

Appendix 6B Joint Working Agreement (JWA)

THIS AGREEMENT is made the 28th day of April 2008

BETWEEN

PLYMOUTH CITY COUNCIL of Civic Centre, Armada Way, Plymouth PL1 2AA

AND

DEVON COUNTY COUNCIL of County Hall, Topsham Road, Exeter, Devon EX2 4QD

AND

TORBAY COUNCIL of Town Hall, Castle Circus, Torquay TQ1 3DS

WHEREAS

- 1 The three Authorities are Waste Disposal Authorities under Section 30(2) of the Environmental Protection Act 1990 and are under a duty to dispose of controlled waste within their respective areas under Section 51 of the Environmental Protection Act 1990
- 2 The three Authorities have resolved to work together to seek a long term solution to their duties for the disposal of residual controlled waste by procuring a Contractor who will construct, provide and operate facilities for the treatment and disposal of such residual waste for the Authorities and by managing the resultant Contract on behalf of the Authorities

IT IS AGREED as follows :-

1 Interpretation

- 1.1 In this Agreement unless the context otherwise requires the following expressions have the following meanings –

“Agreement” means this Agreement comprising the terms and conditions together with the Schedules attached hereto

“The Authorities” means Plymouth City Council Devon County Council and Torbay Council and **“the Authority”** shall mean any one of the Authorities as the context dictates

“The Authority Lead Officer” shall mean the officer of each Authority appointed by that Authority in accordance with Clause 7 of the Agreement to ensure that that Authority provides sufficient support to secure the effective performance of the Project

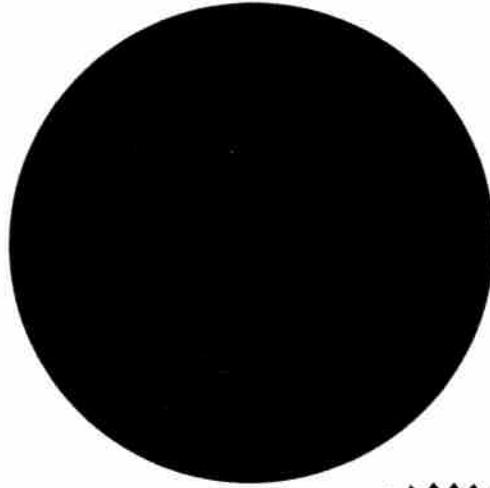
“The Bidders” means those organizations who have expressed an interest in and pre-qualified for carrying out the Contract and as may be reduced through the competitive dialogue process

“The Commencement Date” means the date on which the Agreement is executed by the Authorities

The Common Seals of **Plymouth City Council, Devon County Council and Torbay Council** were affixed hereto in the presence of the undersigned authorised signatories:

**THE COMMON SEAL OF
PLYMOUTH CITY COUNCIL**

was hereunto affixed in the presence of:





P.C.C. Authorised Signatory

**THE COMMON SEAL OF
DEVON COUNTY COUNCIL**

was hereunto affixed in the presence of:

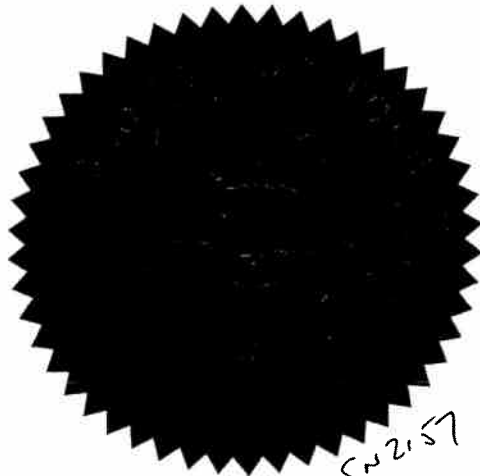


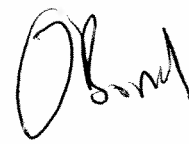

Assistant County Solicitor

DOCUMENT No. 38837

**THE COMMON SEAL OF
TORBAY COUNCIL**

was hereunto affixed in the presence of:




.....
Proper Officer &
Authorised Signatory

5/2/57

Plymouth City Council

and

Devon County Council

and

Torbay Council

Joint Working Agreement

For the Procurement and Management of
Residual Waste Treatment Facilities

THIS AGREEMENT is made the _____ day of _____ 2008

BETWEEN

PLYMOUTH CITY COUNCIL of Civic Centre, Armada Way, Plymouth PL1 2AA

AND

DEVON COUNTY COUNCIL of County Hall, Topsham Road, Exeter, Devon EX2 4QD

AND

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IT IS AGREED as follows :-

1 Interpretation

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“**Agreement**” means this Agreement comprising the terms and conditions together with the Schedules attached hereto

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“**The Authority Lead Officer**” shall mean the officer of each Authority appointed by that Authority in accordance with Clause 7 of the Agreement to ensure that that Authority provides sufficient support to secure the effective performance of the Project

“**The Bidders**” means those organizations who have expressed an interest in and pre-qualified for carrying out the Contract and as may be reduced through the competitive dialogue process

“**The Commencement Date**” means the date on which the Agreement is executed by the Authorities

“The Contract” means the contract for the treatment and disposal of residual waste on behalf of the Authorities which is procured under the Agreement

“The Contractor” means the contractor awarded the Contract by the Authorities in accordance with the Agreement

“DEFRA” means Department for Environment, Food and Rural Affairs

“The Joint Committee” means the Joint Committee established by the Authorities in accordance with the Constitution set out in Schedule C.

“The Lead Authority” means the Authority which in accordance with the Agreement the Project Executive has appointed to carry out a particular function on behalf of the Project.

“Loss” includes any loss and liability directly suffered by the Authority together with any damage expense liability or costs reasonably incurred in contesting any claim to liability and quantifying such loss and liability

“The Members” means the members of the Joint Committee, and **“Member”** shall mean a member of the Joint Committee

“The Preferred Bidder” means the Bidder selected by the Joint Committee as preferred bidder

“The Procurement” means the procurement of the Contract, and **“the Procurement Phase”** means that phase of the Project which relates to the procurement of the Contract

“ Procurement Cost Sharing Scheme” means the principles and arrangements set out in Schedule A

“The Project” means the shared object of the Authorities to secure the procurement of a Contractor who will construct provide and operate facilities for the treatment and disposal of residual waste for the Authorities and to manage the Contract to secure the most effective discharge of the Authorities’ functions in respect of the treatment and disposal of residual waste

“The Project Director” means the person appointed by the Joint Committee for the overall co-ordination and effective delivery of the Contract in accordance with Clause 5.5

“The Project Manager” means the person appointed by the Joint Committee to manage the day to day running and leading the procurement of the Contract in accordance with Clause 5.5

“The Project Executive” shall mean the team comprising the officers set out in Clause 8.2

“The Project Team” shall mean the team established in accordance with clause 8.

“The Executive Reserved Matters” means the decisions specified in Schedule D which are outside the powers delegated by the Joint Committee to the Chief Executive Officer of Plymouth City Council in his capacity as Chair of the Project Executive

“The Joint Committee Reserved Matters” means the decisions specified in clause 8.2 to Schedule C which are outside the powers delegated by the Authorities to the Joint Committee

“The Service Cost Allocation Scheme” means the principles and arrangements set out in Schedule B for determining the allocation of costs arising in managing the Contract and arising under the Contract as between the Authorities

“The Service Phase” means the phase of the Project related to the management of the Contract

“The Statutory Officers” shall mean the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer for the Authorities

“WIDP” means the Waste Infrastructure Development Programme of DEFRA

“Working Day” means any day on which the Authority’s offices are normally open for business

- 1.2 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended extended or re-enacted
- 1.3 Words importing the singular include the plural words importing any gender include every gender, words importing persons include bodies corporate and unincorporated; and (in each case) vice versa
- 1.4 Reference to clauses and schedules are references to clauses and schedules of the Agreement and any reference to a sub provision is unless otherwise stated a reference to a sub provision of the provision in which the reference appears
- 1.5 The clause and paragraph headings and titles appearing in the Agreement are for reference only and shall not affect its construction or interpretation

2 Term

This Agreement shall come into effect on the Commencement Date and shall continue in force in respect of the Authorities until the expiry of the Contract unless terminated in accordance with the terms of the Agreement

3 General Principles

- 3.1 The Agreement has been entered into by the Authorities to establish and effect provisions for performance of the Project and to clarify the Authorities’ responsibilities in respect thereof and to each other
- 3.2 The Authorities will work together in good faith and in an open co-operative and collaborative manner for the duration of the Agreement. The Authorities’ members and officers will work together in the spirit of mutual trust in order to endeavour to procure the successful implementation of the Project and will respond in a timely manner to all relevant requests from another Authority
- 3.3 Each of the Authorities hereby represents to the others that it has obtained all necessary consents sufficient to ensure the delegation of functions provided for by the Agreement for the purposes of the Project

3.4 The Authorities shall use all reasonable endeavours to procure that their respective members and officers who are involved in the Project shall at all times act in the best interests of the Project.

3.5 The Authorities commit to share data and knowledge relevant to the Project where appropriate and in accordance with the Data Protection Act 1998.

4 Status of the Agreement

4.1 The Authorities agree that the Agreement shall take the form of a legally binding relationship and mutual commitments between them created by the Agreement shall from the date hereof be construed accordingly

5 The Joint Committee

5.1 The Authorities agree to constitute the Joint Committee on the terms set out in the constitution attached to this Agreement as Schedule C

5.2 In appointing members to the Joint Committee each Authority will include among its appointees unless there are over-riding reasons to the contrary the member of the Executive of that Authority who has portfolio responsibility for waste functions within that Authority

5.3 Each member of the Joint Committee shall have responsibility for championing the Project within their own Authority and for securing as far as possible that any matter which is recommended to that Authority by the Joint Committee for decision shall be considered and determined expeditiously and having due regard to the benefits to the Authorities of the joint procurement and implementation of the Project

5.4 The Joint Committee Reserved Matters shall not be matters within the powers of the Joint Committee

5.5 The Joint Committee shall appoint a Secretary, Project Director and a Project Manager to undertake the duties set out in Schedules C, E and E (i) respectively

6 Officers

6.1 The Authorities shall make appropriate seconded officers available as necessary for the purpose of the Project to undertake such duties as are reasonably required by the Project Executive

6.2 When working on the Project such officers shall act under the direction of the Joint Committee, the Project Director, the Project Manager and the Project Executive

6.3 The officers shall record the time which they devote to the Project and shall report the same to the Project Director for the purpose of cost allocation between the Authorities.

7 Authority Lead Officers

7.1 Each Authority shall appoint one of its officers to be the Authority Lead Officer.

7.2 Each Authority Lead Officer shall be responsible for ensuring that his/her Authority provides the support necessary to secure the effective achievement of the Project.

In this context, “support” shall include the involvement and time of capable officers, the provision of information and the prompt consideration of matters referred to his/her Authority for determination

8 The Project Executive and The Project Team

- 8.1 The Project Executive and the Project Team shall have the functions set out in Schedules F and G respectively
- 8.2 The Project Executive shall consist of:
 - 8.2.1 The Project Executive Chair (Chief Executive Officer Plymouth City Council)
 - 8.2.2 The Project Director
 - 8.2.3 The Project Manager
 - 8.2.4 The Authority Lead Officers plus three more officers (one nominated by each Authority Lead Officer)
 - 8.2.5 WIDP Support Co-ordinator
 - 8.2.6 Plymouth City Council Internal Audit Representative
- 8.3 The Project Executive shall meet at such times dates and places as may be :–
 - 8.3.1 Agreed by the Project Executive or
 - 8.3.2 Notified to the members of the Project Executive by the Secretary to the Joint Committee

as may be necessary for the effective performance of the Project
- 8.4 The summons for meetings of the Project Executive shall be sent out by the Secretary to the Joint Committee and shall include such matters and reports as may be submitted to the Secretary by –
 - 8.4.1 Any member of the Project Executive
 - 8.4.2 A Statutory Officer of any Authority
- 8.5 The Secretary to the Joint Committee shall produce a record of the proceedings of the Project Executive and shall ensure that such record is reported to the next convenient meeting of the Joint Committee for information
- 8.6 In addition to the members of the Project Executive the following persons shall be entitled to attend and to speak at meetings of the Project Executive :–
 - 8.6.1 Any member of the Joint Committee
 - 8.6.2 A Statutory Officer of any Authority
 - 8.6.3 An officer of any Authority whom the Authority Lead Officer for that Authority determines it to be appropriate for them to attend

8.6.4 any adviser involved in the Project as the Project Executive wish to invite to attend

8.7 The Project Team shall meet at such times dates and places as may be:–

8.7.1 Agreed by the Project Team or

8.7.2 Notified to the members of the Project Team by the Project Director or Project Manager

as may be necessary for the effective performance of the Project and comprise such officers from each Authority as may be stipulated from time to time by the Project Executive

8.8 The notice for meetings of the Project Team shall be sent out by the Secretary to the Joint Committee and shall include such matters and reports as may be submitted to the Secretary by –

8.8.1 Any member of the Project Team or Project Executive

8.8.2 A Statutory Officer of any Authority

8.9 The membership of the Project Team shall not be fixed but officers will be summoned to attend as and when required. The Project Manager shall chair meetings of the Project Team.

8.10 The Secretary to the Joint Committee shall produce a record of the proceedings of the Project Team and shall ensure that such record is reported to the next convenient meeting of the Project Executive

8.11 In addition to the members of the Project Team the following persons shall be entitled to attend and to speak at meetings of the Project Team –

8.11.1 Any member of the Joint Committee or Project Executive

8.11.2 Any Statutory Officer of any Authority

8.11.3 An officer of any Authority whom the Authority Lead Officer for that Authority determines it to be appropriate for them to attend

8.11.4 Any adviser involved in the Project as the Project Team wish to invite to attend

9 Project Plan Work Programme and Resource Plan

9.1 The Project Manager in consultation with the Project Director and the appropriate officers of the Authorities shall prepare and keep up to date a Project Plan Work Programme and Resource Plan for the Project

10 Contracts

- 10.1 Where any person enters any contract or communicates with any prospective Bidder, Bidder or the Contractor on behalf of the Project, he/she shall make it clear in any such contract or communication that he/she does so on behalf of the Authorities subject to having the delegated authority to so do.

11 Liabilities, Immunity and Indemnities

11.1 Member and Officer Liability

- 11.1.1 When working as a member of the Joint Committee the members shall be deemed to be working on behalf of their own Authority even where the particular matter under consideration relates to or also relates to the other Authorities.
- 11.1.2 When working on the Project, officers shall be deemed to be working on behalf of both their employing Authority and made available and working on behalf of the other Authorities under Section 113 of the Local Government Act 1972
- 11.1.3 In consequence of the above both members and officers shall be treated as falling within the statutory immunity provided by Section 265 of the Public Health Act 1875 as amended in respect of their actions or omissions in respect of the Project.

11.2 Losses to each Authority

- 11.2.1 No Authority shall have any liability to the other Authorities in respect of any loss which that other Authority may suffer as a consequence of any action or omission by any officer whilst working on the Project on behalf of the Joint Committee or Project Executive or Project Team.

12 Land

- 12.1 Upon request from the Project Director each Authority shall provide the Project Director with a schedule in such form as may be prescribed by the Project Director of all land which it currently uses or proposes to use for the purpose of discharging its functions in respect of the treatment and disposal of residual waste together with such supporting information and documentation as the Project Director requires.
- 12.2 In inviting outline and detailed submissions for the Contract the Project Director shall supply each prospective and actual Bidder with a schedule of all such land and submissions shall be invited on the basis that all such land will be made available to the Contractor by the Authority which owns the land on commercial terms
- 12.3 "Commercial terms" means in this context the open market valuation of a lease of the land in its current state for the duration of the Contract or for so long as the land will be capable of reasonably beneficial use for the purpose of the Contract if shorter. Such commercial terms are to be as determined by the Authority which owns the land or where this is requested by the Preferred Bidder by independent valuation.

- 12.4 If the Preferred Bidder states in writing that it does not wish to take a lease of any particular land for the purpose of the Contract the Authority which owns the land shall be at liberty to appropriate or dispose of the land at its absolute discretion
- 12.5 If the Preferred Bidder states in writing that it does wish to take a lease of any particular land for the purpose of the Contract the Authority which owns the land shall use all reasonable endeavours to agree and grant a lease to the Contractor on such commercial terms
- 12.6 Where an Authority has included any land on a schedule for the purpose of Clause 12.1, that Authority shall keep that land available for lease to the Contractor in accordance with this Agreement, until the Project Director notifies the Authority that the land is not required for the Contract or that the Preferred Bidder has stated that is the case in accordance with Clause 12.4.
- 12.7 Any rent or consideration received by the Authority in respect of land leased to the Contractor under this Clause, and any costs incurred by the Authority in pursuance of this Clause, shall be an income to or expense of the Authority and shall not be rechargeable under this Agreement

13 Lead Authority

- 13.1 The Lead Authority for any function shall act on behalf of the Authorities in respect of that function.
- 13.2 The Lead Authority shall act under the direction of the Project Executive
- 13.3 Where the Lead Authority for any function incurs any costs or liability in discharging this function the officer of the Lead Authority discharging that function shall inform the Project Director promptly of that cost or liability which shall be borne by the Authorities in accordance with Schedule A or Schedule B as appropriate.

14 Intellectual Property

- 14.1 All intellectual property in any material created by or on behalf of the Project shall be owned jointly by the Authorities and shall be available equally to the Authorities.
- 14.2 Each Authority warrants that any intellectual property created by its officers for the purposes of the Project will not infringe any third party's intellectual property rights
- 14.3 Each Authority shall indemnify the other Authorities against any loss arising out of any dispute or proceedings brought by a third party alleging infringement of its intellectual property rights by use of the first Authority's intellectual property for the purpose of the Project

15 Cost Allocation

- 15.1 The Authorities shall share the costs reasonably incurred by them in respect of the Procurement Phase of the Project in accordance with the Procurement Cost Sharing Scheme set out in Schedule A
- 15.2 The Authorities shall share the costs reasonably incurred by them in respect of the Service Phase of the Project in accordance with the Service Cost Allocation Scheme set out in Schedule B

16 Remediation

- 16.1 At any time the Chief Executive of any Authority (“the issuing authority”) may serve on the Chief Executive of another Authority or Authorities (“the recipient authority”) a “Default Notice” alleging that that Authority or Authorities as the case may be has failed to comply with its obligations under the Agreement setting out any suggested remedial action and any damage which the first authority has or is likely to suffer as a result of the alleged failure
- 16.2 An Authority or Authorities in receipt of a Default Notice shall have 14 days within which to serve on the Chief Executive of the issuing authority a “Counter notice” setting out in respect of every matter contained in the Default Notice proposals for the remediation of the alleged failure and making good any loss which the first authority may have suffered or may suffer as a result of the failure or the reasons why that alleged failure is disputed
- 16.3 Within 14 days of receipt of a Counter notice the Chief Executive of the issuing authority shall send to the Chief Executive of the recipient authority a “Notice of Acceptance” of any proposals contained in the Counter notice in so far as those proposals are accepted by the issuing authority, and may send a “Notice of Dispute” in so far as any proposal not acceptable to the issuing authority is contained in the Counter notice setting out in respect of each proposal which is not accepted by the issuing authority why it is considered to be unacceptable.
- 16.4 Where any proposal in a Counter notice is accepted in a Notice of Acceptance the recipient authority shall implement that proposal.
- 16.5 Where any matter is contained in a Dispute Notice it shall fall to be dealt with under the Dispute Resolution Procedure set out in Clause 21. Before implementing the Dispute Resolution Procedure the Authorities may by agreement refer the dispute to WIDP in order to seek their opinion.

17 Withdrawal and Indemnity for Consequences of Withdrawal

- 17.1 Each Authority acknowledges that if it withdraws from this Agreement during the Procurement Phase that withdrawal is likely to cause additional cost to the other Authorities including but not limited to:
- the cost of undertaking a new procurement
 - the costs attendant upon the delayed availability of the facilities which would otherwise have enabled them to secure the effective treatment and disposal of residual waste thereby reducing their liability for Landfill Tax and minimising their need to purchase additional LATS (Landfill Allowance Trading Scheme) allowances.
- 17.2 Each Authority acknowledges that if it withdraws from this Agreement during the Service Phase of the Project that withdrawal is likely to cause additional cost to the other Authorities including but not limited to:
- any claims which the Contractor may have against the Authorities as a result of the failure on the part of the Authorities to comply with the Contract
 - the cost to the other Authorities of procuring a new Contract with a third party or of negotiating a new or renegotiated Contract with the Contractor

- the loss to the other Authorities of the use of the Contractor's facilities during this process with the result that the other Authorities may incur additional Landfill Tax costs and need to purchase additional LATS (Landfill Allowance Trading Scheme) allowances.
- 17.3 Any Authority may withdraw from this Agreement by giving three month's written notice during the Procurement Phase and twenty four months written notice during the Service Phase to the others.
- 17.4 Each Authority agrees that in the event that it gives notice of withdrawal to the others it will indemnify the others against any Loss which those others may suffer as a result of its withdrawal from the Agreement
- 17.5 Where any Authority withdraws from the Agreement –
- 17.5.1 The Agreement shall continue in force as respect any financial liabilities which have or may arise out of the performance of this Agreement and the Contract;
- 17.5.2 The Agreement shall remain in force in respect of any liability of any Authority to indemnify the others under any provision of the Agreement; and
- 17.5.3 The Disputes Procedure set out in clause 21 of the Agreement shall remain in force in respect of any of the matters arising from the performance of or withdrawal of any Authority under the Agreement.

18 Confidential Information

- 18.1 Subject to clause 19 the Authorities shall at all times use their reasonable endeavours to keep confidential (and to procure that their respective employees agents consultants and sub-contractors shall keep confidential) all Confidential Information concerning the Project or the business and affairs of the other Authorities which may now or at any time hereafter be in its possession and shall not disclose it except with the consent of the other Authorities such consent not to be unreasonably withheld.
- 18.2 For the purpose of the Agreement "Confidential Information" means any information imparted to any Authority or their employees agents consultants or sub-contractors ("the Receiving Party") which was imparted to the Receiving Party on the basis that it is to be kept confidential or would by its nature normally be regarded as being confidential or to the knowledge of the Receiving Party was obtained by the other Authority or Authorities on the basis that it was to be kept confidential or is of commercial value in relation to the Project but shall not include any information which is for the time being in the public domain otherwise than by reason of its wrongful disclosure by the Receiving Party.
- 18.3 This clause 18 shall continue without limit of time and shall survive the termination of the Agreement.
- 18.4 This clause 18 shall not prevent the disclosure of any Confidential Information relating to the Project which is reasonably disclosed for the furtherance of the Project or the promotion of the Project provided that the Authority or person

disclosing the information takes all steps that are commercially practicable to preserve the confidentiality of the information and shall not prevent the disclosure of any Confidential Information where required by law.

19 Compliance with Laws

- 19.1 The Authorities shall at all times comply with all laws including but not limited to the Data Protection Act 1998 and will where appropriate maintain a valid and up to date registration or notification under such Laws.
- 19.2 Each Authority shall indemnify and keep indemnified the others against all losses claims damages liabilities costs and expense (including reasonable legal costs) incurred by the others in respect of any breach of this clause by the Authority and/or any act or omission of any sub-contractor.
- 19.3 Each Authority shall grant to the others the right of reasonable access to all records of Personal Data relevant to the Project as defined in the Data Protection Act 1998 and subject to the provisions of that Act and shall provide reasonable assistance at all times during the currency of the Agreement to ensure the quality and security of data collected.

20 Freedom of Information Act 2000 and Environmental Information Regulations 2004

- 20.1 Each Authority acknowledges that the others are subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and each Authority shall where reasonable assist and co-operate with the others (at their own expense) to enable the others to comply with these information disclosure obligations.
- 20.2 Where an Authority receives a request for information under either the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 in relation to information which it is holding on behalf of any of the other Authorities in relation to the Project it shall:
 - 20.2.1 transfer the request for information to the other Authority or Authorities as the case may be as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;
 - 20.2.2 provide the other Authority or Authorities with a copy of all information in its possession or power in the form that the Authority requires within ten Working Days (or such longer period as the Authority may specify) of the Authority requesting that information; and
 - 20.2.3 provide all necessary assistance as reasonably requested by the other Authority or Authorities to enable the Authority to respond to a request for information within the time for compliance set out in the FOIA or the EIR.
- 20.3 Where an Authority receives a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 which relates to the Agreement or the Project, it shall inform the others of the request for information as soon as practicable after receipt and in any event at least two

Working Days before disclosure and shall use all reasonable endeavours to consult with the others prior to disclosure and shall consider all representations made by the others in relation to the decision whether or not to disclose the information requested.

20.4 The Authorities shall be responsible for determining in their absolute discretion whether any information requested under the Freedom of Information Act 2004 or the Environmental Information Regulations 2004:

20.4.1 is exempt from disclosure under the FOIA or the EIR;

20.4.2 is to be disclosed in response to a request for information.

20.5 Each Authority acknowledges that the others may be obliged under the FOIA or the EIR to disclose information:

20.5.1 without consulting with the others where it has not been practicable to achieve such consultation; or

20.5.2 following consultation with the other Authority and having taken their views into account.

21 Dispute Resolution

21.1 Upon service of a Notice of Dispute the Authorities will attempt to settle the issue in dispute ("Dispute") by mediation in accordance with the Centre for Dispute Resolution ("CEDR") Model Mediation Procedure or any other model mediation procedure as agreed by the Authorities. To initiate a mediation any Authority may give notice in writing (a "Mediation Notice") to the others requesting mediation of the Dispute and shall send a copy thereof to CEDR or an equivalent mediation organisation as agreed by the Authorities asking them to nominate a mediator. The mediation shall commence within twenty (20) Working Days of the Mediation Notice being served. If there is any point in respect of the conduct of the mediation upon which the Authorities are unable to agree within ten (10) Working Days from the date of the Mediation Notice, CEDR will, at the request of any Authority, decide that point for the Authorities, having consulted with them. The Authorities will co-operate with any person appointed as mediator providing him with such information and other assistance as he shall require and will pay his costs as he shall determine or, in the absence of such determination, such costs will be shared equally. In addition the Authorities may agree to submit the dispute to WIDP for that organisation to express an opinion.

21.2 No Authority may commence any court proceedings in relation to any Dispute until they have attempted to settle it by mediation under clause 21.1 and/or such mediation has terminated. The Authorities will take no further steps in the court proceedings until any such mediation commenced under clause 21.1 has terminated. Nothing in this clause 21 shall prevent an Authority from having recourse to a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or such other provisional judicial relief as it considers necessary to avoid irreparable damage.

21.3 If the Dispute has not been resolved by the mediation procedure detailed in clause 21.1 within one (1) month of the initiation of such procedure the Dispute shall be referred to the courts for resolution.

22 Severance

22.1 If any condition provision or clause of this Agreement shall become or shall be declared by any court of competent jurisdiction to be void invalid illegal or unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

23 Entire Agreement

23.1 This Agreement constitutes the entire agreement and understanding of the Authorities and supersedes any previous agreement between the Authorities relating to the subject matter of the Agreement.

24 Waiver

24.1 The failure to exercise or delay in exercising a right or remedy provided by the Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.

24.2 A waiver of a breach of any of the terms of the Agreement or of a default under the Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of the Agreement.

24.3 A waiver of a breach of any of the terms of the Agreement or of a default under the Agreement will not prevent an Authority from subsequently requiring compliance with the waived obligation.

25 General

25.1 Nothing contained or implied herein shall prejudice or affect the Authorities' rights and powers duties and obligations in the exercise of their functions as local authorities and/or in any other capacity and all rights powers discretions duties and obligations of the Authorities under all Laws may at all times be fully and effectually exercised as if the Authorities were not party to the Agreement and as if the Agreement had not been made.

25.2 The Authorities shall only represent themselves as being an agent partner or employee of any other Authority to the extent specified by the Agreement and shall not hold themselves out as such nor as having any power or authority to incur any obligation of any nature express or implied on behalf of any other Authority except to the extent specified in the Agreement

25.3 The Agreement shall be governed by and construed in accordance with the law of England and Wales and shall be subject to the jurisdiction of the Courts of England and Wales.

25.4 The Agreement is personal to the Authorities and no Authority shall assign transfer or purport to assign or transfer to any other persons any of its rights or sub-contract any of its obligations under the Agreement.

25.5 No person other than the Authorities shall be entitled to enforce any of the terms of the Agreement under the Contracts (Rights of Third Parties) Act 1999.

Any notice required or permitted to be given by an Authority to the other or others under this Agreement shall be in writing and addressed to the Chief Executive of the other Authority or Authorities at their principal offices.

26 PFI Credits

26.1 The Authorities acknowledge that the joint working arrangements set out in this Agreement are designed to facilitate the grant of Private Finance Initiative Credits by the Government of the United Kingdom of Great Britain and Northern Ireland. If those credits prove not to be available or prove to be less than anticipated by the Authorities (as set out in the Outline Business Case for the Project) each Authority wishes to have the ability to withdraw from this Agreement without further consequence (save for any existing claims that there might be arising from this Agreement or otherwise but for the avoidance of doubt excluding claims under section 17(4)). Therefore:

26.1.1 Notwithstanding the provisions of clause 17 any Authority may withdraw from this Agreement at any time before 25th December 2008 by serving written notice on the others in the event that:

- a. Private Finance Initiative Credits are not available or
- b. The available Private Finance Initiative Credits are less than the Private Finance Initiative credits anticipated in the Outline Business Case for the Project

IN WITNESS whereof the parties hereto have executed the Agreement as a Deed the day and year first written

The Common Seals of **Plymouth City Council, Devon County Council and Torbay Council** were affixed hereto in the presence of the undersigned authorised signatories:

**THE COMMON SEAL OF
PLYMOUTH CITY COUNCIL**

was hereunto affixed in the presence of:

**THE COMMON SEAL OF
DEVON COUNTY COUNCIL**

was hereunto affixed in the presence of:

**THE COMMON SEAL OF
TORBAY COUNCIL**

was hereunto affixed in the presence of:

Schedule A

Procurement Cost Sharing Scheme

- 1 The Principle shall be that the costs of undertaking the Procurement Phase of the Project shall be shared equally between the Authorities
- 2 For this purpose the costs of undertaking the Procurement Phase (“Procurement Costs”) shall comprise:
 - 2.1 The salary and on-costs reasonably incurred by the Authorities in employing and supporting the Project Director, Project Manager, Secretary and officers provided by the Authorities in accordance with the Agreement calculated pro rata in respect of the time which they actually spend working on the Project on behalf of the Joint Committee and Project Executive
 - 2.2 Costs incurred for the purposes of the Project on the instruction of the Joint Committee the Project Executive the Project Director or the Project Manager including costs legitimately incurred prior to the date hereof and not limited to:
 - 2.2.1 consultant’s fees
 - 2.2.2 advertising costs
 - 2.2.3 costs of site development and site feasibility investigations e.g. topographical survey scoping report land-use studies contaminated land assessment visual impact studies environmental impact assessment and background studies marketing communications and specific site visit costs associated with investigating a site and/or taking forward a site specific planning permission including underwriting planning costs post preferred bidder
 - 2.2.4 costs of running a dedicated Project Office at Plymouth City Council
- 3 For this purpose, the Procurement Costs shall not include:
 - 3.1 Costs incurred by any Authority in undertaking any remedial action arising under Clause 17 of the Agreement
- 4 Each Authority shall be responsible for securing that any Procurement Costs incurred by that Authority are notified to the Project Director promptly
- 5 The Project Director shall –
 - 5.1 Receive all notifications of claimed Procurement Costs and confirm that such Costs have been properly incurred for the purpose of this Schedule or otherwise as the case may be

- 5.2 Maintain a record of all such accepted claims for Procurement Costs and calculate on a monthly basis any payment required from an Authority to the others to achieve the principle set out in Paragraph 1 above
- 5.3 Provide each Authority with a bi-monthly statement of Procurement Cost expenditure against the Budget approved for the Procurement Phase of the Project by the Project Executive, including a statement of the payment ("Equalisation Payment") required to be made by any Authority to achieve the Principle set out in Paragraph 1 above.
- 6 Within 30 days of receipt of a statement from the Project Director each Authority shall make any Equalisation Payment to the other Authority or Authorities as set out in that statement.

Schedule B

Service Cost Allocation Scheme

- 1 Contract Management Costs
 - 1.1 The principles which the Authorities will seek to apply to the allocation between the Authorities of the costs of managing the Contract on behalf of the Authorities (“the Contract Management Costs”) is that such costs shall be met by each Authority in proportion to that Authority’s tonnage of residual domestic waste delivered to the Contractor as a proportion of the aggregate tonnage of residual domestic waste delivered to the Contractor by all Authorities over the same period.
 - 1.2 For this purpose the Contract Management Costs shall comprise –
 - 1.2.1 the salary and on-costs reasonably incurred by the Authorities in employing and supporting the Project Director, Project Manager and officers provided by them in accordance with the Agreement calculated pro rata in respect of the time which they actually spend working on the Project on behalf of the Joint Committee and Project Executive
 - 1.2.2 costs incurred for the purposes of the Project on the instruction of the Joint Committee the Project Executive the Project Director or the Project Manager
 - 1.3 For this purpose the Contract Management Costs shall not include:
 - 1.3.1 Costs incurred by any Authority in undertaking any remedial action arising under Clause 17 of the Agreement
- 2 Contract Costs
 - 2.1 The exact formula for cost allocation between the Authorities of the charges from the Contractor to the Authorities cannot be determined until the terms of the Contract are ascertained at which time the Project Executive will recommend to each Authority for approval an amendment to this Schedule which applies the following principles to the terms of the Contract.
 - 2.2 The principles which the Authorities will seek to apply to the allocation between the Authorities of the charges by the Contractor to the Authorities under the Contract (“the Contract Costs”) are as follows –
 - 2.2.1 that each Authority shall meet that proportion of these costs which is proportional in any period to the Authority’s delivery of residual domestic waste to the Contractor in the same period (“the tonnage proportion”);
 - 2.2.2 that each Authority shall be responsible for any extra charges which arise from the fact that its own delivery of residual domestic waste to

the Contractor in any period exceeds their proportion of the specified maximum tonnage which will be identified in the Final Business Case which the Authorities intend submitting to DEFRA (the Percentage Split”) and

- 2.2.3 that each Authority shall have an obligation to deliver to the Contractor that proportion of the specified minimum tonnage which equates to the Percentage Split
- 2.3 For the purpose of illustrating how the Authorities understand that the principle will be applied to the actual terms of the Contract it is assumed –
 - 2.3.1 that the Contract will be entered by all Authorities and that each Authority shall be jointly and severally liable for the entire Service Costs arising under the Contract;
 - 2.3.2 that the Contract Management Costs will exclude the costs set out in Paragraph 3, below;
 - 2.3.3 that the Contract will specify a charge to the Authorities per tonne of residual waste delivered to the Contractor and that this charge will be constant where the aggregate tonnage of residual waste delivered by the Authorities in a defined period is no more than a specified maximum tonnage and no less than a specified minimum tonnage (“the standard charge”) but that a higher charge per tonne will be specified in respect of any residual waste delivered in excess of the specified maximum tonnage in any period (“the excess tonnage charge”), and that a higher (but not necessarily the same) charge per tonne for all residual waste delivered and/or a minimum total charge irrespective of tonnage will be specified where the aggregate tonnage falls below the specified minimum tonnage in any period.
- 2.4 On the basis of the assumptions set out in Paragraph 2.3 –
 - 2.4.1 Where the aggregate tonnage delivered to the Contractor in a period falls between the specified maximum and the specified minimum tonnages each Authority shall meet the tonnage proportion of the Contract Costs arising at the standard charge rate in respect of the actual tonnage delivered to the Contractor in that period.
 - 2.4.2 Where the aggregate tonnage delivered to the Contractor in a period exceeds the specified maximum tonnage –
 - 2.4.2.1 Where an Authority has delivered no more than that Authority’s Percentage Split of the specified maximum tonnage in that period that Authority shall be liable only for the standard charge on the tonnage which that Authority has actually delivered to the Contractor in the period and the other Authority or Authorities shall be liable for all other contract costs including all charges arising at the excess tonnage charge rate in respect of that tonnage delivered to the Contractor in excess of that Authority’s Percentage Split of the specified maximum tonnage

2.4.2.2 Where each Authority has delivered more than their Percentage Split of the specified maximum tonnage in that period each Authority shall be liable for the standard charge in respect of that tonnage which it has delivered to the Contractor and which does not exceed the Authority's Percentage Split of the specified maximum tonnage and shall be liable for the excess tonnage charge in respect of that tonnage which the Authority has delivered to the Contractor in excess of the Authority's Percentage Split of the specified maximum tonnage in that period.

2.4.3 Where the aggregate tonnage delivered by the Authorities to the Contractor in a period is less than the specified minimum tonnage –

2.4.3.1 Where an Authority has delivered to the Contractor a volume equal to or greater than the Authority's Percentage Split of the specified minimum tonnage that Authority shall be liable only for the standard charge on the tonnage which that Authority has actually delivered to the Contractor in the period and the other Authority or Authorities shall be liable for all other contract costs arising in that period in relation to the tonnage which that Authority has failed to deliver to the Contractor below that Authority's Percentage Split of the specified minimum tonnage

2.4.3.2 Where no Authority has delivered to the Contractor that Authority's Percentage Split of the specified minimum tonnage in that period each Authority shall be liable for the Percentage Split of the total contract costs arising in that period.

3 Contract Damages

3.1 For this purpose, "Contract Costs" shall not include any damages penalties or other payments which the Contractor may be entitled to receive as a result of any breach of the Contract by any or all Authorities ("Contract Damages")

3.2 The Principles to be applied in respect of Contract Damages are –

3.2.1 that each Authority shall be liable for any Contract Damages arising from its own failure to comply with the Contract, and

3.2.2 that each Authority shall be liable for the Percentage Split applicable to that Authority of any Contract Damages arising from the failure of all Authorities to comply with the Contract unless the Authorities agree an alternative division of liability in any particular case to reflect the relative responsibility of each Authority for the events giving rise to the Contract Damages.

Schedule C

Plymouth City Council and Devon County Council and Torbay Council

South West Devon Waste Partnership Joint Committee

Constitution

This Constitution has been approved by Plymouth City Council and Devon County Council and Torbay Council as the Constitution of the Joint Committee.

1 Establishment of the Joint Committee

- 1.1 The Joint Committee shall be the “South West Devon Waste Partnership Joint Committee”
- 1.2 The Joint Committee is established under Section 101(5) of the Local Government Act 1972, as applied by Section 20 of the Local Government Act 2000 and Regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2000 by the Executives of Plymouth City Council and Devon County Council and Torbay Council.

2 Objectives

- 2.1 The purpose of the three authorities in establishing the Joint Committee is to facilitate the joint procurement of, and the subsequent operation and management of, facilities for the treatment and disposal of residual waste in pursuance of the waste disposal functions of the three authorities arising under Section 51 of the Environmental Protection Act 1990.

3 Membership and Appointment of the Joint Committee

- 3.1 The Joint Committee shall comprise six members, two being appointed by the Executives of each Council. Each appointing authority shall, unless there are over-riding reasons to the contrary, appoint to the Joint Committee the member of the Executive of that authority who has portfolio responsibility for waste functions within that authority. In addition, each Authority shall make arrangements for one member of the/an opposition party to attend all meetings of the Joint Committee in the capacity of observer.
- 3.2 Each member of the Joint Committee shall be appointed for the term of office, or the balance of the term of office, of the Executive of the appointing authority.
- 3.3 The appointment of members of the Joint Committee to fill any vacancy for such members shall be made by the Executives of each authority –
 - 3.3.1 as soon as practicable following the adoption of this Constitution by the Executive of that authority;

- 3.3.2 as soon as practicable after the election of the Executive of that authority in accordance with that authority's Constitution; and
 - 3.3.3 as soon as practicable after a vacancy arises in respect of a seat on the Joint Committee to which the Executive of that authority has the power to make an appointment.
- 3.4 A member of the Joint Committee shall cease to be a member of the Joint Committee, and a vacancy shall automatically arise, where –
- 3.4.1 The member ceases to be, or is suspended under Part III of the Local Government Act 2000 from acting as, –
 - 3.4.1.1 a member of the appointing authority, or
 - 3.4.1.2 a member of the Executive of the appointing authority;
 - 3.4.2 The member is removed from membership of the Joint Committee by notification in writing from the Leader or Mayor of the appointing authority to the Secretary of the Joint Committee;
 - 3.4.3 The member fails to attend all meetings of the Joint Committee within a period of 6 months
- 3.5 All appointments to membership of the Joint Committee shall be made by notification in writing from the Leader or Mayor or Chief Executive of the appointing authority to the Secretary of the Joint Committee.
- 3.6 Upon being made aware of any member ceasing to be a member of the Joint Committee the Secretary of the Committee shall write to that member confirming that he/she has ceased to be a member of the Joint Committee and notify the appointing authority and the other members of the Joint Committee accordingly

4 Chairman and Vice-Chairman of the Joint Committee

- 4.1 At the first meeting of the Joint Committee after the 1st May in any year the Joint Committee shall elect a Chairman of the Joint Committee and a Vice-Chairman of the Joint Committee for the following year from among the members of the Joint Committee.
- 4.2 Where a member of one appointing authority is elected as the Chairman of the Joint Committee, the Vice-Chairman of the Joint Committee shall be shall elected from among the members of the Joint Committee who are members of one of the other appointing authorities.
- 4.3 The Chairman and the Vice-Chairman of the Joint Committee shall each hold office until –
 - 4.3.1 A new Chairman or Vice-Chairman of the Joint Committee is elected in accordance with Paragraph 4.1 above,
 - 4.3.2 He/she ceases to be a member of the Joint Committee, or
 - 4.3.3 He/she resigns from the office of Chairman or Vice-Chairman by notification in writing to the Secretary of the Joint Committee.

4.4 Where a casual vacancy arises in the office of Chairman or Vice-Chairman of the Joint Committee the Joint Committee shall at its next meeting elect a Chairman or Vice-Chairman, as the case may be, for the balance of the term of office of the previous Chairman or Vice-Chairman.

4.5 Where, at any meeting or part of a meeting of the Joint Committee, both the Chairman and the Vice-Chairman of the Joint Committee are either absent or unable to act as Chairman or Vice-Chairman the Joint Committee shall elect one of the members of the Joint Committee present at the meeting to preside for the balance of that meeting or part of the meeting as appropriate.

5 Secretary to the Joint Committee

5.1 The Joint Committee shall be supported by the Secretary to the Joint Committee.

5.2 The Secretary of the Joint Committee shall be an officer of one of the appointing authorities appointed by the Joint Committee for this purpose.

5.3 The functions of the Secretary of the Joint Committee shall be –

5.3.1 To maintain a record of membership of the Joint Committee

5.3.2 To notify the proper officers of each appointing authority of any anticipated “key decisions” to be taken by the Joint Committee, to enable such “key decisions” to be included in the Forward Plans of each appointing authority

5.3.3 To carry out such notification to and consultation with members of all appointing authorities as may be necessary to enable the Joint Committee to take urgent “key decisions” which have not been included in the Forward Plans of the appointing authorities

5.3.4 To summon meetings of the Joint Committee in accordance with Paragraph 6 below

5.3.5 To prepare and send out the agenda for meetings of the Joint Committee in consultation with the Chairman and the Vice-Chairman of the Committee and the Chair of the Project Executive

5.3.6 To keep a record of the proceedings of the Joint Committee

5.3.7 To take such administrative action as may be necessary to give effect to decisions of the Joint Committee

5.3.8 Such other functions as may be determined by the Joint Committee

6 Convening of Meetings of the Joint Committee

6.1 Meetings of the Joint Committee shall be held at such times dates and places as may be notified to the members of the Joint Committee by the Secretary to the Joint Committee, being such time, place and location as –

6.1.1 the Joint Committee shall from time to time resolve

6.1.2 the Chairman of the Joint Committee, or if he/she is unable to act, the Vice-Chairman of the Joint Committee, shall notify to the Secretary of the Joint Committee, or

6.1.3 The Secretary of the Joint Committee in consultation where practicable with the Chairman and Vice Chairman of the Joint Committee shall determine in response to receipt of a request in writing addressed the Secretary of the Joint Committee –

6.1.3.1 From and signed by two members of the Joint Committee, or

6.1.3.2 From the Chief Executive of any of the appointing authorities

Which request sets out an urgent item of business within the functions of the Joint Committee.

6.2 The Secretary of the Joint Committee shall settle the agenda for any meeting of the Joint Committee after consulting, where practicable –

6.2.1 The Chairman of the Joint Committee

6.2.2 The Vice-Chairman of the Joint Committee

6.2.3 The Chair of the Project Executive

And shall incorporate in the agenda any items of business and any reports submitted by –

6.2.3.1 The Chief Executive of any of the appointing authorities

6.2.3.2 the Chief Finance Officer to any of the appointing authorities

6.2.3.3 the Monitoring Officer to any of the appointing authorities

6.2.3.4 any two members of the Joint Committee

7 Procedure at Meetings of the Joint Committee

7.1 The Joint Committee shall unless the member of the Joint Committee presiding at a meeting or the Joint Committee determines otherwise conduct its business in accordance with the Executive Decision-Making Procedure Rules of Plymouth City Council except in so far as may be specified to the contrary in this Constitution.

7.2 The Chairman of the Joint Committee or in his/her absence the Vice-Chairman of the Joint Committee or in his/her absence the member of the Joint Committee elected for this purpose shall preside at any meeting of the Joint Committee.

8 Powers Delegated to the Joint Committee

8.1 The Executives of each of the appointing Authorities has delegated to the Joint Committee all executive functions and powers of that authority as may be necessary, calculated to facilitate, incidental or conducive to the discharge of the objectives of the Joint Committee except as specified below.

8.2 The following functions are reserved to the appointing Authorities and shall not be within the powers of the Joint Committee –

8.2.1 All non-executive functions of all of the appointing authorities

8.2.2 Any decision which is contrary to the Budget approved by each appointing authority for the Joint Committee or is contrary to an approved policy or strategy of any of the appointing authorities

8.2.3 Any decision in respect of which the Lead Officer of any appointing authority has notified the Secretary to the Joint Committee in writing of the authority's formal objection to the proposed decision.

8.2.4 Approval of the Outline Business Case and Final Business Case the authorities agreeing now that approval of the Final Business Case will only be withheld on

affordability grounds if any Council's share of the total cost of the end treatment solution exceeds that set out in the Outline Business Case including headroom or as subsequently amended and approved by all Councils.

8.2.5 Approval or amendment of any Joint Working Agreement between the appointing authorities in respect of the discharge of the appointing authorities' residual waste disposal functions

8.2.6 At the first meeting of the Joint Committee it shall agree a scheme of delegation to the Chief Executive Officer of Plymouth City Council whereby all matters with the exception of those listed in Schedule D delegated to it for decision will be further delegated to the said Chief Executive Officer of Plymouth City Council in his capacity as Chair of the Project Executive

8.2.7 If Torbay Council and/or Devon County Council formally object to a particular decision (or decisions) which the Chief Executive Officer of Plymouth City Council is contemplating making under the delegated authority referred to above then they may notify the said Chief Executive Officer and the Secretary to the Joint Committee in writing of the formal objection whereupon that matter (or matters) will fall to be decided by the Joint Committee and not the said Chief Executive Officer.

8.2.8 Certain decisions are considered by the Parties to be decisions requiring prior notice for various reasons. These decisions are listed and will continue to be listed consensually by the Parties at Schedule H. The said Chief Executive Officer will not make the decisions listed at Schedule H without first giving at least 5 clear Working Days notice to Torbay Council and Devon Council to enable them to fully consider whether or not to formally object to that decision (or decisions).

9 Attendance at Meetings of the Joint Committee

9.1 Notwithstanding that a meeting or part of a meeting of the Joint Committee is not open to the press and public the officers specified in Paragraph 9.2 below of each appointing authority shall be entitled to attend all and all parts of such meetings unless the particular officer has a conflict of interest as a result of a personal interest in the matter under consideration.

9.2 The following are the officers who shall have a right of attendance in accordance with clause 9.1 –

9.2.1 the Chief Executive of any of the appointing Authorities

9.2.2 the Chief Finance Officer to any of the appointing Authorities

9.2.3 the Monitoring Officer to any of the appointing authorities

9.2.4 any person invited by the Joint Committee

9.2.5 the Project Director and the Authority Lead Officers

10 Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules

10.1 The Joint Committee shall operate under the Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules of Plymouth City Council.

11 Amendment of this Constitution

11.1 This constitution can only be amended by resolution of all appointing Authorities.

Schedule D Matters Reserved for the Joint Committee

- Any decision in respect of which the Lead Officer of any appointing authority has notified the Chair to the Project Executive in writing of the authority's formal objection to the proposed decision in accordance with clause 8.2.7 of Schedule C
- Agreement of all evaluation criteria relating to the Project
- Selection of the Preferred Bidder

Schedule E

Functions of the Project Director

The Project Director is responsible for the overall co-ordination of the Project, ensuring that the Project is delivered effectively and on-time throughout the various stages of the procurement process into the operational phase. The Project Director will provide strategic input into identified workstreams and the key project management areas that are integral to the success of the Project and will work with the Project Manager to ensure that stakeholders are involved and consulted through the Project. The Project Director will also perform the project assurance role on behalf of the Project Executive.

The functions of the Project Director shall be as follows:

To be responsible for the overall co-ordination and delivery of the Project through the Project Team.

To establish, and work within the powers, authority levels and parameters delegated by the Project Executive.

To be the principal adviser on programme and project management to the Joint Committee and the Project Executive and to the authorities' Members senior officers and others as required.

To monitor the various assumptions and associated Authority's work programmes (eg associated recycling and waste minimisation initiatives) agreed as part of the approved Business Case and report any significant variances to the Project Executive where this will jeopardise delivery of the Project or its outcomes.

To participate as a member of the Project Executive.

To be responsible for all aspects of the Project including budgets, selection and supervision of external consultants and project teams.

To compile and maintain records of all Procurement and Project costs in accordance with Schedule A which are jointly liable and provide bi-monthly statements for Equalisation Payments.

To advise officers the Project Executive the Joint Committee and the Authorities on the opportunities and risks of identified project policy and strategy options.

To provide formal and informal written and verbal reports to the Project Executive the Joint Committee the Authorities and officers of the Authorities as appropriate.

To manage and communicate major project risks ensuring identification recording and review and the determination and implementation of countermeasures and contingency plans.

To manage stakeholder involvement and expectations.

To ensure that all appropriate project management documentation including that relating to project initiation, planning, implementation and handover is prepared,

monitored and communicated in accordance with agreed PRINCE 2 project management principles.

To ensure that projects comply with contracting procedures and financial regulations.

To ensure compliance with relevant Health & Safety and welfare policies and procedures.

To ensure that all aspects of the Project are managed in accordance with the Authorities' equalities and social inclusion policies.

To carry out any other duties that are relevant to the scope and purpose of the role as delegated by the Project Executive.

Schedule E(i)

Functions of the Project Manager

The Project Manager is responsible for day to day running of the Project and in doing so will lead and co-ordinate the procurement of the Project to time, cost and quality targets. General responsibilities include the co-ordination and management of the Project Team throughout the procurement process and working with the Project Director to report progress and issues to the Project Executive, Joint Committee and Authorities. Specific responsibilities include, the preparation and maintenance of project and stage plans, risk management log, preparation of key contract documentation, and leading on bidder clarifications, negotiations and evaluations throughout the procurement.

The functions of the Project Manager shall be as follows:

To work within the powers, authority levels and parameters delegated by the Project Executive .

To undertake the daily management of the Project including the co-ordination, supervision and direction of the Project Team including budgets, selection and supervision of external consultants and project teams.

To prepare and maintain all appropriate project management documentation including that relating to project initiation, planning, implementation and handover including stage reports in accordance with agreed PRINCE 2 project management principles.

To provide formal and informal written and verbal reports to the Project Director and Executive on the Project as appropriate and as directed advise on specific project management and procurement matters to the Joint Committee, the Project Executive and to the Authorities' Members, senior officers and others.

To manage, monitor and report on major project risks ensuring identification recording and review and the determination and implementation of agreed countermeasures and contingency plans.

To compile and maintain records of all Procurement and Project costs in accordance with Schedule A.

To participate as a member of the Project Executive.

To ensure that projects comply with relevant contracting procedures and financial regulations.

To ensure compliance with relevant Health & Safety and welfare policies and procedures.

To ensure that all aspects of the Project are managed in accordance with the Authorities' equalities and social inclusion policies.

To provide advice guidance and recommendations on all waste associated issues including new technologies & industry developments.

To manage stakeholder involvement and expectations.

To carry out any other duties that are relevant to the scope and purpose of the role as delegated by the Project Executive.

Schedule F

Functions of the Project Executive

The Chair of the Project Executive is responsible of monitoring and ensuring that the Project is delivered to the agreed Business Case. The Chair will also report to the Joint Committee where significant variations, risks or changes are identified which will affect the successful delivery of the Project outcome together with recommendations for variations to the Business Case or alternative remedial action.

The functions of the Project Executive shall be as follows –

- To facilitate the joint procurement of and the subsequent operation and management of facilities for the treatment and disposal of residual waste in pursuance of the waste disposal functions of the three authorities arising under Section 51 of the Environmental Protection Act 1990 exercising all powers of delegation from the Joint Committee except in relation to those matters set out in Schedule D.
- To monitor implementation of the Project against the approved Business Case, project and stage plans
- To make all decisions within its terms of delegation as may be necessary to progress the implementation of the Project
- To give effect to any decisions and instructions of the Joint Committee
- To ensure that the Project is properly managed
- To give direction to the Authorities in the implementation of the Project
- To delegate tasks to the Project Director and Project Manager.

Schedule G

Functions of the Project Team

The function of the Project Team shall be as follows –

- To give effect to any decisions of the Project Executive and to act upon all instructions received from the Project Executive

Schedule H

Decisions Requiring Prior Notice