



Supplementary Terms & Conditions and Service Requirements

Contract Reference: AW3811

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Appendices

Appendix 1 – AW3811 Memorandum of Information (not used – for ITT only)

Appendix 2 – AW3811 Evaluation Methodology (not used – for ITT only)

Appendix 2a – AW3811 Evaluation Methodology Flow Chart (not used – for ITT only)

Appendix 3 – AW3811 Site & Price List

Appendix 4 – AW3811 Quality Assurance & Monitoring Systems Questions (not used – for ITT only)

Appendix 5 – AW3811 Scoring Assistance Notes (not used – for ITT only)

Appendix 6.1 to 6.8 – AW3811 Quality Assurance Answer template

Appendix 7 – AW3811 Cost Centre Analysis

Appendix 8 – AW3811 Named Disposal Facilities

Appendix 9 – AW3811 Site Visit & Interview Checklist (not used – for ITT only)

Appendix 10 – AW3811 LQ Frequency of collections and bin requirements
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Appendix 12 – AW3811 180104 Skip Collections

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Appendix 15 – AW3811 Collection Time Agreement Form

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Appendix 17 – AW3811 Supplier Policy

2.0 Purpose of this document

- 2.1 This document has been produced to outline the contract conditions and specify the requirements of the service. It shall also act as a 'sign-post' information for future use within the agreed review process.

3.0 Terms and Conditions – Order of precedence

- 3.1 These Terms and Conditions supplement the NHS Wales Conditions. In the event of any dispute, conflict or confusion in respect of the Supplementary T's & C's and the NHS Wales Conditions the agreement between the parties shall be interpreted in accordance with the following order of precedence:
- 3.1.1 Supplementary T's & C's.
 - 3.1.2 NHS Wales Conditions
- 3.2 And that in the event that the NHS Wales Conditions are found to be in conflict with the Supplementary T's & C's, the Supplementary T's & C's will apply.

4.0 Definitions

- 4.1 Definition of terms
- 4.1.1 "**Agreement**" means Contract.
 - 4.1.2 "**Authorised Officer**" means a person designated as such by the Authority from time to time as notified in writing to the Contractor to act as the representative of the Authority for all purposes connected with the Contract, including any authorised representative of such person.
 - 4.1.3 "**Authority**" means the Beneficiary.
 - 4.1.4 "**CCN**" means Change Control Note
 - 4.1.5 "**Clinical Waste**" means Healthcare Waste as defined in HTM07-01 Safe management of healthcare waste and defined under the Controlled Waste Regulations 1992.
 - 4.1.6 "**Collection Time**" means as agreed In writing with the LHB / Trust and the Contractor. "**Commencement Date**" means the date agreed by the Parties in writing or detailed in the **Specification**, on which the provision of the Services is to start;
 - 4.1.7 "**Contract**" means the agreement between the Authority and the Contractor comprising the Order, these terms and conditions and schedules and Appendices hereto, and the Specification, and for the avoidance of doubt all other terms, conditions or warranties other than any terms, conditions or warranties implied by law in favour of the Authority of the Beneficiaries are excluded from the agreement between the Authority and the Contractor unless expressly accepted in writing by the Authorised Officer.
 - 4.1.8 "**Contract Month**" means the delivery months in which the contractor supplies and the LHBs / Trusts is required to pay for.
 - 4.1.9 "**Contract Year**" means during the Contract Period, any 12 month period commencing on the Commencement Date or an anniversary thereof.

- 4.1.10 **"Each"** in the context of 'unit of measure' means for individual items collected or exchanged on a like for like basis, administration fees, contaminated mattresses, skip collection fees, and Radio Active waste fees.
- 4.1.11 **"Exit Plan"** means a plan prepared by the Contractor no later than two (2) months after the Commencement Date.
- 4.1.12 **"Fees"** means any fees payable by LHBs / Trusts in respect of the relevant Contract Month.
- 4.1.13 **"Fixed price period"** means the fixed term period relating to fixed pricing as stated by the Contractor within the tender submission.
- 4.1.14 **"KPI's"** means Key Performance Indicators which will be used to measure performance of the contract as set out in clause[s] 10 and 14.
- 4.1.15 **"Late Collections"** means as set out in clause 23.1.1.
- 4.1.16 **"LHBs / Trusts"** means Local Health Boards and NHS Trusts in Wales
- 4.1.17 **"LQ or LQ sites"** means Large Quantity sites which require wheelie bin exchange.
- 4.1.18 **"MAL"** means minimum acceptable level
- 4.1.19 **"Missed Collections"** means as set out in clause 23.1.2.
- 4.1.20 **"NHS Wales Conditions"** means NHS Wales Conditions of Contract for the Supply of Services [February 2012]
- 4.1.21 **"NWSSP"** means NHS Wales Shared Services Partnership
- 4.1.22 **"Outline Plan"** sets out an outline of the required content of the Exit Plan.
- 4.1.23 **"P2P"** means Procure to Pay
- 4.1.24 **"Payment Mechanism"** means the mechanism for the monitoring of performance and to identify the Service Deductions which shall apply to the Fees when performance does not meet the required standards.
- 4.1.25 **"Replacement Contractor"** means the organisation appointed to undertake the transfer of responsibility of the relevant Services unable to be performed by the Contractor.
- 4.1.26 **"RPIX"** means the All Items Retail Prices Index excluding Mortgage Interest Payments as published for the National Office for Statistics (reference CHMK) from time to time or such other index as may replace or supersede the same, or in the absence of a replacement or superseding index, such other index as the parties may agree, or, failing agreement, as may be determined by reference to the dispute resolution procedure as per Standard NHS Wales Conditions.
- 4.1.27 **"Service"** means the service provided by the Contractor pursuant to, and in accordance with, the Contract as set out in Clauses 19 -36.
- 4.1.28 **"Service Deductions"** means the deductions which apply when performance does not meet the required standards as set out in the contract as set out in Clause 10.

- 4.1.29 **"Service Review Meeting"** means the circa quarterly meetings required between Contractor, NWSSP and LHB/Trust representatives.
- 4.1.30 **"SQ or SQ sites"** means Small Quantity sites. These are mainly smaller community hospitals, clinics, GP surgeries, Pharmacies, chemists, etc.
- 4.1.31 **"Supplementary T's & C's"** means these Supplementary Terms & Conditions and Service Requirements.
- 4.1.32 **"Termination Date"** means the date of expiry or date of early termination of the Contract.
- 4.1.33 **"WAST"** means Welsh Ambulance Service Trust
- 4.1.34 **"Waste Categories"** as defined within Appendix 3 - Site & Price List
- 4.1.35 **"Weight"** means the 'unit of measure' related to the LQ sites, serviced by a bin exchange process.

4.2 The appendices will have effect.

5.0 Contract Period

- 5.1 The Contract will take effect on the date hereof 1st of July 2016 to allow for implementation of the contract prior to the Commencement Date. The Commencement Date will take effect on the date hereof the 1st of April 2017. The Contract shall subsist for an initial term of 5 years and 9 months unless terminated earlier in accordance with the terms of this Contract.
- 5.2 The Contract may be extended, at the sole discretion of NHS Wales Shared Services Partnership – Procurement Services, by a further 60 months maximum. Extensions to the Contract may be made in increments of 12 months or greater at the discretion of NWSSP but shall not exceed a total of 60 months.

6.0 Service, performance and warranties

- 6.1 The provision of the Services for the collection, transportation and disposal of clinical waste shall commence on the 1st April 2017 as stated above.
- 6.2 The Supplemental Terms describe at clauses 19-36 the Services to be provided by the Contractor. Given the nature of the Service and the area which is covered it is entirely possible that the Service may have to be changed. Such change will be recorded in writing and will be agreed by all Parties, such consent not to be unreasonably withheld.
- 6.3 The Contractor shall provide the Services strictly in accordance with the Contract.
- 6.4 The Contractor shall, upon the terms and conditions of this Agreement, perform its obligations under this Agreement and provide the Services for the benefit of the Local Health Boards / NHS Trusts (**LHB / Trust**) and shall:-
- 6.4.1 do all things necessary to provide the Services, including providing all Staff, Equipment, IM&T equipment and the materials necessary for the provision of the Services;
 - 6.4.2 provide the Services using all due skill, care and diligence, to the best of its ability and with the utmost good faith towards the LHB / Trust, and other National Health Service bodies having regard to Health and safety and in accordance with Appendix 17 – AW3811 Supplier Policy.

- 6.4.3 do nothing which will or might reasonably be expected to damage or otherwise adversely affect the reputation of the LHB / Trust;
- 6.4.4 so far as reasonably practicable, have a proactive approach to developing Service enhancements, improvements and efficiencies;
- 6.4.5 familiarise itself with, comply with and provide the Services and any materials or work in accordance with:-
- all relevant statutes, laws, regulations and codes of practice relating to the Services from time to time in force including in relation to health, safety, security and environmental standards having statutory effect;
 - any mandatory standards set by appropriate national and international bodies;
 - obtain and maintain at its own expense all licences, powers and consents necessary to perform its obligations hereunder;
 - comply with a recognised quality assurance system covering operational systems and procedures, being Welsh Health Technical memorandum (WHTM 07-01) – Requirements for Regulatory Purposes or ISO 9001 or a system of at least equivalent quality;
 - not write or contribute to any publication or article or make any public statement or presentation through whatever medium in respect of the Services or this Agreement without the prior written approval of NWSSP;
- 6.4.6 at its own expense, prepare information or reports for and/or make itself and the Contract Manager available to attend meetings with NWSSP and/or the LHB / Trust with the purpose of reviewing the Contractor's performance of its obligations hereunder at such times and locations as required by the NWSSP and/or the LHB / Trust;
- 6.4.7 seek to improve the value for money of the Services to the LHB / Trust at all times;
- 6.4.8 co-operate fully with the NWSSP and/or the LHB / Trust and/or Authorised Officers to continuously review, improve and refine the Services;
- 6.4.9 consult with NWSSP and/or the LHB / Trust as often as may reasonably be necessary for the efficient provision of the Services and shall generally advise and assist NWSSP and/or the LHB / Trust as necessary on all matters arising from the operation of this Agreement and provide management information and other information as reasonably required by the NWSSP and/or the LHB / Trust from time to time;
- 6.4.10 have and maintain effective and appropriate systems for the identification, mitigation and management of all risks associated with the delivery of the Service;
- 6.4.11 ensure and recognise its responsibility for the health, safety and welfare of staff, patients, employees, contractors and the public in relation to the management of all risks in the delivery of services, in accordance with Good Industry Practice;
- 6.4.12 without prejudice to the obligations of the Contractor under this Agreement:-
- immediately notify the LHB / Trust and NWSSP on becoming aware of any actual or potential problems relating to the Contractor's own Contractors that affect or might affect its ability to provide the Services;

- immediately notify the LHB / Trust and NWSSP on becoming aware of any actual or potential industrial action, including strike action, whether such action is of its own staff or others that affects or might affect its ability to provide the Services.

- 6.5 The Contractor shall draw any conflict between any of the requirements of Clause 6.2 and the requirements of Clause 6.3 to the attention of NWSSP and the LHB / Trust and shall comply with the reasonable decision of NWSSP and/or the LHB / Trust on the resolution of that conflict, subject to the costs of such compliance being of a reasonable nature.
- 6.6 The Contractor undertakes and warrants that it will not knowingly at any time during the term of this Agreement do anything to injure or prejudice the LHB / Trust or NWSSP or their respective interests and shall not make purchases, commitments or agreements on behalf of the LHB / Trust or NWSSP or hold itself out as being an agent of or able to commit the LHB / Trust or the NWSSP to such purchases, commitments or agreements, without express prior written approval of the LHB / Trust and NWSSP.
- 6.7 If prior to expiry or termination of this Agreement the LHB / Trust and NWSSP wish to re-tender the Services (or any part thereof) for their provision after such expiry or termination, the Contractor shall co-operate fully with the LHB / Trust and the NWSSP in any re-tendering exercise, including promptly providing all such information and access relating to the Services, the facilities and Equipment used for them and the Staff engaged in them, as the LHB / Trust and/or the NWSSP may reasonably require and subject to the provisions of this Agreement regarding Commercially Sensitive Information.
- 6.8 The Contractor shall have in place a policy for effective continuation of the Services during the term of this Agreement in the event of emergency (including pandemics or epidemics), disaster, systems failure or other business failure or interruption and to confirm and demonstrate that such arrangements are appropriate and proportionate. Such policy shall be updated by the Contractor from time to time.
- 6.9 The Contractor warrants and represents that all Containers supplied under this Agreement comply with the provisions of the Carriage of Dangerous Good regulations and BS:7320 and the Contractor further warrants that all such Containers have been fully tested by it and are in all ways fit for the purpose for which they are supplied under this Agreement.

7.0 Scope of Contract

- 7.1 The contract is for the Collection, Transportation and Disposal of Clinical Waste from Consortium member organisations. The Consortium is comprised of the following organisations:
- 7.1.1 Abertawe Bro Morgannwg University Health Board
 - 7.1.2 Aneurin Bevan University Health Board
 - 7.1.3 Betsi Cadwaladr University Health Board
 - 7.1.4 Cwm Taf University Health Board
 - 7.1.5 Cardiff and Vale University Health Board
 - 7.1.6 Hywel Dda University Health Board
 - 7.1.7 Powys Teaching Health Board
 - 7.1.8 Velindre NHS Trust (also including NHS Welsh Blood Service)
 - 7.1.9 Public Health Wales NHS Trust

7.1.10 Welsh Ambulance Service NHS Trust*

- 7.2 * The Welsh Ambulance Service NHS Trust (WAST) do not currently utilise this contract however NWSSP reserve the right to allow this contract to be used by WAST. The commencement of Service to WAST shall be agreed via a contract variation notice on terms to be agreed by all parties.
- 7.3 At LHB / Trust the contract shall be managed in two distinct portfolios, with LHB / Trust Waste Managers being responsible for the service at Acute Hospital sites and Primary Care Leads managing the Community sites.
- 7.4 Details of expected annual tonnage by waste type for each facility are provided in **Appendix 3 – AW3811 Site & Price List**.
- 7.5 Details of all the premises to be serviced under this agreement are provided in **Appendix 3 – AW3811 Site & Price List**. In addition to the premises identified in **Appendix 3 – AW3811 Site & Price List** the Contractor shall agree to collect, transport and dispose of clinical waste from any other of the NHS Wales LHB / Trust premises or Community sites (e.g. smaller community hospitals, clinics, GP surgeries, pharmacies, chemists, etc).
- 7.6 Details of the Collection Time will be agreed by the LHBs / Trusts and the Contractor following the award of the Contract and prior to the Commencement Date. The LHBs / Trusts and the Contractor are to agree the Collection Time countersigning **Appendix 15 – AW3811 Collection Time Agreement Form** for LQ sites only. The Contractor shall provide all LHBs / Trusts with a version of **Appendix 15 – AW3811 Collection Time Agreement Form** populated with individual LHBs / Trusts sites. The Collection Time is to be scheduled for a maximum of a 2 hour window.
- 7.7 Details of the Specification of Service requirements are provided within this document, please refer to clauses 19-36.
- 7.8 The scope of the contract shall not extend to the provision of “on site” disposal facilities. Should an LHB / Trust participating in this contract wish to consider the implementation or acquisition of facilities to dispose on Clinical Waste on its own premises, resulting in the removal of need for services under this contract, then this shall be undertaken as a separate procurement and a minimum of three months notice served upon the supplier that the site will be withdrawn from the portfolio.

8.0 Invoicing

- 8.1 For each month, the Contractor shall produce a monthly invoice for each LHB / Trust totalling the volumes and quantities of all Waste Categories collected and disposed.
- 8.2 The Contractor shall be entitled to raise an invoice to each **LHB / Trust** at the end of every month in respect of any payment which is payable to the Contractor pursuant to this Agreement in respect of the immediately preceding month, within ten (10) Business Days of the end of that month.
- 8.3 Contractor's invoices will be paid in accordance with clause 8.4 below.
- 8.4 The Contractor shall ensure that each invoice contains the following information:-
- 8.4.1 the date of the invoice;
 - 8.4.2 a unique invoice number;
 - 8.4.3 the period(s) to which the relevant Fee (s) relate;
 - 8.4.4 details of the correct Contract reference;

- 8.4.5 the reference number of the purchase order to which it relates (if any);
 - 8.4.6 a valid VAT registration number;
 - 8.4.7 the amount due for each item of Equipment and/or Service provided, summarised and supported by a detailed schedule to which the VAT exclusive value of the invoice must match;
 - 8.4.8 details of any amounts deducted that shall apply to the Fees detailed on the invoice;
 - 8.4.9 the total Fees gross and net of any applicable deductions under the terms of the Agreement, including sums applicable to Service Deductions, and, separately, any VAT or other sales tax payable in respect of the same;
 - 8.4.10 a contact name, email address and telephone number of a responsible person in the Contractor's finance department in the event of administrative queries;
 - 8.4.11 the banking details for payment to the Contractor via electronic transfer of funds (i.e. name and address of bank, sort code, account name and number).
- 8.5 Each invoice shall at all times be accompanied by sufficient information, including the information set out above, to enable the LHB / Trust to reasonably assess whether the Fees detailed thereon are properly payable. The Contractor undertakes to provide to the LHB / Trust any other documentation reasonably required by the LHB / Trust from time to time to substantiate an invoice. This information shall be provided at no cost to the LHB / Trust.
- 8.6 All Contractors' invoices shall be expressed in sterling.
- 8.7 The LHB / Trust shall only regard an invoice as valid if it complies with the provisions of Clause 8 to 14 of this document.
- 8.8 Where any invoice does not conform to the LHB / Trust requirements set out in Clause 8 to 14 of this document, the LHB / Trust will return the disputed invoice to the Contractor. The Contractor shall promptly issue a replacement invoice, which shall comply with the same.
- 8.9 Where any LHB / Trust raises a query with the Contractor following any reconciliation of the monthly invoice detail consignment notes and other information available to the LHB / Trust, the Contractor shall fully respond to such query within ten (10) Business Days of receipt.
- 8.10 Where resolution of any query results in an amount owing to the LHB / Trust, the Contractor shall issue a credit note to the relevant LHB / Trust and such amount may be deducted from future payments to the Contractor in respect of the Fees, except for such instances relating to the last 3 months of the Agreement where the Contractor shall make a direct payment to the relevant LHB / Trust within ten (10) Business Days of the query's resolution **P2P**.
- 8.11 Copies of all invoices and backing information for each LHB / Trust shall be accompanied by an electronic version to be sent to a designated LHB / Trust representative(s) for each month.

9.0 Price

- 9.1 Initial prices and the subsequent fixed term offered by the Contractor as part of the tender submission are valid for the period determined by the Contractor as part of the tender and will not be subject to an increase for the duration of that period. Please refer to Appendix 2 – AW3811 ITT Evaluation Methodology (Stage 3: Financial Evaluation, point 2).
- 9.2 The annual review will deal with exceptional price escalators such as landfill compliance by mutual agreement of the Contractor and NWSSP.

9.3 All collections, transportation and disposal charges shall be levied by the Contractor at the price as provided in Appendix 3 - AW3811 Site & Price List.

9.4 Unless expressly agreed otherwise, only the prices outlined within Appendix 3 - AW3811 Site & Price List will apply, no other fees or charges shall be levied against or made payable by LHB / Trust in respect of this agreement or with regards to any other action that the Contractor may need to undertake in order to fulfil its obligations to the performance of the contract.

9.5 Indexation

9.5.1 The Fees detailed in Appendix 3 – Site & Price List are correct as at the Commencement Date, in line with the offer submitted within the tender documentation. Indexation and price variation shall not be permitted within the duration of the Fixed Price period as determined by the Contractor as per the price offer within the tender documentation.

9.5.2 Indexation will only apply to the period of contract not contained within the Fixed Price period and shall be reviewed on 1st April each year after the Fixed Price Period expiration to reflect the effects of inflation in accordance with the following principles.

9.5.3 If upon any such review there is a change in the RPIX figure published in the January most recently preceding the April in which the review takes place, the Fees then in force under the Agreement shall be increased or decreased and calculated in accordance with the following formula:-

$$\text{Charge amount in April of preceding year prices} \times \frac{\text{RPIXd}}{\text{RPIXo}}$$

9.5.4 Where RPIXd is the value of RPIX published or determined with respect to the month of January (i.e. published February 2015) most recently preceding the April in which the amount or sum is required to be adjusted and RPIXo is the value of RPIX in respect of January preceding the previous April (i.e. published February 2014).

9.5.5 For the avoidance of doubt the provided example below demonstrates how a price variation would be calculated should indexation have applied in April 2015:

$$\text{Charge amount as of 1st April 2014} \times \frac{\text{RPIXd (Jan 2015)}}{\text{RPIXo (Jan 2014)}} = \frac{254.8}{251.8}$$

$$254.8 / 251.8 = 01.0119142 \times 100 = 101.2$$

So RPIXd/RPIXo = **101.2%**, i.e. a 1.2% increase.

9.5.6 For the purposes of this Agreement, "RPIX" shall mean the All Items Retail Prices Index excluding Mortgage Interest Payments as published for the National Office for Statistics (**reference CHMK**) from time to time or such other index as may replace or supersede the same, or in the absence of a replacement or superseding index, such other index as the parties may agree, or, failing agreement, as may be determined by reference to the dispute resolution procedure as per Standard NHS Wales Conditions.

10.0 Service Payment Deduction

- 10.1 The purpose of this section is to define the service standards for KPI's, to define the mechanism for the monitoring of performance and to identify the Service Deductions which shall apply to the Fees when performance does not meet the required standards.
- 10.2 All Service Deductions noted clause 10.0 shall be calculated and applied on an individual LHB / Trust basis for LQ sites. Clauses 10.13 and 10.14 will apply to SQ sites.
- 10.3 Service Deductions in respect of KPI's shall accrue in respect of each Contract Month where performance does not meet required standards, but shall be payable by the Contractor within 10 Business Days of the end of the following Contract Month or applied as a credit to the invoice generated for the Contract Month following that in which the Service Deduction was accrued.
- 10.4 The Service Deductions for each Contract Month shall be calculated in accordance with the following formula. Service Deductions for each KPI shall be as follows:-
- 10.5 Missed Collections [Collections Completed: (Service Level Required % – Service Level Achieved %) x 3 x Monthly invoice]
- 10.6 Late Collections [Collections Completed on time; (Service Level Required % – Service Level Achieved %) x 1.5 x monthly invoice]
- 10.6.1 Where:
- Service Level Achieved % noted in clauses 10.5 and 10.6 is calculated as the Achieved % in Section 13.
 - Service Level Required % noted in clauses 10.5 and 10.6 is set as described under MAL% in Section 13.
- 10.7 MAL = Minimum Acceptable Level
- 10.7.1 **Missed Collections - The MAL for collections completed is 99%**
- 10.7.2 **Late Collections - The MAL for collections on time is 98%**
- 10.8 Fees = fees payable in respect of the relevant Contract Month.
- 10.9 The method of aggregating the KPI's to calculate the Service Level Achieved is set out in Section 13.
- 10.10 The Contractor shall provide a monthly return against the monthly KPI summary report as set out in clauses 13 and 14. These reports shall be provided no later than 15 days following the last day of the previous month.
- 10.11 The Contractor shall, on a daily basis, self-monitor its performance of the Services by reference to the service levels detailed in this section and present a report on a monthly basis (or more frequently if required by NWSSP) in the agreed form, including the value of Service Deductions applied in the immediately preceding Contract Month and cumulatively in respect of the Contract Year to date.
- 10.12 If the application of any Service Deduction is disputed and cannot be resolved locally, the party disputing the application of the Service Deduction shall serve notice of dispute on the other party. The matter will then be referred to dispute resolution in accordance with the NHS standard terms and conditions.

- 10.13 Self-monitoring of performance is a key principle to the Payment Mechanism and, whenever discovered, each failure in self monitoring which leads to an error in the reported KPI, monthly summary report or monthly invoice will be liable to a Service Deduction of £30 for each error up to a maximum of £210 per contract month.
- 10.14 For the avoidance of doubt and to demonstrate the implementation of clause 10.13 if the Contractor invoice contains charges for collections that were not undertaken, a £30 Service Deduction fee will apply for each instance where a missed collection has been billed up to a maximum of £210 per invoice per LHB / Trust.

11.0 Payment of Deductions

- 11.1 For each Contract Month, within ten (10) Business Days of the end of the following Contract Month, the Contractor shall pay an amount corresponding to the total Service Deductions in that Contract Month in accordance with Section 12 below.
- 11.2 In the event that the Contractor fails to pay any amount due in accordance with clause 8.1 above, the LHB / Trust may instead deduct an equivalent sum from the Fees payable in respect of the next invoice.
- 11.3 The LHB / Trust may, but shall not be obliged to, waive the payment of Service Deductions in respect of any particular failure by the Contractor to perform the Services to the required standard. Agreement to waive the payment must be in writing and fully detailed by the LHB / Trust concerned within 20 days of notification that a deduction is due.
- 11.4 Any payment, or waiver of payment, of Service Deductions by the LHB / Trust shall be without prejudice to any other rights or remedies the LHB / Trust may have against the Contractor whether under this Agreement or otherwise
- 11.5 Any service deductions accrued within the initial six (6) months of the contract shall not be payable by the Contractor. NWSSP and the LHB / Trust acknowledge that there will be a period of time required for the Contractor to reach a "Steady State". For the avoidance of doubt Service Payment Deductions shall only apply to those accrued from Contract Month seven (7) onwards (i.e. October 2017).

12.0 Application of Service Deductions

- 12.1 On expiry or termination of this Agreement, any deductions which have not been deducted from invoiced values to LHB / Trust, the Contractor shall provide all reasonable co-operation in relation to the transfer of such funds to the LHB / Trust and in any case affect such transfer within 60 days.
- 12.2 The Contractor shall provide a reconciliation report demonstrating that the amounts paid to each of the LHB / Trust correspond with the latest monthly performance report provided by the Contractor in accordance with sections 10, 11 and 12, to NWSSP.
- 12.3 The Contractor shall promptly provide all information required by NWSSP in relation to the Service Deduction Accounts, whether relating to the level of funds in the account or any other matter.
- 12.4 For the avoidance of doubt, the remedies given to the LHB / Trust under this Payment Mechanism are cumulative and are without prejudice to any other right of the LHB / Trust whether under this Payment Mechanism, this Agreement or otherwise.
- 12.5 The parties acknowledge and agree that the purpose of Service Deductions is so that the Contractor is paid for the quality of the Services that it actually provides in accordance with the provisions of this Agreement. The Contractor acknowledges that the Service Deductions are not a penalty.

- 12.6 The LHB / Trust reserve the right to revisit and renegotiate the calculation of Service Deductions and corresponding application of Service Deductions whether in relation to any particular performance failures retrospectively in the event of reporting errors or delays or to address any changes in the relationship or the Services or any other factors over the term of the Agreement.

13.0 KPI's Monthly Summary Report

MAL = Minimum Acceptable Level

KPI's descriptions are reported in full in Section 14

Missed Collections means any collection which takes place 4 hours or more after the agreed collection time (or does not take place at all).

Late Collections means any collection which takes place one hour or more (but less than 4 hours) after the agreed collection.

KPI	KPI no.	Number					Percentage	
		Scheduled (S)	Excluded (E)	Total (T) (S – E)	Achieved (A)	Failed (F)	Achieved % (A%)	MAL % (M)
MAL = Collections completed Failure = Missed Collections	1 e.g.	S1 200	E1 10	T1 190	A1 187	F1 3	A1 / T1 187/190=0.98	99
MAL = Collections completed on time Failure = Late Collections	2 e.g.	S2 200	E2 10	T2 190	A2 185	F2 5	A2 / T2 185/190=0.97	98

Deductions Summary

Total* = Scheduled collections without exclusions

	MAL%	Achieved	Total*	Achieved %	Shortfall	Weighting	LHB / Trust Invoice Total	Deductions Due
	<i>M</i>		<i>T</i>	<i>A%</i>	$M-A\%=S\%$	<i>W</i>	<i>P</i>	$S\% \times W \times P$
MAL = Collections completed Failure = Missed Collections	99 e.g.	187	190	98	99-98=1 (0.01%)	3	£60,000	$0.01 \times 3 \times 60,000 = £1800$
MAL = Collections completed Failure = Late Collections	98 e.g.	185	190	97	98-97=1 (0.01%)	1.5	£60,000	$0.01 \times 1.5 \times 60,000 = £900$
Total								

14.0 KPI's

#	Name	Purpose	Description	Frequency	Exclusions	Calculation: Delivered within Payment Mechanism period	Additional information
1	MAL = Collections Completed: (Failure = Missed Collections)	To quantify the Contractor Performance for undertaking collections.	The % of Scheduled collections that were successfully completed in full and On-time (within four (4) hours).	Monthly	Collections Cancelled by LHB/Trust or no waste for collection without prior warning.	$A / (B - C) \times 100$ A = # Collections Completed B = # Collections Scheduled C = # Scheduled Collections cancelled by the LHB or Trust (but not the Contractor)	
2	MAL = Collections Completed on time: (Failure = Late Collections)	To quantify the Contractor performance for Collections Completed on time	The % of Scheduled collections that were successfully completed in full and on-time (within one (1) hour).	Monthly	Collections Cancelled by LHB/Trust, no waste for collection without prior warning or any missed collections.	$A / (B - C) \times 100$ A = # Collections Completed within 1 hour of scheduled B = # Collections Scheduled C = # Scheduled Collections cancelled by the LHB or Trust (but not the Contractor)	

15.0 Service Review Meeting

- 15.1 The Contractor shall attend Service Review Meetings pursuant at the request of NWSSP
- 15.2 Service Review Meetings will occur at no less than quarterly intervals to coincide with the production of quarterly reports by the Contractor. It is anticipated that Service Review Meetings will last approximately 4-6 hours and shall include a “closed door” meeting for NHS staff only prior to the commencement of the Service Review Meeting.
- 15.3 The cost of the venue and refreshments for the Service Review Meeting will be covered by the Contractor.
- 15.4 The Contractor representatives at Service Review Meetings shall include as a minimum the Contract Manager and a Plant and Transport Manager.
- 15.5 The role of the service review group is:-
 - 15.5.1 to support the contracting role of NWSSP in performance management of this Agreement;
 - 15.5.2 to receive and consider the quarterly reports specified in Section 16 (Reporting requirements);
 - 15.5.3 to allow all parties to discuss their respective levels of satisfaction in respect of the Services provided under this Agreement and to agree any action necessary to address areas of dissatisfaction;
 - 15.5.4 to discuss any issues of performance relating to this Agreement;
 - 15.5.5 to report, discuss, investigate and resolve Complaints and any Serious Incidents Requiring Investigation (SI RI);
 - 15.5.6 to commission any investigation into a Service anomaly occurring within the preceding quarterly reporting period (including for example wilful poor performance, breach of the agreement, negligence);
 - 15.5.7 to review the outcomes of any investigations and undertake assessment of an appropriate rectification plan by the Contractor;
 - 15.5.8 to identify whether in the event of an un-rectified Contractor deficiency, sanctions should be applied to the Contractor;
 - 15.5.9 agreeing when Service/site inspections and audits are to take place, reviewing all rectification completion reports and closing off such reports. Audits may include, though are not restricted to, site surveys and audits of the quality of the service, audit on deliveries of Equipment and associated services; and
 - 15.5.10 review of any reports received from relevant statutory or non-statutory bodies received during the preceding quarterly reporting period.
 - 15.5.11 The Contractor shall provide a quarterly review report in advance of each Service Review Meeting which will include:-
 - review of Contractor’s reports including the Service Review Meeting reports as set out in Section 16
 - review of KPI reports, including any Service anomalies with appropriate rectification plans

- Contractor's presentation of any information requested by the NWSSP, for example billing, Complaints, service feedback and serious incidents requiring investigation information;

15.5.12 The format and content of some of these reports and information shall be as specified in Section 16. Other issues for inclusion on the agenda shall be agreed with NWSSP prior to the Service Review Meeting.

15.5.13 Reports for the Service Review Meetings are included in Section 16 and shall be provided to NWSSP at least 2 weeks prior to each scheduled Service Review Meeting, by the Contractor.

15.5.14 Meetings will be held at venues to be agreed between the attendees with the location being reasonably accessible to NHS Wales and Contractor Staff.

15.5.15 For a Service Review Meeting to be quorate the following shall be present:-

- the Chair of the Clinical Waste Consortium (or their representative);
- the responsible NWSSP Category Manager and Officer;
- a Contract Manager of the Contractor;
- where available authorised representatives of each LHB / Trust.

15.6 The minutes of the meeting shall be compiled and published by NWSSP staff within 4 weeks of the Service Review Meeting.

16.0 Reporting Requirements

16.1 The Contractor shall report on the following information as and when reasonably requested by NWSSP or authorised personnel within the LHB / Trust:-

- 16.1.1 General ratification plans in relation to performance review;
- 16.1.2 Counter Fraud and Security Incidents;
- 16.1.3 Any Information and Communication Technology (IMT) security incidents;
- 16.1.4 Reporting of Discrimination events, for example race and age;
- 16.1.5 Workforce information – changes in Staffing Plan;
- 16.1.6 Customer Call Centre / Customer Care line information;
- 16.1.7 Change Control Procedures;
- 16.1.8 Reporting of events to other bodies including regulatory bodies;
- 16.1.9 Financial information e.g. Annual Accounts;
- 16.1.10 Pre Acceptance Audits completed in previous quarter & scheduled for delivery in next 6 months

16.2 The Contractor shall provide regular reports to NWSSP and the LHBs / Trusts as follows:-

16.3

Report Name	Frequency	Report Required to be sent to the following	Report Summary
KPI Submission	Monthly, by the 15 th Business Day of each month	NWSSP Contracting team LHB / Trust lead / Waste Management team	Service KPI report with Breakdown at LHB / Trust level
Monthly Invoicing Information	Monthly by the 10 th Business Day of each Month	NWSSP Contracting team LHB / Trust lead / Waste Management team	Report outlining LHB / Trust information on waste types and volumes. Report Fields will include (but will not be limited to): <i>[this list may be amended by LHB / Trust]</i> . <ul style="list-style-type: none"> • Contractor Site code • Site Name • Site Postcode • Contractor LHB / Trust Code • LHB /Trust Name • Collection Date • Collection Time • Bin Exchange / Bag Collection • Waste Category • Waste Category Code • Waste Category Cost (per Kg) • Volume of waste Collected (kg's) • Total cost
Ancillary Report	Monthly by the 10 th Business Day of each Month	LHB / Trust lead / Waste Management team	Any Queries raised by LHB / Trust in respect of invoices where new sites have been added in the month, as well as sites whose service has been stopped in the invoice month. This will also include sites where no waste collections are made – details of the date of collection and the time the collection was attempted, must be provided.
Equipment Report	Monthly by the 15 th Business Day of Each Month	LHB / Trust lead / Waste Management team NWSSP Contracting team on an All Wales ad-hoc basis	A summary of the Sites and the numbers of different types of equipment supplied at each. The summary will include sites with Wheelie Bins, Skips, wheeled Containers
Serious Incident requiring Investigation (SIRI)	Quarterly	NWSSP Contracting Team	A summary of the Serious Incident Requiring Investigation (SIRI) for the quarter on an All Wales basis.
Service Review Meeting Reports	Quarterly, two weeks in advance of Scheduled Service	NWSSP Contracting Team	The Contractor shall provide a template including the following information as a single document (ideally a spreadsheet compatible with Microsoft Office) for reports for Service Review Meetings. The template shall have a user friendly interface and will give comparisons

	Review Meetings.		<p>data to other LHB / Trust.</p> <ul style="list-style-type: none"> • Summary KPI report for previous quarter • Details on planned maintenance to be undertaken in the preceding six (6) months to the Contractors' Transfer and Disposal facilities • Reports provided by the regulator and issues relevant to compliance. • Spore sampling results • Risk assessments completed / scheduled and actions outstanding / common themes for the consideration of the Consortium. • Number and Nature of the Complaints received by the LHB / Trust. • Amendments to Contingency arrangements / new arrangements put in place. • Waste statistics • Plant maintenance • Vehicle maintenance • Bin maintenance • LHB/Trust non compliance • Lists of completed Duty of Care audit reports • Collection schedules • Waste tracking and auditing • Pre acceptance audits undertaken at all sites, list of all sites with audits expiring in next 12 months, schedule of audits to be completed by the contractor in the next 6 months • Training • Investment proposals • Sustainable Development – Carbon Footprint Analysis updates. • Requirement to improve in line with permit improvement conditions and changes within sector guidance from regulator.
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16.4 Where reports are provided to LHB / Trust Leads the information should be restricted to the relevant LHB / Trust only

The Contractor shall also continuously monitor its performance and shall report to the LHB / Trust promptly in writing on the occurrence of any of the following:-

16.5

Report	Description
Health and Safety / Regulatory Breaches	Contractors will be required to report annually on the measures they have taken to reduce operational energy consumption and associated emissions. Contractors will also be required to report on carbon emissions from operations utilised to support the delivery of the contract relative to the number of tonnes of waste disposed.
Vehicle Emissions	Contractors will be required to report annually on gaseous emissions from vehicles employed in the delivery of the contracted service. Contractors will be required to report on the following emissions; CO ₂ , CO, NO _X , SO _X , PM ₁₀ , VOC, per 1000miles and describe what measures they have taken to drive reductions in emissions.
Service Problems or Industrial Action	Report should identify any problem (including industrial action) threatening the delivery of the service.
Continuous Improvement	Report any opportunity to improve service quality and / or reduce costs
Self Audit	Report to any LHB / Trust Estates / Waste Management team should the Contractor become aware that it is falling short of its obligations under the agreement.
Key Staff Change	Report any proposed change of Service Lead or Contract Manager
Significant Financial Difficulty	Report immediately should the Contractor be at risk of significant financial difficulty.
Corporate Restructure	Report to NWSSP any activity to change the organisation to include internal restructure, mergers and acquisitions.
LHB / Trust Non-conformance	Report any non-performance by the LHB / Trust of its obligations under the agreement.
Conflict of Interest	Report any conflict of interest of which the Contractor becomes aware in relation to its activities under the agreement and its relationship with the LHB / Trust.

17.0 Right of Audit

- 17.1 The Contractor shall, on request by the NWSSP, provide full access at all reasonable times to the Authorised Officer and the LHB / Trust auditors or other duly authorised staff or agents and to the staff or agents of such public bodies or agencies as may from time to time be nominated by the NWSSP and/or the LHB / Trust :-
- 17.1.1 to offices and other work places of the Contractor where the Services are being performed for the purpose of monitoring and inspecting the provision of the Services;
 - 17.1.2 to offices and other work places of the Contractor where records or documents relating to the Services are kept for the purpose of inspecting any or all records and documents in the possession, custody or control of the Contractor in connection with the provision of those Services;
 - 17.1.3 to any Staff directly involved in the provision of the Services for the purpose of interviewing such persons in connection therewith;
 - 17.1.4 to technology, resources, Equipment, systems and procedures used or proposed to be used in connection with the provision of the Services and/or to obtain appropriate information and oral explanations of documents and other information; and
 - 17.1.5 to electronic information held in connection with this Agreement,
- 17.2 provided that where any LHB / Trust is or are acting on its or their own instigation rather than in response to a request of another public body or agency, it or they must co-ordinate requests for access through the NWSSP. The Contractor shall also cooperate in full with any request by the Authority and/or the LHB / Trust to carry out any audit which involves contact with Patients.
- 17.3 Except where an audit is imposed on the LHB / Trust by a Regulatory Body, the LHB / Trust may conduct an audit for the following purposes:-
- 17.3.1 to verify the accuracy of Fees (and proposed or actual variations to them in accordance with this Agreement);
 - 17.3.2 to review the Contractor's compliance with Data Protection Legislation and any other legislation applicable to the Services;
 - 17.3.3 to review any books of account kept by the Contractor in connection with the provision of the Services;
 - 17.3.4 to review the Contractor's compliance with the Standards;
 - 17.3.5 to carry out the audit and certification of any LHB / Trust accounts; and/or
 - 17.3.6 to review the Contractor's compliance with its obligations under this Agreement;
- 17.4 The LHB / Trust shall use their reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or adversely impact the provision of the Services.
- 17.5 For the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the LHB / Trust have used their resources, the Controller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise in control of the Contractor and

may require the Contractor to produce such oral or written explanation as he considers necessary. The Contractor acknowledges that it will fully co-operate with any counter fraud policy or investigation, whether carried out by the NHS Counter Fraud and Security Management Service, or any equivalent body, successor or function, or by the police or by any Home Office body at any time. For the avoidance of doubt it is hereby declared that the carrying out of any examination under section 6(3) (d) of the National Audit Act 1983 in relation to the Contractor is not a function exercisable under this Agreement.

17.6 If an audit identifies that:-

- 17.6.1 the Contractor has failed to perform its obligations under this Agreement in any material manner, the parties shall agree and implement a remedial plan;
- 17.6.2 the LHB / Trust have overpaid any Fees, the Contractor shall pay to the LHB / Trust the amount overpaid within 20 Business Days. The LHB / Trust may deduct the relevant amount from the Fees if the Contractor fails to make this payment; and
- 17.6.3 the LHB / Trust have underpaid any fees, the LHB / Trust shall pay to the Contractor the amount of the underpayment, less the cost of audit incurred by the LHB / Trust if this was due to a default by the Contractor in relation to invoicing, within 20 Business Days.

17.7 From time to time the LHB / Trust shall undertake an audit of the wheeled containers. The audit shall be undertaken by every LHB and Trust site which has a provision of wheeled containers for exchange.

17.8 The audit shall review the following:-

- 17.8.1 Bin cleanliness; inside and out;
- 17.8.2 Presence and functionality of a lid lock;
- 17.8.3 Presence and functionality of towing brackets where fitted
- 17.8.4 Presence and functionality of wheel castor locks
- 17.8.5 Presence and functionality of Wheel Brakes

18.0 Pre Acceptance Audits

- 18.1 Where requested, the Contractor shall be responsible for providing the service of Pre-Acceptance Audits at all sites within the Large Quantity Sites (LQ) portfolio. The Contractor will provide an online platform or similar system for the production of Small Quantity sites (SQ) Pre-Acceptance audits for completion by LHB / Trust. The contractor shall actively monitor compliance with Pre Acceptance deadlines and shall ensure that all of the sites within the contract have a fully completed audit.
- 18.2 The Contractor will provide an ongoing report as to the status of sites that have an audit in place, audits due to expire and an activity to address those sites to ensure ongoing conformance.
- 18.3 It shall be the responsibility of the Contractor to ensure that Pre-Acceptance Audits are completed to timescale and under no circumstance will any of the sites listed within this contract have a Pre-Acceptance audit that expires.
- 18.4 The contractor will have a dedicated resource to undertake the audits on behalf of the LHB / Trust and will provide full contact details for this resource to be accessed by the LHB / Trust.

- 18.5 Audit report shall be provided at each Service Review Meeting as per the agreed schedule.
- 18.6 The Contractor shall provide all LHBs / Trusts with a template document which can be used for the completion of all Pre Acceptance Audits required to be undertaken where required.
- 18.7 The completion tool shall be provided as a template only and will be made available at no cost to LHB / Trust staff.
- 18.8 For the avoidance of doubt it is agreed that the Contractor shall be responsible for the completion and verification of the audit for LQ sites.

SERVICES

19.0 Provision of training

- 19.1 The Contractor will conduct on-site risk assessments prior to development of a programme to ensure necessary issues are dealt with during training.
- 19.2 The Contractor will provide a copy of all on-site risk assessments to a designated employee of the LHB / Trust. Further copies of on-site risk assessments shall be provided upon request, at no cost to the LHB / Trust.
- 19.3 The Contractor will work with NHS Wales to segregate clinical waste and all pharmaceutical waste containing or contaminated with cyto-toxic or cyto-static products that are classified as hazardous requiring incineration in accordance with WHTM 07-01.
- 19.4 The segregation of non-infectious waste will be assisted by continued training programmes, literature and posters to assist in the understanding of the new procedures and to ensure correct segregation of different types of healthcare; hazardous and non-hazardous waste prior to collection.
- 19.5 The Contractor will provide a minimum of 2 training seminars, per LHB / Trust, per annum, to LHB / Trust employees with regards to the requirements of WHTM 07-01. All documentation and literature required in the delivery of this or any other training required by the LHB / Trust shall be provided free of charge by the Contractor.
- 19.6 The Contractor will assist the NHS in Wales with future changes through the provision of training, waste awareness days, seminars and literature.
- 19.7 The Account Manager and all staff employed by the Contractor shall work with the LHBs and Trusts to;
 - 19.7.1 Promote a culture of waste reduction in line with the National Waste Strategy for Wales;
 - 19.7.2 Provide sustainable solutions to the LHBs / Trusts for current and future waste legislation, including guidance and advice;
 - 19.7.3 Provide posters, handouts and segregation booklets to assist in the process.
 - 19.7.4 Develop controlled waste segregation practices to ensure the Hospital obtains best possible value for money;
 - 19.7.5 Concentrate particular emphasis on the segregation of 'offensive' healthcare waste from 'infectious' healthcare waste;

- 19.7.6 Provide personnel training to all staff that handle or are involved with waste e.g. safety, cost, efficiency, hygiene, control, documentation and equipment operation.

20.0 Collection of waste - Wheeled Bin Exchange

- 20.1 The Contractor will provide all Acute Hospital sites and Large Quantity (LQ) sites, as listed in **Appendix 3 – AW3811 Site & Price List**, with a wheeled bin exchange system. Full bins will be collected by the Contractor and replaced with clean, empty bins at all times.
- 20.2 The Contractor will provide the service promptly in a professional and courteous manner to the specifications and standards outlined within this document.
- 20.3 The Contractor must ensure that all collections are structured in a way to utilise vehicle capacity at operating hours that are amenable to each individual site.
- 20.4 A consignment note / waste transfer note as appropriate will be provided for each collection, by the contractor.
- 20.5 The Contractor will ensure that there is no disruption to Hospital activities or public access during scheduled collection times.
- 20.6 The Contractor will ensure collections are carried out as requested and can be rescheduled to accommodate fluctuations in generation. Changes in collection times must be agreed by the relevant manager at each site.
- 20.7 The above also applies to Small Quantity (SQ) sites whereby collections are structured in a way to utilise vehicle capacity at operating hours that are amenable to each individual site, allowing for lunch breaks or half day closure.
- 20.8 Those LQ and SQ sites who have 770 and 360 Litre Bins allocated by 'Each' on Appendix 3 – AW3811 Site & Price List, will require waste collection by decanting rather than Bin Exchange, with the bins remaining at site. Whilst it is appreciated that sites receiving collections under 'Each' are not exchanged on every collection, it is the responsibility of the Contractor to schedule exchanges of the wheelie bins to ensure their cleanliness is maintained to an acceptable standard. Any required maintenance or replacement will remain the responsibility of the Contractor within reasonable circumstances.

21.0 Provision of containers

- 21.1 The Contractor shall be responsible for the provision and maintenance of all containers required by LHBs and Trusts for the storage and collection, by the Contractor, of all Clinical Waste.
- 21.2 For the avoidance of doubt all containers / bins shall remain the property of the Contractor who shall also be responsible for all aspects of their maintenance to ensure full and proper working order. No cost shall be borne by the LHB / Trust in respect of the provision of these items or their maintenance and replacement.
- 21.3 The Contractor shall ensure that wheeled bins are made available to all sites utilising the contract in 770 and 360 litre capacities, or equivalent. The Contractor shall ensure that the following requirements are adhered to;
- 21.3.1 bins will meet all applicable standard in line with Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations 2011 (CDG2011) and will bear all appropriate marks;

- 21.3.2 bins and containers provided must use packaging which complies with the requirements of P621, IBC 620 or LP 621 in ADR 4.1.4.
- 21.3.3 Where the UN certification is limited by a specified period, wheelie bins should be replaced (or re-tested and certified) prior to expiry.
- 21.3.4 bins are supplied with non-marking wheels approx 200mm in diameter;
- 21.3.5 bins are yellow in colour and embossed with 'Clinical Waste Only' on two opposite sides
- 21.3.6 bins are supplied with lids which are lockable; – keys will be provided and additional keys will be available during the life of the contract at a nominal cost to the LHB / Trust.
- 21.3.7 bins are bar coded to facilitate an electronic tracking system;
- 21.3.8 770 litre (or equivalent) bins are fitted with tow bars
- 21.3.9 770 litre (or equivalent) bins have 4 swivelling wheels;
- 21.3.10 770 litre (or equivalent) bins have braking mechanisms fitted to two wheels;
- 21.3.11 770 litre (or equivalent) bins provide for storage and transport of infectious and non-infectious (tiger) waste, have width and depth dimensions not exceeding 131cms X 102cms respectively. Where necessary to maintain the 770 litre capacity of the bins where the overall height of the bin exceeds 140cms the bins shall have a "drop side" to facilitate loading and unloading of the bins.
- 21.4 The Contractor shall ensure that all bins delivered for use are clean, unsoiled and free from any debris or other materials which may pose a Health and Safety risk to LHB / Trust employees or the general public.
- 21.5 The Contractor shall maintain a reasonable volume of reserve stock containers, for use by the NHS in Wales, to protect against a risk event leading to a shortage of containers which may prevent the timely collection of Clinical Waste.
- 21.6 The Contractor shall also ensure skips for the collection and disposal of 180104 waste are made available as required under Appendix 12 – AW3811 180104 Skip Collections. Apart from the Compactor skips which are leased by the sites direct, all other skips shall be leased within the agreement by the Contractor.

22.0 Allocation of Containers

- 22.1 The quantity of 770 litre bins to be agreed by LHBs / Trusts and provided at each site. The number of containers will be at least equal to the current provision/requirements. An estimate of the required number of 770 litre bins required at LQ sites is provided in Appendix 10 – AW3811 LQ Frequency of collections and bin requirements.
- 22.2 For SQ sites, the quantity of 770 litre and 360 litre bins will also be agreed by LHBs / Trusts and allocated to each site. The number of containers will be at least equal to the current provision/requirement. An estimate of the required number of bins is provided in Appendix 11 – AW3811 SQ Frequency of collections and bin requirements.

23.0 Definition of a late and missed collection

- 23.1 For the purpose of this agreement the following definitions shall be applied to late and missed deliveries;
- 23.1.1 A late collection shall be defined as any collection which takes place one hour or more (but less than 4 hours) after the agreed collection time
 - 23.1.2 A missed collection shall be defined as any collection which takes place 4 hours or more after the agreed collection time (or does not take place at all)
- 23.2 The contractor shall be permitted to charge a no waste fee for instances where a scheduled collection has been attempted but failed due to reasons beyond the control of the contractor i.e. site closure.
- 23.2.1 The chargeable fee will be as submitted by the Contractor in the pricing schedule

24.0 Contingency arrangements for missed / late collections

- 24.1 The Contractor shall ensure that a robust contingency plan is in place to ensure that any disruption to collections is minimised.
- 24.2 As part of their contingency planning the Contractor shall ensure that as a minimum the contingency planning for transportation issues includes the following;
- 24.2.1 1 x "Relief Driver" available for deployment within 2 hours from initial requirement identification;
 - 24.2.2 1 x 42 (770 Litre bin) trailer, available for deployment within 1 hour from initial requirement identification;
 - 24.2.3 1 x 16 (770 Litre bin) trailer, available for deployment within 1 hour from initial requirement identification;
 - 24.2.4 1 x tractor unit, available for deployment within 1 hour from initial requirement identification
- 24.3 The above minimum requirements must be available in addition to any arrangements that the Contractor must make for the cover of annual leave, planned routine maintenance or other activity that is foreseeable and necessary to the regular business operation.

25.0 Bin washing

- 25.1 Once the contents of the bin have been discharged the Contractor shall ensure that each bin is washed and disinfected by means of an automated / mechanical washer. The bins must then be checked for cleanliness and debris before the bin is issued back to the NHS for use. This applies to all bin exchange collections under this contract.

26.0 Waste tracking and auditing

- 26.1 For the Duration of the contract the Contractor must ensure that a full waste tracking and auditing system is in use which as a minimum provides real time information in regards to:-

- 26.1.1 Date and time of collection;
 - 26.1.2 Identity of collection driver;
 - 26.1.3 The type of waste, by WHTM 07-01 code and description;
 - 26.1.4 Location of each container following collection;
 - 26.1.5 Consignment note and number assigned to the container of waste(s) collected;
 - 26.1.6 Quantity of bins removed;
 - 26.1.7 Weight of each bins and total weight of collection;
 - 26.1.8 Date and time of delivery to treatment plant;
 - 26.1.9 Time of disposal at treatment plant.
- 26.2 All NHS waste, Estates and Facilities Managers, where appropriate, shall have access to this information for individual site generators of waste.

27.0 Transportation of waste - Regulatory Compliance

- 27.1 The Contractor must hold a full, valid waste carriers license.
- 27.2 The Contractor must ensure that all drivers are compliant with the provisions of: -
 - 27.2.1 Council Regulation 3280/85/EEC relating to driver working hours;
 - 27.2.2 Council Regulation 3281/85/EC on the use tachographs; and
 - 27.2.3 The requirements of ADR and Carriage of Dangerous Goods Regulations.
- 27.3 It will be the Contractor's responsibility to only use vehicles that are serviced and repaired in accordance with the Road Freight Operators Licence.
- 27.4 The Contractor shall ensure that in the process of dispensing its obligations within this contract it shall comply with all and any relevant legislation which may apply from the outset of the contract and throughout.

28.0 Transport Services

- 28.1 The Contractor will utilise a dedicated fleet of vehicles to provide the Services. All Vehicles used shall be of a standard which is at least equal to the requirements placed upon them to operate a waste carrier's licence.
- 28.2 A Transport Manager will be appointed and made responsible for the management of all collections of clinical waste in relation to this contract.

29.0 Subcontracting of Transport Services

- 29.1 The Contractor may, at their decision, undertake to subcontract aspects of their transport and collection services. Prior to these engagements, the Authority and the LHBs / Trusts must provide written consent to allow the implementation of a sub-contracted transport service.

- 29.2 The subcontracted party shall be obliged to carry out all duties on behalf of the Contractor, as agreed, in line with the full requirements of the contract.
- 29.3 The Contractor will be required to directly manage sub-contracting arrangements.

30.0 Driver requirements

- 30.1 All drivers employed in the fulfilment of the contract shall be ADR/ CDGTPE trained.
- 30.2 All Drivers must comply with the Health and Safety requirements of each site which is called to as part of the contract. The drivers will at all times carry a Contractor photographic ID card with their full Name and unique ID number.
- 30.3 It shall be mandatory that all drivers are wearing a Contractor Uniform that clearly identifies them as being an employee or agent of the Contractor. Any overcoats / high-visibility garments shall also be identifiable in such a way that the driver can be identified as an employee / agent of the Contractor.
- 30.4 All Drivers and personnel undertaking works to service this contract shall be provided with all required personal protective apparel and equipment at the cost of the Contractor.
- 30.5 It shall be the responsibility of the Contractor to ensure that all personal protective apparel and equipment are used/worn at all times as per the Personal Protective Equipment at Work Regulations 1992.

31.0 Spillages in Transit

- 31.1 Drivers will be trained to deal with spillages during transportation.
- 31.2 The Contractor shall have an emergency response vehicle available to deal with 'in-transit' spillages.
- 31.3 The Contractor musts comply with applicable legislation covering the carriage of dangerous goods by road to include ADR 2013 and Carriage of Dangerous Goods and Pressure Equipment Regulations 2009 as amended.

32.0 Treatment and disposal of waste

- 32.1 All treatment and disposal of clinical waste will be undertaken in line with the relevant sector guidance notes issued by the regulator with appropriate Site Environmental Permits and or authorisations.
- 32.2 Contractors may use a range of treatments namely:
- 32.2.1 Heat Disinfection / Alternative Treatment
 - 32.2.2 Incineration of waste unsuitable for treatment
 - 32.2.3 Efforts to reduce, re-use, recycle waste and recover energy from waste.

33.0 Heat Disinfection Treatment or suitably approved alternative

- 33.1 The Heat Treatment plant or suitably approved alternative shall treat clinical waste without altering the chemical composition of the waste stream components. The process must be robust enough in that it is able to treat all clinical waste with the exception of anatomical, chemotherapeutic, pharmaceutical, radioactive waste and sharps waste contained with medicines.
- 33.2 A full description of the heat disinfection system or suitably approved alternative in operation must be provided to the Authority, any amendments to the system must be shared with NWSSP.
- 33.3 The Contractor shall ensure that a process control system is operated to ensure that treatment is carried out. The system must have in place parametric thresholds, which if compromised the system triggers alarms and fail safe actions up to and including total plant shut down.

34.0 Incineration

- 34.1 Containers containing incineration only wastes must be marked to ease identification and prevent contamination of heat disinfection materials.
- 34.2 Where necessary and appropriate, all anatomical waste should be kept frozen while it is stored prior to onward transport to an incineration facility.
- 34.3 The Contractor will be required to have sufficient storage capacity to ensure that those waste types requiring refrigeration under the conditions of the licence can be compliantly managed. In addition there must be a strict system of logging waste into and out of this freezer area. Should additional capacity be needed then that will be procured by the Contractor
- 34.4 The Contractor must use all reasonable means to ensure that emissions are continually monitored and the incineration plant is configured to minimise the impact on the environment.
- 34.5 All incineration plants must conform to the standard specified in the Waste Incineration Directive.
- 34.6 Radioactive waste will be collected and transported directly by the Contractor to the Contractors Clinical Waste incineration facility at a frequency of at least every 2 months or frequency as desired. The facility must be authorised under the Radioactive Substances Act 1993. The Contractor will be required to have an alternative facility available to dispose of radioactive waste and can act as a back-up facility if the need arises.

35.0 Waste minimisation and recycling

- 35.1 The Contractor must engage in delivering a programme of waste minimisation and recycling in line with the National Waste Strategy for Wales with a minimum annual waste reduction target of around 1.5%, as noted in **Appendix 13 – AW3811 Towards Zero Waste**.
- 35.2 The Contractor will provide an annual report outlining work being undertaken to actively investigate the potential to recover plastics, metals, and glass from the treated wastes and to utilise the materials recovered in a range of products such as sharps boxes.

36.0 Changes to the services

- 36.1 To the extent permitted by public procurement rules (including Directive 2004/18/EC and the Public Contracts Regulations 2006) at any time during the term of this Agreement, the Authority may require the Contractor to make variations to any part or parts of the Services and the Contractor may recommend, but not require, variations to any part or parts of the Services. If the Authority believes that they require a variation, then they will raise it with the Contractor in writing, along with the reasoning for such requested variation. For the avoidance of doubt, the Contractor will not be entitled to any fees or expenses for investigating the effect of implementing such variations and the Authority shall be under no obligation to agree to any variation, or investigation of a variation.
- 36.2 Until such time as a change is made in accordance with this Clause 36, the Contractor shall, unless otherwise agreed in writing, continue to supply the Services as if the request or recommendation had not been made.
- 36.3 Any discussions which may take place between the parties in connection with a request or recommendation before the authorisation of a resultant change to this Agreement shall be without prejudice to the rights of either party.
- 36.4 Any work undertaken by the Contractor, its subcontractors or agents which has not been otherwise agreed in accordance with the provisions of this Clause 36 shall be undertaken entirely at the expense and liability of the Contractor.
- 36.5 Discussion between the parties concerning a change requested or recommended pursuant to Clause 36.1 shall result in any one of the following:-
- 36.5.1 no further action being taken;
 - 36.5.2 a requirement to change issued by the Authority or a recommendation to change issued by the Contractor.
- 36.6 Where a change requirement is received from the Authority, the Contractor shall, unless otherwise agreed, submit a change control note ("**CCN**") to the Authority within 10 Business Days of the date of the request, including at least the information set out in Clause 36.8.
- 36.7 A recommendation to amend by the Contractor shall be submitted as a CCN direct to the Authority at the time of such recommendation.
- 36.8 Each CCN shall contain:-
- 36.8.1 the title of the change;
 - 36.8.2 the originator and date of the request or recommendation for the change;
 - 36.8.3 the reason for the change;
 - 36.8.4 full details of the change including any specifications;
 - 36.8.5 the reasonable adjustments to the Fees (which shall be calculated by reference to the then current Fees as far as possible), if any, together with full supporting calculations, resulting from the change;
 - 36.8.6 a reasonable timetable for implementation together with any proposals for acceptance of the change;
 - 36.8.7 a reasonable schedule of payments if appropriate;
 - 36.8.8 details of the reasonable impact, if any, of the change on other aspects of the Agreement including:-

- the Services;
- the term of the Agreement;
- the personnel to be provided;
- the Payment Mechanism;
- working arrangements; and
- other contractual issues;

36.8.9 the date of expiry of validity of the CCN which shall be not less than 90 days from the date of its submission to the Authority; and

36.8.10 provision for signature by the parties.

36.9 For each CCN submitted, the Authority shall, within the period of the validity of the CCN:-

36.9.1 evaluate the CCN together with the Authority and, as appropriate:-

- request further information;
- approve the CCN; or
- notify the Contractor of the rejection of the CCN and if appropriate the provisions of NHS Wales Conditions, clause 25 will apply; and

36.9.2 if approved, arrange for two copies of an approved CCN to be signed by the Authority and delivered to the Contractor.

36.10 On receipt of an approved CCN from the Authority, the Contractor shall promptly sign both copies and return one copy to the Authority. Once the CCN is signed by the Authority it shall constitute an amendment to this Agreement.

36.11 Notwithstanding the provisions of this Clause 36, nothing in this Agreement will oblige the Authority to seek and/or receive any varied service from the Contractor.

37.0 Exit Management

37.1 This Section deals with the processes which will apply to facilitate the discontinuation of all the Services on expiry of the Agreement. For the avoidance of doubt, on the Termination Date, all the Services will cease and will be completed (or deemed to be completed) save as expressly specified in the Agreement or provided by this Section.

37.2 The nature of each party' roles and obligations will be detailed in an Exit Plan which shall be prepared by the Contractor and agreed with the Authority and the LHB / Trust in accordance with the provisions of clause 3 of this Section. The Exit Plan shall comply with the provisions herein.

37.3 The Contractor shall use all reasonable endeavours to ensure that the Exit Plan shall not have any adverse effect on the provision of the Services and/or the Service Levels from the date the Expiry Notice (as defined in clause 37.4 below) has been served by the Authority on the Contractor until expiry of the Agreement.

37.4 The Authority shall notify the Contractor in writing no later than [three (3)] months prior to the Termination Date whether it wishes to extend the Agreement beyond the end of the Term (the "**Expiry Notice**"). Unless the Expiry Notice Specifies that the Authority wish to extend the Agreement, the Exit Plan shall commence on the day immediately following the Expiry Notice and shall continue until the Termination Date (the "**Exit Period**").

37.5 The Authority may request that the Contractor extend the Exit Period and the Contractor shall not unreasonably refuse or deny any such request. Where the Contractor agrees to extend

the Exit Period, the parties shall agree the term of such extension in writing and the Exit Period shall be extended accordingly (on the terms contained).

38.0 Exit Plan

- 38.1 The “**Outline Plan**” sets out an outline plan of the required content of the Exit Plan. These required elements shall be addressed by the Contractor in greater detail in a draft Exit Plan to be prepared by the Contractor no later than two (2) months after the Commencement Date.
- 38.2 The Authority shall, acting reasonably, respond with comments on the draft Exit Plan within four (4) weeks of its receipt. The Contractor shall produce a revised draft of the Exit Plan for approval within two (2) weeks of its receipt of comments from the Authority.
- 38.3 The agreed Exit Plan shall be reviewed by the parties and, if necessary, updated as follows:-
 - 38.3.1 if so requested by the Authority or the LHB / Trust, on an annual basis;
 - 38.3.2 upon the appointment of any Replacement Contractor (by the Authority; LHB / Trust, the Contractor and such Replacement Contractor as the case may be) to agree any required changes to be made to the Exit Plan, having regard to the methods, processes and strategy to be used by the Replacement Contractor for transfer of responsibility of the relevant Services; and
 - 38.3.3 within one (1) month of commencement of the Exit Period or such other date as agreed between the parties.
- 38.4 Either party may request changes to the Exit Plan at any time.
- 38.5 All changes to the Exit Plan will be dealt with in accordance with the Change Control Procedure.

39.0 Assistance and Obligations during the exit period

- 39.1 During the Exit Period the parties shall cooperate fully and in good faith with each other.
- 39.2 In order to give effect to its obligations under the Exit Plan, the Contractor shall, as soon as reasonably practicable after receiving the Expiry Notice, appoint an appropriately skilled and resourced representative, to manage the Exit Plan. The LHB / Trust and/or the Authority shall appoint their own appropriately skilled and resourced representative to facilitate and supervise the Contractor's provision of Exit Plan.
- 39.3 The Contractor shall use its reasonable endeavours to ensure that the Exit Plan is delivered in accordance with any agreed timetable(s) set out in the Exit Plan.
- 39.4 During the Exit Period, the Contractor shall provide progress reports to the Authority and the LHB / Trust (at frequencies agreed and set out in the Exit Plan) detailing progress (or any lack of progress) towards completion of all tasks referred to in the Exit Plan, by reference to any agreed timescales and/or milestones.

40.0 Outline Exit Plan

- 40.1 This clause outlines the minimum content, and structure, of the Exit Plan that will be developed by the Contractor no later than two (2) months following the Commencement Date. Subject to any variations permitted under this Schedule, the Exit Plan approved by the Authority shall be executed in full by the Contractor on expiry or termination of this Agreement.

40.2 The Exit Plan is intended to capture the activities that need to be performed by each party under this Schedule but is without prejudice to and does not limit the obligations in relation to such activities to be performed in accordance with this Agreement. The agreed Exit Plan shall be renewed and, if necessary, updated, in accordance with clause 3 of this Schedule to ensure it reflects the then current status of this Agreement and the Services.

40.3 The Exit Plan shall incorporate activities relating to:-

40.3.1 **Plan Management detailing:**

- For each of the Parties, an exit management team identifying specific roles and responsibilities at the individual level.
- Definition of the Exit Plan scope, required timelines and key milestones including description of:-
- the obligations of Contractor on expiry or termination, e.g., arranging for removal/uplifting of Equipment, and winding down of the Services generally;
- the obligations of the LHB / Trust and/or the Authority on expiry or termination, e.g. details of what happens to any Patient data and how (where appropriate) it is to be migrated.

40.3.2 Provision for the production and frequency of:-

- detailed activity list;
- highlight reports to keep the each party informed of major issues; and
- other related deliverables detailed in each of the following sections.

40.3.3 Reasonable steps to mitigate the costs which the LHB / Trust and/or the Authority may incur as a result of expiry or termination of this Agreement in whole or in part.

41.0 Assignment and Subcontracting

41.1 Subject to this clause 41 and clause 41.2 and as otherwise expressly provided in this Agreement, no party may assign the benefit (including any present, future or contingent interest or right to any sums or damages payable by either party under or in connection with this Agreement) or delegate the burden of this Agreement or otherwise subcontract, mortgage, charge or otherwise transfer or hold on trust any or all of its rights and obligations under this Agreement without the written consent of the other parties, such consent not being unreasonably withheld or delayed.

41.2 The Authority and/or the LHB / Trust may assign or transfer the whole or any part of the benefit of this Agreement to any public or private sector organisation which has, in their reasonable opinion, sufficient financial and personnel resources to perform the obligations of the Authority and/or the LHB / Trust under this Agreement. No consent will be required in respect of an assignment, delegation, or transfer of this Agreement by the Authority and/or the LHB / Trust to the Secretary of State for Health, any body within the National Health Service or to a successor body or any Authority as defined in Regulation 5(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations 2000 or private sector body taking responsibility for any element the commissioning or purchasing of the Services pursuant to NHS reforms.

41.3 The Contractor may not subcontract any or all of its rights and obligations under this Agreement without prior written consent of the Authority and/or the LHB / Trust, provided that this provision will not apply to the purchase by the Contractor of Equipment and materials. Any consent given by the Authority and/or the LHB / Trust under the provisions of this Clause will not relieve the Contractor of any liability for the performance of such obligations and the

Contractor will be responsible for the acts, default or neglect of any subcontractor or its agents, staff or own subcontractors in all respects as if they were the acts, defaults or neglect of the Contractor or its agents or staff (notwithstanding that the Authority and/or the LHB / Trust may, as a condition of giving consent to the Contractor to the subcontracting, require any manner of direct warranties, undertakings, guarantees or indemnities from such subcontractor concerning the provision of the Services and its compliance with this Agreement in all respects). In any event, the Contractor may not subcontract work any element of the Services which would amount in total to more than 20% of the annual value of this Agreement to the Contractor.

42.0 Employment Provisions

42.1 The Employees are as set out in Appendix 14 - AW3811 Employee Information and the following clauses relate to the **NHS Wales Conditions of Contract for the Supply of Services [February 2012]**.

42.1.1 Clause 29.2 (Re-Tendering and Handover) shall be modified as follows:

- The reference to clause 28.1 should read 29.1

42.1.2 Clause 29.3 (Re-Tendering and Handover) shall be modified as follows:

- The phrase 'Replacement Contractors' shall, in both places where it appears, be replaced with the word 'Bidder'.

43.0 Contractor Declaration

Please sign and date this document to acknowledge that you have read and understood the terms within. This document constitutes part of the contract with NHS Wales Shared Services Partnership - Procurement Services should your bid be accepted.

Organisation's name	
Signed	
Position	
Date	