

Dated 2007

- (1) Merseyside Waste Disposal Authority
- (2) Knowsley Metropolitan Borough Council
- (3) Liverpool City Council
- (4) Wirral Metropolitan Borough Council
- (5) Sefton Metropolitan Borough Council
- (6) St Helens Metropolitan Borough Council

Waste Management Inter Authority Agreement

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THIS INTER AUTHORITY AGREEMENT is made on the day of 2007

BETWEEN

- (1) Merseyside Waste Disposal Authority of 6th Floor, North House, 17 North John Street, Liverpool, L2 5QY; ("MWDA")
- (2) Knowsley Metropolitan Borough Council of Municipal Building, Archway Road, Huyton, Merseyside L36 9YU ("Knowsley");
- (3) Liverpool City Council of Municipal Buildings, Dale Street, Liverpool, LS 2DH ("Liverpool");
- (4) Wirral Metropolitan Borough Council of Town Hall, Brighton Street, Wallasey, Wirral CH44 8ED ("Wirral");
- (5) Sefton Metropolitan Borough Council of Town Hall, Southport, PR8 1DA ("Sefton");
and
- (6) The Borough of St Helens of Town Hall, Victoria Square, St Helens, Merseyside, WA10 1HP ("St Helens").

BACKGROUND

- (A) MWDA is a waste disposal authority ("WDA") and the WCAs are waste collection authorities for the purposes of section 30 of the EPA.
- (B) The Joint Waste Disposal Authorities (Levies) (England) Regulations 2006 set out MWDA's power, as WDA, to issue levies on the WCAs to meet all relevant liabilities falling to be discharged by MWDA.
- (C) The WCAs and MWDA are obliged under the Waste Emissions Trading Act 2003 to prepare and deliver a Joint Municipal Waste Management Strategy.
- (D) Section 48 of EPA as amended by Section 31 of WET Act gives MWDA powers of direction regarding the delivery and separation of categories of waste
- (E) MWDA intends to enter into the Waste Contracts during the Term. The Parties have agreed to work together to facilitate the operation of the Waste Contracts following their commencement.

AND

In consideration of £1.00 given by MWDA to each of the WCAs (receipt of which is hereby acknowledged) it is agreed as follows:

1. **DEFINITIONS**

In this Agreement the following words shall have the following meanings:.

“Administrative Area”	the administrative area(s) of the Parties at the date of this Agreement
“Agreement”	this agreement and the Schedules hereto
“Baseline”	the operational situation existing at the Commencement Date as set out in Schedule 1 and amended from time to time in accordance with the terms of this Agreement
“Business Day”	a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London
“Clause”	a clause forming part of this Agreement and any reference to sub-clause shall be construed accordingly
“Commencement Date”	[insert agreed date]
“Confidential Information”	any and all confidential and/or proprietary information, (including know-how, records, trade secrets and data) whether of a business, marketing, financial, technical or non-technical nature and whether existing in hard copy form, in electronic form or otherwise, whether disclosed orally or in writing, which is regarded as confidential by the disclosing Party and which is or has been disclosed to another Party or which comes to another Party’s attention as a result of this Agreement. This will include information expressly identified as such as well as any other information which, by reason of its nature or the circumstances under which it is disclosed, might reasonably be expected to be confidential
“Contract Waste”	being those elements of Waste identified in Schedule 2
“Delivery Points”	the delivery points to which the WCAs will deliver Contract Waste set out in Schedule 1 (Delivery Points) or such other delivery points as the Parties shall agree from time to time

"DPA"	the Data Protection Act 1998
"Environmental Information Regulations or EIR"	the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations
"EPA"	the Environmental Protection Act 1990
"Expiry Date"	Subject to any earlier termination of this Agreement [1 January 2030] and "Expires" and "Expiry" shall be construed accordingly
"Facilities"	the site(s) or facility(ies) set out in Schedule 1
"FOIA"	the Freedom of Information Act 2000
Interim Contract	a proposed contract for the treatment of residual biodegradable municipal waste during the period of time until the Recovery Contract and the Recycling Contract become operational.
"JMWMS"	Joint Municipal Waste Management Strategy developed by MWDA in cooperation with the WCAs
"Landfill"	has the meaning attributed by Section 65(1) of the Finance Act 1996
"Landfill Contract"	a proposed contract between MWDA and a Waste Contractor in relation to landfilling Waste
"Levy"	As defined in
"Levy Mechanism"	As described in the Levy Regulations as amended from time to time
"Levy Regulations"	the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006

“Partnering Ethos”	the principles and obligations set out at clause 4.2
“Parties”	MWDA, Knowsley, Liverpool, Wirral, Sefton and St Helens, and “Party” shall mean any of them in singular and or plural as the case may be.
“Recovery Contract”	a proposed contract between MWDA and a Waste Contractor for the recovery of Waste and the disposal of residual Waste
“Recycling Contract”	a proposed contract between MWDA and a Waste Contractor putting in place arrangements for recycling Waste
“Representative”	a Party’s representative appointed in accordance with clause 19 or (if no appointment has been made, the Party)
“Review”	A review of the Agreement in accordance with clause 10
“Schedules”	the schedules attached to and forming part of this Agreement
“Term”	the term of this Agreement as defined in clause 3 (Commencement and Duration)
“Waste”	the meaning ascribed to it by Section 75(2) of the EPA
“Waste Contracts”	collectively, the Landfill Contract. Interim Contract, the Recycling Contract and the Recovery Contract
“Waste Contractor(s)”	the contractor(s) with whom MWDA contracts under Waste Contracts
“WCA”	each and any of Knowsley, Liverpool, Wirral, Sefton and St Helens and WCAs shall mean all of them
“WCA Collection Contract”	a contract entered into by a WCA with a WCA Collection Contractor to collect Waste
“WCA Collection Contractor”	any collection contractor engaged by a WCA to

collect Waste

"WET Act"

the Waste and Emissions and Trading Act 2003.

2. INTERPRETATION

2.1 In this Agreement:

- 2.1.1 the masculine includes the feminine and the neuter and vice versa;
 - 2.1.2 the singular includes the plural and vice versa;
 - 2.1.3 a reference in this Agreement to any clause, sub-clause, paragraph, Schedule, appendix or annex is except where it is expressly stated to the contrary, a reference to such clause, sub-clause, paragraph, Schedule, appendix or annex of this Agreement;
 - 2.1.4 any reference to this Agreement shall include any permitted variation, amendment or supplement to such document;
 - 2.1.5 any reference to any enactment, order, regulation, or other similar instrument shall be construed as a reference to the enactment, order, regulation, or other similar instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted from time to time;
 - 2.1.6 a reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;
 - 2.1.7 headings are for convenience of reference only;
 - 2.1.8 words preceding "include", "includes", "including" and "included" shall be construed without limitation by the words which follow those words unless inconsistent with the context, and the rule of interpretation known as ejusdem generis shall not apply;
 - 2.1.9 the Schedules hereto all form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement
- 2.2 Each of the Parties' obligations, duties and responsibilities to the other Parties shall be construed as separate obligations, duties and responsibilities owed to the other Parties and (save as expressly provided hereunder) to be performed, at the relevant WCAs own cost and expense.
- 2.3 Nothing in this Agreement shall impose or imply any joint liability on the Parties and a Party shall not be liable in any way for the breach and or default or neglect

in the performance of this Agreement or the statutory duties of any other Party or for the acts or omissions of any other Party generally.

3. COMMENCEMENT AND DURATION

3.1 This Agreement will commence on the Commencement Date and, unless terminated sooner, continue in full force and effect until the earliest of:

3.1.1 the expiry or termination of the last of the Waste Contracts (unless MWDA has procured on termination that either it (if permitted by law) or a third party contractor will provide and operate the Facilities or facilities of a similar nature to those envisaged by the relevant Waste Contract, in which case this Agreement will terminate on the earlier of the Expiry Date and the date when the last of such contracts terminates;) or

3.1.2 a change in law that renders this Agreement ineffective inappropriate or unlawful.

4. PARTNERING ETHOS

4.1 The Parties will work in good faith and in accordance with the Partnering Ethos.

4.2 Partnering Ethos shall mean that:

4.2.1 each Party shall act reasonably and co-operatively with the other Parties;

4.2.2 subject to the respective Parties respective obligations regarding Confidential Information each Party shall provide to the others information relevant to waste collection and waste disposal in a full and timely manner. Such information shall include:

4.2.2.1 details of Waste arising and operation of services

4.2.2.2 Composition analysis undertaken by the Parties in accordance with the rotation detailed in Schedule 5.

4.2.2.3 details of contractual arrangements (or amendments to existing arrangements) entered into by the Parties associated with their responsibilities relevant to this Agreement;

4.2.2.4 upon becoming aware, notification of potential failure by a Party in meeting its obligations under this Agreement;

4.2.2.5 details of actual failure by a Party in meeting its obligations under this Agreement;

- 4.2.2.6 details of new initiatives, policies or emerging policies relating to the minimisation, collection, recycling and disposal of waste;
 - 4.2.2.7 details of any external funding opportunities which are available (and, where appropriate, the Parties shall work together to submit joint bids for such funding); and
 - 4.2.2.8 such other information as the Parties shall agree to disclose under the Agreement from time to time.
- 4.2.3 each Party shall take all reasonable steps to mitigate any losses arising from a Party's failure under this Agreement;
- 4.2.4 the Parties shall work together and as far as is lawful, reasonable and practicable (but without being obliged to incur any material expenditure) to reduce the detrimental impact on the other Parties of any failure to carry out their respective obligations under this Agreement;
- 4.2.5 the Parties shall use all reasonable endeavours working together and in co-operation (where appropriate) with any or all of the Waste Contractors but without being required to cross subsidise each others' activities in any way to minimise waste and educate the public and the commercial sector about recycling schemes;
- 4.2.6 the Parties acknowledge that the provisions of the Waste Contracts have not been agreed at the date hereof and that the Parties will co-operate to discuss and where appropriate (in accordance with the terms of this Agreement) agree any consequential amendments to this Agreement; and
- 4.2.7 the Parties will work together, in a spirit of openness and mutual good faith, to avoid detrimental obligations being imposed on any Party as a result of the Waste Contracts.
- 4.2.8 the Parties shall consult with all stakeholders having an interest in the issue of wider waste services;
- 4.2.9 the Parties will work together, in a spirit of openness and mutual good faith, to resolve any difficulties openly, quickly and honestly, before any such issues have a negative impact on any or all of the Waste Contracts; and
- 4.2.10 The Parties will work together, in a spirit of openness and mutual good faith, to resolve any difficulties concerning this Agreement openly,

quickly and honestly, before any such issues have a negative impact on any or all of the Waste Contracts.

5. CHARGES COSTS PAYMENT AND COMPENSATION

- 5.1 Each Party shall pay its own costs and expenses in relation to the negotiation, preparation, execution and carrying into effect of this Agreement and of each document referred to in it.
- 5.2 The WCAs will pay MWDA for the waste disposal services it provides to the WCAs in accordance with **Schedule 3** (Levy Mechanism) subject to any review undertaken in accordance with this Agreement.
- 5.3 The Parties will cooperate, in accordance with the Partnering Ethos, to review the levy mechanism, informed by the outcome of the procurement of the Waste Contracts, and such review shall be concluded as soon as reasonably practical but in any event no later than six months after the award of last of the Waste Contracts. The results of such review shall only be effective following a consequential variation made in accordance with clause 23.

6. THE WASTE CONTRACTS

- 6.1 Before any Waste Contract is entered into MWDA shall, during the procurement process, fully and promptly provide each WCA with a copy of the draft Waste Contract from time to time, together with all other relevant documentation, and shall seek to discuss it with them individually or collectively as required in accordance with the Partnering Ethos. The Parties shall fully and promptly engage in the said discussions.
- 6.2 The form of the Waste Contracts (as amended from time to time) shall take into account the WCAs views and concerns arising from or during any discussion in accordance with **clause 6.1**, and shall reflect at all times the Partnering Ethos.
- 6.3 As soon as reasonably practicable after any Waste Contract is entered into, MWDA shall provide each WCA with a copy of it.
- 6.4 MWDA shall promptly notify the Parties of any variations or amendments to any of the Waste Contracts from time to time.
- 6.5 Subject to compliance by MWDA with its obligations under **clause 6.1** to 6.4, and without prejudice to the express rights and remedies of the WCAs under this Agreement, after a Waste Contract is entered into the WCAs shall use reasonable endeavours not do anything which would put MWDA in breach of any of its obligations under any Waste Contract.

7. PRINCIPAL OBLIGATIONS OF MWDA

- 7.1 MWDA will carry out its obligations to the WCAs to accept and dispose of the Waste through the Waste Contracts (or any other arrangements as shall be necessary from time to time for that purpose).
- 7.2 MWDA shall co-operate in the provision of staff and resources to monitor and discuss with WCAs the implementation and operation of the Agreement, guided at all times by the Partnering Ethos.
- 7.3 All costs incurred in the implementation or operation of the Agreement shall be borne by the Party which incurs them save that any costs so incurred by MWDA shall be payable in accordance with the Levy Regulations

8. PRINCIPAL OBLIGATIONS OF THE WCAS

- 8.1 During the Term each WCA:
 - 8.1.1 will discharge its statutory duty to MWDA by delivering (or arranging to have delivered) all relevant Waste to MWDA (or such third party (including the Waste Contractors) as shall be nominated by MWDA) at the Facilities;
 - 8.1.2 without prejudice to the provisions of this **clause** 8.1.1 but subject always to the provisos set out in **Schedule [1]** shall commit to MWDA (or such third party (including the Waste Contractors) as shall be nominated by MWDA) its Waste, to the extent set out in **Schedule 1** hereto; and
 - 8.1.3 shall co-operate in the provision of staff and resources to monitor and discuss with MWDA the implementation and operation of the Agreement, guided at all times by the Partnering Ethos.
- 8.2 The WCAs acknowledge and accept that all Contract Waste arising in their Administrative Areas will be delivered exclusively to MWDA and that MWDA will give the Waste Contractors exclusivity in relation to the Contract Waste for the duration of the relevant Waste Contracts.
- 8.3 The WCAs hereby agree not to retain any Waste pursuant to section 48(2) of the EPA other than:
 - 8.3.1 as provided for in **Schedule 1** (Baseline - WCA Waste); or
 - 8.3.2 as otherwise agreed by the Parties.

9. OWNERSHIP OF WASTE AND DUTY OF CARE

9.1 All Contract Waste received by or in the possession of MWDA (or any of its Waste Contractors or their sub contractors) shall upon such receipt be acquired by, in the ownership and at the risk of MWDA, which shall take full responsibility for it.

9.2 For the purposes of this Agreement, until MWDA (or any of its Waste Contractors or their sub contractors) takes ownership of any Waste all Waste collected by the WCAs shall be deemed to be held at the entire responsibility and liability of the WCAs and MWDA shall have no responsibility for such Waste.

10. REVIEW OF THIS AGREEMENT

10.1 A Party shall instigate a Review by serving written notice on the other Parties (save that it shall not include a Waste Contractor.) The Parties shall instigate and conduct the review as soon as reasonably practicable.

10.2 Notwithstanding Clause 10.1, the Parties shall meet to review this Agreement in line with such reviews of the Waste Contracts as shall be developed through the procurement process.

10.3 The Parties will, no later than six months after the award of the Waste Contracts, implement a process of continuous improvement and a mechanism to resolve any contract management issues before any such issues have a negative impact on any or all of the Waste Contracts.

11. LATE PAYMENTS

Save where otherwise provided, the Parties will pay interest on any amount payable under this Agreement not paid on the due date from the period from that date to the date of payment at a rate equal to 4% above the Bank of England base rate from time to time.

12. LIABILITY AND INDEMNITY

12.1 Without limiting the liabilities under the Agreement each Party shall have and maintain in effect for the term of the Agreement and for twelve (12) months thereafter:-

- (i) Employer's Liability Insurance;
- (ii) Public Liability Insurance; and
- (iii) Professional Indemnity Insurance

for such sum and range of cover as shall be prudent and appropriate in all the circumstances, bearing in mind (in particular) the nature and extent of the relevant Parties' obligations and/or liabilities under the Agreement.

13. DISPUTE RESOLUTION

13.1 Any disputes arising between the Parties shall first be discussed by the Representatives of the relevant Parties in an attempt to resolve the matter in accordance with the Partnering Ethos. The Parties shall notify the other Parties of the existence of the dispute and the main reasons for it.

13.2 To that end the Parties Representatives shall meet as soon as practicable (and in any event within five Business Days, or such other time period as the Parties shall agree,) after a Party identifies and notifies the Party with whom it considers it has a dispute in writing that a dispute exists) to seek to resolve the issue.

13.3 If no resolution of the matter can be agreed as a result of the Representatives' discussions, in accordance with **clauses 13.1** or **13.2** above that dispute shall be referred by a Party to the Chief Executive (or deputy in the absence of the Chief Executive) in the case of the WCAs and the Director in the case of MWDA (or deputy in the absence of the Director) for resolution.

13.4 If any dispute remains unresolved, by the expiry of the seventh Business Day after a referral under **clause 13.1[3]** then the dispute shall be determined in accordance with **clause 13.5**.

13.5 The Parties will in good faith, seek to resolve that dispute through mediation:

13.5.1 the mediator shall be agreed upon between the Parties within 14 days of a Party requesting mediation, failing which the mediator shall be appointed by the then President of the Law Society of England and Wales;

13.5.2 unless otherwise agreed the Parties shall share equally the costs of the mediation;

13.5.3 if the dispute is not resolved within 30 days, or a Party refuses to participate in mediation, the dispute shall be determined by the relevant court.

13.6 Nothing in this **clause 13** or any other provision of this Agreement shall prevent the Parties seeking a preliminary injunction or other judicial relief at any time.

13.7 The Parties shall mobilise sufficient resources to ensure that progress on resolution of any dispute is not unreasonably delayed.

14. EXIT ARRANGEMENTS

Not more than 36 months or less than 24 months before Expiry, or as soon as is reasonably practicable after any notice of termination is served, the Parties will meet to discuss and (applying the Mutual Aim Partnering Ethos) to determine the arrangements for exiting the Agreement.

15. DATA PROTECTION

15.1 All Parties shall comply with all relevant provisions of the DPA.

15.2 In particular (but without prejudice to the generality of the foregoing) each shall:-

15.2.1 keep all personal data arising from or concerning the Agreement ("Personal Data") separate from all other data or databases stored by or under its control and only process it in accordance with the Agreement and/or as instructed by the relevant Party in writing;

15.2.2 keep all Personal Data fully and adequately protected against improper use and/or disclosure by means of passwords and/or other access restrictions;

15.2.3 implement such technical organisational and practical security measures against unauthorised unlawful or improper processing of Personal Data as are necessary to enable the other Parties to comply with the DPA; and

15.2.4 provide the other Parties with such information as they shall reasonably request from time to time sufficient to demonstrate compliance with the obligations under the DPA and (without prejudice to the generality) this **clause 15**.

15.3 Each Party shall indemnify and keep indemnified the other Parties against all losses claims damages liabilities judgements penalties fines charges costs and expenses (including reasonable legal costs) arising from or incurred by it as a result of any breach by it of this clause.

16. CONFIDENTIALITY

16.1 Each Party:

16.1.1 shall treat all Confidential Information belonging to another Party as confidential and safeguard it accordingly;

16.1.2 shall not disclose any Confidential Information belonging to another Party to any other person without the prior written consent of the other

Party, except to such persons and to such extent as may be necessary for the performance by it of its obligations hereunder or except where disclosure is otherwise expressly permitted by the provisions of this Agreement or the FOIA.

16.2 No Party shall use any Confidential Information received otherwise than for the purposes of this Agreement.

16.3 The provisions of **clauses 16.1** to **16.2** shall not apply to any Confidential Information received by one Party from another: -

16.3.1 which is or becomes public knowledge (otherwise than by breach of this clause or through act or default on the part of the receiving Party or the receiving Party's agents or employees);

16.3.1.1 which the receiving Party lawfully obtained from a third party who:

(a) lawfully acquired it;

(b) did not derive it directly or indirectly from the disclosing Party; and

(c) is under no obligation restricting its disclosure;

16.3.1.2 which the receiving Party can prove by documentary evidence was developed independently by an agent or employee of the receiving Party without access to the disclosing Party's Confidential Information; or

16.3.1.3 which must be disclosed pursuant to a legal obligation (including for the avoidance of doubt under the FOIA) placed upon the Party making the disclosure, including any requirements for disclosure or otherwise in accordance with a court order, or the recommendation, notice or decision of a competent authority.

16.3.2 Without prejudice to the generality of **clause 16.3.1**, Confidential Information shall not be deemed to be generally available to the public by reason that it is known only to a few of those people to whom it might be of commercial interest, and a combination of two or more portions of the Confidential Information shall not be deemed to be generally available to the public by reason only of each separate portion being so available.

16.4 Nothing in this clause shall prevent any Party from using any techniques ideas or know-how gained during the performance of the Agreement in the course of its

normal business, to the extent that this does not result in a disclosure of Confidential Information.

- 16.5 The provisions of this **clause 16** shall continue following expiry or termination for any reason of this Agreement without limit in time.

17. **FREEDOM OF INFORMATION**

Each Party acknowledges that it and each of the other Parties are subject to the requirements of the FOIA, the Environmental Information Regulations and the DPA and shall assist and co-operate with the other Parties to comply with these disclosure requirements.

18. **NOTICES**

All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient Party set out in **Schedule 4** or such other address in the United Kingdom as a Party may designate from time to time by giving not less than five (5) Business Days notice of the same in accordance with this **clause 18**. All notices may be delivered personally or by first class pre-paid letter or facsimile transmission and in the absence of evidence of earlier receipt shall be deemed to have been served if by hand when delivered, if by first class post forty-eight (48) hours after posting and if by facsimile transmission when properly dispatched (and subject to receipt of a successful transmission report).

19. **REPRESENTATIVES**

- 19.1 A Representative shall be appointed by each of the Parties to supervise the performance of their respective obligations under the Agreement. The Representatives shall be managers of suitable experience to be the Parties' main interface and point of contact during the Term.

- 19.2 Any changes by either Party to the identity of its Representative shall be promptly notified to the other Parties.

- 19.3 Each Representative shall be entitled at any time, by notice to the other Parties, to authorise any other person to exercise the functions and powers of the Party delegated to him pursuant to this **clause 19**, either generally or specifically, and all references to the Parties' Representative(s) in the Agreement (apart from this **clause 19.3**) shall be taken as references to such person so far as they concern matters within the scope of such person's authority.

- 19.4 Any notices information or correspondence concerning the Agreement shall be given or sent directly to the relevant Representatives.

20. **PRIVITY**

20.1 No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a Party to this Agreement.

20.2 For the avoidance of doubt the Parties may amend, vary or rescind the Agreement (in accordance with its terms) without the consent of any third party.

21. **NO PARTNERSHIP OR AGENCY**

Nothing in this Agreement is intended to or shall operate to create a legal partnership or joint venture of any kind between the Parties or any of them, or to authorise any Party to act as agent for any other, and no Party shall have authority to act in the name or on behalf of or otherwise to bind any other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

22. **CONTINUING OBLIGATIONS**

Save as otherwise expressly provided in this Agreement, termination of this Agreement shall not affect the continuing rights of MWDA and the WCAs under any provision of this Agreement which is expressed to survive termination or which is required to give effect to such termination or the consequences of such termination.

23. **AMENDMENTS**

23.1 This Agreement may not be varied except by an agreement in writing signed by the Parties.

23.2 No Party shall be obliged to agree to any requested or recommended change but no Party shall withhold or delay its agreement to such change unreasonably.

23.3 Until such time as a requested or recommended change is agreed, reduced to writing and signed in accordance with this **clause 23** the Parties shall continue to perform their respective obligations under this Agreement without taking account of the requested or recommended change.

24. **WAIVER**

24.1 Any relaxation, forbearance, indulgence or delay (together an "indulgence") of any Party in exercising any right shall not be construed as a waiver of the right and shall not affect the ability of that Party subsequently to exercise that right or to pursue any remedy, nor shall any indulgence constitute a waiver of any other right (whether or not against that Party or any other person).

24.2 No term or provision of this Agreement shall be considered as waived by any Party to this Agreement unless a waiver is given in writing by that Party.

24.3 No waiver under **clause 24.2** shall be a waiver of a past or future default or breach, nor shall it amend, delete or add to the terms, conditions or provisions of this Agreement unless (and then only to the extent) expressly stated in that waiver.

25. **ENTIRE AGREEMENT**

25.1 The Agreement (including the documents referred to in it) constitutes the entire agreement and understanding of the Parties relating to its subject matter, and supersedes any previous agreement between the Parties relating thereto.

25.2 The Parties acknowledge and agree that in entering into the Agreement they do not rely on and shall have no remedy in respect of any statement representation warranty or understanding (whether negligently or innocently made) of any person (whether party to the Agreement or not) other than as expressly set out in the Agreement.

25.3 No amendment of the Agreement shall be of any force or effect unless and until reduced to writing and signed by an authorised representative of each Party.

26. **SEVERABILITY**

If any provision of the Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability shall not affect any other provision of the Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

27. **COUNTERPARTS**

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

28. **LAW OF THE CONTRACT AND JURISDICTION**

This Agreement shall be governed by the laws of England and Wales and subject to **clause 13** (Dispute Resolution) the Parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

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

THE COMMON SEAL OF

MERSEYSIDE WASTE DISPOSAL AUTHORITY)
was affixed to this deed)
in the presence of:)

Authorised Signatory

Executed as a Deed by affixing)
The common seal of KNOWSLEY)
METROPOLITAN COUNCIL)

Authorised Signatory

Seal No:
Authority:

THE COMMON SEAL OF

LIVERPOOL CITY COUNCIL)
was affixed to this deed)
in the presence of:)

Authorised Signatory

THE COMMON SEAL OF

THE METROPOLITAN BOROUGH OF WIRRAL)
was affixed to this deed)
in the presence of:)

Authorised Signatory

THE COMMON SEAL OF

SEFTON METROPOLITAN BOROUGH)
COUNCIL)
was affixed to this deed)
in the presence of:)

Authorised Signatory

THE COMMON SEAL OF
THE BOROUGH OF ST HELENS
was affixed to this deed
in the presence of:

)
)
)

Authorised

Signatory

SCHEDULE 1

Baseline/Delivery Points/Facilities

Schedule 1

Schedule 1.1 Baseline

Figures indicate April to end Oct 2007					
District	Contract 1*	MRF**	Clinical	Fridges***	TOTAL
KMBC	39166	0	53.02	0	39219
LCC	111661	13864.78	19.36	296	125841
SBC	57787	0	53.8	132	57973
STH	41889	0	79.88	170	42139
WBC	62581	19910.4	0	234	82725
TOTAL	313084	33775	206	832	347897

* Contract 1 consists of all waste collected but the district councils including commercial and fly tipping but not including MRF

** MRF consists of all co-mingled dry recyclable waste delivered by districts

*** Fridges are direct delivers to MerseyWaste sub-contractors on behalf of the districts that are not included in the Contract 1 tonnages (fridge information only available to ends of September: therefore forecast figures are used).

Figures are full forecast for full year April 2007 to March 2008 (based on actuals to end of October 2007)					
District	Contract 1*	MRF**	Clinical	Fridges***	TOTAL
KMBC	57597	0	78	0	57675
LCC	164207	20389	28	435	185061
SBC	84981	0	79	194	85254
STH	61601	0	117	250	61969
WBC	92031	29280	0	344	121655
TOTAL	460418	49669	303	1224	511614

* Contract 1 consists of all waste collected but the district councils including commercial and fly tipping but not including MRF

** MRF consists of all co-mingled dry recyclable waste delivered by districts

*** Fridges are direct delivers to MerseyWaste sub-contractors on behalf of the districts that are not included in the Contract 1 tonnages (fridge information only available to ends of September: therefore forecast figures are used).

Schedule 1.2 Exclusions

The below table indicates which materials will be excluded from this Inter Authority Agreement.

APPENDIX 1

Districts	Material	Material	Material	Material	Material	Material	Material	Material
Knowsley MBC	Cement Bonded Asbestos (fly tipped)	Green Waste	White goods (in part)	Municipal Parks and gardens	Animal waste (dog)	Abandoned vehicles	Dead animals	
Liverpool CC	Green waste	WEEE (in part)	White Goods	Municipal Parks and gardens	Abandoned vehicles			
Sefton MBC	Separated dry recyclables	Green Waste	Cement Bonded Asbestos (fly tipped)	Trade waste mixed (in part)	White goods (in part)	Municipal Parks and gardens	Road Gulley Emptying	Abandoned vehicles
St Helens MBC	Separated dry recyclables	Green Waste	Cement Bonded Asbestos (fly tipped)	White goods (in part)	Municipal Parks and gardens	Abandoned vehicles	Other separately collected waste	
Wirral MBC	Cement Bonded Asbestos (fly tipped)	Green Waste	White goods (in part)	Municipal Parks and gardens (in part)	Abandoned vehicles	Dead animals		

Schedule 1.3 Delivery Points

Location	Facility HWRC Combined HWRC/WTS (Other Facilities)	Address	Postcode	Grid Ref:
Southport	HWRC/WTS	Foul Lane Southport Sefton	PR8 5LA	SD 362 156
Formby	HWRC	Altcar Road Formby Sefton	L37 8EG	SD 309 069
Sefton Meadows	HWRC	Sefton Lane Maghull Sefton	L31 8BX	SD 362 018
Kirkby	HWRC	Depot Road Kirkby Knowsley	L33 3AR	SJ 438 995
Rainford	HWRC	Southerns Lane Rainford St Helens	WA11 8EY	SJ 481 006
Newton-Le-Willows	HWRC	Junction Lane St Helens	WA12 8DN	SJ 575 948
Ravenhead	HWRC	Burtonhead Road St Helens	WA9 5EA	SJ 513 943
Bidston	HWRC/WTS (MRF/IVC)	Wallasey Bridge Road Wirral	CH41 1EB	SJ 296 908
Rainhill	HWRC	Tasker Terrace St Helens	L35 4NX	SJ 493 315
West Kirby	HWRC	Greenbank Road Wirral	CH48 5HR	SJ 217 877
Huyton	HWRC/WTS	Ellis Ashton Street Knowsley	L36 6BJ	SJ 457 902
Otterspool	HWRC	Jericho Lane Aigburth Liverpool	L17 5AR	SJ 374 860
Gillmoss	WTS	Stonebridge Lane , Liverpool	L10 9AZ	SJ 398 966
Clatterbridge	HWRC	Mount Road Bebington Wirral	CH63 6JE	SJ 319 832
South Sefton Recycling Park	HWRC (Bulking Station)	Irlam Road Bootle Sefton	L20 4AE	SJ 3350 9530

Schedule 1.4 Facilities

Household Waste Recycling Centre	Asbestos (by appointment only)	Batteries (car/household)	Cans	Cardboard	Franchisee	Fluorescent tubes	Glass Bottles / Jars	Garden Waste	Engine Oil	Paper	Plastic Bottles	Rubble	Scrap Metal	Textiles	Timber	Tyres	Fridges / Freezers / White goods
Bidston - Wallasey Bridge Road, Birkenhead	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Clatterbridge - Mount Road, Clatterbridge		✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	
Formby - Altcar Road, Formby		✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	
Huyton - Ellis Ashton Street, Huyton	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Kirkby - Depot Road, Kirkby		✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	
Newton - Junction Lane, Newton - Le - Willows		✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	
Otterspool - Jericho Lane, Liverpool		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Rainford - Southern Lane, Rainford		✓	✓	✓	✓			✓	✓	✓		✓	✓	✓	✓	✓	
Rainhill - Tasker Terrace, Rainhill		✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	
Ravenhead - Burtonhead Road, St Helens		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Sefton - Sefton Lane, Maghull		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Southport - Foul Lane, Southport	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
South Sefton - Irlam Road, Bootle		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
West Kirby - Greenbank Road, West Kirby		✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	

Schedule 1.5 – current and baseline percentage figures to align districts with JMWMS

Without kitchen waste					With kitchen waste					Agreed targets
	2013 BVPI 82a (dry recycling) rate	2013 BVPI 82b (composting) rate	2013 BVPI 82a+b	2013 MSW recycled and composted	2013 BVPI 82a (dry recycling) rate	2013 BVPI 82b (composting) rate	2013 BVPI 82a+b	2013 MSW recycled and composted	Difference between collection of kitchen waste and none (%)	2020 MSW recycled and composted (strategy target 44%)
St Helens MBC	26%	8%	34%	27%	26%	11%	37%	30%	+3	44%
Knowsley MBC	34%	7%	41%	34%	34%	10%	44%	37%	+3	44%
Sefton MBC	25%	13%	38%	31%	25%	13%	38%	31%	No change	40%
Wirral MBC	34%	5%	39%	36%	34%	8%	42%	39%	+3	40%
Liverpool CC	29%	10%	39%	29%	29%	13%	42%	32%	+3	40%
MWDA	31%	16%	47%	55%	31%	16%	47%	55%	No change	55%
MWP	30%	9%	39%	37%	30%	11%	41%	39%	+2	44%

SCHEDULE 2

Waste to be delivered by WCAs

1. The anticipated tonnages of Waste for each year during the term are determined, in respect of each WCA, based upon the schedule of recycling performance detailed in the table below (attached document).
2. Any variation from the recycling performance shall not constitute a breach of the Agreement, but each Party acknowledges that any such variation is likely to affect the amount of charges payable by MWDA to the Waste Contractor under any relevant Waste Contract.
3. In the event of the said charges payable by MWDA being affected as a consequence of any variation described in paragraph 3 of this Schedule, the Parties acknowledge that any financial impact falling to MWDA under the relevant Waste Contract shall be attributed to each WCA causing such variation, to the extent possible, when agreeing each WCAs proportion of the levy, payable under the Levy Regulations, in any financial year.
4. For the avoidance of doubt the Parties, throughout the period of this Agreement, shall continually appraise each other as to their proposed methodology in achieving their recycling performance.

SCHEDULE 3

Levy Mechanism

The Joint Waste Disposal Authorities (Levies) (England) Regulations 2006 set out MWDA's power, as WDA, to issue levies on the WCAs to meet all relevant liabilities falling to be discharged by MWDA.

On 28 January 2005 MWDA approved a change in the mechanism of apportioning the Levy for Waste Disposal to one that is more closely based on tonnage.

The method of Levy apportionment is one by which the Levy is divided into three elements, the cost of disposal through the District Collected Waste Disposal Contract, the cost of paying recycling credits and other costs. The first is apportioned on tonnages of collected waste, the second on tonnages of recycled waste and the third is apportioned on population basis.

The tonnages used for the distribution are the last full year's tonnage figures which are adjusted to actual tonnages in the following year.

The change in the redistribution of the levy has been phased in over three years commencing 1 April 2006 for the 2006/2007 financial year.

MWDA's policy for addressing the requirements of Section 52 (10) of the EPA 1990 ("Tipping Away Payments") states that a contribution towards the increased expenditure incurred by a WCA in delivering Waste will be considered if the distance between the centroid of the collection point and the disposal point is in excess of seven miles. The distance is measured "as the crow flies."

It is acknowledged that the charges payable by MWDA to the Waste Contractors will depend significantly on the amount of waste that MWDA (and the Waste Contractors) believe/have been told will be delivered during the Term, and that deviations from these quantities may result in an increase in the charges payable by MWDA, and (as a consequence) to the amount of the levy apportioned to each WCA.

The charging mechanism set out in this Schedule 3 will be subject to review in accordance with Clause 5.3 of this Agreement.

SCHEDULE 4

Addresses for Notices

[Details for each Party to be included]

SCHEDULE 5

Fractions Analysis Rotation

1. Merseyside Waste Disposal Authority (Full Merseyside Analysis)
2. Knowsley Metropolitan Borough Council
3. Liverpool City Council
4. Wirral Metropolitan Borough Council
5. Sefton Metropolitan Borough Council
6. The Borough of St Helens