

**SCHEDULE 10**

**Planning and Permitting Obligations**

This is Schedule 10 comprising Planning and Permitting Obligations referred to in the Project Agreement for the provision of waste services to Cumbria

between

**CUMBRIA COUNTY COUNCIL**

and

**SHANKS CUMBRIA LIMITED**



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## **SCHEDULE 10 - PLANNING AND PERMITTING OBLIGATIONS**

### **Part 1 – New Facilities**

In this Part 1 of Schedule 10 (Planning and Permitting Obligations), unless the context otherwise requires:-

- “Challenge Period” means the expiry of the later of:-
- (a) the period prescribed by law during which the third party may institute a challenge which would result in the quashing or modification of the relevant decision of the Planning Authority (being no longer than three (3) months unless the Contractor can demonstrate to the reasonable satisfaction of the Authority that there is a material risk of challenge extending beyond such three (3) month period); and
  - (b) where such a challenge is initiated within the period in (a), the period up to and including the final determination or withdrawal of that challenge plus one (1) week;
- "Deemed Refusal" means in respect of a Planning Application (or Key Consent Application), any failure to determine the Planning Application (or Key Consent Application) by the Planning Authority within the statutory period, as extended with the agreement of the Contractor, as approved by the Authority (such approval not to be unreasonably withheld or delayed) which would entitle the Contractor to appeal against the deemed refusal of that Planning Application (or Key Consent Application) or any other period which the Contractor and the Planning Authority (or the Environment Agency in respect of Key Consent Applications) may agree shall constitute the period for determination of the Planning Application (or Key Consent Application) for the purposes of any appeal by the Contractor;
- "Draft Revised Project Plan" a draft revised project plan proposed pursuant to paragraph 4.2.1 (Revised Project Plan);
- “Key Consent” means an EP required by Legislation for the operation of any New Facility;
- “Key Consent Application” means the applications for Key Consents for either New Facility;
- “Key Consent Long Stop Date” means:-
- (a) in relation to the Southern Resource Park, 30 April 2012 ; and
  - (b) in relation to the Northern Resource Park, 30 April 2011;
- “Onerous Conditions” means, in relation to a Planning Permission or any associated planning agreement, and any condition or other obligation in respect of such Planning Permission or agreement:-
- (a) requiring the Contractor to obtain the agreement of a third

party in respect of land outside the relevant Site other than:-

- (i) statutory undertakers in respect of the Specified Utilities; and
  - (ii) a highway authority;
- (b) requiring the Contractor to carry out off-site works or incur off-site expenditure other than in relation to the connection of the Specified Utilities or where it is anticipated in the Contractor's Works Proposals that off-site works may be required and/or any such expenditure has been taken into account in the Original Financial Model (and for the avoidance of doubt, the requirement for the construction of the Service Road adjacent to the Southern Resource Park shall not be deemed to be an Onerous Condition);
- (c) which would if implemented:-
- (i) prevent the carrying out of the Works and Services at the relevant Site and/or the use and occupation of the relevant Site unless and until conditions have been complied with which cannot be satisfied without either:-
    - (A) the Contractor undertaking preliminary works or wildlife surveys before commencing the Works that are not contemplated in the Contractor's Works Proposals; or
    - (B) the agreement of the planning authority or any other third party (unless such agreement has been received),

and which would in either case prevent or delay Start on Site Date or would adversely affect the Contractor's ability to complete the relevant Works by the Target Service Availability Date for the relevant New Facility;

- (ii) require the payment of any sums of money to any third party landowner or occupier, save to the extent that such payment has been taken into account in the Original Financial Model;
- (iii) prevent the Contractor from complying with any of its obligations under the Agreement or would result in the Contractor being in breach of the Agreement;
- (iv) unreasonably restrict the routes and times which construction vehicles, servicing vehicles or delivery vehicles can use to reach the Site;
- (v) require that any Contract Waste will be delivered otherwise than by road going vehicles alone or restricts the size of waste carrying vehicles to a size

that is smaller than would usually be used for the relevant Services to be provided at the relevant Site;

- (vi) cause the Contractor to be in breach of any Necessary Consent;
- (vii) require the transfer or dedication of land to any third party (except for the local highway authority) unless such dedication does not adversely affect operation of the Site;
- (viii) restrict the hours during which Works can be undertaken at the Site to less than ten (10) hours per day (Monday to Friday) and five (5) hours on Saturday and such restriction would adversely affect the Contractor's ability to complete the relevant Works by the Target Service Availability Date for the relevant New Facility;
- (ix) restrict the number of waste carrying vehicles inward movements to the relevant New Facility to less than two hundred (200) inward movements per day;

OR

means, in relation to any Key Consent or Key Consent Application, any condition or other obligation which will involve the Contractor in incurring Capital Expenditure in respect of such Key Consent or Key Consent application and which:-

- (a) is not contained in the Reference EP; or
- (b) will require the Contractor to obtain the agreement of a third party in respect of land outside the relevant Site other than:-
  - (i) statutory undertakers in respect of the Specified Utilities; and
  - (ii) a highway authority; or,
- (c) will require the Contractor to carry out off-site works or incur off-site expenditure other than in relation to the connection of the Specified Utilities or where it is anticipated in the Contractor's Works Proposals that off-site works may be required and/or any such expenditure has been taken into account in the Original Financial Model; or
- (d) would, if implemented:-
  - (i) prevent the carrying out of the Works and Services at the relevant Site and/or the use and occupation of the relevant Site unless and until conditions have been complied with which cannot be satisfied without the Contractor undertaking preliminary works or wildlife surveys before commencing the Works that are not



contemplated in the Contractor's Works Proposals and which would prevent or delay Start on Site Date or would adversely affect the Contractor's ability to complete the relevant Works by the Target Services Availability Date for the relevant New Facility;

- (ii) require the payment of any sums of money to any third party landowner or occupier, save to the extent that such payment has been taken into account in the Original Financial Model;
- (iii) prevent the Contractor from complying with any of its obligations under the Agreement or would result in the Contractor being in breach of the Agreement;
- (iv) cause the Contractor to be in breach of any extant Necessary Consent;
- (v) require the transfer or dedication of land to any third party (except for the local highway authority) unless such dedication does not adversely affect operation of the Site;
- (vi) restrict the hours during which Works can be undertaken at the Site to less than ten (10) hours per day (Monday to Friday) and five (5) hours on Saturday and such restriction would adversely affect the Contractor's ability to complete the relevant Works by the Target Services Availability Date for the relevant New Facility;

PROVIDED THAT where the Capital Expenditure reasonably and properly incurred (or projected to be incurred) in respect of the New Facilities by the Contractor in complying with the Onerous Conditions is (in total) fifty thousand pounds (£50,000) or less (such figure aggregated with any Capital Expenditure previously incurred (or projected to be incurred) by the Contractor in complying with any condition which would otherwise have been deemed an Onerous Condition in relation to any Planning Permission or Key Consent) then such condition shall not be deemed an Onerous Condition for the purposes of this Schedule;

- "Planning Act" means the Town and Country Planning Act 1990;
- "Planning Application" means a planning application submitted or to be submitted by or on behalf of the Authority, the Contractor and/or any Sub-Contractor pursuant to this Part 1 of Schedule 10 to the appropriate Planning Authority in respect of the undertaking of the Works and/or performance of the Service at the relevant New Facility (including any amendment to the application) pursuant to the Planning Act;
- "Planning Authority" means the relevant authority for the purposes of the Planning Act;
- "Planning Long Stop Date" means:-

	(a) in relation to the Southern Resource Park, 30 April 2012 ; and
	(b) in relation to the Northern Resource Park, 30 April 2011;
"Planning Permission"	means detailed planning permission granted pursuant to any Planning Application being in every case granted by the Planning Authority, the Secretary of State or an inspector appointed by him for that purpose and issued in writing to the Authority or the Contractor, as the case may be;
"Proceedings"	means, in relation to a Planning Application or Key Consent Application, any of the following:-
	(a) a calling in or determination by the Secretary of State or any inspector appointed by him of the Planning Application under section 77 of the Planning Act and/or the Key Consent Application under regulation 62 of the Environmental Permitting (England and Wales) Regulations 2007;
	(b) an appeal against refusal (including Deemed Refusal) of any Planning Application or Key Consent Application;
	(c) an application seeking to remove or modify any conditions imposed by the Planning Permission or Key Consent;
	(d) an appeal against refusal (including Deemed Refusal) of any application seeking to remove or modify any conditions imposed by the Planning Permission or Key Consent; and
	(e) proceedings brought under Part 54 of the Civil Procedure Rules or an application to the Court pursuant to section 288 of the Planning Act in respect of the Planning Application;
"Proceedings Budget"	means the total sum of five hundred and sixty thousand pounds (£560,000.00);
"Reference EP"	means the EP for Jenkins Lane (number BT 9364 dated 5 January 2004), as set out in Appendix 1 to this Schedule 10;
"Revised Project"	means the Project as varied by the Revised Project Plan;
"Revised Project Costs"	means the adjustment to the Monthly Unitary Charge calculated in accordance with the provisions of clause 46 (Change Protocol);
"Revised Project Dates"	has the meaning given in paragraph 5.2.2;
"Revised Project Plan"	means the Draft Project Plan accepted by the Authority in accordance with paragraph 4.2.7(a);
"Revised Project Plan Costs"	the Revised Project Costs in respect of the Revised Project Plan;
"Satisfactory Key Consent"	means a Key Consent which does not impose on the Contractor by way of condition or other obligation any Onerous Conditions;

"Satisfactory Planning Permission"	means a Planning Permission, together with any associated planning agreement or agreement with any Relevant Authority which is a permission for the description of the development and the extension which is the subject of the Planning Application and does not impose on the Contractor by way of condition or other obligation any Onerous Condition;
"Specified Utilities"	means such utilities services including electricity, hot and cold running water, foul and surface water, drainage, sewerage, gas and telecommunications as are required for the provision of the Services in accordance with this Agreement;
"Submitted Data"	has the meaning specified in paragraph 6 of this Schedule;
"UKC Notice"	means the notice served pursuant to paragraph 3.4.1;
"Unsatisfactory Key Consent"	means a Key Consent which is not a Satisfactory Key Consent;
"Unsatisfactory Planning Permission"	means a Planning Permission which is not a Satisfactory Planning Permission; and
"UPP Notice"	means the notice served pursuant to paragraph 2.5.1.

1. **PLANNING PERMISSION AND KEY CONSENT**

1.1 **Contractor to obtain Planning Permission**

The Contractor shall, subject to the provisions of this Part 1 of Schedule 10:-

- 1.1.1 use All Reasonable Endeavours to obtain Satisfactory Planning Permissions and Satisfactory Key Consents to enable it to undertake the Works and to deliver the Services (to the extent prescribed for the New Facilities in the Output Specification and in the Service Delivery Plan) at the Sites;
- 1.1.2 in pursuing any Planning Permission, use All Reasonable Endeavours to obtain such Satisfactory Planning Permission at the New Facilities by the relevant Planning Long Stop Date and will use all reasonable endeavours to assist the Authority to comply with its obligations under the Southern Resource Park Land Option Agreements to supply information to, consult with and (without payment of any monies to) obtain approval from the relevant landowners;
- 1.1.3 in pursuing any Key Consent, use All Reasonable Endeavours to obtain such Satisfactory Key Consent at the New Facilities by the relevant Key Consent Long Stop Date;
- 1.1.4 implement the relevant Satisfactory Planning Permission and/or Satisfactory Key Consent:-
  - (a) in accordance with the terms of the Agreement; and
  - (b) within the period of its validity and in accordance with its terms.

1.2 **Not Used**

### 1.3 Supply of Information

- 1.3.1 The Contractor shall within ten (10) Working Days of the end of each Contract Month, provide to the Authority:-
- (a) a written summary of the steps taken by the Contractor in that Contract Month in compliance with its obligations under paragraph 1.1;
  - (b) a written summary of those steps which it anticipates taking in the following Contract Month in order to comply with its obligations under paragraph 1.1; and
  - (c) a request that the Authority confirms whether in its opinion the Contractor has up to the date of such request complied with its obligations in paragraph 1.1 (Contractor to obtain Planning Permission) to use All Reasonable Endeavours to obtain a Satisfactory Planning Permission and/or Satisfactory Key Consent.

- 1.3.2 Without limiting the Contractor's obligations under paragraph 1.1 the Authority shall within twenty (20) Working Days after receipt of the summary referred to in paragraph 1.3.1:-

- (a) either confirm in writing that in its opinion the Contractor is complying with its obligations in paragraph 1.1.1 to use All Reasonable Endeavours (in which case the Contractor shall, other than in respect of any prior failure to use All Reasonable Endeavours previously notified by the Authority to the Contractor be considered to have used All Reasonable Endeavours up until the date of the Contractor's request pursuant to this paragraph 1.3.1 only); or
- (b) notify the Contractor of any steps taken or proposed to be taken by the Contractor as referred to in the summaries provided pursuant to paragraph 1.3.1 which do not in the Authority's opinion constitute All Reasonable Endeavours to obtain a Satisfactory Planning Permission and/or Satisfactory Key Consent at the New Facilities; and
- (c) notify the Contractor of any further measures which it believes the Contractor should take in order to comply with its obligations under paragraph 1.1 (and the Contractor shall give due consideration to any such suggestions of the Authority),

provided that:-

- (d) a confirmation or notification provided by the Authority in accordance with paragraph 1.3.2(a) or (b) shall be solely based on the information provided to the Authority by the Contractor pursuant to paragraph 1.3.1;
- (e) if the Authority has failed to provide a confirmation or notification pursuant to paragraph 1.3.2(a) or (b) within twenty (20) Business Days of the Contractor's request the Contractor shall be deemed to have received confirmation in accordance with paragraph 1.3.2(a) above; and
- (f) in the event that any information subsequently comes to the attention of the Authority which suggests that the Contractor has failed to use All Reasonable Endeavours prior to the date of the Contractor's request

pursuant to paragraph 1.3.1 then any such written confirmation or deemed confirmation provided by the Authority pursuant to paragraph 1.3.1(a) shall be disregarded to the extent that such new information is relevant to such confirmation or deemed confirmation.

#### 1.4 **Meaning of All Reasonable Endeavours**

For the purposes of this Part 1 of Schedule 10, "All Reasonable Endeavours" means that, having regard to the New Facilities and the relevant Key Consent Longstop Date and Planning Long Stop Date the Contractor shall in relation to the making of any Key Consent Application and Planning Application and in seeking to obtain a Satisfactory Key Consent and Satisfactory Planning Permission, subject to paragraphs 1.5 to 1.8, incur such expenditure and do all other things reasonably necessary (including, subject to paragraphs 1.5 to 1.8, the commencement and prosecution or defence of Proceedings in accordance with and subject to the provisions hereof) and in doing so shall exercise all proper care and skill to secure or procure the grant of a Satisfactory Key Consent and/or Satisfactory Planning Permission at the New Facilities.

#### 1.5 **Planning Proceedings for the New Facilities**

If the relevant Planning Authority:-

- 1.5.1 resolves to or is minded to grant a Planning Permission and that Planning Application is called-in by the Secretary of State under section 77 of the Planning Act; or
- 1.5.2 refuses to grant a Planning Permission (including any refusal on any re-determination of a Planning Application following the quashing of a decision to grant such Planning Permission) or there is a Deemed Refusal; or
- 1.5.3 grants a Planning Permission which is not a Satisfactory Planning Permission in circumstances where the Authority and the Contractor agree (or are unable to agree and it is determined pursuant to clause 54 (Dispute Resolution)) that Proceedings may secure a Satisfactory Planning Permission;

the Authority shall determine in its absolute discretion whether the Contractor shall pursue any Proceedings and the Contractor shall pursue or discontinue Proceedings as directed by the Authority in respect of such Planning Permission.

#### 1.6 **Planning and Key Consent Costs for the New Facilities**

- 1.6.1 Subject to this paragraph 1.6 the Contractor shall meet the costs of making any Planning Application or Key Consent Application.
- 1.6.2 Subject to paragraphs 1.6.3 and 1.7 to the extent that the same exceed the Proceedings Budget, the Authority shall reimburse the Contractor for ninety per cent (90%) of such third party costs associated with the pursuit of any Proceedings (the "Proceedings Costs") reasonably incurred by the Contractor from the Commencement Date in carrying out its obligations under this Part 1 of Schedule 10, invoiced by the Contractor monthly in arrears. For the avoidance of doubt, all costs incurred by the Contractor prior to the Commencement Date in respect of any Proceedings shall be met by the Contractor itself.
- 1.6.3 The Authority and the Contractor (both acting reasonably) shall agree on a monthly basis the Proceedings Costs which are to be incurred by the Contractor

in carrying out its obligations under this Part 1 of Schedule 10. Such Proceedings Costs shall be separated into two (2) categories:-

- (a) those costs which are of a fixed value; and
- (b) those costs which are to be estimated (such estimate to include, where relevant, the underlying pricing bases such as hourly rates).

If agreement cannot be reached under this paragraph 1.6 either party may refer the matter for dispute resolution under clause 54 (Dispute Resolution).

## **1.7 Excess Proceedings Costs**

- 1.7.1 As soon as reasonably practicable following completion of the Proceedings in relation to all the New Facilities the Contractor shall submit to the Authority an account detailing the Proceedings Costs incurred by the Contractor (the "Final Account").
- 1.7.2 If following the issue of the Final Account by the Contractor to the Authority it is determined that the aggregate of the Proceedings Costs is less than the Proceedings Budget then the Annual Unitary Charge shall be adjusted in accordance with clause 27 (Indexation and Financial Adjustments) to take into account an amount equal to ninety per cent (90%) of the amount by which the aggregate of the Proceedings Costs is less than the Proceedings Budget.
- 1.7.3 Notwithstanding any other provision in this Part 1 of Schedule 10, the Contractor shall be excused from its obligations under this paragraph 1.7 if an estimate for Proceedings Costs to be incurred by the Contractor in carrying out its obligations under this Part 1 of Schedule 10 has not been agreed by the Parties.

## **1.8 Costs awarded in Proceedings for a New Facility**

- 1.8.1 Any costs that are awarded to the Contractor in Proceedings shall be paid in the following order of priority:-
  - (a) firstly, to reimburse the Parties pro rata to their actual exposure to Proceedings Costs across all the New Facilities at the time that the award is made; and
  - (b) second, to the Authority and the Contractor in the proportions of 90:10 in favour of the Authority.
- 1.8.2 Once Proceedings for all the New Facilities have been concluded, there shall be a reconciliation of all costs awarded in relation to all the Proceedings to reflect the allocation set out in this paragraph 1.8.

## **2. PLANNING PERMISSION PROCESS**

### **2.1 Satisfactory Planning Permission for the New Facilities**

- 2.1.1 Where, on or before the relevant Planning Long Stop Date for a New Facility, the Contractor obtains:-
  - (a) a Satisfactory Planning Permission for a New Facility; or

(b) an Unsatisfactory Planning Permission in respect of which an Authority Notice of Change has been agreed and implemented to enable the Contractor to comply with the Unsatisfactory Planning Permission without being in breach of this Agreement and which:-

- (i) renders compliance with the relevant part of the Unsatisfactory Planning Permission unnecessary; or
- (ii) renders the Unsatisfactory Planning Permission a Satisfactory Planning Permission,

it shall after the expiry of the Challenge Period (if any) relating to the Satisfactory Planning Permission proceed to implement the Satisfactory Planning Permission. Subject to paragraph 2.4 (Challenge Period), the Authority may by written notice require the Contractor to so proceed without allowing the relevant Challenge Period to expire.

2.2 As soon as reasonably practicable and in any event within fifteen (15) Working Days after issue of a Planning Permission for a New Facility, the Contractor shall provide to the Authority a copy of the Planning Permission and shall notify the Authority in writing whether or not the Contractor considers the Planning Permission is a Satisfactory Planning Permission.

2.3 Where the Contractor notifies the Authority that it considers that the Planning Permission in relation to the Southern Resource Park is a Satisfactory Planning Permission (or otherwise such permission is within the terms of paragraph 2.1.1(b)) it will append to such notice a scale plan showing the extent of the Southern Resource Park for which such Planning Permission has been granted which area must lie within the Development Site as defined under the Southern Resource Park Land Option Agreements.

#### 2.4 **Challenge Period**

Where the Authority directs the Contractor to proceed to implement a Satisfactory Planning Permission without allowing the Challenge Period to elapse in respect of any relevant decision pursuant to paragraphs 2.1 to 2.2 (Satisfactory Planning Permission) and a challenge is instituted within the Challenge Period the Authority shall indemnify and keep indemnified the Contractor for all costs, losses, expenses and liabilities reasonably and properly incurred up to the point at which such challenge is finally determined and the Contractor shall mitigate such costs, losses, expenses and liabilities provided that any indemnification of any costs, losses, expenses or liabilities shall be calculated on the basis that the Contractor should be left in no better or no worse position than it would have been in had such costs, losses, expenses or liabilities not arisen. If a challenge is successful the provisions of paragraph 4 shall apply.

#### 2.5 **Unsatisfactory Planning Permission for a New Facility**

2.5.1 If the Contractor considers that the Planning Permission for a New Facility is an Unsatisfactory Planning Permission it shall provide within ten (10) Working Days of the notice given pursuant to paragraph 2.2 to the Authority:-

- (a) full details of the grounds for such opinion; and
- (b) an indication of what action could be taken (if any) by the Contractor or the Authority to enable the Contractor to comply with the Planning Permission without being in breach of this Agreement and which would render it a

Satisfactory Planning Permission or render compliance with the relevant part of such Unsatisfactory Planning Permission unnecessary including without limitation:-

- (i) Proceedings; or
- (ii) the issue of an Authority Change Notice to vary the Works and/or Services;

(the "UPP Notice").

2.5.2 If the Contractor fails to provide the UPP Notice within twenty five (25) Working Days after issue of the Planning Permission for a New Facility under paragraph 2.5.1, the said Planning Permission shall be deemed to be a Satisfactory Planning Permission.

2.5.3 If:-

- (a) the Contractor notifies the Authority that the Planning Permission for a New Facility is a Satisfactory Planning Permission; or
- (b) such a Planning Permission is deemed to be a Satisfactory Planning Permission in accordance with paragraph 2.5.2,

then the provisions of paragraph 2.1.1 shall apply accordingly.

2.5.4 If the Contractor notifies the Authority that the Planning Permission for the New Facility is an Unsatisfactory Planning Permission in accordance with paragraph 2.5.1 the Authority shall, within ten (10) Working Days of receipt of the UPP Notice, notify the Contractor in writing whether or not the Authority accepts that the Planning Permission for a New Facility is an Unsatisfactory Planning Permission and whether the Authority accepts the action indicated by the Contractor in the UPP Notice.

2.5.5 If the Authority does not accept or does not notify the Contractor (in which case the Authority shall be deemed not to have accepted), within the time set out in paragraph 2.5.4 that the Planning Permission for a New Facility is an Unsatisfactory Planning Permission the matter may be referred at the instance of either Party for dispute resolution under clause 54 (Dispute Resolution) as to whether the Planning Permission for a New Facility is a Satisfactory Planning Permission or an Unsatisfactory Planning Permission.

2.5.6 If the Authority accepts in accordance with paragraph 2.5.4 or it is determined pursuant to clause 54 (Dispute Resolution) that the Planning Permission for a New Facility is an Unsatisfactory Planning Permission and the Parties agree or it is determined that Proceedings will not be likely to secure a Satisfactory Planning Permission the Authority may, subject to this paragraph 2.5.6, within thirty (30) Working Days after it is accepted by the Authority pursuant to paragraph 2.5.4 or it is determined that a Planning Permission for a New Facility is an Unsatisfactory Planning Permission in accordance with paragraph 2.5.5, issue an Authority Notice of Change in respect of the Works or Services or other actions required to enable the Contractor to comply with the terms of the Planning Permission for a New Facility without being in breach of this Agreement and which renders it a Satisfactory Planning Permission or renders



compliance with the relevant part of such Unsatisfactory Planning Permission unnecessary.

### 3. **KEY CONSENT PROCESS**

#### 3.1 **Satisfactory Key Consent for the New Facilities**

3.1.1 Where, on or before the relevant Key Consent Long Stop Date for a New Facility, the Contractor obtains:-

- (a) a Satisfactory Key Consent for a New Facility; or
- (b) an Unsatisfactory Key Consent in respect of which an Authority Notice of Change has been agreed and implemented to enable the Contractor to comply with the Unsatisfactory Key Consent without being in breach of this Agreement and which:-

- (i) renders compliance with the relevant part of the Unsatisfactory Key Consent unnecessary; or

- (ii) renders the Unsatisfactory Key Consent a Satisfactory Key Consent,

it shall after the expiry of the Challenge Period (if any) relating to the Satisfactory Key Consent proceed to implement the Satisfactory Key Consent. Subject to paragraph 3.3 (Challenge Period), the Authority may by written notice require the Contractor to so proceed without allowing the relevant Challenge Period to expire.

3.2 As soon as reasonably practicable and in any event within fifteen (15) Working Days after issue of a Key Consent for a New Facility, the Contractor shall provide to the Authority a copy of the Key Consent and shall notify the Authority in writing whether or not the Contractor considers the Key Consent is a Satisfactory Key Consent.

#### 3.3 **Challenge Period**

Where the Authority directs the Contractor to proceed to implement a Satisfactory Key Consent without allowing the Challenge Period to elapse in respect of any relevant decision pursuant to paragraphs 3.1 to 3.2 (Satisfactory Key Consent) and a challenge is instituted within the Challenge Period the Authority shall indemnify and keep indemnified the Contractor for all costs, losses, expenses and liabilities reasonably and properly incurred up to the point at which such challenge is finally determined and the Contractor shall mitigate such costs, losses, expenses and liabilities provided that any indemnification of any costs, losses, expenses or liabilities shall be calculated on the basis that the Contractor should be left in no better or no worse position than it would have been in had such costs, losses, expenses or liabilities not arisen. If a challenge is successful the provisions of paragraph 4 shall apply.

#### 3.4 **Unsatisfactory Key Consent for a New Facility**

3.4.1 If the Contractor considers that the Key Consent for a New Facility is an Unsatisfactory Key Consent it shall provide within ten (10) Working Days of the notice given pursuant to paragraph 3.2 to the Authority:-

- (a) full details of the grounds for such opinion; and

(b) an indication of what action could be taken (if any) by the Contractor or the Authority to enable the Contractor to comply with the Key Consent without being in breach of this Agreement and which would render it a Satisfactory Key Consent or render compliance with the relevant part of such Unsatisfactory Key Consent unnecessary including without limitation:-

(i) Proceedings; or

(ii) the issue of an Authority Change Notice to vary the Works and/or Services;

(the "UKC Notice").

3.4.2 If the Contractor fails to provide the UKC Notice within twenty five (25) Working Days after issue of the Key Consent for a New Facility under paragraph 3.4.1, the said Key Consent shall be deemed to be a Satisfactory Key Consent.

3.4.3 If:-

(a) the Contractor notifies the Authority that the Key Consent for a New Facility is a Satisfactory Key Consent; or

(b) such a Key Consent is deemed to be a Satisfactory Key Consent in accordance with paragraph 3.4.2,

then the provisions of paragraph 3.1.1 shall apply accordingly.

3.4.4 If the Contractor notifies the Authority that the Key Consent for the New Facility is an Unsatisfactory Key Consent in accordance with paragraph 3.4.1 the Authority shall, within ten (10) Working Days of receipt of the UKC Notice, notify the Contractor in writing whether or not the Authority accepts that the Key Consent for a New Facility is an Unsatisfactory Key Consent and whether the Authority accepts the action indicated by the Contractor in the UKC Notice.

3.4.5 If the Authority does not accept or does not notify the Contractor (in which case the Authority shall be deemed not to have accepted), within the time set out in paragraph 3.4.4 that the Key Consent for a New Facility is an Unsatisfactory Key Consent the matter may be referred at the instance of either Party for dispute resolution under clause 54 (Dispute Resolution) as to whether the Key Consent for a New Facility is a Satisfactory Key Consent or an Unsatisfactory Key Consent.

3.4.6 If the Authority accepts in accordance with paragraph 3.4.4 or it is determined pursuant to clause 54 (Dispute Resolution) that the Key Consent for a New Facility is an Unsatisfactory Key Consent and the Parties agree or it is determined that Proceedings will not be likely to secure a Satisfactory Key Consent the Authority may, subject to this paragraph 3.4.6, within thirty (30) Working Days after it is accepted by the Authority pursuant to paragraph 3.4.4 or it is determined that a Key Consent for a New Facility is an Unsatisfactory Key Consent in accordance with paragraph 3.4.6, issue an Authority Notice of Change in respect of the Works or Services or other actions required to enable the Contractor to comply with the terms of the Key Consent for a New Facility without being in breach of this Agreement and which renders it a Satisfactory Key Consent or renders compliance with the relevant part of such Unsatisfactory Key Consent unnecessary.

4. **FAILURE TO OBTAIN SATISFACTORY PLANNING PERMISSION/KEY CONSENT FOR A NEW FACILITY**

4.1 At the earlier of:-

4.1.1 in relation to the Northern Resource Park:-

- (a) the date when the Parties reasonably conclude or it is determined in accordance with clause 54 (Dispute Resolution) that it will not be possible to obtain a Satisfactory Planning Permission by the relevant Planning Long Stop Date or a Satisfactory Key Consent by the relevant Key Consent Long Stop Date; or
- (b) the Planning Long Stop Date (where at such date the Contractor has failed to obtain the Satisfactory Planning Permission with the Challenge Period expired); or
- (c) the Key Consent Long Stop Date (where at such date the Contractor has failed to obtain a Satisfactory Key Consent); or
- (d) unless the Parties agree otherwise, the date at which Proceedings have been finally determined (including any withdrawal of the same) and a Satisfactory Planning Permission and Satisfactory Key Consent has not been obtained; and/or

4.1.2 in relation to the Southern Resource Park:-

- (a) the date when the Parties reasonably conclude or it is determined in accordance with clause 54 (Dispute Resolution) that it will not be possible to obtain a Satisfactory Planning Permission by the relevant Planning Long Stop Date or a Satisfactory Key Consent by the relevant Key Consent Long Stop Date; or
- (b) the Planning Long Stop Date (where at such date the Contractor has failed to obtain the Satisfactory Planning Permission with the Challenge Period expired); or
- (c) the Key Consent Long Stop Date (where at such date the Contractor has failed to obtain a Satisfactory Key Consent); or
- (d) unless the Parties agree otherwise, the date at which Proceedings have been finally determined (including any withdrawal of the same) and a Satisfactory Planning Permission and Satisfactory Key Consent has not been obtained;

then provided that:-

- (i) the Contractor has complied with its obligation under paragraph 1.1 to use All Reasonable Endeavours to obtain a Satisfactory Planning Permission and a Satisfactory Key Consent; or
- (ii) the Contractor has failed to comply with its obligation under paragraph 1.1 to use All Reasonable Endeavours to obtain a Satisfactory Planning Permission and a Satisfactory Key Consent and either:-

- (A) the Authority has, pursuant to paragraph 1.3.2, notified the Contractor of any such failure and the Contractor has remedied the failure; or
- (B) the Authority has failed to notify the Contractor of any such failure pursuant to paragraph 1.3.2(e),

subject to paragraph 4.1.3, the Contractor shall, within three (3) months of such date, propose a Revised Project Plan whereupon paragraph 4.2 (Revised Project Plan) shall apply.

4.1.3 If the Authority serves written notice on the Contractor within twenty (20) Working Days of the date determined under paragraph 4.1.1 or 4.1.2 as the case may be, stating that the Contractor is not required to propose a Revised Project Plan then the provisions of clause 38 (Compensation on Termination for Force Majeure) shall apply (and for the purposes of clause 38 this Contract shall be deemed terminated under clause 30 (Termination for Force Majeure)).

## 4.2 **Revised Project Plan**

4.2.1 If pursuant to paragraph 4.1 (Failure to obtain Satisfactory Planning Permission/Key Consent for a New Facility) the Contractor is requested to propose a Revised Project Plan then the Contractor shall provide, in accordance with the provisions of this paragraph 4.2 (Revised Project Plan) a draft Revised Project Plan (“Draft Revised Project Plan”) in writing to the Authority within three (3) months of being requested to do so.

4.2.2 In preparing the Draft Revised Project Plan the Contractor shall act in good faith and comply with Good Industry Practice with the objective of ensuring that it obtains best value for money for the Authority (taking into account all relevant circumstances including the requirement that the Contractor should be no worse off as a result of the implementation of the Revised Project Plan) when procuring any works, services, supplies, materials or equipment required in relation to the Revised Project.

4.2.3 The Draft Revised Project Plan shall set out:-

- (a) the proposed technical solution(s) for the Revised Project;
- (b) a project plan for the Revised Project covering the same or similar issues as the Contractor’s Works Proposals and Services Delivery Plans insofar as such issues are relevant to the Revised Project;
- (c) the proposed length of time and programme for the obtaining any Necessary Consents;
- (d) the Contractor’s opinion regarding the likelihood of being able to obtain the relevant Necessary Consents;
- (e) the interest(s) in land required for the Revised Project;
- (f) the Revised Project Plan Costs for the delivery of the Revised Project;
- (g) the Contractor’s opinion as to the changes in the risk profile required as a result of the Revised Project;

- (h) details of the relief required by the Contractor from its obligations under the Agreement;
- (i) amendments required to the Contract and any Project Documents;
- (j) any impact of the Revised Project on the provision of the Works and Services other than those which are the subjects of the Revised Project Plan;
- (k) proposed acceptance tests for certification of completeness for any required works;
- (l) any impact on any Target Service Availability Date;
- (m) outline works, delivery plans and/or service delivery plans or any amendments to the existing Service Delivery Plans;
- (n) details of insurance arrangements required to cover any risks associated with the Revised Project Plan;
- (o) the Contractor's opinion as to the compliance with Legislation of the draft Revised Project Plan;
- (p) how the Contractor intends to finance the Revised Project Plan; and
- (q) details of how the Contractor will dispose of the Contract Waste during the carrying out of the Revised Project Plan and the costs of such disposal shall be included in the Revised Project Plan and the costs of such disposal shall be included in the Revised Project Plan Costs.

4.2.4 The Contractor and the Authority shall during the period of six (6) months from the receipt by the Authority of the Draft Revised Project Plan discuss and seek to agree each and every element of the Draft Revised Project Plan including:-

- (a) the provision of evidence that the Contractor has used All Reasonable Endeavours (including (where practicable) the use of competitive quotes) to oblige its Sub-Contractors to minimise any increase in costs and maximise any reduction in costs;
- (b) demonstrating how any Capital Expenditure to be incurred or avoided is being measured in a cost effective manner, including showing that when such expenditure is incurred, foreseeable Changes in Law at the time have been taken account of by the Contractor; and
- (c) demonstrating that any expenditure that has been avoided, which was anticipated to be incurred to replace or maintain assets that have been affected by the Revised Project Plan, has been taken into account in the amount which in its opinion has resulted or is required under paragraph 4.2.3(f).

4.2.5 In any discussions which take place pursuant to paragraph 4.2.3(q) the Authority may:-

- (a) suggest modifications to the Draft Revised Project Plan provided that the Contractor shall not be obliged to take account of any such suggested modifications; or
- (b) require the Contractor to seek and evaluate competitive tenders for the relevant capital works.

4.2.6 If the Contractor either accepts (such acceptance shall be at the sole discretion of the Contractor) any modifications suggested by the Authority or there are any amendments to the Draft Revised Project Plan following any competitive tenders for the relevant capital works in each case as arise pursuant to paragraph 4.2.3(q) then the Contractor shall, as soon as reasonably practicable following either the acceptance by the Contractor of any modifications or following the completion of any competitive tender, notify the Authority of any consequential changes to the Draft Revised Project Plan.

4.2.7 The Authority shall by notice in writing from the Authority within six (6) months of receipt of the Draft Revised Project Plan pursuant to paragraph 4.2.1 either:-

- (a) accept the Draft Revised Project Plan and the Parties shall proceed to implement the Revised Project Plan in accordance with paragraph 4.3 (Implementation of Revised Project Plan) and the parties shall execute such legal documentation as proposed by paragraph 4.2.3(i) to give effect to the Revised Project including the amendments to the Monthly Unitary Charge to reflect the Revised Project Plan Costs; or
- (b) reject the Draft Revised Project Plan provided that in the event that the Authority does not respond to such notice within the required time then the Authority shall be deemed to have rejected the Draft Revised Project Plan and in the case of rejection or deemed rejection the provisions of paragraph 4.4 (Termination As A Result of Planning/Permit Failure) shall apply.

#### 4.3 **Implementation of Revised Project Plan**

In the event that the Authority accepts the Revised Project Plan the Contractor shall implement the provisions of such Revised Project Plan in accordance with its terms.

#### 4.4 **Termination as a Result of Planning/Permit Failure**

If the Authority rejects or is deemed to have rejected the Revised Project Plan pursuant to paragraph 4.2.7 then the Contractor, (provided that it has complied with its obligation under paragraph 1.1.2 to use All Reasonable Endeavours to obtain the Satisfactory Planning Permission), or the Authority may serve written notice on the other Party specifying such Party's wish to terminate the Contract. In the event of such notice of termination served pursuant to this paragraph 4.4 (Termination as a Result of Planning Failure) the Contract Period shall terminate and the provisions of clause 38 (Compensation on Termination for Force Majeure) shall apply as if such termination constituted Force Majeure Event.

### 5. **DELAYS AND EXTENSIONS OF TIME**

5.1 If at the Start on Site Date for a New Facility:-

5.1.1 the Contractor using All Reasonable Endeavours to obtain Planning Permission and a Key Consent has not obtained a Satisfactory Planning Permission or a Satisfactory Key Consent for the relevant New Facility; or

5.1.2 the Contractor has obtained a Satisfactory Planning Permission and a Satisfactory Key Consent for the relevant New Facility but later than the applicable date set out in the Construction Programme;

the Contractor shall be relieved from its obligations to commence the relevant Works by the relevant Start on Site Date, and subject to the Contractor's compliance with its obligations contained in paragraphs 5.2 to 5.4 respectively, the Contractor shall be entitled (notwithstanding the definition of Compensation Event) to claim a Compensation Event in respect of such delay.

5.2 Notwithstanding paragraph 5.1, the Contractor shall continue to comply with its obligations to use All Reasonable Endeavours to obtain the relevant Satisfactory Planning Permission and Satisfactory Key Consent (unless those obligations shall cease to apply in accordance with paragraphs 4.3 (Revised Project Plan) or 4.4 (Termination as a Result of Planning Failure), and if the Contractor shall have obtained a Satisfactory Planning Permission and a Satisfactory Key Consent the Contractor shall promptly so notify the Authority and within ten (10) Working Days:-

5.2.1 demonstrate to the Authority the delay (if any) in mobilisation and commencement of the construction of the relevant New Facility by reference to the Construction Programme;

5.2.2 propose to the Authority:-

(a) a revised Start on Site Date; and

(b) a revised Target Service Availability Date

for the relevant New Facility (together "Revised Project Dates").

5.3 The Authority and the Contractor shall seek to agree the Revised Project Dates as soon as possible and in doing so shall agree the Revised Project Dates which are fair and reasonable in the circumstances having regard to the extent of the delay and:-

5.3.1 disregard any delay caused by a breach, neglect or default of the Contractor; and

5.3.2 take account of the extent to which the Contractor should be able by acting in accordance with Good Industry Practice (and without being required to expend any sums) to mitigate the consequences of delay.

5.4 In default of delivery of the Revised Project Dates in accordance with paragraph 5.2 or default of agreement of the Revised Project Dates within ten (10) Working Days of delivery of such proposed Revised Project Dates, the Revised Projects Dates shall be determined at the instance of either party in accordance with clause 54 (Disputes Resolution).

5.5 Once agreed or determined, the Construction Programme shall be amended to reflect the Revised Project Dates.

## 6. DESIGN METHODOLOGY

6.1A It is agreed that the provisions of this paragraph 6 shall only apply to the period prior to the grant of a relevant Planning Permission, or Key Consent in relation to the Southern Resource Park.

6.1 The Contractor and the Authority acknowledge and agree that the Contractor's obligation under this Part 1 of Schedule 10 to obtain a Satisfactory Planning Permission or Satisfactory Key Consent for the Southern Resource Park is based on the terms of the Contractor's Works Proposals and Services Delivery Plan for the Northern Resource Park without amendment (other than in relation to siting and orientation). The Contractor shall submit such Proposals and Plan as part of the Planning Application or Key Consent Application process for the Southern Resource Park and such submission shall be described as the "Submitted Data" for the purposes of this paragraph 6.

6.2 If during the course of performing its obligations under this Part 1 of Schedule 10, a Relevant Authority formally notifies the Contractor of changes to the Submitted Data, the Planning Application or Key Consent Application that are either:-

6.2.1 required by the Relevant Authority considering a Planning Application as a condition to granting the Planning Permission;

6.2.2 required by the Environment Agency considering a Key Consent Application as a condition to granting the Key Consent Application; or

6.2.3 will enhance the prospects of the relevant Planning Permission or Key Consent meeting the requirements of this Part 1 of Schedule 10,

then the Contractor shall notify the Authority, describing the Relevant Authority's/Environment Agency's proposed changes in reasonable detail.

6.3 Immediately following any notification under paragraph 6.2, the Authority and the Contractor will seek to agree whether the changes:-

6.3.1 are of a purely cosmetic nature serving no technical function in enabling the Contractor to meet the Output Specification; or

6.3.2 are (and were at the date of this Agreement) usual requirements for works or services of a similar nature to the Works and Services the subject of the Planning Permission and which the Contractor should reasonably have included in the Submitted Data;

and if the parties cannot agree then the dispute will be determined in accordance with clause 54 (Dispute Resolution).

6.4 If it is agreed or it is determined that the relevant changes are not usual or are of a purely cosmetic nature serving no technical function in enabling the Contractor to meet the Output Specification then:-

6.4.1 the Authority shall notify the Contractor whether it wishes to consider implementing the proposed changes as an Authority Change in accordance with clause 46 (Change Protocol); and

6.4.2 in the event that the Authority elects not to implement the proposed changes as an Authority Change then the Contractor shall be entitled to proceed with the



relevant Planning Application/Key Consent Application based on the original Submitted Data, Planning Application and/or Key Consent Application (as appropriate) and in so doing shall not be regarded as being in breach of its obligation to use All Reasonable Endeavours to obtain the relevant Planning Permission/Key Consent,

and in all other cases the Contractor shall be required to implement the changes at its own cost. Any change to the Submitted Data made by the Contractor specifically pursuant to this paragraph 6.4 shall not be subject to further review by the Authority under the mechanism set out in clause 13 and Schedule 8 (Review Procedure).

7. **CONTRACTOR CONFIRMATION**

It is hereby confirmed that, prior to the date of this Agreement, the Contractor has obtained a Satisfactory Planning Permission in respect of the Northern Resource Park and has provided the Authority with appropriate notification under paragraph 2.5.3(a) above.

## **SCHEDULE 10 - PLANNING AND PERMITTING OBLIGATIONS**

### **Part 2 - Existing Remedial Facilities**

In this Part 2 of Schedule 10 (Planning and Permitting Obligations) unless the context otherwise requires:-

- "Challenge Period" means the expiry of the later of:-
- (a) the period prescribed by law during which the third party may institute a challenge which would result in the quashing or modification of the relevant decision of the Planning Authority (being no longer than three (3) months unless the Contractor can demonstrate to the reasonable satisfaction of the Authority that there is a material risk of challenge extending beyond such three (3) month period); and
  - (b) where such a challenge is initiated within the period in (a), the period up to and including the final determination or withdrawal of that challenge plus one (1) week;
- "Deemed Refusal" means in respect of a Planning Application, any failure to determine the Planning Application by the Planning Authority within the statutory period, as extended with the agreement of the Contractor, as approved by the Authority (such approval not to be unreasonably withheld or delayed) which would entitle the Contractor to appeal against the deemed refusal of that Planning Application or any other period which the Contractor and the Planning Authority may agree shall constitute the period for determination of the Planning Application for the purposes of any appeal by the Contractor;
- "Draft Revised Project Plan" a draft revised project plan proposed pursuant to paragraph 3.2.1 (Revised Project Plan);
- "Existing Remedial Facility" means each of:-
- (a) Frizington HWRC;
  - (b) Kendal HWRC;
  - (c) Flusco HWRC; and
  - (d) Millom HWRC
- "Existing Remedial Facility Expiry Date" means in relation to:-
- (a) Frizington HWRC, 31 December 2009 and any subsequent expiry date for the renewal or replacement of the Reference HWRC Planning Permission (or any subsequent planning permission) in respect of Frizington HWRC;
  - (b) Kendal HWRC, 1 August 2010 and any subsequent expiry date for the renewal or replacement of the Reference HWRC Planning Permission (or any subsequent planning permission) in respect of Kendal HWRC;

- (c) Flusco HWRC, 31 December 2015 and any subsequent expiry date for the renewal or replacement of the Reference HWRC Planning Permission (or any subsequent planning permission) in respect of Flusco HWRC; and
- (d) Millom HWRC, 31 March 2013 and any subsequent expiry date for the renewal or replacement of the Reference HWRC Planning Permission (or any subsequent planning permission) in respect of Millom HWRC

"Onerous Conditions"	means, in relation to a Planning Permission or any associated planning agreement, any condition or other obligation in respect of such Planning Permission or agreement that is not contained in the Reference HWRC Planning Permission;
"Planning Act"	means the Town and Country Planning Act 1990;
"Planning Application"	means a planning application submitted or to be submitted by or on behalf of the Authority, the Contractor and/or any Sub-Contractor pursuant to this Part 2 of Schedule 10 to the appropriate Planning Authority in respect of the undertaking of the Works and/or performance of the Service at the relevant Existing Remedial Facility (including any amendment to the application) pursuant to the Planning Act;
"Planning Authority"	means the relevant authority for the purposes of the Planning Act;
"Planning Permission"	means detailed planning permission granted pursuant to any Planning Application being in every case granted by the Planning Authority, the Secretary of State or an inspector appointed by him for that purpose and issued in writing to the Authority or the Contractor, as the case may be;
"Proceedings"	means, in relation to a Planning Application any of the following:- <ul style="list-style-type: none"> <li>(a) a calling in or determination by the Secretary of State or any inspector appointed by him of the Planning Application under section 77 of the Planning Act;</li> <li>(b) an appeal against refusal (including Deemed Refusal) of any Planning Application;</li> <li>(c) an application seeking to remove or modify any conditions imposed by the Planning Permission;</li> <li>(d) an appeal against refusal including Deemed Refusal of any application seeking to remove or modify any conditions imposed by the Planning Permission; and</li> <li>(e) proceedings brought under Part 54 of the Civil Procedure Rules or an application to the Court pursuant to section 288 of the Planning Act in respect of the Planning Application;</li> </ul>
"Reference HWRC"	means the planning permission (including any associated planning agreement(s)) for the relevant Existing Remedial Facility as at the

Planning Permission"	Commencement Date, as set out in Appendix 2;
"Relevant Authority"	means any court with the relevant jurisdiction and any local or supra national agency, local authority, inspectorates minister, ministry, official or public or statutory person of the Government of the United Kingdom or of the European Union;
"Revised Project"	means the Project as varied by the Revised Project Plan;
"Revised Project Costs"	means the adjustment to the Unitary Charge calculated in accordance with the provisions of clause 46 (Variations);
"Revised Project Plan"	means the Draft Revised Project Plan accepted by the Authority in accordance with paragraph 4.2.7(a);
"Revised Project Plan Costs"	the Revised Project Costs in respect of the Revised Project Plan;
"Satisfactory Planning Permission"	means a Planning Permission, together with any associated planning agreement or agreement with any Relevant Authority which is a permission for the subject of the Planning Application and does not impose on the Contractor by way of condition or other obligation any Onerous Conditions;
"Unsatisfactory Planning Permission"	means a Planning Permission which is not a Satisfactory Planning Permission; and
"UPP Notice"	means the notice served pursuant to paragraph 2.4.1.

## 1. **PLANNING PERMISSION**

### 1.1 **Contractor to obtain Planning Permission**

- 1.1.1 The Contractor shall prior to the submission of any renewal or replacement of a Reference Planning Application in respect of each Existing Remedial Facility, issue a written notice to the Authority at least thirty (30) Working Days prior to the date of submission of such renewal or replacement of a Reference Planning Application. Unless the Contractor prior to the expiry of such thirty (30) Working Day period receives a written notice from the Authority requiring the Contractor not to submit any such renewal or replacement of a Reference Planning Application, the Contractor shall subject to the following provisions of this Part 2 of Schedule 10:-
- (a) use All Reasonable Endeavours to obtain Satisfactory Planning Permissions to enable it to continue to deliver the Services at each Existing Remedial Facility;
  - (b) in pursuing any Planning Permission, use All Reasonable Endeavours to obtain such Satisfactory Planning Permission at the relevant Existing Remedial Facility by the relevant Existing Remedial Facility Expiry Date;
  - (c) implement the relevant Satisfactory Planning Permission:-
    - (i) in accordance with the terms of the Agreement; and
    - (ii) within the period of its validity and in accordance with its terms.

1.1.2 In the event that the Authority serves a written notice as set out above, the Contractor shall from the relevant Existing Remedial Facility Expiry Date be relieved from its obligation to provide the relevant part of the Services to the relevant Existing Remedial Facility and the Authority shall propose an Authority Change to remove on a permanent basis the relevant Existing Remedial Facility from the scope of the Project from such Existing Remedial Facility Expiry Date, and the Services required to be undertaken at the Existing Remedial Facility, from the scope of the Services.

1.2 **Not Used**

1.3 **Supply of Information**

1.3.1 The Contractor shall within ten (10) Working Days of the end of each Contract Month, provide to the Authority:-

- (a) a written summary of the steps taken by the Contractor in that Contract Month in compliance with its obligations under paragraph 1.1;
- (b) a written summary of those steps which it anticipates taking in the following Contract Month in order to comply with its obligations under paragraph 1.1; and
- (c) a request that the Authority confirms whether in its opinion the Contractor has up to the date of such request complied with its obligations in paragraph 1.1 (Contractor to obtain Planning Permission) to use All Reasonable Endeavours to obtain a Satisfactory Planning Permission.

1.3.2 Without limiting the Contractor's obligations under paragraph 1.1 the Authority shall within twenty (20) Working Days after receipt of the summary referred to in paragraph 1.3.1:-

- (a) either confirm in writing that in its opinion the Contractor is complying with its obligations in paragraph 1.1.1 to use All Reasonable Endeavours (in which case the Contractor shall, other than in respect of any prior failure to use All Reasonable Endeavours previously notified by the Authority to the Contractor be considered to have used All Reasonable Endeavours up until the date of the Contractor's request pursuant to this paragraph 1.3.1 only); or
- (b) notify the Contractor of any steps taken or proposed to be taken by the Contractor as referred to in the summaries provided pursuant to paragraph 1.3.1 which do not in the Authority's opinion constitute All Reasonable Endeavours to obtain a Satisfactory Planning Permission at the relevant Existing Remedial Facility; and
- (c) notify the Contractor of any further measures which it believes the Contractor should take in order to comply with its obligations under paragraph 1.1 (and the Contractor shall give due consideration to any such suggestions of the Authority),

provided that:-

- (d) a confirmation or notification provided by the Authority in accordance with paragraph 1.3.2(a) or (b) shall be solely based on the information provided to the Authority by the Contractor pursuant to paragraph 1.3.1;
- (e) if the Authority has failed to provide a confirmation or notification pursuant to paragraph 1.3.2(a) or (b) within twenty (20) Business Days of the Contractor's request the Contractor shall be deemed to have a received confirmation in accordance with paragraph 1.3.2(a) above; and
- (f) in the event that any information subsequently comes to the attention of the Authority which suggests that the Contractor has failed to use All Reasonable Endeavours prior to the date of the Contractor's request pursuant to paragraph 1.3.1 then any such written confirmation or deemed confirmation provided by the Authority pursuant to paragraph 1.3.1(a) shall be disregarded to the extent that such new information is relevant to such confirmation or deemed confirmation.

#### 1.4 **Meaning of All Reasonable Endeavours**

For the purposes of this Part 2 of Schedule 10, "All Reasonable Endeavours" means that, having regard to the relevant Existing Remedial Facility and the relevant Existing Remedial Facility Expiry Date the Contractor shall in relation to the making of any Planning Application and in seeking to obtain a Satisfactory Planning Permission, subject to paragraphs 1.5 to 1.7 inclusive, incur such expenditure and do all other things reasonably necessary (including, subject to paragraphs 1.5 to 1.7 inclusive, the commencement and prosecution or defence of Proceedings in accordance with and subject to the provisions hereof) and in doing so shall exercise all proper care and skill to secure or procure the grant of a Satisfactory Planning Permission at the relevant Existing Remedial Facility.

#### 1.5 **Planning Proceedings for the Existing Remedial Facilities**

If the relevant Planning Authority:-

- 1.5.1 resolves to or is minded to grant a Planning Permission and that Planning Application is called-in by the Secretary of State under section 77 of the Planning Act; or
- 1.5.2 refuses to grant a Planning Permission (including any refusal on any re-determination of a Planning Application following the quashing of a decision to grant such Planning Permission) or there is a Deemed Refusal; or
- 1.5.3 grants a Planning Permission which is not a Satisfactory Planning Permission in circumstances where the Authority and the Contractor agree (or are unable to agree and it is determined pursuant to clause 54 (Dispute Resolution)) that Proceedings may secure a Satisfactory Planning Permission;

the Authority shall determine in its absolute discretion whether the Contractor shall pursue any Proceedings and the Contractor shall pursue or discontinue Proceedings as directed by the Authority in respect of such Planning Permission.

#### 1.6 **Planning Costs for the New Facilities**

- 1.6.1 Subject to this paragraph 1.6 the Contractor shall meet the costs of making any Planning Application.

- 1.6.2 Subject to paragraph 1.6.3, the Authority shall reimburse the Contractor for ninety per cent (90%) of such third party costs associated with the pursuit of any Proceedings (the "Proceedings Costs") reasonably incurred by the Contractor in carrying out its obligations under this Part 2 of Schedule 10, invoiced by the Contractor monthly in arrears.
- 1.6.3 The Authority and the Contractor (both acting reasonably) shall agree on a monthly basis the Proceedings Costs which are to be incurred by the Contractor in carrying out its obligations under this Part 2 of Schedule 10. Such Proceedings Costs shall be separated into two (2) categories:-
- (a) those costs which are of a fixed value; and
  - (b) those costs which are to be estimated (such estimate to include, where relevant, the underlying pricing bases such as hourly rates).

If agreement cannot be reached under this paragraph 1.6 either party may refer the matter for dispute resolution under clause 54 (Dispute Resolution).

## 1.7 **Costs awarded in Proceedings for an Existing Remedial Facility**

- 1.7.1 Any costs that are awarded to the Contractor in Proceedings shall be paid in the proportions of 90:10 in favour of the Authority.
- 1.7.2 Once Proceedings for all the Existing Remedial Facilities have been concluded, there shall be a reconciliation of all costs awarded in relation to all the Proceedings to reflect the allocation set out in this paragraph 1.7.

## 2. **PLANNING PERMISSION PROCESS**

### 2.1 **Satisfactory Planning Permission for the Existing Remedial Facilities**

- 2.1.1 Where, on or before the relevant Existing Remedial Facility Expiry Date for an Existing Remedial Facility, the Contractor obtains:-
- (a) a Satisfactory Planning Permission for an Existing Remedial Facility; or
  - (b) an Unsatisfactory Planning Permission in respect of which an Authority Notice of Change has been agreed and implemented to enable the Contractor to comply with the Unsatisfactory Planning Permission without being in breach of this Agreement and which:-
    - (i) renders compliance with the relevant part of the Unsatisfactory Planning Permission unnecessary; or
    - (ii) renders the Unsatisfactory Planning Permission a Satisfactory Planning Permission,

it shall immediately proceed to implement the Satisfactory Planning Permission.

- 2.2 As soon as reasonably practicable and in any event within fifteen (15) Working Days after issue of a Planning Permission for an Existing Remedial Facility, the Contractor shall provide to the Authority a copy of the Planning Permission and shall notify the Authority in writing whether or not the Contractor considers the Planning Permission is a Satisfactory Planning Permission.

### 2.3 **Challenge Period**

Where, following the implementation of a Satisfactory Planning Permission by the Contractor, a challenge is instituted within the Challenge Period for such planning permission, the Authority shall indemnify and keep indemnified the Contractor for all costs, losses, expenses and liabilities reasonably and properly incurred up to the point at which such challenge is finally determined and the Contractor shall mitigate such costs, losses, expenses and liabilities provided that any indemnification of any costs, losses, expenses or liabilities shall be calculated on the basis that the Contractor should be left in no better or no worse position than it would have been in had such costs, losses, expenses or liabilities not arisen.

### 2.4 **Unsatisfactory Planning Permission for an Existing Facility**

2.4.1 If the Contractor considers that the Planning Permission for an Existing Remedial Facility is an Unsatisfactory Planning Permission it shall provide within ten (10) Working Days of the notice given pursuant to paragraph 2.2 to the Authority:-

- (a) full details of the grounds for such opinion; and
- (b) an indication of what action could be taken (if any) by the Contractor or the Authority to enable the Contractor to comply with the Planning Permission without being in breach of this Agreement and which would render it a Satisfactory Planning Permission or render compliance with the relevant part of such Unsatisfactory Planning Permission unnecessary including without limitation:-
  - (iii) Proceedings; or
  - (iv) the issue of an Authority Change Notice to vary the Services (including, for the avoidance of doubt the issue of an Authority Change Notice to remove on a permanent basis the relevant Existing Remedial Facility from the scope of the Project from such Existing Remedial Facility Expiry Date, and the Services required to be undertaken at the Existing Remedial Facility, from the scope of the Services);

(the "UPP Notice").

2.4.2 If the Contractor fails to provide the UPP Notice within ten (10) Working Days after issue of the Planning Permission for an Existing Remedial Facility under paragraph 2.4.1, the said Planning Permission shall be deemed to be a Satisfactory Planning Permission.

2.4.3 If:-

- (a) the Contractor notifies the Authority that the Planning Permission for an Existing Remedial Facility is a Satisfactory Planning Permission; or
- (b) such a Planning Permission is deemed to be a Satisfactory Planning Permission in accordance with paragraph 2.4.2,

then the provisions of paragraph 2.1.1 shall apply accordingly.



- 2.4.4 If the Contractor notifies the Authority that the Planning Permission for the Existing Remedial Facility is an Unsatisfactory Planning Permission in accordance with paragraph 2.4.1 the Authority shall, within ten (10) Working Days of receipt of the UPP Notice, notify the Contractor in writing whether or not the Authority accepts that the Planning Permission for an Existing Remedial Facility is an Unsatisfactory Planning Permission and whether the Authority accepts the action indicated by the Contractor in the UPP Notice.
- 2.4.5 If the Authority does not accept or does not notify the Contractor (in which case the Authority shall be deemed not to have accepted), within the time set out in paragraph 2.4.4 that the Planning Permission for an Existing Remedial Facility is an Unsatisfactory Planning Permission the matter may be referred at the instance of either Party for dispute resolution under clause 54 (Dispute Resolution) as to whether the Planning Permission for an Existing Remedial Facility is a Satisfactory Planning Permission or an Unsatisfactory Planning Permission.
- 2.4.6 If the Authority accepts in accordance with paragraph 2.4.4 or it is determined pursuant to clause 54 (Dispute Resolution) that the Planning Permission for an Existing Remedial Facility is an Unsatisfactory Planning Permission and the Parties agree or it is determined that Proceedings will not be likely to secure a Satisfactory Planning Permission the Authority shall, subject to this paragraph 2.4.6, within twenty (20) Working Days after it is accepted by the Authority pursuant to paragraph 2.4.4 or it is determined that a Planning Permission for an Existing Remedial Facility is an Unsatisfactory Planning Permission in accordance with paragraph 2.4.5, issue an Authority Notice of Change in respect of the Services or other actions required to enable the Contractor to either:-
- (a) comply with the terms of the Planning Permission for an Existing Remedial Facility without being in breach of this Agreement;
  - (b) render the Planning Permission a Satisfactory Planning Permission or render compliance with the relevant part of such Unsatisfactory Planning Permission unnecessary; or
  - (c) remove on a permanent basis the relevant Existing Remedial Facility from the scope of the Project, and the Services required to be undertaken at the Existing Remedial Facility, from the scope of the Services.
- 2.4.7 In the event that the Authority follows the course of action set out in paragraph 2.4.6(b), the Authority shall reimburse the Contractor for all third party costs associated with the pursuit of the Planning Permission reasonably incurred by the Contractor.

3. **FAILURE TO OBTAIN SATISFACTORY PLANNING PERMISSION FOR AN EXISTING REMEDIAL FACILITY**

3.1

3.1.1 At the earlier of:-

- (a) the date when the Parties reasonably conclude or it is determined in accordance with clause 54 (Dispute Resolution) that it will not be possible

to obtain a Satisfactory Planning Permission by the relevant Existing Remedial Facility Expiry Date; or

- (b) the Existing Remedial Facility Expiry Date; or
- (c) unless the Parties agree otherwise, the date at which Proceedings have been finally determined (including a successful challenge under paragraph 2.3 above or any withdrawal of Proceedings) and a Satisfactory Planning Permission has not been obtained;

then provided that:-

- (i) the Contractor has complied with its obligation under paragraph 1.1 to use All Reasonable Endeavours to obtain a Satisfactory Planning Permission; or
- (ii) the Contractor has failed to comply with its obligation under paragraph 1.1 to use All Reasonable Endeavours to obtain a Satisfactory Planning Permission and either:-
  - (A) the Authority has, pursuant to paragraph 1.3.2 notified the Contractor of any such failure and the Contractor has remedied the failure; or
  - (B) the Authority has failed to notify the Contractor of any such failure pursuant to paragraph 1.3.2(e),

subject to paragraph 3.1.2, the Contractor shall, within one (1) month of such date, propose a Revised Project Plan whereupon paragraph 3.2 (Revised Project Plan) shall apply.

- 3.1.2 If the Authority serves written notice on the Contractor within ten (10) Working Days of the date determined under paragraph 3.1.1 stating that the Contractor is not required to propose a Revised Project Plan then the Contractor shall be relieved from its obligation to provide the relevant part of the Services to the relevant Existing Remedial Facility and the Authority shall propose an Authority Change to remove on a permanent basis the relevant Existing Remedial Facility from the scope of the Project, and the Services required to be undertaken at the Existing Remedial Facility, from the scope of the Services.

## 3.2 **Revised Project Plan**

- 3.2.1 If pursuant to paragraph 3.1 the Contractor is requested to propose a Revised Project Plan then the Contractor shall provide, in accordance with the provisions of this paragraph 3.2 (Revised Project Plan) a draft Revised Project Plan (“Draft Revised Project Plan”) in writing to the Authority within one (1) month of being requested to do so.
- 3.2.2 In preparing the Draft Revised Project Plan the Contractor shall act in good faith and comply with Good Industry Practice with the objective of ensuring that it obtains best value for money for the Authority (taking into account all relevant circumstances including the requirement that the Contractor should be no worse off as a result of the implementation of the Revised Project Plan) when procuring any works, services, supplies, materials or equipment required in relation to the Revised Project.

3.2.3 The Draft Revised Project Plan shall set out:-

- (a) the proposed technical solution(s) for the Revised Project;
- (b) a project plan for the Revised Project covering the same or similar issues as the Services Delivery Plan insofar as such issues are relevant to the Revised Project;
- (c) the proposed length of time and programme for obtaining any Necessary Consents;
- (d) the Contractor's opinion regarding the likelihood of being able to obtain the relevant Necessary Consents;
- (e) the interest(s) in land required for the Revised Project;
- (f) the Revised Project Plan Costs for the delivery of the Revised Project;
- (g) the Contractor's opinion as to the changes in the risk profile required as a result of the Revised Project;
- (h) details of the relief required by the Contractor from its obligations under the Agreement;
- (i) amendments required to the Contract and any Project Documents;
- (j) any impact of the Revised Project on the provision of the Services other than those which are the subjects of the Revised Project Plan;
- (k) proposed acceptance tests for certification of completeness for any required works;
- (l) outline works, delivery plans and/or service delivery plans or any amendments to the existing Service Delivery Plans;
- (m) details of insurance arrangements required to cover any risks associated with the Revised Project Plan;
- (n) the Contractor's opinion as to the compliance with Legislation of the draft Revised Project Plan;
- (o) how the Contractor intends to finance the Revised Project Plan; and
- (p) what alternatives the Contractor will offer to member of the public to dispose of the Contract Waste that would otherwise have been disposed of at the relevant Existing Remedial Facility.

3.2.4 The Contractor and the Authority shall during the period of two (2) months from the receipt by the Authority of the Draft Revised Project Plan discuss and seek to agree each and every element of the draft Revised Project Plan including:-

- (a) the provision of evidence that the Contractor has used All Reasonable Endeavours (including (where practicable) the use of competitive quotes) to oblige its Sub-Contractors to minimise any increase in costs and maximise any reduction in costs;

- (b) demonstrating how any Capital Expenditure to be incurred or avoided is being measured in a cost effective manner, including showing that when such expenditure is incurred, foreseeable Changes in Law at the time have been taken account of by the Contractor; and
  - (c) demonstrating that any expenditure that has been avoided, which was anticipated to be incurred to replace or maintain assets that have been affected by the Revised Project Plan, has been taken into account in the amount which in its opinion has resulted or is required under paragraph 3.2.3(f).
- 3.2.5 In any discussions which take place pursuant to paragraph 3.2.3(p) the Authority may:-
- (a) suggest modifications to the Draft Revised Project Plan provided that the Contractor shall not be obliged to take account of any such suggested modifications; or
  - (b) require the Contractor to seek and evaluate competitive tenders for the relevant capital works.
- 3.2.6 If the Contractor either accepts (such acceptance shall be at the sole discretion of the Contractor) any modifications suggested by the Authority or there are any amendments to the Draft Revised Project Plan following any competitive tenders for the relevant capital works in each case as arise pursuant to paragraph 3.2.3(p) then the Contractor shall, as soon as reasonably practicable following either the acceptance by the Contractor of any modifications or following the completion of any competitive tender, notify the Authority of any consequential changes to the Draft Revised Project Plan.
- 3.2.7 The Authority shall by notice in writing to the Contractor within two (2) months of receipt of the Draft Revised Project Plan pursuant to paragraph 3.2.1 either:-
- (a) accept the Draft Revised Project Plan and the parties shall proceed to implement the Revised Project Plan in accordance with paragraph 3.3 (Implementation of Revised Project Plan) and the parties shall execute such legal documentation as proposed by paragraph 3.2.3(i) to give effect to the Revised Project including the amendments to the Monthly Unitary Charge to reflect the Revised Project Plan Costs; or
  - (b) reject the Draft Revised Project Plan provided that in the event that the Authority does not respond to such notice within the required time then the Authority shall be deemed to have rejected the Draft Revised Project Plan and in the case of rejection or deemed rejection the provisions of paragraph 3.4 (Planning Failure) shall apply.

### 3.3 **Implementation of Revised Project Plan**

In the event that the Authority accepts the Revised Project Plan the Contractor shall implement the provisions of such Revised Project Plan in accordance with its terms.

### 3.4 **Planning Failure**

If the Authority rejects or is deemed to have rejected the Revised Project Plan pursuant to paragraph 3.2.7 then, from the relevant Existing Remedial Facility Expiry Date, the

Contractor shall be relieved from its obligation to provide the relevant part of the Services to the relevant Existing Remedial Facility and the Authority shall propose an Authority Change to remove on a permanent basis the relevant Existing Remedial Facility from the scope of the Project, and the Services required to be undertaken at the Existing Remedial Facility, from the scope of the Services.

### 3.5 **Compensation Event**

In the event that the Authority and the Contractor has failed by the relevant Existing Remedial Facility Expiry Date to propose an Authority Change removing the relevant Existing Remedial Facility from the scope of the Project under the circumstances set out in paragraphs 2.4.6(b), 3.1.2 or 3.4 then, from the relevant Existing Remedial Facility Expiry Date, then the Contractor shall not be obliged to provide the Services at the relevant Existing Remedial Facility from such Existing Remedial Facility Expiry Date but shall be under a continuing obligation to secure the Existing Remedial Facility and comply with all Legislation in respect thereto and, provided that the Contractor:

3.5.1 has complied with its obligations under paragraph 1.1 above; and

3.5.2 continues to comply with the obligation specified in this paragraph 3.5,

it shall be entitled to claim a Compensation Event in relation to any Direct Losses incurred as a consequence of the closure of such facility.

**SCHEDULE 10 - PLANNING AND PERMITTING OBLIGATIONS**

**Appendix 1 – Reference EP**

FACILITY NAME	JENKINS LANE TRANSFER STATION & MRF
PPC NO	BT 9364

MODIFICATION HISTORY
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<b>EVENT</b>	<b>DATE</b>	<b>COMMENTS</b>
ISSUE	06/01/04	
TRANSFER	28/04/04	Transferred to Shanks Waste Management Limited

**Permit**  
Pollution Prevention and Control  
Regulations 2000



**ENVIRONMENT  
AGENCY**

### Endorsement of Permit

Permit number  
**BT 9364**

The Environment Agency (the Agency) in exercise of its powers under Regulation 18 of the Pollution Prevention and Control Regulations 2000 (S.I. 2000 No. 1973), hereby transfers and authorises with effect from 28<sup>th</sup> April 2004

**Shanks Waste Management Ltd** ("the Operator"),  
whose Registered Office is

Dunedin House  
Auckland Park  
Milton Keynes  
Bucks  
MK1 1BU

**Company registration number 02393309**

to operate an Installation at

Jenkins Lane Waste Management Facility  
Jenkins Lane  
Becton  
London  
IG11 7BG

to the extent authorised by and subject to the conditions of this Permit.

Signed

**Mr W. Harris**

Authorised to sign on behalf of the Environment Agency

**28<sup>th</sup> April 2004**



ENVIRONMENT  
AGENCY

Our Ref: BT9364

Date: 06 January 2004

Clair Donnelly  
Mouchel Parkman  
Westhall  
Parvis Road  
West Byfleet  
Surrey  
KT14 6EZ

Job No	48721	Passed to	CD
		Initials	
Mouchel			
09 JAN 2004			
Alia			
Barter			

Dear Clair,

**THE POLLUTION PREVENTION AND CONTROL (ENGLAND AND WALES) REGULATIONS 2000 (SI 2000 No. 1973)**

Application reference: BT9364 – Jenkins Lane

1. Your Application, on behalf of Shanks Waste Services Ltd, under the above Regulations has been determined, and I am pleased to enclose a copy of your permit.
2. Any existing permissions for this installation that you already hold will now be superseded.
3. Implied in every permit granted under the above Regulations there is a general condition, given by Regulation 12(10), that, in operating the installation to which the permit applies, the person operating it on must use the best available techniques for preventing or, where that is not practicable, reducing emissions from the installation
4. Your notice is drawn to your Right of Appeal under Regulation 27 of the Regulations where you are not satisfied with the conditions of the permit. You should note, however, that Schedule 8 of the Regulations, requires that appeals are made to the Secretary of State within six months of the date of issue of the attached Permit.
5. Your attention is drawn to condition 4.1.1 of the Permit. All returns required under the Permit should be sent to The Environment Agency, Apollo Court, 2 Bishops Square Business Park, St Albans Road West, Hatfield, AL10 9EX

Yours sincerely

Terry Sadler  
Regulatory Waste Officer

The Environment Agency  
Apollo Court, 2 Bishops Square Business Park, St Albans Road West, Hatfield, AL10 9EX

Tel. 01707 632300 Fax. 01707 632533





POLLUTION PREVENTION and  
CONTROL(England and Wales)  
Regulations 2000  
Permit

Issued to

**SHANKS WASTE SERVICES LTD**

(Company Reg. No.988844)

PERMIT REF NO: BT9364



**ENVIRONMENT  
AGENCY**

## Permit with introductory note

Pollution Prevention and Control Regulations 2000

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**Shanks Waste Services  
Ltd**

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**Jenkins Lane Waste  
Management Facility**

**Jenkins Lane  
Beckton  
Barking  
Essex  
IG11 7BG**

**Permit number  
BT 9364**

**Installation  
*Waste treatment***

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## Introductory note

### **This introductory note does not form a part of the Permit**

The following Permit is issued under Regulation 10 of the Pollution Prevention and Control Regulations 2000 (S.I.2000 No.1973) ("the PPC Regulations") to operate an installation carrying out one or more of the activities listed in Part 1 to Schedule 1 of those Regulations, to the extent authorised by the Permit.

The Permit includes conditions that have to be held in compliance by the operator. It should be noted that aspects of the operation of the installation which are not regulated by those conditions are subject to the condition implied by Regulation 12(10) of the PPC Regulations, that the Operator shall use the best available techniques for preventing or, where that is not practicable, reducing emissions from the installation.

Techniques include both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.

### **Brief description of the installation regulated by this permit**

The main purpose of the activities at the installation is:-

The treatment of unsorted Household and Commercial waste within a biological materials recycling and recovery facility with a capacity of up to 192,000 tonnes per annum.

As part of the East London Waste Authority (ELWA) waste strategy, Shanks Waste Services Ltd has been appointed to manage a 25 year contract to recycle/recover/dispose of all the household and some commercial waste generated within the Authorities area.

The installation will be known as the Jenkins Lane Waste Management Facility and will comprise of a Bio-MR@F and Survival Bag MRF. Household wastes collected from the adjacent ELWA London Boroughs will be deposited directly into the Survival Bag MRF and will separate the recyclable element of the waste from the kerbside collection scheme that is to be introduced through out the ELWA Area by 2007. The waste will be separated into constituent streams via a method of bag colour recognition using an electronic eye.

The Bio-MR@F is a wholly enclosed building operated under negative pressure, where the waste is processed via aerobic treatment. The final stage of the process is to remove the ferrous and non-ferrous metals, glass and stones from what is to be called stabilate. The stabilate is then compacted for transportation to landfill, with a possible future use as a calorific fuel.

The PPC permit will supersede waste management licence number WML 80122 and Consent to Discharge numbers N/WRO 0439, N/WRO 0663 and N/WRO 0664.

### *Talking to us*

If you contact the Agency about this Permit please quote the Permit Number. The Operator should use the Emergency Hotline telephone number (0800 80 70 60) or any other number notified to it to give a notification under condition 5.1.1.

### *Confidentiality*

The Permit requires the Operator to provide information to the Agency. The Agency will place the information onto the public registers in accordance with the requirements of the PPC Regulations. If the Operator considers that any information provided is commercially confidential, it may apply to the Agency to have such information withheld from the register as provided in the PPC Regulations. To enable the Agency to determine whether the information is commercially confidential, the Operator should clearly identify the information in question and should specify clear and precise reasons.

### *Variations to the permit*

This Permit may be varied in the future. The Status Log within the Introductory Note to any such variation will include summary details of this Permit, variations issued up to that point in time and state whether a consolidated version of the Permit has been issued.

### *Surrender of the permit*

Before this Permit can be wholly or partially surrendered, an application to surrender the Permit has to be made. For the applicant to be successful, they would have to be able to demonstrate to the Agency, in accordance with Regulation 19 of the PPC Regulations, that there is no pollution risk and that no further steps are required to return the site to a satisfactory state.

### *Transfer of the permit or part of the permit*

Before the Permit can be wholly or partially transferred to another person, a joint application to transfer the Permit has to be made by both the existing and proposed holders, in accordance with Regulation 18 of the PPC Regulations. A transfer will be allowed unless the Agency considers that the proposed holder will not be the person who will have control over the operation of the installation or will not ensure compliance with the conditions of the transferred Permit. If the Permit authorises the carrying out of a specified waste management activity, then there is a further requirement that the transferee is considered to be a "fit and proper person" to carry out that activity.

*Status Log*

<b>Detail</b>	<b>Date</b>	<b>Comment</b>
Application BT9364	Received 03/02/03	Duly made on 7 / 02/ 2003
Application contained a request for commercial confidentiality claim	Received on 3/02/03	L.Hones Authorisations officer passed info to account manager T.Sadler
Assessment made of confidentiality and report to Environment Manager submitted 6/02/03	Received on 7/02/03	A meeting between the Account Manager and Environment Manager to review the claim for confidentiality was held and it was agreed that the information is confidential.
Notice of Determination under Regulation 31(3/5) provided to applicant	Sent 7/02/03	Confidentiality claim completed within the statutory period.
Consultation commenced	Sent 12/ 02/ 03	
Consultation period ended	20/ 03/ 03	
Chase up letter to non responding consultees	Sent 23/ 04 / 03	
Advert appears in the London Gazette	Received 17 / 03 / 03	Copy received from Mouchel.
IPPC Check list of Advertisement completed	23 / 03 / 03	
Section 28 Notice served requiring completion of EP OPRA	Sent 23 / 05 / 03	
Request for an extension of determination period.	Sent 9/ 06/ 03	Three months requested.
Reply to extension of time request.	Received 17 / 06/ 03	Agreement to extension.
Reply to Section 28 Notice.	Received 2/ 07/ 03	Information forwarded to National support team 3/ 07/ 03
Request to approve site drainage to allow planning condition to be complied with.	Received 30 / 07/ 03	Information passed to Regulatory Water Quality Officer for comment and approval.
Comments on drainage drawing and spec received and general approval from Regulatory Water Quality Officer	Received 5 / 08 / 03	Mouchel advised of extra requirements on discharge point.
Request for an extension of time sent.	Sent 1 / 09/ 03	One month requested.
Reply received to extension of time request.	Sent 2/ 09/ 03	Agreement to extension
Further information on the site drainage.	Received 23/ 09 / 03	Drainage now meets required standard.
Further information on RRC MRF.	Received 26 / 9 / 03	Details of RRC MRF operations.
Request for an extension of time sent.	Sent 2/ 10/ 03	One month requested

Permit and introductory note : IPPC Regulations 2000

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Letter regarding extension of time.	Received 3/ 10/ 03	Agreement to extension
Further information contained in a letter dated 21/10/03	Received 22 /10 / 03	Commissioning information for Section 9 of permit.
Monitoring information & details	Received /10 / 03	
Letter regarding extension of time.	received 24/11/03	
Financial provision agreements Signed and returned.	5/12/03	
Copy of planning Permission received.	5/01/2004	
Consolidated application	5/12/03	
Permit BT 9364	Determined 5 <sup>th</sup> January 2004	

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End of introductory Note.

**Permit**

Pollution Prevention and Control  
Regulations 2000



**ENVIRONMENT  
AGENCY**

## Permit

Permit number

**BT 9364**

The Environment Agency (the Agency) in exercise of its powers under Regulation 10 of the Pollution Prevention and Control Regulations 2000 (S.I. 2000 No. 1973), hereby authorises:

**Shanks Waste Services Limited**("the Operator"),

Whose *Registered Office* is:

**Dunedin House**

**Auckland Park**

**Mount Farm**

**Milton Keynes**

**Bucks**

**Company registration number 988844**

to operate an Installation at:

**Jenkins Lane Waste Management Facility**

**Jenkins Lane**

**Beckton**

**Barking**

**Essex**

**IG11 7BG**

to the extent authorised by and subject to the conditions of this Permit.

Signed

A rectangular box containing a handwritten signature in black ink, which appears to be 'M. Flynn'.

**M.Flynn,**

Authorised to sign on behalf of the Environment Agency

Date *5<sup>th</sup> January 2004*



## Conditions

### 1 The permitted installation

- 1.1.1 The Operator is authorised to carry out the activities and the associated activities specified in Table 1.1.1.

**Table 1.1.1**

Activity under Schedule 1 of the Regulations/ Associated Activity	Description of specified activity	Limits of specified activity
Bio MR@F. The disposal of non-hazardous waste in a facility of more than 50 tonnes per day by biological treatment	Category D8 Biological treatment of waste not listed elsewhere by any of the operations listed in Parts III and IV of Schedule 4 of the Waste Management Licensing Regulations 1994. Treatment operation is via the 'BioCubi®' natural fermentation process.	To take place as specified in section 7.2 of the of the document Jenkins Lane Facility 48744/CO2-500/ dated 6 <sup>th</sup> January 2003.  No more than 7500 tonnes of waste shall be stored with in the Bio MR@F building at any one time.
	Categories D15 and R13 – Storage pending disposal or recovery on this site, or elsewhere, by any of the operations listed in Parts III and IV of Schedule 4 of the Waste Management Licensing Regulations 1994	
SB- MRF	Categories D15 and R13 - Storage pending disposal or recovery on this site, or elsewhere, by any of the operations listed in Parts III and IV of Schedule 4 of the Waste Management Licensing Regulations 1994	To take place as specified in Section 7.2 of the of the document Jenkins Lane Facility/48744/CO-500/ dated 6 <sup>th</sup> January 2003.  No more than 800 tonnes of waste shall be stored within the building at any one time.
Gully Detritus	Categories D15 and R13 - Storage pending disposal or recovery on this site, or elsewhere, by any of the operations listed in Parts III and IV of Schedule 4 of the Waste Management Licensing Regulations 1994	To take place in the location shown on drawing 48744/CO2-500/ revision A dated 10 <sup>th</sup> December 2002 and as specified in section 7.6 entitled Foul water received on 6 <sup>th</sup> January 2003.  No more than 50 tonnes of waste shall be stored within the gully detritus bay at any one time.

1.1.2 The activities authorised under condition 1.1.1 shall not extend beyond the Site, being the area shown edged in red on the plan, reference 48744 /CO2 entitled figure 3 Infrastructure surrounding the site, in Schedule 3.

1.2

**Pre-Operational condition**

1.2.1

Before the specified waste management activities covered by this permit commence a set of as built drawings showing details of the pollution abatement measures, site infrastructure, all buildings, drainage and security fencing shall be supplied to the Agency. The exact number of drawings required shall be agreed in writing with the Agency before submission.

## 2 Operational Matters

### 2.1 Management techniques and control

2.1.1 The Permitted Installation shall, subject to the conditions of this Permit, be managed and controlled as described in the documentation specified in Table 2.1.1, or as otherwise agreed in writing by the Agency.

**Table 2.1.1 : Management and control**

Description	Parts	Date Received
Application	The response to question B2.1 of the application form given in Section 5 of the document Jenkins Lane Facility/48744/CO-500 / Final/ 6 <sup>th</sup> January 2003	3/02/03

2.1.2 All plant, equipment and technical means used in operating the Permitted Installation shall be maintained in good operating condition.

2.1.3 The Permitted Installation shall be supervised by staff who are suitably trained and fully conversant with the requirements of this Permit.

2.1.4 A copy of this Permit and those parts of the application referred to in this Permit shall be available, at all times, for reference by all staff carrying out work subject to the requirements of the Permit.

2.1.5 All staff shall be fully conversant with those aspects of the Permit conditions, which are relevant to their duties and shall be provided with appropriate training and written operating instructions to enable them to carry out their duties.

2.1.6 Where Regulation 4 of the Regulations applies to an activity/associated activity carried on at the Permitted Installation:

**a** Any changes in technically competent management and the name of any incoming person together with evidence that such person has the required technical competence shall be submitted to the Agency in writing within 5 working days of the change in management. Technically competent management and technical competence shall be as prescribed under section 74 of the Environmental Protection Act 1990.

**b** In the event the Operator and/or any relevant person is convicted of any relevant offence and which is in addition to any already notified to the Agency, then full details shall be provided to the Agency within 14 days of conviction, whether or not the conviction is subsequently appealed. Such details shall include, in respect of each relevant person (as defined in section 74(7) of the Environmental Protection Act 1990 or any subsequent amendments to that section), the nature of the offence, the place and date of conviction, any sentence, and any fine or other penalty imposed.

- c In the event that the Operator and/or any relevant person lodges an appeal against any such conviction, the permit holder shall notify the Agency of this within 14 days of lodging. The Operator shall notify the Agency of the results of that appeal, within 14 days of the appeal being decided;
- d No waste activities authorised by this permit shall be commenced until the operator has secured a bond in compliance with the agreement made between the Agency dated 5<sup>th</sup> January 2004 and the operator has given prior written notice to the Agency of the intention to commence operations at the site;
- e Financial provision for meeting the obligations under this Permit shall be made and shall be set out in an Agreement made between the Permit Holder and the Agency. Financial Provision shall be maintained by the Operator throughout the subsistence of this Permit and the Operator shall produce evidence of such provision whenever required by the Agency.

## 2.2 Material Inputs (including water)

- 2.2.1 The Operator shall, subject to the conditions of this Permit, use and record the use of raw materials (including water) as described in the documentation specified in Table 2.2.1, or as otherwise agreed in writing by the Agency.

**Table 2.2.1 : Raw materials (including water)**

Description	Parts	Date Received
Application	The response to question B2.2 given in section 6 of the document Jenkins Lane Facility/48744/CO-500/Final/ 6 <sup>th</sup> January 2003	3/02/03

### *Permitted Waste Types and Quantities / Waste for disposal*

- 2.2.2 No wastes other than that which is categorised below in table 2.2.2 shall be treated on site.

**Table 2.2.2 : Permitted waste types**

Waste Type (EWC classification)	Limitations on acceptance
15 WASTE PACKAGING, ABSORBENTS, WIPING CLOTHS, FILTER MATERIAL AND PROTECTIVE CLOTHING NOT OTHERWISE SPECIFIED	Waste shall only be accepted if there sufficient area available for it to be stored.
15.01 packaging ( including separately collected municipal packaging waste)	
15.01.01 paper cardboard packaging	
15.01.02 plastic packaging	
15.01.03 wooden packaging	
15.01.05 composite packaging	
15.01.09 textile packaging	

**20 MUNICIPAL WASTES ( HOUSEHOLD WASTE  
AND SIMILAR COMMERCIAL, INDUSTRIAL AND  
INSTITUTIONAL WASTES)**

**20.01 Separately collected fractions(except  
15.01)**

- 20.01.01 paper and cardboard
- 20.01.02 glass
- 20.01.08 biodegradable kitchen and canteen waste
- 20.01.10 clothes
- 20.01.11 textiles
- 20.01.38 wood other than that mentioned in 20.01.37
- 20.01.39 plastics
- 20.01.40 metals
- 20.01.41 wastes from chimney sweepings

**20.02 garden and park wastes( including  
cemetery waste)**

- 20.02.01 biodegradable waste
- 20.02.02 soil and stones
- 20.02.03 other non-biodegradable wastes

**20.03 other municipal waste**

- 20.03.01 mixed municipal waste
  - 20.03.02 wastes from markets
  - 20.03.03 street-cleaning residues
  - 20.03.07 bulky waste
- 

**2.3 Operating Techniques**

2.3.1 The Permitted Installation shall, subject to the conditions of this Permit, be operated using the techniques and in the manner described in the documentation specified in Table 2.3.1, or as otherwise agreed in writing by the Agency.

**Table 2.3.1: Operating techniques**

Description	Parts	Date Received
Application	The response to question B2.3 given in section 7 of the document Jenkins Lane Facility / 48744 / CO-500 / Final / 6 <sup>th</sup> January 2003.	3/02/ 2003

*Engineered site containment systems*

2.3.2 The engineered site containment and drainage systems and leachate tanks shall be designed, constructed, inspected, validated and maintained and shall be fully documented and recorded to be fit for purpose as specified in the documentation specified in Table 2.3.2, or as otherwise agreed in writing by the Agency.

*Construction quality assurance of new engineered containment systems*

- 2.3.3 The engineered site containment and drainage system shall be constructed in accordance with a formal Construction Quality Assurance System.
- 2.3.4 All above ground tanks shall be stored within a bunded area. The bunded area shall be designed and constructed to contain 110% of the volume of the largest tank.

**Table 2.3.2: Engineered site containment systems**

Description	Parts	Date Received
Application	The response to question B2.3 given in section 7.6 and 7.8 of the document of the document Jenkins Lane Facility 48744/CO2-500/ Final/ 6 <sup>th</sup> January 2003 And shown on the drawing 48744/CO2-500 revision A dated 10/12/2002.	3/02/2003 8/ 10/2003

2.4 **Groundwater protection**

- 2.4.1 The Permitted Installation shall, subject to the conditions of this Permit, be controlled as described in the documentation specified in Table 2.4.1, or as otherwise agreed in writing by the Agency.

**Table 2.4.1: Groundwater protection**

Description	Parts	Date Received
Application	The response to question B2.4 given in section 8 the document Jenkins Lane Facility/ 48744 /CO-500/Final/ 6 <sup>th</sup> January 2003.	3/02/2003

2.5 **Waste handling and storage**

- 2.5.1 The Operator shall, subject to the conditions of this Permit, handle and store waste as described in the documentation specified in Table 2.5.1, or as otherwise agreed in writing by the Agency.

**Table 2.5.1: Waste handling and storage**

Description	Parts	Date Received
Application	The response to question B2.5 given in section 9.1, 7.3 and 7.4 of the document Jenkins Lane Facility / 48744 / CO-500 /Final / 6 <sup>th</sup> January 2003.	3/02/2003

2.6 **Outgoing waste, recovery and disposal**

2.6.1 The Operator shall, subject to the conditions of this Permit, recover and dispose of waste as described in the documentation specified in Table 2.6.1, or as otherwise agreed in writing by the Agency.

**Table 2.6.1: Waste recovery and disposal**

Description	Parts	Date Received
Application	The response to question B2.6 given in section 9.2, 7.3 and 7.4 of the document Jenkins Lane Facility /48744/CO-500/Final/ 6 <sup>th</sup> January 2003.	3/02/2003

2.7 **Energy Efficiency**

2.7.1 The Operator shall, subject to the conditions of this Permit, use energy as described in the documentation specified in Table 2.7.1, or as otherwise agreed in writing by the Agency.

**Table 2.7 1: Energy efficiency**

Description	Parts	Date Received
Application	The response to question B2.7 given in section 10 of the document Jenkins Lane Facility/ 48744/CO-500/Final/ 6 <sup>th</sup> January 2003.	3/02/2003

2.7.2 The operator shall produce a report annually on the energy consumption of the installation.

2.8 **Accident prevention and control (including spillages and security measures)**

2.8.1 The Operator shall, subject to the conditions of this Permit, prevent and limit the consequences of accidents as described in the documentation specified in Table 2.8.1, or as otherwise agreed in writing by the Agency.



**Table 2.8.1 : Accident prevention and control**

Description	Parts	Date Received
Application	The response to question B2.8 given in section 11 of the document Jenkins Lane Facility/48744/CO-500/Final/ 6 <sup>th</sup> January 2003	02/ 03/ 2003

2.9 **Noise and vibration**

- 2.9.1 The Operator shall, subject to the conditions of this Permit, control noise and vibration as described in the documentation specified in Table 2.9.1, or as otherwise agreed in writing by the Agency.

**Table 2.9.1 : Noise and vibration**

Description	Parts	Date Received
Application	The response to question B2.9 given in section 12 of the document Jenkins Lane Island Facility/48744/CO-500/Final/ 6 <sup>th</sup> January 2003.	02/ 03/2003

2.10 **Monitoring**

- 2.10.1 The Operator shall, subject to the conditions of this Permit, carry out monitoring as described in the documentation specified in Table 2.10.1, or as otherwise agreed in writing by the Agency.

**Table 2.10.1 : Monitoring**

Description	Parts	Date Received
Application	The response to question B2.10 given in section 13 of the document Jenkins Lane Facility /48744/CO-500/Final/ 6 <sup>th</sup> January 2003.	02/ 03/ 2003

- 2.10.2 A record of the monitoring results shall be made and submitted to the Agency within a timescale which shall be agreed in writing with the Agency. Where possible monitoring results shall be submitted in both paper and electronic format.
- 2.10.3 The Operator shall provide on a annual basis, or such other time as is agreed in writing with the Agency, a report on the environmental performance of the installation which shall include an analysis and review of the monitoring results recorded with an interpretation of the trend of the results against emission limits and other water quality objectives.
- 2.10.4 Where requested in writing by the Agency, the Operator shall provide at least 14 days advance notice of undertaking monitoring / spot sampling.

- 2.10.5 There shall be provided:
- a safe and permanent means of access to enable sampling/monitoring to be carried out in relation to the sampling/emission points specified in Schedule 2, unless otherwise specified in that Schedule and
  - b safe means of access to other sampling/monitoring points when required by the Agency.

2.11 **Decommissioning**

- 2.11.1 The Operator shall, subject to the conditions of this Permit, make provision for decommissioning the installation as described in the documentation specified in Table 2.11.1, or as otherwise agreed in writing by the Agency.

**Table 2.11.1 : Decommissioning**

Description	Parts	Date Received
Application	The response to question B2.11 given in section 14 of the document Jenkins Lane Facility/48744/CO-500/Final/ 6 <sup>th</sup> January 2003.	03/02/2003

2.12 **Multi-operator installations**

- 2.12.1 This is not a multi-operator installation

### 3 Records

- 3.1.1 A record (a "Specified Record") shall be made of:-
- a** any malfunction, breakdown or failure of plant, equipment or techniques (including down time and any short term and long term remedial measures) that may have, has had or might have had an effect on the environmental performance of the Permitted Installation. These records shall be kept in a log maintained for that purpose;
  - b** all monitoring and sampling taken or carried out and any assessment or evaluation made on the basis of such data;
  - c** the times on and off site of the designated technically competent manager(s). These records shall be kept in a log maintained for that purpose.
  - d** Dispatch of records to the Agency.
- 3.1.2 There shall be made available for inspection by the Agency at any reasonable time:
- a** Specified Records;
  - b** any other records made by the Operator in relation to the operation of the Permitted Installation ("Other Records")
- 3.1.3 A copy of any Specified or Other Records shall be supplied to the Agency on demand and without charge
- 3.1.4 Specified Records and Other Records shall:-
- a** be legible;
  - b** be made as soon as reasonably practicable;
  - c** indicate any amendments which have been made and shall include the original record wherever possible; and
- 3.1.5 Specified Records and Other Records shall be retained for a minimum period from the date when the records were made which shall be agreed with the Environment Agency.
- Recording of wastes accepted and removed
- 3.1.6 A record shall be kept of each load of waste accepted and each load of waste removed from site. This record shall include the following details:
- a** Loads in :- Nature (solid), waste type as specified under condition 2.2.2, quantity (tonnes), date received, date accepted.
  - b** Loads out :- Nature (solid), waste type as specified under condition 2.2.2, quantity of waste removed (tonnes), date removed.

Summary records of wastes accepted and removed

- 3.1.7 A summary record of the waste types accepted and removed from the site shall be made for each quarter of the financial year, and shall be submitted to the Agency within 1 month following the end of the quarter. The summary record shall be the format in Schedule 4 of this Permit
- 3.1.8 A record shall be made at the Permitted Installation of any complaints concerning the Installation's effect or alleged effect on the environment. The record shall give the date of complaint, time of complaint, a summary of any investigation and the results of such investigation. Such records shall be made in a log kept for this purpose.
- 3.1.9 A site diary shall be kept secure and be available for inspection at the site when required by an authorised officer of the Agency. The diary shall include a record of the following events:
- a) Start and finish of construction and maintenance work;
  - b) Plant maintenance and breakdowns;
  - c) Emergencies, e.g fires and spillage's;
  - d) Waste rejected from the site;
  - e) Dispatch of records to the Agency;
  - f) Site inspections by the Environment Agency, and any remedial response;
  - g) Attendance of the technically competent management on the site including time in and time out;
  - h) Monitoring of odour emissions.
  - i) Monitoring of dust emissions.
  - j) Monitoring and maintenance of trade effluent interceptors.

## 4 Reporting

- 4.1.1 All reports and notifications required by this Permit, or by regulation 16 of the PPC Regulations, shall be sent to the Environment Agency at the address notified in writing to the Operator by the Agency .
- 4.1.2 The Operator shall report the parameters listed in Table S2 to Schedule 2 as follows:
- a** in respects of the emission points specified;
  - b** for the reporting periods specified in Table S2 to Schedule 2;
  - c** giving the information from such results and assessments as may be required by the forms specified in those Tables; and
  - d** sending the report to the Agency within 28 days of the end of the reporting period.
- 4.1.3 By not later than 31 January in each year, the Operator, shall; :
- a** complete a Pollution Inventory Form in respect of the operation of the Permitted Installation during the previous year, in accordance with the instructions and definitions included with the Form. This is in addition to any other requirements in this Permit for the reporting of annual emissions;
  - b** send the completed Pollution Inventory Form to the Agency, with 2 copies thereof; and
  - c** make a record of the calculations, estimations and assumptions made in determining the annual emissions reported on the Pollution Inventory Form. This record shall be retained for a period not less than 4 years.
- 4.1.4 Where the Operator has a formal environmental management system applying to the Permitted Installation which encompasses annual improvement targets the Operator shall, not later than 31 January in each year, provide a summary report of the previous year's progress against such targets.

## 5 Notifications

- 5.1.1 The Operator shall notify the Agency **without delay** of:-
- a** the detection of an emission of any substance which exceeds any limit or criteria in this Permit specified in relation to the substance;
  - b** the detection of any fugitive emission which has caused or may cause pollution unless the quantity emitted is so trivial that it would be incapable of causing pollution;
  - c** the detection of any malfunction, breakdown or failure of plant or techniques which has caused or may have the potential to cause pollution; and
  - d** any accident which has caused or may have the potential to cause pollution.
- 5.1.2 The Operator shall submit written confirmation to the Agency of any notification under condition 5.1.1 in accordance with Schedule 1 to this Permit, by sending the information listed in Part A of Schedule 1 to this Permit within 24 hours of such notification. The Operator shall send the more detailed information listed in Part B of that Schedule as soon as practicable thereafter;
- 5.1.3 The Operator shall give written notification as soon as practicable, of any of the following
- a** permanent cessation of the operation of any part of or all of the Permitted Installation;
  - b** cessation of the operation of any part of or all of the Permitted Installation for a period, likely to exceed 1 month; and
  - c** resumption of the operation of any part of or all of the Permitted Installation after a cessation notified under 5.1.3(b).
- 5.1.4 The Operator shall notify the following matters to the Agency, in writing, within 14 days of their occurrence:
- a** any change in the Operator's trading name, registered name or registered office address;
  - b** a change to any particulars of the Operator's ultimate holding company (including details of an ultimate holding company where the Operator has become a subsidiary);
  - c** any steps taken with a view to the Operator going into administration, entering into a company voluntary arrangement or being wound up.

## 6 Emissions

### 6.1 Emissions into air

6.1.1 There shall only be point source emissions to air from the Permitted Installation as detailed in table 6.1.1;

**Table 6.1.1 : Emissions to Air**

Description / Location / Grid reference	Parts	Date Received
Baghouse Stack 1: EMPFGT 4 TQ 4411 8266	The response to question B3.1 given in section 16.1 of the document Jenkins Lane Facility/48744/CO-500/Final/ 6 <sup>th</sup> January 2003.	03/02/2003
Baghouse Stack 2: EMPFGT 5 TQ 4413 8266		
Group 1: Bio Filters EMPFGT 6 TQ 4409 8265	Supplementary information received in a letter on 8 <sup>th</sup> October 2003	09/ 10 / 2003
Group 2: Bio Filters EMPFGT 7 TQ 4412 8267		
Group 3: Bio Filters EMPFGT 8 TQ 4415 8268		

#### *Control of Odours*

- 6.1.2 All emissions to air from the specified waste management operations on the site shall be free from odours at levels as are likely to cause pollution of the environment or harm to human health or serious detriment to the amenity of the locality outside the site boundary, as perceived by an authorised officer of the Agency.
- 6.1.3 The site manager or a nominated person shall undertake olfactory monitoring of odorous emissions at least once a day.
- 6.1.4 The location of the monitoring shall be agreed in writing with the Agency on commencement of the waste processing activities.
- 6.1.5 A record of the monitoring and any incidents of detectable odours and remedial action taken shall be recorded in the site diary.

*Control of Dust*

- 6.1.6 All emissions to air from the specified waste management operations on the site shall be free from visible concentrations of dusts, fibres or particulates as are likely to cause pollution of the environment or harm to human health or serious detriment to the amenity of the locality outside the site boundary, as perceived by an authorised officer of the Agency.
- 6.1.7 The site manager or a nominated person shall undertake visual monitoring for emissions of dust at least once a day.
- 6.1.8 The location of the monitoring shall be agreed in writing with the Agency on the commencement of waste processing activities.
- 6.1.9 A record of the monitoring and any incidents of detectable dust and remedial action taken shall be recorded in the site diary.

6.2 **Emissions to land**

- 6.2.1 There shall be no emission to land other than that described in section 16.3 of the document Jenkins Lane Facility 48744/ CO2-500/ Final / 6<sup>th</sup> January 2003 received on the 2<sup>nd</sup> February 2003.

*Control of Litter*

- 6.2.2 Fugitive emissions of litter shall be collected from the confines of the site and its boundary by the end of the working day. In the event litter does escape from the site it shall be retrieved as soon as practicable.

6.3 **Emissions to surface water**

- 6.3.1 Emissions to water from the emission point specified in Table 6.3.1 shall only arise from the source(s) specified in that Table.



**Table 6.3.1: Emission points into water**

Emission Point Reference.	Source	National Grid Reference (Discharge point)	Receiving Water
EMPFGT 1 EXISTING SW OUTFALL No.1. As shown on Figure 10 reference 48744/CO2-500	Only trade effluent comprising of site drainage from roofs, Internal site road ways, hardstanding and non waste handling areas.	TQ 4434 8263	Whiting Sewer
EMPFGT 2 NEW SW OUTFALL No 4 As shown on Figure 10 reference 48744/CO2-500	Only trade effluent comprising of site drainage from roofs, Internal site road ways, hardstanding and non waste handling areas.	TQ 4434 8264	Whiting Sewer
EMPFGT 3 EXISTING SW OUTFALL No.3. As shown on Figure 10 reference 48744/CO2-500	Only trade effluent comprising of site drainage from roofs, Internal site road ways, hardstanding and non waste handling areas.	TQ 4406 8266	Whiting Sewer

6.3.2 Limits for the emissions to water for the parameter(s) and emission point(s) set out in Table 6.3.2 shall not be exceeded.

6.3.3 The Operator shall carry out monitoring of the parameters listed in Table 6.3.2, from the emission points and at least at the frequencies specified in that Table.

**Table 6.3.2: Emission limits into water**

Parameter and limits	Emission point	Monitoring frequency
Oil and grease	EMPTFG1	Quarterly
	EMPTFG2	
	EMPTFG3	
PH values to be maintained with in the range of 6 to 9	EMPTFG1	Quarterly
	EMPTFG	
	EMPTFG3	

- 6.3.4 There shall be no emission into water from the Permitted Installation of any substance prescribed for water for which no limit is specified in Table 6.3.2 except in a concentration which is no greater than the background concentration.
- 6.3.5 The quantity of List II substances as defined in the Dangerous Substances Directive (76/464/EEC) in the discharge shall not increase above;
- a) The limits specifically regulated by Table 6.3.2 above, or
  - b) The levels in the Discharge on the date of effect of this Permit where no specific level is authorised; and
  - c) Notwithstanding a) above the discharge shall not contain quantities of any list II substance such as to cause or contribute to the concentration of that substance in the receiving water exceeding the relevant Environmental Quality Standard (EQS).
- 6.3.6 All emissions into controlled water of trade effluent shall be passed through an interceptor which shall be installed and maintained in accordance with the good operational practice such that;
- a) it remains full operational except at times of unavoidable breakdown which shall be attend to as soon as practicable after the failure;
  - b) following a failure it shall be returned to normal operations as soon as practicable;
  - c) it shall be desludged at sufficient frequency and in such a manner to prevent excessive carryover of suspended solids.
- 6.3.7 Where an annual mass limit for a substance is stated in Table 6.3.3, the aggregate emissions of such substance from the Permitted Installation into water from the emission point(s) specified in Table 6.3.1 shall not exceed that limit in any year.

**Table 6.3.3 Annual mass emission limits**

Substance	Limit – kg (Site Total)
No Annual Mass Emission Limits Set	

6.4 **Emissions to sewer**

6.4.1 Emission to sewer shall only be made within the permitted limits set out in a consent to discharge issued by Thames Water.

6.5 **Emissions of heat**

6.5.1 There are no specific emissions conditions in relation to heat

6.6 **Emissions of noise and vibration**

6.6.1 There are no specific emissions conditions in relation to noise and vibration

## 7 Transfer to effluent treatment plant

- 7.1.1 No transfer from the Permitted Installation shall be made to an effluent treatment plant.

## 8 Off site conditions

- 8.1.1 There are no off site conditions.

## 9 Improvement programme

9.1 The operator shall provide a report assessing the performance and short term variations in emission concentrations from the biofilters and bag house filters as part of the commissioning phase of the Jenkins Lane Waste Management Facility. The commencement date and duration of the commissioning phase is to be agreed in writing with the Agency. Following completion of the commissioning phase the operator shall submit confirmation of the BAT calculations to the Agency.

9.2 For a period of 12 months from the end of the commissioning phase, emissions to sewer shall be monitored monthly for the parameters listed in Table 21 of section 16.2 of the document entitled Jenkins Lane Facility 48744/CO2 -500/Final/6<sup>th</sup> January 2003. In addition the discharge flow rate shall be monitored at the same time using a flow proportional sampler to create a 24 hour composite sample.

Within one month of the end of this period a report shall be submitted to the Agency documenting the values recorded for each month to establish that BAT is being achieved for the facility.

## Interpretation

10.1.1 In this Permit, the following expressions shall have the following meanings:

*"Authorised Officer"*

means any person authorised by the Agency under section 108(1) of The Environment Act 1995 to exercise, in accordance with the terms of any such authorisation, powers specified in Section 108(4) of that Act.

*"Background concentration"*

means the same as "background quantity" as defined in paragraph 11 to Part 2 to Schedule 1 of the PPC Regulations.

*"Fugitive emission"*

means an emission from any point other than those specified in the Tables in part 6 of this Permit.

*"LAeq"*

means the A-weighted equivalent continuous equal energy level (dBA)

*"Monitoring"*

includes the taking and analysis of samples, instrumental measurements (periodic and continual), calibrations, examinations, tests and surveys.

*"Permitted Installation"*

means the activities and the limits to those activities described in Table 1.1.1 of this Permit.

*"Pollution Inventory Form"*

means the Form published by the Agency for the purpose of obtaining information from Operators on annual mass emissions of specified substances to air and water and on the mass of special and/or non special waste sent for disposal, recovery or treatment.

*"PPC Regulations"*

means the Pollution Prevention and Control Regulations 2000 (S.I. 2000 No. 1973) and words and expressions defined in the PPC Regulations shall have the same meanings when used in this Permit.

*"Staff"*

includes employees, directors or other officers of the Operator, and any other person under the Operator's direct or indirect control, including contractors.

*"substances prescribed for water"*

means those substances mentioned in paragraph 13 of Part 2 of Schedule 1 to the PPC Regulations.

*"year"*

means year ending 31 December.

- 10.1.2 Where a minimum limit is set for any emission parameter, references to exceeding the limit shall mean that the parameter shall not be less than that limit.
- 10.1.3 Unless otherwise stated, any references in this Permit to concentrations of substances in emissions into air means;
- a** in relation to gases from combustion processes, the concentration in dry air at a temperature of 273K, at a pressure of 101.3 kPa and with an oxygen content of 3% dry for liquid and gaseous fuels, 6% dry for solid fuels; and/or
  - b** in relation to gases from non-combustion sources, the concentration at a temperature of 273K and at a pressure of 101.3 kPa, with no correction for water vapour content.

## 11 Written agreement to changes

- 11.1.1 When the qualification "or as otherwise agreed in writing/ or as agreed with the Environment Agency" is used in a condition of this Permit, the Operator shall seek such agreement in the following manner:
- a** the Operator shall give the Agency written notice of the details of the proposed change, indicating the relevant part(s) of this Permit; and
  - b** such notice shall include an assessment of the possible effects of the proposed change (including waste production) on risks to the environment from the Permitted Installation.
- 11.1.2 Any change proposed according to condition 11.1.1 and agreed in writing by the Agency, shall not be implemented until the Operator has given the Agency prior written notice of the implementation date for the change. As from that date, the Operator shall operate the Permitted Installation in accordance with that change, and any relevant documentation referred to in this Permit shall be deemed to be amended.



## Schedule 1

### *Confirmation of condition 5.1.1 notifications, in accordance with condition 5.1.2*

This Schedule outlines the information that the Operator must provide to the Agency to satisfy condition 5.1.2 of this Permit.

Units of measurement used in information supplied under Part A and B requirements must be appropriate to the circumstances of the emission. Where appropriate, a comparison should be made of actual emissions and authorised emission limits.

If any information is considered commercially confidential, it should be separated from non-confidential information, supplied on a separate sheet and accompanied by an application for commercial confidentiality under the provisions of the PPC Regulations.

#### Returns should contain

##### Part A

- Name of Operator.
- Permit Number
- Location of Installation.
- Date information provided.
- Time, date and location of the emission.
- Identity and details of the substance[s] emitted to include:-
  - Best estimate of the quantity or the rate of emission, and the time during which the emission took place.
  - Environmental medium into which the emission took place.
  - Measures taken, or intended to be taken, to stop the emission.

##### Part B

- Any more accurate information on the matters notified under Part A.
- Measures taken, or intended to be taken, to prevent a recurrence of the incident.
- Measures taken, or intended to be taken, to rectify, limit or prevent any pollution of the environment or harm which has been or may be caused by the emission.
- The dates of any Part A notifications within in the previous 24 months.
- Name  Post.....
- Signature  Date
- Statement that signatory is authorised to sign on behalf of **Shanks Waste Services Ltd**

## Schedule 2

### *Reporting of monitoring data*

Parameters for which reports shall be made, in accordance with conditions 6.3.3 of this Permit, are listed below.

<b>Table S2: Reporting of monitoring data</b>				
<b>Parameter</b>	<b>Emission point</b>	<b>Monitoring Frequency</b>	<b>Reporting period</b>	<b>Period begins</b>
Suspended Solids mg l-1 (Note 1)	EMPTFG1 EMPTFG2 EMPTFG3	Quarterly	Annually	To be agreed in writing
Oil & Grease (Note 1)	EMPTFG1 EMPTFG2 EMPTFG3	Quarterly	Annually	To be agreed in writing
pH (Max and Min)	EMPTFG1 EMPTFG2 EMPTFG3	Quarterly	Annually	To be agreed in writing

Note1: Visual inspection shall be recorded.

## Schedule 3

Installation Boundary Plan Reference: 48744/CO2-500 Entitled figure 3  
Infrastructure surrounding the site.





**LEGEND**

- ACTIVITIES WITHIN THIS PPC APPLICATION
- REUSE AND RECYCLING CENTRE OPERATED BY ELWA LTD.
- EXISTING LHP GAS MAINS
- EXISTING MP GAS MAINS
- EXISTING IP GAS MAINS
- EXISTING EHV ELECTRIC CABLE
- EXISTING EHV 74 ELECTRICAL CABLES
- OVERHEAD POWER CABLES

**ELWA Ltd.**

JENKINS LANE  
WASTE MANAGEMENT FACILITY

FIGURE 3  
INFRASTRUCTURE SURROUNDING  
THE SITE

Reference  
L67/L/CO2-500

**Mouchel**  
Mouchel Consulting Limited  
Water, Waste & Power Team  
100, Victoria Road  
Widnes, Cheshire  
WA9 6JZ  
Tel: +44 (0)151 320000



© Mouchel Consulting Limited

## Schedule 4

TONNAGE RETURN FORM

**END OF PERMIT**

For Environment  
Agency use only

Date received

Date processed

Local site licence number

PERMIT

Original reference

BT9364

ENVIRONMENT  
AGENCY

## Waste Return

Environmental Protection Act 1990

Waste Returns Unit  
Environment Agency  
Apollo Court  
2 Bishop Square  
St Albans Road West  
Hatfield  
Herts. AL10 9EX**1 The period the return covers**1.1 The return period is *tick one only* Month QuarterFrom  to  Year**2 Operator and site details****2.1 Site Operator**

Shanks Waste Services Ltd

Site name

Jenkins Lane Facility

Permit number: BT9364

Site address

Jenkins Lane Waste Management Facility  
Jenkins Lane  
Barking  
IG11 7BG

Phone

E-mail

**2.2 Type of facility see your waste management licence****2.3 Was a weighbridge used?**No Yes *Please tell us the proportion weighed*Percentage **2.4 Are you operating a landfill site?**No  go to section '3' Waste received on site' on page 2Yes  go to section 'Landfill sites only', question 2.5**Landfill Sites only (as at 31 March in the current year)****2.5 Give the remaining void space covered by the licence** cubic metres

- Use this form to tell us the type and quantity of controlled waste you have processed at each licensed facility within your site
- Please read through the whole form and guidance notes before you start filling anything in.
- Please send the completed form back to us at the address on the left by the return date specified on page 2 of the notes.

**2 Landfill sites only continued****2.6 Was the site fully surveyed before 31 March in the current year**No  Now go to question 2.7Yes  Please tell us how the void space was calculated

Now go to question 2.8

**2.7 How have you estimated the remaining void space?***For example visually or other method***2.8 Remaining life of site**Years 

Now go to sections 3 and 4 on page 2

**5 Declaration***Please make sure you have filled in all the sections that apply to you before signing this declaration.*

I certify that the information in this return is correct to the best of my knowledge and belief.

I enclose  continuation sheets

Signature

Name Position Phone Date **6 Disclosure and data protection**

The information you provide will be used by the Environment Agency to enable it to fulfil its regulatory and waste management planning responsibilities.

For full information on how the data in this form will be used please see the waste return guidance notes that come with the form.

### 3 Waste material received on site

Please read the guidance notes 'How to fill in the form', and use the continuation sheet WMS3 provided, or a copy of it, if you need to.

In the last column D = final disposal U = used on site S = special waste (a consignment note is needed for special waste). F = from another facility, for example a transfer station M = municipal biodegradable waste O = other biodegradable waste

Description of waste	EU.Waste classification code	Origin*	State solid, powder, sludge, liquid ,gas	Weight in tonnes	Additional information					
					D	U	S	F	M	O
Total weight of material received on site:					tonnes					

### 4 Waste material removed from site

Please read the guidance notes 'How to fill in the form', and use the continuation sheet WMS3 provided, or a copy of it, if you need to. In the last column, facility types could include 'incinerator, transfer station, landfill, treatment, reprocessing, recycling'.

Description of waste	EU. Waste classification code	Destination*	State solid, powder, sludge, liquid ,gas	Weight in tonnes	Special Waste	Destination facility type
Total weight of material removed from site:					Tonnes	

\*You may not need to give us this information. The requirements are set out in your waste management licence.

Now go to section 5 'Declaration' on page 1

**SCHEDULE 10 - PLANNING AND PERMITTING OBLIGATIONS**

**Appendix 2 - Reference HWRC Planning Permissions**