

Contract A

Schedule 32A (Mansfield and Ashfield Protocol)

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1. GENERAL

- 1.1 The following definitions shall in addition to the definitions in Schedule 1 (Definitions) be used for the interpretation of this Schedule 32A (Mansfield and Ashfield Protocol).
- 1.1.1 Alfreton WTS means the WTS at Alfreton which is used as part of the Interim Disposal Arrangement.
- 1.1.2 Exclusivity Trigger Date means the date upon which the Authority provides written notice as referred to in paragraph 6.1 (Removal of Exclusivity) of this Schedule 32A (Mansfield and Ashfield Protocol).
- 1.1.3 Interim Disposal Arrangement means the disposal arrangements for the Mansfield and Ashfield Residual Waste contracted with the Interim Disposal Contractor and using the Alfreton WTS for the Interim Period.
- 1.1.4 Interim Disposal Arrangement Breakage Costs means all losses, claims, damages, liabilities, costs and expenses arising as a result of any claim or claims made by the Interim Disposal Contractor against the Contractor, in connection with the termination of the Interim Disposal Arrangement prior to Mansfield and Ashfield Longstop Date pursuant to the operation of paragraph 6 (Removal of Exclusivity) of this Schedule 32A (Mansfield and Ashfield Protocol). For the avoidance of doubt, there shall be no Interim Disposal Arrangement Breakage Costs should the Mansfield and Ashfield Removal Date occur on the due date of the expiry of the Interim Disposal Arrangement in accordance with its terms (being unless the parties agree otherwise the Mansfield and Ashfield Longstop Date).
- 1.1.5 Interim Disposal Contractor means FCC Environment.
- 1.1.6 Interim Period means the period from the RPP Date to the Mansfield and Ashfield Longstop Date.
- 1.1.7 Mansfield and Ashfield Administrative Area means the administrative areas of Mansfield District Council and Ashfield District Council.
- 1.1.8 Mansfield and Ashfield Breakage Costs means as applicable either Interim Disposal Arrangement Breakage Costs or Other Breakage Costs.
- 1.1.9 Mansfield and Ashfield Residual Waste and/or Landfill Solution means the continuation of a Residual Waste Treatment and/or Landfill Services solution in respect of the Mansfield and Ashfield Residual Waste following Mansfield and Ashfield Longstop Date under this Contract to which the provisions of Schedule 32 (Benchmarking and Market Testing) shall apply.
- 1.1.10 Mansfield and Ashfield Longstop Date means 31 March 2017 or such later date as the Authority's Representative and Contractor's Representative (acting reasonably) shall agree.
- 1.1.11 Mansfield and Ashfield Market Testing means the market testing process in respect of the Mansfield and Ashfield Residual Waste referred to in paragraph 4 (Mansfield and Ashfield Market Testing);.
- 1.1.12 Mansfield and Ashfield Re-introduction Date means the date upon which the Mansfield and Ashfield Residual Waste or part thereof is reintroduced to the Contract as provided in paragraph 6.4 (Removal of Exclusivity) below.

- 1.1.13 Mansfield and Ashfield Residual Waste means Residual Waste arising in the Mansfield and Ashfield Administrative Area which is collected by the WCAs in that area.
- 1.1.14 Mansfield and Ashfield Removal Date means date upon which the Mansfield and Ashfield Residual Waste is removed from the Contract pursuant to paragraph 6.1 (Removal of Exclusivity) which shall be a date not less than 3 months following the Exclusivity Trigger Date.
- 1.1.15 Mansfield and Ashfield Tender(s) means any compliant tender(s) received in the responses to the Mansfield and Ashfield Market Testing.
- 1.1.16 Other Breakage Costs means all losses, claims, damages, liabilities costs and expenses arising as a result of any claim or claims made by any Sub-Contractor or Off-take Contractor against the Contractor, in connection with the termination of any contract or other arrangement required as a result of the exercise by the Authority of the right under paragraph 6.1.2 (Removal of Exclusivity) below. Provided that any such losses are incurred under arrangements which are consistent with terms that have been entered into in the ordinary course of business and on reasonable commercial terms.
- 1.1.17 Veolia Mansfield and Ashfield Proposal means a written proposal providing for the Handling of the Mansfield and Ashfield Residual Waste within the terms of this Contract ;whether provided pursuant to paragraph 3 (Veolia Proposal) or submitted as a Mansfield and Ashfield Tender.

2. PURPOSE AND INTENTION

- 2.1 The Parties have agreed that during the Interim Period (or at any other time during the Contract Period) the Authority may at its own cost and risk conduct a Mansfield and Ashfield Market Testing and the process and outcomes of that market testing shall (unless otherwise agreed pursuant to paragraph 5 (Authority Options) be outside the scope of this Contract.
- 2.2 During the Interim Period subject as provided in this Schedule 32A, the Contractor shall implement the Interim Disposal Arrangement in accordance with the terms of this Contract.
- 2.3 The provisions of paragraph 5 (Authority Options) and paragraph 6 (Removal of Exclusivity) shall apply in respect of the Handling of the Mansfield and Ashfield Residual Waste during the Interim Period up to the Mansfield and Ashfield Longstop Date and following the Mansfield and Ashfield Longstop Date as applicable.

3. VEOLIA PROPOSAL

- 3.1 At any time other than during a Mansfield and Ashfield Market Testing (during which time any such proposal shall be submitted as part of the Mansfield and Ashfield Market Testing as a Mansfield and Ashfield Tender) the Contractor shall be entitled to propose a Veolia Mansfield and Ashfield Proposal to the Authority.
- 3.2 In the event that the Authority shall accept a Veolia Mansfield and Ashfield Proposal submitted by the Contractor pursuant to paragraph 3.1 or otherwise the provisions of paragraph 5.2.3 (Authority Options) shall apply.

4. MANSFIELD AND ASHFIELD MARKET TESTING

- 4.1 During the Interim Period or at any other time during the Contract Period the Authority may at its own risk and cost but is not obliged to conduct a Mansfield and Ashfield Market Testing in such form as it shall determine.

- 4.2 For the avoidance of doubt, save as provided in paragraph 5 (Authority Options) below, the process and outcomes of the Mansfield and Ashfield Market Testing shall not have any effect on the provisions of this Contract.
- 4.3 For the avoidance of doubt, the Contractor shall not be obliged to submit a Mansfield and Ashfield Tender but if it does so it takes part in the Mansfield and Ashfield Market Testing subject to its terms and at its own cost and risk.
- 4.4 For the avoidance of doubt the Authority shall not be obliged to accept the lowest or any tender received through the Mansfield and Ashfield Market Testing and shall have the right to abandon the Mansfield and Ashfield Market Testing.

5. AUTHORITY OPTIONS

- 5.1 The Parties intend for the operation of this Schedule 32(A) to provide for the Authority a number of options in respect of the Mansfield and Ashfield Residual Waste which may be exercised as provided for in this paragraph 5 (Authority Options) and paragraph 6 (Removal of Exclusivity).
- 5.2 Subject and without prejudice to the Authority's rights at paragraph 6.1.2:
- 5.2.1 Provided that the Authority has not previously made an election under either paragraph 5.2.2 or 5.2.3 below the Authority may at any time up to the date which is 9 months before the Mansfield and Ashfield Longstop Date serve notice that it intends to exercise a right to remove the Mansfield and Ashfield Residual Waste from this Contract in accordance with the provisions of paragraph 6.1.1 (Removal of Exclusivity).
- 5.2.2 Provided that the Exclusivity Trigger Date has not previously occurred, the Authority shall be entitled to accept a Veolia Mansfield and Ashfield Proposal received as a Mansfield and Ashfield Tender at any time up to such date as is 9 months before the Mansfield and Ashfield Longstop Date.
- 5.2.3 In the event that the Authority accepts a Veolia Mansfield and Ashfield Proposal, whether under paragraph 5.2.2 or otherwise, the Parties shall proceed to implement the Veolia Mansfield and Ashfield Proposal in accordance with its terms with any amendments agreed between the Parties and shall execute such amendments to this Contract and such further legal documentation necessary to give effect to the Veolia Mansfield and Ashfield Proposal as soon as reasonably practicable after the Authority's acceptance.
- 5.2.4 Provided that neither the Exclusivity Trigger Date nor the acceptance of the Veolia Mansfield and Ashfield Proposal under paragraph 5.2.2 has occurred, the Authority shall be entitled at any time up to the date which is 9 months before the Mansfield and Ashfield Longstop Date, to notify the Contractor that it wishes to continue (subject to paragraph 6 (Removal of Exclusivity)) with a Mansfield and Ashfield Residual Waste and/or Landfill Solution.
- 5.3 In the event that the Authority shall not have exercised its option under either paragraphs 5.2.1 to 5.2.4 inclusive on or before the date which is 9 months before the Mansfield and Ashfield Longstop Date then the provisions of 5.2.4 shall be deemed to apply.

6. REMOVAL OF EXCLUSIVITY

- 6.1 The Authority's right to elect to remove the Mansfield and Ashfield Residual Waste from this Contract shall apply in the following circumstances only:
- 6.1.1 at any time up until such date as is 9 months before the Mansfield and Ashfield Longstop Date, the Authority may by giving notice in writing

exercise the right to remove the Mansfield and Ashfield Residual Waste from Contract A upon the Mansfield and Ashfield Removal Date.

- 6.1.2 at any time after the Mansfield and Ashfield Longstop Date, the Authority may by giving notice in writing exercise the right to remove the Mansfield and Ashfield Residual Waste from Contract A upon the Mansfield and Ashfield Removal Date PROVIDED THAT the Authority's right under this paragraph 6.1.2 shall not apply where the Authority has previously accepted a Veolia Mansfield and Ashfield Proposal whilst the term of that proposal is continuing.
- 6.2 Subject to the proviso to this paragraph 6.2 without prejudice to any liabilities accrued in respect of the period up to the Mansfield and Ashfield Removal Date, neither Party shall have any liability to the other as a result of the removal of the Mansfield and Ashfield Residual Waste from the Contract in accordance with the terms of this paragraph 6 of this Schedule 32A PROVIDED THAT the Authority shall indemnify and keep indemnified the Contractor against such Mansfield and Ashfield Breakage Costs directly and properly incurred by the Contractor as a result of the exercise by the Authority of its rights under paragraph 6 (Removal of Exclusivity).
- 6.3 For the avoidance of doubt the exercise by the Authority of its right to serve notice under this paragraph 6 (Removal of Exclusivity) of this Schedule 32A (Mansfield and Ashfield Protocol) shall not prejudice the continuity of the provisions of this Contract save as provided in this paragraph 6 (Removal of Exclusivity).
- 6.4 Following the Mansfield and Ashfield Removal Date, the Authority may at any time by giving not less than 9 months (or such other period as the Authority's Representative and Contractor's Representative shall agree in writing acting reasonably) exercise a right to reintroduce the Mansfield and Ashfield Residual Waste or any part of it to the Contract whereupon the provisions of Schedule 32 (Benchmarking and Market Testing) shall apply to such waste.