

## WESTERN RIVERSIDE WASTE AUTHORITY

### TENDER FOR INSURANCE ADVICE

#### **The Authority**

Western Riverside Waste Authority, “the Authority”, was established in 1986 as an autonomous statutory local government body to undertake the waste disposal functions prescribed by the Local Government Act 1985 and the Waste Disposal (Authorities) Order 1985.

Following its establishment in 1986, the Authority assumed responsibility for waste disposal on behalf of four London Boroughs; Hammersmith and Fulham, Lambeth, Wandsworth and the Royal Borough of Kensington and Chelsea and it is managed by a committee comprised of two elected Councillors from each of these four borough councils. The Authority has the power to raise a levy from these councils, as defined in the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006.

The Authority’s waste management powers and duties are principally as defined in the Environmental Protection Act 1990, and it arranges for the treatment of around 375,000 tonnes of recycling material and waste per year. Most of this is household waste, generated by a population of nearly one million residents within the four constituent boroughs.

#### **Background**

The Authority owns two riparian waste transfer stations which are leased to Cory Environmental Limited as part of a long-term Waste Management Services Agreement (“**WMSA**”) that includes for the management of all the Authority’s waste and recyclables up until 2032. The WMSA is a unique Public Private Partnership contract, but it does have some drafting similar to that of a Private Finance Initiative contract. Under the WMSA Cory have a range of insurance obligations to the Authority.

Full details on the Authority’s operations can be found in its [Annual Report for 2021/22](#).

The Authority operates with a lean contract management structure with currently only 9 full time employees and a small office. Its own direct insurance requirements are limited and it is currently insured with Zurich Municipal on a long term agreement that expires on 31<sup>st</sup> March 20225 and has an annual premium for of around £30,000.

#### **Scope of Services**

The Authority wishes to appoint an external insurance adviser to provide it with advice and assistance in a range of insurance matters over the next five years. Such matters will include:

- 1) Checking the cover notes and policies produced by its contractor annually to ensure that its contractor has correctly put in place and co-insured the Authority on all applicable insurances as required under the Waste Management Services Agreement (“**WMSA**”) with the Authority and assisting the Authority in rectifying any discrepancies identified.

The WMSA covers three main aspects with regards to Insurance:

- (a) The Authority Site Services – which equate to the services provided by Cory on the Authority owned sites at Smugglers Way in Wandsworth, London and Cringle Street in Vauxhall, London. The required insurances are:

- (i) Material Damage Insurance; and
- (ii) Public Liability Insurance

covering the Minimum Insurance Requirement Risks set out in Clause 35 and Schedule 7 of the WMSA.

Please see Appendix 1 for further details.

- (b) The EfW (Energy from Waste) Services – these equate to the service carried out on behalf of the Authority at the Riverside Resource Recovery Limited (“**RRRL**”) (which is a wholly owned subsidiary of Cory) EfW Facility at Belvedere in the London Borough of Bexley, in relation to which the Authority has a leasehold interest in the site (and which is leased back to RRRL) and is both funder and owner of last resort under PFI style arrangements. The EfW insurances are in relation to:

- (i) Property Damage "All Risks" Insurance (Part IIB, 1), Business Interruption Insurance (Part IIB, 2) (but excluding loss of profit), Third Party Liability and Products Liability (Part IIB, 3); and
- (ii) Marine Hull & Machinery (Part IIC, 1), Marine Protection and Indemnity (Part IIC, 2), Employers' Liability Insurance (Part IIC, 3), Motor Liability Insurance (Part IIC, 4), and other insurances required by law;

Please see Appendix 2 for further details.

- (c) Insurance requirements with respect to Riverside Energy Park Limited's (another Cory wholly owned subsidiary) construction of an EfW Facility adjacent to the RRRL Facility in relation to which there are shared usage assets including a jetty, roads, conduits and vehicles.

Please see Appendix 3 for further details.

- 2) Provide advice on the Authority's own insurance arrangements; the Authority is currently insured with Zurich Municipal.

Please see Appendix 4 for further details.

- 3) Provide assistance with the pursuit of any potential insurance claim by or against the Authority.
- 4) In the event of an insurance claim by the contractor in connection with the services and/or works ensuring that proceeds are accounted for as required under the WMSA and to advise the Authority in the event of any dispute with the contractor on the application of insurances proceeds.
- 5) To assist in identifying and analysing any corporate and project risks that the Authority might face in the future and the mitigation of those risks.

The insurance advisor will also be expected to work collaboratively with other specialist Authority consultants in areas such as waste management, finance, property and law.

### **Fee basis**

Item 1 above:

Fixed annual fee [for checking on the cover notes and policies supplied by the contractor for compliance with the WMSA's insurance requirements and preparing a written report on the extent of any non-compliance with such requirements] plus hourly rates for any ad hoc advice

Items 2, 3, 4 and 5 above

Hourly rates with fixed prices for individual defined elements as they arise.

All rates quoted to be fixed until 31<sup>st</sup> March 2024 and then to be increased annually on 1<sup>st</sup> April in line with the preceding December value of the Consumer Price Index

### **Supporting information**

Relevant experience of providing advice on PFI/PPP waste contracts to include at least two case studies. Visits to the sites and meetings with the Authority's General Manager can be arranged.

Details of any potential conflict of interest with other landowners, contractors or public bodies must be fully disclosed.

CVs of proposed team.

Two referees

## **Evaluation of proposals**

Proposals will be assessed on the basis of information provided by the Consultant at the time of the proposal submission. The percentage weighting for quality/experience (Q) versus price (P) will be 60/40 and proposals will be evaluated with specific regards to:

- A demonstration of an understanding of the requirements and the identification of any key issues. (Q)
- A demonstration of a commitment to timelines and ability to meet objectives set out. (Q)
- Personnel expertise in project management of similar work and effective reporting.(Q)
- Competitive price and suitable budgeting. (P)

## **Proposal submission**

Proposals are due on 'myTenders' before 1pm on 19<sup>th</sup> May 2023

### **Timescales and process for appointment**

|   |                               |
|---|-------------------------------|
| Advertisement Placed                          | 20 <sup>th</sup> April 2023   |
| Deadline for clarification questions          | 1pm 12 <sup>th</sup> May 2023 |
| Submissions received by                       | 1pm 19 <sup>th</sup> May 2023 |
| Shortlisting                                  | by 26 <sup>th</sup> May 2023  |
| Interviews of shortlisted firms (if required) | w/c 29 <sup>th</sup> May 2023 |
| Appointment confirmed                         | 15 <sup>th</sup> June 2023    |

**The Authority reserves the right to not accept all proposals submitted and to not proceed with the project.**

**Questions regarding this request for proposal should be submitted via 'myTenders'. All questions and responses will be copied to all shortlisted consultants.**

## **APPENDIX 1 – AUTHORITY SITE SERVICES INSURANCES**

### **CLAUSE 35**

#### **35. INSURANCE**

- 35.1 The Contractor shall during the Contract Period take out and maintain or procure the maintenance of any insurance as may be required by Law from time to time with insurers of good repute and creditworthiness.
- 35.2 In addition, the Contractor shall during the Contract Period take out and maintain or procure the maintenance of the Required Insurances and (for the duration of the MRF Works) the MRF Works Insurances. The Required Insurances must be effective no later than the Services Commencement Date. The Contractor shall not be required to procure that the EfW Insurances are taken out or maintained.
- 35.3 No Party shall take or fail to take any reasonable action, or (insofar as it is reasonably within its power) permit anything to occur in relation to it, which would entitle any insurer to refuse to pay any claim under the Required Insurances.
- 35.4 The Required Insurances, (and in relation to clauses 35.4.1 to 35.4.4 inclusive only, the MRF Works Insurances and the EfW Insurances (excluding Employer's Liability insurance and Motor Liability insurance)), shall:
- 35.4.1 name the Authority as co-insured with any other party maintaining the insurance for its respective rights and interests;
  - 35.4.2 contain a clause waiving the insurer's subrogation rights against the Authority, its employees and agents;
  - 35.4.3 include a provision whereby the insurance shall apply to each of the insured as if a separate policy had been issued to each of them other than in the event of exhaustion of the sum insured or limit of indemnity;
  - 35.4.4 include breach of condition or warranty, severability, and non-vitiation provisions reasonably acceptable to the Authority or if such provision is not generally available in equivalent policies written in the world-wide insurance market, each of the Parties covenant with the other for the duration of such non-availability that neither shall make any misrepresentation to, or breach

any condition or warranty made to, the insurer or take or omit to take any action which would cause the Required Insurance to fail;

- 35.4.5 include a provision which requires the insurer to send copies of all notices of cancellation or any other notices given under or in relation to the Required Insurances to the Authority;
- 35.4.6 include a provision whereby the policy shall only be cancelled subject to thirty (30) days' notice;
- 35.4.7 include a provision that a notice of a claim given to the insurer by the Authority or the Contractor under the policy shall, in the absence of manifest error, be accepted by the insurer as valid notification of a claim in respect of the interests of all insured parties;
- 35.4.8 include a provision that such insurance shall be primary and no other policy shall be called into contribution;
- 35.4.9 provide for payment of any proceeds to be made by insurers in accordance with clause 35.14; and
- 35.4.10 provide for a deductible level of two hundred and fifty thousand pounds (£250,000). In circumstances where the Contractor takes out or renews the Required Insurance with a deductible level in excess of two hundred and fifty thousand pounds (£250,000), the Contractor shall be liable to the Authority for such additional excess above two hundred and fifty thousand pounds (£250,000) in circumstances where the Authority claims under the Required Insurances.

**PROVIDED THAT** in relation only to the Authority's co-insurance cover in relation to EfW Insurance (b) Business Interruption Insurance (Part IIB, 2) (the "**Authority's BI Co-Insurance Cover**") the Contractor shall have the option from time to time not to procure the Authority's BI Co-Insurance Cover (and in the absence of the Authority's BI Co-Insurance Cover (including without limitation all the required endorsements as set out above) on the EfW Operator's business interruption policy at any point in time, the Contractor shall be deemed to have exercised this option not to procure the Authority's BI Co-Insurance Cover) in which event upon the occurrence of any event to which the EfW Operator's business interruption insurance would nominally apply: (i) the EfW Operator shall (subject to the applicable monetary limit

of cover in the policy, the deductible and the other terms of the policy) be deemed to have claimed and recovered at the point of loss its lost revenues on a gross revenue basis to the fullest extent possible taking account of the terms of the policy irrespective of whether or when the EfW Operator made any claim or recovered any amount under the policy (in relation to which (for the avoidance of doubt and without limitation) any vitiation of the EfW Operator's business interruption insurance shall be ignored); (ii) (without prejudice to the correct interpretation of any contractual provision which in each case shall be construed without reference to this proviso) the Contractor shall account to the Authority under the terms of this Agreement on the basis of such deemed recoveries; and (iii) the deemed recoveries shall be treated as having been recovered: (A) where the Contractor makes actual recoveries under the business interruption policy in relation to the applicable event, upon the date recoveries are first received thereunder; or (B) where the Contractor makes a claim but does not recover for any reason (including without limitation vitiation of the policy), the date falling three (3) months from the date of first loss; or (C) where the Contractor does not make a claim, the date falling three (3) months from the date of first loss.

35.5 The Contractor shall provide to the Authority:

35.5.1 a copy of the cover notes and the broker's certificates detailing cover effected in respect of the Required Insurances within twenty (20) Working Days of its inception, modification or renewal;

35.5.2 a copy of the Required Insurances policy wording within ten (10) Working Days of its receipt by the Contractor;

35.5.3 upon reasonable notice, copies of all insurance policies (other than the Required Insurances) taken out pursuant to clause 35.1;

35.5.4 upon reasonable notice, evidence reasonably acceptable to the Authority that the premiums payable under all insurance policies taken out pursuant to clause 35.1 have been paid and that the insurances are in full force and effect; and

35.5.5 its own original policy for the Required Insurances within five (5) Working Days of its receipt by the Contractor (in its capacity as a co-insured).

35.6 If the Contractor is in breach of clause 35.2 and/or 35.4 above, the Authority may pay any premiums required to keep such insurance in force or itself procure such insurance and may in either case recover such amounts from the Contractor on written demand.

- 35.7 The Contractor shall give the Authority notification within thirty (30) days after any claim in excess of £291,494 on the Required Insurances together with full details of the incident giving rise to the claim.
- 35.8 Neither failure to comply nor full compliance with the insurance provisions of the ASS Contract shall limit or relieve the Contractor of its liabilities and obligations under the ASS Contract.
- 35.9 The Required Insurances shall be taken out with insurers of good repute and creditworthiness in each case approved by the Authority in writing (such approval not to be unreasonably withheld or delayed).
- 35.10 The Contractor undertakes with the Authority in relation to the Required Insurances:
- 35.10.1 to comply with the requirements of the insurers, and such insurer recommendations as the insured should reasonably comply acting in accordance with Good Industry Practice;
  - 35.10.2 not to do or omit to do anything which could cause any Required Insurance to become void or voidable wholly or in part;
  - 35.10.3 to comply with the requirements of the fire authority and other competent authorities, and such fire authority and other competent authority recommendations as the insured should reasonably comply with acting in accordance with Good Industry Practice; and
  - 35.10.4 to give notice to the Authority as soon as reasonably practicable upon the happening of any event which might adversely affect any Required Insurance.
- 35.11 The Authority undertakes with the Contractor in relation to the Required Insurances:
- 35.11.1 in relation to the Authority Buildings:
    - 35.11.1.1 to comply with the requirements of the insurers, and such insurer recommendations as the insured should reasonably comply acting in accordance with Good Industry Practice; and
    - 35.11.1.2 to comply with the requirements of the fire authority and other competent authorities, and such fire authority and other competent authority recommendations as the insured should



reasonably comply with acting in accordance with Good Industry Practice;

35.11.2 not to do or omit to do anything which could cause any Required Insurance to become void or voidable wholly or in part; and

35.11.3 to give notice to the Contractor as soon as reasonably practicable upon the happening of any event which might adversely affect any Required Insurance.

35.12 The Contractor shall, prior to the Services Commencement Date, procure the issue of a broker's letter of undertaking in the form of Part 2 of Schedule 7 in relation to the Required Insurances. Thereafter, upon the renewal of the Required Insurances, or upon the appointment by the Contractor of a replacement broker for placing the Required Insurances, the Contractor shall use its reasonable endeavours to procure a broker's letter of undertaking substantially in the form set out in Part 2 of Schedule 7 in relation to the Required Insurances. To the extent that the Contractor ceases to use a broker, the obligations contained in the letter of undertaking shall be undertaken directly by the Contractor.

35.13 For the avoidance of doubt, the Authority reserves the right, through the application of the Variation Procedure, to require the Contractor to make such amendments to the insurance programme detailed in Schedule 7 throughout the Contract Period as it may reasonably require in order to reflect changes in the circumstances surrounding the ASS Contract.

35.14 All insurance proceeds received under the Material Damage Insurance shall be applied to repair, reinstate, and replace each part or parts of the Facilities in respect of which the proceeds were received.

35.15 All insurance proceeds received by the Contractor under the Material Damage Insurance in respect of a single event (or a series of related events) in an amount in excess of £291,494 shall be paid into an account in the joint names of the Authority and the Contractor.

35.16 Where:

35.16.1 a claim is made or proceeds of insurance are received or are receivable under the Material Damage Insurance in respect of a single event (or a series of related events) in an amount in excess of £291,494 (a "**Relevant Incident**");  
or

35.16.2 damage to any Authority Asset(s) with a value in excess of £29,149 occurs, the Contractor shall deliver as soon as practicable, and in any event within twenty (20) Working Days after the making of the claim, a plan (the "**Replacement Plan**") prepared by the Contractor for the carrying out of works necessary (the "**Reinstatement Works**") to repair, reinstate or replace the Authority Assets or any part of the Authority Assets the subject of the relevant claim or claims. The Replacement Plan shall set out:

35.16.3 the identity of the person proposed to effect the Reinstatement Works, which shall be subject to the prior written approval of the Authority, such approval not to be unreasonably withheld or delayed;

35.16.4 how the Reinstatement Works shall affect the Services; and

35.16.5 the proposed terms and timetable upon which the Reinstatement Works are to be effected (including any interim arrangements and the date that the Authority Assets shall become fully operational),

the final terms of which shall be subject to the prior written approval of the Authority where either there is a Relevant Incident or the Authority is responsible for the cost of reinstatement pursuant to clause 35.22, such approval not to be unreasonably withheld or delayed.

35.17 Provided that the Authority is satisfied that the Reinstatement Plan shall enable the Contractor to effect the Reinstatement Works within a reasonable timescale:

35.17.1 the Reinstatement Plan shall be adopted;

35.17.2 the Contractor shall enter into contractual arrangements to effect the Reinstatement Works with the person identified in the Reinstatement Plan; and

35.17.3 in relation to any Relevant Incident, the proceeds of the Material Damage Insurance located in the joint account referred to in clause 35.15 in respect of the Relevant Incident (the "**Relevant Proceeds**") (together with any interest accrued) shall be released to the Contractor as required to enable it to make payments in accordance with the terms of the Reinstatement Plan, and to meet any other costs and expenses of the Contractor for the sole purposes of financing the Reinstatement Works.

- 35.18 The Authority agrees and undertakes that, subject to compliance by the Contractor with its obligations under this clause, and provided that the Contractor procures that the Reinstatement Works are carried out and completed in all material respects in accordance with the Reinstatement Plan (subject to any delay arising as a result of a Relief Event, Compensation Event, Excusing Cause or Force Majeure Event), it shall not exercise any right which it might otherwise have to terminate the ASS Contract by virtue of the event which gave rise to the damage.
- 35.19 The Authority undertakes to use all reasonable endeavours to assist the Contractor in the carrying out of the Reinstatement Plan.
- 35.20 After the Reinstatement Plan has been implemented the Authority shall authorise the release to the Contractor of any Relevant Proceeds then located in the joint account referred to in clause 35.15 in respect of the Relevant Incident, together with any interest accrued.
- 35.21 The Contractor shall maintain in relation to each Authority Site and the Feathers Wharf Site such standards of vigilance and shall take all such precautions as may from time to time be recommended or required by regulators for the protection and security of the Facilities against damage by fire or malicious damage and with which the Contractor should comply in accordance with Good Industry Practice.
- 35.22 Where a claim under the Required Insurances is made in circumstances where the Authority is liable for the relevant damage or loss pursuant to clauses 16.10 and/or 33, the Authority shall pay the deductible and any resultant increase in premium. In all other circumstances, the deductible and any resultant increase in premium shall be borne by the Contractor.
- 35.23 Nothing in this clause 35 shall oblige the Contractor to take out a Required Insurance in respect of an Uninsurable Risk.
- 35.24 If a Minimum Insurance Requirement Risk becomes an Uninsurable Risk, then the Contractor shall be relieved from its obligation to insure against such Uninsurable Risk and the ASS Contract shall continue but with the Contract Rates being adjusted in each year for which the relevant insurance is not maintained, by an amount equal to the premium paid by the Contractor in respect of the relevant risk in the year prior to it becoming an Uninsurable Risk. Where the risk is an Uninsurable Risk for part of a year only, the adjustment in the Contract Rates shall be pro rated to the number of months for which the risk was an Uninsurable Risk.

35.25 On the occurrence of the relevant Minimum Insurance Requirement Risk which has become an Uninsurable Risk the Authority may (at its option):

35.25.1 pay to the Contractor an amount equal to the insurance proceeds that would have been payable had the relevant insurance continued to be available (payment to be made to the joint account referred to in clause 35.15) within six (6) calendar months of the date on which the risk occurs, in which case the ASS Contract shall continue; or

35.25.2 the ASS Contract shall terminate and the provisions of clauses 10 or 40 (as appropriate) shall be deemed to apply.

## SCHEDULE 7

### PART 1

#### REQUIRED INSURANCES

(required for the duration of the Services)

##### 1. MATERIAL DAMAGE ALL RISKS

|                       |  |
|-----------------------|--|
| Insured Parties:      | (a) Contractor<br><br>(b) Authority<br><br>each for their respective rights and interests.   |
| Cover:                | All risks of loss or damage to the Property Insured from any cause not excluded and including Machinery Breakdown and the Computer Breakdown cover in respect of appropriate equipment.  |
| Property Insured:     | All Authority Assets (other than the ISO containers referred to in paragraph (e) of the definition of Reverting Assets) and all Contractor Assets, Leased Assets or Shared Usage Assets on the Authority Sites.  |
| Sum Insured:          | An amount sufficient to pay claims on a full reinstatement as new value basis.<br><br>Day 1 basis with inflation allowance adequate to meet inflation rate applicable at the time.   |
| Maximum Deductibles : | £250,000 each and every claim.   |
| Period:               | 12 months and annual renewal thereafter.   |
| Principal Extensions: | Replacement/reinstatement basis of claims settlement.<br><br>Subsidence, landslip and heave.<br><br>Mechanical/electrical breakdown<br><br>Marine impact.<br><br>Expediting expenses.<br><br>Architects' and surveyors' fees.<br><br>Debris removal costs.<br><br>Additional cost of complying with public authority requirements. |

Cost of labour and computer time expended in reproducing documents or computer records, including accidental or malicious erasure.

Automatic reinstatement of sum insured.

Full Value Terrorism.

72 hour clause.

Capital additions/contract clauses.

Payment on Account.

Waiver of subrogation and hold harmless.

Omissions.

Denial of Access.

Suppliers Extension.

Including property whilst undergoing demolition, refurbishment, rebuilding or due to construction on the same site.

Principal Exclusions:

War and civil war.

Radioactive contamination.

Deliberate acts or omissions of the Insured.

Unexplained shortages or mysterious disappearance.

The cost of making good wear and tear, gradual deterioration, rust etc. gradually developing defects, flaws, deformation, distortion, cracks or partial fractures, defects in design, materials, or workmanship but this shall not exclude subsequent damage resulting from an ensuing cause which is not otherwise excluded.

Sonic boom.

Loss of or damage to vehicles licensed for road use, marine vessels or aircraft.

Fidelity losses.

## 2. PUBLIC LIABILITY

|                       |  |
|-----------------------|--|
| Insured Parties:      | (a) Contractor<br><br>(b) Authority<br><br>each for their respective rights and interests.   |
| Limit of Indemnity:   | £50 million any one occurrence/unlimited in the number of occurrences but in the aggregate for the period in respect of pollution liability.   |
| Scope of Cover:       | To indemnify the Insured Parties in respect of all sums that they become legally liable to pay consequent upon:<br><br>bodily injury, illness, death;<br><br>loss or damage to property;<br><br>interference, trespass, loss of amenities, nuisance, infringement, obstruction, stoppage of traffic, interference with any easement, right of light or way;<br><br>arising out of or in connection with the Project          |
| Geographical Scope:   | United Kingdom.  |
| Period:               | 12 months and annual renewal thereafter.   |
| Principal Extensions: | Costs and expenses clause;<br><br>Cross liabilities clause;<br><br>Contractual liability clause;<br><br>Motor contingency liability;<br><br>Worldwide jurisdiction clause; and<br><br>Including officers, directors and employees as Insured Parties   |
| Principal Exclusions: | Death or bodily injury of employees of the Insured arising in the course of their employment.<br><br>Liability arising out of professional advice given for a fee.<br><br>Liability arising out of the use of mechanically propelled vehicles or vessels or vessels for which compulsory insurance is required.<br><br>Pollution or contamination unless caused by a sudden identifiable unintended and unexpected incident. |

Property in care custody or control.

Liquidated damages.

Fines imposed by regulatory or statutory authorities or courts.

Maximum Deductibles:

£250,000 each and every claim



## PART 2

### FORM OF BROKER'S LETTER OF UNDERTAKING

(To the Authority)

Dear Sirs,

We confirm that we have arranged the insurances (the "**Required Insurance**") on the basis of the information and instructions given by the Contractor. We have not made any particular or special enquiries regarding the Required Insurances beyond those we normally make in the ordinary course of arranging the insurances on behalf of our insurance broking clients. The Required Insurances are in effect on and in respect of the risks set out in the attached cover notes as at the date hereof. The confirmations set out in this letter are given by reference to our state of knowledge at the date hereof.

Terms defined in the Waste Management Services Agreement dated [ ] and entered into between Western Riverside Waste Authority (the "**Authority**") and Cory Environmental Limited (the "**Contractor**") (the "**Waste Management Services Agreement**") shall have the same meaning in this letter.

In the endorsements attached to this letter of undertaking:

**"the Insured"** means the parties covered by the insurance policy to which the endorsement applies;

**"the Insurer"** means the insurer in relation to the insurance policy to which the endorsement applies; and

**"the Policy"** means the insurance to which the endorsement applies.

Pursuant to instructions received from the Contractor, and in consideration of your approving our appointment or continuing appointment as brokers in connection with the insurances covered by this letter, we hereby undertake in respect of the interests of the Insured and the Authority in the insurances referred to in the attached cover notes:

1. to use our reasonable endeavours to incept each policy substantially in the forms detailed in Schedule 7 Part 1 and to have each endorsed substantially in the forms attached hereto and to notify you as soon as reasonably practicable where we fail to do so;
2.
  - 2.1 to advise you as soon as reasonably practicable upon receipt of notice of any material changes, which we know to be material upon notification to us, which are proposed to be made in the terms of the Required Insurance and which, if effected, would result in any material reduction in limits or coverage (including those resulting from extensions) or in any increase in deductibles, exclusions or exceptions;
  - 2.2 to notify you as soon as reasonably practicable if we have not received instructions from the Contractor to negotiate renewal, and, in the event of our receiving instructions to renew, to advise you as soon as reasonably practicable after receipt of the details thereof; and
  - 2.3 to notify you as soon as reasonably practicable prior to ceasing to act as brokers to the Contractor;
3. to advise you as soon as reasonably practicable:

- 3.1 after receiving notice of any insurer's cancellation of any part of the Required Insurances or receiving notice of any insurer's intention to cancel any Required Insurance;
  - 3.2 of any default in the payment of any premium for any Required Insurance;
  - 3.3 of any act of omission or of any event of which we have knowledge and which might reasonably be foreseen as invalidating or rendering unenforceable in whole or in part any Required Insurance; and
  - 3.4 of any claim under any of the Required Insurances notified to us in writing;
- 4. to disclose to the insurers (in confidence) and to you any fact, change of circumstance or occurrence which we know to be material to the risks insured against under the Required Insurances and which should properly be disclosed to insurers as soon as reasonably practicable after we become aware of such fact, change of circumstance or occurrence (always providing that the foregoing shall not act to vary or displace the duty of disclosure of the insured parties);
  - 5. to hold the insurance slips or contracts, the Required Insurance policies with any renewal thereof of any new or substitute policies (in each case, issued only with your consent), to the extent held by us.

The above undertakings are given:

- 1. subject to our lien, if any, on the Required Insurance policies referred to above for premiums due under the Required Insurance policies and subject to any insurers' right of cancellation (if any) following default in excess of 30 days in payment of such premiums, we undertake to advise you as soon as reasonably practicable if any such premiums are not paid to us by the due date and to give you reasonable opportunity of paying such amounts of such premiums outstanding before issuing notice of cancellation on behalf of the insurers; and
- 2. subject to our continuing appointment for the time being as insurance brokers to the Contractor in relation to the Required Insurances and following termination of such appointment our immediate release from all our obligations set out in this letter.

For the avoidance of doubt, all undertakings and other confirmations given in this letter relate solely to the Required Insurances. They do not apply to any other insurances and nothing in this letter should be taken as providing any undertakings or confirmations in relation to any insurance that ought to have been placed or may at some future date be placed by other brokers.

This letter is given by us on the instructions of the Contractor and with the Contractor's full knowledge and consent as to its terms, evidenced by the Contractor's signature below.

This letter shall be governed by and construed in all respects in accordance with English law, and any dispute as to its terms shall be submitted to the exclusive jurisdiction of the courts of England and Wales.

Yours faithfully

.....

For and on behalf of [Insert name of relevant broker]

.....

For and on behalf of Cory Environmental Limited

Attachment: Endorsements

## **ENDORSEMENT 1**

### **Cancellation Clause**

The Insurer shall advise the Insured:

1. at least 30 days' before any cancellation excluding in respect of non-payment of premium where at least 30 days' notice must be given;
2. at least 30 days' (or such lesser period (if any) as may be specified from time to time by Insurers in the case of war risks and kindred perils) before any reduction in limits or coverage, any increase in deductibles or any termination before the original expiry date is to take effect; and
3. of any act or omission or of any event of which the Insurer has knowledge and which might invalidate or render unenforceable in whole or in part any insurance.

## **ENDORSEMENT 2**

### **The Insured**

Each of the parties comprising the Insured shall for the purpose of this policy be considered a separate entity with the words "**the Insured**" applying to each as if they were separately and individually insured provided that the total liability of the Insurers under each section of this Policy to the Insured collectively shall not (unless the Policy specifically permits otherwise) exceed the limit of indemnity stated to be insured thereby.

Accordingly the liability of the Insurers under this Policy to any one of the Insured shall not be conditional upon the due observance and fulfilment by any other Insured of the terms of this Policy and of any duties imposed upon it relating thereto and shall not be affected by any failure in such observance of fulfilment by other such Insured.

## **ENDORSEMENT 3**

### **Communications**

All notices or other communications under or in connection with this policy shall be given to the Insured in writing or by facsimile. Any such notice will be deemed to be given as follows:

1. if in writing, when delivered; and
2. if by facsimile, when transmitted but only if a valid transmission report confirming good receipt was generated.

The address, and facsimile number of the Authority for all notices under or in connection with this policy are those notified from time to time by the Authority for this purpose to the Contractor's insurance broker at the relevant time. The initial address and facsimile number of the Authority are as follows:

The Authority:

Address:

Facsimile No.

Attention:

It is further agreed that a notice of claim given by the Authority or any other Insured shall in the absence of any manifest error be accepted by the insurer as a valid notification of a claim in respect of all of the interests of the Insured.

#### **ENDORSEMENT 4**

##### **Waiver of Subrogation and Cross liability**

It is agreed that the relevant underwriters and Insurers shall waive any rights of subrogation against all the Insured (including any other insurance policies in force on their behalf including Western Riverside Waste Authority, its assignees and successors and any other agency or government body or department which has responsibility for the collection and disposal of controlled waste under the Environmental Protection Act 1990, their assigns agents officers directors employees and servants (whenever acting in the capacity as such).

Further in respect of the liability of one Insured to another each Insured shall be entitled under the third party liability insurance to be indemnified in respect of claims made by any other Insured provided that the limit of indemnity is not exceeded. This endorsement shall not apply where such rights are acquired in consequence of fraud.

#### **ENDORSEMENT 5**

##### **Claims negotiation rights**

Notwithstanding any claim conditions contained herein the Insurers agree that the Authority has the right to settle and negotiate any claims received from third parties subject to prior consultation with the Contractor and Insurers on any claim exceeding £250,000 (as such figure is Indexed under the terms of the Waste Management Services Agreement).

Notice of claim by the Authority and any other party entitled to indemnity under this Policy shall in the absence of manifest error be accepted by Insurers as a valid claim subject to the full terms of the Policy.

#### **ENDORSEMENT 6**

All proceeds in an amount exceeding £250,000 under the Material Damage Insurance arising from the Project shall be payable without deduction or set-off to the account entitled "Insurance Account" in the joint names of the Authority and the Contractor, number to be advised with a bank to be advised at an office location to be advised.

#### **ENDORSEMENT 7**

##### **Primary Insurance**

It is expressly understood and agreed that this Policy provides primary cover for the Insured and that in the event of loss, damage or liability covered by this Policy which is also covered either in whole or in part under any other policy or policies of insurance effected by or on behalf of any of the parties comprising the Insured, the Insurers will indemnify the Insured as if such other policy or policies of insurance were not in force and the Insurers waive their rights of recourse if any against the Insurers of other such policy or policies of insurance.

## Appendix 2 – ENERGY FROM WASTE (“EfW”) INSURANCES

"EfW Insurances" means the insurances listed in Schedule 6 to the Facility Agreement as at the First Amended Agreement Date as follows:

- (a) Property Damage "All Risks" Insurance (Part IIB, 1), Business Interruption Insurance (Part IIB, 2) (but excluding loss of profit), Third Party Liability and Products Liability (Part IIB, 3); and
  - (b) Marine Hull & Machinery (Part IIC, 1), Marine Protection and Indemnity (Part IIC, 2), Employes' Liability Insurance (Part IIC, 3), Motor Liability Insurance (Part IIC, 4), and other insurances required by law;
- 

### 1. PROPERTY DAMAGE “ALL RISKS” INSURANCE

#### 1.1 Insureds

- (a) The Borrower as Principal Insured; and
- (b) The Finance Parties (in every capacity in which they, or any of them, may be acting under the Finance Documents);
- (c) The Lighterage Contractor; and
- (d) Consultants and suppliers to the above for their site activities only.

as co-insureds each for his respective rights and interests.

#### 1.2 Insured Property

Any real and personal property of whatsoever nature or description which is the subject matter of the Project (including for the avoidance of doubt, the Electricity Construction & Connection Agreement) and which is the property of the Insured Parties or for which the Insured Parties may be responsible, unless more specifically insured under the Contractors’ All Risks Insurance.

#### 1.3 Coverage

“All Risks” of physical loss, destruction or damage to the Insured Property including Machinery Breakdown from any cause not excluded.

#### 1.4 Sum Insured

An amount not less than the full reinstatement or replacement value of the Insured Property plus an amount sufficient to cater for the requirements of the extensions.

#### 1.5 Maximum Deductibles

£350,000 in respect of flood and machinery breakdown losses; £100,000 in respect of all other losses.

#### 1.6 **Territorial Limits**

Anywhere in the United Kingdom but anywhere in Europe in respect of items of Insured Property whilst temporarily removed.

#### 1.7 **Period of Insurance**

From the date of issue of the last Take-Over Certificate (as defined under the Construction Contract) for at least 12 months and renewed thereafter for periods not less than 12 months.

#### 1.8 **Cover Features and Extensions**

- (a) Full value terrorism cover;
- (b) Day 1 reinstatement sum insured provision;
- (c) Automatic reinstatement of sum insured;
- (d) Capital additions clause;
- (e) Debris removal clause;
- (f) 72 hour clause (earthquake and weather);
- (g) Munitions of war clause;
- (h) Professional fees clause;
- (i) EC and local authorities clause;
- (j) Including pollution and contamination to the insured property arising from an event which itself is not otherwise excluded.
- (k) Repair/reinstatement basis of claims settlement;
- (l) Expediting expenses clause;
- (m) Temporary removal clause;
- (n) Plans and documents and computer data reinstatement clause;
- (o) Payments on account; and
- (p) Loss minimisation expenditure and temporary repairs clause.

## 1.9 **Principal Exclusions**

- (a) War and related perils (UK market agreed wording);
- (b) Nuclear/radioactive risks (UK market agreed wording);
- (c) Pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds;
- (d) Wear, tear and gradual deterioration, latent defect, defective design, materials or workmanship, however not excluding consequential loss or damage;
- (e) Refractory linings;
- (f) Transmission and distribution lines over 500 metres from the perimeter of the Insured Property;
- (g) Unexplained shortages;
- (h) Consequential financial losses;
- (i) Money;
- (j) Waste fuel quality clause;
- (k) Cyber risks other than coverage under 1.8(n) above; and
- (l) Latent defects, but not consequential damage which is otherwise insured.

## 2. **BUSINESS INTERRUPTION INSURANCE**

### 2.1 **Insureds**

- (a) The Borrower as Principal Insured; and
- (b) The Finance Parties (in every capacity in which they, or any of them, may be acting under the Finance Documents) as co-insureds

each for his respective rights and interests.

### 2.2 **Indemnity**

In respect of:

- (a) loss of revenue during at least the Minimum Indemnity Period arising from an interruption or interference in the operation of the Project as a result of loss or damage covered under the Property Damage "All Risks" Insurance effected in

accordance with paragraph 1 of Part IIB of this Schedule including physical loss or damage which would be indemnifiable but for the application of any deductible;

- (b) the economic additional expenditure/increased cost of working necessarily and reasonably incurred for the purpose of avoiding or reducing the loss of revenue which without such expenditure would have taken place, during the Minimum Indemnity Period and
- (c) Rent payable in respect of property leased at Tilbury Freeport docks.

### 2.3 **Sum Insured**

An amount sufficient to cover the sums which are the subject of the Indemnity, for the Minimum Indemnity Period, including:

Additional increased cost of working: £5,000,000.

### 2.4 **Maximum Deductible**

30 days each and every occurrence, other than in respect of machinery breakdown which shall be 60 days each and every occurrence.

### 2.5 **Minimum Indemnity Period**

40 months except:

- 9 months in respect of machinery breakdown;
- 36 months in respect of Rent Payable at Tilbury Freeport docks.

### 2.6 **Period of Insurance**

Same as for Property Damage "All Risks" Insurance above.

### 2.7 **Cover Features and Extensions**

- (a) Denial of access extension;
- (b) Full value terrorism cover;
- (c) Utilities extension;
- (d) Professional fees clause;
- (e) Automatic re-instatement of the sum insured;



(f) Payments on account;

(g) Suppliers' premises extension;

- (h) Customers' premises extension; and
- (i) Additional Increased Cost of Working – limit £5m.

## 2.8 **Principal Exclusions**

- (a) Exclusions under the Property Damage "All Risks" Insurance, other than for consequential financial losses as insured hereunder.
- (b) Delayed response by a public body or state authority.

## 3. **THIRD PARTY LIABILITY AND PRODUCTS LIABILITY**

### 3.1 **Insureds**

- (a) The Borrower as Principal Insured; and
- (b) The Finance Parties (in every capacity in which they, or any of them, may be acting under the Finance Documents);
- (c) Lighterage Contractor; and
- (d) Consultants and suppliers to the above for their site activities only.

as co-insureds each for his respective rights and interests.

### 3.2 **Interest**

To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay (including claimant's costs and expenses) in respect of actions brought worldwide for:

- (a) death, or bodily injury or illness or disease contracted by any person including mental injury, mental anguish and shock, libel and slander;
- (b) loss of or damage to property; and
- (c) obstruction interference loss of amenities nuisance trespass stoppage of traffic infringement of light easement denial of access or any like cause;

happening or consequent upon a cause occurring during the Period of Insurance and arising out of or in connection with the Project anywhere within the Territorial Limits.

### 3.3 **Limit of Indemnity**

Not less than £50,000,000 in respect of any one occurrence, the number of occurrences being unlimited, but £50,000,000 in the annual aggregate in respect of products liability and pollution liability.

### 3.4 **Maximum Deductible**

£20,000 each and every occurrence of loss of or damage to third party property. Nil for death or personal injury.

### 3.5 **Territorial Limits**

Worldwide excluding USA/Canada other than non-manual visits.

### 3.6 **Jurisdiction**

Worldwide (excluding USA and Canada).

### 3.7 **Period of Insurance**

From the date of issue of the last Take-Over Certificate (as defined under the Construction Contract) for at least 12 months and renewed thereafter for periods not less than 12 months.

### 3.8 **Cover Features and Extensions**

- (a) Contractual liability;
- (b) Health & Safety at Work Act(s) defence costs clause;
- (c) Defective Premises Act clause;
- (d) Data Protection Act clause;
- (e) Cross liability clause;
- (f) Motor contingent liability;
- (g) Defence costs in addition to the limit (other than USA/Canada);
- (h) Contingent liability of the Insured Parties for the acts of their sub-contractors;
- (i) Indemnity for directors, officers, and employees (and their personal representatives) of the insured parties;
- (j) Consumer Protection Act 1987 clause;
- (k) Including social functions and activities and welfare and emergency services; and
- (l) Cover to include infringement of privacy and wrongful arrest.

### 3.9 Principal Exclusions

- (a) Liability for death, illness, disease or bodily injury sustained by employees of the insured during the course of their employment i.e. Employers' Liability.
  - (b) Liability arising out of the use of mechanically propelled vehicles whilst required to be insured by legislation in respect of such vehicles;
  - (c) Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured Parties unless such liability would have existed in the absence of such contract;
  - (d) Liability in respect of loss or damage to property in the care, custody and control of the Insured;
  - (e) Liability of consultants referred to in clause 3.1(d) arising out of technical or professional advice given for a fee;
  - (f) Liability arising from the ownership, possession or use of any aircraft or marine vessel;
  - (g) Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence;
  - (h) Loss or damage recoverable under the Property Damage "All Risks" Insurance detailed in Paragraph 1 of Part IIB of this Schedule 6;
  - (i) War and related perils (UK market agreed wording);
  - (j) Nuclear/radioactive risks (UK market agreed wording);
  - (k) Liability arising out of toxic mould;
  - (l) Liability arising out of asbestos; and
  - (m) Cyber risks.
- 

## Part IIC

### Construction and Operational Period Insurance

#### 1. MARINE HULL & MACHINERY

##### 1.1 Insureds

- (a) The Borrower as Principal Insured; and
- (b) The Finance Parties (in every capacity in which they, or any of them, may be acting under the Finance Documents); and

(c) The Lighterage Contractor or Charterer,

as co-insureds each for his respective rights and interests.

## 1.2 **Insured Property**

Vessels, barges, tugs, etc which are the subject matter of the Project and which are the property of the Insured Parties or for which the Insured Parties may be responsible.

## 1.3 **Coverage**

“All Risks” of physical loss, destruction or damage to the Insured Property including Machinery Breakdown from any cause not excluded.

## 1.4 **Sum Insured**

A value not less than the full current market value or replacement value of the Insured Property as agreed.

## 1.5 **Maximum Deductibles**

£50,000.

## 1.6 **Territorial Limits**

Worldwide

## 1.7 **Period of Insurance**

For at least 12 months and renewed thereafter for periods not less than 12 months.

## 1.8 **Cover Features and Extensions**

- (a) Full marine cover;
- (b) Accidental damage;
- (c) Negligence of any person;
- (d) General Average, Salvage and Sue and Labour covered in full;
- (e) Leave to engage in pollution response / dispersal operations;
- (f) Bail clause;

## 1.9 **Principal Exclusions**

- (a) War risks;
- (b) Nuclear/radioactive risks;
- (c) Collision liability;
- (d) Consequential financial losses;
- (e) Cyber risks

## 2. **MARINE PROTECTION & INDEMNITY**

### 2.1 **Insureds**

The Borrower as Principal Insured;

Noting the interest of the Finance Parties (in every capacity in which they, or any of them, may be acting under the Finance Documents);

The Lighterage Contractor or Charterer (if required on Misdirected Arrow basis).

### 2.2 **Interest**

Liabilities arising as owners of vessels, barges, tugs, etc which are the subject matter of the Project and which are the property of the Insured Parties or for which the Insured Parties may be responsible.

### 2.3 **Coverage**

Full P&I entry in an International Group Club and subject to the Rules of Association and the individual vessels Certificates of Entry.

### 2.4 **Limit of Liability**

As per the Rules of the Association but limited to USD 500,000,000 each incident, save as mentioned in 2.8(c).

### 2.5 **Maximum Deductibles**

Running Down Clause & Fixed and Floating Objects claims GBP 10,000 each incident. All

other claims GBP 7,500 each incident.

When one incident gives rise to claims of a different nature the aggregate of all claims shall be subject to the highest deductible applicable to any one such claim.

## 2.6 Territorial Limits

River Thames and UK Territorial Waters; otherwise to be agreed.

## 2.7 Period of Insurance

For at least 12 months and renewed thereafter for periods not less than 12 months. Anniversary date Noon GMT 20 February.

## 2.8 Cover Features and Extensions

- (a) Full P&I cover including towage;
- (b) Full Collision Liability (4/4ths RDC)
- (c) Contractual extension

Subject to a limit of GBP 1,500,000 each incident, subject to an annual aggregate of GBP 5,000,000.

Deductibles: GBP 10,000 each incident.

- (d) Specialist Operations if required;

## 2.9 Principal Exclusions

- (a) Liability to cargo – Rule 2 Section 14.
- (b) Liability to seamen – Rule 2 Section 1.
- (c) Nuclear/radioactive risks;
- (d) Cyber risks

## 3. PROPERTY “ALL RISKS” INSURANCE: TILBURY FREEPORT & CHARLTON BOAT YARD

### 3.1 Insureds

- (a) Cory Environmental Limited as Principal Insured;
- (b) The Borrower;

- (c) The Finance Parties (in every capacity in which they, or any of them, may be acting under the Finance Documents) as Loss Payee; and
- (d) The Lighterage Contractor,

as co-insureds each for his respective rights and interests.

### **3.2 Insured Property**

Any real and personal property located at Tilbury Freeport and Charlton Boat Yard of whatsoever nature or description which is the subject matter of the Project and which is the property of the Insured Parties or for which the Insured Parties may be responsible by lease provision or otherwise, unless more specifically insured under the Contractors' All Risks Insurance or insurance arranged by the Landlord.

### **3.3 Coverage**

"All Risks" of physical loss, destruction or damage to the Insured Property including Machinery Breakdown from any cause not excluded.

### **3.4 Sum Insured**

An amount not less than the full reinstatement or replacement value of the Insured Property plus an amount sufficient to cater for the requirements of the extensions.

### **3.5 Maximum Deductibles**

£350,000 in respect of flood and machinery breakdown losses; £100,000 in respect of all other losses.

### **3.6 Territorial Limits**

Tilbury Freeport, Charlton Boat Yard; but anywhere in Europe in respect of items of Insured Property whilst temporarily removed.

### **3.7 Period of Insurance**

From the date of signature of applicable agreements and thence in accordance with the Property Damage All Risks Insurance as set out in clause 1 of Part IIB of this Schedule 6.

### **3.8 Cover Features and Extensions**

- (a) Full value terrorism cover;
- (b) Day 1 reinstatement sum insured provision;
- (c) Automatic reinstatement of sum insured;



- (d) Capital additions clause;
- (e) Debris removal clause;
- (f) 72 hour clause (earthquake and weather);
- (g) Munitions of war clause;
- (h) Professional fees clause;
- (i) EC and local authorities clause;
- (j) Including pollution and contamination to the insured property arising from an event which itself is not otherwise excluded.
- (k) Repair/reinstatement basis of claims settlement;
- (l) Expediting expenses clause;
- (m) Temporary removal clause;
- (n) Plans and documents and computer data reinstatement clause;
- (o) Payments on account; and
- (p) Loss minimisation expenditure and temporary repairs clause.

### **3.9 Principal Exclusions**

- 3.9.1 War and related perils (UK market agreed wording);
  - (a) Nuclear/radioactive risks (UK market agreed wording);
  - (b) Pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds;
  - (c) Wear, tear and gradual deterioration, latent defect, defective design, materials or workmanship, however not excluding consequential loss or damage;
  - (d) Unexplained shortages;
  - (e) Consequential financial losses;
  - (f) Money;
  - (g) Cyber risks other than coverage under 3.8(n) above; and

(h) Latent defects, but not consequential damage which is otherwise insured.

4. **EMPLOYERS' LIABILITY INSURANCE**

Where coverage is required, to be in a form that is compliant with the appropriate legislation.

5. **MOTOR LIABILITY INSURANCE**

Where coverage is required, to be in a form that is compliant with the appropriate legislation.

6. **OTHER INSURANCES REQUIRED BY LAW OR UNDER CONTRACT**

In a form that is compliant with the appropriate legislation. Where the Borrower is an interested party in the subject matter, their interest is to be covered on the Group policies, including Engineering Inspection contracts.

**Part III**

**Endorsements**

Applicable to all policies in this Minimum Schedule of Insurance unless otherwise agreed or waived by the Finance Parties.

Notwithstanding any other provision of this Contract, the following endorsement shall apply:

**SECTION I: DEFINITIONS**

1. **DEFINITIONS**

1.1 In this endorsement:

**"Agent"** means The Governor and Company of the Bank of Ireland in its capacity as agent and trustee for the Finance Parties and includes its successors in title, permitted assigns and permitted transferees;

**"Borrower"** means Riverside Resource Recovery Limited;

**"Facilities Agreement"** means the agreement dated 31 July 2008 between, amongst others, the Borrower and the Agent;

**"Finance Parties"** has the meaning given to it in the Facilities Agreement and includes any assignee, transferee, successor or novated, replacement or additional creditor of or in relation to any of the foregoing;

**"Insurance Proceeds Account/Proceeds Account"** means the account in the name of the Borrower with The Governor and Company of the Bank of Ireland with account number 93910547 and sort code 30-16-07.

**"Insured"** means those parties so described in the Contract Schedule; **"Insurers"**

means the insurer or insurers underwriting this insurance Contract; **"Project"** has the

meaning given to it in the Facilities Agreement;

## **SECTION II: CONTRACT FORMATION / BASIS**

### **2. SEPARATE CONTRACT**

All the provisions of this Contract (except for those relating to limits of liability) shall operate as if there were a separate Contract covering each Insured. Accordingly, the liability of the Insurers under this Contract to any one of the Insured shall not be conditional upon the due observance and fulfilment of any other Insured of the terms of this Contract and of any duties imposed upon it relating thereto and shall not be affected by any failure in such observance or fulfilment of any such other Insured.

### **3. INTEREST OF THE FINANCE PARTIES**

The Insurers acknowledge that the Finance Parties and (in respect of third party liabilities) their respective officers, directors, employees, secondees and assigns are each additional co-insureds under this Contract and that the premium specified in this Contract provides consideration for their being co-insured parties.

### **4. LIABILITY FOR PREMIUM**

Neither the Agent, nor the Finance Parties nor their respective officers, directors, employees, secondees and assigns shall be liable for the payment of any premium under this Contract although they may choose to pay the premium. This shall not relieve the Borrower from its obligations to pay any premium under this Contract.

### **5. DISCLOSURE**

5.1 The Finance Parties shall have no duty of disclosure to Insurers in relation to the Contract.

5.2 The Insurers acknowledge to the Finance Parties alone that (i) they have received adequate information in order to evaluate the risk of insuring the Borrower in respect of the risks hereby insured on the assumption that such information is not materially misleading, (ii) there is no information which has been relied on or is required by Insurers in respect of their decision to co-insure the Finance Parties or their directors, officers, employees or agents, and (iii) in agreeing to enter into this Contract, they have not relied upon or taken into account any information supplied to them by any Finance Party. The acknowledgements provided by the Insurers in this clause 5.2 shall have no effect on any rights that Insurers might have had under or in relation to the Contract against any party (including the Borrower) other than the Finance Parties and the Agent in the absence of such acknowledgements.

- 5.3 Non-disclosure or misrepresentation by one Insured shall not be attributable to any other Insured who did not actively participate in that non-disclosure or misrepresentation. Without prejudice to the protections afforded to the Insured by this endorsement, no one Insured represents or warrants the adequacy or accuracy of any information provided or representation made by or on behalf of any other Insured.

### **SECTION III: RIGHTS TO AVOID / CANCEL OR CHANGE CONTRACT TERMS**

#### **6. NON-VITIATION**

- 6.1 The Insurers undertake to each Insured that the Contract will not be invalidated as regards the rights and interests of such Insured and that the Insurers will not seek to avoid any liability under this Contract because of any act, neglect, error or omission made by any other Insured, including any failure by any other Insured to disclose any material fact, circumstance or occurrence, any misrepresentation by any other Insured or any breach or non-fulfilment by any other Insured of any condition, warranty or provision contained in the Contract.
- 6.2 The Insurers agree that no Insured shall be penalised or prejudiced in any way by any unintentional or inadvertent misrepresentation, non-disclosure, want of due diligence or breach of any declaration, terms, condition or warranty of this Contract (together “the Relevant Matter”), but that this shall not apply as regards the individual Insured responsible for the Relevant Matter if that Insured fails to notify the Insurers or the brokers through whom the Contract was placed as soon as reasonably practicable after the management or managers of that Insured become aware or are made aware of the Relevant Matter.

#### **7. CANCELLATION**

- 7.1 The Insurers agree that they shall not seek to cancel or suspend the construction phases of this insurance except: (i) for non payment of premium; or (ii) where an insured party consistently fails to comply with Insurers’ requirements relating to survey or loss control action points; or (iii) where an insured party is in breach of an applicable Joint Code of Practice (or equivalent).
- 7.2 The Insurers shall promptly notify the Agent in writing in the event of any:
- (a) suspension, cancellation, termination or non renewal of this Contract by the Insurers or by the Insured. The cover provided by this Contract shall continue in force and unaltered for at least 30 days after written notice of such suspension, cancellation, termination or non-renewal is given to the Agent. Nothing in this clause shall give the Insurers any right to suspend, cancel or terminate this Contract which the Insurers do not otherwise have under this Contract. Notification of non-renewal by Insurers is not required in the case of insurances placed in accordance with Part IIA of this Schedule 6.
- 7.3 The Insurers shall promptly notify the Agent in writing of any default in the payment of premium and shall give the Agent at least 30 days notice in writing before voiding this Contract for non-payment of premium, in order to give an opportunity for that premium to be paid within the notice period.

**8. CHANGES IN COVER**

The Insurers shall give the Agent at least 30 days notice in writing before any reduction in cover or increase in excess or deductible or application of additional exclusions, exceptions, excess or deductible under this Contract takes effect including where the change is at the request of the Borrower and will not effect surcharge. Nothing in this clause shall give the Insurers any rights which they do not otherwise have to reduce cover or increase any excess or deductible under this Contract.

**9. AMENDMENTS TO ENDORSEMENT**

During the term of this Contract, the provisions of this endorsement may only be amended by written agreement between the Borrower, the Insurers and the Agent, such amendment to be endorsed on the Contract.

**SECTION IV: CLAIMS**

**10. NOTICE OF CLAIMS**

Notice of claim by the Finance Parties or any other party entitled to indemnity under the Contract shall, in the absence of manifest error, be accepted by Insurers as a valid notification of claim on behalf of all other Insureds subject to the full terms of the Contract.

**11. CLAIM PAYMENTS / LOSS PAYEE**

Payments made in accordance with this Clause 11 shall, to the extent of the payment, discharge the Insurers' liability to pay the Borrower or any other Insured.

**11.1** In respect of the insurance under this Contract of material damage risks only.

All claim payments or return premium shall be paid into the Insurance Proceeds Account or to such other account as the Agent as loss payee may specify in writing.

**11.2** In respect of the insurance under this Contract of public liability risks only.

All claim payments in respect of a third party liability shall be paid to person(s) whose claim(s) constitute the risk or liability insured against except in the case where the Insured has properly discharged its liability to such person(s), in which case the claim payment shall be paid to the Insurance Proceeds Account or such account as the Agent directs in writing.

Any return premiums shall be paid to the Insurance Proceeds Account or such other account as the Agent directs in writing.

**11.3** In respect of the insurance under this Contract of loss of revenue risks only.

All claim payments or return premiums shall be paid to the Insurance Proceeds Account or such other account as the Agent directs in writing.

#### 11.4 Set-off

Insurers may, at their discretion, deduct overdue unpaid premium from claims settlements but shall not set off or deduct premium that is not overdue or any other amounts payable by the Borrower under or in relation to the Contract.

#### 12. **WAIVER OF SUBROGATION**

The Insurers waive all rights of subrogation howsoever arising which they may have or acquire against any Insured described within the appropriate Schedules arising out of any Occurrence in respect of which any claim is admitted and is insured hereunder for the benefit of such Insured except against any:

- (a) such Insured (or officer, director, employee, agent or assign) who has caused or contributed to such an occurrence or claim by fraud, deliberate misrepresentation, deliberate non-disclosure or deliberate breach of Contract condition; or
- (b) consultant or equivalent professional party to the extent that their professional errors, omissions or activities not covered by this Contract have caused or contributed to a loss covered under this Contract; or
- (c) supplier or manufacturer to the extent that their errors, omissions or activities not covered by this Contract have caused or contributed to a loss covered under this Contract; or
- (d) such Insured to the extent that they are entitled to recover in respect of a loss under cover falling within sub-clause 13 below (or would be so insured if cover in the terms set out in this Contract had not been taken out); or

#### 13. **PRIMARY INSURANCE**

It is expressly understood and agreed that this Contract provides primary cover for the Insured and that in the event of loss destruction damage or liability covered by this Contract which is also covered either in whole or in part under any other Contract or contracts of insurance effected by or on behalf of any of the parties comprising "The Insured" (as defined in this Contract) the Insurers will indemnify the Insured as if such other Contract or contracts of insurance were not in force and the Insurers waive their rights of recourse if any against the Insurers of such other Contract or contracts of insurance other than claims where General Extension 3 (below) may apply.

General Extension 3 (Professional Consultants):

This Contract will not extend to provide an indemnity to any professional advisor consultant or sub-consultant engaged by any Insured solely to provide professional services for a fee resulting from the neglect error or omission in the performance of his professional services.

However in the event of a claim being brought by or against any other Insured arising from the neglect error or omission of the professional advisor consultant or sub-consultant the Contract shall provide an indemnity to such other Insured subject to Insurers retaining all available rights of subrogation against the professional advisor consultant or sub-consultant."

**SECTION V: MISCELLANEOUS**

**14. NOTICE OF SECURITY INTEREST**

The Insurers acknowledge that by an assignment contained in a debenture dated 31 July 2008 (the "Assignment"), the Borrower assigned by way of security to the Security Trustee (acting on behalf of the Finance Parties) all benefits and rights in respect of this insurance and all claims all money payable under the Insurances and returns of premiums in respect thereof to which the Insured is or may at a future time become entitled. The Insurers confirm that they have not been notified of any other assignment of or security interest in the Borrower's interest in this insurance.

**15. NOTICE**

15.1 All notices or other communications under or in connection with the Contract will be given by fax and post. Any such notice given by Insurers will be deemed to be given on the earlier or:

- (a) if by fax, when received in legible form; and
- (b) if by post, when it has left at the relevant address or five business days after being deposited in the post postage prepaid in an envelope addressed to it at that address.

15.2 The address and fax number of the Agent for all notices under or in connection with the Contract are those notified from time to time by the Finance Parties for this purpose to the insurance broker at the relevant time. The initial address and fax number of the Agent is as follows:

The Agent: The Governor and Company of the Bank of

Ireland Address: Eastcheap Court, 11 Philpot Lane, London

EC3M 8BA

From 8 August 2008 the new address for the Agent will be: Bow Bells House, 1  
Bread Street, London EC4M 9BE

Fax No: 0207 626 2405

Attention: John Hahn

16. **GOVERNING LAW & JURISDICTION**

The Contract shall be governed and interpreted in accordance with English law and governed by the courts of England.

This endorsement overrides any conflicting provision in this Contract.



## **APPENDIX 3 – RIVERSIDE ENERGY PARK INSURANCES – WMSA SCHEDULE 23**

### **18 Insurance and Reinstatement**

#### **18.1** Prior to the WMSA EfW Termination Date:

**18.1.1** R2 Owner shall at all times procure, pay and maintain in full force and effect (at its sole cost and expense) the following insurances:

- (i) for the period from the commencement of the Riverside 2 Construction Phase up to the Riverside 2 Takeover Date:
  - (a) construction all risks cover for the total reinstatement of the Riverside 2 Essential Shared Assets, without limit on number of claims arising during each year of cover; and
  - (b) any other insurances required by law;
- (ii) from the Riverside 2 Takeover Date up to the termination of this Agreement:
  - (a) property all risks cover for the total reinstatement of the Riverside 2 Essential Shared Assets, without limit on number of claims arising during each year of cover; and
  - (b) any other insurances required by law;

**18.1.2** R2 Owner shall ensure that R1 Owner is named as an additional insured on the insurances referred to in Clause 18.1.1(ii)(a) to the extent they relate to the R2 Owner Essential Shared Assets; and

**18.1.3** R2 Owner shall notify R1 Owner immediately if at any time it is not in compliance with this Clause 18.1.

#### **18.2** Prior to the WMSA EfW Termination Date, R1 Owner shall:

**18.2.1** at all times procure, pay and maintain in full force and effect (at its sole cost and expense) the following insurances:

- (i) property all risks cover for the total reinstatement of the Riverside 1 Essential Shared Assets, without limit on number of claims arising during each year of cover; and
- (ii) any other insurances required by law:

**18.2.2** ensure that R2 Owner is named as an additional insured on the insurances referred to in Clause 18.2.1(i) to the extent they relate to the R1 Owner Essential Shared Assets; and

**18.2.3** notify R2 Owner immediately if at any time it is not in compliance with this Clause 18.2.

**18.3** On and from the occurrence of the WMSA EfW Termination Date, each Party may (but shall not be obliged to) maintain insurances in respect of any of the Essential Shared Assets for their sole benefit (and shall not be required to name the other Party as a named insured on any such insurances or otherwise comply with the provisions of Clauses 18.1, 18.2, 18.4, 18.5 or 18.6).

#### **18.4** All insurances referred to in Clauses 18.1 and 18.2 shall:

**18.4.1** be subject to English law and taken out with reputable insurers; and

**18.4.2** be on terms appropriate for a Facility of equivalent size.

**18.5** Each Party shall provide the other Party with evidence of the insurances referred to in Clauses 18.1 and 18.2, including the insurance policy or certificate of insurance and confirmation of payment of all premiums due under insurance policies, within three Business Days of such insurance policy being entered into.

**18.6** No Party shall be required to take out and maintain insurance in respect of a risk which is uninsurable in the worldwide insurance market. If any insurance required to be taken out and maintained by a Party pursuant to this Clause 18 is uninsurable in the worldwide insurance market, it shall promptly notify the other Party and the Parties shall discuss and agree in good faith alternative arrangements which most closely insure the risks such insurance covered.

**18.7** In respect of any physical damage to an Essential Shared Asset which occurred prior to the WMSA EfW Termination Date:

**18.7.1** each Party shall be responsible for:

(i) prior to the WMSA EfW Termination Date, its Capital Usage Proportion (in respect of the Contract Year in which such damage occurs) of the costs of any Reinstatement Works of such Essential Shared Asset not covered by the relevant Physical Damage Policy, provided that to the extent the Reinstatement Works in respect of such damage are not covered by a Physical Damage Policy as a result of a breach by the Owner Party of its obligations under this Clause 18, that Party shall be liable for all costs of the Reinstatement Works which would have been covered by a Physical Damage Policy had that Party complied with its obligations under this Clause 18; and

(ii) following the WMSA EfW Termination Date, the obligations and liabilities accruing under (i) shall be replaced by each Party being responsible for its Capital Usage Proportion (in respect of the Contract Year in which such damage occurs) of the costs of any Reinstatement Works of such Essential Shared Asset not covered by the relevant Physical Damage Policy; and

**18.7.2** subject to Clause 7.4.1, each Party shall ensure that any insurance proceeds received by it from any Physical Damage Policy are paid to the ESA O&M Services Provider for the purpose of carrying out the Reinstatement Works in accordance with the terms of the ESA O&M Agreement.

**18.8** In respect of any physical damage to an Essential Shared Asset which occurs after the WMSA EfW Termination Date:

**18.8.1** each Party shall be responsible for its Capital Usage Proportion (in respect of the Contract Year in which such damage occurs) of the costs of any Reinstatement Works of such Essential Shared Assets not covered by the relevant Physical Damage Policy; and

**18.8.2** subject to Clause 7.4.1, each Party shall ensure that any insurance proceeds received by it from any Physical Damage Policy are paid to the ESA O&M Services Provider for the purpose of carrying out the Reinstatement Works in accordance with the terms of the ESA O&M Agreement.

# Renewal Terms 2023/2024

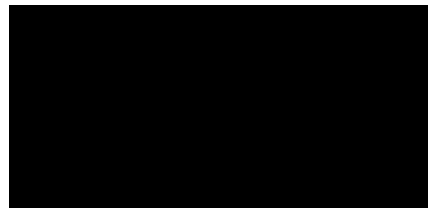
INSURED: **Western Riverside Waste Authority**

Policy No: **QLA-01Q060-0013**

from: 1st April 2023

discount allowable:

to: 31st March 2024



This insurance policy meets the demands and needs in accordance with the most recent information provided by you to us.

| Ref | Cover | Base | LOI | Excess | Stop | Rate | N/N Premium |
|-----|-------|------|-----|--------|------|------|-------------|
|-----|-------|------|-----|--------|------|------|-------------|

## Property

LTA expiry date: 31st March 2025

### material damage

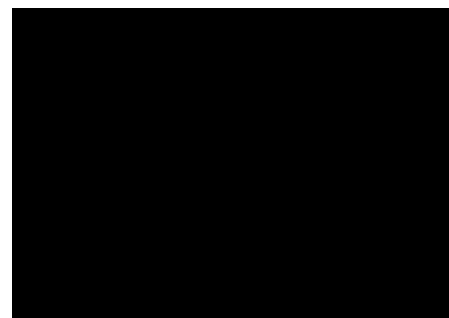
|    |                           |                          |  |  |  |  |  |
|----|---------------------------|--------------------------|--|--|--|--|--|
| 03 | Buildings and Contents of | 3,562,457<br>(3,097,789) |  |  |  |  |  |
|----|---------------------------|--------------------------|--|--|--|--|--|

### business interruption

### additional expenditure

|    |                           |         |  |  |  |     |  |
|----|---------------------------|---------|--|--|--|-----|--|
| 07 | Increased Cost of Working | 100,000 |  |  |  | Nil |  |
|----|---------------------------|---------|--|--|--|-----|--|

|    |       |        |  |  |  |      |  |
|----|-------|--------|--|--|--|------|--|
| 35 | theft | 13,133 |  |  |  | £100 |  |
|----|-------|--------|--|--|--|------|--|



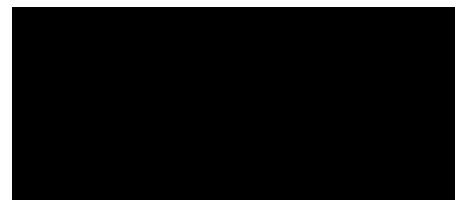
## Casualty

LTA expiry date: 31st March 2025

|    |                  |         |      |  |  |     |  |
|----|------------------|---------|------|--|--|-----|--|
| 70 | public liability | 773,000 | £10m |  |  | Nil |  |
|----|------------------|---------|------|--|--|-----|--|

|    |                      |         |      |  |  |     |  |
|----|----------------------|---------|------|--|--|-----|--|
| 72 | employers' liability | 773,000 | £10m |  |  | Nil |  |
|----|----------------------|---------|------|--|--|-----|--|

|    |                   |         |       |  |  |     |  |
|----|-------------------|---------|-------|--|--|-----|--|
| 74 | libel and slander | 773,000 | £250k |  |  | £1k |  |
|----|-------------------|---------|-------|--|--|-----|--|



## Additional Covers

LTA expiry date: 31st March 2025

|    |                    |         |     |  |  |      |  |
|----|--------------------|---------|-----|--|--|------|--|
| 87 | fidelity guarantee | 773,000 | £1m |  |  | £100 |  |
|----|--------------------|---------|-----|--|--|------|--|

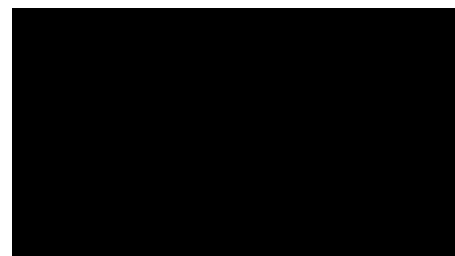
### personal accident

|    |                          |   |  |  |  |     |  |
|----|--------------------------|---|--|--|--|-----|--|
| 83 | Members - general duties | 8 |  |  |  | Nil |  |
|----|--------------------------|---|--|--|--|-----|--|

|    |                            |         |  |  |  |     |  |
|----|----------------------------|---------|--|--|--|-----|--|
| 85 | Employees - general duties | 732,000 |  |  |  | Nil |  |
|----|----------------------------|---------|--|--|--|-----|--|

### computer

|    |                      |        |  |  |  |           |  |
|----|----------------------|--------|--|--|--|-----------|--|
| 86 | Computer suite owned | 17,000 |  |  |  | As policy |  |
|----|----------------------|--------|--|--|--|-----------|--|



# Renewal Terms 2023/2024

INSURED: **Western Riverside Waste Authority**

Policy No: **QLA-01Q060-0013**

from: 1st April 2023

discount allowable:

to: 31st March 2024



This insurance policy meets the demands and needs in accordance with the most recent information provided by you to us.

| Ref | Cover | Base | LOI | Excess | Stop | Rate | N/N Premium |
|-----|-------|------|-----|--------|------|------|-------------|
|-----|-------|------|-----|--------|------|------|-------------|

|  |           |  |  |  |  |  |  |
|--|-----------|--|--|--|--|--|--|
|  | equipment |  |  |  |  |  |  |
|--|-----------|--|--|--|--|--|--|

|  |                  |  |  |  |  |  |  |
|--|------------------|--|--|--|--|--|--|
|  | <b>Sub Total</b> |  |  |  |  |  |  |
|--|------------------|--|--|--|--|--|--|

## Standalone Policies

|         |   |            |     |     |     |  |  |
|---------|---|------------|-----|-----|-----|--|--|
| TI-0053 | <b>trustee and trust fund indemnity</b> | 50,780,000 | £5m | Nil | Nil |  |  |
|---------|---|------------|-----|-----|-----|--|--|

|  |                  |  |  |  |  |  |  |
|--|------------------|--|--|--|--|--|--|
|  | <b>Sub Total</b> |  |  |  |  |  |  |
|--|------------------|--|--|--|--|--|--|

|  |                    |  |  |  |  |  |  |
|--|--------------------|--|--|--|--|--|--|
|  | <b>Grand Total</b> |  |  |  |  |  |  |
|--|--------------------|--|--|--|--|--|--|