

PART C: PROJECT AGREEMENT & SCHEDULES

20. SCHEDULE 20:
AVAILABILITY

Schedule 20 (Availability Criteria)

This Schedule 20 shall be read in conjunction with Section 10 (Deductions) of Schedule 26 (Payment Mechanism) and sets out the Availability Criteria for the:

- HWRC Sites;
- Waterbeach Site;
- Delivery Points (other than the Waterbeach Site);
- The MBT Facility; and
- Contingency Delivery Points.

In this Schedule 20 and subject to the WCA Baseline, where there is reference to a Delivery Point or Contingency Delivery Point being Available to Receive Contract Waste, this reference to Contract Waste shall be interpreted as meaning all Contract Waste which would be expected to be delivered to that Delivery Point in accordance with Schedules 8 (Service Commencement Dates) and 21 (Delivery Points and Contingency Delivery Points).

HWRC Sites

From the applicable HWRC Date and during the relevant Opening Hours the HWRCs shall satisfy each of the following Availability Criteria:

- 1) The HWRC is in accordance with Legislation able to Receive Contract Waste;
- 2) Without prejudice to the generality of point 1 above, there is at all times in place
 - a) a valid planning permission (where relevant to the HWRC);
 - b) a Permit (which may be a PPC Permit or Waste Management Licence) as appropriate for the nature and the scale of the HWRC.
- 3) The presence at the HWRC of appropriately trained and competent staff in order to be able to operate the HWRC safely in accordance with health & safety Legislation;
- 4) The HWRC is open to the public such that Contract Waste can be delivered to the HWRC by the public and Received by the Contractor.

For the avoidance of doubt, the HWRC Management Fee and Availability Criteria for any New HWRC Facilities shall be agreed as part of the Anticipated Change mechanism pursuant to Clause 107.24 to 107.28 (Anticipated Changes).

Where an HWRC may otherwise be deemed from time to time not to be satisfying the Availability Criteria specified above, it shall be deemed to be satisfying such Availability Criteria for all purposes of this Contract to the extent that any failure to satisfy the Availability Criteria shall have been caused by the closure of all or any part of an HWRC Site for the purposes of removal or re-configuring of skips provided that the Contractor is removing or reconfiguring skips in accordance with Good Industry Practice;

Waterbeach Site

Subject to paragraph 10.14 of the Payment Mechanism from the Service Commencement Date and thereafter during the relevant Opening Hours the Waterbeach Site shall satisfy each of the following Availability Criteria:

- 1) The Waterbeach Site is in accordance with Legislation able to Receive Contract Waste;
- 2) Without prejudice to the generality of point 1 above, there is in place:
 - a) a valid Planning Permission or Planning Permissions (as appropriate); and
 - b) a Permit or Permits (which may be a PPC Permit or Waste Management Licence(s)),
 - c) Other Consents (including without limitation Third Party Consents);in each case to the extent necessary under Legislation to allow the Contractor to Receive Contract Waste at the Waterbeach Site.

For the avoidance of doubt (for the purposes of assessing Availability) any such Planning Permissions or Permits are required to the extent relating to the lawful reception of Contract Waste at the Waterbeach Site and not to any individual Facility at the Waterbeach Site.

- 3) The presence at the Waterbeach Site of appropriately trained and competent staff in order to be able to Receive Contract Waste at the Waterbeach Site in accordance with health & safety Legislation;
- 4) The Waterbeach Site is physically open such that Contract Waste which may be delivered can be Received by the Contractor.

MBT Facility

From the Full Service Commencement Date the MBT Facility shall meet the following Availability Criteria:

- 1) There shall at all times be in place a valid Planning Permission, PPC Permit or Waste Management Licence and other Consents relevant to the operation of the MBT Facility;
- 2) The MBT Facility shall be physically capable of processing Contract Waste so as to reduce the Biodegradability thereof (provided that this limb (2) does not imply that the processing is required to be to any standard of performance whether in relation to reducing Biodegradability or howsoever otherwise);

- 3) The MBT Facility is in accordance with Legislation able to operate.

Delivery Points (other than the Waterbeach Site)

From the

- A) in the case of Wisbech, the Service Commencement Date
- B) in the case of Alconbury from the Planned Alconbury Services Commencement Date
- C) in the case of March, and subject to the March Trigger Date having occurred, from the Planned March Services Commencement Date

and during the relevant Opening Hours the Delivery Points shall satisfy each of the following Availability Criteria:

- 1) (in respect of the New Facilities only) a New Facility Acceptance Certificate has been issued in accordance with Clause 39 (Completion of Works);
- 2) The Delivery Point is in accordance with Legislation able to Receive Contract Waste;
- 3) Without prejudice to the generality of point 2 above, there is at all times in place:
 - a) a valid Planning Permission (relevant to the Delivery Point);
 - b) a Permit (which may be a PPC Permit or Waste Management Licence) as appropriate for the nature and the scale of the Delivery Point;
 - c) Other Consents (including without limitation Third Party Consents).

In each case to the extent necessary under Legislation to allow reception of Contract Waste at the relevant Delivery Point.

- 4) The presence at the Delivery Point of appropriately trained and competent staff in order to be able to Receive Contract Waste at the Delivery Point in accordance with health & safety Legislation;
- 5) The Delivery Point is physically open such that Contract Waste which may be delivered can be Received by the Contractor.

Provided that the Wisbech WTS is not required to be Available following the date specified in Schedule 21 (Delivery Points and Contingency Delivery Points) save to the extent that it is used as a Contingency Delivery Point

Contingency Delivery Points

A Contingency Delivery Point shall during the Opening Hours relevant to the Delivery Point which is Unavailable satisfy each of the following Availability Criteria:

- 1) The Contingency Delivery Point is in accordance with Legislation able to Receive Contract Waste;
- 2) Without prejudice to the generality of point 1 above, there is at all times in place:

- a) a valid Planning Permission (relevant to the Contingency Delivery Point);
- b) a Permit (which may be a PPC Permit or Waste Management Licence) as appropriate for the nature and the scale of the Contingency Delivery Point;
- c) Other Consents (including without limitation Third Party Consents).

In each case to the extent necessary under Legislation to allow reception of Contract Waste at the relevant Contingency Delivery Point.

- 3) The presence at the Contingency Delivery Point of appropriately trained and competent staff in order to be able to Receive Contract Waste at the Contingency Delivery Point in accordance with health & safety Legislation;
- 4) The Contingency Delivery Point is physically open such that Contract Waste which may be delivered can be Received by the Contractor.