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SCHEDULE 29

Contract Waste Review Procedure

This is Schedule 29 comprising the Contract Waste Review Procedure 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 29 - CONTRACT WASTE REVIEW PROCEDURE

1. APPOINTMENT OF THE CONTRACT WASTE ANALYST

- 1.1 Each Contract Waste Audit shall be carried out by a suitably qualified independent analyst ("Contract Waste Analyst"), appointed in accordance with this paragraph 1.
- 1.2 The Contractor shall notify the Authority (the "Notified Party") in writing of the identity of the proposed Contract Waste Analyst not later than twenty (20) Working days prior to the commissioning of the Contract Waste Audit. The Authority shall have ten (10) Working Days following receipt of the notice identifying of the proposed Contract Waste Analyst in which to object to the appointment, which may only be on grounds of technical or legal competence. If no objection is received by the Authority in writing within such ten (10) Working Day period, the identity of the proposed Contract Waste Analyst shall be deemed to have been approved by the Authority.
- 1.3 The Contractor shall appoint the Contract Waste Analyst to carry out each Contract Waste Audit. The terms and conditions of appointment of each Contract Waste Analyst shall provide that in undertaking each Contract Waste Audit the Contract Waste Analyst shall at all times:-
 - 1.3.1 exercise the level of reasonable skill, care and diligence that would be expected of a competent analyst experienced in assessing the composition of waste;
 - 1.3.2 act in accordance with Good Industry Practice;
 - 1.3.3 comply with all Laws, the terms of all Necessary Consents and any reasonable safety precautions and relevant site rules applicable to the relevant Sites or the services, copies of which shall be provided by the Contractor to the Contract Waste Analyst prior to his appointment;
 - 1.3.4 act objectively, in good faith, impartially and equitably and in no circumstances placing the interests of one Party above the other Party or any third party; and
 - 1.3.5 otherwise act in accordance with the terms and requirements of this Schedule and the terms of his appointment.
- 1.4 If in the opinion of either Party, acting reasonably, the Contract Waste Analyst has failed to comply with his obligations under paragraph 1.3, that Party shall promptly notify the other Party and the Contractor shall, at the cost of the objecting Party, appoint a replacement Contract Waste Analyst in accordance with paragraph 1.5.
- 1.5 If the Parties agree, or it is determined pursuant to the Dispute Resolution Procedure, to appoint a replacement Contract Waste Analyst, the provisions of this paragraph 1 shall apply (with any necessary modifications) and will be treated as having applied from the time that the Requesting Party becomes aware of the Contract Waste Analyst's failure to comply with his obligations, as appropriate.

2. SAMPLE AND ANALYSIS PROCEDURES

- 2.1 For the duration of each Contract Waste Audit, the Contractor shall provide the Contract Waste Analyst with such access as he shall reasonably require in order to undertake that Contract Waste Audit together with a covered area at each Site for the storage and assessment of Analysis Samples.

- 2.2 The Contractor shall use reasonable endeavours to co-operate and facilitate the relevant Contract Waste Audit and shall not (and shall take all necessary measures to ensure that its employees, agents and sub-contractors do not) remove, tamper or otherwise interfere with any Contract Waste Samples.
- 2.3 The Authority Representative and the Contractor Representative shall be entitled to attend and observe each Contract Waste Audit and make reasonable representations to the Contract Waste Analyst regarding the conduct or scope of each Contract Waste Audit, and the Contract Waste Analyst shall have due regard to such representations without compromising the integrity of the analysis procedure.
- 2.4 Contract Waste Samples and audits of the composition of these Contract Waste Samples will be undertaken in accordance with the sampling and analysis procedure specified at Appendix 2.
- 2.5 The Authority's Representative and/or the Contractor's Representative (both acting reasonably and in good faith) may object to the auditing of any Contract Waste Sample on the grounds that it has not been taken in accordance with the agreed analysis or sampling procedure and the following provisions shall apply:-
 - 2.5.1 the Parties and the Contract Waste Analyst shall immediately discuss and seek to agree whether the relevant Contract Waste Sample has been taken in accordance with the agreed procedure and if the Parties agree that the relevant Contract Waste Sample has not been taken in accordance with the agreed procedure, the analysis will be undertaken using an alternative Contract Waste Sample;
 - 2.5.2 if the Parties are not able to agree whether the relevant Contract Waste Sample has been undertaken in accordance with the agreed procedure, the Contract Waste Analyst shall extend the duration of the Contract Waste Audit by an additional Working Day or such longer period as the Parties shall agree in order for an alternative sample to be obtained and analysed. If the Parties still disagree whether the alternative Contract Waste Sample has been taken in accordance with the agreed procedure, the Contract Waste Audit shall be discontinued and the matter shall be referred to the Dispute Resolution Procedure;
 - 2.5.3 following resolution of the dispute, the Contract Waste Analyst shall commence a new Contract Waste Audit.

3. **WASTE ANALYSIS REPORTS**

- 3.1 Within fifteen (15) Working Days following the completion of a Contract Waste audit, the Contract Waste Analyst shall prepare a detailed report summarising the findings of its analysis and investigations ("Waste Analysis Report"). The Waste Analysis Report shall include the following information:-
 - 3.1.1 details of the methodology and duration of the relevant Contract Waste Audit, including the number of Contract Waste Samples taken and analysed at each Resource Park;
 - 3.1.2 tables detailing as a minimum the mass of each element of Contract Waste sampled each day and the percentage distribution of each element of Waste in each day's Contract Waste Samples and the average values for each week;

- 3.1.3 analysis of each of the Contract Waste Samples and production of a weekly average in comparison to the Baseline Composition Parameters; and
 - 3.1.4 such other details as the Parties agree should be included in the Waste Analysis Report.
- 3.2 The Contract Waste Analyst shall provide the Authority and the Contractor with a copy of the Waste Analysis Report (in the form and covering the information set out in paragraph 3.1 together with such other such information as is agreed or determined pursuant to paragraph 3.1) in respect of the relevant Contract Waste Audit.
- 3.3 If either Party (acting reasonably and in good faith) disagrees with the results of a Contract Waste Audit set out in the Waste Analysis Report (an "Objecting Party"), it shall have the right to refer the matter to the Dispute Resolution Procedure. In the absence of notice being given by either Party informing the other Party of the elements of the Waste Analysis Report that it disagrees with, together with details thereof, within twenty (20) Working Days of receipt, both Parties shall be deemed to have accepted the results of the relevant Contract Waste Audit as set out in the Waste Analysis Report.

4. **DEFINITIONS**

Capitalised words and expressions used in this Schedule shall have the meanings given to those terms in clause 1 of this Agreement (Definitions and Interpretation) or Schedule 5 (Payment Mechanism), save as defined below or as the context may otherwise admit or require:-

"Acceptable Parameters"	means the parameters for Contract Waste specified in Appendix 1;
"Contract Waste Audit"	means an analysis of Contract Waste received at the Resource Park as set out and more particularly described in this Schedule;
"Contract Waste Analyst"	has the meaning set out in paragraph 1.1 of this Schedule;
"Contract Waste Composition Report"	means a report provided by the Contractor pursuant to clause 6.5 of this Agreement;
"Contract Waste Sample"	means any sample of Contract Waste taken in accordance with the provisions of this Schedule;
"Objecting Party"	has the meaning set out in paragraph 3.3;
"Waste Analysis Report"	has the meaning given to that term in paragraph 3.1.

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Appendix 1

Base Case Waste Composition and Acceptable Parameters

For the purposes of this Schedule, the Base Case Waste Composition and Acceptable Parameters for Contract Waste delivered to the Resource Parks are set out in the Table below.

	Base Case Waste Composition (%)	Acceptable Parameters Lower Limit (%)	Acceptable Parameters Upper Limit (%)
Paper	12.32		
Card	4.92		
Plastic	6.87		
Glass	5.69		
Ferrous and Non-Ferrous Metals	4.12		
Organic (excluding Paper and Card)	38.1		

Where:-

- "Card" means corrugated cardboard and grey cardboard, cardboard boxes, cardboard product packaging, kraft board and all other card of an equivalent or higher quality;
- "Glass" means green glass containers; brown glass containers; clear glass containers; other glass food and drink containers;
- "Paper" means newspaper; magazines; office paper; pamphlets; other paper; and
- "Plastic" means PET clear soft drink; PET Coloured; PET other; HDPE bottles opaque; HDPE bottles coloured.

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Appendix 2

Analysis Procedures

1. CONTRACT WASTE SAMPLES

- 1.1 For the purposes of each Contract Waste Audit, Contract Waste Samples shall be taken in accordance with this Appendix 2.
- 1.2 For the duration of each Contract Waste Audit, the Contractor shall provide the Contract Waste Analyst with such access as he may reasonably require to each Site to undertake the Contract Waste Composition Report and shall provide a separate covered area at that Site for the storage and assessment of Contract Waste Samples. The Contractor shall use all reasonable endeavours to co-operate with the Contract Waste Analyst and facilitate the relevant Contract Waste Composition Report and shall not (and shall take all necessary measures to ensure that its employees, agents and sub-contractors do not) remove, tamper or otherwise interfere with the Contract Waste Samples.
- 1.3 From 10:00 hours to 17:00 hours on each Working Day during the relevant Contract Waste Audit, the Contract Waste Analyst shall collect a number of grapple loads each hour randomly taken from Contract Waste deposited on the floor of the Receivals Hall at each Facility (prior to its sorting, treating or processing at that Facility) up to a minimum total daily sample of ten and a half (10.5) tonnes of Contract Waste.
- 1.4 On or about 17:00 hours on each Working Day of the relevant Contract Waste Audit, the Contract Waste Analyst shall start to cone and quarter the daily Contract Waste Sample, using a front-end loader, until a sample of approximately one (1) tonne of Contract Waste has been extracted, the composition of which shall be assessed in accordance with paragraph 2 of this Appendix 2.
- 1.5 The Contract Waste Analyst shall notify the Contractor as soon as reasonably practicable following the extraction of the Contract Waste Sample and in any event by 20:00 hours and shall advise the Contractor that the remaining Contract Waste can be removed for sorting, treatment or processing (as the case may be) by the Contractor at the Site.
- 1.6 The Contractor shall ensure that (save for the Contract Waste Sample) the Contract Waste collected and identified by the Contract Waste Analyst as requiring removal pursuant to paragraph 1.3, is removed from the area set aside for the Contract Waste Composition Report and is taken for sorting, treatment or processing (as the case may be) by 21:00 hours.

2. CONTRACT WASTE COMPOSITION REPORT METHOD

- 2.1 The Contract Waste Analyst shall assess the composition of the Contract Waste Sample against the categories and parameters set out in Appendix 1 in accordance with the agreed methodology and Good Industry Practice.
- 2.2 Each Contract Waste Sample shall be audited as follows:-
 - 2.2.1 the Contract Waste Sample shall be passed over a rotating trommel screen with a forty millimetre (40mm) mesh and any oversized material within the Contract

Waste Sample shall be sorted into the categories set out in Appendix 1 to this Schedule;

- 2.2.2 any material within the Contract Waste Sample which is less than forty millimetre (40mm) in size shall be passed over an eight millimetre (8mm) rotating trommel screen and any oversize material shall be sorted into the categories set out in Appendix 1;
 - 2.2.3 all materials sorted into the categories set out in Appendix 1 shall be weighed and the Contract Waste Analyst shall record the weight of each category; and
 - 2.2.4 the Contract Waste Analyst shall assess the composition of the Contract Waste Sample against the categories and parameters set out in Appendix 1 to this Schedule.
- 2.3 Following the assessment of the Contract Waste Sample, the Contract Waste Analyst shall notify the Contractor that the Contract Waste Sample can be collected for sorting, treatment or processing (as the case may be) and the Contractor shall as soon as reasonably practicable collect and remove the Contract Waste Sample. For the avoidance of doubt, the Contract Waste Sample shall not be re-deposited at the reception area of the Waste Management Facility with other Contract Waste from which samples may be taken by the Contract Waste Analyst.