

Rutland County Council

District Council



CONTRACT DOCUMENT

TREATMENT OF WASTE, RECYCLABLE & COMPOSTABLE MATERIALS CONTRACT

START APRIL 1st 2011

BLANK PAGE

Treatment of Waste, Recyclable & Compostable Materials Contract

Index

1.	Conditions of Contract	Page 5
2.	Specification	Page 35
3.	Information & Instructions to Tenderers	Page 43
4.	Tender Documentation	Page 53
5.	Appendices	Page 71

BLANK PAGE

1. CONDITIONS OF CONTRACT

<u>CONTENTS</u>	<u>PAGE</u>
1. Definitions and Interpretation	9
2. The Supervising Officer	11
3. Performance of Service	11
4. Modifications	11
5. Method of Payment	12
6. Monthly Statement	12
7. Additions and Deductions	12
8. Certification	12
9. Interest on Overdue Payments	12
10. Copy Certificate	13
11. Value Added Tax	13
12. Income Tax	13
13. Units	14
14. Documentation	14
15. Extra Work	14
16. Assignment	14
17. Employees	14
18. Liability of Contractor	16
19. Agency	16
20. Insurance	16
21. Bribery and Corruption	17
22. Gratuities	17

<u>CONTENTS</u>	<u>PAGE</u>
23. Liability of Council	17
24. Default in Performance	18
25. Default by Contractor	19
26. Termination by Council	19
27. Termination by Contractor	20
28. Method of Review	20
29. Observance of Statutory Requirements	22
30. Rights and Duties Reserved	22
31. Stamp Duty and Legal Fees	22
32. Condition Headings	22
33. Performance Bond or Parent Company Guarantee	22
34. Statutory Requirements	23
35. Confidentiality, data protection and freedom of information	23
36. Waiver	25
37. Severance	25
38. Copyright	25
39. Health and Safety	25
40. Change of Law	26
41. Consequence of Termination	27
42. Disruption	27
43. Recovery upon Termination	28
44. Force Majeure	28
45. Dispute resolution	29
46. TUPE	31

	<u>CONTENTS</u>	<u>PAGE</u>
47.	Legal Compliance	31
48.	Supervision	32
49.	Complaints	32
50.	Vehicles	33

BLANK PAGE

1. DEFINITIONS AND INTERPRETATION

In this Contract, save where the context otherwise requires, the following expressions shall have the meanings hereby assigned to them:

- 1.1 "Annual Sum" means the annual sum payable by the Council to the Contractor calculated in accordance with his Tender;
- 1.2 "Bill of Quantities" means the priced Bill of Quantities forming part of the Contract Document;
- 1.3 "Commencement Date" means the date from which the Contractor commences the Service;
- 1.4 "Compliance Notice" means a notice issued to the Contractor who for whatever reason, fails to provide or perform the Service in whole or in part completely in accordance with the terms of the Contract;
- 1.5 "Conditions" means these conditions, any supplementary conditions and any modification thereof;
- 1.6 "Contract" means any formal contract document entered into between the Contractor and Council and includes the documents incorporated therein and forming part thereof and any modifications thereto;
- 1.7 "Contract Document" means this document, which includes Conditions of Contract, Specification, Tender and Tendering documentation, and any accompanying documents relating to the Service specified;
- 1.8 "Contract Manager" means the representative of the Contractor appointed pursuant to Condition 17.3;
- 1.9 "Contractor" means the person, persons, firm, firms, companies working in partnership or company whose tender is accepted by the Council;
- 1.10 "Contract Period" means the period or periods stated in the Contract Document or any extension to that Contract Period agreed with the Supervising Officer.
- 1.11 "Contract Standard" means such a standard as complies in each and every respect with all relevant provisions of the Contract and to the extent that no criteria are stated in the Contract, the standard will be to the entire satisfaction of the Supervising Officer.
- 1.12 "Council" means the Council of the Rutland County Council District Council or any successor authority;
- 1.13 "C.A.S" means Civic Amenity Sites;
- 1.14 "Day Work Rates" means the rates for the performance of additional services described in the Bill of Quantities forming part of the Contract Document;

- 1.15 "Default" means that the Contractor, for whatever reason, fails to provide or perform the Service in whole or in part completely in accordance with the terms of the Contract;
- 1.16 "Default Notice" means a notice issued to the Contractor for failing to comply with a Compliance Notice;
- 1.17 "Delivery Point" means E. A. Permitted premises and locations where waste and/or recyclable materials and/or compostable materials can be delivered and treated;
- 1.18 "E.A." means the Environment Agency;
- 1.19 "Review Date" means each annual date starting from the second and then subsequent years of the Contract Period;
- 1.20 "Month" means one calendar month;
- 1.21 "Monthly Sum" means the monthly sum payable by the Council to the Contractor calculated in accordance with the Tender;
- 1.22 "Municipal Waste" is any waste or materials collected by the Council detailed under European Waste Catalogue code 20;
- 1.23 "Party" means the Contractor or the Council;
- 1.24 "Plant" means any vehicle, equipment or machinery used in the performance of the Service by the Contractor;
- 1.25 "Provisional Works" are works items identified in the Bills of Quantities that may or may not be a part of the Contract, subject to the Supervising Officer's discretion;
- 1.26 "Service" means the Service described in the Contract Document or any modification of it;
- 1.27 "Supervising Officer" means the Director of Community Services of the Council or any person duly authorised by him in writing to act on his behalf;
- 1.28 "Tender" means a Tenderer's bid for the Service;
- 1.29 "Tenderer" means a firm or company asked to bid for the Service;
- 1.30 "Treatment" means materials delivered to Delivery Points which are treated in such away that they are not taken to Landfill and meet the Council's Landfill Allowance Targets for the Contract Period (see specification);
- 1.31 "Week" means 7 consecutive days starting on Monday and ending the following Sunday;

- 1.32 "Working Day" means the Council's working days, which are Monday to Friday inclusive excluding public bank holidays.
- 1.33 The masculine includes the feminine and in the case of a limited company the indefinite article and the singular includes the plural and vice versa;
- 1.34 The Contract shall be governed by and construed in accordance with English Law;
- 1.35 Reference to an Act of Parliament or any Order, Regulation, Statutory Instrument or the like shall include a reference to any amendment or re-enactment of the same;

2. THE SUPERVISING OFFICER

- 2.1 The functions, rights and powers conferred by this Contract upon the Council shall be exercised by the Supervising Officer. The Contractor shall in no circumstances question the existence or extent of the authority of any person authorised by the Supervising Officer to act on his behalf.

3. PERFORMANCE OF SERVICE

- 3.1 During the Contract Period the Contractor shall perform the Service (and any modifications thereof authorised under the Conditions) in a manner totally consistent with the terms and conditions of the Contract and to the entire satisfaction of the Supervising Officer.
- 3.2 The Contractor shall at all times perform such Service in accordance with the Contract (and any modifications thereof) authorised under the Conditions.

4. MODIFICATIONS

The Supervising Officer shall be entitled to issue to the Contractor instructions in writing requiring the Contractor to do all or any of the following:

- 4.1 to omit and to cease to perform any part of the Service for such period as the Supervising Officer may decide;
- 4.2 to perform the Service or any part thereof in such manner as the Supervising Officer may require;
- 4.3 to perform such additional services outside the scope of the Service as the Supervising Officer may require provided that such additional services shall be the same as or similar to the Service under the Contract in which case the Day Work Rates shall apply to such additional services;
- 4.4 To vary the Programme and to perform the Service in accordance with the Programme as so varied and the Contractor shall be bound by and shall forthwith carry out all such instructions;

4.5 The Council shall reimburse the Contractor for all costs reasonably incurred by him in carrying out any instructions under this Condition.

5. METHOD OF PAYMENT

5.1 Provided that the Contractor shall have performed the Service in accordance with the Contract, the Council shall pay to the Contractor at the rates and prices contained in the Contract Document, Bills of Quantities.

6. MONTHLY STATEMENT

The Contractor shall submit to the Supervising Officer or his representative after the end of each calendar Month a statement showing:

6.1 His valuation of the work undertaken in respect of each aspect of the Contract up to the end of that Month;

6.2 The amounts to which the Contractor considers himself entitled in connection with any variations or instructions for additional services duly authorised by the Supervising Officer.

7. ADDITIONS AND DEDUCTIONS

The Supervising Officer shall have the power to amend any monthly statement in respect of:

7.1 The deduction of any penalties for work not carried out or work not done to a satisfactory standard and for which the appropriate Default Notices have been issued in accordance with the Conditions;

7.2 The variation by addition or deduction of the value of any additional work and omissions which has been duly authorised.

8. CERTIFICATION

8.1 Within 28 days of the date of delivery to the Supervising Officer of the monthly statement by the Contractor, the Supervising Officer shall certify and the Council shall pay to the Contractor (after deducting any previous payment on account) the amount which, in the opinion of the Supervising Officer on the basis of the monthly statement is due to the Contractor including the sum (if any) to be added by way of Value Added Tax and the sum (if any) to be deducted by way of Income Tax.

9. INTEREST ON OVERDUE PAYMENTS

9.1 In the event of failure by the Supervising Officer to certify or the Council to make payment in accordance with the Conditions the Council shall pay to the Contractor interest on any payment overdue thereunder at a rate per annum equivalent to 3% plus the HSBC plc minimum lending rate current on the date upon which such payment first becomes overdue.

9.2 In the event of variation in the Minimum Lending Rate being announced whilst such payment remains overdue the interest payable to the Contractor for the period that such payment remains overdue shall be correspondingly varied from the date of each such variation.

10. COPY CERTIFICATE

10.1 A copy of the valuation, including amendments, which the Supervising Officer has used to prepare the certificate of payment, shall be provided to the Contractor within a reasonable time after completion.

11. VALUE ADDED TAX

11.1 Sums payable to the Contractor pursuant to this Contract are exclusive of Value Added Tax "V.A.T.".

11.2 The Council shall pay to the Contractor in the manner hereinafter set out any V.A.T. properly chargeable on the supply by the Contractor of the Service at the appropriate rate.

11.3 The Contractor shall not later than the date for the issue of the monthly certificate in accordance with the Conditions inform the Supervising Officer in writing in respect of the Service performed during that period:

- (i) which part or parts of such Service are exempt from V.A.T.;
- (ii) which part or parts of such Service bear a zero rate of V.A.T.;
- (iii) which part or parts of such Service bear a rate of V.A.T. greater than zero, in each case specifying the exact rate chargeable.

11.4 Upon receipt by the Contractor of any payment made by the Council pursuant to the Conditions, being a payment including V.A.T., the Contractor shall forthwith issue to the Council an authenticated receipt in such form as may be required by the Finance Act 1972 ('the Act') or any amendment or re-enactment thereof by any Regulations made thereunder.

11.5 If the Council objects to any part of such notice and such objection cannot be resolved by the parties by agreement, the Council may require the Contractor to refer to the HM Revenue and Customs any dispute difference or question in relation to any of the matters specified in section 40(1) of the Act.

12. INCOME TAX

12.1 For the purpose of the Finance (No. 2) Act 1975 or any amendment or re-enactment thereof the Contractor is deemed to be a "sub-Contractor". The Contractor shall produce to the Council such evidence as the Council shall deem necessary to satisfy the Council that the Contractor has a valid and current certificate in form 714I, form 714P or form 714C and shall further produce such documents as are set out in the document published by the Board

of Inland Revenue as IR14/15 of 1976 (or any amendment or replacement of that document) to satisfy the Council that the Contractor is entitled to be paid without deduction of tax pursuant to that Act (or any amendment or re-enactment of that Act). Should the Contractor fail to produce the said documents on demand, the Council will deduct tax from any payment due to the Contractor at such rates as are currently in force. However this condition will only apply if the Contractor carried out work coming within the definition of "construction operations" as defined by the above Act and subsequently amended by Statutory Instrument.

13. UNITS

13.1 Figures in the descriptions shall be deemed to be in metric unless qualified by a unit of measurement or by a word or phrase indicating a reference number, i.e. B.S., types, grades etc. The quantities given against these items are for the purpose of obtaining rates to be used for valuing actual work carried out and to create a common base for tenders.

14. DOCUMENTATION

14.1 All works shall be issued to the Contractor by the Supervising Officer on an official Council order form and paid for upon receipt of the Contractor's written invoice. The Supervising Officer may at his discretion check all or parts of the works undertaken and satisfy himself that the works have been completed to his entire satisfaction prior to making any payment.

15. EXTRA WORKS

15.1 Extra works shall not be done or variations made without prior written consent of the Supervising Officer. Work done without such consent will not be paid.

16. ASSIGNMENT

16.1 The Council shall be entitled to assign the benefit of this Contract or any part thereof to a statutory or other public body and shall give written notice of any assignment to the Contractor.

16.2 The Contractor shall in no circumstances assign, sub-let or purport to assign or sub-let any part of this Contract to any person whatsoever provided that any assignment occurring as a result of any internal reconstruction of a Contractor which is a limited company shall be deemed not to be a breach of this condition.

17. EMPLOYEES

17.1 The Contractor shall at all times during the Contract Period employ sufficient persons of sufficient abilities and skills for the proper performance of the Service.

- 17.2 The Contractor shall at all times during the Contract Period employ sufficient persons of sufficient abilities and skills to supervise the performance of the Service in a proper, safe and continuous manner.
- 17.3 The Contractor shall appoint a Contract Manager and will notify the Supervising Officer of the name address and telephone number of that Contract Manager.
- 17.4 The Contractor shall have regard to the Council's Health and Safety Policy when preparing his own statement, a copy of which shall be supplied to the Contractor prior to the commencement of the Contract. The Contractor shall nominate a person to be responsible for health and safety matters as required by the Act.
- 17.5 The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions or levies of any kind whatsoever relating to or arising out of the employment of any person by the Contractor and the Contractor shall fully and promptly indemnify the Council against any and all claims by any individual, Inland Revenue or other organisation or body for the payment of same.
- 17.6 The Supervising Officer shall be entitled to serve the Contractor with a written notice requiring the removal of any employee (including the Contract Manager) engaged in the performance of the Service under the Contract subject to such notice period as the Supervising Officer deems to be reasonable in the circumstances. If the notice is not withdrawn by the Supervising Officer prior to the expiry of the notice period, the Contractor shall forthwith remove the said employee. If the employee is removed from the performance of the Service, the Contractor shall immediately provide a replacement and the removal shall not constitute grounds for any delay in the provision of the Service under the contract. The Council shall in no circumstances be liable either to the Contractor or to the employee in respect of any liability, loss or damage occasioned by such removal and the Contractor shall on demand fully and promptly indemnify the Council against any claim made by such employee.
- 17.7 Subject to but in addition to Condition 46 at the expiry of the Contract Period or upon the determination of the Contract in accordance with the Conditions whichever shall first occur, the Council shall be entitled to offer employment to any person employed by the Contractor in the performance or supervision of the Service and in the event of such person accepting employment with the Council the Contractor shall forthwith release such persons who are engaged in the provision of the Service from all contracts of service without any payment being made to the Contractor by either the Council or the employee.
- 17.8 The Contractor shall recognise the right of his employees to join or not to join a trade union of their choice.
- 17.9 The Contractor shall endeavour to employ local residents in connection with the Service.

17.10 Contact details including telephone numbers will be provided for emergency provision of service and possible out of normal hours working, to the Supervising Officer prior to the commencement of the Contract.

18. LIABILITY OF CONTRACTOR (jointly and severally if more than one Contractor is working in partnership)

18.1 The Contractor shall fully and promptly indemnify the Council against any liability to any person whatsoever arising out of or connected with the performance of the Service or any act or omission of any employee, servant or agent of the Contractor howsoever such liability may arise.

18.2 The Contractor shall fully and promptly indemnify the Council in respect of any damage to any land, building or chattel in the ownership, occupation or possession of the Council caused by any employee, servant or agent of the Contractor arising out of or in connection with the performance of the Service under the Contract, whether such damage is caused by negligence or in any other way whatsoever.

18.3 The Contractor shall fully and promptly indemnify the Council and any and all other persons with respect to any personal injury caused to any employee of the Council or any other person by any employee, servant or agent of the Contractor/s arising out of or in connection with the performance of the Service under the contract, whether such injury be caused by negligence or in any other way whatsoever.

19. AGENCY

19.1 The Contractor is not and shall in no circumstances hold himself out as being the servant or agent of the Council.

19.2 The Contractor is not and shall in no circumstances hold himself out as being authorised to enter into any contract on behalf of the Council or in any other way to bind the Council to the performance, variation, release or discharge of any obligation.

19.3 The Contractor has not and shall in no circumstances hold himself out as having the power to make, vary, discharge or waive any byelaw or regulation of any kind.

19.4 The employees of the Contractor are not and shall not hold themselves out to be servants or agents of the Council for any purposes whatsoever. The Contractor shall not represent the said employees to be servants or agents of the Council

20. INSURANCE

20.1 The Contractor shall at all times maintain in force such policies of insurance with reputable insurers or underwriters approved by the Council as shall fully insure and indemnify the Contractor against liability:

- (i) to the Council and to any employee of the Council;
- (ii) to the employees of the Contractor;
- (iii) to any other person in the sum of at least £5 million.

20.2 The Contractor shall, prior to the commencement of the Contract supply the Supervising Officer with copies of all insurance policies, cover notes, premium receipts and other documents necessary to comply with Condition 20.1

20.3 The Supervising Officer shall be entitled to notify the Contractor in writing that in the opinion of the Supervising Officer any such policy of insurance does not provide sufficient cover to comply with the Conditions and to require the Contractor to obtain such insurance as will so comply. Upon receipt of such notice, the Contractor shall forthwith procure and obtain such insurance, as the Supervising Officer shall require.

21. BRIBERY AND CORRUPTION

The Council shall be entitled to terminate the Contract under Condition 26 and to recover from the Contractor the amount of any loss resulting from such termination, if:

- 21.1 the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the Contract or any other contract with the Council,
or
- 21.2 the like acts shall have been done by any person employed by the Contractor or acting on his behalf (whether with or without the knowledge of the Contractor),
or
- 21.3 in relation to any contract with the Council the Contractor or person employed by him or acting on his behalf shall
 - (i) have committed any offence under the Prevention of Corruption Acts 1889 to 1916,
or
 - (ii) have given any fee or reward the receipt of which is an offer under section 117(2) of the Local Government Act 1972.

22. GRATUITIES

22.1 The Contractor shall not, whether by himself or by any person employed by him to perform the Service, solicit any gratuity or tip or any other form of money-taking or reward, collection or charge for the Service other than bona fide charges approved by the Council.

23. LIABILITY OF COUNCIL

23.1 The Council shall not be liable for any loss or damage suffered by the Contractor howsoever arising, save and except for loss or damage directly arising from the negligent acts or omissions of the Council, its employees,

servants or agents. The Council shall not be liable under any circumstances to the Contractor for any loss of profit, business or production or for any other economic, indirect or consequential damages of any kind whatsoever. The Contractor shall be under a duty to take all reasonable steps to mitigate any damage or loss suffered.

24. DEFAULT IN PERFORMANCE

At any time after the Commencement Date:

24.1 the Supervising Officer may investigate each case where the Contractor has failed to perform the Service completely in accordance with the provisions of the Contract.

24.2 where the Supervising Officer is satisfied that in any particular case the Contractor has failed to perform the Service completely in accordance with the provisions of the Contract he shall be entitled to issue a written instruction (Compliance Notice) to the Contractor to remedy the failure in order to comply fully therewith within such reasonable period as the Supervising Officer may determine. Such notices may be delivered by hand, e-mail or any other electronic method. The day of completion shall be entered on the Compliance Notice by the Contractor and the document returned to the Supervising Officer within two working days. Working days for this Condition shall include Monday to Saturday not Sunday. The Contractor shall at his own expense, provide a computer, facsimile machine, e-mail address and telephone line continuously available to receive notices and instructions from the Supervising Officer. All Notices will be deemed to be have been received by the Contractor within 24 hours from the time of issue printed on the Notice. In the case of an emergency the Supervising Officer will call the Contractor's emergency telephone number (to be provided before the Contract starts and for someone to be available to answer it at all times).

24.3 Should the Contractor fail to comply with a Compliance Notice issued by the Supervising Officer, the Supervising Officer shall be entitled to record in writing a notice of Default (hereinafter called a Default Notice) which shall be sent in the to the Contractor by hand or by an electronic method of delivery.

24.4 At any time after four weeks from the Commencement Date, the Supervising Officer shall deduct from the monthly instalment payable under the terms of this Contract, an amount for each Default Notice determined in accordance with this Condition, save and except the Supervising Officer may, in his absolute discretion, elect to make no deduction where appropriate. The Supervising Officer shall be entitled to make a deduction under this provision in respect of any or all of the weeks covered by the monthly instalment.

24.5 The Council shall be entitled to carry out a full investigation by the Supervising Officer in response to a Default by the Contractor under this Contract. The cost to the Council of carrying out this investigation shall be deemed as £80.00.

24.6 The deduction specified in 24.5 shall be reviewed annually, and Condition 28 of this Contract shall be used as a method of determining the amounts by which the categories shall be adjusted.

24.7 In addition to any deductions, which may be made under this Condition, where more than 20 Default Notices are recorded in any four-week period, the Council may terminate the Contract in accordance with the appropriate Condition of Contract.

25. DEFAULT BY CONTRACTOR

25.1 If the Contractor, for whatever reason, fails to provide or perform the Service in whole or in part completely in accordance with the terms of the Contract, then without prejudice to any other remedy contained herein the Council may by its own or other workmen provide and perform such Service or part thereof in which the Contractor has made Default. The costs and charges incurred by the Council in so doing shall be paid by the Contractor to the Council on demand or may be deducted by the Council from any monies due or which may become due to the Contractor.

26. TERMINATION BY THE COUNCIL

The Council may by notice by recorded delivery or personal delivery to the Contractor's registered office forthwith determine the employment of the Contractor under this contract if the Contractor shall make Default in any one or more of the following respects, that is to say: -

26.1 If the Contractor, without reasonable cause, fails to commence works by the stipulated times (according to category) and/or fails to continue in an expeditious manner until final completion.

26.2 If the Contractor persistently carries out work in a poor manner or poor quality or to a poor standard or his work subsequently displays a high level of Default Notices (Condition 24.7) arising or if the Contractor does not forthwith comply with the Supervising Officer's instructions in connection with such Default Notices.

26.3 If the Contractor, without reasonable cause, fails to comply in any way with the Conditions of Contract and/or Specification.

26.4 If the Contractor becomes bankrupt or makes any composition or arrangement with his creditors or has a winding up order made or a resolution for voluntary winding up passed or appointed or if he enters into liquidation or ceases trading whether voluntarily or compulsory or if possession is taken by or on behalf of any creditor of any property the subject of a charge.

26.5 the Contractor undergoes a change of control, within the meaning of Section 416 of the Income and Corporation Taxes Act 1988, which impacts adversely and materially on the performance of the Contract; or

- 26.6 where the Contractor is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or
- 26.7 any similar event occurs under the law of any other jurisdiction.

In any of the above cases the Contractor shall remove himself, his employees and materials from the sites of any works as and when required, within such reasonable time, as determined by the Supervisory Officer.

27. TERMINATION BY CONTRACTOR

- 27.1 The Contractor may by notice by recorded delivery to the Council forthwith determine the employment of the Contractor under this Contract if the Council shall fail to make any payment due under this contract, within the period of four weeks of receipt of invoice, and continues such default for seven days after receipt by recorded delivery of a notice stating that notice of determination under these conditions will be served if payment is not made within seven days of receipt thereof.

28. METHOD OF REVIEW

For the second and subsequent years of the Contract period the Annual Sums and the Day Work Rates shall be increased or decreased on the Review Date by a factor calculated using the following sub- conditions:

- 28.1 The amount payable by the Council to the Contractor upon the issue by the Supervising Officer of an Interim Certificate pursuant to Condition 8 (other than amounts due under this Condition) shall be increased or decreased in accordance with the provisions of this Condition if there shall be any changes in the following Index Figures compiled by the Department for Business Innovation and Skills (BIS) for Department for Business, Enterprise and Regulatory Reform (BERR) <http://service.bcis.co.uk>. Use the Price Adjustment Formulae Indices (Civil Engineering) 1990 Series.

28.2

28.2.1 The index of the Labour and Supervision will be calculated in line with the National Joint Council (NJC) for Local Government Services percentage increase each year;

28.2.2 The index of the Plant and Road Vehicle;

28.2.3 The index of the Gas Oil Fuel

The net total of such increases and decreases shall be given effect in determining the Annual Sum.

- 28.3 For the purpose of this condition:

28.3.1 "Final Index Figure" shall mean any Index Figure appropriate to sub-condition (28.1) of this Condition not qualified in the said indices as provisional;

28.3.2 "Base Index Figure" shall mean the appropriate Final Index Figure applicable to March 12 months prior to each Review Date;

28.3.3 "Current Index Figure" shall mean the appropriate Final Index Figure to be applied in respect of any certificate issued or due to be issued by the Supervising Officer pursuant to Condition 8 and shall be the appropriate final Index Figure applicable to the date 28 days prior to each Review Date;

28.3.4 The "Effective Value" in respect of the whole of the Service shall be the difference between: -

(i) The amount which, in the opinion of the Supervising Officer, is due to the Contractor under Condition 8 (but before deducting sums previously paid on account) less any amounts for other items based on actual cost of current prices and any sums for increases or decreases in the Contract Price under this Condition, and,

(ii) The amount calculated in accordance with (28.1) above and included in the last preceding Interim Certificate issued by the Supervising Officer in accordance with Condition 8.

Provided that, in the case of the first Certificate, Effective Value shall be the amount calculated in accordance with sub-paragraph (i) above.

28.4 The increase or decrease in the amounts otherwise payable under Condition 10 pursuant to sub-condition (28.1) of this Condition shall be calculated by multiplying the Effective Value by price Fluctuation Factor which shall be the net sum of the products obtained by multiplying each of the proportions given in 28.3.1 and 28.3.2 of this condition by a fraction the numerator of which is the relevant Index Figure minus the relevant Base Index Figure and the denominator of which is the relevant Base Index Figure.

28.5 For the purpose of calculating the Price Fluctuation Factor the proportions referred to in sub-condition (28.3) of this Condition shall (irrespective of the actual constituents of the work) be as follows and the total of such proportions shall amount to unity: -

0.35 in respect of labour and supervision costs, subject to adjustment by reference to the National Joint Council Index referred to in sub-condition (28.2.1).

Example - 1% Local Government Services (LGS) percentage increase times the 0.35 proportion of Labour and Supervision increase equals 0.35%. See example below.

0.50 in respect of costs of provisions and use of all plant and road vehicles, etc., which shall be subject to adjustment by reference to the Index referred to in sub-condition 28.2.2 of this Condition.

0.15 in respect of fuel for plant to which the Gas Oil Index will be applied.

1.00 TOTAL

Worked Example

Item	Index	X Weighting	Proportion
Labour	1.5%	0.35	0.525%
Plant and Vehicles	Index Mar 09 = 185 Index Mar 08 = 174 Difference = 11 Percentage change <u>11</u> 174X100 = 6.32%	0.5	3.116%
Gas Oil Fuel	Index Mar 09 = 343 Index Mar 08 = 505 Difference = -162 Percentage change <u>-162</u> 505X100 = -32.08%	0.15	-4.812%
Total Adjustment		1.00	-1.17%

28.6 Provisional Index Figures in the Bulletin referred to in sub-condition (28.1) of this Condition may be used for the provisional adjustment of interim valuation but such adjustments shall be subsequently recalculated on the basis of the corresponding Final Index Figures.

29. OBSERVANCE OF STATUTORY REQUIREMENTS

29.1 The Contractor shall comply with all statutory and other provisions to be observed and performed in connection with the Service provided under the Contract and shall indemnify the Council accordingly.

30. RIGHTS AND DUTIES RESERVED

30.1 All rights and duties which the Council has as a Local Authority or which the Council's Officers have as Local Authority Officers are expressly reserved.

31. STAMP DUTY AND LEGAL FEES

31.1 Each party shall bear their own legal and other fees in relation to the preparation and submission of the Contract Document and any formal Contract Documents arising therefrom.

32. CONDITION HEADINGS

32.1 The condition headings shall not be construed as part of these Conditions.

33. PERFORMANCE BOND OR PARENT COMPANY GUARANTEE

33.1 On the execution of the Contract the Contractor shall at his own expense provide a Bond from a Bank or Insurance Company approved by the Council

for a sum equal to 10% of the total Annual Sum to guarantee the due performance of his obligations under the Contract and for the payment by the Contractor to the Council of all sums due hereunder. The Contractor shall ensure that such bond remains in force throughout the Contract Period.

or

If the Contractor is a subsidiary company within the meaning of Section 1159 of the Companies Act 2006 it shall provide a Guarantee in the form set out in the Contract Document by its holding company or companies (as defined by the said Section 1159) to secure the due performance by the Contractor of its obligations to the Council.

34. STATUTORY REQUIREMENTS

- 34.1 It is important that Contractors fully understand the statutory duties of the Council because it will be incumbent upon the Contractor to carry out the Service in accordance with these statutory requirements and Council policies under the supervision and control of the Supervising Officer. Any penalties prescribed by law and any consequential costs resulting from the Contractor failing to carry out those statutory duties must be paid by the Contractor. Any such payments or penalties incurred may be deducted by the Council from any monies due to the Contractor.
- 34.2 The Contractor will be expected to acquaint himself in particular with the relevant provisions of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and any other relevant statutes which are or may be enacted.

35. CONFIDENTIALITY, DATA PROTECTION AND FREEDOM OF INFORMATION.

- 35.1 The duties of each party under this Condition shall not apply to any information or material to the extent that disclosure thereof is required by law, required or expressly permitted by the Contract, the other party gives its written consent, the information or material is in the public domain or comes into the possession of the party otherwise than pursuant to the Contract, unless the disclosure of that information was itself a breach of confidence, but shall otherwise apply before, during and after the Contract Period.
- 35.2 The Contractor shall not and shall ensure that its employees do not make use for its or their own purposes or disclose to any person any part of the Contract, or information, which comes into its or their possession, in the course of providing the Service.
- 35.3 In relation to all personal data the Contractor and Council shall at all times comply with the Data Protection Act 1998 as a data controller if necessary including maintaining a valid and up to date notification under the said Act covering the data processing to be performed in connection with this Contract.
- 35.4 Provided that the Contractor is not required to breach or otherwise contravene any legislation the Contractor shall use its reasonable

endeavours to assist the Council in meeting its statutory obligations under the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR).

- 35.5 The Contractor shall
 - 35.5.1 transfer any request for information within the scope of FOIA or EIR, which it receives, to the Council as soon as practicable after receipt and in any event within two working days of receipt.
 - 35.5.2 provide the Council with a copy of all information in its possession or power in the form that the Council requires within five working days (or such other period as Council may specify) of the Council requesting that information and.
 - 35.5.3 provide all necessary assistance as reasonably required by the Council to enable the Council to respond to a request for information within the time for compliance set out in section 10 of FOIA or Regulation 5 of EIR.
- 35.6 The Council shall be responsible for determining at its absolute discretion whether commercially sensitive information and/or any other information: -
 - 35.6.1 is exempt from disclosure in accordance with the provisions of FOIA or EIR.
 - 35.6.2 is to be disclosed in response to a request for information and in no event shall the Contractor respond directly to a request for information unless expressly authorised to do so by the Council.
- 35.7 The Contractor acknowledges that the Council may be obliged under FOIA or EIR to disclose information: -
 - 35.7.1 without consulting with the Contractor or
 - 35.7.2 following consultation with the Contractor and having taken its views into account.
- 35.8 The Contractor shall ensure that all information produced in the course of this contract or relating to this contract is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.
- 35.9 The Contractor acknowledges that any lists or schedules provided by it outlining confidential information are of indicative value only and that the Council may nevertheless be obliged to disclose confidential information in accordance with Condition 35.6
- 35.10 Each party shall indemnify and keep indemnified the other against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by that party of this Condition.

36. WAIVER

36.1 Failure by the Council at any time to enforce the provisions of the Contract or to require performance by the Contractor of any of the provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect validity of the Contract or any part thereof or the rights of the Council to enforce any provision in accordance with its terms.

37. SEVERANCE

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

38. COPYRIGHT

38.1 Copyright of the Contract Document comprising the Contract shall rest with the Council.

38.2 The Contract shall be subject to the procedure rules of the Council, current at the Commencement Date, a copy of which can be seen by contacting the Supervising Officer.

39. HEALTH AND SAFETY

39.1 The Contractor shall promptly notify the Council of any health and safety hazards, which may arise in connection with the performance of the Contract. The Council shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Council's premises and which may affect the Contractor in the performance of the Contract.

39.2 While on the Council's premises, the Contractor shall comply with any health and safety measures required by or implemented in respect of the Contract in respect of Employees and other persons working on those premises.

39.3 The Contractor shall notify the Council immediately in the event of any incident occurring in the performance of the Contract on the Council's Premises where that incident causes any personal injury or damage to property, which could give rise to personal injury.

39.4 The Contractor shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of the Contract.

39.5 The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Council on request.

40. CHANGE OF LAW

- 40.1 The Contractor shall neither be relieved of its obligations to perform the Service in accordance with the terms of the Contract nor be entitled to an increase in the price and/or any charges payable by the Contractor as the result of:
- 40.1.1 General Change in Law; or
 - 40.1.2 a specific change in law where the effect of that specific change in-law on the Service is known at the Commencement Date whether by publication of a Bill, as part of a Government Departmental Consultation paper, a draft Statutory Instrument, a proposal in the Official Journal of the European Union or otherwise.
- 40.2 If a specific change in law occurs or will occur during the Contract Period or during any extension agreed the Contractor shall notify the Council of the likely effects of that change, including:
- 40.2.1 whether any change is required to the Service, the Price or the Contract; and
 - 40.2.2 whether any relief from compliance with the Contractor's obligations is required, including any obligation to achieve any milestones or to meet any service level requirements at any time.
- 40.3 As soon as practicable after any notification in accordance with Condition 41.2 the Parties shall discuss and agree the matters referred to in that Condition and any ways in which the Contractor can mitigate the effect of the specific change of law, including:
- 40.3.1 providing evidence that the Contractor has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its subcontractors;
 - 40.3.2 demonstrating that a foreseeable specific change in law had been taken into account by the Contractor before it occurred;
 - 40.3.3 giving evidence as to how the specific change in law has affected the cost of providing the Service; and
 - 40.3.4 demonstrating that any expenditure that has been avoided has been taken into account in amending the Price.
- 40.4 Any increase in the Tender or relief from the Contractor's obligations agreed by the Parties pursuant to this Condition shall be implemented in accordance with this Condition.

41. CONSEQUENCES OF TERMINATION

- 41.1 Where the Council terminates the Contract under Condition 26, or terminates the provision of any part of the Contract under that Condition, and then makes other arrangements for the provision of Service, the Council shall be entitled to recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Council throughout the remainder of the Contract Period. The Council shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under Condition 26, no further payments that might properly be due shall be payable by the Council to the Contractor until the Council has established the final cost of making those other arrangements.
- 41.2 Where the Council terminates the Contract under Condition 26, the Council shall indemnify the Contractor against any commitments, liabilities or expenditure that would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, provided that the Contractor takes all reasonable steps to mitigate such loss. Where the Contractor holds insurance, the Contractor shall reduce its unavoidable costs by any insurance sums available. The Contractor shall submit a fully itemised and costed list of such loss, with supporting evidence, of losses reasonably and actually incurred by the Contractor as a result of termination under Condition 26.
- 41.3 The Council shall not be liable under Condition 41.2 to pay any sum which:
- 41.3.1 was claimable under insurance held by the Contractor, and the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
 - 41.3.2 when added to any sums paid or due to the Contractor under the Contract, exceeds the total sum that would have been payable to the Contractor if the Contract had not been terminated prior to the expiry of the Contract Period.

42. DISRUPTION

- 42.1 The Contractor shall take reasonable care to ensure that in the execution of the Contract it does not disrupt the operations of the Council, its employees or any other contractor employed by the Council.
- 42.2 The Contractor shall immediately inform the Council of any actual or potential industrial action, whether such action is by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- 42.3 In the event of industrial action by the Staff or the Contractor's suppliers the Contractor shall seek the Council's approval to its proposals for the

continuance of the performance of the Service in accordance with its obligations under the Contract.

- 42.4 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business by direction of the Council, an appropriate allowance by way of extension of time will be approved by the Council. In addition, the Council will reimburse any additional expense incurred by the Contractor in fulfilling the provisions of the Contract as a result of such disruption.

43. RECOVERY UPON TERMINATION

- 43.1 Termination or expiry of the Contract shall be without prejudice to any rights and remedies of the Contractor and the Council accrued before such termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry.
- 43.2 At the end of the Term (and howsoever arising) the Contractor shall forthwith deliver to the Council upon request all the Council's Property (including but not limited to materials, documents, information, access keys) relating to the Contract in its possession or under its control or in the possession or under the control of any permitted suppliers or sub-contractors and in default of compliance with this Condition the Council may recover possession thereof and the Contractor grants licence to the Council or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted suppliers or sub-contractors where any such items may be held.
- 43.3 At the end of the Contract Period (howsoever arising) and/or after the Contract Period the Contractor shall provide assistance (where the Contractor is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or any similar event occurs under the law of any other jurisdiction) to the Council and any new contractor appointed by the Council to continue or take over the performance of the Contract in order to ensure an effective handover of all work then in progress. Where the end of the Contract Period arises due to the Contractor's Default, the Contractor shall provide such assistance free of charge. Otherwise the Council shall pay the Contractor's reasonable costs of providing the assistance, and the Contractor shall take all reasonable steps to mitigate such costs.
- 43.4 The provisions of this Condition shall survive the continuance of the Contract and indefinitely after its termination.

44. FORCE MAJEURE

- 44.1 For the purpose of this Condition, "Force Majeure" means any event or occurrence which is outside the reasonable control of the Party concerned, and which is not attributable to any act or failure to take

preventative action by the Party concerned, including (but not limited to) governmental regulations, fire, flood, or any disaster. It does not include any industrial action occurring amongst the Contractor's Staff or any staff of any sub-contractor.

- 44.2 Neither Party shall be liable to the other Party for any delay in or failure to perform its obligations under the Contract (other than a payment of money) if such delay or failure results from a Force Majeure event. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations hereunder for the duration of such Force Majeure event. However, if any such event prevents either Party from performing all of its obligations under the Contract for a period in excess of six Months, either Party may terminate the Contract by notice in writing with immediate effect.
- 44.3 Any failure or delay by the Contractor in performing its obligations under the Contract which results from any failure or delay by an agent, sub-contractor or supplier shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Contractor.
- 44.4 This Condition does not affect the Council's rights under Condition 26.
- 44.5 If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part as described in Condition 44.3 it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.
- 44.6 For the avoidance of doubt it is hereby expressly declared that the only events which shall afford relief from liability for failure or delay of performance of the Contract shall be any event qualifying for Force Majeure hereunder.

45. DISPUTE RESOLUTION

- 45.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within [20] Working Days of either Party notifying the other of the dispute such efforts shall involve the escalation of the dispute to the [finance director] (or equivalent) of each Party.
- 45.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 45.3 If the dispute cannot be resolved by the Parties pursuant to Condition 45.1 the dispute shall be referred to mediation pursuant to the procedure

set out in Condition 46.5 unless (a) the Council considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.

- 45.4 The performance of the Contract shall not be suspended, ceased or be delayed by the reference of a dispute to mediation and the Contractor (or employee, agent, supplier or sub-contractor) shall comply fully with the requirements of the Contract at all times.
- 45.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
 - 45.5.1 A neutral adviser or mediator (“the Mediator”) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution (“CEDR”) to appoint a Mediator.
 - 45.5.2 The Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from CEDR to provide guidance on a suitable procedure.
 - 45.5.3 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
 - 45.5.4 If the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives.
 - 45.5.5 Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties.
 - 45.5.6 If the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.

46. TUPE

46.1 On service of a notice to terminate the Contract in accordance with Condition 26 or immediately upon request by the Council or not less than six Months before the anticipated expiry date of the Contract, the Contractor shall:

46.1.1 Deliver to the Council such accurate and up to date information as the Council reasonably requests (including, but not limited to, information relating to terms and conditions of employment, job title, age, sex, length of service and benefits), in relation to each of the employees who are assigned by the Contractor to the provision of the Service;

46.1.2 Permit the Council to use such information for the purpose of re-tendering the Service; and

46.1.3 Enable and assist the Council and any such persons as the Council may determine to communicate with and meet those employees and any relevant trade union and/or elected employee representatives.

46.1.4 Following the issue of a notice to terminate the Contract (Condition 26), and in any event during the period of six months prior to the anticipated expiry date, the Contractor shall not without the prior consent of the Council (such consent not to be unreasonably withheld or delayed) carry out any **“Unauthorised Act”**.

46.2 The Unauthorised Acts referred to in Condition 46.1.4 are:

46.2.1 The termination of the employment of any employee (save for dismissal for reasons of gross misconduct), who is assigned to the provision of the Service (**“the End Employees”**);

46.2.2 The material alteration or change in any way of any terms and conditions of employment of any of the End Employees (whether with or without the consent of the End Employees) other than in order to give effect to wage or salary awards which are in line with those offered generally for similar status individuals within the relevant Council’s workforce or as is required by Legislation;

46.2.3 The recruitment (except as a replacement for any employee whose employment is terminated and where the replacement is being recruited on terms which are not materially better or worse than the terms of the employee being replaced) of any employees to perform the Service; and

46.2.4 The re-assignment of any of the Contractor’s employees to or from duties connected with the Service.

47. LEGAL COMPLIANCE

47.1 The Contractor shall be responsible for complying with or procuring compliance with all legal obligations arising out of the provision of the

Service. The Service shall fulfil all the relevant requirements for the management and disposal of waste required under UK and EU legislation, directives and regulations.

47.2 The exclusion or omission of any legal duty within this Specification in no way absolves the Contractor of responsibility to fulfil such.

48. SUPERVISION

48.1. The Contractor is expected to provide comprehensive supervision of the works detailed in the Specification to ensure that the Service is being conducted to the satisfaction of the Supervising Officer.

48.2 The Contractor will be required to demonstrate that the Service is being properly supervised by maintaining and producing records of inspection or other such documentation as may be agreed with the Supervising Officer. Such documentation should be made available to the Supervising Officer on demand.

49. COMPLAINTS

49.1 The Contractor will deal with any complaints that he receives in a prompt, courteous and efficient manner. All complaints shall be recorded and an e-mail will be sent with all details including name, address, postcode, telephone number of the complainant with all the relevant details of the complaint and action taken. This e-mail must be sent to the Supervising Officer on the same day as the complaint is received.

49.2 Members of the public will be encouraged to make any complaints regarding the Service direct to the Council. The Contractor shall agree a system and method of communication of complaints with the Supervising Officer.

49.3 All complaints notified to the Contractor, either directly from the public or the Council, shall be dealt with by the Contractor before the end of the following working day. Any complaint not dealt with before the end of the following day will need to be referred to the Supervising Officer with details on why it cannot be resolved. For the purposes of this Condition, Saturday shall be considered a working day.

49.4 It shall be the responsibility of the Contractor to ensure that the Supervising Officer has been able to communicate all complaints to him in the agreed manner. In the event of there being any technical breakdown or difficulties such that the Supervising Officer cannot communicate in the agreed manner, then the Contractor shall be responsible for communicating with the Supervising Officer using any method available to ensure that he receives all complaints.

49.5 The Contractor shall keep a written record of all complaints received by him direct from any source and of the action taken by him in relation to that complaint. Such records shall indicate the date and time of the receipt of the

complaint and of the remedial action taken. These records shall be kept available for inspection by the Supervising Officer at all reasonable times.

- 49.6 Complaints received by or referred to the Council which are not dealt with by the Contractor in accordance with the above provisions, will be investigated by the Supervising Officer who, in appropriate cases, can invoke the default Condition.

50. VEHICLES

- 50.1 The Contractor shall at all times during the Contract Period, provide and maintain all such vehicles, machinery and equipment (hereinafter together called "Plant"), as necessary for the performance of the Service.
- 50.2 The Contractor shall at all times be fully responsible for licensing and for the payment of all licensing fees, taxes and insurances required in the connection with or arising out of the possession or use of all Plant employed in the performance of the Service.
- 50.3 The Contractor shall, at his own expense, put and keep all Plant employed in the performance of the Service, at all times in good and serviceable repair and in such condition as is commensurate with the proper performance by the Contractor of his obligations under this Contract. He shall ensure that all vehicles are serviced, maintained or adapted in accordance with the manufacturers and/or supplier's schedules as issued from time to time.
- 50.4 The Contractor shall at all times permit the Supervising Officer access to all Plant employed for the purposes of the Contract. The Supervising Officer shall be entitled to serve upon the Contractor, a notice in writing requiring the Contractor to put any item of Plant into such condition as is required by Condition 50.3 above and the Contractor shall forthwith upon receipt of such a notice, cause all necessary works to be carried out in compliance with such notice. In the event that the Contractor fails to carry out such works, the Council shall be entitled to have such works carried out and the Contractor shall pay to the Council by way of liquidated damages, such sum as the Supervising Officer shall certify to have been the costs of the executing works.
- 50.5 All Plant's maintenance records, manufacturers' documentation and maintenance schedules shall be made available to the Supervising Officer upon his request.
- 50.6 The Contractor will ensure that all plant operators and drivers are competent in the use of their equipment, including any sub-contractors employed, having particular regard to the hazards inherent in waste handling machinery. They shall be in possession of the applicable statutory or other approved training certificates as evidence of this competence.

BLANK PAGE

2. SPECIFICATION

Index

1.	Brief Description of Service	Page 37
2.	Treatment of Waste	Page 37
3.	Treatment of Recyclable Materials	Page 37
4.	Treatment of Compostable Materials	Page 38
5.	Service Provision - Duties of contractor	Page 39
6.	Method of Working	Page 39
7.	Delivery Point Records	Page 39
8.	Operational Hours	Page 41
9.	Contractor's Option	Page 42

BLANK PAGE

1. BRIEF DESCRIPTION OF SERVICE

- 1.1 To provide Delivery Points for the Treatment of Waste, Recyclable and Compostable Materials collected in the administrative area of Rutland County Council by the Council or their Contractors, pursuant to their functions.
- 1.2 The acceptance and Treatment of waste, recyclables and compostable materials acquired by the Council in the course of its activities will be in compliance with the Environmental Permit applying to the Delivery Point's.
- 1.3 Alternative emergency Delivery Points will be provided by the Contractor if for any reason nominated Delivery Points are not available for the acceptance and Treatment of any waste, recyclables and compostable materials acquired by the Council in the course of its activities, detailed and described under this contract. The Tenderer must supply the full address of this/these Delivery Point/s and insert it in Appendix 4.

2. TREATMENT OF WASTE

- 2.1 The Treatment of Municipal Waste collected by the Council or their Contractors, pursuant to their functions.
- 2.2 All materials detailed under European Waste Catalogue code 20 will be accepted.
- 2.3 Disposal at a landfill Delivery Point or an alternative Treatment Delivery Point may be required if the Contractor's Delivery Point for Treatment is not constructed and/or operational by the Commencement Date. The Tenderer must identify any alternative Treatment or landfill Delivery Point/s he will be using as a part of this Contract and include the full address in Appendix 4. No claims for extra costs will be accepted if these alternative Delivery Points are used under this Contract. Any additional identified transport costs incurred by the Council's waste transport and refuse collection contractors due to having to travel further to these alternative Delivery Points will be borne by the Contractor.
- 2.4 Appendix 2 details the amount of biodegradable waste that can be landfilled each year by the Council; these amounts must not be exceeded.
- 2.5 **Performance Target** – The Contractor will provide for the Treatment of Municipal Waste with a 75% diversion from landfill of all waste received. If this annual target is not met the Contractor will reimburse any costs incurred by the Council as a result of any non compliance with any statutory directives.

3. TREATMENT OF RECYCLABLE MATERIALS

- 3.1 Recyclable Materials as collected by the Council or its appointed Contractor and listed in Clause 3.2 will be accepted under the Contract and therefore will be in compliance with the Environmental Permit applying to the Delivery Point's.
- 3.2 Co-mingled Recyclable Materials to be accepted at the Delivery Point/s are listed below. The majority of these materials will be collected in compactor refuse

vehicles from a 240 litre wheeled bin and from plastic sacks from households in Rutland.

- All Paper
- All newspapers and magazines
- All yellow pages and telephone directories
- All unwanted mail (no plastic wrapping)
- All catalogues (no plastic wrapping)
- All plastic bottles
- All Cardboard including boxes, cereal boxes etc
- All cans including tin, steel and aluminium food and drink cans
- All Aluminium foil
- All metal aerosol cans
- All Glass bottles and jars
- All the above Co-mingled in plastic bags

- 3.3 Costs are required in the Bill of Quantities, Provisional Items for accepting the following extra materials collected in the co-mingled material and accepted at the Delivery Points - textiles, household batteries, small domestic appliances, mixed plastics, scrap metal and Tetrapak cartons.
- 3.4 All materials detailed under European Waste Catalogue code 20 will be accepted.
- 3.5 The percentage of contamination levels of non permitted materials will be provided during February to March each year of the Contract by the Contractor at no cost to the Council. This will be established through a materials analysis of one full load each week for a period of four weeks.
- 3.6 **Performance Target** – The Contractor will provide the Treatment of Recyclable Materials with a contract target of 96% diversion from landfill of materials received;

4. TREATMENT OF COMPOSTABLE MATERIALS

- 4.1 The Compostable Materials as collected by the Council or its appointed Contractor and listed in Clause 4.2 will be accepted under the Contract and therefore will be in compliance with the Environmental Permit applying to the Delivery Point's.
- 4.2 The Compostable Materials to be permitted at the Delivery Point/s are from two Civic Amenity Sites, street cleaning and kerbside collections operating in Rutland and include: -

- Cut flowers
- Grass cuttings
- Branches
- Weeds
- Windfall fruit
- Tree, shrub and hedge cuttings
- Tree prunings

Leaves
General compostable garden waste

4.3 All materials detailed under European Waste Catalogue code 20 02 01 will be accepted.

4.4 **Performance Target** – The Contractor will provide a Treatment of Compostable Materials with a contract diversion from landfill of 98% of waste received.

5. **SERVICE PROVISION - DUTIES OF CONTRACTOR.**

5.1 The Contractor shall provide an efficient, reliable Service.

5.2 The Contractor shall provide Delivery Points from 1st April 2011 at which the Council or their Contractors may deliver Waste for Treatment, recycling and composting in such numbers as the Supervising Officer may approve to avoid any financial liability falling on the Council, and shall maintain and operate the Delivery Points in a safe and convenient condition and method to the satisfaction of the Supervising Officer.

5.3 Delivery Points shall contain such Plant, equipment and facilities by way of access roads, gates, weighbridge controlled entrances, disposal or transfer points, vehicle washing facilities, shelter, toilets, rest and delivery facilities for drivers of waste and other collection vehicles.

6. **METHOD OF WORKING.**

6.1 The Contractor will implement any reasonable system introduced by the Supervising Officer to verify identification of vehicles and waste or materials accepted under this Contract.

6.2 It is the responsibility of the Contractor to comply with all requirements of the Health and Safety at Work Act 1974 and COSHH regulations. The Radioactive Substances Act 1960, the Town and Country Planning Acts, Building Regulations and all relevant Water Protection and Public Health Legislations including the provision of the Control of Pollution Act 1974, the Environmental Protection Act 1990, and the Refuse Disposal (Amenity) Act 1978 and other relevant legislation, now or which may come into force during the Contract Period.

6.3 The Contractor will allow the Council to exercise any necessary measures it considers necessary in checking that all aspects of the Service are performed by the Contractor to the Contract Specification.

7. **DELIVERY POINT RECORDS**

7.1 All Waste for Treatment, recycling and composting delivered to Delivery Point(s) under this Contract shall be weighed by the Contractor in tonnes on his weighbridge which shall be licensed and operated by a trained person at all times.

- 7.2 Weighbridge(s) should be of sufficient length to enable the weighing of all axles of any vehicle using the Delivery Point in a single operation.
- 7.3 All Waste for Treatment, recycling and composting delivered to the Delivery Points will be subject of a weighbridge ticket to be issued by the Contractor, which clearly and legibly identifies:
- a) the type of vehicle;
 - b) date and time;
 - c) registration number;
 - d) name of the driver of the vehicle making the delivery who will sign the ticket on arrival;
 - e) Number of the Council's waste transport ticket which the driver will produce
 - f) The gross weight of the vehicle before tipping, the tare weight of the vehicle, and the net weight of the waste/material.
- 7.4 The following procedure will follow
- (a) The original of all tickets shall be furnished to driver of the vehicle at the point of delivery of materials for Treatment;
 - (b) Copies of original delivery tickets shall be grouped by the type of permitted waste or material, numerically, and presented at least monthly, together with the monthly total to the Supervising Officer for payment in respect of deliveries of permitted waste and or materials made during the preceding month;
 - (c) Each invoice shall be substantiated by the numbers of the tickets certifying the deliveries to which the invoice relates, presented as described above.
- 7.5 In the event of a weighbridge breakdown at the Delivery Point, the Contractor will for a period of 24 hours only, accept one of the following: -
- a) he will propose his method of weighing vehicles at any of its Delivery Points. This proposal shall include equipment suitable to enable the Contractor to weigh all the different types of vehicles engaged in this Contract and shown in the schedule of vehicles and that the accuracy of the equipment is within plus or minus three percent of any weighing readout, showing a date, time, reference number, type of permitted waste and or material and gross and net weighing of each vehicle.
 - b) The average weight of permitted waste and or material carried in each vehicle used in conjunction with this Contract shall be taken from a sample of the preceding month.
- 7.6 In the event the weighbridge is still not operating after a period of 24 hours, then the Contractor will allow permitted waste and or material under this Contract to be delivered of at a rate of 90% of the average weight of permitted waste and or material carried in each vehicle used in conjunction with this Contract taken from a sample of the preceding month.

- 7.7 The weighbridge(s) shall be regularly validated by the Trading Standards Officer at periods to be agreed, but not less than 12 months. The Council shall have, at all times, the right to inspect the weighing system and its associated dockets and records system and to check weighed vehicles and to receive copies of such documentation to support the monthly invoice statement.
- 7.8 The Council, the Contractor and everybody who produces, handles or disposes of waste are under a duty in accordance with the Environmental Protection Act 1990 Section 34, to ensure that waste is properly held, transferred and disposed of. The Contractor under this duty will ensure in accordance with "Waste Management - the Duty of Care, A Code of Practice" issued by HMSO, that all wastes received by him are properly held, transferred and disposed of.
- 7.9 In respect of all Waste for Treatment, recycling and composting arising under this Contract, a record shall be kept by the Contractor of the types and quantities of waste and or materials delivered to or removed from the Delivery Points, giving details of the original and final destination, including material inadvertently delivered to and subsequently removed from the facility. These records shall comprise full details, as required, on forms as agreed with the Supervising Officer and copies shall be sent to the Supervising Officer at a frequency as may be requested. These records must be made available for inspection, at the facility, upon request of the Supervising Officer at any reasonable time.
- 7.10 Provision shall be made to deal with any unacceptable waste delivered to or left at the Delivery Points. Such waste and or materials shall be removed from the Delivery Point as soon as practicable or within such a time as may be required by the Supervising Officer or the Environment Agency. All such incidents shall be recorded and notified to the Supervising Officer.
- 7.11 A copy of any notice or instruction received in respect of any Delivery Point operated under this Contract from the Environment Agency, Health and Safety Executive or other Statutory Body, which in any way relates to the use of the Delivery Point, shall be forwarded for information to the Supervising Officer within three working days of receipt of such notice or instruction of the contents of the instruction or notice which affects this Contract in any way.
- 7.12 The Contractor will allow authorised officers appointed by the Supervising Officer and notified to the Contractor, access to the Delivery Point at any time the Delivery Point is open to receive permitted waste and or materials subject to this Contract and will be given all reasonable assistance in any examination of any Permitted Waste delivered under this Contract.

8. **OPERATIONAL HOURS**

- 8.1 All sites will need to open for the following days and hours all year round including bank holidays except for Christmas Day, Boxing Day and New Years Day.

Monday to Friday 7 am to 5pm
Saturday 8am to 3pm

9. **CONTRACTOR'S OPTION**

- 9.1 The Tenderer may submit alternative proposals, which may or may not be entirely in compliance with the specification, for the consideration by the Council. A fully compliant Tender is also required so that the Option may be evaluated. The Tenderer, if choosing to submit any alternative proposals, will need to state clearly the benefits to the Council of their proposals where they/it deviates from the specification and/or Contract conditions and why the variances are necessary in order to submit the proposals. The Tenderer is required to submit any such alternative proposals in a similar manner to the Form of Tender clearly identifying it as a **Contractor's Option**. (See also Appendix 3).
- 9.2 If the alternative proposal needs phasing over time, the unit costs within each phase need to be clearly set out.
- 9.3 The Tenderer must include the pricing of Provisional Items as this will be assessed as a part of the overall Contract evaluation.

3. INFORMATION AND INSTRUCTIONS TO TENDERERS.

1.	Preliminary Particulars	Page 45
2.	The Service	Page 46
3.	The Basis of the Tenders	Page 46
4.	Performance Bond or Guarantee of Contract	Page 47
5.	Clarification of the Meaning of Contract	Page 47
6.	Period of Validity	Page 47
7.	Commencement Date	Page 47
8.	Commissioning Period	Page 47
9.	Tendering Procedure	Page 47
10.	Preparation of Tender	Page 49
11.	Transfer of Undertakings & the Protection of Public Employees	Page 49
12.	Method Statement	Page 49
13.	Evaluation Criteria	Page 50

BLANK PAGE

1. PRELIMINARY PARTICULARS

- 1.1 The Council
Rutland County Council District Council
Catmose
Oakham, Rutland
LE15 6HP

Tel. Oakham (01572) 722577
- 1.2 Supervising Officer:
P G Trow M.C.I.E.H., D.M.S
Director of Community Services
Rutland County Council District Council
Catmose
Oakham, Rutland
LE15 6HP

Tel. Oakham (01572) 722577
- 1.3 QUALITY AND QUANTITY OF WORK - The Bills of Quantities shall not be regarded as a complete statement of everything to be undertaken. The Tender shall include for all work described as a whole or apparent as being necessary for the complete and proper execution of the Service.
- 1.4 SPECIFICATION DESCRIPTIONS - unless otherwise specifically stated the following shall be deemed to be included with all the Bills of Quantities items unless explicitly stated elsewhere within the Contract Document -
- i) Labour and all costs in connection therewith.
 - ii) Materials, goods and all costs in connection therewith.
 - iii) Fitting and fixing goods in position.
 - iv) Plant and all costs in connection therewith.
 - v) Transport and disposal of waste of materials and all costs in connection therewith.
 - vi) Establishment charges, overheads and profit.
 - vii) Transport, travelling and costs in connection therewith.
- 1.5 ALTERATION AND QUALIFICATIONS - No alteration should be made to the text of the Specification unless it is made in writing upon submission of the Tender.
- 1.6 INTERPRETATIONS - should there be any item in the Contract Document in respect of which the Tenderer has any doubt as to the meaning; he is advised to obtain additional information from the Supervising Officer. After the

acceptance of the Tender, the Supervising Officer's interpretation thereof will be binding on the Contractor.

1.7 TENDER FIGURES - Upon acceptance of his Tender, the Contractor will be required to furnish the Supervising Officer with an analytical breakdown of his Tender figure, prior to commencement of the Service.

2. THE SERVICE

2.1 The Council has decided to invite Tenders for its Treatment of Waste, Recyclable and Compostable Materials Contract. The Council does not bind itself to accept the lowest or any Tender that is received, and will not reimburse Tenderers' the costs incurred in the preparation of Tenders.

2.2 The Supervising Officer will supply extra Contract Documents on request.

3. THE BASIS OF THE TENDERS

3.1 Submissions of Tenders are being invited from a selected list of Tenderers for the Contract Period/s detailed in Table 1 in Clause 3.2. The rates detailed in the Tender within this Contract Document shall remain fixed for one year from the Commencement Date of the Contract and thereafter be revised on each anniversary in accordance with the Index shown in Condition 28 of the Conditions of Contract.

3.2 Table 1

LOT/SERVICE	10 Years	5 Years	Optional 5 year extensions
LOT 1 TREATMENT OF WASTE	YES	Not applicable	YES
LOT 2 TREATMENT OF RECYCLABLE MATERIALS	Not applicable	YES	YES
LOT 3 TREATMENT OF COMPOSTABLE MATERIALS	Not applicable	YES	YES
LOTS 1, 2 and 3	Not applicable	YES	YES
LOTS 1 and 2	Not applicable	YES	YES
LOTS 1 and 3	Not applicable	YES	YES
LOTS 2 and 3	Not applicable	YES	YES

4. PERFORMANCE BOND OR GUARANTEE OF CONTRACT

4.1 The form of performance bond to be used for the Contract is set out in Tender Documentation of this Contract Document with details in Condition 34 of the Conditions of Contract. The sum, which will be required under the Bond, will be 10% of the total Annual Sum.

or

The Council will require the parent or holding company of any subsidiary company that who's Tender is accepted to provide a guarantee as set out in the Contract Document.

5. CLARIFICATION OF MEANING OF CONTRACT

5.1 Tenderers should seek to clarify any points of doubt or difficulties with the Council before submitting a Tender. For this purpose contact should be made with the Supervising Officer. No questions will be answered one week before Tenders are due to be returned. Should there be any matters of principle or remaining doubt or difficulty, which Tenderers consider are not adequately covered in the Contract Document, then these matters should be submitted in writing. All questions raised will be circulated to other Tenderers' with the Supervising Officer's answer.

6. PERIOD OF VALIDITY

6.1 Tenderers are required to keep Tenders valid for acceptance for a period of 120 days from the date of Tender.

7. COMMENCEMENT DATE

7.1 The successful Contractor will be required to commence operations of the Contract on Friday, 1st April 2011, or such other date as may be agreed with the Supervising Officer.

8. COMMISSIONING PERIOD

8.1 A period of 4 weeks will be allowed from the Commencement Date of the Contract as a settling in period but the Contractor will be expected after this period to be performing the Contract to the entire satisfaction of the Council and the damage provisions set out in the Conditions of this Contract will come into operation. The Contractor will be expected to remedy all complaints received during the commissioning period, albeit without the application of any damage provisions.

9. TENDERING PROCEDURE

9.1 Under no circumstances are Tenderers to split the Contract Document to take out pages to insert into their own documents; the Contract Document must be returned intact with no pages missing.

RETURNED TENDERS WILL NOT BE ACCEPTED IF THEY ARE NOT IN THE ORIGINAL CONTRACT DOCUMENT ISSUED TO TENDERERS.

- 9.2 The 2 copies of the Contract Documentation sent to all Tenderers must be returned and the following parts **fully and properly completed, the Tender Evaluation will deduct points for incomplete documentation:** -
- 9.2.1 Form of Tender; this must be signed by the Tenderer; Tender Documentation Clause 1;
 - 9.2.2 Bills of Quantities; Tender Documentation Clauses 2 and 3 Scheduled Works and Provisional Works;
 - 9.2.3 a signed certificate that the Tender is bona fide Tender Documentation Clause 4;
 - 9.2.4 an analysis of resources in the Tender including Method Statement, Tender Documentation Clause 6; (also see Clause 12)
 - 9.2.5 a statement of the names and home addresses of the partners if the Tenderer is a partnership or a statement of the names and home addresses of the directors and secretary if the Tenderer is a company;
 - 9.2.6 an explanation of the Tenderer's management structure with brief biographical details of the principal managers proposed to be employed in the carrying out of the requirements of the Contract;
 - 9.2.7 If the Contractor's Option is chosen please insert details in Appendix 3 detailing clearly how the option is to meet the Evaluation criteria detailed in Tender Documentation Clause 13.
- 9.3 The two completed Contract Documents and any other required information are to be returned and must be placed in the envelope provided which must then be sealed. The envelope shall in no circumstances bear any name or mark indicating the name of the sender.
- 9.4 Tenders must be delivered by registered post, recorded delivery or data post or delivered by hand to the Head of Legal and Democratic Services, Rutland County Council, Catmose, Oakham, Rutland, LE15 6HP to arrive not later than noon on Friday 10th September 2010.
- 9.5 Tenders received after noon on the 10th September 2010 will not be considered.
- 9.6 Tenderers' shall be deemed to have satisfied themselves before submitting their Tender which shall (except in so far as it is otherwise provided in the Contract Document) cover all their obligations under the Contracts and shall be deemed to have obtained for themselves all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect their Tender.

- 9.7 Tenderers should treat their details of the Tenders and any subsequent Contract as private and confidential.
- 9.8 The Council will publish the amounts of all the Tenders and the name of the successful Tenderer.
- 9.9 The Tenderer must inform the Council if it has any other contracts or contracts pending that could potentially result in a conflict of interest with this Contract with the Council.

Multiple Options

- 9.10 If Tenderers wish to submit Tenders for multiple options e.g. more than one Contractors Option; please ask the Supervising Officer for an additional set of Contract Documentation to complete.

10. PREPARATION OF TENDER

- 10.1 It is the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tenders.
- 10.2 Information supplied by the Council (whether in this Contract Document or otherwise) is supplied for general guidance in the preparation of the Tenders. Tenderers must satisfy themselves by their own investigations with regard to the accuracy of any such information and the Council accepts no responsibility for any inaccurate information obtained by Tenderers.
- 10.3 The tonnage quantities contained within each Bill of Quantities are the best estimate available. All tonnages will vary considerable during the Contract Period as Council seeks to meet its statutory obligations.

11. TRANSFER OF UNDERTAKINGS AND PROTECTION OF EMPLOYMENT (TUPE).

- 11.1 TUPE may apply to this Contract and information will be made available to those Tenderers who agree that TUPE does apply to these Contracts. All information will be treated as confidential.

12. METHOD STATEMENT

- 12.1 The Tenderer is required to demonstrate to the Council its proposals for ensuring that the Service is provided in accordance with the requirements of the Contract Document.
- 12.2 As such the Tenderer should submit a method statement detailing the means, by which it intends to provide, develop and continuously improve each and every aspect of the Service.

Such a method statement should provide details of: -

12.2.1 the Tenderer's assessment of the workload attached to the main element of the Service;

12.2.2 the resources (both staff and vehicles/plant) which he proposes to utilise in respect of the level of Supervision appropriate to the management of these resources and the means by which the Tenderer intends to control staff and programme their associated workload; the proposed staffing structure (including a diagrammatic and written description of the overall organisational structure, showing management, supervisory and operational personnel). The description should include job descriptions for all Supervisors and Managers; how the Tenderer proposes to provide cover for absences (caused by sickness, holidays, etc.) and for ensuring the availability of staff for emergencies; the Tenderer's proposals for Training of staff at all levels in the organisation in those aspects of the Service that the Tenderer considers necessary to ensure performance of the Service to the requirements of the Contract; and the Tenderer's proposals for the recruitment, vetting and retention of staff to maintain a stable workforce for the provision of the Service for the Contract Period.

12.2.3 the Tenderer's assessment of the requirements of the Specification and how this impacts on its resources throughout the year. In addition the Tenderer shall demonstrate how this is reflected in its proposed working patterns, working hours, etc. to achieve the delivery of the Service.

12.3 Added Value

Tenderers are to provide within their submissions details of any added value benefits that their organisation and proposals would bring to the Council. These added value benefits may include the sustainability of Tenderers proposals, regeneration opportunities, social inclusion, job opportunities, investment, employment and training, involvement and partnering arrangements with charitable and social economy businesses and the development of other waste minimisation and recycling initiatives.

12.4 Pre-qualification questionnaire (PQQ)

The Tenderer must provide any information that differs from that already disclosed in the PQQ previously submitted.

13. EVALUATION CRITERIA

13.1 The evaluation of submissions shall be based on 40% method, service, and quality and 60% final tendered price which will include both Scheduled and Provisional Items (Tender Documentation 1. Form of Tender Line (v)). (see Appendix 6. The Council's Tender evaluation criteria are indicated below. The evaluation process will include comparisons between Tenders received taking into account the answers to the following questions:

13.2 Method, Service and Quality (maximum 40%)

- Question 1 Can the Tenderer list any Added Value benefits contained in their Tender? (Maximum 10% Service);
- Question 2 Can the Tenderer explain his proposals for his programme of work to achieve the standards and requirements laid down in the Contract (4% weighting), including operating systems (3% weighting), responsiveness (2% weighting), management of contract (2% weighting) and the extent to which the Tenderer will provide an efficient and integrated operation (2% weighting) with the related operations of the Council, and for pro-active advice and assistance to the Council (2% weighting) (where appropriate on short notice)? (Maximum 15% - Method);
- Question 3 Can the Tenderer explain his staffing plans (2% weighting), use of resources (2% weighting) and policies (1% weighting) (maximum 5% - Method)
- Question 4 Can Tenderer please demonstrate that he as understands the requirements of the Specification (4% weighting) and Contract Document (4% weighting) and that his Tender proposals provide fully for methods of service innovation (2% weighting)? (Maximum 10% - Quality);

13.3 Tendered Price (maximum 60%)

- Question 5 Can the Tenderer please demonstrate that the prices and rates submitted are realistic and that they have made appropriate financial arrangements for the commencement and operation of the Contract?

The evaluation will take account of tendered prices and rates. The financial appraisal will be undertaken in accordance with the recognised Codes of Practice for tender evaluation. Tendered costs for Provisional Works will be included in the evaluation as apart of the overall bid. Additional Costs may be added on to Tenderer's bids to allow for additional travel by the Council or its contractors to reach their Delivery Points if they are at greater distance from Oakham than those provided by other Tenderers.

13.4 Tendered Price Calculation

Best price Tendered divided by this Tenderer's price times 60

Worked Example

	Tender	Calculation	Percentage score
Best Tendered Price	£100,000	$\frac{£100,000}{£100,000} = 1.00 \times 60 =$	60%
Tendered Price 2	£200,000	$\frac{£200,000}{£100,000} = 0.50 \times 60 =$	30%
Tendered Price 3	£400,000	$\frac{£400,000}{£100,000} = 0.25 \times 60 =$	15%

BLANK PAGE

4. TENDER DOCUMENTATION

1.	Form of Tender	Page 55
2.	Bills of Quantities – Scheduled Work	Page 57
3.	Bills of Quantities – Provisional Work	Page 59
4.	Certificate	Page 61
5.	Form of Bond	Page 62
6.	Resources	Page 64
7.	Deed of Guarantee	Page 67
8.	Articles of Agreement	Page 69

BLANK PAGE

1. FORM OF TENDER

LOT 1 Tender for the Treatment of Waste

(i) Tendered Price 2 (b) BOQ Scheduled Work £.....

LOT 2 Recyclable Materials Contract.

(ii) Tendered Price 2 (d) BOQ Scheduled Work £.....

LOT 3 Compostable Materials

(iii) Tendered Price 2 (f) BOQ Scheduled Work £.....

Provisional Works

(iv) Tendered Price 3 (k) BOQ Provisional Work £.....

(v) Form of Tender total of (i) to (iv) £.....

If our Tender is accepted, we undertake to provide the Performance Bond or Parent Company Guarantee detailed in paragraph 4 of the Information and Instructions to Tenderers and Condition 34 of the Conditions of Contract, not later than 28 days prior to the Commencement Date of the Contract.

Unless and until a formal agreement is prepared and executed, the Tender, together with your written acceptance thereof, shall constitute a binding contract between us.

We understand that you are not bound to accept the lowest of any Tender you may receive, and you will not pay any expenses incurred by us in connection with the preparation and submission of this Tender.

If successful the name and address of our Guarantor will be:

.....
.....

NOTE: The above only need be completed if the Tenderer is a subsidiary company. If the Tenderer is not a subsidiary company, please state this fact above.

We are, Ladies and Gentlemen,

Yours faithfully

Signature(s)

.....

Position in Firm or Company

.....

Name of Firm or Company

.....

Date.....

2. BILL OF QUANTITIES

Scheduled Works.

Item	Description	Annual Contract requirement in tonnes	Price per tonne		Total Annual Sum	
			£	p	£	p
(a)	The price per tonne for waste requiring Treatment to be accepted at Delivery Point/s. Specification Clause 2	8,850				
(b)	TOTAL ANNUAL SUM TENDERED FOR (a) CARRIED FORWARD TO 1. FORM OF TENDER LINE (i)					

Item	Description	Annual Contract requirement in tonnes	Price per tonne		Total Annual Sum	
			£	p	£	p
(c)	The price per tonne for recyclable materials accepted at Delivery Point/s. Specification Clause 3.	4,000				
(d)	TOTAL ANNUAL SUM TENDERED FOR (c) CARRIED FORWARD TO 1. FORM OF TENDER LINE (ii)					

Item	Description	Annual Contract requirement in tonnes	Price per tonne £ p		Total Annual Sum £ p	
(e)	The price per tonne for Compostable Materials accepted at Delivery Point/s. Specification Clause 4.	5,000				
(f)	TOTAL ANNUAL SUM TENDERED FOR (e) CARRIED FORWARD TO 1. FORM OF TENDER LINE (iii)					

3. BILL OF QUANTITIES

Provisional Works.

Item	Description	Annual Contract requirement in tonnes	Price per tonne		Total Annual Sum	
			£	p	£	p
(a)	The price per tonne to landfill waste. No Treatment facilities available. Specification Clause 2.	8,850				
(b)	Addition price per tonne for accepting textiles within recyclable materials (specification to be agreed)	150				
(c)	Additional price per tonne for accepting household batteries (specification to be agreed)	6				
(d)	Additional price per tonne for accepting small domestic appliances (specification to be agreed)	150				
(e)	Additional price per tonne for accepting Tetrapak (specification to be agreed)	30				
(f)	Additional price per tonne for accepting scrap metal (specification to be agreed)	100				
(g)	Additional price per tonne for accepting mixed plastics (specification to be agreed)	250				
(h) TOTAL ANNUAL SUM TENDERED FOR (a) to (g) CARRIED FORWARD TO 3 BOQ line (j)						

Provisional Works

Item	Description	Annual Contract requirement	Price per tonne		Total Annual Sum	
			£	p	£	p
(i)	Cost per hour of opening Delivery Point/s in an emergency	20				
(j)	TOTAL FROM BOQ 3 (i)					
(k)	TOTAL ANNUAL SUM TENDERED FOR (i) to (j) CARRIED FORWARD TO 1. FORM OF TENDER LINE (iv)					

4. CERTIFICATE

In recognition of the principle that the essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all those Tendering WE CERTIFY THAT: -

- (i) The Tender submitted herewith is a bona fide Tender intended to be competitive.
- (ii) We have not fixed or adjusted the amount of the Tenders under or in accordance with any agreement or arrangements with any other person.
- (ii) We have not done and we undertake that we will not do any time before the hour specified for the return of the Tenders any of the following acts:
 - (1) communicating to a person other than the person calling for the Tender the amount or approximate amount of the Tenders (except where the disclosure, in confidence, of the approximate amount of the Tenders was essential to obtain insurance premium quotations required for the preparation of the Tenders);
 - (2) entering into any agreement with any other person that he shall refrain from tendering or as to the amount of any Tenders to be submitted; and
 - (3) offering or paying or giving or agreeing to give any sum of money or valuable consideration directly or indirectly to any person for doing or person for doing or having caused to be done in relation to any other Tenders or proposed Tenders any act or thing of the sort described above.

In this certificate: -

- (d) "Person" includes any person and any body or association corporate or incorporate.
- (e) "Any agreement or arrangement" includes any transaction of the sort described above, formal or informal and whether legally binding or not.

DATED this day of 2010

SIGNED (as Tenderers)
duly authorised to sign
for and on behalf of

.....Rutland County Council District Council.....

.....

5. FORM OF BOND (do not sign during Tender stage)

BY THIS BOND WE

whose registered office is situated at

.....

(hereinafter called "the Contractor") and

.....whose registered office is situated at

.....

(hereinafter called "the Surety") are jointly and firmly bound to the Council of

.....

(hereinafter called "the Council") in the sum of £.....

for the payment of which sum the Contractor and the surety bind themselves their successors and assigns jointly and severally by these presents.

WHEREAS by a certain Contract bearing even date with the above written Bond and made between the Council of the one part and the Contractor of the other part the Contractor has contracted with the Council to perform the Service mentioned therein in conformity with the provisions of the said Contract.

NOW THE CONDITION of the above-written Bond is such that if the Contractor shall duly perform and observe all the terms provisions conditions and stipulations of the said Service on the Contractor's part to be performed and observed according to the true purpose intent and meaning thereof or if on Default by the Contractor the Surety shall satisfy and discharge the damages sustained by the Council thereby up to the amount of the above-written Bond then this obligation shall be null and void but otherwise shall be and remain in full force and effect but no alteration in the terms of the said Contract made by agreement between the Council and the Contractor or in the extent or nature of the Contracts to be performed thereunder and no allowance of time by the Council or the Supervising Officer under the said Contractor not any forbearance or forgiveness in or in respect of any matter or thing concerning the said Contract on the part of the Council or the said Supervising Officer shall in any way release the Surety from any liability under the above-written Bond.

IN WITNESS WHEREOF the parties have hereunto caused their common seals to be affixed and have hereunto set its hand and seal the day and year first before written.

EXECUTED AS A DEED BY THE CONTRACTOR

Director

Director/Secretary

.....

EXECUTED AS A DEED BY THE SURETY

Director

Director/Secretary

6. RESOURCES

1. Numbers and type of vehicles to be used including spare vehicles:

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

2. Total number of employees to be allocated to this Contract:

	Drivers	Supervisors	Operatives
Full time
Part time

3. Conditions of Contract proposed for employee:

	Full Time	Part Time
Minimum hours
Rate of pay
Bonus
Overtime rates
Normal working week (hours)
Holidays
Sick pay scheme in addition to SSP (if any)
Employees contribution %	of £ p.w.

METHOD STATEMENT

ORGANISATION AND METHOD OF WORKING

The Contractor is required to set out below his proposed management, supervisory and administrative structure and give details of the way he will organise his workforce to carry out this Contract.

Method Statement Continued

If required please add in more information

7. DEED OF GUARANTEE (do not sign during Tender stage)

THIS AGREEMENT is made the day of

BETWEEN RUTLAND COUNTY COUNCIL DISTRICT COUNCIL of Catmose Oakham
Rutland LE15 6HP

(hereinafter called "the Council") of the one part and

.....

whose office is situated at

.....

(hereinafter called "the Guarantor") of the other part.

WHEREAS:

1. (hereinafter called the Contractor) is a subsidiary of the Guarantor.
2. The Contractor has made an agreement with the Council bearing even date whereby the Contractor has agreed to carry out a Contract for the Council ("the Agreement").
3. The Guarantor and the Council have agreed that the Guarantor will guarantee the due and proper performance of this Agreement.

NOW IT IS HEREBY AGREED AND THIS DEED WITNESSETH AS FOLLOWS:

1. The Guarantor hereby guarantees the due and proper performance by the Contractor of all the obligations of the Contractor under the Agreement.
2. Should the Contractor cease to exist the Guarantor hereby agrees to indemnify the Council against any and all loss and damage resulting from non-performance or improper performance by the Contractor of its obligations under this Agreement.
3. This guarantee and indemnity shall not be affected discharged or released by any agreement, conduct, omission, breach or repudiation by the Contractor or the Council or by any forbearance whatsoever on the part of the Council.

IN WITNESS WHEREOF the parties have executed this Deed the day and year first before written

THE COMMON SEAL of
RUTLAND COUNTY COUNCIL District Council
was hereunto affixed in the presence of:

Chief Executive

Chairman/Member

EXECUTED AS A DEED BY
THE CONTRACTOR

Director

Director/Secretary

8. ARTICLES OF AGREEMENT (do not sign during Tender stage)

LOT/SERVICE	INCLUDED IN AGREEMENT? delete as required
LOT 1 - TREATMENT OF WASTE	YES
LOT 2 - TREATMENT OF RECYCLABLE MATERIALS	YES
LOT 3 TREATMENT OF COMPOSTABLE MATERIALS	YES

THIS CONTRACT is made the _____ day of _____ 2011
 BETWEEN RUTLAND COUNTY COUNCIL DISTRICT COUNCIL of Catmose, Oakham,
 Rutland LE15 6HP (hereinafter called "the Council") of the one part and

.....

whose registered office is at

.....
 (hereinafter called "the Contractor") of the other part.

WHEREAS the Council has accepted the Tender of the Contractor to undertake the provision of the Council's Contract detailed above in the County of Rutland commencing on 1st April 2011 until the 31st March 20.....

NOW THIS CONTRACT WITNESSETH as follows:

1. The Contract Documents shall be deemed to form and be read and construed as part of this Contract:
2. In consideration of the payments to be made by the Council to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Council to carry out the provision of the Contract in the County of Rutland in conformity in all respects with the provisions of the Contract and the satisfaction of the Council.
3. The Council hereby covenants to pay the Contractor in consideration of the performance of the Contract, the Annual Sum at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the Council and the Contractor have executed this Deed the day and year first before written.

THE COMMON SEAL of
RUTLAND COUNTY COUNCIL District Council
was hereunto affixed in the presence of:

Chief Executive

Chairman/Member

EXECUTED AS A DEED BY
THE CONTRACTOR

Director

Director/Secretary

5. APPENDICES

1.	The Tonnages of all Materials	Page 72
2.	Bio-degradable Municipal Waste targets	Page 73
3.	Contractors Option	Page 74
4.	Delivery Points Addresses	Page 77
5.	Waste Analysis	Page 78
6.	Evaluation Criteria	Page 79

1. The Tonnages of all Materials

Co-mingled kerbside collections were introduced 1st April 2008, therefore waste data before this time would not be relevant. Additional waste data can be supplied up on request. Please read the Council's latest Waste Strategy 2008 available on the Council's website. Go to the following links

<http://www.rutland.gov.uk/ppimageupload/Image76634.PDF>

<http://www.rutland.gov.uk/ppimageupload/Image82439.DOC>

Material Type	2008/2009 Tonnes	2009/2010 estimate Tonnes	2 year average Tonnes
Landfill	9,200	8,850	9,025
Recyclables	3,890	4,000	3,945
Compostables	4,768	5,000	4,884

10. Bio-degradable Municipal Waste (BMW)

Annual statutory targets

The Council cannot landfill any more BMW than the annual targets set in the table below. All waste Treatment options must reach these targets.

Year	BMW target in Tonnes
2011/2012	6,099
2012/2013	5,226
2013/2014	5,002
2014/2015	4,778
2015/2016	4,554
2016/2017	4,349
2017/2018	4,105
2018/2019	3,881
2019/2020	3,657

3. Contractor's Option

1. Please detail the proposal(s) you would like the Council to consider in pursuance of Clause 9.1 of the Specification.
2. If there is more than one option to present please describe each one separately.
3. If the option is a phased programme please set out the time phases and the unit cost of each phase.
4. This option will be evaluated under the criteria set out in Clause 13 page 50.

Contractor's option continued

Contractor's option continued

If required please add on more information on A 4 sheets

5. Delivery Points Addresses

5. Waste Analysis (Residual waste from kerbside)

	Paper/card	Glass	Plastic Bottles, cans, Foil	Other plastics	Food Waste	Tetrapaks	Garden	Residual (incl Rubble)	Total
Total %	5.28	1.82	2.85	3.67	31.88	0.61	2.94	50.95	100.00
Total (Kg)	192.25	66.15	103.75	133.45	1159.85	22.25	107.1	1853.88	3638.68
March 2009 Analysis (Kg)	98.85	43.45	67.6	83.2	739.75	9.2	41.65	933.65	2017.35
Sept 2009 Analysis (Kg)	93.4	22.7	36.15	50.25	420.1	13.05	65.45	920.23	1621.33

6. Evaluation Criteria

Score	Criteria for awarding score
0	Proposal is absent, or unacceptable.
1	Proposal exists but is very weak and almost unacceptable, and/or is inconsistent or in conflict with other proposals
2	Proposal is weak, and falls well below expectations in a number of identifiable respects
3	Proposal is poor and is below expectations, not meeting the required standard in most material respects, and/or is lacking or inconsistent in others
4	Proposal is below expectations but meets the required standard in some material respects
5	Proposal meets expectations regarding the required standard
6	Proposal slightly exceeds expectations regarding the required standard
7	Proposal is good and is well above expectations in some material respects
8	Proposal is very good and is well above expectations in most material respects
9	Proposal is outstanding and meets the required standard in all material respects and exceeds some or all of the major requirements
10	Proposal is exceptional and meets the required standard in all material respects and exceeds all the major requirements, and represents significant added value