

SCHEDULE 23

COMMERCIALLY SENSITIVE INFORMATION

The parties acknowledge that the information set out in Parts 1 and 2 of this Schedule 23 (Commercially Sensitive Information) are considered, as at the Restatement Date, to be commercially sensitive, and that this Schedule 23 is not an exhaustive list of the information that, from time to time, may be considered commercially sensitive. However, any Request for Information under the FOIA or EIR and any applicable exemptions to disclosure will be considered by the Authority at the time the request is made, and the Authority shall comply in all respects with all applicable Legislation.

Part 1 - Commercially sensitive contractual provisions

Column 1	Column 2
Commercially Sensitive Contractual Provisions	For period ending on date below
Any information included in the following provisions that is not set out in the November 2010 Waste Infrastructure Delivery Programme standard form Project Agreement available as the Restatement Date from www.defra.gov.uk	The earlier of the Expiry Date and the Termination Date for all entries except entry 12 which, to the extent such information is subsequently disclosed (e.g. as part an application for planning permission) can be withheld until its disclosure into the public domain.
1 Definition of "Authority Default" limb (b): Amount only (once confirmed)	
2 Not Used	
3 Limbs (j) to (o) of the definition of "Contractor Default"	
4 Definition of Finacing Default	
5 Definition of "Subcontractor Breakage Costs", limb (a) only	
6 The percentage referred to in the definition of "Threshold Equity IRR"	
7 Clauses 61.1.3 (Indemnities) - all elements expressed in £ only	
8 The cap set out in Clause 61.3.4 (Contractor Not Responsible)	
9 Schedule 3 (Services Delivery Plans) (to the extent such information could be a trade secret or is genuinely commercially sensitive) - save in relation to any information contained	

	therein which is also included in Schedule 2 (Output Specification)	
10	Costing mechanisms, financial modelling and price breakdowns contained within Schedule 4 (Payment Mechanism) - to the extent that it reveals information about the Contractor's costs and/or profit levels, pricing or other financial information the disclosure of which could prejudice the Contractor's commercial interests	
11	Amounts and indemnity limits under insurance policies taken out by the Contractor or any Sub-Contractor in connection with the Project other than the Required Insurances	
12	Schedule 12 (IC Deed of Appointment) - references to Fees only	
13	Each Appendix to Schedule 21 (Change Protocol)	
14	Schedule 23 – Commercially Sensitive Information	
15	Schedules 26 (Planning) and 27 (Approach to Permit Risk)	
16	Schedule 33 (Power Offtake Agreements)	
17	Costing mechanisms, financial modelling and price breakdowns contained in the Contract	
18	Any reference to a monetary or financial amount (including indemnity limits provided for under policies of insurance (other than the Required Insurances)), pricing information, ratios, limit of liability or exclusions from liability, profit margins, overheads, preliminaries, payment terms or details of any bank account.	

Part 2 - Commercially sensitive material

Column 1	Column 2
Commercially Sensitive Material	For period ending on date below
<p>1 Any reference to a monetary or financial amount (including indemnity limits provided for under policies of insurance (other than the Required Insurances)), pricing information, ratios, limit of liability or exclusions from liability, profit margins, overheads, preliminaries, payment terms or details of any bank account</p> <p>2 Costing mechanisms, financial modelling and price breakdowns contained in the Contract</p> <p>3 Costing mechanisms, financial modelling and price breakdowns contained in the Construction Sub-Contractor and / or the Operating Sub-Contract.</p> <p>4 The limitations on liability and level of and nature of claims which are subject to a cap on liability contained in the Construction Sub-Contract and Operating Sub-Contract.</p> <p>5 The level of liquidated and ascertained damages, specified in the Construction Sub-Contract.</p> <p>6 The sums covered by any retention bonds.</p> <p>7 The Base Case and Financial Model.</p> <p>8 Information relating to the commercial terms of the Financing Agreements including without limitation:</p> <ul style="list-style-type: none"> • ADSCR (actual, forecast and average); • LLCR; • gearing; • IRR (including Threshold Equity IRR, Pre-Refinancing Equity IRR and real base case IRR); 	<p>The earlier of the Expiry Date and the Termination Date except for entry 10 which should be withheld only until the financial sensitivity of the Contractor has expired (not until the Expiry Date or the Termination Date).</p>

<ul style="list-style-type: none"> • the margin; • the rates; • fees; <p>except for such information relating purely to the identity of the Contractor and such information as is already in the public domain.</p> <p>9 Information relating to the costing mechanisms of the Contractor or any Sub-Contractor, including profit margins, overheads, overhead and profit element, preliminaries and payment terms, but only to the extent they enable the deduction of discounts, pricing strategies and rates.</p> <p>10 The amounts payable pursuant to the Enforcement Procedure in the Construction Sub-Contract and Operating Sub-Contract.</p> <p>11 Any performance reports in respect of the provision of Services but only to the extent that they contain information falling paragraphs 1 to 9 above other than information within limb (a) of the definition of Confidential Information.</p> <p>12 The amounts set out in any parent companies guarantees in favour of the Contractor in respect of the Construction Sub-Contract and Operating Sub-Contract.</p> <p>13 Any amounts stated in the parallel loan agreements in relation to each of the Construction Sub-Contract and Operating Sub-Contract.</p> <p>14 Any information provided by or on behalf of the Contractor in its PQQ, ISOS, ISDS, ISRS and CFT submissions relating to the Contractor's pricing arrangements, financing arrangements, method statements, construction programme and designs and subcontract arrangements together with such other information that refers to or directly relates to matters otherwise stated as being of a commercially sensitive</p>	
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	<p>nature (but only to the extent such information is a trade secret or is genuinely commercially sensitive.</p>	
15	<p>The amounts of any Deductions or any other financial penalties not yet reflected specifically in relation to this Project in published accounts or warning notices by/issued to the Contractor or any Sub-Contractor.</p>	
16	<p>Financial information in respect of the Contractor, Holdco, any Shareholder, any Sub-Contractor or any of the sub-contractors at any other level which is not published, reported or publicly available eg at Companies House relating to the 3 years prior to any request for information.</p>	
17	<p>Any future marketing information, product information, research plans, service development proposals or information relating to the development of new equipment or processes but only to the extent they amount to trade secrets or could reasonably be considered to provide a commercial advantage to the competitors of the Contractor.</p>	
18	<p>Any information relating to and risks associated with permitting in particular amounts specified.</p>	
19	<p>The information contained within the Revised Project Plan submitted by the Contractor to the Authority on 24 June 2015, related Modifications as set out in the letter from the Contractor to the Authority dated 30 November 2015, and supporting documentation including, without limitation, information relating to the Contractor's pricing arrangements, financing arrangements (including commercial terms), method statements, construction programme and designs and subcontract arrangements together with such other information that refers to or directly relates to matters otherwise stated as being of a commercially sensitive nature (but only to the extent such information is a trade</p>	

