

SCHEDULE 14

Commercially Sensitive Information

This is Schedule 14 comprising the Commercially Sensitive Information referred to in the Project Agreement for the provision of waste services to Cumbria

between

CUMBRIA COUNTY COUNCIL

and

SHANKS CUMBRIA LIMITED



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SCHEDULE 14 - COMMERCIALY SENSITIVE INFORMATION

Part 1 – Commercially Sensitive Material

Information	Duration
Base Case and Financial Model	Six (6) years from Commencement Date
Costs breakdown (including surpluses) (not total costs)	Indefinitely (or until no longer sensitive)
Information obtained from the Contractor and not generally available (eg future marketing strategy, product information, research plans, amount of borrowing)	Six (6) years from date obtained or until the information is in the public domain
Information relating to contract negotiation (includes correspondence, meeting minutes, emails, contract change notices, presentation materials, models, etc.) to the extent specifically referred to in this Schedule 14 (Commercially Sensitive Information)	Six (6) years from the Commencement Date
Information on sums recovered from the Contractor (but not the fact that sums have been recovered) such as damages, LADs, insurance claims and sums recovered under indemnities or warranties	One (1) Year from when sums were due and payable
Details of any Performance Deductions and Performance Points or any penalties or Warning notices incurred by/issued to the Contractor - subject always to Note 1 below	Expiry Date
<p>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) • 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>	Indefinitely
Any future marketing information, product information, research plans, service development proposals, or	Trade secrets - Indefinitely.

Information	Duration
information relating to the development of new equipment or processes which amount to trade secrets or which could reasonably be considered to provide a commercial advantage to the competitors of the Contractor - subject always to Note 2 below	
Information obtained from the Contractor relating to the pricing of project risks	Three (3) Years from the date it was provided or until in public domain
Information contained in the Building Contract, Operating Contract and any other sub-contracts of any tier (except for the identity of Sub-Contractors), where such information is not contained within this Agreement	Expiry Date
Technical drawings provided by any Subcontractor - subject always to Note 3 below	Indefinitely
Any future proposals or agreements relating to the sale of shares, companies or businesses of the Contractor which is not in the public domain	Until in the public domain
Quotations for undertaking works and/or services and forecasts	One (1) Year from date of quotation or forecast
Market Testing results	Two (2) Years from the completion of the Market Testing
<p>Information obtained from the Contractor contained in:-</p> <ul style="list-style-type: none"> • monthly progress reports; • utility forecasts and consumption reports, <p>save for general information on timescales and such information as is already in the public domain</p>	One (1) Year from date provided

SCHEDULE 14 - COMMERCIALLY SENSITIVE INFORMATION

Part 2 – Commercially Sensitive Contractual Provisions

Information	Duration
<p>Project Agreement</p> <p>Clause 1 (Definitions and Interpretation) - amounts and/or figures specified in the definitions of:-</p> <ul style="list-style-type: none"> • "Base Cost" • "Market Testing Base Price" • "Contractor Default" - limbs (k) & (l) <p>Clause 27 (Indexation and Financial Adjustments)</p> <p>Clause 50 (Indemnities and Responsibility)</p>	<p>Expiry Date</p>
<p>Schedule 5 (Payment Mechanism)</p> <ul style="list-style-type: none"> • all amounts specified • the excess profit sharing mechanism to the extent this could be used to reverse engineer fundamental competitive pricing issues 	<p>Expiry Date</p> <p>Six (6) years from Commencement Date</p>
<p>Schedule 10 (Planning and Permitting Obligations) - all amounts specified</p>	<p>Expiry of challenge period</p>
<p>Schedule 17 (Financial Model)</p>	<p>Expiry Date</p>
<p>Schedule 26 (Contractor's Share)</p>	<p>Expiry Date</p>
<p>Commercial details as to exclusions or limits on liability, indemnities and warranties, level of pricing, caps, or damages contained within the Agreement which departs from standard drafting</p>	<p>Expiry Date</p>
<p>From the SRF Offtake Contract:-</p> <ul style="list-style-type: none"> • clause 16 (Indemnities and Caps on Liability) • Schedule 2 (Indexation) • Schedule 4 (Contract Tonnage) • Schedule 5 (Price) • Schedule 6 (Deficit Tonnage Payment Calculation) <p>or equivalent provisions in any replacement offtake contract.</p>	<p>Indefinitely</p>

Information	Duration
<p>The following Finance Documents:-</p> <p>from the Facility Agreement:-</p> <ul style="list-style-type: none"> • Repayment Profile • Swap Repayment Profile • Events of Default <p>All Fee Letters</p> <p>Equity Subscription Agreement</p>	<p>For all documents twenty five (25) years from the Commencement Date</p>
<p>Building Contract – all document</p>	<p>Indefinitely</p>

Notes

1. The Parties agree that the relevant information will be treated as Commercially Sensitive Information provided that the Authority may disclose such information to its members and it is acknowledged that reports prepared by the Authority to members may be subject to statutory public disclosure requirements.
2. The Parties agree that the trade secrets means:-
 - 2.1 a formula, process, device or other business information that is kept confidential to maintain advantage over competitors;
 - 2.2 information, including a formula, pattern, compilation, program, device, method, technique, or process - that:-
 - 2.2.1 derives independent economic value, actual or potential, from not being generally known or readily ascertainable by others who can obtain economic value from its disclosure or use, and
 - 2.2.2 is the subject of reasonable efforts, under the circumstances, to maintain secrecy.
3. The Parties agree that technical drawings shall be treated as Commercially Sensitive Information save to the extent that such technical drawings are submitted as part of any planning application.