

SCHEDULE 17

Waste Reception Protocol

1. Definitions

Definitions used in this **Schedule 17** (Waste Reception Protocol)

"Accept" means, for the purpose of this **Schedule 17** (Waste Reception Protocol) only, a decision by the Contractor to unload or to permit the loading by others of all or any significant part of a Delivery for the purpose of Handling such Delivered Waste, whether or not:

- (a) that Delivery contains any Rejectable Waste; and
- (b) the Contractor knew or ought to have known of the presence of any such Rejectable Waste

and **"Accepted"** shall be construed accordingly. For the avoidance of doubt a decision by the Contractor to Accept any Waste shall not prejudice the Contractor's right subsequently to treat any such Waste (or part thereof) as Rejectable Waste

"Acceptable Waste" means any Waste which the Contractor is not entitled to Reject or treat as Rejectable Waste

"Accepted Waste" means any Waste which has been Accepted. For the avoidance of doubt Accepted Waste may contain Rejectable Waste

"ACT Plant" the advance conversion technology plant forming part of the New Waste Treatment Facility

"Authorised Vehicle" means any vehicle authorised by the Councils, any WCA or any Authorised Driver from time to time to Deliver Waste to any Delivery Point and where full details of such vehicle have been notified to the Contractor and the Operating Contractor by any such person not less than 1 Business Day prior to such vehicle making any Delivery

"Authorised Driver" means any driver authorised by any WCA or the Councils from time to time to Deliver Waste to any Delivery Point in an Authorised Vehicle and where the identity of such driver (together with the identity of the Authorised Vehicle such person is authorised to use for the purpose of Delivering of Waste) has been notified to the Contractor and the Operating Contractor by the Councils or any WCA not less than 1 Business Day prior to such person making any Delivery

"Average" the arithmetic mean weighted by the tonnage of Waste processed attributed with a particular Net Calorific Value, Moisture Content or Organic Content as the case may be

"Composition Failure"	has the meaning given in paragraph 5.7
"Contaminated Waste"	<p>means any Waste at a Site which has been contaminated by Rejectable Waste, so that such Waste has become Rejectable Waste, to the extent that the Contractor has acted in accordance with Good Industry Practice to avoid or minimise such contamination having regard to the extent the Contractor knew of the existence of the relevant Rejectable Waste. For the avoidance of doubt Waste which has become Contaminated Waste may:</p> <p>(a) have been delivered in the same or in any other Delivery as the Delivery in respect of which the relevant Rejectable Waste was Delivered; or</p> <p>(b) have been delivered by the Contractor or any other person to the relevant Site</p>
"Contract Waste Composition Protocol"	means the protocol specified in Table 17.1 below
"Delivered Waste"	means any Waste contained within a Delivery which has been Accepted by the Contractor. For the avoidance of doubt Delivered Waste may contain Rejectable Waste and to that extent the Contractor may subsequently treat all or any part of such Waste as Rejectable Waste
"Delivery"	means the arrival at the entry weighbridge at any Delivery Point of a delivery of Waste transported by and contained within or on any single vehicle (including on or in any trailer attached thereto) and "Delivered" and "Delivering" shall be construed accordingly. For the avoidance of doubt, such delivery of Waste from a single vehicle (including any trailer attached thereto) shall comprise a single Delivery
"Independent Testing Body"	means any appropriately qualified and independent person appointed by the Operating Contractor from time to time to carry out the analysis of Waste considered by the Contractor to be Rejectable Waste, Contaminated Waste and/or Mixed Rejectable Waste in accordance with paragraph 4.15 below, provided that the Councils may dispute any such appointment under the Dispute Resolution Procedure
"Initial Sampling Period"	<p>means in relation to measuring:</p> <p>(a) the Average Net Calorific Value of Mixed Waste Fuel pursuant to paragraph 5.2 of this Schedule 17, a period of ten (10) Business Days;</p> <p>(b) the Moisture Content of NWTF Residual Waste pursuant to paragraph 5.4 of this Schedule 17,</p>

a period of ten (10) Business Days;

- (c) the Organic Content of NWTF Residual Waste pursuant to **paragraph 5.5** of this **Schedule 17**, a period of five (5) Business Days.

"Maximum Moisture Content" means the maximum permitted Moisture Content of Waste specified in Table 17.1

"Maximum Net Calorific Value" means the maximum permitted Net Calorific Value of Waste specified in Table 17.1

"Minimum Net Calorific Value" means the minimum permitted Net Calorific Value of Waste specified in Table 17.1

"Minimum Organic Content" means the minimum permitted Organic Content of Waste specified in Table 17.1

"Mixed Rejectable Waste" means a mixture of:

- (a) Rejectable Waste and/or Contaminated Waste; and
- (b) other Waste to the extent that the Contractor has used Reasonable Measures to minimise the amount of such other Waste,

and Mixed Rejected Waste shall be deemed to be Rejectable Waste for the purpose of this **Schedule 17** (Waste Reception Protocol)

"Mixed Waste Fuel" means the materials deposited into the ACT Plant fuel bunker for subsequent processing by the ACT Plant

"Moisture Content" means the moisture content (wet weight basis) of any Waste as determined by testing as set out in BS CEN/TS 15414:2006 - Solid Recovered Fuels - Determination of Moisture Content Using the Oven Dry Method by weight

"Net Calorific Value" means :

- (a) as measured by the Contractor on a periodic basis, the calorific value of any Waste as determined by testing as set out in BS CEN/TS 15400:2006 - Solid Recovered Fuels - Methods for the determination of calorific values
- (b) where **paragraph 5.2** applies, the calorific value of the total amount of any Waste measured pursuant to this **Schedule 17** (Waste Reception Protocol) using the method detailed in section 2.4.2.1 of the "Integrated Pollution Prevention Control Reference Document on the Best Available Techniques for Waste Incineration August 2006", published by the European

Commission or an appropriate equivalent

in each case, such calorific value being calibrated by reference to previous measurements taken whether pursuant to the methodology in paragraph (a) or paragraph (b) above

"Organic Content" means the combined fractions originating from kitchen, garden and/or putrescible waste and forming part of any Waste measured as a percentage by weight (wet weight basis) of the total amount of that Waste

"Reasonable Measures" means measures to remove and separate Rejectable Waste and/or Contaminated Waste (arising from any Delivery) from any other Waste either forming part of the relevant Delivery or otherwise at the Site to which the relevant Delivery was made by the Contractor:

- (a) using its existing operatives and equipment at the relevant Site to which the relevant Delivery was made;
- (b) not incurring material additional cost or suffering any material adverse impact on the Services; and
- (c) not undertaking any specialist training or qualification of any operative,

in each case for the purpose of removing and separating such Rejectable Waste and/or Contaminated Waste

"Reject" means a decision made by the Contractor to reject in accordance with this **Schedule 17** (Waste Reception Protocol) the entirety of a Delivery at any time prior to the unloading of all or a significant part of such Delivery by declaring such Delivery to be a Rejected Load, and **"Rejected"** and **"Rejection"** shall be construed accordingly

"Rejectable Waste" means any Waste which the Contractor is entitled to Reject or to treat as Rejectable Waste in accordance with this **Schedule 17** (Waste Reception Protocol), whether or not the Contractor has Accepted or Rejected such Waste

"Rejectable Waste Report" means the report referred to in **paragraph 4.15** below

"Rejected Load" means the entirety of a Delivery which is Rejected

"Rejection Report" means the report referred to in **paragraph 4.7** below

"Waste Composition Testing" means testing by the Contractor of the composition of any Waste in accordance with **Schedule 1** (Specification)

"Waste Reception" means the protocol for handling and disposing of Waste

Protocol" as set out in this **Schedule** 17 (Waste Reception Protocol)

"Business Day" means, for the purposes of this **Schedule** 17 (Waste Reception Protocol) only, any Day upon which the Energos Technology at the NWTF is planned to be operated from time to time

2. **Introduction**

2.1 This Waste Reception Protocol shall apply to all Delivery Points. This **Schedule** 17 (Waste Reception Protocol) shall not apply to any Household Waste deposited by the public at HWRCs. The Councils shall procure that this Waste Reception Protocol is applied at the transfer station at Waterswallows.

2.2 This **Schedule** 17 (Waste Reception Protocol) specifies the types of Waste contained in any Delivery (whether constituting all or part of such Delivery) which:

2.2.1 the Contractor is entitled to require the person Delivering such Waste not to unload and immediately to remove such Delivery in its entirety from the relevant Delivery Point; or

2.2.2 require the Councils to pay the Contractor an additional amount for Handling:

2.2.2.1 Waste which the Contractor is entitled to Reject; and

2.2.2.2 any Rejectable Waste, Contaminated Waste or Mixed Rejectable Waste arising from Waste which the Contractor is entitled to Reject.

2.3 This **Schedule** 17 (Waste Reception Protocol) includes procedures for:

2.3.1 the inspection and monitoring of Deliveries by the Contractor in order to Accept or Reject any Delivery; and

2.3.2 the Handling by the Contractor of any Rejectable Waste, Contaminated Waste and/or Mixed Rejectable Waste in order to dispose of such Waste lawfully, safely and efficiently in accordance with Good Industry Practice at a fair market price taking into account the relevant circumstances.

2.4 This **Schedule** 17 (Waste Reception Protocol) includes procedures in relation to the composition of NWTF Residual Waste.

3. **Types of Rejectable Wastes**

3.1 Subject to **paragraph** 3.2 below, and notwithstanding that a Delivery may otherwise consist entirely of Acceptable Waste, the Contractor shall be entitled to Reject that Delivery or treat any Waste within that Delivery as Rejectable Waste if it contains any of the following types of Waste:

3.1.1 Waste which is not Contract Waste;

3.1.2 without prejudice to the generality of **paragraph** 3.1.1 above, material amounts of any Waste type listed in **paragraph** 4.19 below;

- 3.1.3 Waste not Delivered by an Authorised Driver or by an Authorised Vehicle (whether or not such Delivery consists entirely of Contract Waste);
 - 3.1.4 Waste which is Delivered in an Authorised Vehicle which is not fit for the purpose of lawfully and safely transporting and unloading Waste to or at the relevant Delivery Point (whether or not such Delivery consists entirely of Contract Waste);
 - 3.1.5 Waste which is transported in an enclosed or covered vehicle where any material amount of such Waste is of a materially different type to that described on the delivery note handed by the vehicle's driver to the Contractor at the entry weighbridge (whether or not such Delivery consists entirely of Contract Waste); or
 - 3.1.6 Waste which is Mixed Rejectable Waste in accordance with paragraph 4.5.4 below (whether or not such Waste contains Contract Waste).
- 3.2 The Contractor shall not be entitled to declare any Delivery to be a Rejected Load pursuant to **paragraph** 3.1 above to the extent that any Rejectable Waste can be removed and stored by the Contractor using Reasonable Measures. For the avoidance of doubt any Waste removed and stored using such measures shall continue to be treated as Rejectable Waste for the purpose of this **Schedule** 17 (Waste Reception Protocol).

4. **Rejection Procedure**

- 4.1 The Contractor shall monitor at the entry weighbridge of each Delivery Point all Deliveries thereto for compliance with the Waste Reception Protocol, provided that any such failure to monitor shall not prejudice the Contractor's right subsequently to declare any Delivery to be Rejected Load, or to be Rejectable Waste, or to have caused Contaminated Waste or Mixed Rejectable Waste.
- 4.2 The Councils shall procure and the Contractor shall be entitled to require that the driver of the vehicle making any Delivery shall present to the Contractor at the entry weighbridge of any Delivery Point a delivery note describing the contents of that Delivery and such other information as may be required by Law or Good Industry Practice.
- 4.3 All vehicles carrying a Delivery shall be weighed and subject to an external visual inspection by the Contractor at the entry weighbridge of the relevant Delivery Point (without any requirement to touch or move the contents of the Delivery or to remove any covering or to open up any enclosed vehicle or trailer) and the weight, provenance and content of that vehicle (including any trailer attached thereto) shall be recorded by the Contractor in accordance with **Schedule** 1 (Specification).
- 4.4 If the Contractor identifies that a Delivery contains or is delivered in circumstances which make it Rejectable Waste at any time prior to the entire Delivery or a significant part thereof being unloaded or permitted to be unloaded, the Contractor shall be entitled to direct the person making such Delivery to remove it from the relevant Delivery Point immediately at no cost to the Contractor (including directing such person to reload and remove any non-significant parts of that Waste which have been unloaded). To the extent that any such person does not comply with a direction of the Contractor pursuant to this **paragraph** 4.4, any such Waste which is not removed and/or reloaded shall be deemed to be Rejectable Waste and shall be Handled and disposed of by the

Contractor in accordance with this **Schedule 17** (Waste Reception Protocol) and the Contractor shall be entitled to recover the cost of doing so from the Councils pursuant to **paragraph 4.13** below.

- 4.5 If the Contractor identifies the presence of material Rejectable Waste after any Delivery (or a significant part thereof) has been unloaded, to the extent that such Delivery has not been mixed with any other Waste at the relevant Site, the Contractor shall:
- 4.5.1 set aside and store at that Site the entirety of that Delivery;
 - 4.5.2 remove the Rejectable Waste from such Delivery and set aside and store at that Site such Rejectable Waste to the extent that the Contractor can do so using Reasonable Measures; or
 - 4.5.3 Handle such Waste as Acceptable Waste,

and to the extent that any such Delivery has been unloaded and mixed with any other Waste at the relevant Site, the Contractor shall:
 - 4.5.4 remove the Rejectable Waste and/or any Contaminated Waste arising therefrom from the other Waste with which it has been mixed, to the extent that the Contractor can do so using Reasonable Measures, and set aside and store at that Site such Rejectable Waste and/or Contaminated Waste;
 - 4.5.5 set aside and store at that Site any Mixed Rejectable Waste arising from such Rejectable Waste and/or Contaminated Waste, and any such Mixed Rejectable Waste shall be stored separately from any Mixed Rejectable Waste, Rejectable Waste or Contaminated Waste arising from the identification of Rejectable Waste from any other Delivery to the extent it is reasonably practical to do so; or
 - 4.5.6 Handle such Waste as Acceptable Waste.
- 4.6 If the Contractor wishes to treat any Waste as Rejectable Waste, Contaminated Waste or Mixed Rejectable Waste, the Contractor shall notify the Councils as soon as reasonably practicable, and in any event within two (2) hours of any Rejected Load, Rejectable Waste, Contaminated Waste or Mixed Rejectable Load being identified by the Contractor.
- 4.7 The Contractor shall submit to the Councils a report stating the basis for any Waste to be considered to be a Rejected Load, Rejectable Waste, Contaminated Waste or Mixed Rejectable Waste as soon as reasonably practicable and in any event (save in the case of Rejected Load) prior to such Waste being removed from the relevant Site (the "**Rejection Report**"). The Rejection Report shall include digital photographs and reasonable details of the relevant Rejected Load, Rejectable Waste, Contaminated Waste and/or Mixed Rejectable Waste.
- 4.8 Except in the case of emergency or as required by Law, any Rejectable Waste, Contaminated Waste or Mixed Rejectable Waste (but not any Rejected Load) shall be stored by the Contractor separately to any other Waste at the relevant Site for not more than the lesser of:
- 4.8.1 two (2) Business Days;

- 4.8.2 the minimum storage period imposed by Law or any relevant Necessary Consents; or
- 4.8.3 the minimum period which such Waste can be safely stored at the relevant Site in accordance with Good Industry Practice without taking any measures beyond Reasonable Measures,
- following notification by the Contractor to the Councils pursuant to paragraph 4.6 above.
- 4.9 Within 3 hours of receipt by the Councils of the Rejection Report (provided that such time period shall only run during normal working hours common to both Councils on any Business Day), the Councils shall either:
- 4.9.1 notify the Contractor that they agree with the Contractor's' assessment that the relevant Waste is Rejectable Waste, Contaminated Waste and/or Mixed Rejectable Waste and authorise the Contractor to dispose of such Waste in accordance with this **Schedule** 17 (Waste Reception Protocol); or
- 4.9.2 notify the Contractor that they require an inspection by the Councils' Authorised Officer and the Contractor's Project Director (or any permitted delegate of either person) on a date and time specified by the Councils within the minimum storage period permitted by **paragraph** 4.8 above. The Councils may also request the presence of any WCA at any such inspection.
- 4.10 For the avoidance of doubt, and without prejudice to the Councils right to dispute that any Delivery was entitled to be treated as a Rejected Load, the Councils are not required to agree or comment upon any Rejected Load notified pursuant to **paragraph** 4.6 above.
- 4.11 Following the agreement of the Rejection Report pursuant to **paragraph** 4.9.1 above or following the Councils' inspecting any stored Rejectable, Contaminated Waste and/or Mixed Rejectable Waste and agreeing that such Waste is Rejectable Waste, Contaminated Waste and/or Mixed Rejectable Waste pursuant to **paragraph** 4.9.2 above, the Councils shall use all reasonable endeavours to procure that the relevant WCA from whom the relevant Rejectable Waste emanated is notified and steps are taken by or on behalf of the WCA to ensure that further deliveries from that WCA do not contain Rejectable Waste.
- 4.12 If the Councils fail to request or attend an inspection pursuant to **paragraph** 4.9.2 above, the stored Waste to which such request or inspection relates shall be deemed to be Rejectable Waste, Contaminated Waste and/or Mixed Rejectable Waste (as the case may be).
- 4.13 The additional costs properly and reasonably incurred by the Contractor in Handling and disposing of any Rejectable Waste, Contaminated Waste and/or Mixed Rejectable Waste in accordance with this **Schedule** 17 (Waste Reception Protocol) shall be added to:
- 4.13.1 the payment to the Contractor for Handling Hazardous Waste and Clinical Waste (HCWt) for the Payment Period to which such additional costs relate in accordance with **paragraph** 2.7 of **Schedule** 3 (Payment Mechanism); and

- 4.13.2 the annual payment for Hazardous Waste and Clinical Waste (HCWy) for the Contract Year to which such additional costs relate in accordance with **paragraph 1.6.1** of **Schedule 3** (Payment Mechanism).
- 4.14 The Contractor shall procure that the Operating Contractor shall appoint an Independent Testing Body from time to time and notify such appointment to the Councils prior to procuring any report in accordance with **paragraph 4.15** below.
- 4.15 Where the Contractor and Councils fail to agree that any Waste is Rejectable Waste, Contaminated Waste or Mixed Rejectable Waste (as the case may be), the Contractor shall procure a report from the Independent Testing Body containing an analysis of such Waste and stating its opinion (which shall be binding on the Councils and the Contractor) as to whether such Waste is Rejectable Waste, Contaminated Waste and/or Mixed Rejectable Waste (as the case may be) (the "**Rejectable Waste Report**").
- 4.16 The Rejectable Waste Report shall be based on the testing of a representative sample (as determined by the Independent Testing Body) of the relevant Waste considered by the Contractor to be Rejectable Waste, Contaminated Waste and/or Mixed Rejectable Waste. The Rejectable Waste Report shall state the nature, weight and potential impact on the Contractor's treatment processes of the relevant Waste.
- 4.17 The costs of the Rejectable Waste Report shall be borne by the Contractor, provided that where and to the extent that any relevant Waste fails to meet the Waste Reception Protocol or is found to be Rejectable Waste, Contaminated Waste or Mixed Rejectable Waste, the reasonable and proper costs of the Rejectable Waste Report shall be reimbursed by the Councils to the Contractor as a debt due under this Contract.
- 4.18 The Contractor shall attend meetings with the Councils and any WCA as reasonably requested by the Councils to consider and resolve issues relating to Rejectable Waste, Contaminated Waste, Mixed Rejectable Waste and/or any Rejected Load.
- 4.19 Without prejudice to the generality of **paragraph 3.1.1** above, the following categories of Waste shall be deemed to be Rejectable Waste:
- 4.19.1 septic tank contents and/or privy contents and/or cesspool contents and/or sewage related wastes;
 - 4.19.2 radioactive waste;
 - 4.19.3 explosives, munitions and other similar dangerous materials;
 - 4.19.4 combustible liquids, highly flammable materials, pyrophoric materials, high pressure containers, water reactive materials, organic peroxides, oxidisers, other than those which:
 - 4.19.4.1 any WCA or any of the Councils ordinarily collect on a regular basis from domestic properties and mixed with normal household waste;
 - 4.19.4.2 are contained within fly tipped waste; or

4.19.5 tyres (except fly tipped waste delivered by any WCA or any of the Councils).

5. Contract Waste Composition Protocol

5.1 Subject to paragraphs 5.1A and 5.1B below, Tables 17.1 and 17.2 below contain maximum and minimum protocol for NWTF Residual Waste that the WCAs and/or the Councils shall be entitled to Deliver to any Delivery Point.

Table 17.1 Contract Waste Composition Protocol

Contract Waste Composition Protocol	Limit
Minimum Organic Content	21%
Maximum Moisture Content	60%
Minimum Net Calorific Value	See Table 17.2 and paragraph 5.1A
Maximum Net Calorific Value	18 MJ/kg

Table 17.2 Minimum Net Calorific Value

NWTF Residual Waste arising in the relevant Contract Year (tonnes per annum)	Minimum Net Calorific Value (MJ/kg)
155,000 and above	7.35
154,999 to 149,001	Minimum Net Calorific Value to increase in direct proportion to the decreasing NWTF Residual Waste arising from 7.35 at 155,000 tpa up to 7.52 at 149,000 tpa or monthly equivalents thereof
149,000 and below	7.52

5.1A Where the total quantity of NWTF Residual Waste delivered to the Contractor by a WCA and/or a Council Related Party in any Month:

5.1A.1 equals or exceeds twelve thousand nine hundred and seventeen (12,917) tonnes, the Minimum Net Calorific Value shall be 7.35 MJ/kg as specified in Table 17.2 above;

5.1A.2 is less than twelve thousand nine hundred and seventeen (12,917) tonnes per Month, then the Contractor shall notify the Councils promptly, and the Minimum Net Calorific Value shall be determined on a pro rata basis in accordance with Table 17.2 on the assumption that the monthly tonnage represents one twelfth of the figure for the relevant Contract Year.

5.1B If:

5.1B.1 at any time during a Contract Year the Contractor is entitled to a Compensation Event pursuant to **paragraph** 5.7 below where a Composition Failure occurs in relation to the Net Calorific Value of the NWTF Residual Waste; and

5.1B.2 during the period when the Compensation Event applies, the Contractor receives less than twelve thousand nine hundred and seventeen (12,917) tonnes per Month such that the Contractor is compensated on the basis set out in **paragraph 5.1A.2**; and

5.1B.3 at the end of the relevant Contract Year it transpires that the total quantity of NWTF Residual Waste delivered to the Contractor by a WCA and/or a Council Related Party exceeds 155,000 tonnes per annum, such that the Contractor should have been compensated by reference to a lower Net Calorific Value in accordance with Table 17.2;

then an amount shall be deducted from the Unitary Charge in respect of any extra payment paid to the Contractor pursuant to **paragraph 5.7** corresponding to the difference in Minimum Net Calorific Value between 7.35 MJ/kg and the relevant value calculated earlier in accordance with Table 17.2.

5.2 The Contractor shall record the Average Net Calorific Value of Mixed Waste Fuel as derived from daily analysis of the NWTF performance data, including but not limited to the mass of Waste processed, the amount of steam generated, the flue gas temperature downstream of the boiler, and shall correlate such data against such Waste Composition Testing as may be carried out from time to time by the Contractor.

5.3 In the event that the Average Net Calorific Value of the Mixed Waste Fuel recorded pursuant to **paragraph 5.2** above falls below 8.5 MJ/kg or rises above 17.5MJ/kg measured on each Business Day for any period of five (5) consecutive Business Days, the Contractor may implement daily Waste Composition Testing of the NWTF Residual Waste, MBT output waste and the Mixed Waste Fuel over an Initial Sampling Period. The Contractor shall procure that such testing provides sufficient information to determine the Net Calorific Value of the various waste streams set out above and is based upon statistically significant data. In order to determine the Net Calorific Value of the NWTF Residual Waste beyond the Initial Sampling Period, the results of the Waste Composition Testing will be used to calibrate the Net Calorific Value of the Mixed Waste Fuel as derived pursuant to **paragraph 5.2** above so as to determine the corresponding Net Calorific Value of the NWTF Residual Waste processed on any day. Waste Composition Testing shall be repeated at monthly intervals or such longer suitable period agreed with the Councils and this shall continue for so long as the Average Net Calorific Value measured of the NWTF Residual Waste derived pursuant to this paragraph over any period of five (5) Business Days falls outside the limits set out in Table 17.1.

5.4 If the Contractor considers that the Moisture Content of the NWTF Residual Waste exceeds that set out in Table 17.1, the Contractor may implement daily Waste Composition Testing of the NWTF Residual Waste over an Initial Sampling Period. The Contractor shall procure that such testing measures the Moisture Content of the NWTF Residual Waste based upon statistically significant data and shall continue for so long as the Average Moisture Content measured over any period of five (5) consecutive Business Days is more than that set out in Table 17.1.

5.5 If the Contractor considers that the Organic Content of the NWTF Residual Waste is below that set out in Table 17.1, the Contractor shall implement weekly Waste Composition Testing of the NWTF Residual Waste. The Contractor shall procure that such testing measures the Organic Content of the NWTF Residual Waste based upon statistically significant data and shall continue for so long as the

Average Organic Content measured over any period of five (5) consecutive Business Days is less than that set out in Table 17.1.

5.6 Where and for so long as **paragraph** 5.2, 5.4 or 5.5 above (as the case may be) applies the Contractor shall:

5.6.1 provide any data referred to in **paragraph** 5.2, 5.4 or 5.5 above (as the case may be) to the Councils within the next Monthly Report to be submitted after any such data is available to the Contractor;

5.6.2 use reasonable endeavours to reduce the Moisture Content of the NWTF Residual Waste;

5.6.3 use reasonable endeavours to increase the Organic Content of the NWTF Residual Waste;

5.6.4 use reasonable endeavours to adjust the Net Calorific Value, Moisture Content or Organic Content (as the case may be) of the NWTF Residual Waste transported by the Contractor to the NWTF by prioritising NWTF Residual Waste from any Delivery Point with an appropriate Net Calorific Value, Moisture Content or Organic Content (as the case may be) (to the extent it is available);

5.6.5 use all reasonable endeavours to procure Third Party Waste which has an appropriate Net Calorific Value, Moisture Content or Organic Content (as the case may be) (to the extent it is available) and to the extent that does not cause the Contractor to incur material additional cost (which is not compensated for by any Third Party Income received from treating such Third Party Waste) or cause the Contractor to suffer any material loss of Third Party Income or any Deduction, and in the event of any required characteristics being mutually exclusive, the Contractor shall determine the most appropriate Third Party Waste to procure

5.6.6 use all reasonable endeavours to agree with the Councils measures that the Councils may be able to implement or procure in order that the Net Calorific Value, Moisture Content and/or Organic Content (as the case maybe) of the NWTF Residual Waste can be improved;

5.6.7 use reasonable endeavours to adapt the MBT throughput tonnage and or supply of air in the MBT operation so as to achieve an appropriate adjustment to the Net Calorific Value or Moisture Content (as the case may be).

5.7 If either:

5.7.1 the Average Net Calorific Value; and/or

5.7.2 the Average Moisture Content; and/or

5.7.3 the Average Organic Content;

(as the case may be) of the NWTF Residual Waste (including where combined with any Third Party Waste in accordance with paragraph 5.6.5 above) falls outside the relevant protocol specified in Table 17.1 (in each case a Composition Failure) for any period of fifteen (15) consecutive Business Days (the day after the expiry of such period being the Trigger Date);

5.7.4 the Contractor and the Councils shall acting reasonably seek to agree measures (including any Council Change) to enable the Contractor thereafter to achieve during the Services Period the same level of Diversion and Third Party Income from Energy Recovery as the Contractor would have achieved under the Base Case;

5.7.5 then such continued Composition Failure shall constitute a deemed Compensation Event from the Trigger Date until and including the fifth consecutive Business Day during which there has been no Composition Failure.

6. **Contractor's Duties**

6.1 Notwithstanding and without prejudice to any other provision in this **Schedule 17** (Waste Reception Protocol), the Contractor shall implement the procedures in this **Schedule 17** (Waste Reception Protocol) in accordance with Good Industry Practice and with the intent of seeking to identify Rejectable Waste at the entry weighbridge of the Delivery Point and to assist the Councils to procure the reduction or avoidance of Rejected Loads and Rejectable Waste, and the Contractor shall take all Reasonable Measures to mitigate the effects and the costs of Handling or disposing of all Rejectable Waste, Contaminated Waste and Mixed Rejectable Waste.

7. **Heavy Metals**

If at any time, the Contractor becomes aware that the NWTF has failed, or is trending towards failing, to comply with any applicable Legislation or Necessary Consents due to heavy metal gaseous emissions in excess of the relevant limits, the Contractor shall notify the Councils of such occurrence. Following receipt of such notice the Contractor and the Councils shall:

7.1 co-operate in order to seek to identify the source and/or type of the NWTF Residual Waste which is the cause of such excess heavy metal gaseous emissions; and

7.2 seek to agree steps which each Party can take to ensure the segregation of items which are causing excess heavy metal gaseous emissions and to encourage appropriate disposal of such items.