LLW Repository Ltd

DATED

LLW REPOSITORY LIMITED (1)

And

CUSTOMER NAME (2)

WASTE SERVICES CONTRACT

relating to characterisation packaging transport treatment and disposal of lower activity radioactive waste

CONTRACT NUMBER

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DATE **2012**

PARTIES

(1) LLW REPOSITORY LIMITED (Company Number 5608448), whose registered office is at Old Shore Road, Drigg, Holmrook, Cumbria, CA19 1XH, ("LLWR"); and

(2) [CUSTOMER NAME] (Company Number ?????), whose registered office is at ADDRESS, ("the Customer").

BACKGROUND

A Under a Management and Operations Contract dated 1 April 2008 between LLWR and the Nuclear Decommissioning Authority, LLWR manages treatment and disposal of low level radioactive wastes and operates the Low Level Waste Repository.

B LLWR has agreed to make available to the Customer certain services, including characterisation, disposal and treatment of low level radioactive wastes and other services associated with safe handling, management and disposal of low level radioactive wastes.

C The Parties have agreed to work together to further the objectives of the UK Nuclear Industry LLW Strategy. In particular, this Contract is intended to incentivise use of waste treatment services and alternatives disposal routes so as to preserve the capacity of the Low Level Waste Repository.

THE PARTIES HAVE AGREED AS FOLLOWS

1 DOCUMENTS AND INTERPRETATION

1.1 This Contract incorporates:

(a) the Conditions of Contract set out Schedule 1;

(b) the Contract Data set out in Schedule 2;

(c) the Waste Service Options and Waste Service Special Conditions set out or referred to in Schedule 3;

(d) the Waste Acceptance Criteria set out or referred to in Schedule 4;

(e) the Waste Acceptance Procedure set out or referred to in Schedule 5;

(f) the Logistics Service Options, Logistics Service Special Conditions and Logistics Service Documents set out or referred to in Schedule 6;

(g) the Characterisation Service Options, Characterisation Service Special Conditions and Characterisation Service Documents set out or referred to in Schedule 7; and

(h) the Service Pricing Documents set out or referred to in Schedule 8.

1.2 Definitions and principles of interpretation set out in the Conditions of Contract apply to all parts of this Contract. In the event of any inconsistency between the documents comprising this Contract, this Form of Agreement takes priority. Unless the contrary is expressly stated in

the Conditions of Contract, other documents incorporated into this Contract have priority in the order set out above.

2 PURPOSE

2.1 This Contract:

(a) identifies Waste Service Options, Logistics Service Options and Characterisation Service Options available for the Customer to purchase at its discretion during the *service period*;

(b) provides mechanisms for

(i) establishing the Annual Allocation for Repository Disposal (where applicable), and

(ii) accessing and pricing Waste Services, Logistics Services and Characterisation Services;

(c) sets out associated obligations and liabilities of the Parties; and

(d) provides for the Parties to enter into Additional Service Agreements if the Parties agree that LLWR will provide Additional Services.

3 SERVICE OPTIONS

3.1 Subject to the Conditions of Contract, the Waste Service Options, Logistics Service Options and Characterisation Service Options available to the Customer as at the date of this Contract are as identified in Schedule 3, Schedule 6 and Schedule 7 respectively.

4 CHANGES TO SERVICE OPTIONS

4.1 LLWR may at any time by notice to the Customer:

(a) change, add or remove any Waste Service Option, Logistics Service Option or Characterisation Service Option;

(b) change or add any Service Price or Service Pricing Document applicable to Services within the scope of any Service Option;

(c) change any Waste Acceptance Criteria or Waste Acceptance Procedure applicable to any Waste Service Option;

(d) change any Logistics Service Document applicable to any Logistics Service Option; or

(e) change any Characterisation Service Document applicable to any Characterisation Service Option.

Save in the case of any change required for compliance with any legal or regulatory obligation, LLWR will consult with the Customer and give 12 weeks notice prior to implementing any such change or removal. Unless the Parties agree otherwise or any such change or removal is necessary for compliance with any legal or regulatory obligation of LLWR, any such change or removal does not apply in relation to any Service in respect of which LLWR has provided a quotation to the Customer in accordance with the relevant Service Pricing Document if at the

time at which such change or removal is notified that quotation remains open for acceptance by the Customer.

4.2 If LLWR adds any Waste Service Option LLWR will notify the Customer of the following, which in each case shall then have effect as described below:

(a) the description of that additional Waste Service Option, to take effect as if set out in Schedule 3;

(b) the Waste Service Special Conditions (if any), Waste Acceptance Criteria and Waste Acceptance Procedure applicable to that additional Waste Service Option, to take effect as if set out or referred to in Schedule 3; and

(c) the Service Price and/or Service Pricing Document applicable to Services within the scope of that additional Waste Service Option, to take effect as if set out in Schedule 8.

4.3 If LLWR adds any Logistics Service Option LLWR will notify the Customer of the following, which in each case shall then have effect as described below:

(a) the description of that additional Logistics Service Option, to take effect as if set out in Schedule 6;

(b) the Logistics Service Special Conditions and Logistics Service Documents applicable to that Logistics Service Option, to take effect as if set out or referred to in Schedule 6; and

(c) the Service Price and/or Service Pricing Document applicable to Services within the scope of that additional Logistics Service Option, to take effect as if set out in Schedule 8.

4.4 If LLWR adds any Characterisation Service Option LLWR will notify the Customer of the following, which in each case shall have effect as described below:

(a) the description of that additional Characterisation Service Option, to take effect as if set out in Schedule 7;

(b) the Characterisation Service Special Conditions and Characterisation Service Documents applicable to that additional Characterisation Service Option, to take effect as if set out in Schedule 7; and

(c) the Service Price and/or Service Pricing Documents applicable to Services within the scope of that additional Characterisation Service Option, to take effect as if set out in Schedule 8.

5 PROVISION OF SERVICES

5.1 LLWR provides Services in accordance with and the Parties comply with their respective obligations under the Conditions of Contract, any applicable Special Conditions and any relevant Additional Service Agreement.

5.2 This Contract does not create any right of exclusivity for LLWR in the performance of any services within the scope of this Contract.

6 PAYMENT

6.1 Each of the Parties pays amounts due to the other in accordance with the Conditions of Contract, any applicable Special Conditions and any relevant Additional Service Agreement.

7 LIABILITY

7.1 The Parties' attention is drawn in particular to the provisions of the Conditions of Contract, applicable Special Conditions and any Additional Service Agreement limiting and/or excluding liability.

IN WITNESS of the above the Parties have executed and delivered this Contract as a deed on the date written above.

Executed as a Deed by LLW Repository Limited acting by:

Director (signature):

Name (print):

---

in the presence of

Witness (signature):

Name (print):

Address:

Occupation:

Executed as a Deed by [Customer Name] acting by:

Director (signature):

Name (print):

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in the presence of

Witness (signature):

Name (print):

Address:

Occupation:

Schedule 1 - Conditions of Contract

1 General

Actions **10**

10.1 LLWR, the Customer and the *Service Manager* act in a spirit of mutual trust and co-operation and so as to:

- further the objectives of the Policy for the Long Term Management of Solid Low Level Radioactive Waste in the United Kingdom;
- further the objectives of the UK Nuclear Industry LLW Strategy; and
- encourage innovation, cost saving and efficiency;

without compromising the total commitment of each Party to safety, health, the environment and regulatory compliance.

Identified and defined terms **11**

11.1 In these Conditions of Contract terms used in the Contract Data are in italics and defined terms have capital initials.

11.2 (1) The Accepted Programme in relation to any Service is the programme for that Service agreed in accordance with the applicable Waste Acceptance Procedure or the latest such programme accepted by the Customer Representative.

(2) An Accepted Waste Consignment is:

- a Waste Consignment that has been approved by LLWR in accordance with the Waste Acceptance Procedure; or
- any Waste Consignment that has been Delivered.

(3) An Access Date is a date on which LLWR and/or a Subcontractor requires access to a Customer Site for the purposes of carrying out a Service, as established pursuant to the applicable Service Information or shown on an Accepted Programme.

(4) An Additional Service is a service that LLWR agrees to provide under this Contract in

accordance with an Additional Service Agreement.

(5) An Additional Service Agreement is an agreement between the Parties for provision of an Additional Service by LLWR to the Customer.

(6) An Allocation Review Date occurs on the *commencement date* and then on each 1 April and 1 October in the *service period*.

(7) An Allocation Year is a period of 12 months commencing on an Allocation Review Date.

(8) An Annual Allocation is a projection established in accordance with this Contract of:

- the volume; and
- the quantity of radioactivity in total and/or in respect of any radionuclide(s);

likely to be available for Repository Disposal under this Contract in the relevant Allocation Year.

(9) A Characterisation Service is a Service within the scope of the Characterisation Service Options that LLWR agrees to provide to the Customer in accordance with the applicable Characterisation Service Documents.

(10) A Characterisation Service Document is a document set out or referred to in Schedule 7, that:

- specifies and describes a Characterisation Service Option;
- specifies and describes the procedure in accordance with which the Customer requests and LLWR agrees to provide a Characterisation Service;
- specifies and describes requirements with which LLWR and/or the Customer are to comply in relation to a Characterisation Service; and/or
- states any constraints on how LLWR Provides a Characterisation Service;

subject to any change or addition to or removal of any such document in accordance with this Contract and excluding any Characterisation

Service Special Conditions.

(11) Characterisation Service Options are the Service Options identified as such in Schedule 7 subject to any change or addition to or removal of any of those Service Options in accordance with this Contract.

(12) A Characterisation Service Price is the price for a Characterisation Service as established in accordance with the applicable Service Pricing Document, subject to any change in accordance with this Contract.

(13) Characterisation Service Special Conditions are conditions:

- identified as such and set out or referred to in Schedule 7; and
- applicable to a Characterisation Service.

(14) A Compensation Event is any event identified as such in Clause 52.1.

(15) Completion in relation to a Service is when LLWR has:

- provided that Service;
- corrected notified Defects in that Services; and
- provided all documentation relating to that Service to the Customer in compliance with the applicable Service Information.

(16) A Completion Date for any Service is a date identified as such in accordance with the applicable Service Information.

(17) The Conditions of Contract are these terms and conditions.

(18) The Contract Data is the information and data included in Schedule 2.

(19) A Contract Year is the period from the *commencement date* up to and including the following 31 March and then each period from 1 April to 31 March (or part of such period) falling within the *service period*.

(20) The Customer's Internal Procedures are all procedures that the Customer is required to have in place in accordance with the Service Information applicable to any Service or otherwise in accordance with this Contract.

(21) A Customer Site is any site in respect of which the Customer holds a nuclear site licence under Section 1 of the Nuclear Installations Act or which is otherwise operated by the Customer.

(22) Customer Site Activities are any part of a Service carried out by or on behalf of LLWR on a Customer Site.

(23) A Customer Site Procedure is a procedure or requirement set out or referred to in the applicable Service Information or otherwise notified by the Customer Representative to the Service Manager with which LLWR is required to comply in connection with any Customer Site Activity.

(24) A Defect is a part of a Service not provided in accordance with the applicable Service Information or applicable law. Defective means that a Defect exists.

(25) Delivered means, in respect of a Waste Consignment:

- where transportation of that Waste Consignment forms part of the Services, lifting gear controlled by LLWR or a Subcontractor has been attached to that Waste Consignment; or

- where that Waste Consignment is to be offloaded by LLWR or any Subcontractor from a vehicle operated by or on behalf of the Customer, 48 hours has expired from the arrival of such vehicle at the Repository or at a site operated by such Subcontractor (as the case may be) unless within such Period the Service Manager instructs the Customer to remove that Waste Consignment by reason of Non-Compliance; or

- that Waste Consignment has been placed by the Customer in a position designated by LLWR

  - at the Repository, or

  - on a site or vehicle operated by LLWR or

a Subcontractor;

and lifting gear controlled by the Customer or others has been detached;

or

- LLWR has taken delivery at such earlier time as is agreed or established in accordance with the applicable Service Information; or

- LLWR has otherwise agreed in writing that Delivery has taken place;

in each case in accordance with the applicable Waste Acceptance Procedure. Deliver and Delivery have corresponding meanings.

(26) A Disposal Container is a container used or to be used for the purpose of consignment of Waste for Disposal

(27) An Environmental Permit is a permit granted under the Environmental Permitting Regulations 2010. or a disposal authorisation issued under the Radioactive Substances Act 1993.

(28) Equipment is items provided by LLWR or a Subcontractor and used to Provide the Service.

(29) Excluded Loss means any loss of use, revenue, profit, anticipated saving, opportunity, sale of property or any indirect or special loss, whether or not such loss was foreseeable as at the date of this Contract or at the time of any Delivery.

(30) the Form of Agreement is the agreement executed by the Parties and incorporating these Conditions of Contract and other documents forming part of this Contract.

(31) Good Industry Practice means exercising the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced contractor engaged (in the United Kingdom or in any jurisdiction with analogous standards) in activities of similar scope and complexity to the Services and under the same or similar circumstances, where such contractor is seeking in good faith to comply with its contractual obligations and all applicable law and regulatory requirements.

(32) A Key Date is any specific date relating to a Service, as established pursuant to the applicable Service Information.

(33) LLWR Environmental Permit means the current Environmental Permit (Reference: BZ2508EPR/YP3293SA) for the Repository issued by the Environment Agency.

(34) A Logistics Service is a Service within the scope of the Logistics Service Options that LLWR agrees to provide to the Customer in accordance with the applicable Logistics Service Documents.

(35) A Logistics Service Document is a document set out or referred to in Schedule 6 that:

- specifies and describes a Logistics Service Option;
- specifies and describes the procedure in accordance with which the Customer requests and LLWR agrees to provide a Logistics Service;
- specifies and describes requirements with which LLWR and/or the Customer are to comply in relation to a Logistics Service; and/or
- states any constraints on how LLWR Provides a Logistics Service;

subject to any change or addition to or removal of any such document in accordance with this Contract and excluding any Logistics Service Special Conditions.

(36) Logistics Service Options are the Service Options identified in Schedule 6, subject to any change or addition to or removal of any such Service Options in accordance with this Contract.

(37) A Logistics Service Price is the price for a Logistics Service as established in accordance with the applicable Service Pricing Document, subject to any change in accordance with this Contract.

(38) Logistics Service Special Conditions are conditions:

- identified as such and set out or referred to in Schedule 6 or added in accordance with this

Contract; and

- applicable to a Logistics Service.

(39) M&O Contract means the Management and Operations Contract between NDA and LLWR dated 1 April 2008 (a redacted copy of which is published on the NDA's website).

(40) NDA is the Nuclear Decommissioning Authority established pursuant to the provisions of the Energy Act 2004.

(41) Non-Compliant means in relation to any Waste that at the time of Delivery such Waste does not comply with the applicable Service Information or applicable law, as demonstrated by reasonable evidence (whether or not such evidence was available at the time of Delivery). Non-Compliance has a corresponding meaning.

(42) The Nuclear Installations Act is the Nuclear Installations Act 1965 as amended.

(43) Others are people or organisations who are not LLWR, the Customer, the *Service Manager* or a Subcontractor.

(44) The Parties are the Customer and LLWR.

(45) The Price for Services Provided is the total of:

- the Waste Consignment Price for each Delivered Waste Consignments;

- the sum due to LLWR for each Logistics Service established in accordance with the applicable Logistics Service Special Conditions.

- the sum due to LLWR for each Characterisation Service established in accordance with the applicable Characterisation Service Special Conditions; and

- the sums due to LLWR for each Additional Service provided by LLWR established in accordance with the Additional Service Agreement for each of those Additional Services.

(46) To Provide the Service means to do the activities necessary to provide a Service in accordance with

this Contract and all incidental work, services and actions that this Contract requires. Provide the Services and Providing the Services have a corresponding meanings but relate to all Services.

(47) The Repository is the Low Level Waste Repository situated at Old Shore Road, Drigg, Holmrook, Cumbria, CA19 1XH.

(48) Repository Disposal is disposal or storage of Waste by or on behalf of LLWR at the Repository.

(49) A Risk Register is a register of risks relating to a Service that are listed or referred to in or notified in accordance with the applicable Service Information or otherwise notified as early warning matters. A Risk Register includes a description of each risk and the actions which are to be taken to avoid or reduce the risk.

(50) Secondary Waste is product arising from application of any Treatment Option that in accordance with the applicable Service Information is to be disposed of by LLWR.

(51) A Service is a Waste Service, Logistics Service, Characterisation Service or Additional Service.

(52) Service Information is information which either:

- specifies and describes the Waste Service Options, Logistics Service Options and/or Characterisation Service Options;
- specifies and describes any Additional Service;
- specifies and describes the procedure in accordance with which the Customer requests and LLWR agrees to provide any Service;
- specifies and describes requirements with which any Waste is to comply or with which LLWR and/or the Customer are to comply in relation to a Waste Service, Logistics Service, Characterisation Service and/or Additional Service; or
- states any constraints on how LLWR Provides the Services;

and is either

- in a Waste Service Document, Logistics

Service Document or Characterisation Service Document;

- in a quotation or other document issued by LLWR in accordance with the relevant Service Pricing Document and accepted by the Customer;
- in or referred to in an Additional Service Agreement; or
- in an instruction given by the *Service Manager* in accordance with this Contract.

(53) Service Options are the Waste Service Options, Logistics Service Options and Characterisation Service Options.

(54) A Service Price is:

- a Waste Consignment Price;
- a Logistics Service Price;
- a Characterisation Service Price; or
- the amount to be paid by the Customer for any Additional Service as established in accordance with the Additional Service Agreement relating to that Additional Service.

(55) A Service Pricing Document is a document set out or referred to in Schedule 8 subject to any change to or addition or removal of any such Service Pricing Document in accordance with this Contract.

(56) Special Conditions are any Waste Service Special Conditions, Logistics Service Special Conditions or Characterisation Service Special Conditions applicable to any Service.

(57) A Starting Date in relation to a Service is a date identified as such in accordance with the applicable Service Information.

(58) A Subcontractor is a person or organisation who has a contract with LLWR to provide a part of the Services.

(59) A Transport Container is a container used or to be used for the purpose of consignment of Waste for any Treatment Option.

(60) The UK Nuclear Industry LLW Strategy is the UK Strategy for the Management of Solid Low Level Radioactive Waste from the Nuclear Industry as published by the NDA.

(61) Waste is any material in relation to which any Service is provided under this Contract.

(62) The Waste Acceptance Criteria are the specification for Waste and other requirements set out or referred to in Schedule 4 applicable to a Waste Service, as may be changed in accordance with this Contract.

(63) The Waste Acceptance Procedure is the procedure set out or referred to in Schedule 5 applicable to a Waste Service, as may be changed in accordance with this contract.

(64) A Waste Consignment is one Transport Container or one Disposal Container and its contents or as otherwise identified in the applicable Service Information, in each case in relation to which any Service is provided under this Contract.

(65) A Waste Consignment Price is the price for a Waste Service in relation to a Consignment as established in accordance with the applicable Service Pricing Document, subject to any change in accordance with this Contract.

(66) A Waste Service is a Service within the scope of the Waste Service Options that LLWR agrees to provide to the Customer in accordance with this Contract.

(67) Waste Service Options are the Service Options identified in Schedule 3 subject to any change or addition to or removal of any such Service Options in accordance with this Contract.

(68) Waste Service Documents are the applicable Waste Acceptance Criteria and Waste Acceptance Procedure.

(69) Waste Service Special Conditions are conditions:

- identified as such and set out or referred to in Schedule 3 and
- applicable to a Waste Service.

(70) The Working Area (if any) in relation to a Service is the area within a Customer Site identified as the

Working Area in accordance with the applicable Service Information which LLWR or its Subcontractors may reasonably require for the performance of Customer Site Activities.

(71) A Working Day is any day other than: Saturday; Sunday; and any day that is a bank holiday in England and Wales under the Banking and financial Dealings Act 1971.

Interpretation and the law **12**

12.1 In this Contract, except where the context shows otherwise, words in the singular also mean in the plural and the other way round and words in the masculine also mean in the feminine and neuter.

12.2 This Contract is governed by English Law.

12.3 No change to this Contract, unless provided for by these Conditions of Contract, has effect unless it has been agreed in writing and signed by the Parties.

12.4 Except where the contrary is expressly stated in these Conditions of Contract, this Contract is the entire agreement between the Parties in relation to its subject matter.

12.5 No person other than the NDA has any right to enforce any provision of this contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

12.6 If any of the provisions of this Contract shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable such provision shall be divisible from and deemed to be deleted from this Contract and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect

12.7 Where any Special Conditions or Additional Service Agreement applies to any Services, such Special Conditions or Additional Service Agreement applies in addition to these Conditions of Contract.

In the event of any conflict or inconsistency between these Conditions of Contract and any Special Conditions or Additional Service Agreement, such Special Conditions or Additional Service Agreement takes priority over these Conditions of Contract, provided that unless the contrary is expressly stated:

- any provision of these Conditions of Contract excluding or limiting the liability of either Party shall

apply in all cases; and

- any limitation or exclusion of liability set out in any Special Conditions or Additional Service Agreement shall apply in addition to and not in place of any limitation or exclusion of liability set out in these Conditions of Contract.

Communications **13**

13.1 Each instruction, certificate, submission, proposal, record, acceptance, notification, reply, form, template and other communication which this Contract requires is communicated:

- in a form which can be read, copied and recorded; or
- in such other form as may be required or permitted for such communication by the Service Information.

13.2 A communication has effect when it is received:

- in accordance with the Service Information; or
- at the last address notified by the recipient for receiving communications or, if none is notified, at the address of the recipient stated in the Contract Data.

13.3 If this Contract requires the *Service Manager* to reply to a communication, unless otherwise stated in this Contract, he replies within the *period for reply*.

13.4 The *Service Manager* may extend the *period for reply* to a communication by agreement with the Customer. The *Service Manager* notifies the Parties of the extension.

The Service Manager **14**

14.1 The *Service Manager* is employed and appointed by LLWR.

14.2 The *Service Manager's* acceptance of a communication from a Party or of anything done by a Party does not change the responsibility of that Party under this Contract.

14.3 Additional roles and responsibilities of the *Service Manager* are set out in the Service Information.

14.4 The *Service Manager* after notifying the Parties may delegate any of his actions and may cancel any delegation. A reference to an action of the *Service Manager* includes an action by his delegate.

14.5 The Customer may request the *Service Manager* to instruct a change to the Service Information. Save in relation to a change to Customer Site Procedures, the *Service Manager* may refuse such a request for any reason. Subject to the terms of any relevant Additional Services Agreement and any applicable Special Conditions, following a request from the Customer or where permitted by this Contract on his own initiative, the *Service Manager* may give an instruction to the Parties that changes the Service Information.

Unless the Parties agree otherwise or any such instruction is necessary for compliance with any legal or regulatory obligation of LLWR, such an instruction does not apply in relation to any Service in respect of which LLWR has provided a quotation to the Customer in accordance with the relevant Service Pricing Document and at the time of such instruction is given either:

- such quotation has been accepted by the Customer; or
- such quotation remains open for acceptance by the Customer.

14.6 LLWR may replace the *Service Manager* after he has notified the Customer of the name of the replacement.

The Customer Representative **15**

15.1 The *Customer Representative* is employed and appointed by the Customer.

15.2 Additional roles and responsibilities of the *Customer Representative* are set out in the Service Information.

15.3 The *Customer Representative* after notifying the Parties may delegate any of his actions and may cancel any delegation. A reference to an action of the *Customer Representative* includes an action by his delegate.

15.3 The Customer may replace the *Customer Representative* after he has notified LLWR of the name of the replacement.

Early Warning **16**

16.1 LLWR, the Customer, the *Service Manager* and the *Customer Representative* each gives an early warning by notifying the others as soon as he becomes aware of any matter which will or may:

- require an instruction to change the Service

Information;

- affect compliance with the Service Information;
- increase the total of the Prices;
- interfere with the timing of Providing the Services;
- impair the effectiveness of the Services;
- affect use of an Annual Allocation; or
- affect compliance with or furtherance of the objectives of the UK Nuclear Industry LLW Strategy.

16.2 Either the *Service Manager* or the *Customer Representative* may instruct the other of them to attend a Customer meeting. LLWR may instruct and the Customer will permit NDA to attend any such meeting. Each may instruct other people to attend if the other agrees.

16.3 At a Customer meeting those who attend co-operate in:

- making and considering proposals for how the effect of the risk can be avoided or reduced;
- seeking solutions that will bring advantage to all those who will be affected; and
- deciding on the actions which will be taken and who, in accordance with this Contract, will take them.

16.4 If a decision needs a change to the Service Information and the *Service Manager* is entitled under this Contract to make the change, the *Service Manager* gives an instruction to the Parties making the change.

Illegal and impossible Requirements **17**

17.1 LLWR, the Customer, the *Service Manager* and the *Customer Representative* each notifies the others if he considers that the Service Information requires the Parties to do anything that is:

- illegal or impossible;
- contrary to the M&O Contract; or
- where the relevant Customer Site is a designated installation, site or facility for the purposes of Section 3 of the Energy Act 2004, contrary to any contract between the Customer and the NDA in respect of the operation, decommissioning

and/or clean-up of that Customer Site.

If the *Service Manager* agrees, he gives an instruction to change the Service Information appropriately.

Waiver, modification and inconsistencies **18**

18.1 None of the provisions of this Contract are to be considered waived by a Party unless such waiver is given in writing and signed by a duly authorised representative of the Party making the waiver. No such waiver is a waiver of any past or future default or breach unless expressly set out in such waiver.

18.2 Any amendment to this Contract must be in writing signed by the duly authorised representatives of the Parties. Any purported amendment made in any other manner is not valid.

18.3 The *Service Manager* or the *Customer Representative* notifies the other as soon as either becomes aware of an ambiguity or inconsistency in or between the documents which are part of this Contract. Where the ambiguity or inconsistency can be resolved by changing the Service Information, then where permitted in accordance with the terms of this Contract the *Service Manager* may give an instruction making such change.

Assignment **19**

19.1 Subject to the execution of appropriate documents, it is agreed that LLWR may assign this Contract, and all of its rights and obligations to an affiliate company or to a party nominated by NDA. For the purposes of this clause `affiliate' means those companies which control, are controlled by or by which are under the common control with a Party, and control has the meaning given to the term in Section 840 of the Income and Corporation Taxes Act 1988.

2 The Parties' main responsibilities

Annual Allocation **20**

20.1 Not later than four weeks prior to each Allocation Review Date the *Customer Representative* notifies the *Service Manager* of the Annual Allocation sought by the Customer for the coming Allocation Year. In giving such notification the Customer complies with relevant provisions of the Service Information.

The *Service Manager* notifies the Customer of the Annual

Allocation within the *period for reply*. The Customer acknowledges that determination of the Annual Allocation takes into account LLWR's assessment of:

- the capacity of and other technical and regulatory constraints on the Repository; and
- the requirements of other customers;

and so may differ from that sought by the Customer.

20.2 The Parties may agree an adjustment to the Annual Allocation at any time.

Providing Services **21**

21.1 At any time during the *service period* the Customer may Request LLWR to provide Services within the scope of any Service Option. The Customer makes any such request in accordance with the Service Information applicable to the relevant Service Option.

Where the Customer makes such a request and the Parties agree in accordance with the applicable Service Information that LLWR will provide the requested Service, LLWR provides that Services in accordance with this Contract. LLWR continues to provide that Service notwithstanding expiry of the *service period* prior to completion of that Service.

21.2 The Parties comply with their respective obligations under the Service Information.

21.3 If any Waste Consignment is Delivered that is Non-Compliant the *Service Manager* may instruct the Customer to remove that Waste Consignment or such part of that Waste Consignment as remains identifiable. Following such an instruction the Customer removes the relevant Waste Consignment or part within four weeks or such longer period as may be specified by the *Service Manager* to allow time for compliance with applicable legal and regulatory requirements.

21.4 LLWR is not obliged to provide Services:

- that it would be unlawful to provide;
- in respect of which the Annual Allocation is or would be exceeded; or
- where the capacity of and other technical and regulatory constraints on the Repository would be exceeded (whether or not the Annual Allocation is

exceeded).

21.5 No review inspection notification approval or acceptance by or on behalf of LLWR *or the Service Manager* or the omission of any such matter under or in connection with the Service Information or any other provisions of this Contract (in each case whether required by this Contract or otherwise):

- relieves the Customer of its obligation to ensure that Waste complies with the Waste Acceptance Criteria at the time of Delivery;
- relieves the Customer of any other obligation to comply with the Service Information or otherwise to comply with any provision of this Contract;
- impairs or renders unenforceable any warranty or obligation on the part of the Customer; or
- gives rise to any liability on the part of LLWR.

Notwithstanding any such matter, LLWR is entitled to rely on all warranties on the part of the Customer and full and proper compliance by the Customer with the Customer's obligations under this contract.

Additional Services **22**

22.1 At any time LLWR may propose or the Customer may submit a request for an Additional Service, identifying a further service LLWR may provide or that the Customer wishes LLWR to provide under this Contract. If the Parties agree that LLWR will provide that service the Parties will enter into an Additional Service Agreement, including:

- the scope and timing for delivery of that Additional Service;
- the Service Price for that Additional Service; and
- any other matters relevant to that Additional Services.

That Additional Service will then form part of the Services under this Contract and, subject to the terms of the Additional Service Agreement, the provisions of this Contract will apply to that Additional Service.

Working together and with Others **23**

23.1 LLWR, the Customer, the *Service Manager* and the *Customer Representative* co-operate with each other and Others in obtaining and providing information that they need in connection with each Service.

23.2 The Customer and LLWR each comply with and provide facilities and other things as stated in:

- the Service Information; and
- each Additional Service Agreement.

23.3 LLWR and the Customer obtain approvals from Others where necessary for compliance with their respective obligations under this Contract.

Customer Site Access **24**

24.1 Subject to compliance with any relevant Customer Site Procedures, the Customer allows access to and use of each Working Area and access to each Customer Site as necessary for LLWR and Subcontractors to Provide a Service and otherwise in accordance with the applicable Service Information.

24.2 LLWR shares each Working Area with others in accordance with the applicable Service Information.

24.3 The Customer Representative notifies the Service Manager of any Customer Site Procedures with which LLWR is required to comply in carrying out any Customer Site Activities comprised in the Service.

24.4 Where a Customer Site Procedure:

- is not set out in the applicable Service Information; and
- requires any security clearance or other permission for personnel of LLWR or any Subcontractor to enter a Customer Site;

the Customer Representative notifies the Service Manager of that procedure in sufficient time to enable LLWR to comply without delaying LLWR in Providing the Service.

24.5 LLWR may submit a proposal for addition of an area to a Working Area to the Customer Representative for acceptance. A reason for not accepting is that use of the proposed area by or on behalf of LLWR:

- would interfere with or disrupt other activities on the relevant Customer Site;

- is subject to the approval or consent of Others and such approval or consent has been requested by the Customer but has not been given; or

- is not necessary for Providing the Services.

24.6 Without prejudice to any entitlement LLWR may have in respect of a Compensation Event, the Parties acknowledge that:

  - any access granted by the Customer to any Customer Site or Working Areas within a Customer Site is non-exclusive and does not confer any further rights or tenancy on LLWR; and

  - the Customer retains possession of and the right to control access to any Customer Site and any Working Areas within a Customer Site.

Subcontracting **25**

25.1 LLWR may subcontract work in accordance with:

- the Service Information; or

- any applicable Additional Service Agreement.

25.2 Save where permitted in accordance with the above, LLWR does not subcontract work where such subcontracting would not comply with the requirements of any relevant Environmental Permit granted to the Customer and copied to LLWR prior to establishment of the relevant Service Price.

25.3 If LLWR subcontracts work, it is responsible for Providing the Service as if it had not subcontracted.

Confidentiality **26**

26.1 Each Party keeps confidential all Confidential Information connected with the other Party or the business of the other Party from the date on which such Confidential Information comes to its knowledge under or as a result of this Contract. The Parties do not disclose such information to any third party or use it other than for the operation of this Contract and management and performance of the Services except:

- with the written agreement of the other Party;

- to the extent

  - disclosure is a requirement of law or of a regulatory authority or governmental body having jurisdiction over the Parties, or by any recognised stock exchange, or

  - such Party is required to disclose such Confidential Information to the NDA or the National Audit Office;

  provided that to the extent consistent with LLWR's obligations under the M&O Contract, reasonably practicable and lawful, prior to such disclosure the Party required to make such disclosure gives the other Party advance notice of such disclosure to allow such other Party to pursue any rights it may have to preserve the confidentiality of such Confidential Information;

- to the extent that LLWR needs to disclose such Confidential Information to a Subcontractor;

- to the extent LLWR needs to disclose such Confidential Information to a potential Subcontractor for the purpose of seeking tenders for performance of the Services or any part of the Services;

- to the extent the Customer is required to disclose such Confidential Information to any haulier or other transport contractor in compliance with applicable legal or regulatory requirements;

- to a Party's professional advisers, auditors or funders;

- where the information is in or comes into the public domain otherwise than by failure of a Party to comply with its obligations under this Contract;

- where the receiving Party can show that it had the information in its possession prior to disclosure free from any obligation of confidentiality to the other Party or any third party;

- where the receiving Party can show that the information was developed independently by the receiving Party without reference to information disclosed by the disclosing Party;

- where the information is or becomes lawfully available to the receiving Party from a source having a right to disclose the same; or

- where expressly permitted under this Contract;

and to the extent that in accordance with this Contract, the Parties do disclose any such Confidential Information to a third party, then (to the extent lawful to do so) the Party disclosing such information shall inform the other of what Confidential Information has been disclosed and to which third party.

26.2 Where a Party discloses Confidential Information to any employee, consultant, Subcontractor, potential Subcontractor, professional adviser, auditor, funder or agent, that disclosure is made subject to obligations equivalent to those set out in this Contract. Each Party uses all reasonable endeavours to ensure that any such employee, consultant, Subcontractor, potential Subcontractor, professional adviser, auditor, funder or agent complies with such obligations. With the exception of any disclosure or use of Confidential Information by the NDA permitted by the M&O Contract each Party is responsible to the other in respect of any disclosure or use of Confidential Information by a person to whom disclosure is made by that Party as if such disclosure or use had been by that Party.

26.3 Upon termination or expiry of this Contract or the *service period*, each Party returns to the other all Confidential Information disclosed by the other Party save to the extent:

- the receiving Party requires such Confidential Information for performance of any outstanding Services;
- the receiving Party retains such information for compliance with any legal or regulatory obligations; or
- LLWR retains such information in accordance with any contractual obligation to the NDA.

Compliance with M&O Contract **27**

27.1 The Customer acknowledges LLWR's obligations to comply with and NDA's rights under the following provisions of the M&O Contract:

- Clause 4.1 (Reporting and Reviewing);
- Clause 4.2 (Records);
- Clause 4.5 (Inspection and Audit); and
- Clause 10 (Confidentiality, Security and Compliance

with Law).

Notwithstanding any other provision of this Contract, nothing done or omitted by LLWR in compliance with its obligations under any of those Clauses constitutes a breach of this Contract or otherwise gives rise to any liability of LLWR under this Contract.

3 Time

Starting a Service **30**

30.1 Where a Starting Date for a Service is established in accordance with the applicable Service Information, LLWR starts to provide that Service on that Starting Date.

30.2 Where a Completion Date for a Service is identified in the applicable Service Information LLWR Provides the Service so that Completion is on or before that Completion Date.

30.3 The Service Manager notifies the Customer Representative when a Service is Complete.

Programme **31**

31.1 Where the applicable Service Information requires an Accepted Programme for a Service, LLWR submits a first programme for that Service to the Customer Representative in accordance with the applicable Service Information.

31.2 LLWR shows on each programme which it submits for acceptance:

- the Starting Date, Access Date(s), Key Date(s) and the Completion Date;
- planned Completion;
- the order and timing of operations which LLWR or its Subcontractors plan to carry out in order to Provide the Service;
- the order and timing of anything to be done by the Customer and Others in accordance with the applicable Service Information;
- the dates when, in order to Provide the Service, LLWR will need

- access to a person, place or thing,
- acceptances, and
- information from the Customer and Others;

and

- for each operation comprised in the Service, a statement of how LLWR plans to perform that operation, identifying the principal Equipment and other resources LLWR plans to use; and
- other information required by the applicable Service Information.

Accepting or rejecting a programme **32**

32.1 Within the time stated in the applicable Service Information, or where no time is stated, within one week of LLWR submitting a programme to him for acceptance, the Customer Representative either accepts the programme or notifies the Service Manager of his reasons for not accepting it. A reason for not accepting a programme is that:

- it does not show the information which this contract requires; or
- it does not comply with the applicable Service Information.

Revising a programme **33**

33.1 LLWR submits a revised programme to the Customer Representative for acceptance:

- in accordance with the applicable Service Information; and
- otherwise as LLWR chooses to.

4 Testing and defects in a Service

Testing and inspections **40**

40.1 The following subclauses in this Clause apply only to tests and inspections required by the applicable Service Information or the applicable law.

40.2 LLWR and the Customer provide materials, facilities and samples for tests and inspections as stated in the applicable Service Information.

40.3 The Customer Representative and the Service Manager each notifies the other of each of his tests and inspections before it starts and afterwards notifies the other of its results. The Service Manager notifies the Customer Representative in time for a test or inspection to be arranged and done before LLWR carries out any activity which would obstruct the test or inspection. The Customer Representative and the Service Manager may each watch any test done by the other of them.

40.4 If a test or inspection shows that any work part of a Service or the Provision of a Service is Defective, LLWR corrects the Defect and the test or inspection is repeated.

40.5 The Customer Representative does his tests and inspections without causing unnecessary delay to LLWR in Providing the Service or to a payment that is conditional upon a test or inspection being successful. A payment which is conditional upon a Customer Representative's test or inspection being successful becomes due on the date of Completion of the relevant Service if:

- the Customer Representative has not done the test or inspection; and
- the delay to the test or inspection is not LLWR's fault.

Correcting Defects **41**

41.1 LLWR corrects Defects within a time which minimises the adverse effect on the Customer or Others.

41.2 The Customer allows LLWR access to a Customer Site if it is needed for correcting a Defect.

41.3 Unless the contrary is expressly stated in this contract, LLWR corrects Defects at its own cost.

Accepting Defects **42**

42.1 The Customer Representative and the Service Manager may each propose to the other that the applicable Service Information should be changed so that a Defect does not have to be corrected. If the Customer Representative and the Service Manager are prepared to consider the change, LLWR submits a quotation for a reduction in the applicable Service Price to the Customer Representative for acceptance. If the Customer Representative accepts the quotation, the Service Manager gives an instruction to

change the Service Information and the Service Price is changed accordingly.

5 Payment and Service Price Adjustment

Charges for Services **50**

50.1 The *Service Manager* assesses the amount due from the Customer at each assessment date. Assessment dates occur:

- on Delivery of each Waste Consignment;
- where Special Conditions apply to any Service, in accordance with the applicable Special Conditions;
- in accordance with any applicable Additional Services Agreement; and
- on any termination in accordance with this Contract.

50.2 The *Service Manager* assesses the amount due within one week of each assessment date. The amount due is the Price for Services Provided to Date plus other amounts to be paid to LLWR, less any amounts due in previous assessments.

50.3 Any tax that the law requires the Customer to pay to LLWR is added to the amount due.

50.4 Following assessment by the *Service Manager*, LLWR issues an invoice to the Customer for the amount due.

Payment **51**

51.1 Each payment is made within the *payment period* stated in the Contract Data.

51.2 Except were LLWR elects to waive entitlement to interest in relation to a specific payment if:

- a payment is late; or
- a payment is subsequently adjusted in accordance with this Contract;

interest is paid on the late payment or the correcting amount.

51.3 If a payment is late interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in

the first assessment after the late payment is made.

51.4 If a payment is adjusted interest is assessed from the date when the incorrect amount was certified until the date when the correcting amount is certified and is included in the assessment which includes the correcting amount.

51.5 Interest is calculated on a daily basis at the *interest rate* and is compounded annually.

Compensation Events **52**

52.1 Subject to addition or removal of any Compensation Event in accordance with any applicable Special Conditions or Additional Service Agreement, the following are Compensation Events.

(1) Where permitted in accordance with this Contract the Service Manager or the Customer Representative gives an instruction changing the Service Information.

(2) The Customer does not provide access for LLWR to a person, place or thing which he is required to provide in accordance with the applicable Service Information or an Accepted Programme.

(3) The Customer does not:

- allow access to and use of any Working Area; or Customer Site; or
- provide or do something which he is to provide or do;

in accordance with the applicable Service Information and by any relevant date established pursuant to the applicable Service Information or shown on an Accepted Programme.

(4) The Customer Representative does not reply to a communication from LLWR or the Service Manager within the period required by this contract.

(5) The Customer Representative notifies the Service Manager of any change to a Customer Site Procedure or additional Customer Site Procedure not set out or referred to in the applicable Service Information.

(6) The Customer Representative gives an instruction

to stop or not to start any Service.

(7) The Customer or Others:

- do not work within the times shown in an Accepted Programme; or
- do not work within the conditions stated in the applicable Service Information.

(8) The Customer Representative changes a decision which he has previously communicated to LLWR.

(9) The Customer Representative withholds an acceptance for a reason not stated in this contract.

(10) An event which is a Customer risk stated in this contract occurs.

(11) A test or inspection done by the Customer Representative causes unnecessary delay.

(12) An agreed assumption about a Compensation Event proves to be inaccurate.

(13) Other than as a result of Providing the Services:

- the chemical, radiological or structural condition of any Waste differs from any information or assumption as to that condition indentified in the applicable Service Information; and
- that difference exceeds any relevant tolerance band specified in the applicable Service Information.

(14) A breach of contract by the Customer which is not one of the other Compensation Events.

Adjustment of Service Price **53**

53.1 For Compensation Events that arise from the Service Manager or the Customer Representative giving an instruction or changing an earlier decision, he notifies the Parties of the Compensation Event at the time of giving such instruction or changing such earlier decision. For other Compensation Events, unless previously notified by either Party, each Party notifies the other as soon as reasonably practicable after that Party becomes aware of the Compensation Event.

53.2 The Customer Representative and the Service Manager may agree that assessment of a Compensation Event is to be based on agreed assumptions.

53.3 Within two weeks of notification of a Compensation Event arising from the Service Manager giving an instruction or changing an earlier decision or, in the case of any other Compensation Event, within a reasonable period, LLWR gives to the Customer:

- LLWR's quotation for any change to the Service Price; and/or
- details of any change to the mechanism for establishing the Service Price as set out in the applicable Service Pricing Document; and
- LLWR's forecast of any delay to any applicable Completion Date due to the Compensation Event;

for each Service affected by the Compensation Event.

If the Customer does not accept LLWR's quotation, then the *Service Manager* or the *Customer Representative* may request the Parties attend a customer meeting where LLWR shall submit details of the quotation. LLWR may submit a revised quotation on its own initiative. The *Service Manager* or the Customer Representative may instruct LLWR to submit a revised quotation. LLWR submits the revised quotation within 3 weeks of being instructed to do so.

Save insofar as the Customer Representative has previous notified the Service Manager that the Customer disputes such quotation or change, Delivery of any Waste Consignment or a request for any Service after the *Service Manager* gives an instruction changing the Service Information constitutes acceptance by the Customer of any such quotation or change to the mechanism for establishing the relevant Service Price. The Service Price is adjusted accordingly.

Assessing Compensation Events **54**

54.1 A change to the Service Price for any Service is assessed as the effect of the Compensation Event upon the reasonable and demonstrable direct cost incurred or forecast to be incurred by LLWR in performance of that Service, excluding any Excluded Loss.

54.2 A delay to a Completion Date is assessed as the length of time that, due to the compensation event, Completion

is forecast to be delayed.

54.3 If the effect of a Compensation Event is to reduce the total cost incurred or forecast cost to be incurred the Prices are not reduced unless the Compensation Event is a change to the Service Information.

54.4 If LLWR did not give an early warning of a Compensation Event that a service provider acting in accordance with Good Industry Practice would have given, the event is assessed as if LLWR had given early warning.

54.5 Assessment of the effect of a Compensation Event includes risk allowances for cost and time for matters that have a significant chance of occurring and are at LLWR's risk under this contract.

54.6 Assessments are based upon the assumptions that LLWR reacts competently and promptly to a Compensation Event and that any cost and time due to the event are reasonably incurred.

54.7 The assessment of a Compensation Event is not revised if a forecast upon which it is based is shown by later recorded information to have been wrong.

Escalation **55**

55.1 Each Service Price is subject to escalation in accordance with the relevant Service Pricing Document.

Charging and payment provisions under applicable Special Conditions **56**

56.1 For the avoidance of doubt, where different charging and/or payment provisions apply to any Services under applicable Special Conditions or an Additional Services Agreement, those different provisions apply to those Services in place of any inconsistent provisions of these Conditions of Contract.

6 Title, risks, insurance and liability

Title and general allocation of risk **60**

60.1 Unless the contrary is expressly stated in this Contract:

- before Delivery the Customer carries all risks relating to a Waste Consignment; and
- from Delivery, LLWR carries all risks relating to a Waste Consignment.

60.2 The following are Customer's risks (both before and after Delivery).

- Claims, proceedings, compensation and costs payable which are due to:
  - Non-Compliance of any Waste; or
  - any failure of the Customer to comply with the applicable Service Information; or
  - use or occupation of a Working Area or Customer Site for the purpose of the relevant Service or compliance with Customer requirements or procedures, which could not reasonably have been avoided by LLWR exercising Good Industry Practice in carrying out the relevant Service; or
  - negligence, breach of statutory duty or interference with any legal right by the Customer or by any person employed by or contracted to the Customer except LLWR; or
  - a fault of the Customer or in any Service Information provided by the Customer
- Refusal or failure of any regulatory body to grant any license, permit, consent, authorisation or approval necessary for the lawful transportation and treatment of the Waste or otherwise necessary for LLWR to Provide the Services, or the refusal to grant any such license, permit, consent, authorisation or approval other than on unreasonably onerous terms, unless in each case that refusal or failure is due to failure of LLWR or a Subcontractor to exercise Good Industry Practice in seeking such license, permit, consent, authorisation or approval.
- Any additional matters identified as Customer risks in any applicable Special Conditions or Additional Service Agreement.

60.3 Title in each Waste Consignment vests in LLWR:

- on Delivery; or where a contrary provision is set out in the Service Information
- in accordance with the Service Information.

60.4 Each Party carries all risks of damage caused to property of the other Party by:

- any negligent act, omission or default in connection with performance of such Party's obligations under

this Contract; or

- breach of any provision of this Contract by such Party or its employees, agents or contractors.

Liability **61**

61.1 With the exception of any liabilities that are subject to the provisions of the Nuclear Installations Act, each Party is liable to the other for claims, proceedings, compensation and costs due to an event which is at his risk.

61.2 The liability of each Party to the other is reduced if events at the other Party's risk contributed to the claims, proceedings, compensation and costs. The reduction is in proportion to the extent that events which were at the other Party's risk contributed, taking into account each Party's responsibilities under this Contract.

61.3 The Customer is not liable to LLWR for any matter in connection with a Waste Consignment unless that matter is notified to the Customer within 10 years of the date of Delivery of the relevant Waste Consignment.

Statutory duties and liability **62**

62.1 Neither Party has any liability to the other for any matter falling within the scope of the other Party's statutory duties and liabilities under the Nuclear Installations Act.

Nuclear Installations Act – liability for property on a Customer Site **63**

63.1 The following provisions apply only where the Customer holds a nuclear site licence under Section 1 of the Nuclear Installations Act in respect of a Customer Site.

63.2 Notwithstanding anything to the contrary in this contract, the Customer shall be liable to LLWR for damage within the scope of the Nuclear Installations Act arising out of or resulting from an Occurrence involving Nuclear Matter on or emanating from that Customer Site pursuant to the provisions of the Nuclear Installations Act.

63.3 Where LLWR is bringing Equipment or other property onto that Customer Site the following provisions apply.

- Notwithstanding anything to the contrary in the contract, the Customer shall be liable to LLWR for damage permitted by the Nuclear Installations Act arising out of or resulting form an Occurrence involving Nuclear Matter on or emanating from the Customer Site pursuant to the provisions of the Nuclear Installations Act.

- For the purposes of Section 12(3A) of the Nuclear Installations Act, this Clause shall amount to an agreement to incur liability in respect of such damage permitted by that Act to the extent that such damage is not first recovered under the other insurances issued in accordance with the provisions of this contract.

- Compensation shall be payable by the Customer in accordance with the Nuclear Installations Act in respect of damage to any property of LLWR or any Subcontractor or subcontractor or supplier to a Subcontractor (of any tier) arising our of or resulting from an Occurrence involving Nuclear Matter which is on a Customer Site and is on the licensed site in connection with this contract, provided that the amount of any such compensation payable to LLWR shall be reduced to the extent that the causing of that damage is attributable to any act of LLWR or any servant or agent of LLWR committed with the intention of causing harm to any person or property or with reckless disregard for the consequences of his act.

- For the purposes of this Clause defined terms used shall have the same meaning as defined in Section 26 of the Nuclear Installations Act.

Insurance cover **64**

64.1 Each Party provides all insurances that it is required by law to maintain and any additional insurances required by any applicable Special Conditions of Additional Service Agreement

64.2 The insurances provide cover for events which are at the insuring Party's risk.

Restriction of Liability **66**

66.1 LLWR's total liability to the Customer arising under or in connection with this Contract or the Services, whether in contract, for breach of contract, in tort (including negligence), for breach of statutory duty, misrepresentation or otherwise howsoever arising shall not exceed:

- the relevant Consignment Price in respect of all such liability in connection with any Waste Consignment;

- the relevant Service Price in respect of all such liability in connection with any other Service;

and shall in all cases exclude any Excluded Loss,

provided that in circumstances where:

- a Subcontractor is liable to LLWR due to any act omission default or other matter in connection with any Waste Consignment or other Service; and

- LLWR is liable to the Customer in respect of the same matter or would be so liable but for application of restrictions on LLWR's liability pursuant to this Clause;

LLWR will use all reasonable endeavours to secure for the Customer the benefit of any liability of the Subcontractor to LLWR in excess of the relevant Consignment Price or Service Price (as the case may be) to the extent that amounts are recovered from the Subcontractor and such amounts are not applied towards liabilities of LLWR other than to the Customer.

66.2 The Customer's total liability to LLWR arising under or in connection with this Contract , whether in contract, for breach of contract, in tort (including negligence), for breach of statutory duty, misrepresentation or otherwise howsoever arising shall not exceed:

- the total aggregate sum of £10 million in respect of all such liabilities other than liabilities arising from Non-Compliance of any Waste Consignment; and

- the sum of £10 million in respect of all such liabilities arising in relation to Non-Compliance of each Waste Consignment;

and shall in all cases exclude any Excluded Loss.

66.3 Nothing in this Contract excludes or limits:

- liability for death or personal injury resulting from negligence or for fraud or which cannot lawfully be excluded or limited;

- statutory liability under the Nuclear Installations Act 1965, including any statutory liability of LLWR under the Nuclear Installations Act 1965 in connection with a Waste Consignment which has been in the course of relevant carriage by or on behalf of LLWR and any liability assumed in accordance with Section 12(3A) of that Act; or

- the Customer's obligation to pay LLWR the Price for Services Provided to Date.

Delay damages **67**

67.1 The Parties acknowledge that in relation to an Additional Service it may by exception be appropriate to agree inclusion of delay damages. Where the Parties agree that such provisions are appropriate, such provisions will be included in the relevant Additional Service Agreement.

7 Termination and force majeure

Termination **70**

70.1 Either Party may terminate LLWR's obligation to Provide the Services if the other:

- has a winding-up order made against it;
- has a provisional liquidator appointed to it;
- passes a resolution for winding-up (other than in order to amalgamate or reconstruct);
- has an administration order made against it;
- has a receiver, receiver and manager, or administrative receiver appointed over the whole or a substantial part of its undertaking or assets; or
- makes an arrangement with its creditors.

70.2 Either Party may terminate LLWR's obligation to Provide the Services if the other has defaulted in one of the following ways and not put the default right within eight weeks of notification from the non-defaulting Party:

- substantially failed to comply with its obligations under this Contract;
- substantially hindered the other of them or Others; or
- substantially broken a health or safety regulation.

70.3 LLWR may terminate LLWR's obligation to Provide the Services if the *Customer* has not paid an amount properly certified by the *Service Manager* within 13 weeks of the date of LLWR's invoice for that sum.

70.4 Either Party may terminate LLWR's obligation to Provide the Services if the Parties or either of them have been released under the law from further performance of their

respective obligations under this Contract.

Force majeure **71**

71.1 Neither Party is liable to the other or will be in breach of this Contract by reason of any failure or delay in performing its obligations under this Contract if such failure or delay is caused by Force Majeure.

71.2 If a Party (the Affected Party) is materially affected by Force Majeure in the performance of its obligations under this Contract, then:

- the Affected Party on becoming aware of the Force Majeure gives written notice to the other Party, specifying the nature and extent of the Force Majeure;
- the Affected Party uses reasonable endeavours to mitigate the severity of the impact of the Force Majeure; and
- neither Party is entitled to additional payment from the other Party or any adjustment to any Service Price by reason of the Force Majeure.

71.3 If the Force Majeure in question prevails for a continuous period in excess of 52 weeks after the date on which the Force Majeure begins, either Party may give a minimum of 13 weeks notice to terminate the LLWR's obligation to Provide the Services, whether in whole or part.

71.4 For the purposes of this Contract, Force Majeure means any of the following events or any combination of such events:

- war, civil war or armed conflict arising within and affecting the United Kingdom of Great Britain and Northern Ireland;
- acts of terrorism;
- the effect of percussive waves or pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speed;
- fire or flood (other than fire or flood caused by the negligence, breach or default of the Affected Party);
- exceptionally adverse weather conditions;
- official strike or lockout; and
- shortage of fuel due to protests, blockades or other

action of individuals or organisations, whether acting collectively or otherwise.

Consequences of Termination **72**

72.1 The following provisions apply on any termination for any reason.

72.2 The Parties may agree in writing that LLWR will continue to Provide the Services in relation to any specific Services identified in that agreement, whether in relation to any Waste Consignment, any Additional Services or otherwise. Following such agreement, LLWR's obligation to Provide the Services continues in relation to such identified Services only.

72.3 The Customer will pay for all Services provided:

- prior to the termination taking effect; and
- pursuant to any agreement for continued provision of Services beyond that time;

in accordance with this Contract.

72.4 Save in the case of termination due to any failure, hindrance or breach on the part of LLWR, the Customer will be liable to LLWR for:

- cost reasonably incurred in expectation of completing all of the Services; and
- any liabilities incurred by LLWR to any Subcontractor by reason of such termination.

72.5 Save as expressly provided in this Contract, neither Party shall have any liability to the other in connection with any termination in accordance with this Contract. This provision does not affect any other liability a Party may have under or in connection with this Contract.

8 Audits, inspection, record keeping and service levels

Maintaining records, **80**

inspections and audits

80.1 The Parties maintain records demonstrating compliance with their respective obligations under the Service Information, including (where applicable) compliance with the LLWR Environmental Permit in relation to each Waste Consignment. Such records comply with:

- all relevant legal and regulatory requirements;
- the Service Information; and
- any contractual obligations of LLWR to NDA notified to the Customer.

80.2 Whenever reasonably requested by LLWR, the Customer provides access for the *Service Manager* and others appointed by LLWR or the NDA to any site at which such records are kept or at which any Waste is or has been stored, processed or packaged for the purpose of:

- inspecting and taking copies of such records;
- auditing and monitoring compliance by the Customer with the Service Information; and /or
- carrying out any inspection or audit required or permitted by Clause 4.5 of the M&O Contract, including interviewing any employees or other personnel of the Customer.

80.3 Whenever reasonably requested by the Customer, LLWR provides access for the Customer and others appointed by the Customer to any site at which such records are kept or on which any part of the Services is performed for the purpose of:

- inspecting and taking copies of such records; or
- auditing compliance by LLWR and any Subcontractor with the Service Information.

Service level monitoring **81**

81.1 Within 6 months from the *commencement date* or within such longer period as the Parties may agree, the Parties will develop and agree:

- appropriate metrics and targets to be applied in assessing performance by each Party with its obligations under this contract;
- mechanisms for monitoring those metrics, identifying performance trends and identifying any need for performance improvements; and

- where relevant, appropriate service credits in relation to low performance by LLWR.

9 Dispute resolution

Negotiation and alternative dispute resolution

90

90.1 The Parties attempt in good faith to resolve any dispute arising out of or in connection with this Contract:

- through negotiations between representatives of the Parties having authority to settle the matter; and/or
- the use of any alternative dispute resolution procedure agreed by the Parties;

provided that where and to the extent that:

- the Customer enters into this Contract in the capacity of operator of an installation, site or facility that is designated for the purposes of Section 3 of the Energy Act 2004; and
- the Customer has entered into a management and operations contract with NDA relating to operation of such installation, site or facility;

any such dispute that is not resolved by negotiations in accordance with the above is referred to the NDA.

Arbitration

91

91.1 In the event that any dispute is not resolved through negotiation or use of an agreed alternative dispute resolution procedure the following provisions apply.

91.2 Any dispute arising out of or in connection with this Contract, including any question regarding the existence, validity or termination of this Contract, is referred to and finally resolved by arbitration under the London Court of International Arbitration (LCIA) arbitration rules current at the date of the request for arbitration.

91.3 Unless otherwise agreed in writing between the Parties after the dispute has arisen:

- there is a single arbitrator;
- the seat of the arbitration is London;
- the language of the arbitration is English; and

- the arbitration is subject to the provisions of the Arbitration Act 1996.

91.4 Except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise:

- the arbitration process and anything said, done or produced in or in relation to the arbitration process (including any awards) is confidential as between the Parties;

- no report relating to anything said, done or produced in or in relation to the arbitration process may be made beyond the tribunal, the Parties, their legal representatives and any person necessary to the conduct of the proceedings.

Schedule 2 - Contract Data

Part one – Data provided by LLWR

Commencement date and service period	• The *commencement date* is 1st April 2012 • The *service period* is six years from the *commencement date*.
Customer code	• The *customer code* (as referred to in the Service Information) is […]
Site code(s)	• The *site code(s)* (as referred to in the Service Information) are: […]
Service Manager	• The *Service Manager* is Name: Alex McCarthy Address: LLW Repository Ltd, Pelham House, Pelham Drive, Calderbridge, Cumbria, CA20 1DB Email: alex.j.mccarthy@llwrsite.com Telephone: 019467 70300
Period for reply	• The *period for reply* is four weeks.
Payment period	• The *payment period* ends on the last day of the calendar month following the calendar month in which LLWR issued the invoice to the Customer.
Currency and interest rate	• The *currency of this contract* is the GBP Sterling. • The *interest rate* is 2% per annum above the base lending rate of the Natwest Bank Plc.

Part two – Data provided by the Customer

Customer Representative	• The *Customer Representative* is Name: Address: Email: Telephone:

Schedule 3 - Waste Services

1 WASTE SERVICE OPTIONS

The following Waste Service Options are available under this Contract:

- Metallic Waste Treatment
- Combustible Waste Treatment
- Supercompactable Waste Treatment
- Very Low Level Waste Disposal
- Low Level Waste Disposal

2 WASTE SERVICE SPECIAL CONDITIONS

The conditions referred to below are the Waste Service Special Conditions applicable to the Waste Service Options identified and are available at www.llwrsite.com:

Service	Conditions	Document Reference
Very Low Level Waste Disposal	Very Low Level Waste Disposal Service Special Conditions	WSC-CON-VSE

Schedule 4 - Waste Acceptance Criteria

The following documents available at www.llwrsite.com contain the Waste Acceptance Criteria applicable to each Waste Service Option:

Document Title	Document Reference
Waste Acceptance Criteria - Overview	WSC- WAC-OVR
Waste Acceptance Criteria - Metallic Waste Treatment Service	WSC-WAC-MET
Waste Acceptance Criteria - Combustible Waste Treatment Service	WSC-WAC-COM
Waste Acceptance Criteria - Supercompactable Waste Treatment Service	WSC-WAC-SUP
Waste Acceptance Criteria - Very Low Level Waste Disposal Service	WSC-WAC-VER
Waste Acceptance Criteria - Low Level Waste Disposal Service	WSC-WAC-LOW

Schedule 5 - Waste Acceptance Procedure

The following documents available at www.llwrsite.com contain the Waste Acceptance Procedure applicable to each Waste Service Option:

Document Title	Document Reference
Waste Acceptance Procedure Overview	WSC-WAP-OVR
Waste Forecasting Form	WSC-FOR-WFO
Waste Assurance Form	WSC-FOR-WAS
Waste Enquiry Form	WSC-FOR-WEN
Waste Characterisation Form	WSC-FOR-WCH
Waste Loading Plan Form	WSC-FOR-WLP
Waste Consignment Variation Form	WSC-FOR-WCV
Waste Consignment Information Form	WSC-FOR-WCI
Waste Consignment Information Form - Waste Diversion	WSC-FOR-WCI_DIV
Waste Consignment Transport Form	WSC-FOR-WCT
Service Non-Conformance Template	WSC-TEM-SNC
Waste Services Quotation Template	WSC-TEM-WSQ
Waste Consignment Approval Template	WSC-TEM-WCA
Waste Consignment Rejection Template	WSC-TEM-WCR
Waste Receipt Template	WSC-TEM-WRE
Waste Disposition Report Template	WSC-TEM-WDR

Schedule 6 - Logistics Services

1 LOGISTICS SERVICES

The following Logistics Service Options are available under this Contract:

- Packaging Services
- Transport Services

2 LOGISTICS SERVICE SPECIAL CONDITIONS

The conditions referred to below are the Logistics Services Special Conditions applicable to the Logistics Service Options identified and are available at www.llwrsite.com:

Service	Conditions	Document Reference
Packaging Services	Packaging Services Special Conditions	WSC-CON-PSE
Transport Services	Transport Services Special Conditions	WSC-CON-TSE

3 LOGISTICS SERVICE DOCUMENTS

The following documents available at www.llwrsite.com are the Logistics Services Documents applicable to each Logistics Service Option:

Document Title	Document Reference
Logistics Services Form	WSC-FOR-LSE

Schedule 7 - Characterisation Services

1 CHARACTERISATION SERVICE OPTIONS

The following Characterisation Service Options are available under this Contract:

- Characterisation Service

2 CHARACTERISATION SERVICE SPECIAL CONDITIONS

The conditions referred to below are the Characterisation Services Special Conditions applicable to the Characterisation Service Options identified and are available at www.llwrsite.com:

Service	Conditions	Document Reference
Characterisation Services	Characterisation Services Special Conditions	WSC-CON-CSE

3 CHARACTERISATION SERVICE DOCUMENTS

The following documents available at www.llwrsite.com are the Characterisation Services Documents applicable to each Characterisation Service Option:

Document Title	Document Reference
Characterisation Services Form	WSC-FOR-CSE

Schedule 8 - Service Pricing Documents

The following documents available at www.llwrsite.com contain the Service Price or mechanism for establishing the Service Price for each Waste Service, Logistics Service and Characterisation Service:

Document Title	Document Reference
Service Price List	WSC- SPR-LIS
Service Price Template	WSC-TEM-SPR