sea wall and grass areas from front to rear of the kiosks, North Parade and Meols Parade, Hoylake Promenade from Hoylake to Meols and South Parade West Kirby including the car parks at both ends of the Marine Lake.
- 7.15.2 The Contractor is to include all pedestrian access to promenade areas via Roads, passages or steps and carry out Cleansing as if they were part of the promenade.
- 7.15.3 During the prescribed summer season (twenty-six complete Weeks commencing with the first Monday in April each year) the Contractor is required to thoroughly Cleanse the entire grassed areas of Kings Parade and Leasowe Common on daily basis to remove all Litter and dog fouling in order to maintain these Locations at Grade B.

## **7.16 Litter Bins**

- 7.16.1 Litter bins of the post mounted or free standing varieties are provided in large numbers throughout the Borough, as detailed in Appendix 9.9.2. The Council has a progressive policy both to replace any existing Litter bins that are damaged and also to provide additional Litter bins at any Location the Authorised Officer considers may help to reduce Litter problems.
- 7.16.2 The Contractor is required to empty all existing Litter bins together with any additional Litter bins installed by the Authorised Officer as frequently as necessary to prevent the escape of Waste. For the avoidance of doubt no Litter bin should be more than  $\frac{3}{4}$  full at any time and no additional payment will be made for additional Litter bins.
- 7.16.3 The Contractor shall also be required to empty any Litter bin, at the request of the Authorised Officer, within 2 hours of the request being made.
- 7.16.4 At the time of emptying, the Contractor should remove any Litter within one metre of the Litter bin.
- 7.16.5 The Contractor is to inspect all Litter bins for damage as they are emptied and report any damaged bins to the Authorised Officer each evening by e-mail.
- 7.16.6 Most bins provided for use by the public have lockable inner liners and the Contractor is to ensure that these liners are replaced and locked back in after each emptying.
- 7.16.7 The Contractor shall be required to lock in any inner liners that are found to be not locked in, at the request of the Authorised Officer, within 24 hours of the request being made.
- 7.16.8 Any liners which, in the opinion of the Authorised Officer, were not locked in after emptying, and subsequently suffer loss or damage, shall be replaced by the Contractor at no cost to the Council. The Authorised Officer's decision is final.
- 7.16.9 At the request of the Authorised Officer, the Contractor shall be required to wash, disinfect and clean out Litter bins in order to maintain them in a clean and sanitary condition. Payment for this work shall be made in accordance with the schedule of Daywork Rates.
- 7.16.10 At the request of the Authorised Officer, the Contractor shall be required to cap Litter bins in a given area when the alert status increases, so that they cannot be used for the duration of the increased alert. The Contractor shall be required to remove the caps, at the request of the Authorised Officer, when the alert status returns to normal. Payment for this work shall be in accordance with the schedule of Daywork Rates.

## **7.17 Drugs Related Litter**

- 7.17.1 The Contractor shall include for the collection and removal of drugs related Litter from all Locations included in the Contract as a normal part of the Street Cleansing Service.
- 7.17.2 The Contractor shall be responsible for the collection and removal of drugs related Litter encountered as part of the normal Street Cleansing Service. The Contractor shall also respond as and when instructed by the Authorised Officer. The Contractor shall respond as soon as possible and, in any case, within ninety minutes of the instruction being issued during normal hours of operation.
- 7.17.3 The Contractor shall ensure all Employees are fully trained and carry the appropriate protective equipment to enable them to respond to such incidents.
- 7.17.4 All incidents of drugs related Litter must be noted and reported electronically to the Council on a Weekly basis.
- 7.17.5 No additional payment shall be made for drugs related Litter removed as part of the normal Street Cleansing schedule or from occupied residential properties. On occasions when the Contractor responds to incidents which are not in areas scheduled to be Cleansed as part of the normal Street Cleansing Service or residential properties the Contractor shall receive additional payment based upon Daywork Rates. (Removal from residencies which are under renovation or managed by agents will be chargeable).



## **7.22 Sand and Tidal Debris**

- 7.22.1 Promenades and Roads which are near to beaches and slipways become covered, on occasions, with quantities of sand, shingle or tidal debris. The Contractors attention is especially drawn to the large amount of wind blown sand which is deposited on the highway at West Kirby, Hoylake and New Brighton that will need to be removed in order to ensure highway safety.
- 7.22.2 The Contractor shall provide all equipment and include in his tender for the removal of any such sand, shingle or debris from Roads affected as part of his normal Cleansing operation and, upon referral from the Authorised Officer, within 24 hours.

## **7.23 Rapid Response Service (Provisional Item)**

- 7.23.1 The Contractor shall engage sufficient dedicated personnel to provide a Rapid Response Service. This Service is to be provided from 08.00 to 17.00 Monday to Saturday inclusive to deal effectively with any matters which, in the opinion of the Authorised Officer, are of an urgent nature.
- 7.23.2 The Contractor is not required to provide this Service on Bank Holidays.
- 7.23.3 Recent experience indicates that approximately 250 requests for the Rapid Response Service are made by the Authorised Officer each year although no guarantee is given or implied that this figure is the maximum which should be expected.
- 7.23.4 The Contractor is to respond immediately, upon request from the Authorised Officer, to any matter of an urgent nature and in any event must have satisfactorily dealt with the occurrence within one hour of receiving the request. If the Authorised Officer or his representative attend an incident his instruction must be observed.
- 7.23.5 The Contractor must make available between the hours of 08.00 and 17.00 Monday to Saturday inclusive, a responsible person to receive requests for the Rapid Response Service and have sufficient seniority to be able to act upon the receipt of that request.
- 7.23.6 No other resources are to be diverted from their normal tasks in order to provide a Rapid Response Service.
- 7.23.7 Examples of occurrences which the Authorised Officer may refer to the Rapid Response Service are:
- 7.23.7.1 Clearance of debris after a traffic accident;
- 7.23.7.2 Broken glass or other debris on the highway;
- 7.23.7.3 Damaged bus shelters;
- 7.23.7.4 Debris or loads spilled from vehicles;
- 7.23.7.5 Oil spillages on the highway which require sanding and subsequent sweeping up of the sand. OR cleaning up of such spillages using other methods approved by the Authorised Officer;
- 7.23.7.6 Dead animals on the highway and/or beaches;
- 7.23.7.7 Flytipping (no exclusions);
- 7.23.7.8 Flytipped industrial Wastes;
- 7.23.7.9 Responses to public complaint which, in the opinion of the Authorised Officer, requires immediate action in order to bring about customer satisfaction.
- 7.23.8 The Contractor may also be required to respond to occurrences outside of the core hours stated, or to respond to incidents occurring at the request of the Authorised Officer. Payment for such call outs shall be made in accordance with the schedule of Daywork Rates given in the Pricing Schedule.

7.23.9 Within 24 hours of responding to an occurrence, the Contractor shall submit a report to the Authorised Officer in an agreed format giving details of the incident, timings, actions taken and outcomes, etc.

7.23.10 The Council treats the problem of flytipping very seriously and will prosecute anyone caught or suspected of committing such an offence provided that sufficient evidence can be gathered. The Contractor is assist the Council in this regard by obtaining photographic and written evidence (i.e. time, date, location, posters etc.) and supplying this information to the Authorised Officer electronically at the end of each day. The Contractor may also be required, from time to time, to assist the Council in the preparation of prosecution statements and attendance at court hearings.

[REDACTED]

## **7.27 Special Events and Voluntary Organisations**

- 7.27.1 To cater for special events in the Borough such as shows, fairs, sports activities, etc. (for example, the Wirral Show), or voluntary groups undertaking special clearance and Litter picking tasks in the Borough the Authorised Officer may require the Contractor to supply labour, vehicles, Plant or equipment to assist with or promote clearance operations.
- 7.27.2 The Contractor will be paid in accordance with the schedule of Daywork Rates given in the Pricing Schedule for any item supplied under this clause.

## **7.28 Volume and Type of Material**

- 7.28.1 The Contractor shall not place any constraint on the volume or type of Litter which is to be removed from any Location, and all such eventualities shall be included for within the Contract price.
- 7.28.2 Any item of Litter discarded or deposited at any Location to which this Contract applies having a volume not exceeding 1 cubic metre must be removed at the time and day programmed for Street Cleansing. The volume of 1 cubic metre shall be applied to single items and not be the aggregate of smaller items. If any item of Litter discarded or deposited at any Location to which this Contract applies and has a volume of more than 1 cubic metre it shall be collected by the Contractor using separate resources if he so wishes but in any event must be cleared within 24 hours of its detection.
- 7.28.3 The Contractor's attention is drawn to the fact that Waste Collection in this Borough is carried out using wheeled bins. There are occasions when householders fail to use the Waste Receptacle provided and put Waste out in bags or boxes or loose. If this occurs the Contractor is required to ascertain where the Waste has come from and recover any documentary evidence, prior to removal, and inform the Authorised Officer immediately so that enforcement action can be taken against the householder. The Contractor is required to remove all such deposits as part of the normal Cleansing operation.

## **7.29 Organisation and Methods**

- 7.29.1 Subject to the approval of the Authorised Officer the Contractor is permitted to organise the delivery of the Service in any way which will fulfil all the requirements of the Contract to the required standard within the required times, although the Council does have a preference for area based Service provision and tandem working to ensure task completion.
- 7.29.2 The Contractor is permitted to use both heavy and compact mechanical sweepers anywhere in the Borough where they can be effectively utilised and subject to normal weight restrictions.
- 7.29.3 The Contractor is encouraged to consider using compact mechanical sweepers in some of the high profile areas of the Borough.

## **7.30 Programme of Work**

- 7.30.1 The Contractor shall submit a full and detailed programme of work to the Authorised Officer for approval, not later than four Weeks prior to the commencement of the Contract.
- 7.30.2 The Programme shall include details of all rounds to be worked and shall include the days when each Location is programmed to be Cleansed. This information shall be provided electronically and may also be presented as colour coded maps or lists of work programmed per day per round provided that the information is supplemented by clear indication of the direction of progress of work throughout the day. The Authorised Officer may audit the quality of the work undertaken throughout the course of the day.
- 7.30.3 The programme of work shall not be altered in any way without the prior approval of the Authorised Officer.

## **7.31 Performance Monitoring**

- 7.31.1 The Council will require the Contractor to achieve the highest standard of Cleansing at each programmed Location on each day. The actual level of performance achieved on each day shall

be measured by inspecting a random sample of programmed Locations after Cleansing operations are complete and noting the standard observed by comparison with the photograph standards within Appendix 9.9.3.

- 7.31.2 Grade A denotes compliance with the Contract whilst any other grade will denote a failure to perform.
- 7.31.3 The random selection of Locations to be monitored will be computer generated by the Authorised Officer daily. It is envisaged that 5% of programmed work for a given day will be subject to inspection although a higher or lower percentage may be used depending on the level of confidence built up between the Contractor and the Council. For the avoidance of doubt the percentage sample size shall be determined at the sole discretion of the Authorised Officer.
- 7.31.4 Performance monitoring is to be carried out by the Contractor on seven days each Week, Monday to Friday, with the Contractor's representative being accompanied by an officer of the Council who will verify the grades being noted. In the case of disagreement between the Council's and Contractor's representatives a photograph will be taken by the Council of the disputed Locations and the Authorised Officer will adjudicate after viewing the photographs.
- 7.31.5 It is hereby declared that the results of the daily performance monitoring inspections are to be accepted as being representative of the performance achieved across the Street Cleansing Service for that day and will be used in the calculation of performance in accordance with clause 4.39 of the Conditions of Contract.
- 7.31.6 The Contractor is expected to carry out additional supervisory inspections in the normal course of the business, but any such additional supervisory inspections will be excluded from the computation of the Contractor's percentage performance for the purpose of clause 4.39 of the Conditions of Contract, unless in the opinion of the Authorised Officer, the inclusion of the additional supervisory inspections in the computation is statistically valid.
- 7.31.7 Without prejudice to the obligations of the Contractor to achieve the standards of Cleansing specified herein, should any supervisory inspection reveal that the standard of cleanliness at any Location inspected is below grade A, the Contractor will ensure that such Location is returned to grade A standard within the time stipulated in the Code of Practice on Litter and Refuse for the zone specified for that Location, namely:
- 7.31.7.1 In zone 1 areas, if at grade B, it shall be restored to grade A within six hours. If at grade C it shall be restored to grade A within three hours. If at grade D it shall be restored to grade A within one hour.
- 7.31.7.2 In zone 2 areas, if at grade B, it shall be restored to grade A within twelve hours. If at grade C it shall be restored to grade A within six hours. If at grade D it shall be restored to grade A within three hours.
- 7.31.7.3 In zone 3 areas, if at grade C, it shall be restored to grade A within twelve hours. If at grade D it shall be restored to grade A within six hours.
- 7.31.7.4 In zone 4 areas, if at grade C, it shall be restored to grade A within one Weeks. If at grade D it shall be restored to grade A within three days.
- 7.31.8 These standards shall apply between the hours of 0600 and 2000 daily in zone 2, zone 3 and zone 4 areas, and at all times in zone 1 areas.
- 7.31.9 The Contractor shall keep electronically contemporaneous and accurate records of all operative and supervisory inspections it has carried out and of all remedial action taken pursuant to such inspections, and shall make such records available for inspection and copying by the Authorised Officer as and when required. The Contractor shall retain the inspection records for a minimum period of eighteen Months. The Contractor is hereby reminded that the daily random performance monitoring inspection records form the basis for the computation by the Contractor of its Weekly Certificate of Performance for the purpose of clause 4.39 of the Conditions of Contract.
- 7.31.10 Notwithstanding the provisions of this clause the Council reserves the right at all times to inspect the quality of the work being undertaken by the Contractor for the purpose of assessing the effectiveness of the Street Cleansing Service.

### **7.32 Oil Pollution and Other Incidents**

- 7.32.1 Due to the proximity of main shipping lanes and oil transfer facilities there are occasions when the Council may be required to respond to incidents of oil pollution in the area.
- 7.32.2 The Council may also, on occasion, be required to respond to other incidents in the area, natural or otherwise (for example terrorist attacks).
- 7.32.3 In the event of any such incidents requiring a response by the Council then the Authorised Officer shall be empowered to divert some or all of the Contractors resources as deemed necessary by the Authorised Officer. The Contractor will not receive any additional payment for such diversions where they occur within the Contractors normal working hours and are directed to be undertaken in place of the Street Cleansing workload programmed for the duration of the diversion. Where the Authorised Officer requires assistance at other times outside the Contractors normal working hours then Daywork Rates shall apply.
- 7.32.4 Any specialised equipment, materials and protective clothing necessary to deal with such incidents will be provided by the Authorised Officer at the Council's expense.

### **7.33 Parking**

- 7.33.1 Some Streets in the Borough are regularly parked with cars that can cause difficulty in thoroughly Cleansing the edges of the carriageways. The Contractor will, however, be expected to make every effort to keep such Roads thoroughly Cleansed using any special equipment he may consider necessary. It is expected that the Contractor will have made himself familiar with the problems to be experienced and to overcome the difficulties in sweeping which parked cars can cause. Allowance should be made for this when submitting the tender, as no additional payment will be made by the Council in respect of this problem.

### **7.34 Supplementary Information**

- 7.34.1 The Street Database computer file provided to the Contractor in Appendix 9.9.1 does not form part of the Contract documents and the Contractor is to verify the information himself, as its accuracy is not guaranteed or implied.
- 7.34.2 The data base file gives a guide to the lengths or surface areas of Locations to which this Contract applies and shows the zoning of those Locations.

### **7.35 Continuous Service Improvement**

- 7.35.1 The Council have a policy of reviewing the Services it provides to the residents of the Borough and the Street Cleansing Service will be subject to such reviews.
- 7.35.2 Any review of the Service will be undertaken jointly between the Contractor and the Authorised Officer and will entail market research to canvas opinion from the residents of the Borough that the standard of Cleansing required by the Contract is being met.
- 7.35.3 The Contractor will cooperate with the Authorised Officer in improving the Service to meet the aspirations of the residents of the Borough. If such improvements are necessary to enable the originally Contracted Service to be performed then no additional payment will be made to the Contractor in making any such improvement.



## 8. Pricing Schedule

### 8.1 Introduction

- 8.1.1 Attention is directed to all the documents comprised in the ITT and these are to be read in conjunction with the Pricing Schedule. The tenderer should visit the area to be satisfied as to the local Conditions, the full extent and character of the operation, parking and general traffic Conditions, 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.
- 8.1.2 The Authorised Officer will be available during the tendering period to answer any queries that tenderers may have on the matter referred to above or the existing Streetscene Services. The Authorised Officer does not have the power to alter any of the documents or the intent of the tender although if in the tenderer's opinion there is any omission, inaccuracy or clarification required in the ITT then the tenderer should submit views in writing to be received not less than seven days prior to the date for receipt of tenders.
- 8.1.3 All the Services provided under the Contract may be subject to regular quality inspection.
- 8.1.4 The tenderer is reminded that there is not a preliminaries section in the Pricing Schedule and all administrative and other charges and expenses whatsoever must be included in the unit rates for the various items.
- 8.1.5 Each item within the Pricing Schedule shall be priced independently of any other Service Scheduled in the Pricing Schedule and shall, unless otherwise specified, include haulage, transport, labour, tipping charges (where applicable) and every Service item necessary for the performance of the Contract to the reasonable satisfaction of the Authorised Officer. Each item in the Pricing Schedule shall be priced. If any item is left un-priced its value will be assumed to have been included elsewhere in the Pricing Schedule and should be marked as zero.
- 8.1.6 The tender sum and rates will be based on the cost of providing the Services for the first period of the Contract, from the Commencement Date until 21<sup>st</sup> August 2007 and each thirteen Month period thereafter as defined in clause 4.1.1.59.
- 8.1.7 The quantities of the Service provided and frequencies specified in the Specification and Pricing Schedule represent the standard of Service that the Council currently requires. However, in accordance with the provisions of the Conditions of Contract the Council reserves the right to increase or decrease the Service standards in accordance with the rates in the Pricing Schedule. It is intended that such variations would take place in April of any year although may be varied at any time in accordance with the Conditions of Contract.
- 8.1.8 The prices and rates to be inserted in the Pricing Schedule shall be the full inclusive value of the Services described under each item, including all costs and expenses which may be required to provide a satisfactory Streetscene Service together with all general risks, effects of Roadworks, Road closures, pedestrianisation orders, whether temporary or permanent, liabilities and obligations set forth in or implied as necessary to comply with the Conditions of Contract, the Specification and all documents forming part of the Contract.
- 8.1.9 Tenderers shall allow within the schedule of rates of the Pricing Schedule for assisting the Council in undertaking Best Value exercises as specified, including the provision of information for the formulation of Best Value Performance Indicators.
- 8.1.10 The tenderer is to allow in the prices for meeting the cost of using the premises and the provision of Plant in accordance with the Conditions of Contract.





### **8.3 Household Waste Kerbside Collection Service**

- 8.3.1 Within Item 1 of Schedules 1A, 1B, 2A and 2B of the Pricing Schedule the tenderer shall include for the management and operation of the Household Waste Kerbside Collection Service in accordance with the Specification. The cost to the Council will be calculated using the unit rates submitted by the Contractor within the Pricing Schedule.
- 8.3.2 Within Item 1B of Schedules 1A, 1B, 2A and 2B of the Pricing Schedule the tenderer shall include a deduction from Item 1 in order to take account of the Contractor's phased implementation programme for new Services in accordance with Method Statement 9 in Years 1 and 2 of the Contract, as appropriate.
- 8.3.3 Rates for scheduled items should be submitted for the complete Contract Period and will be subject to indexation as described within the Contract.
- 8.3.4 The tenderer shall allow within the Pricing Schedule for the following activities:
- 8.3.4.1 The emptying of all Waste Receptacles constituting the Household Waste Kerbside Collection Service, including the return of the Waste Receptacle to a safe Location near to the point of collection;
- 8.3.4.2 The removal of all Residual Waste, Dry Recyclables and Garden/Kitchen Waste contained within the approved Waste Receptacle, presented by the householder at the time of collection or as specified by the Authorised Officer;
- 8.3.4.3 The collection of Waste Receptacles from communal Sites/bin stores and return to a safe Location near to the point of collection after emptying;
- 8.3.4.4 The collection of Waste from isolated domestic properties;
- 8.3.4.5 The distribution and collection of sacks from properties unsuited to wheeled bins;
- 8.3.4.6 The emptying of Waste Receptacles presented by properties that are rendered inaccessible due to Roadworks, parked vehicles or any other form of obstruction;
- 8.3.4.7 The provision of an Assisted Collection Service, as agreed by the Authorised Officer;
- 8.3.4.8 The rectification of missed collections within the specified time;
- 8.3.4.9 Advising householders of normal collection days in addition to any temporary or permanent changes to the normal collection Service;
- 8.3.4.10 Advising the Authorised Officer of any lost, damaged or stolen Waste Receptacles;
- 8.3.4.11 Replacement of Waste Receptacles that are lost or damaged through the Contractor's negligence whilst emptying.

- 8.3.4.12 The delivery of Waste Receptacles, and advisory information, to householders at the instruction of the Authorised Officer;
- 8.3.4.13 The repair, refurbishment and cleaning of Waste Receptacles before re-introducing back into Service.
- 8.3.4.14 Clearance of spillage caused as part of the collection process;
- 8.3.4.15 The delivery of collected Residual Waste, Dry Recyclables and Garden Waste to the nominated point of disposal;
- 8.3.4.16 The provision of appropriate communication systems to facilitate the Service and engage with the public;
- 8.3.4.17 The provision of Plant, labour and materials in order to provide the Service;



**8.5 Bulk Container Collection Service**

- 8.5.1 Within the Pricing Schedule the tenderer shall include for the management and operation of the Bulk Container Collection Service as specified within the Contract. The cost to the Council will be calculated using the unit rates submitted by the Contractor within the Pricing Schedule.
- 8.5.2 Rates for scheduled items should be submitted for the complete Contract Period and will be subject to indexation as described within the Contract.
- 8.5.3 The tenderer shall allow within the Pricing Schedule for the following activities:
  - 8.5.3.1 The collection of bulk containers on a multi Weekly frequency basis;

**8.6 School & Council Office Dry Recyclables Collection Service (Provisional Item)**

- 8.6.1 Within the Pricing Schedule the tenderer shall include for the management and operation of and Office Paper recycling Service as specified within the Contract. The cost to the Council will be calculated using the unit rates submitted by the Contractor within the Pricing Schedule.
- 8.6.2 Rates for scheduled items should be submitted for the complete Contract Period and will be subject to indexation as described within the Contract.
- 8.6.3 The tenderer shall allow within the Pricing Schedule for the following activities:
  - 8.6.3.1 The provision of Plant, labour and materials in order to provide the Service;
  - 8.6.3.2 The collection of Dry Recyclables from a designated collection point at Schools and Council's Offices;



[REDACTED]

**8.10 Street Cleansing**

- 8.10.1 Within the Pricing Schedule the tenderer shall include for the management and operation of the Street Cleansing Service as specified within the Contract. The cost to the Council will be calculated using the unit rates submitted by the Contractor within the Pricing Schedule.
- 8.10.2 Rates for scheduled items should be submitted for the complete Contract Period and will be subject to indexation as described within the Contract.
- 8.10.3 The tenderer shall allow within the Pricing Schedule for the following activities:
  - 8.10.3.1 Removal of all Litter, bulky items, hazardous Waste and other specified materials from every Location specified, irrespective of size or type of material and irrespective of how the material arrived at the Location.
  - 8.10.3.2 All labour, Plant and materials to provide the Service;
  - 8.10.3.3 Clearance of leaf, blossom and fruit fall from every Location specified;
  - 8.10.3.4 The clearance and disposal of all unwanted vegetation from all hard areas, grass margins, obstructions, shrub beds and other ad-hoc Locations as requested by the Authorised Officer, shall form part of the normal Street Cleansing work.
  - 8.10.3.5 Collection of other categories of Waste including fly tipping, dead animals and other items from premises, public spaces, highways, lay-bys, Roadside verges, watercourses, etc;
  - 8.10.3.6 Collection of Waste from other Cleansing activities as required at fairs, markets and any other public or special events;
  - 8.10.3.7 Clearance of sand and tidal debris;
  - 8.10.3.8 Cleansing of rear passageways and Entries;
  - 8.10.3.9 Cleansing of car parks;
  - 8.10.3.10 Cleansing of promenades and associated areas;
  - 8.10.3.11 Emptying of Litter bins as specified;
  - [REDACTED]
  - 8.10.3.13 Provision of a Rapid Response Service (Provisional Item);  
[REDACTED]  
[REDACTED]  
[REDACTED]
  - 8.10.3.17 Transportation and deposit of Waste at nominated Sites produced from all of the above activities.

## **8.11 Daywork Rates**

- 8.11.1 The tenderer shall be required to complete the Pricing Schedule in respect of Daywork Rates.
- 8.11.2 The tenderer shall provide the cost of the annual performance bond or parent company guarantee for the Council to consider in the tender evaluation exercise.























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Variation Orders



INSTRUCTION N<sup>o</sup>: 001

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

DATE: 23<sup>rd</sup> January 2008

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

*6.4.1 Each Household shall receive the residual, dry recyclable and green waste collection service on the same day each weekday each week.*

**Works / Services variation:**

Technical Services give Biffa permission to collect garden waste over a four-day week (Tuesday to Friday). However, where practical, Biffa must aim to collect garden waste on the same collection day as the co-mingled recycling/ residual waste collection.



INSTRUCTION N<sup>o</sup>: 002

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE:** 23<sup>rd</sup> January 2008

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

**6.3.5.1** *The contractor shall provide a fortnightly kerbside collection of Garden Waste using 240 litre wheeled bins from approximately 50,000 properties within the borough.....*

**6.3.5.2** *In addition the contractor shall provide a fortnightly kerbside collection service of co-mingled kitchen and garden waste using 240 litre bins from approximately 40,000 properties.....*

**Works / Services variation:**

Cessation of co-mingled garden and kitchen waste service JULY 2007. All properties to move to garden waste only. Delivery point Whitakers at Hapsford until further notice.



INSTRUCTION N<sup>o</sup>: 003

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE:** 23<sup>rd</sup> January 2008

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

*6.3.5.1 The contractor shall provide a fortnightly kerbside collection of Garden Waste using 240 litre wheeled bins from approximately 50,000 properties within the borough.....*

**Works / Services variation:**

Expansion of garden waste kerbside collection services to approximately 10,500 properties within Wirral from April 2007. Garden Waste to be delivered to Whitakers at Hapsford until further notice. Cost to be reviewed once a local delivery point for garden waste is procured (No later than March 2009).



INSTRUCTION N<sup>O</sup>: 004

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE:** 23<sup>rd</sup> January 2008

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

*6.3.5.1 The contractor shall provide a fortnightly kerbside collection of Garden Waste using 240 litre wheeled bins from approximately 50,000 properties within the borough.....*

**Works / Services variation:**

Expansion of garden waste kerbside collection services to approximately 4,900 properties within Wirral from April 2008. Garden Waste to be delivered to Whitakers at Hapsford until further notice. Cost to be reviewed once a local delivery point for garden waste is procured (No later than March 2009).



INSTRUCTION N<sup>o</sup>: 005

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE:** 28<sup>th</sup> May 2009

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

N/A – additional service VO to Clause 8.5

**Works / Services variation:**

Provision of 1 x RCV plus 3 x crew (Monday-Friday Service) primarily for Collection of co-mingled recycling from multi-occupancy households, in wheeled bins or bulk containers. Any spare capacity on the vehicle will be used for similar works not already specified in the contract at no extra charge to the Council. For example, recycling collections from additional office complexes (to be agreed at Partnering Board.)

Delivery Point: Bidston MRF.



INSTRUCTION N<sup>o</sup>: 006

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE:** 16<sup>th</sup> April 2010

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

Clause 2.9.2 refers to 45 on street glass banks.

**Works / Services variation:**

To cease collections from mixed glass banks (45 euro bins/ locations) and to resume collections from on street litter recycling bins (45 bins/ locations) no later than end June 2010. Bins must be serviced on an as required basis. All existing contractual obligations with regards to collection, cleansing and maintenance and condition reporting applicable to litter bins apply to on street combined recycling/litter bins. The recyclable element of the waste stream must be delivered loose to the Bidston MRF. Any waste deemed unsuitable for recycling must be reported to the Waste and Recycling team (by date, location, and contamination type) for monitoring purposes and place in the residual waste stream by Biffa so as not to contaminate larger quantities during the collection. The Council retain the right to move the location of bins if contamination becomes a significant problem (at the Council's own expense).

Delivery Point: Bidston MRF(recyclables) Bidston TLS (Residual)

**FINANCIAL IMPLICATIONS:** None. Agreed that this is a like for like service replacement



INSTRUCTION N<sup>o</sup>: 007

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE:** 16<sup>th</sup> April 2010

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

In pursuance of Biffa Method Statement 26

**Works / Services variation:**

The Council are to employ a community engagement officer to carry out work within communities in order to raise awareness of waste and recycling issues leading to improved compliance of the Council's scheme. The post will also work directly with crews to improve customer services. Biffa are to fund 50% of the employee costs. The progress/ outcomes of the officer and related work is to be reported via the Biffa Liaison meetings and reviewed annually by the partnering board. The post should be jointly funded from May 2010 until the end of the contract, unless both parties mutually agree earlier termination.



INSTRUCTION N<sup>o</sup>: 008

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

DATE: 5<sup>th</sup> January 2011

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

Contract Clause (if applicable)

Works / Services variation:

To undertake collections of recycling from the bag round properties, commencing at a jointly agreed time in February 2011.



INSTRUCTION N<sup>o</sup>: 010

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**  
Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**  
Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

DATE: 21<sup>st</sup> April 2011

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

Contract Clause (if applicable)

Works / Services variation:

To provide one off deep cleanse of 27 town centre shopping areas in accordance with the proposal



INSTRUCTION N<sup>o</sup>: 011

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE:** 31<sup>st</sup> May 2011

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

All in accordance with [redacted] as discussed and approved as part of Partnering Board workstream.

**Works / Services variation:**

Removal of additional schools mechanical sweeping element from contract following provision of dewatering facility at Bidston WTS, for mechanical street sweepers.



INSTRUCTION N<sup>o</sup>: 012

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE:** 17<sup>th</sup> July 2012

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

6.3.3.1

**Works / Services variation:**

**EXCLUSION ROUND**

Provide a weekly residual waste collection service to 2266 multi-occupancy properties at 201 locations that are using wheeled bins (140l/240l) as opposed to bulk bins, as they are currently unsuitable for alternate weekly collections of residual/recyclable waste. This will be in addition to fortnightly collections of recyclable waste that is already a funded contractual obligation.

Biffa to charge the Council for this service from May 2008 and will be an ongoing requirement. The Council and Biffa will commit to working together to reduce the need for this service and review pricing accordingly.

The Council will only be charged for 26 collections per year per property, as there is existing provision within the contract for 26 residual collections per property, under the assumption that the properties were meant to move to alternate weekly collections with the majority of the borough.

The price agreed from May 2008 is [REDACTED]. This charge has been discounted to part fund a Community Liaison Officer post jointly with the Council.



INSTRUCTION N<sup>o</sup>: 013

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**VARIATION ORDER**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE: 14<sup>th</sup> November 2012**

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

6.8.1 / 6.8.7 / 6.8.8 / 6.8.9

**Works / Services variation:**

REMOVAL OF BRING SITE SERVICE

All bring site containers serviced by Biffa to be removed by November 9<sup>th</sup> 2012.  
Biffa to cease responsibility for monitoring and cleansing of all bring sites on private land from Friday November 30<sup>th</sup> 2012. After this date, any requests by the Council to cleanse a private site to be charged as per the schedule of rates for provisional items.  
(Bring site locations will remain for material streams not collected borough wide on the kerbside scheme but all such banks will be serviced by third parties.)

Costs and resources involved in the retrieval and disposal of Biffa owned bring site containers will be the responsibility of Biffa (Variation to 6.8.3) Biffa will offer the bring banks to the Council for refurbishment to use on the Exclusion round project at cost (to be negotiated).



INSTRUCTION N<sup>o</sup>: 014

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**AGREED VARIATION**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE: 22<sup>nd</sup> July 2012**

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

4.7.3 / 4.7.3.1 / 4.7.4

**Works / Services variation:**

CHANGES TO EARLY TERMINATION DATE (BREAK CLAUSE)

As per the Cabinet decision on 19<sup>th</sup> July 2012 (minute 59 refers) the contract is hereby varied to move the entitlement to invoke early termination of the contract from 22<sup>nd</sup> August 2013 to 31<sup>st</sup> March 2017.

The notice period for early termination of the contract remains at 12 months. Therefore, the Council must notify its intention to terminate the contract on or at any time before 30<sup>th</sup> March 2016 (variation to clause 4.7.4)

**Future interpretation of the Contract:**

For the avoidance of doubt both parties agree all subsequent and related clauses in the contract relating to the original early termination date (22<sup>nd</sup> August 2013) and original date of notification of early termination (21<sup>st</sup> August 2012) shall be "replaced" with March 31<sup>st</sup> 2017 and March 30<sup>th</sup> 2016 respectively.



INSTRUCTION N<sup>o</sup>: 015

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**AGREED VARIATION**

**FROM:**

Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**

Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE: 21<sup>st</sup> July 2012**

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

4.27.3

**Works / Services variation:**

ALTERATIONS TO AGE RESTRICTIONS TO VEHICLES

As per the Cabinet decision on 19<sup>th</sup> July 2012 (minute 59 refers) the contract is hereby varied enable the extended life of vehicles. Vehicles may be used within the contract up until they are 10.5 years old (until 31<sup>st</sup> March 2017). Vehicles must be maintained to such a standard as to facilitate the smooth operating of the day-to-day services. The Council retains the right to invoke its rights under the contract (in line with existing contract specification / practice) if the contractor fails to maintain agreed service standards or falls below existing Key Performance Indicator targets.

100% of costs and risks associated with the maintenance and refurbishment of vehicles remains with the contractor.



INSTRUCTION N<sup>o</sup>: 016

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

**AGREED VARIATION**

**FROM:**  
Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**  
Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE:** 21 August 2012

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

**Contract Clause (if applicable)**

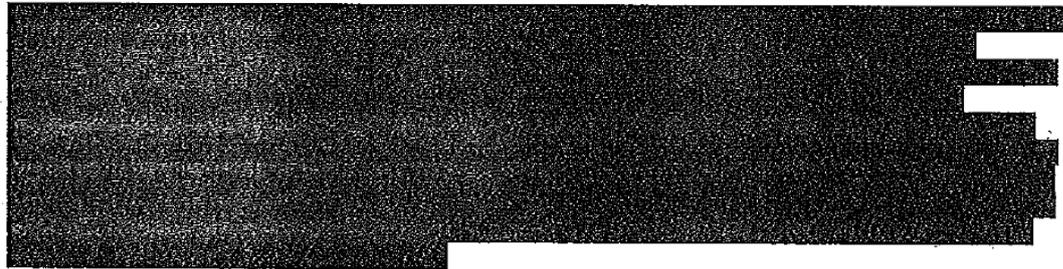
n/a

**Works / Services variation:**

**REDUCTION IN CORE CONTRACT PRICE (STREET CLEANSING)**

Biffa to improve efficiency of exiting street cleansing operations to the value [REDACTED] pa but maintaining the minimum standards as specified within the contract. This may result in a reduction of current cleansing standards in some areas which are currently "over performing".

Biffa to provide the Council with a clear specification of all changes to resource allocation, cleansing frequency and self monitoring that are directly attributed to the reduction in core contract price [REDACTED]. In addition, the contractor, working in partnership with the Council are required to identify the changes in outputs anticipated from any reduction in resources.





INSTRUCTION N<sup>o</sup>: 017

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

VARIATION ORDER

FROM:  
Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

TO:  
Biffa Waste Services  
Dook Road South  
Bromborough  
CH62 4SQ

DATE: 4 July 2013

Biffa Waste Services Limited is hereby instructed to carry out the following works / services, resulting in a variation to the existing contract (in accordance with section 4.10.1.1/4.11.4) effective from 1 July 2013:

Contract Clause (if applicable)  
Section 7 Street Cleansing Specification (Appendices to Variation Order Included)

Works / Services variation:

This variation, including its appendices, details the changes required to be made to the specification to meet the Council's requirement to save [REDACTED]

[REDACTED]

It is agreed that a settling in period of six months will be allowed and no default notices will be issued during this period arising from any audits on the street cleansing operation providing full resources allocated as of 1 July 2013 are deployed

For the avoidance of doubt, the risk and reward associated with the cost of delivering the service remains with Biffa Waste Services Limited.



INSTRUCTION N<sup>o</sup>: 018

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

VARIATION ORDER

**FROM:**  
Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**  
Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

DATE: 31st October 2013

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

Contract Clause (If applicable)

Clause 6.3.5.1

Clause 4.11.2.1

Works / Services variation:

REMOVAL OF "ADDITIONAL" GARDEN WASTE VEHICLE (Garden Waste 9)

Garden Waste 9 was an additional resource the Council agreed to fund as the net resource needs declared by Biffa to service properties added to the garden waste scheme [(10,500 households April 2007 (VO 003) and 4900 households; April 2008 (VO004)]. This net resource requirement also took into account the use of a new (closer) delivery point procured in April 2009.

As a result of the garden waste subscription service being introduced this resource is no longer needed, as the number of households on garden waste has fallen to below the levels originally tendered for.

The Council therefore instruct the contractor to remove the additional garden waste vehicle and staffing resource. (The council notes Biffa have not used this resource since the subscription service went live) no later than 1<sup>st</sup> December 2013. The Council has already provided prior notice to the contractor in a letter dated 14<sup>th</sup> March 2013 of the need to remove this resource by 1 December 2013.



INSTRUCTION N<sup>o</sup>: 019

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)

VARIATION ORDER

FROM:  
Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

TO:  
Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

DATE: 31st October 2013

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

Contract Clause (if applicable): Clause 6.3.5.1 / Clause 4.11 / Clause 4.11.4

**Works / Services variation:**

In March 2013 the Council confirmed with the Contractor its intention to remove the free garden waste kerbside collection service to approximately 112,000 households and introduce an opt-in chargeable service. This service went live in June 2013. The Council agreed to allow the contractor to operate its full usual garden waste fleet (including an additional garden waste vehicle, driver and two loaders) no later than November 2013. In order to mitigate any operational risks the service mobilisation introduced.

The Council therefore instruct the Contractor to recalculate the operational costs of operating the new service from 1<sup>st</sup> December 2013. The reductions in costs should be passed onto the Council from 1<sup>st</sup> December onwards through a reduction in the core contract price. In order to determine the reasonableness of the savings proposed by the contractor, the contractor shall provide information and documents to help the Council reach a determination. Please note that this reduction in cost is in addition to the removal of the additional garden waste vehicle (instruction No VO 018). The cost reduction should reflect the reduction in tonnage collected and the reduced number of properties serviced.

The current number of garden waste subscribers is around 36,000 households. The estimated annual tonnage in 2013/14 will not exceed 12,000t. The Contractor is encouraged to put forward a "discount" based on a maximum subscriber level of 40,000 households (note this includes the servicing of all and any future "additional bins" subscribed to at some properties).



INSTRUCTION N<sup>o</sup>: 020

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)  
VARIATION ORDER

FROM:  
Technical Services  
Cheshire Lines Building  
Canning Street;  
Birkenhead,  
Wirral  
CH41 1ND

TO:  
Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

DATE: 21<sup>st</sup> January 2014

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:  
Contract Clause (if applicable): Clause 6.3.5.1 / Clause 4.11 / Clause 4.11.4  
Works / Services variation:

*This Variation Order supersedes VO18 and VO19 issued on 31<sup>st</sup> October 2013 (for clarification these are now cancelled)*

The Council has previously instructed the Contractor to recalculate the operational costs of operating the new "opt-in" subscription service from 1<sup>st</sup> December 2013. The agreed figure is based on the reasonable reduction in resources required to deliver the service and a reasonable cost reduction associated with operating that resource, based on the delivery of the service over a 12 month period. The contractor shall provide evidence/working papers of revised operating costs to help the Authorised Officer reach a determination on the reasonableness of the costs.

For avoidance of doubt and as per the existing specification/ practice:

- There is no tonnage restrictions on the amount of garden waste collected
- The calculations should be based on the number of households serviced.
- The calculation is based on operating a full fleet April 1<sup>st</sup> to October 31<sup>st</sup> and reduced fleet November 1<sup>st</sup> to March 31<sup>st</sup>. (For clarity the resources planned are seven rounds April 1<sup>st</sup> to October 31<sup>st</sup> on 37 hours per week and five rounds November 1<sup>st</sup> to March 31<sup>st</sup> on 37 hours per week).
- The initial discount agreed is based on projected resources required to service 40,000 households.

The Contractor reserves the right to review its operating costs should the levels of subscribers lead to an increase in demand on resources that mean the service cannot be completed using the resources specified above. The Council agrees to meet all additional "reasonable" costs based on evidence provided by the contractor.

The Contractor and the Authorised Officer shall continue to work in Partnership to attempt to maximise the efficiency and reliability of the service in compliance with clause 4.70.9.



INSTRUCTION N<sup>o</sup>: 021

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)  
VARIATION ORDER

FROM:  
Technical Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

TO:  
Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

DATE: 21<sup>st</sup> January 2014

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:  
Contract Clause (if applicable):

In pursuance of Method Statement 36, p.107

Works carried out as a result of this VO is additional to all entry cleansing work specified in VO17. Entry cleansing remains on a 12 weekly schedule to be resourced as necessary at Biffa's risk in order to maintain those schedules.

Works / Services variation:

The Contractor is requested to supply a temporary crew of three operatives plus 7.6t caged vehicle to carry out waste removal and assist the Council in its statutory obligation to maintain passage in alleyways. The team shall appropriately secure evidence found within the waste or within the environment the waste is found in order to assist the Council in the investigation of illegally dumped waste. The team will also cordon off fly tipped waste for further investigation by the Council's Enforcement team. The Council shall provide written instruction as to how evidence must be secured and passed safely to the Council.

The crew shall wear a distinct uniform branded "Waste Investigation Unit" to differentiate them from other waste collection operatives. The vehicle shall also support "Investigation Unit" livery. The Council will pay any additional costs to pay for this equipment

The crew shall work, Monday to Friday under normal working patterns to a total of 37 hours per week. If additional hours are required by the Council then this will be charged at the daywork rates contained within the core contract.

The locations of work shall be decided by the Authorised Officer. The Authorised officer will nominate a dedicated Council Officer to liaise with the supervisor.

The Contractor will also, from time to time, be requested to supply detailed information (such as tonnages and waste composition).

The Contractor and the Authorised Officer shall continue to work in Partnership to attempt to maximise the efficiency and reliability of the service in compliance with clause 4.70.9.



INSTRUCTION N<sup>o</sup>: 022

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)  
VARIATION ORDER

FROM:  
Regeneration & Environment Directorate  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

TO:  
Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

DATE: 1<sup>st</sup> April 2014

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:  
Contract Clause (if applicable):  
In pursuance of Method Statement 36, p.107  
This VO supersedes any reference to alley way cleansing in VO17 for the fixed period of 1<sup>st</sup> April 2014 to 31<sup>st</sup> March 2016. After this time arrangements specified in VO17 will resume.

**Works / Services variation:**

All alleyways listed within the street cleansing data base are to be cleansed once every 4 weeks to the usual contractual standards for a fixed period of 2 years from the date of this VO. On the 1<sup>st</sup> April 2016, cleansing frequencies and standards as specified in VO17 will resume. The Council takes no responsibility for the employment rights of any operatives recruited as a result of this instruction.

Subject to the Council being satisfied that a total of three crews (each comprising of 1 driver plus 2 operatives with a 7.5 Tonne vehicle) have been deployed on a 37 hour a week (Monday to Friday) in line with current contractual hour arrangements, the Council accept any overtime liabilities required to remain on schedule. The Contractor is permitted to fall up to 5 days behind schedule and work ahead up to 5 days ahead of schedule at any time in order to minimise overtime requirements. The contractor agrees to provide daily information as to the status of the cleansing schedule.

The Contractor and the Authorised Officer shall continue to work in Partnership to attempt to maximise the efficiency and reliability of the service in compliance with clause 4.70.9. In particular, through the deployment of all entry cleansing crews, the contractor is requested to:

- (i) Support the recycling of waste in alleyways through the recording and segregation of recoverable materials where reasonably practicable.
- (ii) Assist the Council in its enforcement efforts through applying a consistent approach to identifying and recording evidence arising from the clearance of illegally dumped waste and dog fouling offences, thereby supporting the works undertaken by the Waste Investigation Unit as outlined in VO23.



INSTRUCTION N<sup>o</sup>: 023

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)  
VARIATION ORDER

FROM:  
Regeneration & Environment Directorate  
Cheshire Lines Building  
Canning Street,  
Blrkenhead,  
Wirral  
CH41 1ND

TO:  
Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

DATE: 1<sup>st</sup> April 2014

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:  
Contract Clause (If applicable):

In pursuance of Method Statement 36, p.107

Works carried out as a result of this VO is additional to all entry cleansing work specified in VO22.

This instruction supersedes VO21, which is revoked as of 31<sup>st</sup> March 2014, 24.00hrs.

Works / Services variation:

The contractor is requested to supply a temporary crew of two operatives plus 7.5t caged vehicle to carry out waste removal and assist the Council in its statutory obligation to maintain passage in alleyways. This instruction is valid between 1<sup>st</sup> April 2014 and 31<sup>st</sup> March 2016 inclusive. The Council takes no responsibility for employment rights of any additional operatives deployed by Biffa to carry out this temporary function.

The team shall appropriately secure evidence found within the waste or within the environment the waste is found in order to assist the Council in the investigation of illegally dumped waste. The team will also cordon off fly tipped waste for further investigation by the Council's Enforcement team. The crew shall also notify residents they have visited the areas at locations where evidence has been found, through a leaflet drop. The Council shall provide written instruction as to how evidence must be secured and passed safely to the Council.

The crew shall wear a distinct uniform branded "Waste Investigation Unit" to differentiate them from other waste collection operatives. The vehicle shall also support "Investigation Unit" livery which is to be supplied by WMBC

The crew shall work full time, Monday to Friday a 37 hour a week (Monday to Friday) in line with current contractual hour arrangements

The locations of work shall be decided by the Authorised Officer. The Authorised officer will nominate a dedicated Council Officer to liaise with the crew and supervisor.

Biffa will, from time to time, be requested to supply detailed information (such as tonnages and waste composition). The Contractor and the Authorised Officer shall continue to work in Partnership to attempt to maximise the efficiency and reliability of the service in compliance with clause 4.70.9.



INSTRUCTION N<sup>o</sup>: 24

Waste, Recycling and Street Cleansing Services Contract  
2006-2020 (2027)  
**VARIATION ORDER**

**FROM:**  
Waste and Environmental Services  
Cheshire Lines Building  
Canning Street,  
Birkenhead,  
Wirral  
CH41 1ND

**TO:**  
Biffa Waste Services  
Dock Road South  
Bromborough  
CH62 4SQ

**DATE: 25<sup>th</sup> June 2015**

You are hereby instructed to carry out the following works / services, resulting in a variation to the existing contract:

As per the offer from Biffa dated October 2014 and accepted by the Council in writing January 2015 the contract term and financial conditions are changed as per that agreement. Copies of final agreement/ letter attached. In summary, the contract is to be extended until 21<sup>st</sup> August 2027 (with a break clause option in March 2023 subject to agreed conditions being met as detailed in attached agreement/ letter), in return for a discount off the core contract price.

For clarity and confirmation the areas below are accepted as the resources to be deployed by Biffa to deliver the named services.

1. For the cleansing of New Brighton Prom area in the summer Biffa will continue to provide resources on an input basis. This resource will be a driver and two operatives on a 7.5 tonne van working weekends. The resource will cover Easter, May Bank Holiday and from the third weekend in May until the end of August. The hours worked for this "weekend" resource are 19.00-21.00 Friday/ Saturday and Sunday. During August for all "weekdays" Biffa will provide a driver and operative on a 7.5 tonne van from 17.00-21.00 Monday to Thursday. Biffa will no longer charge for this work valued at [REDACTED]. If the Council request further additional work for this area then this will be chargeable at contract day work rates.
2. Biffa, on behalf of the Council operate an additional waste collection service covering parks and cemeteries. It is agreed that Biffa retain this work and the resource agreed to fund the discount is RCV Driver plus Loader for one day a week. The collection day is on a Monday and if a change to this day is requested by the Council then Biffa can charge for the work. Biffa will reduce the annual charge by [REDACTED] with the balance being indexed in line with the rest of the contract.
3. It is agreed that Biffa and Wirral Council will jointly fund a monitoring officer post on a 50/50 basis. This amount is to be paid in arrears annually to the lead employer (Wirral Borough Council). The invoice will detail wages, on costs, car allowance etc and will be prepared by the lead employer. The invoice will be based on actual costs incurred (to reflect fluctuations in pay due to absence, overtime etc).