

DATED 24th February 2015

(1) NOTTINGHAMSHIRE COUNTY COUNCIL
AND
(2) VEOLIA ES NOTTINGHAMSHIRE LIMITED

DEED OF VARIATION

bringing into effect a Revised Project Plan
pursuant to the provisions of Clause 17

for WASTE MANAGEMENT PFI
CONTRACT A dated 26 June 2006

Pinsent Masons LLP
30 Crown Place
London
EC2A 4ES

Reference: SZM/506602.07075

THIS AGREEMENT

Fifteen

made this 24th day of February Two Thousand and

BETWEEN

- 1) **NOTTINGHAMSHIRE COUNTY COUNCIL** of County Hall, West Bridgford, Nottingham NG2 7QP (the "Authority") of the one part; and
- 2) **VEOLIA ES NOTTINGHAMSHIRE LIMITED** Company Registration Number 5584380 whose registered office is at Veolia House, 210 Pentonville Road, London N1 9JY (the "Contractor") of the other part,

together the "Parties".

WHEREAS

- A. The Authority and the Contractor entered into an agreement dated 26 June 2006 for the provision of certain waste management services including recycling, composting and landfill services ("Contract A"). Contract A has been modified in accordance with its terms by a number of deeds of variation being a Deed of Variation dated 28 May 2010, a Deed of Variation dated 29 November 2010, a Deed of Variation dated 26 January 2011, a Deed of Variation dated 25 February 2011, a Deed of Variation dated 18 July 2012, a Deed of Variation dated 14 January 2013, a Deed of Variation dated 17 July 2013, a Deed of Variation dated 16th January 2014, by a Deed of Variation dated 15 July 2014 and by a Deed of Variation dated 15 January 2015. In this Agreement these prior deeds of variation shall together be referred to as the Previous Deeds of Variation.
- B. The Authority and the Contractor's sister company, Nottinghamshire Environmental Services Limited ("Contractor B"), also entered into an agreement dated 26 June 2006 for the provision of residual waste treatment services to be provided at an Energy Recovery Facility ("ERF") ("Contract B").
- C. In addition to the services set out at Recital A, the Contractor was also obliged, pursuant to Contract A, to seek to obtain a Satisfactory Planning Permission for the ERF by the Planning Long-Stop Date (of 31 May 2012).
- D. Contract B was entered into on a conditional basis subject to a number of Conditions Precedent being satisfied by the Final Conditions Satisfaction Date. The Final Conditions Satisfaction Date is the Planning Long-Stop Date or such other date as the Parties may agree and in accordance with its terms these Conditions Precedent not having been met the parties to Contract B have agreed that Contract B is null and void and shall have no further effect.
- E. Pursuant to Clause 17.9.1.7 of Contract A, the Authority requested that the Contractor propose a Revised Project Plan and accordingly the Contractor submitted a Draft Revised Project Plan on 20 January 2012 in accordance with Clause 17.10 in which it proposed details for a Revised Project.

- F. Following discussions between the Parties the Revised Project Plan has been agreed by the Parties in accordance with Clause 17.10 of Contract A and accordingly by this Agreement the Parties' have agreed to implement the Revised Project Plan by modifying Contract A in accordance with the provisions of Clauses 17.10.7.1 and 17.11 of Contract A as set out in this Agreement and associated documentation described herein.
- G. In connection with this Deed of Variation the Guarantor has agreed to enter a new Parent Company Guarantee in substitution for the previous Parent Company Guarantees in respect of Contract A as modified by this Agreement.

It is hereby agreed as follows:

In consideration of the mutual undertakings contained in this Agreement (which the Parties each acknowledge as sufficient consideration), the Parties hereby acknowledge, undertake and agree as follows:

1. Any words and expressions with a first capital letter contained within this Agreement shall, save where defined herein, have the same meaning as defined in Contract A.
2. References in Contract A as modified by this Agreement to "the date of this Contract" or "the date hereof" shall mean 26th June 2006.
3. References in this Agreement to Clauses and Schedules means Clauses and Schedules of Contract A.
4. The Parties hereby waive any rights or remedies (without limitation to the foregoing whether by way of termination, right to a claim for any loss or damage, any indemnity or other remedy howsoever otherwise arising) which may have accrued in their favour prior to this Agreement or which may accrue henceforth under Clause 5 (Contract B Conditions Precedent and ERF Construction Costs), Clause 17 (Planning Permission) or Clause 18 (PPC Permit for ERF) or pursuant to limb (r) of the definition of Contractor Default which clauses and provisions have been deleted from Contract A as modified by this Agreement.
5. The Contractor shall procure that on or about the date of this Agreement Veolia Environmental Services (UK) Plc (Company Registration Number 02215767) shall execute a Parent Company Guarantor which shall in accordance with its terms guarantee the obligations of the Contractor under Contract A as modified by this Agreement and shall to the extent provided in accordance with its terms replace any previous Parent Company Guarantees executed in relation to Contract A.
6. In accordance with Clause 17.10.7.1 the Parties have agreed to modify the terms of Contract A from the date of this Agreement and pursuant to the mechanism for implementing a Revised Project Plan set out in Clause 17.11 of Contract A to implement such terms and accordingly Appendix I (Amended Contract A) contains the terms and conditions of Contract A as modified to bring into effect the Revised Project Plan and Appendix II (Amendment Contract A Comparison) contains the terms and conditions of Contract A as modified with the changes agreed by the Revised Project Plan highlighted for ease of reference. The modified Contract A set out in this Agreement shall incorporate all applicable provisions of the Previous

Deeds of Variation and the Parties agree that the Previous Deeds of Variation shall henceforth have no effect and accordingly hereby waive all and any rights and remedies arising under the Previous Deeds of Variation.

7. This Agreement may be signed in any number of counterparts, all of which when taken together shall constitute one part and the same instrument of agreement between the Parties.

IN WITNESS whereof the Contractor and the Authority have executed and delivered this Agreement as a deed the day and year first above written

SIGNED as a deed by

**VEOLIA ES NOTTINGHAMSHIRE
LIMITED**

by two directors or a director
and the company secretary

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.....
Director

.....
Director/Company Secretary

THE COMMON SEAL of
**NOTTINGHAMSHIRE COUNTY
COUNCIL** was hereunto affixed
in the presence of

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.....
Authorised Signatory

SEAL REGISTER
NO. 40456

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Director

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