



UK Research
and Innovation

Contract Reference: UKRI-2118

Contract for Waste Management Services

FOIA Section 43 Commercial

FOIA Section 43 (b)



**UK Research
and Innovation**

Grundon Waste Management Ltd

Thames House,
Oxford Road,
Benson,
Oxfordshire
OX10 6LX

Attn: **FOIA Section 40 Personal Information**

By email to: Tenders@grundon.com

Date: 7th June 2023

Our ref: UKRI-2118

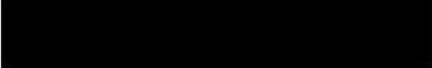
Dear Sirs

Call-Off Contract No. UKRI-2118 for the supply of Waste Management Services FOIA Section 43 Comm
FOIA Section 43 Commercial

Further to the London Universities Purchasing Consortium (LUPC) Framework Agreement for **Waste Management Services (Sustainable) ref: EFM5056 LU** dated 11 March 2019, we wish to instruct you to supply the Services described below in accordance with the terms of the Framework Agreement, this Order Form and the Call-Off Terms and Conditions, as further set out and described in Specification attached at Appendix A.

The particulars of this Call-Off Contract are set out below:

Item	Description
Order Form Reference:	The Order Form Reference is UKRI-2118
Parties	<p>Between:</p> <ul style="list-style-type: none"> • United Kingdom Research and Innovation, a statutory corporation whose registered office is at Polaris House, North Star Avenue, Swindon, England, SN2 1FL (Customer); and • Grundon Waste Management Ltd (company number 04245965) whose registered office is at Thames House, Oxford Road, Benson, Oxfordshire, OX10 6LX (Supplier).
Call-Off KPIs	<p>1) Minimum Service Expectations:</p> <ol style="list-style-type: none"> a) Contract Manager quarterly visits or online meetings – 4 per annum b) Late collections – 3 per annum c) Duty of care visits – 1 per annum per waste transfer / Processing plant d) Compliance with the waste hierarchy

Item	Description
	e) Timely return of part E consignment notes f) Contractors staff to be clearly identifiable by uniforms and ID badges g) Contractors vehicles to be liveried h) Any refuse containers, bins, skips etc, are to be in a clean and presentable condition at each exchange i) All bins must have functioning wheel brakes and lid locks at each exchange 2) Schedule 5 Key Performance Indicators 3) Schedule 6 Performance Management Framework
Charges	The estimated Annual Charges for this Order is: £104,763.20.00 plus ad hoc collection costs. Total estimated call off order value over the term is £480,000.00 four hundred and eighty thousand pounds) A Schedule of Pricing is at Appendix B to this Call Off Order Form
Contract End Date	30 th June 2025 with an option to extend the contract for two further 12-month periods up to a maximum contract period of FOUR (4) years.
Premises	FOIA Section 43 Commercial  Harwell Campus Oxfordshire OX11 0RD
Services	The Services to be supplied under this Call-Off Contract are as follows: Waste Management Services in accordance with the Specification at Appendix A to this Call Off Order Form
Services Commencement Date	Supply of the Services is to commence on 1 st July 2023
Services End Date	Supply of the Services is to end on 30 th June 2025 with an option to extend the Services for two further 12-month periods up to a maximum Service period of FOUR (4) years.
Supplier Liability Cap	Means 125% of the total Charges paid and payable to the Supplier under this Contract.

Item	Description
Notices (Clause 19.3)	<p>Any written notice provided under Clause 19.1 shall be sent:</p> <p>In the case of the Customer:</p> <p>To: UK Research & Innovation, Polaris house, Swindon SN2 1FL. Email to commercial@ukri.org</p> <p>for the attention of: FOIA Section 40 Personal Information</p> <p>In the case of the Supplier:</p> <p>To: Grundon Waste Management Limited, Thames House, Oxford Road, Benson, Oxfordshire, OX10 6LX. Email to: Tenders@grundon.com</p> <p>for the attention of: FOIA Section 40 Personal Information</p>

This Call-Off Contract incorporates all the terms and conditions of the Framework Agreement.

For the avoidance of doubt where you have carried out any work prior to the date of this Call-Off Contract in any way related to the Services to be supplied under this Call-Off Contract the terms and conditions of this Call-Off Contract and the Framework Agreement shall apply in respect of such work.

Words and expressions which are defined in the Framework Agreement shall have the same meaning in this Call-Off Contract unless expressly defined otherwise here.

You must not make any amendments to the Call-Off Terms and Conditions.

Nothing in this Call-Off Contract shall confer or purport to confer on any third party any benefit or the right to enforce any term of this letter pursuant to the Contracts (Rights of Third Parties) Act 1999.

Please sign and return the attached copy of this Order Form to signify your acceptance of its contents;

Please also sign and return the attached copy of the Call-Off Terms and Conditions. We will sign Call-Off Terms and Conditions and date them as agreed between ourselves and will return one of the dated copies to yourselves.

Yours faithfully

Accepted and acknowledged by:

FOIA Section 40 Personal Information **FOIA Section 40 Personal Information**

Date: 9th June 2023

09-06-2023.

Appendix A to Call Off Order Form UKRI-2118

Waste Specification

FOIA Section 43 Commercial

May 2023

Version Control

Contributor(s)	Date	Version	Comments
FOIA Section 40 Personal Information	4.1.2022	0.1	First Draft
	2.3.2023	1.0	Accepted comments
	10.05.23	2.0	FINAL VERSION FOR PUBLISHING

Contents

1.	PRE-CONTRACT REQUIREMENTS	7
2.	LEGISLATION, REGULATIONS AND GUIDANCE	7
3.	LICENCES	7
4.	DUTY OF CARE	8
5.	WASTE CATEGORIES	9
6.	HAZARDOUS WASTE 2008/98/EC (EWC 2002)	9
7.	DOMESTIC DRY MIXED RECYCLING (DMR) and GENERAL WASTE	10
8.	CONFIDENTIAL WASTE	10
9.	MISCELLANEOUS WASTE STREAMS	11
10.	CONTAINER POLICY	11
11.	STORAGE OF CLINICAL HAZARDOUS WASTE	11
12.	STORAGE OF NON-CLINICAL HAZARDOUS WASTE	11
13.	STORAGE OF DOMESTIC DRY MIXED RECYCLING (DMR) AND GENERAL WASTE	12
14.	STORAGE OF CONFIDENTIAL WASTE	12
15.	STORAGE OF MISCELLANEOUS WASTE	12
16.	COLLECTION POINTS	12
17.	COLLECTION TIMES	13
18.	COLLECTION OF HAZARDOUS WASTE	13
19.	COLLECTION OF DOMESTIC/GENERAL AND MISCELLANEOUS WASTE	13
20.	RECORDING OF WASTE COLLECTION AND DISPOSAL	14
21.	TRANSPORTATION OF WASTE	14
22.	VEHICLE ACCESS	15
23.	DISPOSAL OF HAZARDOUS WASTE	15
24.	DISPOSAL OF DOMESTIC AND GENERAL WASTE	15
25.	RECYCLING/WASTE MINIMISATION	16
26.	MAJOR INCIDENTS	16
27.	SUB-CONTRACTING	16
28.	CONTRACT IMPLEMENTATION ACTION PLAN	16
29.	SPILLAGE/ACCIDENTS	17
30.	CONTRACTOR'S STAFF	17
31.	PRICE, PAYMENT AND SUPPORTING INVOICE/ MANAGEMENT INFORMATION	17
32.	QUALITY ASSURANCE/ENVIRONMENTAL POLICY	18
33.	PUBLIC HOLIDAYS	18
34.	MONITORING OF THE CONTRACT	18
35.	CONTRACT MANAGEMENT	18

36.	INNOVATIONS/ADDITIONAL SERVICES	19
37.	ANNEX A	20
38.	ANNEX B	22

1. PRE-CONTRACT REQUIREMENTS

- 1.1. To ensure that **FOIA Section 43 Commercial** Duty of Care in respect of waste is adequately discharged Contractors are required to have visited the sites, prior to tendering in order to establish the suitability of their proposed arrangements for the removal of waste.
- 1.2. Contractors are advised that **FOIA Section 43 Commercial** will not award any part of the contract to a Contractor(s) or Sub-Contractor(s) who are unable to provide formal evidence of any of the required permits necessary to operate this contract. Formal evidence will be required prior to Contract signature. Failure to provide such evidence will eliminate the Bidder from the process
- 1.3. Contractors shall provide written confirmation that any designated waste disposal plant/facility or standby facilities named within their tender proposal are permitted/authorised by the Environment Agency/Local Authority to receive Clinical and Non-Clinical Hazardous waste from **FOIA Section 43 Commercial**
- 1.4. The Contractor(s) shall provide evidence of current registration by the appropriate Authority, as a waste carrier for the transportation and disposal of Clinical, Special/Hazardous and Domestic and General waste(s)/Miscellaneous waste(s).
- 1.5. The service schedules will be agreed between **FOIA Section 43 Commercial** and the Contractor(s) prior to the start of their contracts.
- 1.6. Contractors are advised that **FOIA Section 43 Commercial** require a variety of waste collection services.
- 1.7. **FOIA Section 43 Commercial** encourages contractors to provide any suggestions to improve the service schedules or the use of alternative waste holding/storage equipment.

2. LEGISLATION, REGULATIONS AND GUIDANCE

- 2.1. The Contractor(s) will be required to comply with all current and future legislation, regulations and guidelines during the term of the contract. The **FOIA Section 43 Commercial** recognises that legislative and regulative compliance from Contractor(s) does not absolve **FOIA Section 43 Commercial** from their own specific responsibility to comply with legislation and regulations. **FOIA Section 43 Commercial** will require the appointed Contractor(s) to ensure that it notifies and advises **FOIA Section 43 Commercial** to all relevant current/future legislation, regulation and guidelines in order to ensure that appointed site representatives of **FOIA Section 43 Commercial** meet their individual Duty of Care as stipulated in the Environmental Protection Act 1990.
- 2.2. Attached for information is Annex A which is a list of legislation and guidelines that are applicable to this contract. This list is not exhaustive and will be regularly reviewed and updated in line with new legislation, regulation and guidelines during the term of the contract to ensure **FOIA Section 43 Commercial** meet their individual duty of care.
- 2.3. Attached as Annex B is a list of regulations and best practice guidance that will be introduced and/or revised during the term of the contract.
- 2.4. The Contractor(s) will be required to prepare and present proposals to **FOIA Section 43 Commercial** to encompass new legislation, regulation and best practice as and when enacted.
- 2.5. If any statutory requirements or regulations are found to be contravened by the Contractor(s) or any sub-contractor working on their behalf, **FOIA Section 43 Commercial** will reserve the right to terminate the contract in accordance with **FOIA Section 43 Commercial** Conditions of Contract for the Supply of Services for any material breach.
- 2.6. Contractors must provide details of any trade bodies/associations they are accredited to or members of (Sanitary Medical Disposal Services Association, Chartered Institute of Waste Management, Environmental Services Association etc).

3. LICENCES

- 3.1. The contractor must maintain the appropriate certificates, licences, consents and environmental permits throughout the contract and provide copies and updates, in particular:
 - 3.1.1. Waste Carrier Registration Certificate.
 - 3.1.2. Environmental Permits whether issued by a Local Authority or the Environment Agency.
 - 3.1.3. Registered waste management exemptions.
 - 3.1.4. Contractors must provide full details of the primary treatment site(s) (including location, capacity, permits etc) that are proposed to service [FOIA Section 43 Commercial] contract.
 - 3.1.5. Full details of all backup treatment/disposal sites or facilities to be used by the Contractor in the event of a primary site being unavailable.
 - 3.1.6. Copies of any other consents, licences and permits that are relevant to the contract.
- 3.2. The Contractor(s) shall ensure that waste must be treated by methodologies that are authorised by the Environment Agency and /or Local Authority. Treatment processes operating without appropriate authorisation **must not** be used.
- 3.3. The Contractor(s) shall immediately advise [FOIA Section 43 Commercial] of any suspension, withdrawal or refusal to renew any permit, licence, certificate or permissions applicable to carrying out the requirements of this contract during the term of the contract.
- 3.4. The Contractor(s) will be responsible for all costs associated with finding an alternative Contractor(s)/treatment facility if there is a failure on their part to undertake the services outlined within the specification at any time during the contract period.
- 3.5. [FOIA Section 43 Commercial] will require sight of the original licences and other relevant documents on an annual basis and will reserve the right to inspect any transit station and disposal facilities at any reasonable time, as implied under the Code of Practice 'Waste Management the Duty of Care'.
- 3.6. Failure by the Contractor or Sub-Contractor(s) to maintain the appropriate permits, licences and consents necessary to operate this contract will be a critical failure

4. DUTY OF CARE

- 4.1. To ensure that [FOIA Section 43 Commercial] Duty of Care in respect of waste is adequately discharged Contractors are required to:
 - 4.1.1. Provide comprehensive written documentation relating to all aspects of the contract.
 - 4.1.2. Provide a fully detailed audit trail relating to the collection of all waste streams - including appropriate method statements where significant risk is identified.
 - 4.1.3. Provide details of weighbridge facilities and waste tracking processes.
 - 4.1.4. Produce a complete procedure, which covers all the requirements of the Environmental Protection Act 1990 and Hazardous Waste Regulations 2014, including Code of Practice on Duty of Care, COSHH and the requirements of the Health and Safety at Work Act. This must include formal Risk Assessment documentation and details of measures taken to monitor and review.
- 4.2. Contractors are requested to provide a 'Duty of Care' report for any organisation that they propose to use during the execution of this contract either frequently or on a contingency basis. Reports provided must be no older than 12 months old.
- 4.3. Adherence to Duty of Care principles will be a continuing process throughout the duration of the contract. [FOIA Section 43 Commercial] reserves the right to monitor the waste through all stages of disposal. This is to ensure that no divergence from specification or instances of unacceptable working practice occurs. This will be in accordance with [FOIA Section 43 Commercial] Duty of Care requirements. Part of the monitoring process will require access to the disposal facilities during the provision of the service. This action shall in no way absolve the Contractor from its responsibilities under statutory legislation as part of this contract.

- 4.4. **FOIA Section 43 Commercial** reserves the right to visit annually the specified site(s)/facilities(s) in accordance with its “Duty of Care” responsibilities under the Environmental Protection Act 1990 and the Hazardous Waste (England and Wales) Regulations 2005 and applicable amendments.

5. WASTE CATEGORIES

- 5.1. The separate waste streams the Contractor(s) will be required to manage under this contract are specified in sections 6, 7, 8 and 9 of this specification. **This list is not exhaustive and may be subject to change throughout the life of the contract.**
- 5.2. Any changes and potential cost implications will be negotiated between the Contractor(s) and **FOIA Section 43 Commercial**
- 5.3. Contractors must inform **FOIA Section 43 Commercial** of their intention to sub-contract or the utilisation of a third party to service or manage any of the waste streams included within this contract on their behalf.

6. HAZARDOUS WASTE 2008/98/EC (EWC 2002)

PLEASE NOTE: This section is in compliance with the current EU Directives including the European Waste Catalogue (EWC) coding for waste categories and the Health Technical Memorandum 07-01: Safe management of healthcare waste.

- 6.1. The Contractor will classify waste in accordance with the requirements below:

Hazardous Waste includes both clinical and non-clinical Waste (detailed below).

The European Waste Catalogue, incorporated into the Lists of Wastes (LoW) regulations defines how each type of hazardous waste should be processed.

CLINICAL WASTE:

18 02 02 Waste whose collection and disposal is subject to special requirements in order to prevent infection (animal tissues and carcasses)

18 02 01 Sharps

18 02 03 anatomical wastes of animal or human origin whose collection and disposal is not subject to special requirements in order to prevent infection.

OFFENSIVE WASTE:

The waste is non-hazardous and is described as **18 01 04 (human healthcare) 18 02 03 (animal healthcare) or 20 01 99 (municipal) in the EWC codes.** Offensive/hygiene waste is not infectious, therefore, for transport purposes; it is not classified as dangerous goods.

FOIA Section 43 Commercial has large quantities of animal bedding waste that falls into 18 02 03

NON-CLINICAL HAZARDOUS WASTE

Contaminated Laboratory Glassware (15 01 10)

Chemicals consisting of or hazardous substances. (16 05 06)

Florescent Tubes (20 01 21)

Laboratory Chemicals (18 02 06)

Gas canisters for propane burners (16 05 04*)
Cleaning Chemicals (20 01 29*)
Machining emulsions and solutions free of halogens (12 01 08)
Batteries (20 01 33)
Waste Electronics (20 01 35, 20 01 23)
Paints (12 01 27 and 20 01 28)
Solvents (20 01 13)
Toner Cartridges (08 03 17)
Aerosols (flammable propellants and hazardous contents) 16 05 04
Radioactive waste (liquid and solid contaminated with S35, p32, tritium, C14 and uranyl acetate)

- 6.2. Subject to revised legislation and regulations, these categories are subject to alteration during the course of the contract.
- 6.3. The list provided is an indication and not an exhaustive list. This list may be modified to meet the needs of **FOIA Section 43 Commercial** during the course of the contract.

7. DOMESTIC DRY MIXED RECYCLING (DMR) and GENERAL WASTE

- 7.1. Waste is segregated from other waste streams by **FOIA Section 43 Commercial** and subject to separate containment and labelling.
- 7.2. This consists of Domestic Dry Mixed Recycling and Other General Waste and will not be contaminated and therefore does not require incineration or alternative treatment.
- 7.3. Specific categories of Domestic Dry Mixed Recycling and General waste included within this contract include:
 - 7.3.1. Dry mixed Recycling (expected to include cardboard, paper newspapers / magazines, plastic bottles, cans, tins, soft plastics and clean plastic food containers)
 - 7.3.2. Discharged Aerosols (non-hazardous contents and non-flammable propellants) (15 01 04)
 - 7.3.3. Food (20 01 08)
 - 7.3.4. Furniture (20 03 07)
 - 7.3.5. Textiles (20 01 11)
 - 7.3.6. Pallets (20 01 38)
 - 7.3.7. Garden Waste (20 02 01 and 20 02 02)
- 7.4. Subject to revised legislation and regulations, these categories are subject to alteration during the course of the contract.
- 7.5. The list provided is an indication and not an exhaustive list. This list may be modified to meet the needs of **FOIA Section 43 Commercial** during the course of the contract.

8. CONFIDENTIAL WASTE

- 8.1. Waste is segregated from other waste streams and subject to separate containment and labelling.
- 8.2. Contractor must handle all confidential waste in accordance with regulations and best practices surrounding the handling of confidential waste.
- 8.3. Destroy on site the confidential waste.
- 8.4. The proposed contractor should also have the ability to destroy alternative data storage devices like: CDs, Video tapes, Computer disks or any other document or item deemed confidential by the Contracting Authority.
- 8.5. A certificate of destruction must be provided as appropriate for confidential material
- 8.6. Contractors should be accredited with the BSIA, UKSSA or NAID

9. MISCELLANEOUS WASTE STREAMS

- 9.1. Miscellaneous waste streams that have not been included in the categories above are also included within this specification. These include:
- Scrap Metal
 - X-ray films
 - Catering Oil
 - Heat treated polystyrene
- 9.2. The list provided is an indication and not an exhaustive list. This list may be modified to meet the needs of **FOIA Section 43 Commercial** during the course of the contract.

10. CONTAINER POLICY

- 10.1. The colour coding adopted by **FOIA Section 43 Commercial** for containers, is that recommended by Health Technical Memorandum 07-01: Safe management of healthcare waste.

11. STORAGE OF CLINICAL HAZARDOUS WASTE

- 11.1. Contractor(s) is required to provide clean, lockable and wheeled (where appropriate) 770L containers at **all times** for all external storage areas. The purpose is to store bagged clinical waste, sharps containers, and/or bins for anatomical waste and other types of containers.
- 11.2. Containers that become unsuitable for continued use through wear, loss or any other reasonable reason shall be withdrawn immediately from service and replaced as necessary.
- 11.3. All containers will remain the property of and be maintained by the Contractor(s) throughout the contract. The containers must be promptly removed from **FOIA Section 43 Commercial** site on the expiry or termination of the contract.
- 11.4. The Contractor(s) shall ensure that there are an agreed number of containers available at all times, to meet the requirements of the collection of clinical waste across **FOIA Section 43 Commercial** during the length of the contract.
- 11.5. The Contractor(s) will be required to provide containers in excess of normal requirements to accommodate emergency overflow of clinical waste.. Documented evidence must be provided of contingency plans in the event of major plant or transport failure.
- 11.6. All containers used for clinical waste collection should be colour coded and labelled as per Section 5 of Health Technical Memorandum 07-01: Safe management of healthcare waste. In addition containers must meet all requirements of current and future legislation (including UN Guidance and Markings).
- 11.7. The Contractor(s) shall be responsible for the internal and external cleaning of the containers.
- 11.8. The Contractor(s) is to provide the agreed number of container keys, to **FOIA Section 43 Commercial** authorised officers and all replacement keys required for the duration of the contract. The cost of issuing an initial set of keys at the commencement of the contract is to be included in the contract price.
- 11.9. The Contractor(s) is to provide replacement keys as and when required by **FOIA Section 43 Commercial** authorised officers upon request. The Contractor(s) may levy a charge for replacement key(s) (unless otherwise stated in their tender proposal). Costs for replacement keys must be included in the offer Schedule (Additional Costs).

12. STORAGE OF NON-CLINICAL HAZARDOUS WASTE

- 12.1. The Contractor(s) will be required to provide appropriate clean and lockable containers for the safe storage of these waste streams. The preference is for 360L wheeled and

lockable bins.

- 12.2. Containers supplied by the Contractor(s) (wheeled carts or rigid plastic/steel) must be UN performance tested to meet the requirements. In the case of UN3291 Clinical Waste, Unspecified, N.O.S., of packaging instructions P621. IBC 520 and LP621.
- 12.3. The Contractor(s) will be required to strictly adhere to all documentation in relation to the safe and correct disposal of Special/Hazardous waste.

13. STORAGE OF DOMESTIC DRY MIXED RECYCLING (DMR) AND GENERAL WASTE

- 13.1. **FOIA Section 43 Commercial** currently utilises 2x 10yd FEL for the collection of general landfill waste and 1x 10yd and 1x 6yd FEL for the collection of mixed dry recycling waste. In addition 2x10yd open skips are used for the collection of non-hazardous bulky waste.
- 13.2. Contractor(s) will be required to provide appropriate containers for the safe storage of all Domestic Dry Mixed Recycling and General Waste. Alternative storage solutions to the existing arrangements would be considered provided that the current overall footprint of containers required to manage on-site storage of waste is not increased.
- 13.3. The containers, subject to the approval of **FOIA Section 43 Commercial** authorised officer(s), shall minimise the handling of waste.
- 13.4. Containers that become unsuitable for continued use through wear, loss or any other reasonable reason shall be withdrawn immediately from service and replaced as necessary at the Contractor's expense.
- 13.5. The Contractor(s) shall ensure that containers are cleaned annually or more regularly where a significant spill of waste has resulted in a build up of organic material.
- 13.6. The containers will remain the property of and be maintained by the Contractor(s) throughout the contract. The containers must be promptly removed from **FOIA Section 43 Commercial** site on the expiry or termination of the contract.
- 13.7. The Contractor(s) shall ensure that there are the agreed number of containers at all times, to meet the requirements of the collection of domestic/general waste across **FOIA Section 43 Commercial** during the length of the contract.

14. STORAGE OF CONFIDENTIAL WASTE

- 14.1. The Contractor(s) will be required to provide appropriate containers for the safe storage of Confidential Waste.
- 14.2. Containers used for the transportation of confidential waste must be kept secure.

15. STORAGE OF MISCELLANEOUS WASTE

- 15.1. The Contractor(s) will be required to provide appropriate containers for the safe storage of miscellaneous waste where appropriate.
- 15.2. The containers, subject to the approval of **FOIA Section 43 Commercial** authorised officer(s), shall minimise the handling of waste.
- 15.3. Containers that become unsuitable for continued use through wear, loss or any other reasonable reason shall be replaced as necessary at the Contractor's expense.
- 15.4. The containers will remain the property of and be maintained by the Contractor(s) throughout the contract. The containers must be promptly removed from **FOIA Section 43 Commercial** site(s) on the expiry or termination of the contract.
- 15.5. The Contractor(s) shall ensure that there are the agreed number of containers at all times, to meet the requirements of the collection of miscellaneous waste across **FOIA Section 43 Commercial** during the length of the contract.

16. COLLECTION POINTS

- 16.1. **FOIA Section 43 Commercial** currently utilises a number of collection areas for differing waste containers, which are not necessarily the same for all waste streams.

17. COLLECTION TIMES

- 17.1. Waste collections at the **FOIA Section 43 Commercial** site will remain as per the current, or agreed, schedule unless agreed otherwise with the authorised officer. **FOIA Section 43 Commercial** is prepared to be flexible on collection times if the contractor demonstrates a more efficient and economical method of operation.
- 17.2. It is **FOIA Section 43 Commercial** responsibility to ensure access to site(s) is maintained in accordance with the agreed service schedule. In the unusual event that a Contractor is denied access to the site, **FOIA Section 43 Commercial** nominated competent person must be contacted prior to the vehicle leaving the site. If access can't be granted immediately, the vehicle must wait to gain access.
- 17.3. The Contractor(s) will be required to nominate a competent person(s) who can be contacted in the event of an emergency. An out of hour's phone number will be required to ensure that the Contractor can be contacted 24 hours a day.
- 17.4. The service schedules will be agreed between **FOIA Section 43 Commercial** and the Contractor(s) prior to the start of their contracts.
- 17.5. **FOIA Section 43 Commercial** encourages contractors to provide any suggestions to improve the service schedules or the use of alternative waste holding/storage equipment.
- 17.6. Variations in service requirements (including additional or reduced collections) will be notified to the Contractor(s) as and when required.

18. COLLECTION OF HAZARDOUS WASTE

- 18.1. The Contractor(s) shall collect containers and replace them with cleansed empty containers in accordance with an agreed schedule, by **FOIA Section 43 Commercial** authorising officer(s).
- 18.2. The Contractor(s) **must ensure** that all replacement empty containers are functional as per relevant legislation prior to their return to the site.
- 18.3. Each contractor shall identify a sufficient number of containers to be supplied, to be agreed with **FOIA Section 43 Commercial** prior to the commencement of the contract.
- 18.4. Contractor(s) will ensure that exact quantities of Hazardous waste generated can be reported against each collection point on a monthly basis.
- 18.5. The Contractor(s) must provide itemised details of charges on a monthly basis for the disposal of Hazardous waste.

19. COLLECTION OF DOMESTIC/GENERAL AND MISCELLANEOUS WASTE

- 19.1. The Contractor(s) shall perform a variety of collection services dependent on the requirements of **FOIA Section 43 Commercial**. The services shall include the collection of containers, emptying of containers at the **FOIA Section 43 Commercial** site and the provision of a bin lift service. The services shall be in accordance with a schedule agreed with **FOIA Section 43 Commercial**'s authorising officer(s).
- 19.2. **FOIA Section 43 Commercial** requires the Contractor(s) to provide an appropriately sized container or bins at each of the agreed locations.
- 19.3. The Contractor(s) **must ensure** that all replacement empty containers are functional as per relevant legislation prior to their return to the site.
- 19.4. Domestic and General Waste will be delivered to the agreed collection/storage areas on each site by the user in accordance with the schedule provided at the start of the contract. The schedule, to be agreed by **FOIA Section 43 Commercial** shall reflect the hours of business and needs of **FOIA Section 43 Commercial**.

- 19.5. The contractor shall identify a sufficient number of containers or bins to be supplied, subject to the agreement of **FOIA Section 43 Commercial** prior to the commencement of the contract.
- 19.6. The Contractor(s) must provide itemised details of costs on a monthly basis for the disposal of Domestic and General Waste.

20. RECORDING OF WASTE COLLECTION AND DISPOSAL

- 20.1. All non-hazardous waste collected will be covered by a Controlled Waste Transfer Note in accordance with the Waste (England and Wales) Regulations 2011.
- 20.2. All Hazardous waste collected will be covered by a Hazardous Waste Consignment Note and in accordance with the Environmental Protection Act 1990 and the Hazardous Waste (England and Wales) Regulations 2005 and subsequent amendment.
- 20.3. All Controlled Waste Transfer Notes and Hazardous Waste Consignment Notes must be signed by **FOIA Section 43 Commercial** representative(s) and be in full compliance with the Waste (England and Wales) Regulations 2011 and Hazardous Waste Regulations 2005 respectively before waste is removed from **FOIA Section 43 Commercial** premises.
- 20.4. The weight of each consignment must be established by the use of a weighbridge or other approved and calibrated weighing method which is weights and measures endorsed by HM Customs and Excise.
- 20.5. A Waste Folder on each site will form part of the records whereby all consignment/transfer notes will be stored for each collection. The Contractor(s) shall provide a receipt recording the time and date of collection, the identification of containers collected, the registration number of the vehicle and the final destination of the waste. A copy of this collection note will be provided on a monthly basis to **FOIA Section 43 Commercial**'s representative.
- 20.6. After the delivery of each load the operator of the waste treatment facility shall issue to the Contractor(s) a receipt recording the time, date and disposal method/point of the load and the weight of the individual containers. A copy of the previous month's receipts shall be forwarded together with the monthly invoices to **FOIA Section 43 Commercial** representative.
- 20.7. All consignment and receipt notes shall be numbered.

21. TRANSPORTATION OF WASTE

- 21.1. Contractor(s) shall at all times maintain a comprehensive Transportation Plan giving details of routes, collection points, timetables, vehicles and driver details. The Transportation Plan should allow sufficient flexibility to accommodate any reasonable special needs that **FOIA Section 43 Commercial** may have. The Contractor(s) shall consult **FOIA Section 43 Commercial** regarding any alterations.
- 21.2. The Contractor will ensure that:-
 - 21.2.1. All vehicles used for providing the services are to be roadworthy in accordance with the Road Traffic Acts and as appropriate be properly licensed by the Local Authority and where appropriate be of a type that conforms to current Motor Vehicle Regulations (i.e. Motor Vehicles (Construction and Use) Regulations 1986, the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2011 etc) and future regulations during the Term.
 - 21.2.2. It will provide adequate cover for the non-availability of vehicles for any reason.
- 21.3. The Contractor(s) shall have current registration by the appropriate Authority, as a waste carrier for the transportation and disposal of Clinical, Special/Hazardous and Domestic and General waste(s)/Miscellaneous waste(s) and provide evidence of this.
- 21.4. Contractors shall provide details of their company's Dangerous Goods Safety Advisor (DGSA) together with a copy of their most recent Dangerous Goods Safety Advisor Report within their tender submission.

- 21.5. Contractor(s) will provide **FOIA Section 43 Commercial** representative(s) with a copy of the Dangerous Goods Safety Advisor report on an annual basis.
- 21.6. The Contractor(s) shall ensure that the necessary Transport Documentation required to support the carriage of UN3291, Clinical Waste, Unspecified and N.O.S. (as required under the CDG Road Regulations 13(2)) is completed in order to ensure that **FOIA Section 43 Commercial** is not in breach of their Duty of Care.

22. VEHICLE ACCESS

- 22.1. **FOIA Section 43 Commercial** will ensure that adequate access and space for the Contractor(s) for the collection of waste streams in accordance with the agreed service schedule. Locations where adequate access is an issue are highlighted in the Abstract of Particulars document and solutions will be discussed with the Contractor(s).
- 22.2. Vehicle access times are site specific. Site parking will only be permitted during the period of loading and unloading.
- 22.3. The Contractor(s) will ensure vehicles used to collect waste/serve this contract will avoid the blocking/disruption to vehicles or public access to any site.

23. DISPOSAL OF HAZARDOUS WASTE

- 23.1. Contractors must provide full details of where all Clinical/Non Clinical Hazardous waste will be disposed of/treated. Contractors must advise **FOIA Section 43 Commercial** of the full name and address(s) of the site(s)/facilities that apply to the contract.
- 23.2. In the event that the Contractor(s) wishes to utilise alternative site(s)/facilities **FOIA Section 43 Commercial** **must be** notified in writing. Prior notification must be received at least one month before the alternative site/facility is utilised.
- 23.3. All waste management operations must be carried out in accordance with all current relevant legislation. Evidence to this must be auditable and available on demand by the authorised officers of **FOIA Section 43 Commercial**
- 23.4. The contractor must maintain the contingency plan provided during the tender throughout the contract term and provide any updates to UKRI? The successful Contractor(s) will be expected to continue to fulfil their obligations to **FOIA Section 43 Commercial** in such circumstances at no extra cost to **FOIA Section 43 Commercial**. If this occurs the Contractor must inform **FOIA Section 43 Commercial** representative in writing, this is to ensure adherence to the Environmental Protection Act 1990, the Environmental Protection (Duty of Care) Regulations 2003. And the Waste (England and Wales) Regulations 2011. As a minimum this should include the following:
 - The nature of the problem
 - Expected timescales for resolution of the problem
 - Any potential adverse effect on services
- 23.5. If the Contractor(s) contingency plans are reviewed/updated during the course of the contract, written confirmation must be provided to **FOIA Section 43 Commercial**
- 23.6. Any designated waste disposal plant/facility or standby facilities used by the Contractor must be permitted/authorised by the Environment Agency/Local Authority to receive Clinical and Non-Clinical Hazardous waste from **FOIA Section 43 Commercial**. Any changes to the plant/facility or standby facilities must be approved by **FOIA Section 43 Commercial** and have written confirmation of their permission/authorisation by the Environment Agency/Local Authority

24. DISPOSAL OF DOMESTIC AND GENERAL WASTE

- 24.1. Contractors must provide copies of licences, environmental permits and registered exemptions of any disposal/treatment sites that are proposed for use to service this contract – as stipulated in Section 2 (Licences) of this document.

- 24.2. **FOIA Section 43 Commercial** reserves the right to visit the specified site(s) in accordance with its "Duty of Care" responsibilities under the Environmental Protection Act 1990.
- 24.3. **FOIA Section 43 Commercial** must be advised of the locations of the proposed waste disposal site(s)/facilities(s) and/or transfer station(s). Any subsequent changes during the contract period must be notified in writing in advance to **FOIA Section 43 Commercial**. Prior notification must be received at least one month before the alternative site/facility is utilised.

25. RECYCLING/WASTE MINIMISATION

- 25.1. A key aim for the successful Contractor(s) will be their ability to develop existing recycling activity as well as proposals to increase the recycling activity.
- 25.2. **FOIA Section 43 Commercial** must be advised of the locations of the proposed recycle site(s) and/or transfer station(s). Any subsequent changes during the contract period must be notified in writing in advance to **FOIA Section 43 Commercial**. This prior notification must be received at least one month before the subsequent changes take place.

26. MAJOR INCIDENTS

- 26.1. In the event of a major incident the Contractor(s) will be responsible for disposing of the waste generated by **FOIA Section 43 Commercial**.
- 26.2. Waste generated during a major incident may consist of Clinical, Hazardous Clinical, Hazardous Non-Clinical, Domestic and General and Miscellaneous waste.
- 26.3. **FOIA Section 43 Commercial** in conjunction with emergency services and the Environmental Agency will advise the Contractor(s) of the nature of the waste.
- 26.4. Contractor(s) should note that subject to the major incident in question, additional bins/containers maybe required in addition to bins/containers already on site(s).

27. SUB-CONTRACTING

- 27.1. Contractors shall provide name(s), addresses(s) and contact details of all sub-contacted suppliers and/or third parties employed within the contract together with all relevant licences and requirements as detailed in Section 2.
- 27.2. The Contractor(s) shall not sub-contract the collection, transportation or disposal of waste without the prior consent in writing of **FOIA Section 43 Commercial**.
- 27.3. Where sub-contracting arrangements do exist, the Contractor(s) shall arrange for all invoices to be co-ordinated resulting in one consolidated monthly invoice being submitted to UKSBS on behalf of **FOIA Section 43 Commercial**.

28. CONTRACT IMPLEMENTATION ACTION PLAN

- 28.1. The Contractor(s) will within 4 weeks of Contract award provide a Contract Implementation Action Plan that will outline the following:
- 28.1.1. The proposed collection schedule for each individual site within **FOIA Section 43 Commercial** once the contract commences.
- 28.1.2. Proposed plan for the ordering and delivery of new bins/containers to **FOIA Section 43 Commercial**.
- 28.1.3. The method of transportation to be used for the collection of waste.
- 28.1.4. Details of recruitment, training and development and mobilisation of staff to service/deliver the contract.
- 28.1.5. The co-ordination of any sub-contracting/third party arrangements required to fully service the contract as specified.
- 28.1.6. Proposed timetable to complete duty of care visits for the relevant Authority's representative.

- 28.2. The Contractor(s) is at liberty to nominate a revised collection frequency if this suits **FOIA Section 43 Commercial** and does not adversely affect the overall cost and this is agreed in writing with **FOIA Section 43 Commercial**
- 28.3. The statement provided by contractors is subject to alteration and agreement between the successful Contractor(s) and **FOIA Section 43 Commercial** I.

29. SPILLAGE/ACCIDENTS

- 29.1. Spillages and/or accidents must be immediately reported to **FOIA Section 43 Commercial** representative(s) and confirmed in writing within 48 hours.
- 29.2. The Contractor(s) must provide a method statement for dealing with any spillage, burstages or accident
- 29.3. Where the Contractor is liable for the spillage or accident, the Contractor will remedy at own cost.

30. CONTRACTOR'S STAFF

- 30.1. The Contractor(s) shall ensure that every person employed by the Contractor(s) and/or sub-contractor(s) employed for the provision of waste management services, is at all times properly and sufficiently trained by having participated in a formal training programme prior to commencing work. Details of training records should be available if requested by **FOIA Section 43 Commercial**
- 30.2. Staff appointed by the Contractor(s) and/or sub-contractor(s) must be aware of all relevant rules and procedures concerning Health and Safety at Work and the recording of all accidents and untoward occurrences involving waste disposal procedures from **FOIA Section 43 Commercial** site.
- 30.3. Reportable incidences (i.e. RIDDOR) must be reported on the appropriate Accident/Incident Form to the HSE and copies forwarded to **FOIA Section 43 Commercial** authorised officer(s).
- 30.4. The Contractor(s)'s staff shall be required to carry and display a form of identification for any period during which they are working on **FOIA Section 43 Commercial** premises.
- 30.5. The Contractor(s) shall provide uniforms for their staff at all times while on **FOIA Section 43 Commercial** premises and ensure that staffs are dressed in appropriate protective uniforms/work wear.
- 30.6. **FOIA Section 43 Commercial** expects the highest standards of personal hygiene, courtesy and consideration from all of the Contractor(s)/sub-contractor(s) staff at all times.
- 30.7. The Contractor(s) shall prohibit their staff from smoking on **FOIA Section 43 Commercial** premises.
- 30.8. The Contractor(s) shall fulfil the requirements of the contract with a minimum of disruption.
- 30.9. The Contractor(s) shall be liable for both authorised and unauthorised acts of its employees whilst carrying out their duties in line with the contract specification whilst they are on **FOIA Section 43 Commercial** premises.
- 30.10. In the event of Contractor's staff who have, or who may have, access to **FOIA Section 43 Commercial** during the course of the Contract being criminally prosecuted for a serious offence (as defined in the Police and Criminal Evidence Act 2005), the Contractor(s) must immediately supply the authorised officer with a full report of the circumstances and, ultimately, of the outcome of any judicial procedures.

31. PRICE, PAYMENT AND SUPPORTING INVOICE/ MANAGEMENT INFORMATION

- 31.1. **FOIA Section 43 Commercial** will require the following management information pertaining to their waste collections in support of the monthly invoice for each type of waste stream.

- 31.1.1. Site Location.
- 31.1.2. Date of Uplift.
- 31.1.3. Number and size of each container collected from each site.
- 31.1.4. Total weight for each site for bulk collection.
- 31.1.5. Any bin or other equipment rental where appropriate.
- 31.1.6. All the above data for all waste uplifts.
- 31.2. All invoices must quote the purchase order number for the contract, current price per tonne/unit, or unit cost, for the collection and relevant Waste Transfer Notes, Hazardous Waste Consignment Notes and Certificates of Destruction.
- 31.3. Where sub-contracting arrangements exist, the Contractor(s) shall arrange for all invoices to be co-ordinated with **FOIA Section 43 Commercial** receiving one consolidated monthly invoice.
- 31.4. The Contractor(s) must have in place a fully auditable identification and tracking system from point of collection to disposal of all waste streams.
- 31.5. A computerised/web-based tracking system is desirable
- 31.6. A carbon calculator for movement of the waste is also desirable.

32. QUALITY ASSURANCE/ENVIRONMENTAL POLICY

- 32.1. Contractors shall provide details of any updates to their quality assurance system and/or accreditations (including copies of certificated evidence) operated by their company, which are applicable to this contract.

33. PUBLIC HOLIDAYS

- 33.1. The Contractor(s) must ensure that service schedules and staffing levels are unaffected by Public Holidays.

34. MONITORING OF THE CONTRACT

- 34.1. The Contractor(s) and **FOIA Section 43 Commercial**s authorising officer(s) will be responsible for monitoring the quality and effectiveness of the service. This will be agreed between the Contractor(s) and **FOIA Section 43 Commercial**
- 34.2. **FOIA Section 43 Commercial** in accordance with its Duty of Care principles will agree a formal monitoring system with the Contractor(s), to commence at the start of the contract and be based on a continuous assessment process throughout the life of the contract.
- 34.3. **FOIA Section 43 Commercial** reserves the right to inspect with or without prior notice, all records relating to the performance of the contract.
- 34.4. **FOIA Section 43 Commercial** reserves the right to visit any specified holding/waste disposal sites with or without prior notice during the contract period.
- 34.5. Contract review meetings will be held on a quarterly basis between the Contractor(s) and **FOIA Section 43 Commercial** representatives. It is intended that these meetings will provide both parties with the opportunity to raise issues related to performance, incidents, finance, new legislation, targets, overall tonnage, continuous improvement initiatives or any other aspect of the contract. They will provide a forum for open discussion to ensure continued success of the trading relationship.

35. CONTRACT MANAGEMENT

- 35.1. In the absence of the Contract Manager the contractor(s) will notify the authorised officer, in writing, of a named representative who is nominated to deputise, together will their current qualifications and experience.
- 35.2. The Contractor(s) will be required to nominate a competent person(s) who can be contacted during operational hours.

- 35.3. The Contactor(s) will provide **FOIA Section 43 Commercial** with sustainable solutions to current and future waste legislation (including guidance and advice).
- 35.4. The Contractor will:
- 35.4.1. Develop controlled waste segregation practices to ensure **FOIA Section 43 Commercial** obtains best possible value for money and meets its regulatory obligations.
 - 35.4.2. Develop and deliver a strategy to provide personnel training to all staff that handle or are involved with waste e.g. safety, cost, and efficiency, hygiene, control, documentation and equipment operation.
 - 35.4.3. Report against the Key Performance Indicators in the Performance Management framework to measure waste management with **FOIA Section 43 Commercial** agreement.
 - 35.4.4. Support the development of **FOIA Section 43 Commercial** Environment and Sustainability Policy.
 - 35.4.5. Monitor performance against original tender requirements/specification and report back to Authority's representatives.

36. INNOVATIONS/ADDITIONAL SERVICES

- 36.1. Contractors are encouraged to provide written proposals for any additional Services they believe should/can be added to the contract. **FOIA Section 43 Commercial** welcomes any initiatives/innovations from Contractors to help minimise waste levels and embrace recycling. These initiatives should be sustainable and cost effective and include environmental best practice. Contractors should include all proposals in writing.

ANNEX A

LEGISLATION AND GUIDELINES

The following legislation and guidelines list is not exhaustive and **FOIA Section 43 Commercial** will require the appointed Contractor(s) to ensure that it notifies and advises **FOIA Section 43 Commercial** to all relevant current/future legislation, regulation and guidelines in order to ensure that **FOIA Section 43 Commercial** meets their duty of care:

PLEASE NOTE: The spec refers to a number of acts and regulations. Any updates to these acts or regulations must be adhered to throughout the life of the contract. The following list of Legislation and Guidelines applies to England only.

- HTM 07-01 Safe Management of Healthcare Waste
- European Waste Catalogue (2002)
- Control of Pollution Act 2003
- Control of Pollution (Amendment) Act 1989
- Environment Act 1995
- Environmental Protection Act 1990
- Controlled Waste Regulations 2012, SI 588
- Controlled Waste (Amendment) Regulations 1996, SI 566
- Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991, SI 1624
- Controlled Waste (Regulation of Carriers and Seizure of Vehicles) (Amendment) Regulations 1998, SI 605
- End of Life Vehicles Regulations 2005, SI 2635
- End of Life Vehicles (Amendment) Regulations 2010, SI 1094
- Environmental Civil Sanctions (England) Order 2010 SI 1157
- Environmental Civil Sanctions (Miscellaneous Amendments) (England) Regulations 2010 SI 1159
- Environmental Permitting (England and Wales) (amendment) Regulations 2011
- Environmental Protection (Duty of Care) Regulations 1991 SI 2839
- Environmental Protection (Duty of Care) (England) (Amendment) Regulations 2003, SI 63
- Hazardous Waste Regulations 2005
- Hazardous Waste (England and Wales) (Amendment) Regulations 2016 SI 507
- Landfill (England and Wales) Regulations 2002, SI 1559
- List of Wastes (England) Regulations 2005 SI 895
- List of Wastes (England) (Amendment) Regulations 2005 SI 1673
- Packaging (Essential Requirements) Regulations 2003, SI 1941
- Packaging (Essential Requirements) (Amendment) Regulations 2004, SI 1188
- Packaging (Essential Requirements) (Amendment) Regulations 2006 SI 1492
- Packaging (Essential Requirements) (Amendment) Regulations 2009 SI 1504
- Packaging (Essential Requirements) (Amendment) Regulations 2015 SI 1640
- Producer Responsibility Obligations (Packaging Waste) Regulations 2007 SI 871
- Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 SI 2849
- Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2016
- Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008 SI 3087
- The Transfrontier Shipment of Waste (Amendment) Regulations 2014
- Transfrontier Shipment of Waste Regulations 2007 SI 1711
- Transfrontier Shipment of Waste (Amendment) Regulations 2008
- Waste Batteries and Accumulators Regulations 2009 SI 890
- Waste Electrical and Electronic Equipment Regulations 2013 SI 3289

- Waste Incineration (England and Wales) Regulations 2002, SI 2980
- Waste Electrical and Electronic Equipment (Amendment) Regulations 2007 SI 3454
- Waste Electrical and Electronic Equipment (Amendment) Regulations 2009 SI 2957
- Waste Electrical and Electronic Equipment (Amendment) (No2) Regulations 2009 SI 3216
- Waste Electrical and Electronic Equipment (Amendment) Regulations 2010 SI 1155
- Waste Electrical and Electronic Equipment (Amendment) Regulations 2015
- Waste (England and Wales) Regulations 2011 SI 988
- Waste Management (England and Wales) Regulations 2006 SI 937
- Waste Management Licensing (Amendment) Regulations 1995 SI 288

Other regulations/guidelines:

- The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009
- ADR 2011

ANNEX B

FUTURE REGULATIONS AND GUIDELINES TO CONSIDER Health Technical Memorandum (HTM) 07-01

FOIA Section 43 Commercial

Chemicals Standard Charges:

Charges
Hourly Rate for Chemist (2%)
Transportation (2%)
Demurrage charge per hour(0%)
Admin per collection (1%)

FOIA Section 43 Commercial

FOIA Section 43 Commercial

Call-Off terms and conditions for the supply of Waste Management Services (Sustainable) (Lot 1)

ORDER FORM REFERENCE: UKRI-2118

Contents

1.	Definitions and Interpretation	1
2.	Contract Documents	5
3.	Appointment	5
4.	No Partnership or Agency	5
5.	Non Exclusivity	6
6.	Supply of the Goods and Services	6
7.	Variations to the Contract	8
8.	Payment of the Charge(s)	9
9.	Set Off	10
10.	Personnel	10
11.	Premises	10
12.	Assignment and Sub-contracting	11
13.	Intellectual Property Rights	12
14.	Confidentiality and publicity	12
15.	Freedom of Information	13
16.	Insurance	13
17.	Suspension and/or Termination	14
18.	Force Majeure	15
19.	Communications	15
20.	Indemnities	16
21.	Limit of liability	16
22.	Anti-bribery and Corruption	17
23.	Data Protection	17
24.	Conflicts of interest	17
25.	The UK's decision to leave the European Union	17
26.	Dispute Resolution	17
27.	Records and Audit Access	18
28.	Compliance with Anti-Slavery and Human Trafficking Laws and Policies	19
29.	Contracts (Rights of Third Parties) Act 1999	19
30.	Severability	19
31.	Liability	20
32.	Counterparts	20
33.	Governing Law and Jurisdiction	20
34.	Waiver	20
35.	Amendments to this Contract	20

Schedule 1.	Anti-bribery and Corruption	22
Schedule 2.	Not used	24
Schedule 3.	Re-tendering, handover and TUPE	25
Schedule 4.	Not Used	29
Schedule 5.	Key Performance Indicators	30
Schedule 6.	Performance Management Framework	31

Call-Off Terms and Conditions

Dated 7th June 2023

Between:

- (1) The Customer; and
- (2) The Supplier.
 - a. (the identities of the Customer and Supplier are set out in the Order Form)

Whereas:-

- A. The Authority acts as the lead organisation on behalf its Member Institutions (as defined below) providing its Member Institutions with pre-tendered arrangements for a variety of goods and services.
- B. The Authority issued a contract notice 2018/S 179-405925 on 18th September 2018 in the Official Journal of the European Union seeking expressions of interest from potential suppliers for the provision of certain Goods and Services to Member Institutions and Participating Consortium (as defined below).
- C. Following a tender process compliant with the requirements of the Public Contracts Regulations 2015, the Authority selected a group of suppliers to be eligible to provide the Goods and Services on a call-off basis and entered into individual framework agreements with those suppliers and this included the Authority and the Supplier entering into the Framework Agreement (as defined below).
- D. Pursuant to the Framework Agreement, the Customer has appointed the Supplier to provide the Goods and Services in accordance with the Contract (as defined below).
- E. These Call-off Terms and Conditions set out the terms and conditions for the provision of the Goods and Services and the obligations of the Supplier in the provision of the Goods and Services.

Now it is hereby agreed as follows:-

1. Definitions and Interpretation

- 1.1 In this Contract the following words and expressions shall have the following meanings:-

Authority means the London Universities Purchasing Consortium, (company number 4784719);

ADR Notice has the meaning given in Clause 26.5;

Anti-Slavery Laws has the meaning given in Clause 28.1;

Brief means the Customer's requirements for the supply of the Goods and Services annexed to the Order Form and any changes to the same notified by the Customer to the Supplier from time-to-time;

Brexit means the earlier of (i) the point at which the United Kingdom is no longer bound to comply with the terms of the Treaties; or (ii) the point at which any phased transition arrangement agreed between the United Kingdom and the European Union leading to the withdrawal of the United Kingdom from the European Union commences;

Call-Off KPIs means the key performance indicators set out in the Order Form;

Call-Off Terms and Conditions means the terms and conditions set out in this Contract, as referred to in the Framework Agreement;

Charges means the charges set out in the Order Form (and **Charge** or **Charge(s)** shall be construed accordingly);

Contract means the written agreement between the Customer and the Supplier consisting of the Order Form (and any appendices thereto), the Brief (annexed to the Order Form) and these Call-Off Terms and Conditions;

Contract End Date means the date detailed as such in the Order Form as such date may be extended pursuant to Clause 3.3 of this Contract;

Customer Liability Cap means the amount detailed as such in the Order Form;

Customer's IP means all Intellectual Property Rights in any Documentation provided by the Customer under the Contract;

Data Protection Legislation means the Data Protection Act 2018 and GDPR and any national implementing laws, regulations and secondary legislation (as amended or updated from time to time and any successor legislation to the GDPR or the Data Protection Act 2018);

Delivery Date(s) means the date(s) detailed as such in the Order Form;

Dispute means any dispute or difference of whatsoever nature in relation to the formation, operation or interpretation of, or otherwise in connection with, or arising out of, the Contract;

Dispute Notice means a written notice of any Dispute, setting out the Dispute's nature and full particulars of the Dispute and which states it is a "Disputes Notice";

Documentation means any information or documents in any form whatsoever (including paper or electronic form), including drawings, technical software, images, designs or records;

EIR means the Environmental Information Regulations 2004;

FOIA means the Freedom of Information Act 2000;

Force Majeure Event has the meaning given in Clause 18.1;

Framework Agreement means the framework agreement for the supply of the Goods and Services made between the Authority (1) and the Supplier (2) and dated 11th March 2019;

Framework Agreement KPIs means the key performance indicators set out in Schedule 7 to the Framework Agreement;

GBP means the United Kingdom Pound Sterling;

GDPR means the General Data Protection Regulation (EU 2016/679);

Good Industry Practice means the exercise of such degree of skill, diligence, care and foresight which would reasonably and ordinarily be expected from a skilled and experienced supplier engaged in the provision of Goods and Services similar to the Goods and Services under the same or similar circumstances as those applicable to this Contract;

Goods means the goods identified as such in the Order Form;

Intellectual Property Rights means all intellectual property rights anywhere in the world including domain names, patents, design rights, copyrights including rights in computer software and databases (including database rights), rights in source code, topography right, trademarks, trade names, logos, trade secrets and know-how, and any applications or the right to make applications for any of the above, existing now or at any time in the future and whether registered or registrable or not;

KPIs the Call-Off KPIs;

Law means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, any applicable judgment of a relevant court of law which is a binding precedent in England and Wales, or directives or requirements of any Regulatory Body;

Losses means all liabilities, costs, expenses, damages and losses including but not limited to any direct loss, indirect loss or consequential loss, loss of contribution to incidental costs, loss of profit or overheads, loss of reputation and all interest, penalties and legal costs;

Member Institution has the meaning given in the Framework Agreement;

Mini Tender has the meaning given in the Framework Agreement;

Order means the order placed by the Customer to the Supplier in accordance with the Framework Agreement, which sets out the description of the Goods and Services to be supplied;

Order Form means the document used by the Customer to place the Order for this Contract;

Participating Consortium has the meaning given it in the Framework Agreement;

Personnel means those personnel of the Supplier as shall be appointed by the Supplier to supply the Goods and Services in accordance with the Contract including the Supplier's employees and subcontractors;

Premises means the premises detailed as such in the Order Form;

Project IP means all Intellectual Property Rights in any Documentation provided by the Supplier under the Contract and all other Intellectual Property Rights created or discovered by the Supplier as a result of, for or in connection with the performance of its obligations under the Contract, but excluding Supplier's Background IP;

PCR means the Public Contracts Regulations 2015;

Regulatory Body means any government department and regulatory, statutory and other entity, committee, ombudsman and/or body which, whether under statute, rules, regulations, codes of practice or otherwise, is entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Customer;

Returning Employees has the meaning given in **Error! Reference source not found.**; (*where applicable to Customer contracts*)

Schedule(s) means any one or more of the schedules attached to these Call-Off Terms and Conditions;

Services means the services identified as such in the Order Form

Services Commencement Date means the date detailed as such in the Order Form;

Services End Date means the date detailed as such in the Order Form;

Supplier Liability Cap means the amount detailed as such in the Order Form;

Supplier's Background IP means all Intellectual Property Rights existing prior to the date of the Contract and used by the Supplier for or in connection with the performance of its obligations under the Contract;

Supply Rates means the rates set out in Schedule 2 of the Framework Agreement as may be amended pursuant to the procedures set out in Schedule 2;

Term means the period from the date of the Contract up to and including the earliest of:

- (a) the Contract End Date; or
- (b) the date the Contract is terminated in accordance with Clause 17;

Third Party Agreements has the meaning given in Clause 6.10;

Treaties means those referred to in section 2 of the European Communities Act 1972;

Value Added Tax means value added tax at the rate prevailing at the time of the relevant supply charged in accordance with the provisions of the Value Added Tax Act 1994; and

Variation has the meaning given in Clause 7.

- 1.2 In these Call-Off Terms and Conditions unless the context otherwise requires:
 - 1.2.1 clause headings are inserted for convenience only and shall not affect the construction and interpretation of this Contract and all references to Clauses, Sub-clauses, or Schedules are to Clauses and Sub-clauses of, and Schedules to, these Call-Off Terms and Conditions; and
 - 1.2.2 words denoting the singular number include the plural and vice versa; and
 - 1.2.3 words denoting the masculine include the feminine and vice versa; and
 - 1.2.4 references to persons include reference to bodies corporate and unincorporate; and

- 1.2.5 references to statutes or statutory instruments or any Law are to be construed as references to any consolidation, modification, extension, amendment, replacement or re-enactment of them from time to time and any subordinate legislation under it.

2. Contract Documents

- 2.1. The Contract consists of the following documents:
- (a) these Call-Off Terms and Conditions;
 - (b) the Schedule(s) to these Call-Off Terms and Conditions;
 - (c) the Order Form (and any appendices thereto); and
 - (d) the Brief (annexed to the Order Form).
- 2.2. The Contract is made pursuant to the Framework Agreement.
- 2.3. In the event of any inconsistency or conflict between the Framework Agreement and the Contract, the Framework Agreement shall prevail.
- 2.4. Save in respect of the Framework Agreement, the Contract supersedes all other oral and/or written communications, representations, agreements or undertakings between the parties.

3. Appointment

- 3.1. The Customer appoints the Supplier as the supplier of the Goods and Services set out in the Order Form.
- 3.2. The Contract shall take effect on and from the date of the Contract and shall expire automatically at the end of the Term.
- 3.3. The Customer may, by giving written notice to the Supplier not less than 3 (three) month(s) before the Contract End Date, extend the Contract End Date for any further period or periods specified in the Order Form provided that the total Term does not exceed 4 (four) years. The provisions of the Contract will apply throughout any such extended period.
- 3.4. Any omission on the part of the Customer to inspect, review or disapprove shall not diminish or relieve the Supplier from any of its obligations or responsibilities under or in connection with the Contract.
- 3.5. The Supplier shall be responsible for the accuracy of all drawings, documents and information supplied to the Customer by the Supplier in connection with the supply of the Services and shall pay the Customer any extra costs occasioned by any discrepancies, errors or omissions therein.

4. No Partnership or Agency

- 4.1. Nothing in this Contract is intended to, or shall be deemed to:
- 4.1.1. establish any partnership or joint venture between any of the parties;
 - 4.1.2. constitute any party as the agent of another party; or
 - 4.1.3. authorise any party to make or enter into any commitments for or on behalf of any other party.

4.2. The Supplier confirms it is acting on its own behalf and not for the benefit of any other person.

5. Non Exclusivity

5.1. The Supplier acknowledges that, in entering the Contract, no form of exclusivity has been granted by the Customer for the supply of any Goods and Services and that the Customer is at all times entitled to enter into other contracts and arrangements with any other suppliers for the supply of any Goods and Services which are the same or similar to that which the Supplier may supply.

6. Supply of the Goods and Services

6.1. The Supplier warrants to the Customer that:

- (a) it shall and shall continue to supply the relevant Goods and Services diligently and in accordance with the Contract and in compliance with all applicable Laws and Good Industry Practice;
- (b) it has exercised and shall continue to exercise in the performance of all its duties under the Contract all the skill, care and diligence reasonably to be expected of a properly qualified and competent supplier experienced in the supply of Goods and Services of a similar nature to the Goods and Services;
- (c) it shall supply the relevant Goods and Services in such a manner and at such times so that no act, omission or default of the Supplier shall cause or contribute to any breach of Law;
- (d) it shall supply the relevant Goods and Services in compliance with all reasonable instructions given in writing under or in connection with the Contract;
- (e) it shall at all times observe and provide the Goods and Services in accordance with the KPIs;
- (f) all relevant Goods supplied by the Supplier shall:
 - (i) be fit for the purpose specified in the Brief;
 - (ii) be new, undamaged and free from defects in design, material and workmanship;
 - (iii) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979 as amended);
 - (iv) be properly packaged to survive transit and storage without damage, clearly labelled and addressed; and
 - (v) otherwise comply with all applicable Laws.
- (g) it shall undertake annual audits of Customer sites to ensure all waste is classified, segregated and stored correctly and to identify improvement initiatives

6.2. Upon delivery of the Goods, the Supplier shall provide the Customer with a delivery note specifying the quantity and type of containers delivered.

- 6.3. Notwithstanding the provisions of Clause 6.6, the Customer shall be entitled to reject the Goods by notice to the Supplier within 30 (thirty) days of delivery to the Premises if they do not comply with the terms of the Contract. Any rejected Goods shall be returned to the Supplier at the Supplier's risk and expense and the Supplier shall be required to deliver replacement Goods to the Customer within 15 (fifteen) days of receipt of the Customer's rejection notice, at no extra cost to the Customer. A Customer's right to reject under this Clause 6.3 shall apply equally to any Goods replaced hereunder.
- 6.4. No failure by a Customer to reject the relevant Goods under Clause 6.3 shall constitute acceptance or acknowledgment by the Customer of the relevant Goods or the condition in which they were delivered, or in any way diminish or relieve the Supplier from any of its obligations or responsibilities under or in connection with the Contract.
- 6.5. Notwithstanding Clause 6.6, during the Term and the applicable Defects Rectification Period, the Supplier shall make good any Defect(s) discovered in the Goods (by replacement or otherwise) at its own cost and expense within 30 (thirty) days (or such other time period as may be agreed between the relevant Customer and the Supplier) of receiving notice from the Customer regarding the Defect, provided always that such Defect did not arise as a result of the Customer using the Goods other than in accordance with their proper usage. If the Supplier fails to comply with its obligations under this Clause 6.5, the Customer shall be entitled to engage another supplier to make good any Defect(s) discovered in the relevant Goods and the Customer shall be entitled to recover the cost of doing so from the Supplier as a debt.
- 6.6. Title to the Goods (or part thereof), where the Customer is purchasing the Goods, shall pass to the Customer upon the earlier of:
 - 6.6.1. delivery of the Goods (or part thereof) to the Premises in accordance with the Contract; or
 - 6.6.2. payment for the Goods (or part thereof) in accordance with the Contract.
- 6.7. If title to the Goods (or part thereof) passes to the Customer prior to delivery, the Supplier shall arrange for the Goods to be marked as the Customer's property and shall ensure that they are stored and handled separately from other goods.
- 6.8. Where the Supplier is providing the Goods on loan to the Customer title shall remain with the Supplier.
- 6.9. Risk of loss or damage to the Goods (or part thereof) shall pass to the Customer when title to the relevant Goods (or part thereof) passes to the Customer pursuant to Clause 6.7 of the Goods (or part thereof) to the Premises in accordance with the Contract, save to the extent that any loss or damage to the Goods (or part thereof) which occurs after title to the Goods (or part thereof) has passed to the Customer is attributable to an act of the Supplier or its Personnel.
- 6.10. The Supplier shall have regard to all obligations on the part of the Customer in any third party agreements or in any other documentation relating to the Contract to which the Customer is a party to and of which copies (subject to the deletion of any confidential information therein) have been provided by or on behalf of the Customer (**Third Party Agreements**). The Supplier warrants and undertakes to the Customer that the Supplier will supply the relevant Goods and Services and will perform its obligations under the Contract in such a manner and at such times that no act, omission or default of the Supplier shall cause or contribute to any breach by the Customer of any of its obligations under the Third Party Agreements or other documentation mentioned in this Clause 6.10.

- 6.11. If the Supplier becomes aware of any matter that may impact on its ability to deliver the relevant Goods and Services in accordance with the Contract, it must immediately notify the Customer and shall propose and, if accepted by the Customer, implement any measures which may be practical to overcome or reduce any adverse impact on the Customer. The Supplier shall bear the cost of implementing such measures save where the relevant matter is a direct result of any wilful act, negligence or breach by the Customer of its obligations under the Contract.
- 6.12. The Supplier shall comply with the provisions of Schedule 5 (KPIs) and Schedule 6 Performance Management Framework.

7. Variations to the Contract

- 7.1. The parties acknowledge that the Customer may, at any time:
 - 7.1.1. instruct the Supplier to add or omit any Goods and Services to or from that which is being supplied under the Contract; or
 - 7.1.2. instruct a change to the Brief annexed to the Order Form,
(a Variation)
provided always that such Variation shall not amount to a substantial variation for the purposes of regulation 72 of PCR (which the Customer shall determine in its sole discretion).
- 7.2. If any Variation instructed by the Customer shall:
 - 7.2.1. in respect of the Goods and Services being supplied under the Contract, increase or decrease the relevant Charge(s); and/or
 - 7.2.2. in respect only of the Goods being supplied under the Contract, affect the Supplier's ability to supply the Goods by the relevant Delivery Date(s), the Supplier shall submit a quotation to the Customer within 10 (ten) days of the Variation instruction setting out the proposed increase or decrease to the relevant Charge(s) (calculated solely on the basis of the Supply Rates) and, where Clause 7.2.2 applies, the proposed extension(s) to the relevant Delivery Date(s).
- 7.3. Within 10 (ten) days of receipt of a Supplier's quotation pursuant to Clause 7.2, the Customer shall either accept the quotation, in which case the relevant Charge(s) and Delivery Date(s) (if applicable) shall be adjusted accordingly, or withdraw the Variation instruction.
- 7.4. Until the Supplier's quotation is accepted in accordance with Clause 7.3, the Supplier shall continue to perform its obligations under the Contract as if the Variation had not been instructed and the Supplier agrees that the preparation of a quotation to be provided under Clause 7.2 will not cause any delay to the supply of the relevant Goods and Services.
- 7.5. The Supplier shall have no entitlement to any increase in the relevant Charge or any extension(s) to the relevant Delivery Date(s) where it complies with a Variation instruction prior to its quotation being accepted in accordance with Clause 7.3.
- 7.6. The Customer shall be entitled to refuse any Variation which does or could amount to a substantial variation for the purposes of regulation 72 of PCR.

- 7.7. The Supplier may request, in writing, a variation to the Charge(s) in the event there is a change in Law which was not reasonably foreseeable prior to the date of the Contract which impacts on the Charge under the Contract. If the Supplier so requests a variation, the parties shall meet within 10 (ten) days of the date of such written request and shall agree any changes to the Charge in writing.
- 7.8. The Supplier and Customer acknowledge that in the event that the Supply Rates are amended in accordance with the procedures set out in Schedule 2 of the Framework Agreement, such amendments shall not apply to the Charge under this Contract unless agreed otherwise in writing between the parties and the Authority (in accordance with paragraph 8 of Schedule 2 of the Framework Agreement).

8. Payment of the Charge(s)

- 8.1. The Customer shall pay the Supplier the Charge(s) as stated in Order Form as full remuneration for the supply of the Goods and Services in accordance with the Contract.
- 8.2. Each Charge is fully inclusive of all costs and expenses of every kind incurred by the Supplier in connection with the supply of the Goods and Services. This includes the provision of containers as part of the Services whereby the containers are not bought outright by the Customer
- 8.3. For the avoidance of doubt each Charge shall be exclusive of Value Added Tax. The Customer shall account for and pay the total amount of Value Added Tax properly due thereon.
- 8.4. The Charge(s) shall be paid to the Supplier in accordance with any stages set out in the Order Form and within 30 (thirty) days of receipt of properly rendered invoice(s) in accordance with Clause 8.5.
- 8.5. The Supplier shall submit invoices to the Customer in respect of any of the Charge(s) properly due to the Supplier under the Contract and all invoices submitted by the Supplier shall show amounts due, and shall include all supporting documentation as the Customer may request, such as details of the waste stream and location.
- 8.6. Where any sum due under the Contract is not paid in full by the relevant due date, the Supplier shall be entitled (without prejudice to any other right or remedy) to suspend performance of its obligations under the Contract, provided that the Supplier shall give the relevant Customer not less than 28 (twenty eight) days' notice of its intention to suspend performance of its obligations under the Contract and stating the ground(s) on which it intends to suspend performance. The right to suspend performance shall cease when the Customer makes payment in full of the amount due. Any period during which performance is suspended shall be disregarded for the purposes of any contractual time limit the time taken by the Supplier to supply the relevant Goods and Services.
- 8.7. If the Customer fails to pay an amount due to the Supplier by the relevant due date, simple interest shall be added to the unpaid sum from the final date for payment until the actual date for payment. Such interest shall be calculated on a daily basis at the annual rate of 8% above the Bank of England base rate, together with any fixed charges, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and the late payment of Commercial Debts Regulations 2013.
- 8.8. The Supplier acknowledges and agrees that the Authority, or any other Participating Consortia or any Member Institution has no liability to the Supplier for the payment of

any Charges due to the Supplier pursuant to the Contract, unless the Authority or such Participating Consortia or Member Institution is the Customer under the Contract.

9. Set Off

- 9.1. The parties acknowledge that the Customer may at any time, without notice to the Supplier, set-off any liability owed by the Supplier to the Customer against any liability owed by the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated and whether or not liability arises under the Contract. Any such exercise of set-off by the Customer shall not limit or affect any of the Customer's rights or remedies available under this Contract.
- 9.2. For the avoidance of doubt, all amounts due from the Supplier to the Customer under this Contract shall be paid in full without any set-off, counterclaim, deduction or withholding by the Supplier.

10. Personnel

- 10.1. The Supplier warrants to the Customer that all of the Supplier's Personnel shall at all times have the necessary qualifications and experience to perform their duties as required under the Contract.
- 10.2. The Supplier warrants to the Customer that all of the Supplier's Personnel shall at all times have the necessary qualifications and experience to meet the standards offered by the Supplier under the Contract.
- 10.3. The Supplier shall provide such details of its Personnel that may require access to the Premises to perform their duties as required under the Contract as are reasonably requested by the Customer.
- 10.4. The Supplier shall ensure that when on the Premises, its Personnel at all times comply with all Laws and other requirements that may be in force from time to time in relation to the Premises.
- 10.5. The Customer may request the removal of any Supplier's Personnel, where in the Customer's reasonable opinion such Personnel's performance or conduct is or has been unsatisfactory. The Supplier shall promptly remove and replace such Personnel at the Supplier's own cost and expense.

11. Premises

- 11.1. The Customer grants the Supplier a non-exclusive licence to access the Premises, as may be reasonably required for the sole purpose of performing its obligations under the Contract.
- 11.2. The Supplier shall co-operate with all other suppliers or personnel who may also have access to the Premises.
- 11.3. At the end of the Term, the Supplier shall:
 - 11.3.1. remove from the Premises all the Supplier's equipment and unused materials at their own cost;
 - 11.3.2. clear away all rubbish arising out of or in connection with the supply of the relevant Goods and Services; and
 - 11.3.3. leave the Premises in a clean and tidy condition to the Customer's reasonable satisfaction.

- 11.4. If the Supplier fails to comply with Clause 11.3, the Customer may remove and dispose of the Supplier's equipment and unused materials and clear away and clean the Premises as required by Clauses 11.3.2 and 11.3.3 and the Customer shall be entitled to recover the cost of doing so from the Supplier as a debt.
- 11.5. Where the Supplier leaves any equipment or materials on the Premises during the Term, it does so at its own risk and the Customer shall have no liability to the Supplier in relation to such equipment or materials.

12. Assignment and Sub-contracting

- 12.1. Subject to Clause 12.2, the Supplier shall not assign, charge or transfer any right or obligation under this Contract or in any way deal or part with its interest in this Contract or any part of it to any person, without the Customer's prior written consent, which shall not be unreasonably withheld (provided always that the Customer shall be entitled to refuse to consent to any assignment, charge or transfer which could or does breach any regulation(s) of the PCR).
- 12.2. The Supplier shall not sub-contract to any person the performance of any of its obligations under this Contract:
- (a) except with the Customer's prior written consent, such consent not to be unreasonably withheld;
 - (b) if any such sub-contracting would be inconsistent with the Supplier's tender in the Original Tender Process and/or the Mini Tender; and
 - (c) if any such sub-contracting could or would in the sole opinion of the Customer breach any regulation(s) of the PCR.
- 12.3. If the Customer consents to the Supplier to sub-contract, then the Supplier shall co-ordinate and integrate such services provided by the sub-supplier with his own and no sub-contracting by the Supplier and no consent by the Customer shall in any way relieve the Supplier from any liability or obligation in respect of the performance of its obligations under this Contract.
- 12.4. The Customer may at any time assign by absolute legal assignment the benefit of all the Supplier's obligations and the entire benefit arising under or out of this Contract to
- 12.4.1. any Contracting Authority (as defined in the PCR);
 - 12.4.2. any other body established by the Crown or under statute to substantially perform any of the functions that had previously been performed by the Customer;
 - 12.4.3. any private sector body which substantially performs the functions of the Customer
- provided that any such assignment shall not increase the Supplier's obligations under the Contract.
- 12.5. If the Supplier sub-contracts the Contract in accordance with this Clause 12, the sub-contract must be entered into on equivalent and no less onerous terms than the terms of this Contract.
- 12.6. Where the Supplier uses sub-contractors to provide any of the Services under this contract, the Supplier shall carry out and provide details of annual audits of those sub-

contractors and their premises to the Customer and keep the Customer informed of any performance issue or other problems identified

- 12.7. The Customer reserves the right to refuse any sub-contractor for valid reasons
- 12.8. In the event that the Supplier sub-contracts services or parts thereof in breach of the contract conditions, the Customer retains the right to terminate the Contract without notice.

13. Intellectual Property Rights

- 13.1. Any Customer's IP shall remain vested in the Customer and the Customer shall grant the Supplier an irrevocable, transferable, non-exclusive, royalty free licence to use such IP for the purpose of performing its obligations under this Contract.
- 13.2. The Project IP shall immediately vest in the Customer upon its creation or discovery and the Customer shall grant the Supplier an irrevocable, transferable, non-exclusive, royalty free licence to use the Project IP for the purpose of performing its obligations under this Contract.
- 13.3. The Supplier's Background IP shall remain vested in the Supplier and the Supplier shall grant the Customer an irrevocable, transferable non-exclusive, royalty free licence to use the Supplier's Background IP for any purpose related to this Contract and the Goods and Services supplied hereunder.
- 13.4. The licences granted under this Clause 13 include a right to sub-licence.
- 13.5. All royalties or other sums payable in respect of the supply and use of any patented article, processes or inventions required for and in relation to the performance of the Supplier's obligations under this Contract shall be paid by the Supplier.
- 13.6. The Supplier shall not be liable for any use of the Supplier's Background IP or Project IP other than that for which they were prepared.

14. Confidentiality and publicity

- 14.1. Subject to Clauses 15 and 23, the Supplier will keep confidential all financial information, supplier lists, manuals, software (including its source code), trade secrets, business forecasts, specifications, correspondence, books, records, documents, agreements, photographs, quotations, invoices, files, plans, drawings, any other similar material or information relating in any way to this Contract, and/or the business of the Customer. The Supplier will not disclose details of these to any person, other than to its professional advisers, insurers and the Supplier's Personnel, without the consent of the Customer, and then only insofar as such disclosure is necessary for the effective performance of the Supplier's obligations under this Contract. The provisions of this Clause will continue to apply notwithstanding any novation and/or termination of this Contract for any reason and notwithstanding the completion of the performance of the Supplier's obligations under this Contract.
- 14.2. The Supplier shall not be liable for the disclosure of any confidential material which is referred to in Clause 14.1 which:
 - (a) is or becomes available to the public, other than by means of a breach of this Contract; or
 - (b) is required by Law to be disclosed.

- 14.3. The Supplier shall not, without the Customer's prior written consent, use the Customer's corporate name or any other unnamed trademark associated with the Customer for any purpose, including but not limited to by illustration, advertising, publicising, marketing or selling services and/or products, except as may otherwise be required by Law. In that event, the Supplier shall provide the Customer with written notice of such request as soon as reasonably practicable, sufficient to allow the Customer an opportunity to object prior to such disclosure.
- 14.4. Notwithstanding the provisions in this Clause 14 and Schedule 4 (Data Protection), the parties shall comply with the Data Protection Legislation.
- 14.5. To the extent there are any inconsistencies and/or conflicts between this Clause 14 and any separate confidentiality agreement entered into between the Authority and the Supplier and/or between the Customer and the Supplier, the terms of any such confidentiality agreement(s) will prevail.

15. Freedom of Information

- 15.1. The Supplier acknowledges that the Customer may be subject to the FOIA and the EIR and the Supplier shall, at its cost, use all reasonable endeavours and take all necessary steps to assist the Customer in complying with the FOIA and/or the EIR where relevant.
- 15.2. If the Supplier receives a 'request' from any third party (as that term is defined in the FOIA and the EIR, as applicable), it shall immediately provide the Customer with a written copy of that request.
- 15.3. The Supplier shall ensure that the provisions of this Clause 15 are included in any subcontract it enters into in respect of this Contract.

16. Insurance

- 16.1. The Supplier warrants that it currently maintains and shall continue to maintain:

- 16.1.1. public liability insurance; and

- 16.1.2. employer's liability insurance],

for the periods set out in Clause 16.1 of the Framework Agreement, all with a well-established and reputable insurance office or underwriter of repute carrying on business in the United Kingdom and the European Union with a limit and basis of indemnity as set out in Article 3 of the Memorandum of Agreement in the Framework Agreement for each and every claim provided always that such insurance is generally available in the United Kingdom and the European Union to the business of the Supplier at commercially reasonable rates and terms. The Supplier shall immediately inform the Customer if such insurance ceases to be generally available at commercially reasonable rates and terms and for the avoidance of doubt it is hereby agreed and declared that any increased or additional premium required by insurers by reason of the Supplier's own claims record or other acts, omissions, matter or things particular to the Supplier shall be deemed to be within commercially reasonable rates.

- 16.2. As and when the Supplier is reasonably requested to do so by the Customer, the Supplier shall produce for inspection sufficient documentary evidence in the form of a standard insurance broker's certificate that the insurance required under Clause 16.1 is being maintained in accordance with the terms of this Contract. If the Supplier fails to supply the relevant evidence, the Customer shall be at liberty to effect such insurance cover as it deems necessary at the Supplier's cost.

- 16.3. The Supplier shall not, once a claim under Clause 16.1 of this Contract has been notified to it, voluntarily do anything which would reduce or tend to reduce the scope of indemnity under its insurance policies or the amount of indemnity monies which will be available thereunder were the claim against it to succeed in full.

17. Suspension and/or Termination

- 17.1. The Customer may, in addition to any other rights and remedies which it may have, by giving not less than 28 (twenty eight) days' written notice to the Supplier, suspend or terminate the Supplier's appointment under this Contract. If the Supplier's appointment is suspended pursuant to this Clause 17.1 then the Customer may, by giving not less than 28 (twenty eight days' written notice, require the Supplier to resume performance at any time within a period of 6 (six) months from the date of suspension. The Supplier shall use all reasonable endeavours to resume performance of its obligations under this Contract as soon as possible after receipt of the Customer's written notice. If the Customer has not required the Supplier to resume performance within such period, then the Supplier's appointment under this Contract shall be deemed to have been terminated.
- 17.2. The Customer or the Supplier may suspend and/or terminate the Supplier's appointment under this Contract upon serving written notice on the other in the event that:
- (a) the other is in breach of this Contract in any material respect and the other has failed within 30 (thirty) days of the service of the other's written notice to remedy such breach or breaches; and/or
 - (b) distress or execution is levied or threatened upon any of the other's property or any judgement against the other remains unsatisfied for more than 14 (fourteen) days or the other (being an individual) is bankrupt or unable to pay his debts or seeks an arrangement with his creditors, or the other (being a company) has an administrator appointed of it or a receiver or manager or administrative receiver is appointed of it or any of its assets or it enters into liquidation or it proposes or makes any voluntary arrangement with its creditors; any petition is presented or any resolution passed or any steps or proceedings taken which may lead to any of the foregoing occurrences; the other ceases to carry on business; and/or
 - (c) if any of the termination provisions of regulation 73(1) of PCR apply.
- 17.3. The Customer may terminate this Contract in accordance with
- 17.3.1. Schedule 1 (Anti-bribery and Corruption); or
 - 17.3.2. Schedule 5 KPIs and/or Schedule 6 Performance Management Framework.
- 17.4. Suspension or termination of the Supplier's appointment under this Contract, howsoever arising, shall be without prejudice to the rights and remedies of either of the parties in relation to any negligence, omission or default of the other prior to such termination.
- 17.5. If the Supplier's appointment under this Contract has been suspended or terminated by the Customer pursuant to Clause 17.1, or terminated by the Supplier pursuant to Clause 17.2 then:
- 17.5.1. after suspension or termination of the Supplier's appointment under this Contract, the Supplier shall immediately provide to the Customer copies of all

Documentation for and in relation to this Contract which has been prepared by it or on its behalf or is in its possession;

17.5.2. the Supplier shall be entitled to send an invoice to the Customer for all outstanding Charges earned by the Supplier for the Services properly performed (whether wholly or in part) and Value Added Tax due thereon;

17.5.3. the Customer shall not be liable for any Losses howsoever arising out of or in connection with the suspension or termination of this Contract;

17.5.4. pursuant to the terms of this Contract, the Customer shall pay to the Supplier any instalments of any Charge and any other amounts which have accrued due prior to the date of suspension or termination, together with a proportion of the next following instalment of any Charge commensurate with the Services properly performed up to the date of suspension or termination carried out prior to the date of suspension or termination; and

17.6. If the Supplier's appointment under this Contract has been suspended or terminated by the Customer pursuant to Clause 17.2, 17.3 or **Error! Reference source not found.**:

17.6.1. after termination of the Supplier's appointment under this Contract, the Supplier shall immediately provide the Customer with copies of all Documentation for and in relation to this Contract which has been prepared by it or on its behalf or is in its possession;

17.6.2. the Customer shall not be liable for any Losses howsoever arising out of or in connection with the suspension or termination of this Contract.

18. Force Majeure

18.1. Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract (except in relation to payment) if such delay or failure result from events, circumstances or causes beyond its reasonable control (**Force Majeure Event**).

18.2. In such circumstances the relevant party shall use all reasonable endeavours to mitigate any such delays and the time for performance shall be extended by a period equivalent to the period during which the performance of the obligation has been delayed or failed to be performed by the Force Majeure Event or the affected party shall be entitled to a reasonable extension of time for performing such obligations.

19. Communications

19.1. Except as otherwise provided for in this Contract, all notices or other communications under or in respect of this Contract to either party must be in writing and shall be deemed to be duly given or made when delivered, in the case of personal delivery or sent by prepaid recorded delivery or registered post, or when posted, deemed to have been received 48 (forty-eight) hours after the same shall have been posted, or when despatched, in the case of e-mail, to the party addressed to him at the address stated in Clause 19.3 or such other address as such party may by notice in writing nominate for the purpose of service.

19.2. A written notice includes a notice by e-mail (confirmed by letter). A notice or other communication received on a non-working day or after normal business hours in the place of receipt, shall be deemed to be given or made on the next following working day in that place.

- 19.3. Any written notice provided under Clause 19.1 shall be sent:
- 19.3.1. in the case of the Customer, as set out in the relevant Order Form; and
 - 19.3.2. in the case of the Supplier, as set out in the relevant Order Form.
- 19.4. Either party may change its respective notice correspondence information referred to in Clause 19.3 by prior written notice to the other party.

20. Indemnities

- 20.1. The Supplier shall indemnify and keep indemnified in full the Customer from and against all Losses suffered or incurred by the Customer arising out of or in connection with:
- 20.1.1. the Supplier infringing or being held to infringe any Intellectual Property Rights in the performance of the Supplier's obligations under this Contract;
 - 20.1.2. the Customer infringing or being held to infringe any Intellectual Property Rights through the use of the Supplier's Background IP, the Project IP or the relevant Goods and Services;
 - 20.1.3. any wilful act, breach or negligent performance or non-performance of its obligations under this Contract by the Supplier;
 - 20.1.4. subject to the provisions of Clause 21.2.1, the death or personal injury of any person or physical damage to any property attributable to the Supplier's performance or non-performance of its obligations under this Contract; and/or
 - 20.1.5. any breach by the Supplier of its obligations pursuant to **Error! Reference source not found.** (Data Protection) of this Contract.
- 20.2. The indemnities in Clause 20.1 shall not apply to the extent that the relevant Losses are attributable to the Customer's breach, wilful act or negligent performance or non-performance of this Contract.

21. Limit of liability

- 21.1. Except where expressly stated elsewhere in this Contract:
- 21.1.1. the Supplier's total liability to the Customer for all losses howsoever arising under, for breach of, or in connection with this Contract is limited to, and shall not exceed the Supplier Liability Cap in the aggregate, save in respect of the indemnities granted by it under Clause 20.1;
 - 21.1.2. the Customer's total liability to the Supplier for all losses howsoever arising under, for breach of, or in connection with this Contract is limited to, and shall not exceed the Customer Liability Cap in the aggregate; and
 - 21.1.3. neither party shall be liable to the other for any indirect loss or consequential loss, loss of contribution to incidental costs, loss of profit or overheads or loss of reputation, howsoever arising under, for breach of, or in connection with this Contract.
- 21.2. Nothing in this Contract shall limit or exclude:
- 21.2.1. either party's liability to the other for death or personal injury resulting from that party's negligence; or

21.2.2. any damage or liability incurred by either party as a result of fraud or fraudulent misrepresentation by the other.

22. Anti-bribery and Corruption

22.1. The parties shall comply with Schedule 1 in relation to anti-bribery and corruption.

23. Data Protection

23.1. The parties shall comply with **Error! Reference source not found.** in relation to data protection.

24. Conflicts of interest

24.1. The Supplier may not, without the Customer's prior written consent, be directly or indirectly engaged, concerned or have any financial interest in any capacity with the Customer.

24.2. The Supplier shall promptly notify the Customer in writing of any actual or potential conflict of interest which arises during the Term and the Customer shall be entitled to require the Supplier to take such reasonable steps to remedy any conflict of interest as are reasonably required by the Customer.

25. The UK's decision to leave the European Union

25.1. Neither Brexit, nor any fluctuations in the GBP exchange rate (whether resulting directly or indirectly from Brexit), shall affect in any way the obligations of either party under this Contract and neither party shall be entitled to rely on Brexit and/or any fluctuations in the GBP exchange rate to make any claim against the other, whether for additional time, money or otherwise, on any basis, including for the avoidance of doubt in contract, tort or equity.

25.2. An event of Brexit and/or any fluctuations in the GBP exchange rate (whether resulting directly or indirectly from Brexit) shall not permit either party to vary and/or to terminate this Contract (or any part of this Contract) save where that party is otherwise entitled to vary and/or terminate the Contract (or any part of this Contract).

25.3. Both parties acknowledge that they have assessed the potential impact of Brexit on their ability to perform their obligations under this Contract and have taken all associated risks into account when entering into this Contract.

25.4. Both parties acknowledge and agree that any impact of Brexit on their ability to perform their obligations under this Contract shall not be deemed to be a Force Majeure Event for the purposes of Clause 18 of this Contract.

26. Dispute Resolution

26.1. If a Dispute arises in respect of this Contract then the procedure set out in this Clause 26 shall apply.

26.2. In the event of a Dispute, either party shall serve on the other party a Dispute Notice, together with any relevant supporting documentation.

26.3. Following the service of any Dispute Notice pursuant to Clause 26.2, UKRI Commercial Business Partner of the Customer and the Account Manager of the Supplier shall use reasonable endeavours to resolve the Dispute, in good faith.

26.4. If UKRI Commercial Business Partner of the Customer and Account Manager of the Supplier are for whatever reason unable to resolve the Dispute within 30 (thirty) days

of service of the relevant Dispute Notice, the Dispute shall be referred to UKRI Head of Commercial of the Customer and Head of Contract Management of the Supplier who shall use reasonable endeavours to resolve the Dispute, in good faith.

- 26.5. If UKRI Head of Commercial of the Customer and Company Director of the Supplier are for whatever reason unable to resolve the Dispute within 30 (thirty) days of the Dispute being referred to them pursuant to Clause 26.4, the parties will seek to settle the Dispute by mediation in accordance with the CEDR Model Mediation Procedure. The Mediator shall be nominated by CEDR Solve, unless otherwise agreed (in writing) between the parties. To initiate the mediation, a party must provide a written notice (ADR Notice) to the other party to the Dispute, requesting mediation. A copy of any such ADR Notice must be sent to CEDR Solve. The mediation will not start later than 15 (fifteen) after the date of the ADR Notice and the party providing the ADR Notice shall be responsible for all costs associated with the provision of such ADR Notice (subject to any agreement made between the parties in relation to costs associated with such mediation).
- 26.6. In the event that:
- 26.6.1. the Dispute is not resolved within 30 (thirty) days after the service of an ADR Notice; or
 - 26.6.2. either party fails to participate or fails to continue to participate in the mediation before the expiry of such 30 (thirty) days; or
 - 26.6.3. the mediation terminates before the expiry of such 30 (thirty) days,
- the Dispute shall be referred to the Courts of England and Wales in accordance with Clause 33 of this Contract.
- 26.7. No party may commence any court proceedings under Clause 33 of this Contract in relation to the whole or any part of a Dispute until 60 (sixty) days after the service of the ADR notice (provided that the right to issue proceedings is not prejudiced by a delay).

27. Records and Audit Access

- 27.1. The Supplier shall keep and maintain until 6 (six) years after the date of the end of the Term, full and accurate records and accounts of the operation of this Contract including but not limited to the Goods and Services provided under it in accordance with good accountancy practice.
- 27.2. The Supplier shall provide such records and accounts (together with copies of the Supplier's published accounts) during the Term and for a period of 6 (six) years after the date of the end of the Term to the Customer and/or the auditor and/or any statutory body entitled by Law on written request and shall provide the Customer and/or the auditor and/or any statutory body entitled by Law access to such records and accounts as may be required from time to time.
- 27.3. Subject the provisions of Clause 14, the Supplier shall on written request provide the auditor with all reasonable co-operation and assistance in relation to each audit, including:
- (a) all information requested by the auditor within the scope of the audit;
 - (b) reasonable access to sites controlled by the Supplier and to equipment and materials used in the provision of the Goods and Services; and
 - (c) access to the Supplier's Personnel.

27.4. The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 27 unless the audit reveals a material breach by the Supplier of good accountancy practice and/or this Contract, in which case the Supplier shall reimburse the Customer for the reasonable costs it incurs in relation to the audit.

28. Compliance with Anti-Slavery and Human Trafficking Laws and Policies

28.1. In performing its obligations under this Contract the Supplier shall comply with all applicable labour, anti-slavery and human trafficking legislation and regulations in force from time to time in the United Kingdom, including but not limited to the Modern Slavery Act 2015 (Anti-Slavery Laws).

28.2. The Supplier represents and warrants that, as at the date of this Contract, neither the Supplier nor any of its officers, employees or agents have been convicted of any offence involving slavery and/or human trafficking, nor have they been or are the subject of an investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and/or human trafficking whether pursuant to the Anti-Slavery Laws or any other relevant legislation in force from time to time.

28.3. The Supplier shall, throughout the Term, use its best endeavours to include, in all of its contracts with any of its subcontractors of any tier in the supply chain involved in the production or provision of the Goods and Services:

28.3.1. a provision obliging the relevant subcontractor to provide the Goods and Services specified in the relevant subcontract in accordance with Anti-Slavery Laws; and

28.3.2. provisions (to take effect upon a breach by the subcontractor of its obligation to provide the Goods and Services under the relevant subcontract in accordance with Anti-Slavery Laws) which provide that:

(a) if a subcontractor's failure to comply with Anti-Slavery Laws has occurred more than once in any 6 (six) month period, the Supplier must serve a written notice on the subcontractor;

(vi) specifying that the notice is a formal warning notice;

(vii) giving reasonable details of the subcontractor's breach; and

(viii) stating that the breach is a breach which, if it recurs frequently or continues, may result in a termination of the Subcontract;

(b) if, following service of a warning notice under Clause 28.3.2 (a), the breach specified has continued beyond 14 (fourteen) days or has recurred more than once within a 6 (six) month period after the date of the notice then the Supplier must serve another written notice on the subcontractor:

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

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

(iii) stating that, if the breach continues or recurs again within the 6 (six) month period after the date of the final warning notice, the subcontract may be terminated; and

(c) where a breach continues or recurs pursuant to Clause 28.3.2 (b), the Supplier may terminate the subcontract by 7 (seven) days' notice in writing to the subcontractor,

or provisions that are equivalent to and no less onerous than those set out above.

29. Contracts (Rights of Third Parties) Act 1999

29.1. Nothing in this Contract shall confer or purport to confer on any third party any benefit or the right to enforce any term of this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

30. Severability

30.1. If any part of this Contract becomes, or is determined by any court or tribunal to be, illegal or unenforceable, the remaining provisions shall remain in full force and effect.

31. Liability

31.1. The parties hereby agree that the Supplier shall remain liable under this Contract for 12 (twelve) years after the date of the end of the Term.

32. Counterparts

32.1. This Contract may be executed in one or more counterparts. Any single counterpart or set of counterparts executed, in either case, by all the parties shall constitute a full original of this Contract for all purposes.

33. Governing Law and Jurisdiction

33.1. The terms and conditions of this Contract and any Dispute shall be governed by the laws of England and Wales.

33.2. The parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any Dispute.

34. Waiver

34.1. A party's failure or delay to exercise a power or right under this Contract does not operate as a waiver of that power or right.

34.2. A waiver of a power or right will only be effective:

34.2.1. if it is in writing and signed by the party who has the benefit of the power or right being waived; and

34.2.2. in respect of the specific instance to which it relates and for the specific purpose for which it is given.

34.3. Communications between the parties made before the date of the Contract which are not expressly contained within the Contract shall not be deemed to be incorporated into the Contract.

34.4. Notwithstanding any other provision of the Contract, the terms approval or comment or consent when used in the context of any approval, comment or consent to be given by the Customer shall have the meaning acceptance of general principles only and no such approval, comment or consent shall diminish or relieve the Supplier from any of its obligations or responsibilities under or in connection with the Contract.

35. Amendments to this Contract

35.1. An amendment or variation to this Contract shall not be effective or binding unless it is in writing and signed by the Supplier and the Customer.

35.2. No amendment or variation to this Contract shall be permitted which could or does amount to a substantial variation for the purposes of regulation 72 of PCR (which the Customer shall determine in its sole discretion).

35.3. For the avoidance of doubt, the Customer shall be entitled to refuse any proposed amendment or variation to this Contract which does or could amount to a substantial variation for the purposes of regulation 72 of PCR.

Signed:

Signed:

FOIA Section 40 Personal Information



Date: 9th June 2023

Date: 09-06-2023.

Schedule 1. Anti-bribery and Corruption

- 1 The term Prohibited Act means
 - (a) directly or indirectly offering, promising or giving any person working for or engaged by the Customer a financial or other advantage of any kind to:
 - (i) induce that person to improperly perform a relevant function or activity;
or
 - (ii) reward that person for improper performance of a relevant function or activity;
 - (b) directly or indirectly requesting, agreeing to receive or accepting any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;
 - (c) committing any offence;
 - (i) under the Bribery Act 2010;
 - (ii) under Law creating offences in respect of fraudulent acts;
 - (iii) at common law, in respect of fraudulent acts; or
 - (iv) at common law, in respect of fraudulent acts relating to this Contract or any other contract with the Customer or any other public body; or
 - (d) defrauding, attempting to defraud or conspiring to defraud the Customer.
- 2 The Supplier:
 - (a) shall not, and shall procure that the Supplier's Personnel shall not, in connection with Contract, commit a Prohibited Act;
 - (b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Customer, or that any agreement has been reached to that effect, in connection with the execution of this Contract; and
 - (c) warrants that in entering into this Contract it has not committed any Prohibited Act (as declared by the Supplier pursuant to the Original Tender Process in accordance with regulation 57 of the PCR).
- 3 The Supplier shall:
 - (a) if requested in writing, provide the Customer, at the Customer's reasonable cost, to enable the Customer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010; and
 - (b) within 20 (twenty) days of the date of this Contract, and annually thereafter, certify in writing to the Customer compliance with this Schedule 1 by the Supplier and all persons associated with it or any other persons who are supplying the Goods and Services in connection with this Contract. The Supplier shall provide any such supporting evidence of compliance with this Schedule 1 as the Customer may reasonably request.
- 4 The Supplier shall put in place and maintain an anti-bribery policy (a copy of which shall be provided to the Customer within 20 (twenty) days of the date of this Contract) which

shall, as a minimum, prevent any Personnel from committing a Prohibited Act and shall enforce it where appropriate.

- 5 If at any time any breach of paragraph 2 above is suspected or known, the Supplier must notify the Customer immediately with the details of any such breach to follow in writing as soon as reasonably practicable.
- 6 If the Supplier notifies the Customer that it suspects or knows that there may be a breach of this Schedule 1, the Supplier will respond promptly to all of the Customer's enquiries in relation to any such suspected or actual breach and will co-operate at all times with any investigation, and permit the Customer access to and audit of any books, records and any other relevant documents. The obligation under this paragraph shall continue for 7 (seven) years following the expiry or termination of this Contract.
- 7 The Customer may terminate this Contract by written notice with immediate effect if the Supplier, its Personnel (in all cases whether or not acting with the Supplier's knowledge) breaches paragraph 2 of this Schedule 1. Any such termination shall be without prejudice to any right or remedy which has already accrued or which subsequently accrues to the Customer.
- 8 Any notice provided by the Customer pursuant to paragraph 7 must specify:
 - (a) the nature of the Prohibited Act;
 - (b) the identity of the party who the Customer believes has committed the Prohibited Act; and
 - (c) the date on which this Contract will terminate in accordance with the applicable provisions of this Schedule 1.
- 9 Notwithstanding Clause 26 (Dispute Resolution) of this Contract, the Customer shall determine any Dispute relating to the interpretation of this Schedule 1 and/or the amount or value of any gift, consideration or commission and any such determination by the Customer shall be final and binding upon the parties.

Schedule 2. Not used

Schedule 3. Re-tendering, handover and TUPE

1 In this Schedule, the following words and expressions shall have the following meanings:-

Assigned Employees has the meaning given in paragraph 2 (a) of this **Error! Reference source not found.**;

Deliverables Provision Change means the date of any transfer of all or part of the Goods and Services to the Customer or a New Supplier whether pursuant to regulations 3(1)(a) and/or 3(1)(b) of TUPE and/or otherwise;

Employee Liability Information means the information specified in regulation 11(2) of TUPE;

New Supplier means any person who following the end of the Term who provides all of the Goods and Services which immediately before such end of the Term were provided by the Supplier or its subcontractors pursuant to this Contract;

Retendering Information has the meaning given in paragraph 2(a) of this **Error! Reference source not found.**;

Returning Employees means those employees of the Supplier and its subcontractors who are wholly or mainly engaged in the provision of Goods and Services at or immediately before the expiry or termination of the provision by the Supplier or its subcontractor of such Goods and Services and whose employment transfers to a New Supplier pursuant to TUPE; and

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006;

Re-Tendering and handover (employee related information)

2 Without prejudice to Clause 29.1 of this Contract and subject to any restriction on processing of information under the Data Protection Legislation (in which case the definition of Retendering Information set out in paragraph 2 (a) below shall be limited accordingly), the Supplier shall within the period of 12 (twelve) months immediately preceding any Contract End Date or immediately following any notice to terminate this Contract:

- (a) on receiving a written request from the Customer, provide in respect of any person engaged or employed by the Supplier or any subcontractor in the provision of the Goods and Services (**Assigned Employees**) full and accurate details regarding the identity, number, age, sex, length of service, job title, grade and terms and conditions of employment and of other matters affecting each such individuals who it is expected, if they remain in the employment of the Supplier until immediately before the relevant Contract End Date or immediately before the date this Contract is terminated (as relevant), would be Returning Employees (the **Retendering Information**);
- (b) provide the Retendering Information promptly and at no cost to the Customer or any New Supplier;
- (c) promptly notify the Customer and/or any New Supplier forthwith in writing of any material changes to the Retendering Information as and when such changes arise.

- 3 The Supplier shall not and shall procure that its subcontractors shall not within the period of 12 (twelve) months immediately preceding any Contract End Date or immediately following any notice to terminate Contract:
- (d) make any material increase or decrease in the numbers of Assigned Employees other than in the ordinary course of business and with the Customer's prior written consent (such consent not to be unreasonably withheld or delayed);
 - (e) make any increase in the remuneration or other change in the terms and conditions of the Assigned Employees other than in the ordinary course of business and with the Customer's prior written consent (such consent not to be unreasonably withheld or delayed);
 - (f) transfer any of the Assigned Employees to another part of its business or move other employees from elsewhere in its or their business who have not previously been employed or engaged in providing the Goods and/or Services, to provide any of the Goods and/or Services, save with the Customer's prior written consent (such consent not to be unreasonably withheld or delayed).
- 4 Without prejudice to paragraph 2 and 3 of this **Error! Reference source not found.**, the Supplier shall provide the Employee Liability Information at such time or times as are required by TUPE and shall warrant at the time of providing such Employee Liability Information that such information will be updated to take account of any changes to such Employee Liability Information as are required by TUPE.

Transfer of Returning Employees

- 5 The Supplier will comply with all reasonable instructions from the Customer with regard to arrangements connected with any Deliverables Provision Change (including the orderly transfer of any Returning Employees) and will take all reasonable steps to mitigate any costs which the Customer as a result of any Deliverables Provision Change.
- 6 On the expiry or earlier termination of this Contract, the parties agree that it is their intention that TUPE shall apply in respect of the provision thereafter of any Goods and Services equivalent to the Goods and Services but the position shall be determined in accordance with Law in force at such time, and the following provisions of this **Error! Reference source not found.** are without prejudice to such determination.
- 7 Upon expiry or termination of this Contract, the following provisions shall apply:
- (a) the Supplier shall, or shall procure that, all wages, salaries and other benefits of the Returning Employees and other employees or former employees of the Supplier and its subcontractors and all PAYE tax deductions, pension contributions and national insurance contributions relating thereto in respect of the employment of the Returning Employees and such other employees or former employees of the Supplier or its subcontractors up to the relevant date of expiry or termination are satisfied; and
 - (b) without prejudice to paragraph 7(a), the Supplier shall:
 - (i) remain responsible for all of its and its subcontractors' employees (other than the Returning Employees) on or after the relevant date of expiry or termination and shall indemnify and keep indemnified in full the Customer for itself and any New Supplier against all Losses incurred by the Customer or any New Supplier resulting from any claim whatsoever whether arising before on or after the relevant date of expiry or termination, by or on behalf of, any of the employees of the Supplier or

any of its subcontractors who do not constitute the Returning Employees;

(ii) in respect of Assigned Employees or former Assigned Employees, indemnify and keep indemnified in full the Customer and any New Supplier against all Losses incurred by the Customer or any New Supplier resulting from any claim whatsoever, by or on behalf of, any of the Assigned Employees or former Assigned Employees in respect of the period on or before the relevant date of expiry or termination (whether any such claim, attributable to the period up to and on the relevant date of expiry or termination, arises before, on or after such date) including but not limited to any failure by the Supplier or any of its subcontractors to comply with its or their obligations under regulations 13 and 14 of TUPE and any award of compensation under regulation 15 of TUPE and/or Article 6 of Directive as if such legislation applied, even if it does not in fact apply, save to the extent that any such failure to comply arises as a result of an act or omission of the Customer or any New Supplier;

(iii) indemnify and keep indemnified in full the Customer and any New Supplier against all Losses arising out of any claim or allegation by any person (other than an Assigned Employee) that his/her employment transfers to the Customer and/or any New Supplier by virtue of TUPE including the employment and/or dismissal of any such individuals by the Customer and/or any New Supplier ; and

(c) the Customer shall be entitled to assign the benefit of this paragraph 7 to any New Supplier.

8 If TUPE does not apply on the relevant expiry or termination date, the Customer shall use its reasonable endeavours to procure that any New Supplier shall offer employment to the persons employed by the Supplier or its subcontractors and assigned immediately before the relevant expiry or termination date to the provision of the Goods and Services which the Supplier and its subcontractors are to cease to provide from such date and the following provisions shall apply:

(a) if an offer of employment is made in accordance with this paragraph 8, the employment shall be on the same terms and conditions (except for any entitlement to membership of an occupational pension scheme) as applied immediately before the relevant expiry or termination date including full continuity of employment, except that the Customer or the New Supplier may, at its absolute discretion, not offer such terms and conditions if there has been any change to the terms and conditions of the persons concerned in breach of paragraph 3 of this **Error! Reference source not found.**;

(b) where any such offer as referred to in paragraph 8(a) is accepted, the Supplier shall indemnify and keep indemnified in full the Customer and any New Supplier on the same terms and conditions as those set out in paragraph 7(b) as if there had been a "relevant transfer" for the purposes of TUPE in respect of each and every employee who has accepted any such offer and for the purposes of this Clause, each and every such employee shall be treated as if they were a Returning Employee; and

(c) where such offer as referred to in paragraph 8(a) is not accepted and TUPE does not apply, the employee shall remain an employee of the Supplier or its subcontract as appropriate.

- 9 No later than 14 (fourteen) days following the relevant expiry or termination date, the Supplier shall provide to the Customer and any New Supplier, updated payroll information following the final payroll run and P45 details in respect of all Returning Employees.
- 10 For a period of 12 (twelve) months after the relevant expiry or termination date, the Supplier shall within 21 (twenty one) days of receipt forward to the New Supplier as directed by the Customer or the New Supplier, any notices, correspondence, information or enquiries which relate to any Returning Employees who are employed by the Customer or any New Supplier after the relevant expiry or termination date.

Schedule 4. Not Used

Schedule 5. Key Performance Indicators

- 1 The Call-Off KPIs are as set out in the Order Form.
- 2 The parties acknowledge the provisions of Schedule 7 of the Framework Agreement.
- 3 The parties agree that the Customer may amend the Call-Off KPIs during the term as agreed, in writing, with the Supplier.
- 4 The Supplier shall establish suitable processes to ensure it can monitor its performance of the provision of the Goods and Services in accordance with the Call-Off KPIs under this Contract and that it is able to report on the same to the Customer.
- 5 At the end of each quarter during the Term, the Supplier shall provide the Customer (and, pursuant to the Framework Agreement, the Authority) with a report containing sufficient data setting out the Supplier's performance of the Call-Off KPIs. The Supplier acknowledges that the Customer will review such reports to determine the Supplier's effectiveness and efficiency of the Supplier's performance of the Call-Off KPIs.
- 6 If in the Customer's opinion, acting reasonably, the Supplier is not meeting the requirements of the Call-Off KPIs following a review of the reports provided pursuant to paragraph 5 above, the Customer may within 15 (fifteen) days give written notice (an **Initial KPI Warning Notice**) to the Supplier setting out:
 - (a) the matter or matters giving rise to such notice;
 - (b) the date by which such matters must be rectified by; and
 - (c) a reminder of the implications of such notice.Any such Initial KPI Warning Notice shall state on it that is an Initial KPI Warning Notice.
- 7 If the Supplier (in the Customer's reasonable opinion) fails to adequately address the matter or matters set out in the Initial KPI Warning Notice by the date contained in such Initial KPI Warning Notice, the Customer may (at its discretion) issue a further written notice (a **Final KPI Warning Notice**) to the Supplier setting out:
 - (a) the matter or matters continuing rise to such notice;
 - (b) the date by which such matters must be rectified by; and
 - (c) a reminder of the implications of such notice.Any such Final KPI Warning Notice shall state on it that is a Final KPI Warning Notice.
- 8 Without prejudice to any other rights under this Contract if the Supplier (in the Customer's reasonable opinion) fails to adequately address the matter or matters set out in the Final KPI Warning Notice by the date contained in such Final KPI Warning Notice, the Customer may terminate this Contract by giving not less than 7 (seven) days written notice to the Supplier.
- 9 In the event that the Framework Agreement is terminated in accordance with Schedule 7 of the Framework Agreement, the Supplier acknowledges that the Customer may terminate this Contract.



EFM5056 LU

Waste Management Services (Sustainable)

Schedule 6: Performance Management Framework

TABLE OF CONTENTS

1	Introduction	32
2	performance failure	32
3	Rectification Procedure	32
3.1	Introduction	32
3.2	Rectification Notice	32
3.3	Period to Remedy a Rectification Notice	33
4	Default Procedure	33
4.1	Introduction	33
4.2	Default Notice	34
4.3	Service Credits	34
4.4	Period to Remedy a Default Notice	35
5	CONTRACT Termination Proceedings	35
5.1	Introduction	35
5.2	Thresholds relating to the issue of a Warning Notice	36
5.3	Thresholds relating to the issue of a Termination Notice	36
6	Key Performance Indicators	36
	Appendix A – Rectifiable Default Process Flow Diagram	38
	Appendix B – Calculated Credit Methodology	39

1 INTRODUCTION

- 1.1.1 This Performance Management Framework sets out the process for managing the performance of contracts under the Waste Management Services (Sustainable) Framework. The vision is to deliver a self-monitoring Framework. There is an onus on the Supplier to evidence the level of performance being achieved and to respond to Performance Failures in a timely fashion to minimise the impact to Member Institutions and to ensure a high-quality Service is delivered.
- 1.1.2 The Performance Management Framework relates to the Supplier's obligations in the Specification and the Supplier's Service Delivery Plan (Method Statements). The purpose of this Performance Management Framework is to:
- define what Performance management means within the context of this Framework;
 - sets out what is deemed to be a Performance Failure; and
 - provide a guide to all those involved in the Framework's performance management process.
- 1.1.3 The Performance Management Framework applies to all those engaged in the delivery of the vision for the Services. The Performance Management Framework sets out the principles for remedy and default for Performance Failures and the Services' Key Performance Indicators.

2 PERFORMANCE FAILURE

- 2.1.1 Defaults shall apply from four (4) weeks and onwards from Service Commencement Date.
- 2.1.2 If at any time other than within the first four (4) weeks from the Services Commencement Date, any Works or Services are not of an acceptable Standard or do not meet the performance standards as set out in Table (a 'Performance Failure'), then the Member Institution may issue (without prejudice to its other rights under the Framework, including notice to terminate the Supplier) a Rectification Notice and/or Default Notice in accordance with this paragraph or may advise the Supplier verbally of any works which may become the subject of a Rectification Notice and/or Default Notice.

3 RECTIFICATION PROCEDURE

3.1 Introduction

- 3.1.1 The Member Institution will issue a Rectification Notice, where there has been a rectifiable Performance Failure, to the Supplier giving details of the Performance Failure and requiring the Supplier to remedy such Performance Failure within a specified period of time (see Performance Management Framework process flow diagram in Appendix A to this Schedule).

3.2 Rectification Notice

- 3.2.1 Typically, the Rectification Notice will contain the following details:
1. A unique reference, be dated and authorised by the Member Institution.
 2. The Location of the particular site where the Performance Failure has occurred, such description to be clear.
 3. The date and time at which the Performance Failure was found to exist.
 4. A description of the Performance Failure required to be remedied.

5. A description of the action required to remedy the Performance Failure and where applicable the methodology to be used.
 6. The period of time being allowed to remedy the Performance Failure (the 'Rectification Period'), as stipulated by the Member Institution. For Collection issues, this will normally be one (1) Working Day but subject to a maximum limit of two (2) Working Days and no minimum.
 7. The Rectification Notice will include provision for the Supplier to respond and advise the time and date on which the remedial work was completed.
 8. The Supplier must sign / authorise and date the Rectification Notice and return it to the Member Institution with a copy to LUPC to verify completion of any remedial work.
 9. Confirmation that a Performance Point shall apply.
- 3.2.2 Following the issue of a Rectification Notice, remedial work will be carried out by the Supplier in accordance with the period set out in the Rectification Notice pursuant to Paragraph 3.3 of this Performance Management Framework.
- 3.3 Period to Remedy a Rectification Notice
- 3.3.1 The period allowed in which to remedy any Performance Failure identified in a Rectification Notice will commence on receipt by the Supplier of the notice itself and the Supplier will carry out whatever Works are necessary to effectively remedy the Performance Failure within the period specified. The Supplier shall be required to provide evidence of Task completion (i.e. date, time and photographic evidence), where possible via the In-Cab Technology, mobile device or via other electronic means prior to the Member Institution approving payment.
- 3.3.2 The timescales for rectification ('Rectification Period') are set out in Table 2.
- 3.3.3 On the issuance of a Rectification Notice the Supplier shall be required to execute properly or remedy the Performance Failure in accordance with the Member Institution's instructions.
- 3.3.4 If the Supplier fully complies with the terms of the Rectification Notice, within the Rectification Period, then the Member Institution shall take no further action, with the exception of the terms set out within sections 4 and 5 of this Performance Management Framework.

4 DEFAULT PROCEDURE

4.1 Introduction

- 4.1.1 Where a Performance Failure cannot be rectified (a Non-rectifiable Default) or where after the issue of a Rectification Notice, the Supplier fails to remedy a failure within the period allowed, the Member Institution will be entitled to issue to the Supplier a Default Notice giving details of the failure and, if appropriate, requiring the Supplier to remedy such failure within a specified period of time (see process in Appendix A for a Rectifiable Default and Appendix B for a Non-rectifiable Default). Examples of situations that would be interpreted as a Non-rectifiable Default include but are not limited to:
- a. breaches of health and safety;

- b. omission of major Tasks or significant failure to meet Specification, Service levels (excluding elements which are deemed to be a Rectifiable Default);
- c. if the Supplier repeatedly does not comply with Rectification Notices within the timescale set out within those Notices;
- d. where a Collection Performance Failure (regardless of collection type i.e. occurs at the same Site more than twice (2) within three (3) collections;
- e. where the Supplier fails to deliver the scheduled Work for that Prescribed Day, unless in exceptional circumstances as determined by the Member Institution;
- f. where the Performance Failure affects, or is likely to affect, the reputation of the Member Institution; and

4.1.2 Where the agreed Rectification Periods, as set out in the Rectification Notice are not complied with, the Member Institution may issue further Default Notices until rectification is achieved or until the Supplier hits either threshold set out in section 5 which would initiate Contract Warning Notice or Contract Termination Proceedings.

4.1.3 The Member Institution's decision on the issuing of any Default Notice shall be final and binding on all concerned.

4.2 Default Notice

4.2.1 A Default Notice will be issued by the Member Institution and will contain the following details:

1. A unique reference, be dated and authorised by the Member Institution.
2. The date and reference number of the relevant Rectification Notice if applicable.
3. The Location of the particular Site where the Performance Failure has occurred, such description to be clear.
4. The date and time at which the Performance Failure was found to exist.
5. A description of the Performance Failure required to be remedied.
6. A description of the action required to remedy the Performance Failure and, where applicable, the methodology to be used.
7. The period of time being allowed to remedy the Performance Failure, taking into account the period of time already allowed in any Rectification Notice, after which a second Default Notice can be issued will be subject to a maximum of 48 hours and no minimum, unless otherwise agreed by the Member Institution.
8. Value of Service Credit.
9. Confirmation that a Performance Point shall apply.

4.3 Service Credits

4.3.1 When a Default Notice is issued, the Member Institution will determine whether the Service Performance Failure constitutes any of those set out in Table 2 Performance Failures listed in Table 2 have pre-estimates of the likely costs incurred by the Member Institution as a consequence of the Service Performance Failure (a 'Pre-estimated Credit').

4.3.2 For each Default Notice issued for a Performance Failure listed in Table 2, the corresponding Pre-estimated Credit shall be used subsequently by the Supplier to calculate the total Service Credits to be applied in the relevant Month against the Monthly Payment in accordance with the payment mechanism for the Services.

4.3.3 The Pre-estimated Credit rates provided will be adjusted on the anniversary of the Contract using the Indexation mechanism as set out in the payment mechanism for the Services.

4.3.4 For a Default Notice issued for a Performance Failure other than those listed in Table 2, the Member Institution may apply a calculated Service Credit (a 'Calculated Credit') in the relevant Month against the Monthly Payment in accordance with the payment mechanism for the Services.

4.4 Period to Remedy a Default Notice

4.4.1 The period allowed in which to remedy the Performance Failure will commence on receipt by the Supplier of the Default Notice. The Supplier shall carry out whatever Works are necessary to remedy the failure for every Default Notice within the period allowed. Where the Member Institution incurs additional costs as a result of the Default then those costs will be notified by the Member Institution to the Supplier and deducted from the Supplier's next Monthly payment.

5 CONTRACT TERMINATION PROCEEDINGS

5.1 Introduction

5.1.1 In addition to the rectification and default procedures set out in sections 3 and 4 of this Performance Management Framework, the Member Institution will also utilise a cumulative total of Service Credits and Performance Points to determine when a Contract Warning Notice may be issued or when Contract Termination proceedings should commence for persistent Performance Failure.

5.1.2 Any Performance Points allocated pursuant to the Performance Management Framework must be recorded by the Supplier and will remain valid for a period of 12 months from the date of allocation.

5.1.3 A cumulative total of Service Credits and Performance Points will be recorded and maintained by the Supplier in relation to each rolling 6-month and 12-month period of the Contract Term (or such other period as the Member Institution may require), in order to track Warning Notice and Termination Notice Thresholds. This will be provided to the Member Institution as part of a Monthly Report. Such record will inform the parties as to whether a Warning Notice or a Termination Notice may be issued pursuant to section 6 of this Performance Management Framework.

Table 1: Cumulative Thresholds

Rolling Cumulative thresholds	Service the Threshold applies to	Warning Notice Threshold (rolling 6-months)	Termination Notice Threshold (rolling 12-months)
Cumulative Total Service Credits (£)	Lot 1	£1500	£3000
Cumulative Total Performance Points	Lot 1	6	10

5.2 Thresholds relating to the issue of a Warning Notice

- 5.2.1 The Authority may issue the Supplier with a “**Warning Notice**” detailing the Performance Failure or Performance Failures applicable where:
- a. The Supplier suffers Service Credits in excess of the values stated in Table 1 during any rolling 6-month period covering operation of the Service;

5.3 Thresholds relating to the issue of a Termination Notice

- 5.3.1 The Member Institution may issue the Supplier with a Termination Notice, where:
- a. the Supplier suffers Service Credits in excess of the values stated in Table 1 during any rolling 12-month period covering operation of the Services

6 KEY PERFORMANCE INDICATORS

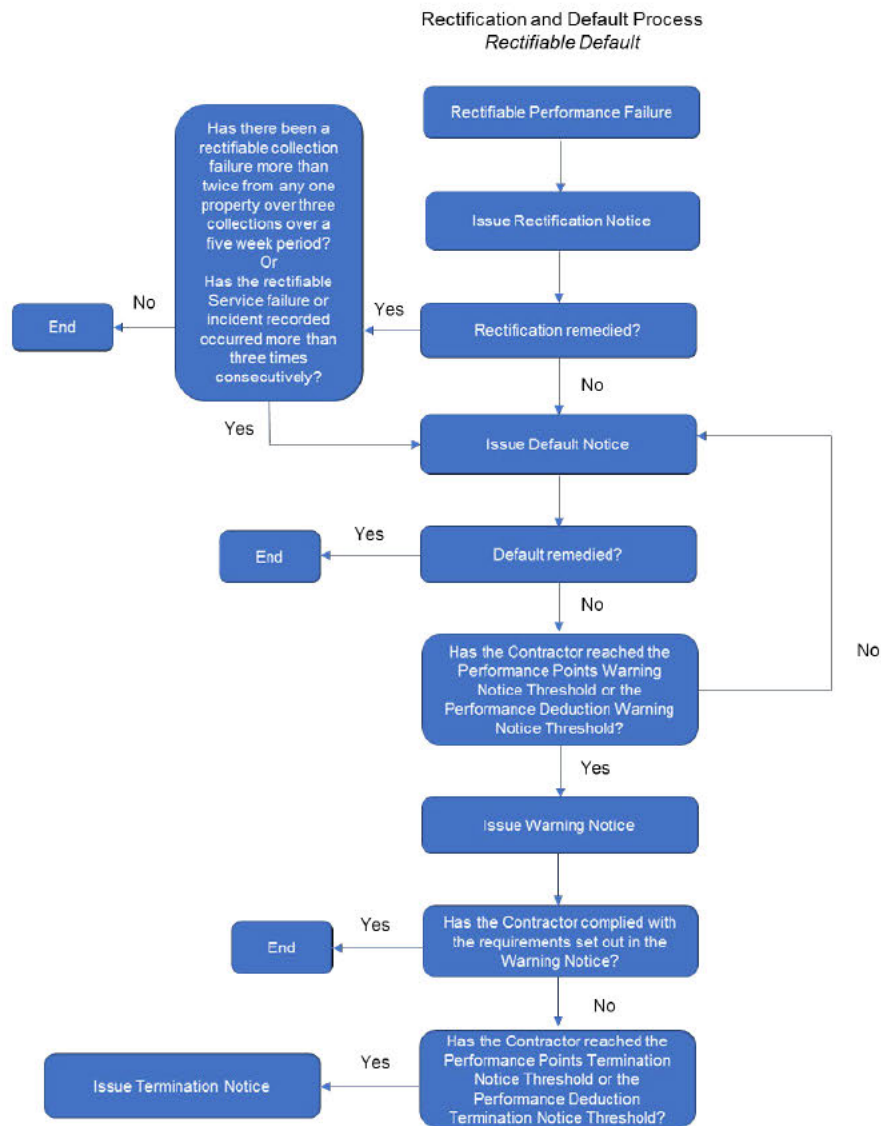
- 6.1.1 Table 2 below sets out the Key Performance Indicators (KPIs) to be achieved by the Supplier.
- 6.1.2 Where the Supplier fails to achieve the KPIs set out in Table 2, a Rectification Notice and/or a Default Notice may be issued against those KPIs, and an Action Plan to address the issues will be produced by the Supplier for approval by the Member Institution
- 6.1.3 Not less than one (1) month prior to the Service Commencement Date, the Supplier shall jointly agree, with the Member Institution, the KPIs to be achieved for the Contract Term.

Tables of Performance standards and targets (KPIs)

Table 2: Key Performance Indicators

No	Performance Standard	Rectifiable or Non-rectifiable	Service Credit	Monitoring Frequency	Rectification Period
1	Missed Collection- General Waste/ Recyclable Waste/ Bulky Waste/Clinical Waste/Hazardous waste per bin (excluding Lot 5)	Rectifiable	£50 per bin collection missed	in accordance with the agreed delivery schedule	24 hours
2	Missed Collections covering more than ten (10) bins within a single Site	Rectifiable	£500 per collection area missed	in accordance with the agreed delivery schedule	24 hours
3	Missed Collections covering the majority (up to 80%) or whole of a scheduled Site	Rectifiable	£500 per Round missed	in accordance with the agreed delivery schedule	24 hours
4	Justified Service Complaint (as determined by the Member Institution)	Non-rectifiable	£100 per complaint	Monthly	N/A
5	Resolution of Complaint outside of timeframe agreed with Member Institution	Non-rectifiable	£50 per complaint	Monthly	N/A
6	Monthly report later than [21] calendar days from the end of the month being reported on/ Submission of complete and accurate monthly report to Member Institution less than [5] days prior to the monthly meeting	Rectifiable	£100 per late report	Monthly	One month
7	Inaccurate Invoices not including details for all waste types, in line with Member Institution specification and tender pricing	Rectifiable	£50 per inaccurate invoice	Monthly	One month
8	Bin area not left in a clean and tidy condition following collections. Bin covers not down and locked, where appropriate, bins not replaced in correct order and secured.	Rectifiable	£10 per incident	Monthly	48 hours
9	Instances of contravention of Health and Safety regulations or accidents notified	Non-rectifiable	£100 per incident	Monthly	24 hours

APPENDIX A – RECTIFIABLE DEFAULT PROCESS FLOW DIAGRAM



APPENDIX B – CALCULATED CREDIT METHODOLOGY

1. The Calculated Credit is calculated by adding together the following costs:
 - a) A sum calculated from the rates set out in the Pricing Schedules in respect of the Services or part thereof which have not been performed or are not in compliance with Specification and/or Supplier's Service Delivery Plan and which are the subject of the Default Notice. The Member Institution will not pay for Services which have not been performed; plus
 - b) The amount of any damages, value of property, cost of remedy, or compensation of whatever kind and description incurred or suffered by the Member Institution as a consequence of the Supplier's Default.
2. The Calculated Credit relevant to each Default Notice shall be used subsequently by the Supplier to calculate the total Service Credits to be applied in the relevant Month against the Net Monthly Service Payment in accordance with the payment mechanism for the Services.