

DATED _____ **20**

- (1) NORTH YORKSHIRE COUNTY COUNCIL

- (2) CITY OF YORK COUNCIL

COLLABORATION AGREEMENT

Relating to: Shared Waste Arrangements

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DRAFT

PARTIES

- (1) **NORTH YORKSHIRE COUNTY COUNCIL** of County Hall, Racecourse Lane, Northallerton, North Yorkshire, DL7 8AD ("**NYCC**");
- (2) **CITY OF YORK COUNCIL** of West Offices, Station Rise, York, YO1 6GA ("**CYC**").

BACKGROUND

- (A) Each Party is a Contracting Authority for the purposes of the Public Contracts Regulations 2015 (the "**Regulations**").
- (B) This Agreement describes how the Parties will collaborate in accordance (as applicable) with the Local Authorities (Goods and Services) Act 1970, s1 of the Localism Act 2011, s93 of the Local Government Act 2003 and s101 and s111 of the Local Government Act 1972;
- (C) The Parties aim to benefit from the economies of scale that will be generated through this collaboration which will contribute to the promotion and improvement of the respective areas;
- (D) This Agreement, amongst other things, sets out and is predicated on the Principles of Collaboration as contemplated by regulation 12(7) of the Regulations which the Parties have agreed should apply to the arrangements in this Agreement;
- (E) The rationale for entering into this Agreement is for the Parties to be able to work collaboratively in the public and common interest and in accordance with the Principles of Collaboration in order to utilise the operational expertise and experience of employees of both Parties in the delivery of joint waste related services;
- (F) The arrangements contemplated by this Agreement are predicated on the fact that the public procurement rules as set out in the Regulations and the Directive are not designed to interfere with the freedom of public authorities to perform the public service tasks conferred on them by using their own resources which includes the possibility of cooperation with other public authorities.
- (G) NYCC and CYC have entered into an agreement (JWMA) covering the procurement and delivery of a long term waste management service to both authorities. NYCC has subsequently entered into a contract with Amey Cespa (Amey) dated 26th August

2011 which was amended and restated on 30th October 2014 for the provision of the service and at the same time CYC entered into a 'back to back' contract with NYCC to enable CYC to access the services provided by Amey.

- (H) NYCC and CYC have also entered into contracts with Yorwaste Limited (a company owned jointly by NYCC and CYC) to provide certain waste management services to both parties.
- (I) The JWMA provides for sharing of costs between NYCC and CYC relating to the procurement of the long term service provided by Amey but does not extend to arrangements for formal management of that contract. The parties now wish to formally collaborate in the management of contracted waste disposal services including AWRP but also for other waste disposal authority functions provided through Yorwaste and other third party contractors.
- (J) The objectives of further collaboration and shared management of contracted services are to:
 - a. Minimise bureaucracy
 - b. Reduce duplication of effort
 - c. Improve decision making
 - d. Improve resilience
 - e. Share resources and assets
 - f. Improve capability to recognise and take advantage of opportunities
 - g. Strengthen team skills
 - h. Achieve optimum balance of waste movements to disposal facilities to ensure maximum shared financial benefit/ least cost to both parties

1. **Definitions and Interpretation**

In this Agreement the following terms shall have the following meanings:

ADR	has the meaning given to it in clause Error! Reference source not found. ;
Audit Act	means the Local Audit and Accountability Act 2014;
Authorised Representatives	means the persons referred to in clause 3.1;

Agreement	means this agreement together with the Schedules attached to it;
Change	means an alteration to the Services and/or a variation to the terms of this Agreement;
Commencement Date	means [1 April 2021];
Contracting Authority	has the meaning given to it in Part 1 of the Regulations;
Costs	means the costs to be paid by each Party to the other in respect of the arrangements set out in this Agreement (in accordance with s93 Local Government Act 2003) as set out in Schedule 3 to this Agreement;
Data Controller	shall have the meaning given to the term “ controller ” as set out in Article 4 of GDPR;
Data Loss Event	any event that results, or may result, in unauthorised access to Personal Data held by a Party under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;
Data Processor	shall have the meaning given to the term “ processor ” as set out in Article 4 of GDPR;

Data Protection Impact Assessment

an assessment by a Controller of the impact of the envisaged processing on the protection of Personal Data;

Data Protection Legislation

means: -

- (a) the GDPR, the UK GDPR, the LED and any applicable national implementing Laws as amended from time to time;
- (b) the DPA 2018 to the extent that it relates to processing of personal data and privacy;
- (c) all applicable Law about the processing of personal data and privacy;
- (d) any codes of practice, guidelines and recommendations issued by the Information Commissioner or any replacement body, all of which are current at the time of and Processing of Personal Data;

Data Subject

shall have the meaning given to such term in the GDPR;

Data Subject Access Request

a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

DPA	means the Data Protection Act 2018, or any successor or replacement legislation;
DPA Principles	means the six (6) principles set out in Article 5 of the GDPR;
Directive	means Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC;
Dispute	has the meaning given to it in clause 12.1;
EIR	means the Environmental Information Regulations 2014;
Equipment	any equipment, including tools or facilities, provided by either Party and/or either of their third party subcontractors used directly or indirectly in the provision of the Services;
European Union Treaty Principles	means the principles deriving from the Treaty on the Functioning of the European Union in respect of public procurement of: (a) transparency; (b) proportionality; (c) equal treatment and non-discrimination; and

(d) mutual recognition;

Event Of Default

means any act or omission on the part of any Party or its Staff in respect of:

- (a) any breach of its obligations under this Agreement; and
- (b) any representation, statement or tortious act or omission, including negligence, arising under or in connection with this Agreement;

FOIA

means the Freedom of Information Act 2000;

GDPR

means the EU General Data Protection Regulation 2016/679 and “**UK GDPR**” means the GDPR as implemented into the law of England and Wales, Scotland and Northern Ireland or any successor or replacement legislation;

Head of Shared Waste Management Service

means the head of the Shared Waste Management Service for NYCC and CYC employed by NYCC;

Intellectual Property

means any and all patents, trademarks, service marks, copyright, database rights, moral rights, rights in a design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part

of the world together with all or any goodwill relating or attached to such rights;

Joint Controllers

where two or more Controllers jointly determine the purposes and means of processing Personal Data;

Law

means:

- (a) any Act of Parliament;
- (b) any subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978;
- (c) any exercise of the Royal Prerogative; and
- (d) any enforceable community right within the meaning of Section 2 of the European Communities Act 1972;

in each case in force in the United Kingdom;

Permitted Recipients

the Parties to this Agreement, the employees of each Party, any third parties engaged to perform obligations in connection with this Agreement;

Personal Data

shall have the meaning given to such term in the GDPR;

Personal Data Breach	means anything which constitutes a “ personal data breach ” for the purposes of Article 4 of the GDPR;
Parties	means the parties to this Agreement and the term "Party" shall be construed accordingly;
Principles of Collaboration	means the principles set out in Schedule 2 to this Agreement;
Processing	has the meaning given to such term in the GDPR and the term “ Processed ” and its and their derivatives shall be construed accordingly;
Protective Measures	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;
Regulations	means the Public Contracts Regulations 2015;
Relevant Transfer	means a relevant transfer of an undertaking for the purposes of TUPE;

Requesting Party	has the meaning given to it in clause 6.13.2;
Reserved Matters	means those matters listed in Schedule 1 and which the SWMS must refer to the authorities;
Services	means the range of services which shall be provided (all or in part) by the SWMS under this Agreement and which are more specifically set out Schedule 1 to this Agreement;
Shared Waste Management Service or SWMS	means the shared service between NYCC and CYC for the provision of the Services as set out in Schedule 1;
SWMT	means the Shared Waste Management Team;
Staff	means partners, directors, employees, agents and subcontractors of either Party in connection with the Agreement;
Term	means the period from the Commencement Date to expiry of this Agreement in accordance with clause 10;
TUPE	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and/or any other regulations enacted for the purpose of implementing the EC Acquired Rights

Directive (Council Directive 2001/23/EC) into English law;

Working Day(s)

means any day between Monday to Friday, 0900 to 1700, excluding public holidays; and

1.1 References to:

- 1.1.1 any Act, Order, Regulation, Statutory Instrument shall be construed as a reference to the Act, Order, Regulation or Statutory Instrument as amended, replaced, consolidated or re-enacted;
- 1.1.2 one gender include any other gender;
- 1.1.3 persons include corporations;
- 1.1.4 singular includes the plural;
- 1.1.5 clauses are to clauses to this Agreement; and
- 1.1.6 paragraphs are paragraphs of the Schedules to this Agreement.

1.2 The Schedules to this Agreement, together with the documents referred to in them, form part of this Agreement.

1.3 In the event of any conflict or inconsistency between this Agreement and any conditions detailed in the Schedules the following order of precedence shall apply:

- 1.3.1 this Agreement; and
- 1.3.2 the Schedules.

2. Commencement and Duration

2.1 This Agreement shall commence on the Commencement Date and continue unless and until terminated:

- 2.1.1 as provided by the terms of this Agreement; or

2.1.2 by either party giving to the other not less than twelve (12) months' prior written notice in accordance with clause 10.

3. Representatives

3.1 Each Party shall appoint a representative who shall have full authority to act on the applicable Party's behalf for the purposes of this Agreement ("**Authorised Representative**"). In the event there is a change to a Party's Authorised Representative, such Party shall inform all Parties of the identity of its new Authorised Representative no later than ten (10) Working Days after it made such change.

3.2 All Parties shall be entitled to treat any act of an Authorised Representative in connection with this Agreement as being expressly authorised by the relevant Party.

4. NYCC Obligations

NYCC shall provide the Shared Services with all reasonable skill and care and in accordance with the Schedules and the terms of this Agreement and shall comply with its obligations set out in this Agreement and its Schedules.

5. CYC Obligations

CYC shall comply with its obligations set out in this Agreement and its Schedules.

6. Mutual Obligations

6.1 Principles of Collaboration

The Parties agree that, to the extent which it is reasonably practicable, this Agreement shall operate on a collaborative basis and to this end each Party agrees to use all reasonable endeavours to adhere to the Principles of Collaboration. Where applicable the Parties shall adhere to the partnering principles set out in the JWMA.

6.2 Payment

6.2.1 Each Party shall pay the Costs in accordance with Schedule 3 of this Agreement.

6.2.2 Each Party shall be liable to pay such value added tax as may be properly chargeable by the other Party in respect of the delivery of the Services to a Party.

- 6.2.3 Invoices for the Costs shall be as described in Schedule 3 of this Agreement and each Party shall pay all undisputed elements of an invoice within thirty (30) days of receipt.

6.3 **Assets and Accommodation**

6.3.1 Any Equipment belonging to either Party on the Commencement Date or at any time during the Term shall remain vested in the owning Party or such third party subcontractor of either of them (as applicable). Each Party shall be responsible for the safety and security of such Equipment whilst such Equipment is on its premises and may not add to, modify or in any way interfere with such Equipment nor allow anyone else (other than someone authorised in writing by the other Party or a third party subcontractor of either of them (as applicable)) to do so.

6.3.2 The Parties shall not be liable to each other or any third party subcontractor of either of them (as applicable) for any loss of or damage to any Equipment which is due to fair wear and tear and/or is caused by the other Party or any third party subcontractor of either of them (as applicable) or any person acting on its or their behalf (as applicable).

6.4 **Access**

6.4.1 Each Party shall provide such access to the other and/or a third party subcontractor of either of them (as applicable) to its premises or facilities as shall be required for the delivery of the Services.

6.4.2 Where a Party is responsible for any preparatory work in respect of the delivery of the Services, including the provision of items required by the other Party or any third party subcontractor of either of them (as applicable), each Party shall ensure that all such activities are completed and items made available in sufficient time to allow the other Party or any third party subcontractor of either of them (as applicable) to fulfil and complete their obligations in accordance with the Services.

6.5 **Operational matters**

6.5.1 Each Party acknowledges and agrees that, provided the applicable Party's Authorised Representative gives as much notice as possible to the other

Party's Authorised Representative (and, whenever practicable, agrees the timescales with the Party's Authorised Representative) that Party may:

6.5.1.1 suspend the provision of the Services for operational reasons or due to an emergency; or

6.5.1.2 give the Party instructions concerning the Services which it reasonably believes are necessary for health and safety reasons or the quality of the Services provided to the applicable Party or any other person.

6.6 **Review Meetings**

6.6.1 The Authorised Representatives from each Party shall attend regular review meetings to:

6.6.1.1 review and discuss the operation of this Agreement;

6.6.1.2 share any lessons learned; and

6.6.1.3 consider any other matters reasonably required by any Party.

6.6.2 If any Party reasonably considers that a circumstance constitutes an emergency or otherwise requires immediate resolution, that Party may by notice to the other Party require that a review meeting be held as soon as practicable and in any event within five (5) Working Days following such notice.

6.7 **Shared Service Board**

6.7.1 In addition to the review meetings described in Clause 6.6, the Services will be monitored and controlled through a Shared Service Board consisting of senior officer representatives from both Parties

6.7.2 The Shared Service Board shall meet at least annually to

6.7.2.1 consider reports from the review meetings;

6.7.2.2 review the effectiveness of this Agreement; and

6.7.2.3 confirm the intention to continue or the need for any amendment to the Agreement (if any).

6.8 Other review arrangements

- 6.8.1 The Head of the SWMS shall provide to the Parties regular (at least twice yearly) written performance reports on activity and contractor performance.
- 6.8.2 The Head of the SWMS shall be available at least twice yearly to present to NYCC and/or CYC Members in public forum on performance of contracted services and other activity carried out under this Agreement.
- 6.8.3 The Head of the SWMS shall also be available at reasonable times and with reasonable notice for private briefings and meetings with senior officers and members of each Party, as appropriate.
- 6.8.4 The Head of the SWMS shall provide such other briefings and/or exception reporting as required on issues of significance or major impact on Services or costs e.g. claims or contract variations
- 6.8.5 Both Parties shall adhere to the principle of open communication and consultation before decision making and shall engage in regular communication.

6.9 Best Value and Continuous Improvement

Each Party which is subject to the best value duty imposed on local authorities by s3 of the Local Government Act 1999 shall each be responsible for ensuring compliance with such duty.

6.10 Health and Safety

- 6.10.1 Each Party shall comply with the requirements of the Health and Safety at Work Act 1974 insofar as they apply to the provision of the Services.
- 6.10.2 Each Party shall have in place a health and safety policy which complies with all statutory requirements.

6.11 Data Protection

- 6.11.1 **[UPDATED UK GDPR CLAUSE TO BE INSERTED]**

6.12 Compliance with Law

Annex A

6.12.1 Each Party shall comply with all applicable Law and all other relevant regulations, codes of practice, guidance and other requirements of any relevant government or governmental agency relating to the Services including (but without limitation) the Human Rights Act 1998.

6.12.2 Without prejudice to clauses 6.9 to 6.11 (inclusive), where new Law is enacted during the Term which has the effect of changing the manner in which the Services (or any part of them) is to be provided, the Parties shall ensure that:

6.12.2.1 each Authorised Representative is informed of the nature and effect of such Law and the changes necessitated by it to the Services; and

6.12.2.2 the Services are provided in accordance with such changes in Law.

6.13 Freedom of Information etc.

6.13.1 Each Party acknowledges that the other Parties are subject to the requirements of the FOIA, the EIR and the Audit Act. Each Party shall assist and cooperate with each other (at its own expense) to enable all Parties to comply with any applicable information disclosure requirements.

6.13.2 Each Party shall make all reasonable efforts to assist all other Parties in meeting their respective obligations under the FOIA, EIR and Audit Act in respect of this Agreement. If a Party (the "**Requesting Party**") receives an access request under the FOIA, EIR and/or the Audit Act each other Party shall, upon written request, provide:

6.13.2.1 to the Requesting Party a copy of the information requested which is held by the other Parties on behalf of the Requesting Party within a period of five (5) Working Days; and

6.13.2.2 access to the relevant Authorised Representative, within a period of five (5) Working Days, to inspect information held by such Party on behalf of the Requesting Party.

6.13.3 Where a Requesting Party is asked to release information which any other Party believes to be exempt information under an exemption in the FOIA or

EIR or Audit Act (as applicable), it shall state in writing to the Requesting Party the nature of the information and the relevant exemption. Each Party acknowledges that the final decision whether to disclose such information will rest with the Requesting Party and not with any other Party.

6.13.4 Nothing contained in this Agreement or any documents or negotiations relating to this Agreement shall prevent the Requesting Party from disclosing any information which (in the Requesting Party's reasonable opinion or in accordance with any recommendation, notice or decision of a competent authority) it is required to disclose under the FOIA, EIR or Audit Act (as applicable).

6.13.5 Each Party shall maintain an adequate records management system which will enable it to access the information within the time limits prescribed by the FOIA, EIR and/or the Audit Act (as applicable).

6.13.6 Each Party shall indemnify the Requesting Party against all claims, demands, actions, costs, proceedings and liabilities that the Requesting Party directly incurs due to the other Party's breach of clauses 6.13.2 to 6.13.5 (inclusive).

6.14 **Confidentiality**

6.14.1 Subject to clause 6.12.2, each Party shall keep confidential all information obtained from the other Parties or through its delivery or receipt of the Services.

6.14.2 Clause 6.14.1 shall not apply to any information which:

6.14.2.1 is or becomes public knowledge (otherwise than by a breach of clause 6.14.1);

6.14.2.2 was in the possession of the Party concerned without restriction as to its disclosure before receiving it from any other Party;

6.14.2.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; and/or

6.14.2.4 is disclosed in accordance with clauses 6.12.2.1 to 6.12.2.3 (inclusive).

6.14.3 Each Party shall ensure that all its Staff engaged in the delivery or receipt of the Services or otherwise with access to information relating to this Agreement and/or the Services shall comply with clauses 6.14.1 and 6.14.2.

6.14.4 Nothing in clauses 6.14.1 to 6.14.3 (inclusive) shall prevent the Parties from disclosing information under or in accordance with any legal requirement, or in accordance with any lawful requirements made by any regulatory body or inspectorate established by Law.

7. Intellectual Property

7.1 For the avoidance of doubt, all Intellectual Property relating to or used in connection with this Agreement and/or the Services shall continue to vest in each of the Parties as it did prior to the Commencement Date.

7.2 Each Party grants each other Party a non-exclusive, non-transferrable (except in the case of statutory or voluntary re-organisation) royalty free, right and licence to use its Intellectual Property so far as it is needed for the purposes of this Agreement.

8. Insurance

8.1 Each Party shall have in place and maintain public liability insurance against its liabilities under this Agreement for death, injury and/or third party damage for the sum of £5 million in respect of each and every incident in relation to which a claim against it is made.

8.2 Each Party shall have in place and maintain employer's liability insurance against its liabilities under this Agreement for death, injury and/or third party damage for the sum of £10 million in respect of each and every incident in relation to which a claim against it is made.

8.3 Each Party shall have in place and maintain professional indemnity insurance in an amount for each and every claim, act or occurrence or series of claims, acts or occurrences which is sufficient to cover its liabilities under this Agreement.

8.4 Each Party shall supply to the other (on written request) documentary evidence of the insurances in place to establish that Party's compliance with clauses 8.1 to 8.3 (inclusive).

9. Limitation of Liability

9.1 This clause 9 sets out each Party's entire liability (including any liability for the acts and omissions of their respective Staff) to the other Parties in respect of an Event of Default.

9.1 Except to the extent permitted by Law, each Party's liability to the other (other than any liability to pay the Costs for the Services under this Agreement) shall be limited to [£X].

9.2 Subject to the provisions of clause 9.1, no Party is liable to any other Party or to any third party, whether in contract, tort, under statute or otherwise (including in each case negligence) or otherwise for any of the following types of loss or damage arising under or in relation to this Agreement:

9.2.1 any loss of profits, business contracts, anticipated savings, goodwill or revenue; and/or

9.2.2 any indirect or consequential loss or damage whatsoever,

including where a Party was advised in advance of the possibility of such loss or damage arising.

9.3 Each Party acknowledges and agrees that the provisions of this clause 9 are reasonable and are reflected in the amount of the Costs, which for the avoidance of doubt would be higher without such limitation of liability, and each Party hereby accepts such risk and shall insure such risk accordingly if it considers (at its absolute discretion) that insurance is necessary.

9.4 Each Party shall at all times take all reasonable steps to minimise and mitigate any losses for which it is entitled to be indemnified by or bring a claim against the other Party pursuant to this Agreement.

10. Termination

10.1 Either Party may terminate this Agreement with immediate effect without written notice if the other Party:

Annex A

10.1.1 commits a material breach of this Agreement which is capable of remedy and the Party fails to remedy the breach within a reasonable time of a written notice to do so; or

10.1.2 commits a material breach of this Agreement which cannot be remedied.

10.2 Either Party may terminate this Agreement by giving at least twelve (12) months' notice in writing to the other Party.

11. Consequences of Termination

11.1 In the event this Agreement is terminated the following provisions of this clause 11 shall apply and each Party shall cooperate fully with each other to ensure an orderly end to the relevant arrangements in respect of the delivery of the Services.

11.2 In addition to any other rights or remedies which the Parties may have against each other each Party shall pay to the other Party any Costs due and payable to that Party for any Services already delivered in addition to such costs incurred or committed for disbursements by the Party or a third party subcontractor of either of them (as applicable) prior to the date of the termination.

12. Dispute Resolution

12.1 Any dispute or difference which arises between any of the Parties as to the construction of this Agreement, as to their respective rights, duties and obligations or as to any other matter arising out of or connected with the Agreement ("**Dispute**") shall be determined in accordance with the provisions of this clause 12.

12.2 Each Authorised Representative which is representing a Party in a Dispute shall consult in good faith in an attempt to come to an agreement in relation to the Dispute.

12.3 If the Authorised Representatives are unable to reach an agreement following the consultation referred to in clause 12.2 then the matter shall be referred to the Shared Service Board who shall use all reasonable endeavours to resolve such Dispute.

12.4 If the Parties are unable to reach an agreement following the consultation referred to in clause 12.3, the Parties shall follow the dispute resolution procedure set out in the JWMA.

12.5 In the event that any costs and fees incurred by the Parties are not met in accordance with an agreement reached through the processes set out in clauses 12.2 to 12.4 (above) each Party shall be responsible for its own costs.

13. Changes

13.1 Without prejudice to the other relevant provisions of this Agreement, any Party may at any time during the Term request a Change to the terms of this Agreement including a change to the Services.

13.2 No deletion from, addition to, or variation of this Agreement or the Schedules shall be valid unless agreed in writing and signed by authorised signatories on behalf of each of the Parties.

14. Publicity

Each Party agrees not to use any other Party's name or the existence of this Agreement in any publicity materials or advertising without the prior written consent of the other Parties, such consent not to be unreasonably withheld or delayed.

15. TUPE

TUPE may apply to any Relevant Transfer of Staff under this Agreement. Where TUPE applies, the provisions of Schedule 4 of this Agreement apply.

16. Assignment and Sub Contracting

Neither Party shall assign or transfer this Agreement or any of the obligations or rights under this Agreement in whole or in part (save to any legal entity with which a Party merges or which is a successor body to the Party and for the avoidance of doubt this includes by reason of statutory or voluntary reorganisation of either or both of the Parties) without the prior written consent of the other Party.

17. Rights of Third Parties

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

18. Notices

- 18.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the relevant Party (at the address given at the front of this Agreement) and for the attention of the Authorised Representative, or as otherwise specified by the relevant Party by notice in writing to the other Party.
- 18.2 Any notice shall be deemed to have been duly received if delivered personally, when left at the appropriate address and for the appropriate contact referred to in clause 18.1 or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Working Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 18.3 This clause 18 shall not apply to the service of any in any proceedings or other documents in any legal action.
- 18.4 A notice required to be given under or in connection with this Agreement shall not be validly served if sent by e-mail.

19. Waiver

- 19.1 The rights and remedies of the Parties in respect of this Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by any Party nor by any failure of, or delay by a Party in ascertaining or exercising any such rights or remedies.
- 19.2 Any waiver of any breach of this Agreement shall be in writing and signed by all relevant Parties.
- 19.3 The waiver by any Party of any breach of this Agreement shall not prevent the subsequent enforcement of any subsequent breach of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

20. No Agency

Nothing in this Agreement is intended to, or shall be deemed to, establish any Party as the agent of the other or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

21. Further Assurance

Each Party shall at its own cost and expense do or procure to be done all such further acts and things and execute or procure the execution of all such documents as may from time to time be necessary for the purpose of giving effect to the provisions of and the benefits and rights granted pursuant to this Agreement.

22. Severance

22.1 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason such provision shall be severed and the remainder of the provisions of this Agreement shall continue in full force without affecting the remaining provisions of this Agreement.

22.2 If any provision of this Agreement is held to any extent invalid or unenforceable the Parties agree to immediately commence negotiations in good faith in order to remedy such invalidity or unenforceability and substitute a valid and enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

23. Entire Agreement

This Agreement (including the Schedules and any documents referred to therein) represents the entire agreement between the Parties and supersedes all other undertakings, statements and agreements relating to the subject matter of this Agreement.

24. Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed shall be an original and all the counterparts together shall constitute one and the same instrument.

25. Governing Law and Jurisdiction

This Agreement shall be governed by English Law and all Parties agree to submit to the exclusive jurisdiction of the English Courts.

EXECUTED as a DEED

by the affixing of the COMMON SEAL of

NORTH YORKSHIRE COUNTY COUNCIL

in the presence of:

.....

Authorised Signatory

EXECUTED as a DEED

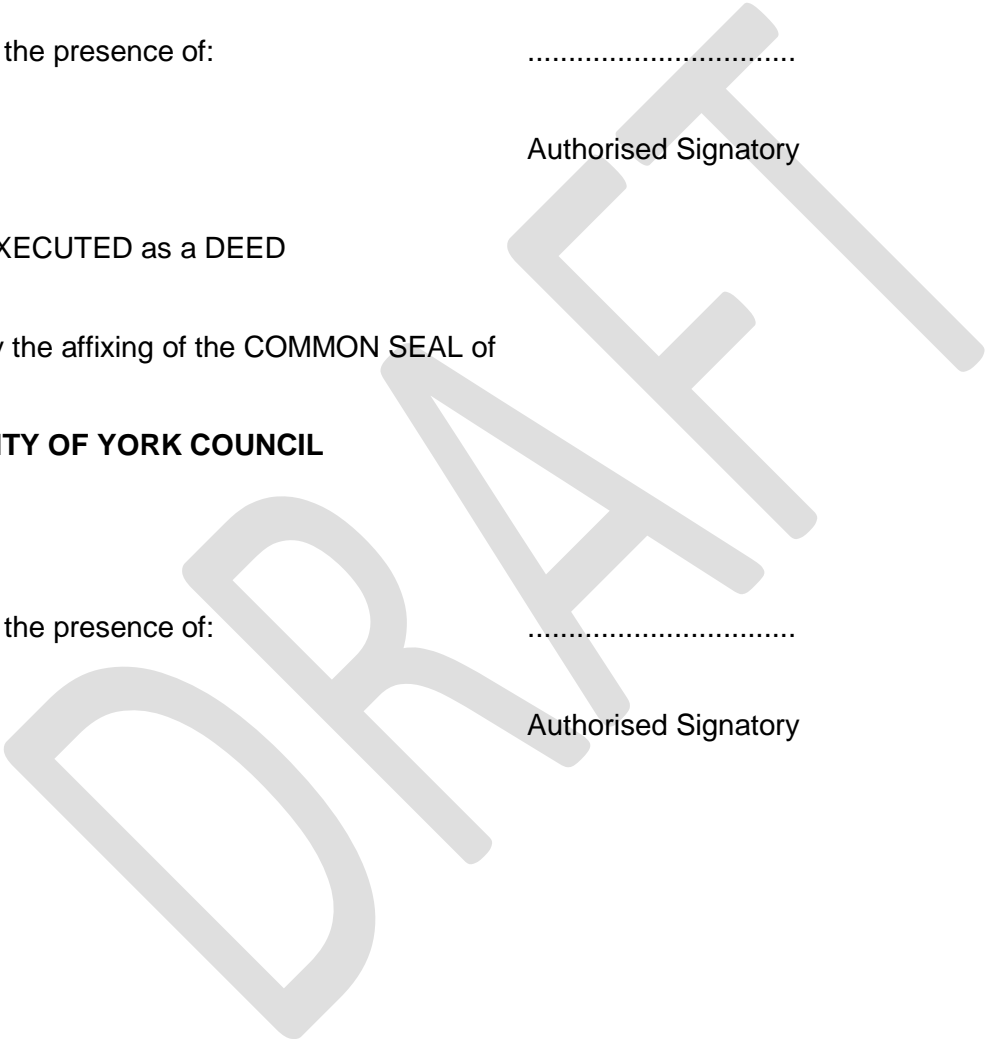
by the affixing of the COMMON SEAL of

CITY OF YORK COUNCIL

in the presence of:

.....

Authorised Signatory



Schedule 1 - Services

[TO BE INSERTED ONCE AGREED]

DRAFT

Schedule 2 - Principles of Collaboration

The Parties shall adopt the following principles:

1. Collaborate and co-operate: Establish and adhere to the governance structure set out in this Agreement to ensure that activities are delivered and actions taken as required;
2. Be accountable: Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this Agreement;
3. Be open: Communicate openly and in a timely fashion about major concerns, issues, service disruption or opportunities relating to the Services and this Agreement;
4. Learn, develop and seek to achieve full potential: Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
5. Adopt a positive outlook: behave in a positive, proactive manner;
6. Adhere to statutory requirements and best practice: Comply with applicable laws and standards including the Directive, the Regulations, the Data Protection Legislation and legislation in relation to freedom of information;
7. Act in a timely manner;
8. Manage stakeholders effectively;
9. Deploy appropriate resources: Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this Agreement; and
10. Act in good faith to support compliance with these Principles of Collaboration.

ANNEX 1 – JOINT WASTE MANAGEMENT AGREEMENT



NORTH YORKSHIRE COUNTY COUNCIL

**Waste Treatment Contract
[OJEU Notice Ref 208874-2007]**

Joint Waste Management Agreement

Schedule 3 – Costs and Sharing

[TO BE INSERTED ONCE AGREED]

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Annex A

Annex 1

Additional Commercial Waste Benefit Share Mechanism

Annex 2

Example Distribution of Additional Commercial Waste Benefit

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Schedule 4 – TUPE and Staff Management

[TO BE INSERTED ONCE AGREED]

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