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DATED 22nd DECEMBER 2022

(1) RUSHCLIFFE BOROUGH COUNCIL

AND

(2) WASTE INVESTIGATIONS SUPPORT & ENFORCEMENT LTD

CONCESSION AGREEMENT RELATING TO
WASTE ENFORCEMENT

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THIS AGREEMENT is made on 22nd December 2022.

BETWEEN: -

- (1) RUSHCLIFFE BOROUGH COUNCIL, of Rushcliffe Arena, Rugby Road, West Bridgford, Nottingham NG2 7YG (the "Authority");
- (2) WASTE INVESTIGATIONS SUPPORT & ENFORCEMENT LTD (Company No. (12894391) whose registered office is at 11a Waterside Court, St Helens, Merseyside, WA9 1UA (the "Concessionaire")

BACKGROUND

- A) The Authority wishes to engage with **WASTE INVESTIGATIONS SUPPORT & ENFORCEMENT LTD** regarding provision of services covering, investigating fly tipping, fly posting complaints, completion of routine business waste inspections and issuing Fixed Penalty Notices for agreed offences throughout the Ward Areas of Rushcliffe Borough Council in accordance with the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005, the Highways Act 1980 and Anti-Social Behaviour Act 2003.
- B) Following an Open Tender exercise dated 16 November 2022 the Authority identified **WASTE INVESTIGATIONS SUPPORT & ENFORCEMENT LTD** (the "Concessionaire") as the successful bidder and as such wishes to grant the Concessionaire the right to exploit the works as described above.
- D) The Concessionaire has agreed to provide such concession at no cost to the Authority subject to the terms of this Agreement. The Concessionaire recognises and accepts that it is not guaranteed to recoup its investments/costs in running the service.

IT IS AGREED between the parties as follows:-

1. DEFINITIONS

Agreement	means this agreement together with any schedules;
"Authority's Responsible Manager"	means Martin Hickey, Principal Officer (Community Safety and Licensing) Neighbourhoods
"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
"Commencement Date"	means the date of this Agreement;
"Concession"	means the right for the Concessionaire to offer Waste Enforcement services in accordance with the terms of this Agreement;

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"Concession Start Date"	01 January 2023;
"Confidential Information"	all information of a confidential nature disclosed (whether in writing, verbally or by any other means whether directly or indirectly) by either party to the other whether before or after the date of this Agreement including, without limitation, any information relating to the customers, personnel, suppliers, products, documents, operations, methodologies, processes, developments, specifications, materials, drawings, designs, plans, intentions, product information, software listings, source or object code, know-how, design rights, trade secrets, market opportunities or business affairs;
" Brand Features"	the trademarks, service marks, logos, trade names, business names and brands belonging to Rushcliffe Borough Council and such other additional or alternative marks as Rushcliffe Borough Council may notify to the Authority from time to time;
"Concessionaire's Responsible Manager"	means tbc
"Escalation Procedure"	means the escalation procedure set out in clause 15;
"Equipment"	means uniform, encrypted body worn cameras and digital assistants to be provided by the Concessionaire
Extended Term	means – definition in clause 2.1
"FOIA"	means the Freedom of Information Act 2000;
"Group"	in relation to a party, that party, its subsidiaries, its holding companies, and the subsidiaries of its holding companies (and "subsidiaries" and "holding companies" shall have the meaning as set out in s.1159 of Companies Act 2006);
Initial term	Means as defined in clause 2.1

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"Intellectual Property Rights"	means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
"Objection"	has the meaning as set out in clause 1.3;
"Rates"	means the revenue share of ● % to the Authority and ● % to the Concessionaire The Authority is not responsible should the Concessionaire not meet expected indications, the agreement is based on nil cost to the Authority. No fees are to be applied to the Authority
"Responsible Managers"	means the Authority's Responsible Manager and the Concessionaire's Responsible Manager;
"Ward(s)"	means all ward(s) located within Rushcliffe Borough Council boundary;

2. COMMENCEMENT AND DURATION

- 2.1. Subject to clause 2.2, this Agreement shall, commence on the Commencement Date and shall continue in full force and effect unless terminated earlier in accordance with clause 8 (Termination) for a period of 3 years (Initial Term) when it shall terminate automatically without notice unless, no later than 1 months before the end of the initial term (or any Extended Term agreed under this clause) the Parties agree in writing that the term of this agreement shall be extended for 2 years (Extended Term). Unless it is further extended under this clause or terminated earlier in accordance with clause 8 (Termination), the agreement shall terminate automatically without notice at the end of an Extended Term
- 2.2. As soon as reasonably practicable and no later than 10 Business Days following the Commencement Date, the Authority shall publish a contract award notice.
- 2.3. It shall be condition of this Agreement that should a third party challenge be made and upheld within 30 days of the publication of the contract award notice referred to in clause 2.2 above (an "Objection") The Authority shall notify the Concessionaire as soon as reasonably possible.
- 2.4. In the event that the Objection has not been withdrawn either party shall have absolute discretion as to whether to terminate this Agreement with immediate effect and with no liability.

3. RIGHT TO OPERATE THE CONCESSION AND EXCLUSIVITY

- 3.1. The parties agree that the Concessionaire shall have the right to operate the Concession in accordance with the terms of this Agreement, in particular the provisions set out in Schedule 1. The Authority hereby warrants, represents and undertakes that it is capable of granting the rights specified in this Agreement to the Concessionaire.
- 3.2. During the term of this Agreement, The Concessionaire will have the exclusive right to operate the Concession and the Authority agrees not to enter into any agreement with a third party for the provision of services which are the same or similar to the Concession however nothing in this clause 3.2 shall fetter the Authority 's discretion in the exercise of its statutory functions.

4. SCOPE AND OPERATION OF CONCESSION

- 4.1. The Concession will be operated across the Wards in accordance with the provisions of this Agreement.
- 4.2. In operating the Concession, both parties acknowledge and agree the following:-
- 4.2.1 there is no guarantee as to revenue, number of hours worked or number of FPNs issued or payments received;
- 4.2.2 In relation to the operation of the Concession and the facilitation of the same, the parties agree to act in good faith and in accordance with the provisions of Schedule 1.

5. REPORTING AND CONTRACT MANAGEMENT

5.3 The parties agree to comply with the provisions of Schedule 4 in relation to their respective reporting obligations. The frequency of reports and data included within Schedule 4 may be amended by mutual agreement of both parties in writing.

5.4 The Responsible Managers shall be responsible for the day-to-day management of this Agreement and shall ensure regular contact with one another and their respective operational operatives in order to effectively deliver the Concession.

5.5 The Authority's Responsible Manager will organise monthly operational meetings at venues to be agreed (or by Teams) and will invite the Concessionaire's Responsible Manager (together with such other appropriate operational operatives from the Concessionaire) to attend by providing at least seven (7) days' notice. The frequency of meetings and attendees can be adjusted by mutual agreement of both parties in writing.

6 INTELLECTUAL PROPERTY

6.3 All Intellectual Property Rights existing on or before the Commencement Date shall remain with the owner of such pre-existing Intellectual Property Rights.

6.4 The ownership of all Intellectual Property Rights subsisting in all databases, lists and any other information generated relating to the operation of the Concession and/or this Agreement from the Commencement Date shall vest in the party creating such databases, lists and other information.

6.5 The Authority grants to the Concessionaire with effect from the Commencement Date a revocable, royalty-free and non-exclusive licence to use Rushcliffe Brand Features in accordance with any guidelines submitted to the Concessionaire by the Authority from time to time solely for the purposes of performance of its obligations under this Agreement. Prior to using the Authority's Brand Features in any publication, advert, announcement or otherwise the Concessionaire agrees it shall first obtain the prior written consent of the Authority.

6.6 Upon termination of this Agreement for any reason, the non-exclusive licence referred to in clause 6.4 shall immediately terminate.

7 LIABILITY

7.3 During the term of this agreement and for a period of 2 years after the expiry or termination of this agreement, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance at an amount not less than £5 million and public liability insurance at an amount not less than £20 million to cover the liabilities that may arise under or in connection with this agreement and shall produce to the Customer on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

7.4 Subject to clauses 8.3 and 8.4, the Concessionaire's maximum aggregate liability in contract, tort or otherwise (including any liability for any negligent act or omission) howsoever arising out of or in connection with this Agreement is limited to insurance cover the Concessionaire has obtained in respect of certain aspects of its own legal liability for individual claims on a per claim basis.

7.5 Neither party shall be liable for direct and indirect loss of profits or revenue, loss of sales or business, loss of agreements or contracts, loss of anticipated savings or tax mitigation, loss of or damage to goodwill, loss of use or corruption of software or information and any indirect or consequential losses or damage of any nature whatsoever, including, but not limited to third party claims, lost management time, indirect economic loss or other similar losses.

7.6 Nothing in this Agreement shall limit or exclude the liability for either party for death or personal injury as a result of their negligence or fraud or fraudulent misrepresentation.

8 TERMINATION

8.1 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

8.1.1 the other party commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

8.1.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or

8.1.3 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business (excluding changes to the incentives package as outlined in Schedule 1).

8.2 The Authority may terminate the Agreement for convenience at any time without liability, penalty, or costs upon giving at least 30 days' Notice to the Concessionaire.

8.3 The Authority shall be entitled to terminate this Agreement immediately on written notice to the Concessionaire if it reasonably believes that the acts or omissions of the Concessionaire will or is likely to damage the Authority's reputation.

8.4 Termination of this Agreement, howsoever arising, is without prejudice to the rights, duties and liability of either party accrued prior to termination. The terms which expressly or impliedly have effect after termination will continue to be in force notwithstanding termination.

9 CONFIDENTIALITY

9.1 Each party undertakes that it shall not at any time disclose to any person any Confidential Information except as permitted by clause 9.1.

9.2 Each party may disclose the other party's Confidential Information:

9.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall procure that its employees, officers, representatives or advisers to whom it discloses the other party's Confidential Information comply with this clause; and

9.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

9.3 No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under this Agreement.

9.4 All documents and other records (in whatever form) containing Confidential Information supplied to or acquired by either party from the other shall be returned promptly on termination of this Agreement, and no copies shall be kept.

9.5 The Concessionaire acknowledges that as a public authority, the Authority may receive requests for information relating to this Agreement and the operation of the Concession which, but for the right to claim commercial confidentiality or any other applicable exemption, the Authority will be obliged to disclose under FOIA. The Authority shall consult with the Concessionaire over any such request and the Concessionaire shall promptly and in any event within 5 Business Days with its opinion as to whether the material should not be disclosed on the grounds of confidentiality or otherwise and provide such other reasonable assistance as may be required to enable the Authority to comply with its obligations under FOIA

10 DATA PROTECTION

10.1 Each Party agrees to comply with its obligations as set out in Schedule 3 of this Agreement.

11 PREVENTION OF CORRUPTION

11.1 Either party shall be immediately entitled to terminate the Agreement or any part of it immediately if:

11.1.1 the other party shall have offered, or given, or agreed to give, to any person, any gift, or consideration, inducement or reward of any kind, for doing or not doing any action (except in accordance with a permitted and lawful sub-contract), or

11.1.2 the other party shall have:-

11.1.3 committed any offence under the Bribery Act 2010 and/or the Prevention of Corruption Acts 1889 to 1916 or

11.1.4 given any fee or reward, the receipt of which is an offence under Section 117 (2) of the Local Government Act, 1972.

12 AUDIT

- 12.1 For the purpose of conducting any audit investigation relating to this Agreement, each party shall allow reasonable access to the other (or their auditors), upon written request and by prior appointment, to all records relating directly to the Concession.
- 12.2 Each party shall maintain a complete and correct set of records pertaining to all activities relating to the Concession and their respective obligations under this Agreement (collectively "**Records**").
- 12.3 Each party shall retain all Records during the term of this Agreement and for a period of not less than 6 years (or such longer period as may be required by law) following termination or expiry of the Agreement ("**Retention Period**").
- 12.4 Each party shall throughout the Retention Period allow access to the other party (or its auditors), upon written request and by prior appointment, to all records relating directly to the Concession.

13 NOTICES

- 13.1 Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office or such other address as that Party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next Business Day delivery service, commercial courier, or email.
- 13.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the registered office address of the party to which it is addressed (or such other address as that party may have specified in accordance with clause 13.1); if sent by pre-paid first class post or other next Business Day delivery service, at 10.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.

14 NO PARTNERSHIP OR AGENCY

- 14.1 Nothing in this Agreement shall be so construed as to constitute either party to be the agent of the other, nor shall it operate so as to create a partnership or joint venture of any kind between the parties. Each Party shall act hereunder only on an individual basis and shall not, unless otherwise authorised in writing by the other party, be authorised to act as agent of the other party nor have the power to bind the other party. No party shall so bind the other party, or represent to anyone that it has the authority to bind such other party, or make any other representation about or on behalf of such other party.

15 DISPUTE RESOLUTION

15.1 Any question or difference which may arise concerning the construction, meaning or effect of this Agreement, or any matter arising out of or in connection with this Agreement will in the first instance be referred to the Authority's Responsible Manager and concession holder's Responsible Manager for discussion and resolution as soon as reasonably possible and, in any event, within 20 days of such referral. If the matter is not resolved at this meeting, the escalation will continue through two (2) more levels of management as shown in the table below. If the unresolved matter is having a serious effect on the Concession, the parties will use reasonable endeavours to reduce the elapsed time in completing the process. Neither party may initiate any legal action until the process has been completed, unless such party has reasonable cause to do so to avoid damage to its business or to protect or preserve any right of action it may have.

Role	Authority	Concessionaire	Resolution Time
Level 1	Martin Hickey	Adrian Rodilla	3 Business Days
Level 2	Geoff Carpenter	?	7 Business Days
Level 3	Dave Banks	Colin Buchanan	10 Business Days

- 15.2 If the dispute is not resolved by escalation in accordance with clause 15.1, the parties may seek to resolve disputes between them by an Alternative Dispute Resolution technique recommended by the Centre for Dispute Resolution.

16 MISCELLANEOUS

- ~~16.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.~~
- 16.2 Each party acknowledges that in entering into this Agreement it does not rely on any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 16.3 Except as otherwise stated in this Agreement, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 16.4 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 16.5 If any provision or part-provision of this Agreement is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal, and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. The legality, validity, and enforceability of any other provision of this Agreement shall not be affected.
- 16.6 No one other than a party to this Agreement (and their successors), shall have any right to enforce any of its terms.
- 16.7 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement.

17 GOVERNING LAW AND JURISDICTION

- 17.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 17.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1

Concession Scope And operation

OPERATION OF THE CONCESSION

Environmental offences covered:

- Section 33 Environmental Protection Act 1990 (the EPA). (Depositing controlled waste
- Section 34 Environmental Protection Act 1990. (Duty of care etc as respect to waste)
- Section 46 Environmental Protection Act 1990. (Receptacles for household waste. In specific cases when agreed)
- Section 47 Environmental Protection Act 1990. (Receptacles for commercial or industrial waste upon complaint)
- Section 87 Environmental Protection Act 1990 (Offence of leaving litter)
- Section 88 Environmental Protection Act 1990 (Fixed penalty notices for leaving litter)
- Section 108 Environment Act 1995 (Powers of enforcing authorities and persons authorised by them)
- Section 43 Anti-Social Behaviour Act 2003. (e.g., Penalty notices for graffiti and flyposting)
- Section 52(failure to comply with CPN),68 (PSPO fpns) Anti-social Behaviour, Crime and Policing Act 2014 (in specific cases when agreed, e.g. PSPO breach)
- Any other offences with the agreement of both parties.

Schedule 2

Complaints

THE CONCESSION AND THE AUTHORITY WILL ADHERE TO THE FOLLOWING CUSTOMER COMPLAINTS PROCEDURE:

All complaints received by either party whether verbal or written should be uploaded onto the Concessionaire's IT system on the day of receipt.

Complaints notified directly to the Authority will be promptly forwarded to Concessionaire following written acknowledgment by the Authority to the complainant and giving a deadline for response.

Complaints received by the Concessionaire will be immediately acknowledged and notification of the complaint and deadline for response provided to the Authority and complainant. Provide the Authority with a written copy of the response and outcome of the investigation upon request. This is to include any disciplinary action against the waste enforcement officer and organisational learning for the Concessionaire and/or the Authority.

Complaints to be addressed within 10 working days.

Full written records of all communications with all parties should be retained for reference and audit trail.

Schedule 3
Data Protection

1. DEFINITIONS.

In this schedule the following definitions shall apply.

"Controller", "Processor" and "Data Subject" shall have the meaning given to those terms in the applicable Data Protection Laws;

"Data Protection Laws" means (a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the Processing of Personal Data to which a Party is subject, including the Data Protection Act 2018 and the GDPR; and (b) any code of practice or guidance published by the ICO and/or European Data Protection Board from time to time;

"Data Processing Particulars" means, in relation to any Processing under this Agreement:

- (a) the subject matter and duration of the Processing.
- (b) the nature and purpose of the Processing.
- (c) the type of Personal Data being Processed; and
- (d) the categories of Data Subjects;

"Data Subject Request" means an actual or purported request or notice or complaint from or on behalf of a Data Subject exercising his rights under the Data Protection Laws in relation to Personal Data including without limitation: the right of access by the Data Subject, the right to rectification, the right to erasure, the right to restriction of processing, the right to data portability and the right to object;

"GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Authority of 27 April 2016 on the protection of natural persons about the Processing of Personal Data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016;

"ICO"	means the UK Information Commissioner's Office, or any successor or replacement body from time to time;
"ICO Correspondence"	means any correspondence or communication (whether written or verbal) from the ICO in relation to the Processing of Personal Data;
"Losses"	means all losses, fines, penalties, liabilities, damages, costs, charges, claims, amounts paid in settlement and expenses (including legal fees (on a solicitor/client basis), disbursements, costs of investigation (including forensic investigation), litigation, settlement (including ex gratia payments), judgment, interest and penalties), other professional charges and expenses, disbursements, cost of breach notification including notifications to the data subject, cost of complaints handling (including providing data subjects with credit reference checks, setting up contact centres (e.g. call centres) and making ex gratia payments), all whether arising in contract, tort (including negligence), breach of statutory duty or otherwise;
"Personal Data"	means any personal data (as defined in the Data Protection Laws) Processed by either Party in connection with this Agreement, and for the purposes of this Agreement may include Sensitive Personal Data (as such Personal Data is more particularly described in Appendix 1 (<i>Data Processing Particulars</i>));
"Personal Data Breach"	has the meaning set out in the Data Protection Laws and for the avoidance of doubt, includes a breach of paragraph 2.2.3(d).
"Personnel"	means all persons engaged or employed from time to time by the Authority in connection with this Agreement, including employees, consultants, Concessionaires and permitted agents;
"Processing"	has the meaning set out in the Data Protection Laws (and "Process" and "Processed" shall be construed accordingly);
"Restricted Country"	means a country, territory, or jurisdiction outside of the European Economic Area which the EU Commission has not deemed to provide adequate protection in accordance with Article 25(2) of the DP Directive and/ or Article 45(1) of the GDPR (as applicable);
"Security Requirements"	means the requirements regarding the security of Personal Data, as set out in the Data Protection Laws (including, in particular, the seventh data protection principle of the DPA and/ or the measures

set out in Article 32(1) of the GDPR (taking due account of the matters described in Article 32(2) of the GDPR)) as applicable;

"Sensitive Personal Data" means Personal Data that reveals such special categories of data as are listed in Article 9(1) of the GDPR;

"Services" means provision of lead generation services in relation to which the Authority shall submit Leads to THE CONCESSIONAIRE; and

"Third Party Request" means a written request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by law or regulation.

1. DATA PROTECTION

1.1 Nature of the Processing

- 1.1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller, and the Concessionaire is the Processor. The only processing that the Concessionaire is authorised to do is listed in this Schedule and may not be determined by the Concessionaire
- 1.1.2 The Concessionaire shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- 1.1.3 The Concessionaire shall provide reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
- (a) a systematic description of the envisaged
 - (b) processing operations and the purpose of the processing.
 - (c) an assessment of the necessity and proportionality of the processing operations in relation to the Services.
 - (d) an assessment of the risks to the rights and freedoms of Data Subjects; and the measures envisaged to address the risks, including safeguards, security measures and not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - (i) the Authority or the Concessionaire has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority.

1.1.4 The Concessionaire shall, in relation to any personal Data processed in connection with Its obligations under this Agreement:

- (a) process that Personal Data only in accordance with the Schedule unless the Concessionaire Is required to do otherwise by Law. If it is so required, the Concessionaire shall promptly notify the Authority before processing the Personal Data unless prohibited by Law.
- (b) ensure that Is has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:
 - nature of the data to be protected.
 - harm that might result from a Data Loss Event
 - state of technological development; and
 - cost of Implementing any measures.
- (c) to ensure that:
 - (i) the Concessionaire Personal do not process Personal Data except in accordance with this Agreement.
 - (ii) It takes all reasonable steps to ensure the reliability and Integrity of any Concessionaire Personnel who have access to the Personal Data and ensure that they:
 - (1) are aware of and comply with the Concessionaire's duties under this clause.
 - (2) are subject to appropriate confidentiality undertakings with the Concessionaire or any sub-processor.
 - (3) are Informed of the confidential or the Personal Data and do not publish, disclose, or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Agreement; and
 - (4) have undergone adequate training in the use, care, protection and handing of Personal Data; and
 - (5) not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - the Authority or the Concessionaire has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority.
 - the Data Subject has enforceable rights and effective legal remedies.

- the Concessionaire complies with Its obligations under the Data Protection Legislation by provided an adequate level of protection to any Personal Data that Is transferred (or, If It Is not so bound, uses Its best endeavours to assist the Authority In meeting Its obligations); and
- the Concessionaire compiles with any reasonable ~~Instructions notified to It In advance by the~~ Authority with respect to the processing of the Personal Data.

(d) at the written direction of the Authority, delete or return Personal Data (and any copies of It) to the Authority on termination of the Agreement unless the Concessionaire Is required by Law to retain the personal data.

1.1.5 The Concessionaire shall notify the Authority Immediately If It:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data.
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation.
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement.
- (e) receives a request from any third party for disclosure of Personal data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event

1.1.6 The Concessionaire's obligation to notify shall Include the provision of further information to the Authority in phases, as details become available.

1.1.7 Considering the nature of the processing, the Concessionaire shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication, or request (and insofar as possible within the timescales reasonably required by the Authority) Including by promptly providing:

- (a) the Authority with full details and copies of the complaint, communication, or request.

- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation.
 - (c) the Authority, at Its request, with any Personal Data It holds in relation to a Data Subject.
 - (d) assistance as requested by the Authority following any Data Loss Event.
 - (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.
- 1.1.8 The Concessionaire shall maintain complete and accurate records and Information to demonstrate Its compliance with this clause.
- 1.1.9 The Concessionaire shall designate a data protection officer if required by the Data Protection Legislation.
- 1.1.10 The Concessionaire shall allow for audits of its Data Processing activity by the Authority, or the Authority's designated auditor
- 1.1.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Concessionaire must:
 - (a) notify the Authority In writing of the Intended Sub- processor and processing.
 - (b) obtain the written consent of the Authority.
 - (c) enter into a written agreement with the Sub- processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and
 - (d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.
- 1.1.12 The Concessionaire shall remain fully liable for all acts or omissions of any Sub-processor.
- 1.1.13
- 1.1.14 The Authority may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard causes or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 1.1.15 The parties agree to take account of any guidance Issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Concessionaire amend this agreement to ensure that it complies with any guidance Issued by the Information Commissioner's Office.

- 1.1.16 Neither Party excludes nor limits its liability in respect of the terms of this Data Processing Addendum
- 1.1.17 Where applicable, the Parties agree that if, upon review following GDPR coming into force, the provisions of this Data Processing do not comply with GDPR then both Parties agree to co-operate in good faith to re-negotiate the terms of this Data Processing Addendum to ensure compliance with GDPR.
- 1.1.18 the Concessionaire shall notify the Authority immediately if it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data.
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation.
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement.
 - (e) receives a request from any third party for disclosure of Personal data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Data Loss Event
- 1.1.19 The Concessionaire's obligation to notify shall include the provision of further information to the Authority in phases, as details become available.
- 1.1.20 Considering the nature of the processing, the Concessionaire shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:
- (a) the Authority with full details and copies of the complaint, communication, or request.
 - (b) such assistance as is reasonably requested by the Authority

Schedule 4 Reporting and contract management

The parties agree that they will comply with the provisions of this Schedule 4 in relation to their respective reporting obligations under this Agreement

The contactor will be required to visit a fly tip as soon as possible with the aim of inspecting all reported tips within 24 hours from the time that the initial report is received. Compliance with this target should not normally fall below 75% when assessed over the course of each month.

A FPN should be issued at the time of the offence or as soon as possible following confirmation of offender's details.

Where a FPN is not paid within 14 days of issue the provider shall follow the reminder process as stated earlier in this specification and submit case files for prosecution as soon as is possible but no later than 14 days from the last reminder letter unless otherwise agreed.

The provider will allow system access to the Council's designated officers to view details of issued FPNs (subject to compliance with GDPR) that must include, but not limited to;

- Gender of offender.
- Payment method of the FPN (Credit Card / Debit Card / online / telephone / cash)
- Ethnicity of offender.
- Disability status
- Payment rate.
- Location of offence
- Date of offence. The provider will consider how best it can operate a service that is responsive to the requirements of the Council in terms of other protected characteristics described by the Equality Act 2010 and can demonstrate this.

The provider must have the capacity and capability to report and show the number of FPN's issued, paid, outstanding or cancelled and must be capable of reporting the number of public representations made against individual enforcement officers. This information will be made available to the Council upon request and supplied within 24 hours.

The provider's system must be able to generate reports with all the above information in both excel and pdf formats upon request by the Council. Reports must be available and supplied within 24 hours of the request being made by the Council.

The provider will be required to attend meetings either in person or via MS Teams as agreed with the Council to review performance and apply reasonable adjustments to practices and arrangements. These meetings will be held once a month or more frequently if required.

THE COMMON SEAL of

RUSHCLIFFE BOROUGH COUNCIL

was hereunto affixed in the presence of

Authorised signatory: *U. J. Mamick*

Date: *22nd December 2022*



Signed by an authorised person for and on behalf of Rushcliffe Borough Council

SIGNED BY AN AUTHORISED PERSON

FOR AND ON BEHALF OF

Waste Investigations Support & Enforcement Ltd

NAME: JOHN DUNNE

POSITION: MANAGING DIRECTOR

DATE: 20TH DECEMBER 2022

John Dunne

