

20112014

Deed

made pursuant to section 106 and section 106A of the Town and Country Planning Act 1990 (as amended) relating to land at Rainham Landfill Site, Coldharbour Lane, Rainham, Essex

London Borough of Havering⁽¹⁾
Veolia ES Cleanaway (UK) Limited⁽²⁾
Port of London Authority⁽³⁾
Oldrealm Limited⁽⁴⁾
National Westminster Bank Plc⁽⁵⁾

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DATED

20142014

PARTIES

- (1) THE MAYOR & BURGESSES of the LONDON BOROUGH OF HAVERING of Town Hall, Main Road, Romford, Essex, RM1 3BB (**Council**).
- (2) VEOLIA ES CLEANAWAY (UK) LIMITED (company number 806128) whose registered office is situated at 8th Floor, 210 Pentonville Road, London, England N1 9JY (**Veolia**).
- (3) PORT OF LONDON AUTHORITY whose principal office is situated at London River House, Royal Pier Road, Gravesend, Kent DA12 2BG (**PLA**).
- (4) OLDREALM LIMITED (company number 1960419) whose registered office is situated at Kinetic Centre, Theobald Street, Borehamwood, Hertfordshire WD6 4PJ (**Oldrealm**).
- (5) NATIONAL WESTMINSTER BANK PLC (company number 929027) whose registered office is situated at 135 Bishopsgate, London, EC2M 3UR (**Mortgagee**).

BACKGROUND

- (A) Veolia ES Landfill Limited operates the landfill on part of the Property and submitted the Application to the London Thames Gateway Development Corporation (**Corporation**) who resolved to grant planning permission for the Development subject to the completion of an agreement under Section 106 of the 1990 Act.
- (B) By virtue of the London Thames Gateway Development Corporation (Planning Functions) (Amendment) Order 2011 the Corporation ceased to exercise planning functions in, and the Council resumed responsibility as the local planning authority for, the London Borough of Havering which is the area within which the Property is situated.
- (C) The Council is the local planning authority for the area within which the Property is situated and is the appropriate statutory body to enforce this Deed for the purposes of section 106 of the 1990 Act.
- (D) The Owners are registered at the Land Registry as the freehold owners of the Property.
- (E) The Mortgagee is proprietor of a registered charge on the freehold title of the Blue Land and part of the Green Land [dated 24 November ~~2005~~ 2005].
- (F) The Council considers it expedient in the interests of the proper planning of its area and having regard to all other material considerations that provision should be made for discharging the First Agreement in accordance with Section 106A of the 1990 Act and regulating the Development pursuant to section 106 of the 1990 Act in the manner set out in this Deed.
- (G) The Parties subject to the Council at its absolute discretion being satisfied that the obligation in the First Agreement having been satisfied or replicated in this Deed have agreed to discharge the First Agreement under Section 106A of the 1990 Act and to enter into this Deed, accepting that the obligations that it contains fall properly to be considered as material to the determination of the Application.
- (H) In accordance with section 25 of the Highways Act 1980 the Owners have agreed to dedicate their respective interests in the Footpath, the Second Riverside Footpath and the Third Riverside Footpath as public footpaths upon or prior to the expiry of the Aftercare Period and the Council ~~shall enter~~ enters into this Deed as the highway authority for the area in which the Development is situated and the Council agrees to maintain the Footpath, the Second Riverside Footpath and the Third Riverside Footpath following their dedication.
- (I) Following dedication, the Owners and the Council have agreed to permit the use of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath as cycleways and the Owners have agreed to co-operate with the Council to formalise their use as cycleways as may be necessary.
- (J) The Council has resolved to grant the New Planning Permission pursuant to the Application subject to the conditions set out in the New Planning Permission and subject to the covenants, undertakings and restrictions herein contained.

NOW THIS DEED WITNESSETH as follows:

OPERATIVE TERMS

1 Definitions and Interpretation

1.1 In this Deed the words below have the meanings next to them unless the context requires otherwise:

1990 Act	the Town and Country Planning Act 1990 (as amended) or any re-enactment or modification thereof for the time being in force.
Advance Routes	the routes of footpaths, cycleways or highways within the Orange Land and the Brown Land to be made temporarily available for use by members of the public substantially in accordance with the Zone Access Plan or in a position otherwise agreed with the Council in writing.
Advance Routes Notice	a written notice, in respect of each of Zone 1 and Zone 2, given by or on behalf of Veolia to the Council confirming that the Advance Routes within each of Zone 1 or Zone 2 (as the case may be) have been constructed, and served in accordance with paragraph 4.2 of Schedule 3.
Advance Route Specification	the specification set out on Plan 6, Plan 7 and Plan 8 to which the Advance Routes shall be constructed (unless otherwise agreed in writing with the Council).
Aftercare	works of aftercare for each Zone comprising works of good husbandry to be undertaken in full compliance with Condition 5 of the New Planning Permission following completion of the Restoration Works in respect of each Zone.
Aftercare Period	the period of 5 years from completion of the Restoration Works in respect of each of Zone 1, Zone 2 and Zone 3 (and the last day of the Aftercare Period shall be construed as the last day of the period of 5 years from completion of the Restoration Works in respect of the last of Zone 1, Zone 2 or Zone 3 to which works of Aftercare are undertaken).
Application	Full planning application (reference P1566.12) for the continuation of waste inputs and operation of other waste management facilities (materials recycling facility, waste transfer station, open air composting site and associated soil plant, gas engines, leachate treatment plant, and incinerator bottom ash processing) until 2024 and re-profiling of final contours.
Beacon Land	the freehold land used for a navigation light beacon the freehold title of which is registered at the Land Registry under title number EGL 397953
Blue Land	the freehold land and buildings at Coldharbour Point, Rainham registered at the Land Registry and forming part of title number EGL 182072 and shown coloured blue on Plan 1.

Bond	a bond for the sum of £1,071,242 (ONE MILLION AND SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) which shall be substantially in the form annexed at Appendix 12 and shall be provided by a bank or other financial institution first approved by the Council acting reasonably
Brown Land	the freehold land on the south west side of Coldharbour Lane, Rainham registered at the Land Registry under <u>and forming part of</u> title number EGL 510484 subject to the Licence and shown coloured brown on Plan 1.
Car Parking Area	the visitor car parking area and the transport hub receiving public transport as may be constructed and operated by the Operator at Zone B or the extended Second Car Park intended to serve the Visitor Centre.
<u>Call Date</u>	<u>the seventh anniversary of the first request made by the Council in accordance with paragraph 1.3 of Schedule 4 or the 31 December 2030 whichever is earlier</u>
CIL or Local Tariff	a tax, tariff or charge introduced by the Council as planning authority and/ or highway authority pursuant to regulations enabled by Part 11 of the Planning Act 2008 or any subsequent legislation or instrument of similar effect to fund the delivery of infrastructure by a system known as the "community infrastructure levy" or the "local tariff" (or known by any other name) which for the avoidance of doubt does not include Mayoral Community Infrastructure Levy.
Coldharbour Lane	that the unadopted part of Coldharbour Lane <u>as shown between points A, B and C, shown for the purposes of identification only</u> by black dashed lines on Plan 2.
Deed of Rights of Access	a deed granting rights of access containing the terms identified at paragraph 6.3 of Schedule 3 and <u>substantially</u> in the substantial form annexed at Appendix 11.
Development	the development of the Property in accordance with the New Planning Permission.
Ecological Method Statement	a statement to be submitted to the Council in accordance with paragraph 9.1 of Schedule 1 which shall be complementary to the Landscape and Restoration Plan and shall include methods and responsibilities for future management of existing and newly created habitats and methods of monitoring habitats and species including targeting and protecting priority Biodiversity Action Plan species and habitats.
Environmental Permit	the variation,* number EPR/EP 3136GK/V002, *to environmental permit number EPR/EP 3136GK <u>as varied by variation notice*</u> number EPR/EP 3136GK/V002, *issued to Veolia by the Environment Agency permitting the recontouring of the landfill site at

	the Property.
Existing Car Parks	the First Car Park and the Second Car Park.
Existing Planning Permission	the planning permission granted by the Council under reference P1275.96 for deposit of refuse materials through controlled landfill provision of material recovery facilities and creation of contoured landform and restoration scheme and dated 6 February 1998.
Expert	<p>such expert as may from time to time be appointed for the purposes of resolving a relevant dispute as follows:</p> <p>a) if the dispute relates to transport or highway works, engineering, demolition, or construction works, a chartered civil engineer being a member of the Institution of Civil Engineers (having not less than 10 years' relevant experience in the public or private sector) agreed by the parties to the dispute but in default of agreement appointed at the request of any of the parties by or on behalf of the President from time to time of the Institution of Civil Engineers;</p> <p>b) if the dispute relates to any building within the Development or any similar matter, a chartered surveyor (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the President from time to time of the Royal Institution of Chartered Surveyors;</p> <p>c) if the dispute relates to financial matters or matters of accounting usually and properly within the knowledge of a chartered accountant, a chartered accountant (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the President from time to time of the Royal Institute of Chartered Accountants in England and Wales; and</p> <p>d) if the parties to the dispute shall fail to agree upon the nature or difference in question then it should be referred to a solicitor or barrister of at least 15 years' standing agreed by the parties but in default of agreement appointed at the request of either party by or on behalf of the President for the time being of the Law Society.</p>
Final Completion Notice	a written notice given by or on behalf of Veolia to the Council and copied to the PLA and Oldrealm which states the date when the Restoration Works in respect of the final Phase of the Phasing Sequence were completed.
First Access Road	the access road from Coldharbour Lane to the First Car Park shown by red dashed lines on Plan 2.
First Agreement	an agreement entered into by the Council, Oldrealm, the PLA, Veolia and Norwich Union Mortgage Finance Limited and Norwich Union Life and Pensions Limited

	as a deed made under section 106 of the 1990 Act and dated 6 February 1998.
First Car Park	the car park situated on the Brown Land shown coloured red on Plan 2.
First Riverside Footpath	the riverside footpath shown by blue dashed lines on Plan 2.
Footpath	the footpath from the First Car Park to the First Riverside Footpath shown with dashed brown lines on Plan 2.
Gatehouse	the security building situated on Coldharbour Lane at the location indicated on Plan 3.
Green Land	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry comprising the whole of title number EGL 111270 and part of title number <u>EGL 182072</u> subject to the Lease and shown coloured green on Plan 1.
Green Travel Plan	the Green Travel Plan to be submitted in accordance with paragraph 8 of Schedule 1.
Grounds of Refusal	Veolia <u>the proposed landlord</u> , acting reasonably does not consider , <u>considers</u> that the Operator <u>proposed tenant</u> is <u>not</u> of sufficient financial standing to enable it <u>the proposed tenant</u> to comply with the tenant covenants in the proposed lease.
Group Company	any company of which the Owner is a subsidiary or which has the same holding company as the Owner or a company formed as a joint venture company owned by the Owner or a subsidiary and one or more parties or a subsidiary of such joint venture company where subsidiary and holding company have the meanings given to them by section 1159 Companies Act 2006.
HGV Movements	the ingress and egress of heavy goods vehicles and one HGV Movement shall <u>include</u> <u>mean</u> the ingress and egress of one heavy goods vehicle.
HGV Routing Plan	the HGV Routing Plan to be submitted in accordance with paragraph 15 of Schedule 1.
Highway Contribution	Sum of £25,000 to be paid by Veolia to the Council on or prior to the date of the completion of the Section 106 agreement (Deed) to be spent on the repair and maintenance of the highway between the A13 and the Property.
Implementation	the implementation of the Development in accordance with the New Planning Permission by the carrying out of any material operation within the meaning of sections 56(2) and (4) of the 1990 Act Provided That and for the avoidance of doubt the carrying out of archaeological investigations demolition, site clearance, site preparation and surveys shall be deemed not to constitute a material operation.

Implementation Notice	a written notice given by or on behalf of Veolia to the Council stating the date of Implementation of the Development to be addressed to The Head of Development and Building Control, Mercury House, Mercury Gardens, Romford RM1 3LS and stating the application reference number P1295.11, and a notice will be deemed to have been given if Implementation has occurred for the purposes of this Deed and no written notice has been given.
Insurance Policy	a policy of insurance obtained by Veolia covering public liability risks arising from access over, or use of, or the proposed use of such part of Coldharbour Lane that lies within the Property, or the Property, or within Zone 1 or Zone 2 as the case may be, by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan (or the Zone Access Plan as the case may be) and which shall include an indemnity to principals clause Provided That the policy of insurance shall not be obtained in respect of dedicated rights of way within the Property save in respect of public liability risks arising directly out of Veolia's negligent act or default.
Interest	interest at three (3) % per cent above the base lending rate of the National Westminster Bank Plc from time to time.
Interim Completion Notice	a written notice, in respect of each Phase, given by or on behalf of Veolia to the Council and copied to the PLA and Oldrealm which states the date when the Restoration Works in relation to that Phase were completed and to be addressed to The Head of Development and Building Control, Mercury House, Mercury Gardens, Romford RM1 3LS.
Jetty	the jetty shown coloured pink on Plan 1.
Landfill Entrance	the landfill entrance shown marked on Plan 2 or such other entrance to the landfill as is agreed in writing with the Council from time to time.
Landscape and Restoration Plan	a masterplan to be submitted to the Council to establish the landscape and restoration outcomes as part of the Development.
Local Labour Commitment Scheme	A scheme to be submitted to the Council for its approval to promote employment of residents living within the administrative area of the Council.
Lease	two leases of the Green Land made between Oldrealm and Cleanaway Limited both dated 2 April 1998.
Licence	a waste disposal licence made between the PLA, Veolia and Cleanaway Holdings Limited dated 6 February 1998 as subsequently varied on 6 June 2003 by supplemental agreement and on 16 February 2005 by supplemental waste disposal licence.

New Planning Permission	the planning permission to be granted pursuant to the Application for the Development in the form annexed at Appendix 10 to this Deed.
Odour Mitigation Strategy	a strategy to be submitted to the Council in accordance with paragraph 11.1 of Schedule 1 setting out the measures proposed by Veolia to minimise odour impact on residential amenity as a result of the Development.
Operator	the proposed operator or operators (approved by Veolia following the procedure referred to at Paragraph 5 of Schedule 5) of the Car Parking Area, the Recreational Facilities, the Visitor Centre and/or the Water Sports Facility as the case may be.
Orange Land	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry under title number EGL 232704 shown coloured orange on Plan 1.
Owner	Any or all of (as the case may be) Oldrealm, the PLA and Veolia (together the "Owners").
Parties	the parties to this Deed.
Phase	an area of land forming part of the Property shown as marked Phase A to Phase J (inclusive) on Plan 5, and references to a Phase shall be construed accordingly.
Phasing Sequence	the sequence in which the Restoration Works may be undertaken, beginning with Phase A on Plan 5 and ending with Phase J on Plan 5 or such other phasing sequence for the Restoration Works agreed between Veolia and the Council to accord with that approved by the Council pursuant to condition 25 of the New Planning Permission.
Plan 1	the plan marked Plan 1 attached to this Deed at Appendix 1.
Plan 2	the plan marked Plan 2 attached to this Deed at Appendix 2.
Plan 3	the illustrative drawing marked Plan 3 attached to this Deed at Appendix 3.
Plan 4	the plan marked Plan 4 attached to this Deed at Appendix 4.
Plan 5	the plan marked Plan 5 attached to this Deed at Appendix 5.
Plan 6	the plan marked Plan 6 attached to this Deed at Appendix 6.
Plan 7	the plan marked Plan 7 attached to this Deed at Appendix 7.
Plan 8	the plan marked Plan 8 attached to this Deed at Appendix 8.

Property	the Orange Land, the Green Land, and the Brown Land together known as land at Rainham Landfill Site, Coldharbour Lane, Rainham and which is situated within the area shown edged red on Plan 1.
Public Routes	the routes of footpaths and cycleways within the Property (other than Coldharbour Lane, the First Access Road, the First Riverside Footpath, the Footpath, the Second Riverside Footpath and the Third Riverside Footpath), to be made available for use by members of the public in accordance with the Landscape and Restoration Plan.
Public Routes Notice	a written notice given by or on behalf of Veolia to the Council confirming that the Public Routes have been constructed, and served in accordance with paragraph 5.2 of Schedule 3.
<u>Pump Ashore Facility</u>	<u>means the pipeline and pipebridge which carry dredgings across the Brown Land and Coldharbour Lane respectively as shown coloured pink on Plan 2.</u>
Recreational Facilities	such facilities for recreation as may be constructed and operated by the Operator at Zone C and Zone D.
Restoration Concept	the drawing marked Plan 3 and attached at Appendix 3 to this Deed.
Restoration Works	those works to restore the Property or any part of the Property in accordance with the New Planning Permission, the Phasing Sequence and the Landscape and Restoration Plan.
Riverside Footpaths and Footpath Specification	the specification for maintenance of the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath set out at Appendix 9.
Riverworks Licence	the licence granted to Veolia by the PLA on 31 July 1984 to place and retain the Jetty at Coldharbour Point.
Second Car Park	the car park situated on the Orange Land shown coloured purple on Plan 2.
Second Riverside Footpath	the riverside footpath constructed between Coldharbour Point and Aveley Bay and shown by green dashed lines on Plan 2.
Services	pipes cables or wires as the case may be providing a supply of water and electricity (not exceeding 160 amps for the Visitor Centre or 100 amps for the Recreational Facilities) and in relation to the Visitor Centre and Water Sports Facility provision of a service duct to enable a connection to be made to the telephone network.
Site Infrastructure Plan	the plan labelled "Site Infrastructure" attached to this

	Deed at Appendix 14.
Third Riverside Footpath	[the <u>two sections of</u> riverside footpath constructed between the First Access Road and the Second Car Park and shown by amber dashed lines on Plan 2.]
Visitor Centre	such visitor centre facilities as may be constructed and operated by the Operator at Zone A.
Water Sports Facility	such water sports facilities as may be constructed and operated by the Operator at Zone C.
Yellow Land	the land at Wennington Marshes over which a caution has been lodged at the Land Registry in favour of Veolia under title number EGL 250928 and shown coloured yellow on Plan 1.
Zone 1	the area of land marked as Zone 1 on Plan 4.
Zone 2	the area of land marked as Zone 2 on Plan 4.
Zone 3	the area of land marked as Zone 3 on Plan 4.
Zone A	the area of land (excluding the subsoil of the land but including the air above it) circled in orange and labelled A on the Restoration Concept.
Zone B	the area of land (excluding the subsoil of the land but including the air above it) coloured light blue and labelled B on the Restoration Concept.
Zone C	the area of land (excluding the subsoil of the land but including the air above it) edged in dark blue and labelled C on the Restoration Concept or such alternative area within the Property identified for the Water Sports Facility in the Landscape and Restoration Plan.
Zone D	the area of land (excluding the subsoil of the land but including the air above it) hatched purple and labelled D on the Restoration Concept.
Zone E	the area of land on which the Second Car Park is situated (excluding the subsoil but including the air above it).
Zone Access Plan	the indicative locations in which Advance Routes will temporarily be made available to members of the public starting with Zone 1 on Plan 4 and ending with Zone 2 on Plan 4.

1.2 In this Deed, unless the context requires otherwise:

- 1.2.1 the headings appearing in this Deed are for ease of reference only and will not affect the construction of this Deed;
- 1.2.2 unless the context requires otherwise references in this Deed to clauses, sub-clauses, paragraphs, recitals, sub-paragraphs, annexures, appendices and schedules are references to those contained in this Deed and references to plans and drawings are references to plans and drawings annexed to this Deed;

- 1.2.3 the word "including" shall mean "including without limitation or prejudice to the generality of any description defining term or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly;
- 1.2.4 references in this Deed to statutes, bye-laws, regulations, orders and delegated legislation shall include any statute, bye-law, regulation, order or delegated legislation amending, re-enacting or made pursuant to the same;
- 1.2.5 in this Deed words importing the singular shall include the plural and vice versa and words importing one gender shall include all other genders;
- 1.2.6 in this Deed the expressions "Owner", "Veolia", "PLA", "Oldrealm", "Council" and "Mortgagee" shall include their respective statutory successors in respect of the functions to which this Deed relates and/or successors in title and assigns to the Property, the Blue Land or the Yellow Land or the relevant part of the Property, the Blue Land or the Yellow Land as the case may be;
- 1.2.7 any covenant by the Owners or each one of them not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person acting for them or any of them and under their respective control;
- 1.2.8 any covenant by Veolia shall be deemed to include a covenant that Veolia shall procure that any operator of the landfill situated on the Property shall comply with the obligations, undertakings and restrictions on the part of Veolia contained herein;
- 1.2.9 in the event of any conflict between the provisions of this Deed and any document annexed hereto as referred to herein save for the avoidance of doubt the New Planning Permission, the terms, conditions and provisions of this Deed will prevail; and
- 1.2.10 where any approval, consent, agreement or the like is required to be given pursuant to the terms of this Deed it shall be in writing and no party shall unreasonably withhold or delay any such approval, consent, agreement or the like provided that nothing herein shall fetter the statutory rights, powers or duties of the Council and/ or the PLA.

2 Legal Basis

- 2.1 This Deed is made pursuant to section 106 and section 106A of the 1990 Act, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and section 111 of the Local Government Act 1972 and the obligations herein constitute planning obligations for the purposes of the 1990 Act and are enforceable by the Council as the local planning authority.
- 2.2 ~~It is agreed that the~~The Owners and the Mortgagee enter this Deed ~~with the effect of so as to bind~~ the planning obligations bindingon their respective interests in the Property, the Blue Land and the Yellow Land.

3 Conditionality

- 3.1 Clause 6, clause 7 and clause 8 and the planning obligations in Schedule 1, Schedule 2, Schedule 3, and Schedule 4 are conditional upon:
 - 3.1.1 the grant of the New Planning Permission; and
 - 3.1.2 the Implementation Notice being given or deemed to have been given (or as the context so prescribes).
- 3.2 The covenants and obligations contained in paragraph 4, paragraph 5, paragraph 6, paragraph 7, paragraph 8 and paragraph 9 of Schedule 3 are conditional upon the Environment Agency's approval of the public being permitted access in the manner proposed and this having been reflected in the Environmental Permit accordingly.
- 3.3 All obligations relating to options are subject to Veolia providing the Council with a timely independent written report on contamination risk by an expert in contaminated land addressing the pollution and health risks relating to the relevant part of the Property.

4 Provisions for Release

- 4.1 Save for the effect of clause 19 of this Deed, it is agreed that this Deed will determine if the New Planning Permission or the Environmental Permit is quashed, cancelled, revoked or expires prior to Implementation or is otherwise rendered void.
- 4.2 Upon reasonable request from the Owners (or any one of them) and subject to payment of the Council's reasonable and proper professional costs and charges, which shall be met by Veolia, the Council shall certify compliance or partial compliance (as and if appropriate) with the provisions of this Deed.

5 Discharge of First Agreement

In consideration of entering into this Deed the Parties hereto agree, that upon the Implementation Notice being given or deemed to be given, they shall forthwith release and be released from all covenants and their respective obligations contained in the First Agreement and the Parties agree and declare that the First Agreement shall hereby immediately be discharged in accordance with Section 106A of the 1990 Act.

6 Covenants by Veolia

Veolia covenant with the Council to carry out and comply with the obligations contained in Schedule 1.

7 Covenants by the Owners

~~The Each~~ Owners covenants with the Council and with each other to carry out and comply with their respective obligations contained in Schedule 2, Schedule 3 and Schedule 4.

8 Covenants by the Council

The Council covenants with the Owners and with each of them to carry out and comply with the obligations contained in Schedule 5.

9 Provisions Relating to the Council

Nothing in this Deed in any way fetters the statutory rights, powers and duties of the Council as local planning authority or highway authority.

10 Provisions Relating to Veolia

- 10.1 Nothing in this Deed shall be construed to prevent or impede Veolia (or interfere with Veolia), its operator of the landfill site, or its independent contractors from carrying out any tests, placing any apparatus or undertaking any works on the Property or carrying out any duties:

10.1.1 in accordance with the Environmental Permit; or

10.1.2 otherwise approved by the Environment Agency or by any other statutory authority; or

10.1.3 properly required in the interests of health and safety or security of any waste disposal activities or environmental controls in relation to the Property.

PROVIDED always that Veolia, its operator of the landfill site, or its independent contractors shall not at any time unlawfully obstruct or otherwise interfere with the public's right to pass and repass over the First Riverside Footpath and following their respective dedication the Footpath, the Second Riverside Footpath and the Third Riverside Footpath.

11 Provisions relating to the PLA

- 11.1 Nothing in this Deed shall be construed to prevent or impede the PLA (or interfere with the PLA) or its independent contractors:

11.1.1 from carrying out duties or undertaking any works on the Property as navigation or port authority; or

11.1.2 ~~carrying from using the Pump Ashore Facility to carry~~ dredgings across the Brown Land ~~by pipeline~~ and across Coldharbour Lane ~~by a pipe bridge~~ to any land adjoining Coldharbour Lane, or maintaining a river jetty and entering the Brown Land from time to time with or without vehicles for the

purposes of cleaning out and turning pipes and inspecting, maintaining, replacing, or renewing any of the structures including those comprising the Pump Ashore Facility or any part of them; or

- 11.1.3 from accessing at any time without notice with or without vehicles the Beacon Land.

PROVIDED always that the PLA shall not at any time unlawfully obstruct or otherwise interfere with the public's right to pass and repass over the First Riverside Footpath and following their respective dedication the Footpath, the Second Riverside Footpath and the Third Riverside Footpath.

12 Mortgagee's consent

The Mortgagee consents to Oldrealm entering into this Deed and acknowledges that the Blue Land and the Green Land will be bound by the terms and obligations contained in this Deed and if the Mortgagee becomes a mortgagee in possession of the whole or any part of the Property the Mortgagee will not carry out or procure the Development or any part thereof without performing and observing the terms and obligations contained in this Deed.

13 Successors in Title

The Parties agree that this Deed will be binding upon their respective interests in the Property, the Blue Land and the Yellow Land and will be enforceable against the relevant Owners and the Mortgagee (when in possession in accordance with clause 12) and their successors in title and assigns and those deriving title under them in respect of their respective interests in the Property, the Blue Land and the Yellow Land as provided in section 106(3) of the 1990 Act but in accordance with section 106(4) of the 1990 Act it is the intention of the Parties that none of the Owners or the Mortgagee or their respective successors in title or those deriving title under them will have any further liability under this Deed (but without prejudice to any rights of the Council in respect of any antecedent breach) in respect of any period after which the relevant party has parted with their interest in all or the relevant part of the Property, the Blue Land or the Yellow Land on which the breach occurs.

14 Registration

- 14.1 It is agreed between the Parties that this Deed will be registered as a Local Land Charge and ~~that~~ upon the discharge of the First Agreement in accordance with clause 5, the First Agreement will be removed from the register as a Local Land Charge for the purposes of the Local Land Charges Act 1975.
- 14.2 Upon the written request of the Owners or any of them in respect of the Brown Land, or the Blue Land, or the Green Land, or the Orange Land or the Yellow Land and upon the Council's satisfaction that the obligations, covenants or undertakings contained in this Deed in each case have been discharged or fully complied with the Council shall place a note to that effect on the Local Land Charges register relating to the land in question.

15 Third Party Rights

A person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

16 Dispute Resolution

- 16.1 In the event of any dispute or difference between the Parties or any of them arising out of this Deed (other than a dispute or difference relating to a question of law or in relation to the interpretation of this Deed) it is hereby agreed that the matter in dispute will on the application of either of the Parties be referred to the Expert and it is further agreed that:
- 16.1.1 the determination of the Expert will be final and binding on the parties save in the case of manifest error;
- 16.1.2 the parties will be entitled to make representations and counter-representations in accordance with such timetable as the Expert directs;
- 16.1.3 the Expert's costs will be borne in such proportions as he/she may direct failing which the parties will each bear their own costs of the reference and

determination and the Expert's costs calculated by dividing the Expert's costs by the number of sides to the reference; and

16.1.4 the Expert may be replaced by a fresh appointee in the event of his/her becoming at any time unable or unwilling for any reason to proceed to discharge his/her function and such fresh appointee will be appointed in the same manner as the Expert.

17 Variations

No variation to this Deed will be effective unless made by Deed between the Council as local planning authority and all the parties against whom the obligations in this Deed are enforceable at the time or pursuant to the determination of an application made under section 106A of the 1990 Act subject to Section 106A (4).

18 Service of Notices

18.1 All notices, requests, demands or other written communications to or upon the respective parties pursuant to this Deed will be deemed to have been properly given or made if despatched by first class letter to the party to which such notice, request, demand or other written communication is to be given or made under this Deed and addressed as follows:

18.1.1 if to the Council for the attention of Head of Development and Building Control, Mercury House, Mercury Gardens, Romford RM1 3BD;

18.1.2 if to Veolia to the address set out above for the attention of ●;

18.1.3 if to the PLA to the address set out above for the attention of the Secretary;

18.1.4 if to Oldrealm to the address set out above for the attention of [Michael Young]; and

18.1.5 if to the Mortgagee to the address set out above for the attention of ●.

19 Legal and other Professional Costs

Veolia agrees that upon completion of this Deed it will pay the Council's reasonable professional costs including the costs of legal fees in preparation of this Deed including any VAT thereon and disbursements properly incurred in the negotiation and completion of this Deed in the sum of two thousand and five hundred pounds (£6,000).

20 VAT

If VAT becomes payable on payments made under this Deed the Parties agree that VAT will be additional to the sums required, provided that the Owners (or each one of them) will be entitled to valid VAT receipts in respect of any vatatable supplies properly incurred under this Deed.

21 Interest

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

22 Community infrastructure levy/Local tariff

22.1 If after the date of this Deed, a CIL or Local Tariff is introduced that is applicable to the Development then the Parties to this Deed shall each use reasonable endeavours to agree variations to this Deed with the intent that:

22.1.1 The planning obligations secured by this Deed ~~should~~ continue to be secured and delivered by the Parties in accordance with this Deed; and

22.1.2 Veolia, the PLA, the Council and Oldrealm ~~should~~ to fully co-operate with the Council to ensure that the Council is not be in a financially worse position because of CIL or Local Tariff in respect of the obligations contained in the Schedules than they would be if the Owners had performed the obligations in this Deed and no CIL or Local Tariff had been introduced.

IN WITNESS whereof this Deed has been executed by the Parties and is intended to be and is delivered on the date first above written

Schedule1

Covenants by Veolia

1 Implementation

- 1.1 Veolia shall serve the Implementation Notice on the Council at least five (5) working days prior to the anticipated Implementation of the Development.

2 Restoration Works

- 2.1 Veolia shall serve:
- 2.1.1 an Interim Completion Notice within fifteen (15) working days following the completion of the Restoration Works in respect of each Phase; and
 - 2.1.2 the Final Completion Notice within fifteen (15) working days following completion of the Restoration Works in respect of the final Phase in the Phasing Sequence.
- 2.2 Veolia shall keep the settlement of waste within the landfill area of the Property under review and within two (2) calendar months of serving or having been deemed to serve the Implementation Notice and upon serving any Interim Completion Notice shall report in writing to the Council as to whether the pattern of settlement conforms to what was predicted in support of the Application for the following Phase(s) and to the extent that it does not shall set out the measures which shall be taken to deliver the long term post settlement contours as predicted in support of the Application (and shown in approved drawing number 3) within a timeframe to be agreed in writing with the Council.
- 2.3 Veolia shall complete the Restoration Works on or before 31 December 2026.

3 Aftercare

- 3.1 Veolia shall commence and use reasonable endeavours:
- 3.1.1 ~~to~~ diligently to undertake the Aftercare ~~for~~during the Aftercare Period; and
 - 3.1.2 to complete the Aftercare on or before 31 December 2031.

4 Operation

- 4.1 ~~Prior to completion of the Restoration Works,~~ Veolia shall maintain records of all waste delivered for disposal within the Property and on receipt of reasonable prior written notice from the Council will permit the Council to inspect the said records.
- 4.2 Veolia shall issue a formal written warning to the driver and the owner of any vehicle carrying waste by road where, ~~upon entering~~when it enters the Property, waste carried within the vehicle is uncovered (an "offence") and if a second offence is committed by that driver Veolia shall take such steps as may be reasonably necessary to ensure that the driver is not permitted to enter the Property if the vehicle driven by him is carrying uncovered waste.

5 Extension of Second Car Park

- 5.1 In the event that the Council serves a written notice upon Veolia on or before 31 December 2021 (**End Date**) which:
- 5.1.1 includes an irrevocable undertaking that the Council will not procure, in accordance with paragraph 1.1.2 of Schedule 2, ~~either~~ a lease of either the whole or any part of Zone B; and
 - 5.1.2 requests Veolia to increase the size of the Second Car Park to one which will accommodate at least 24 private vehicles (**Council's Car Park Extension Notice**)

Veolia shall use best endeavours to obtain all necessary consents to increase the footprint of the Second Car Park to accommodate at least 24 private vehicles (**Necessary Consents**) and, once obtained, shall use best endeavours to construct the said extension within twelve (12) calendar months of the date of issue of the last of the Necessary Consents.

- 5.2 Veolia shall give the Council at least twelve (12) calendar months' prior written notice of the End Date approaching (**Veolia's Prior Notice**) and in the event that Veolia does not do so the End Date shall be extended for a period ending twelve (12) calendar months from the date of service of Veolia's Prior Notice.

6 Insurance

- 6.1 Prior to service of the Advance Routes Notice Veolia shall, at its own cost, obtain the Insurance Policy and thereafter maintain the Insurance Policy until the last day of the Aftercare Period.
- 6.2 Within twenty eight (28) days of written request from the Council, the PLA or Oldream, Veolia shall provide to the Council, the PLA ~~and/or~~ Oldreams the case may be written evidence of the Insurance Policy then in force.

7 Indemnity

- 7.1 Veolia shall indemnify and keep indemnified the other Owners against all expenses, losses, damage, liability and claims whatsoever arising from access over, or use of, or the proposed use of the Property (including such part of Coldharbour Lane that lies within the Property, ~~or the Property, or within Zone 1 or Zone 2 as the case may be,~~) by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan (or the Zone Access Plan as the case may be) until and including the last day of the Aftercare Period Provided Always that the other Owners or any of them shall:

- 7.1.1 Notify Veolia of any claim or circumstances of which the relevant Owner is aware which may give rise to a claim by the Owners under the provisions of paragraph 7.1 of this Schedule 1 (including all particulars of such claim or circumstance);
- 7.1.2 At all times keep Veolia fully informed of any discussions, correspondence, negotiations and progress in connection with the claim or circumstance;
- 7.1.3 Not knowingly make any admission of liability to, or reach any agreement or compromise with any person, body or authority in relation to any such claim or circumstance without the prior written agreement of Veolia and for the purposes of this paragraph 7.1.3 that agreement may be refused if:
- (a) it is reasonable to believe that the claim or circumstance is without merit; or
 - (b) it is reasonable to believe that the claim or circumstance could be compromised or agreed at a figure lower than that proposed to be compromised or agreed by the other Owners;

AND FURTHER PROVIDED THAT this indemnity shall not apply if the expense, loss, damage, liability or claim:

- (i) arises in respect of access over or use of dedicatedpublically adopted rights of way within the Property, save in the event that it arises as a direct result of Veolia's negligent act or default
- (ii) is covered by the Insurance Policy or would otherwise have been covered by the Insurance Policy but for the fact that the Owners have acted (or have omitted to act) so as to vitiate, render void or otherwise limit the effect of the Insurance Policy.

8 Green Travel Plan

- 8.1 Within three (3) months of the date upon which the New Planning Permission is issued Veolia shall submit the Green Travel Plan to the Council for its approval.
- 8.2 The Green Travel Plan shall contain provisions demonstrating how, from the date the Council's written approval of the Green Travel Plan, Veolia proposes to limit the number of HGV Movements which enter the Property via the Landfill Entrance for the purpose of delivering waste for disposal within the Property, to no more than 300 HGV Movements per day, and shall contain a programme to be reviewed annually to reduce HGV Movements from 300 HGV Movements per day to the Property.

- 8.3 The Green Travel Plan shall contain a commitment by Veolia, prior to completion of the Restoration Works, to monitor and proactively review opportunities to increase the use of riverborne transport for delivery of waste for disposal within the Property and shall require a written report of Veolia's findings to be submitted to the Council on an annual basis.
- 8.4 The Green Travel Plan shall contain a programme for its implementation including the appointment of a Green Travel Plan co-ordinator if appropriate and a programme for monitoring and reviewing the Green Travel Plan annually or more frequently as required by the Council.
- 8.5 Once approved, the Green Travel Plan shall be implemented in accordance with the programme contained therein.
- 8.6 Except as otherwise agreed in writing by the Council, the Development shall not be carried out otherwise than in accordance with the approved Green Travel Plan.

9 Ecological Method Statement

- 9.1 Veolia shall submit the Ecological Method Statement to the Council for the Council's approval within two (2) years of Implementation.
- 9.2 Once approved the Ecological Method Statement shall be implemented in full and carried out in accordance with its terms unless otherwise agreed in writing by the Council.

10 Landscape and Restoration Plan

- 10.1 Within one (1) years of Implementation Veolia shall submit the Landscape and Restoration Plan for approval by the Council.
- 10.2 Once approved the Landscape and Restoration Plan shall be implemented in full and carried out in accordance with its terms unless otherwise agreed in writing by the Council.

11 Odour Mitigation Strategy

- 11.1 Within three (3) months of the date upon which the New Planning Permission is issued Veolia shall submit the Odour Mitigation Strategy for approval by the Council.
- 11.2 The development shall be implemented and carried out in accordance with the approved Odour Mitigation Strategy unless otherwise agreed in writing by the Council.

12 Provision of Bond

- 12.1 Within two (2) months of the date of this Deed Veolia shall obtain and deliver to the Council the Bond upon which the Council shall be entitled to call in accordance with the provisions set out at paragraph 2 of Schedule 5.

13 *Environmental Centre*

- 13.1 **Upon service of the Final Completion Notice and until the end of the Aftercare Period *Veolia* shall make available to the Council, for use as an environmental centre, the Gatehouse (or any alternative building of a similar specification suitable for use as an environmental centre) and during this period *Veolia* shall maintain and repair the Gatehouse (or such alternative building) so as to be fit for purpose Provided That this shall not require the repair of any damage in excess of fair wear and tear caused by the Council, its employees or visitors.*

14 Highway Contribution

- 14.1 On or prior to the date of this Deed Veolia shall pay to the Council the sum of £25,000 (twenty five thousand pounds) which for the avoidance of doubt will be subject to Interest on late payment towards the future repair and maintenance of the highway to be used in accordance with the Lorry Routing Plan between the Property and the A13 resulting from the impact of the increased HGV movements to and from the Property on the highway over the extended operation of the landfill facility permitted by the New planning Permission.

- 14.2 the Highway Contribution shall be spent by the Council in whole or part on the repair and maintenance of the highway to be used in accordance with the Lorry Routing Plan between the Property and the A13 within ten (10) years of the end of the Aftercare Period.

15. HGV Routing Plan

- 15.1 Within one (1) month of the date upon which the New Planning Permission is issued Veolia shall submit the HGV Routing Plan to the Council for its approval which requires that no HGV movements between the Property and the A13 are made through Rainham Village or other built up residential area.
- 15.2 The HGV Routing Plan shall contain provisions demonstrating how, from the date the Council's written approval of the HGV Routing Plan, Veolia proposes to restrict all HGV Movements between the Property and the A13 to ensure that no HGV movements between the Property and the A13 are made through Rainham Village or other built up residential area.
- 15.3 The HGV Routing Plan shall contain a commitment by Veolia, prior to completion of the Restoration Works, to monitor the routing of HGV movements between the Property and the A13 and to ensure that it is a contractual term of service between Veolia and each and every HGV operator complies with the requirements of the approved HGV Routing Plan and that failure to comply will result in the contract being terminated.
- 15.4 The HGV Routing Plan shall contain a programme for its implementation including the appointment and a programme for monitoring and reviewing annually or more frequently as required by the Council.
- 15.5 Once approved, the HGV Routing Plan shall be implemented in accordance with the programme contained therein.
- 15.6 Except as otherwise agreed in writing by the Council, the Development shall not be carried out otherwise than in accordance with the approved HGV Routing Plan.

16. Local Labour and Contractors

- 16.1 Veolia will not Implement the New Planning Permissions unless and until Veolia has submitted to the Head of Regulatory Services at the Council (or equivalent officer) the Local Labour Commitment Scheme which relates to the operation of the Development (save in respect of paragraph 16.3(a)) and the Council has approved it.
- 16.2 In preparing the Local Labour Commitment Scheme Veolia will consult with the Council.
- 16.3 The Local Labour Commitment Scheme will require or contain (as the case may be):
- (a) Veolia to provide statements of its staff/employment requirements to the Head of Regulatory Services at the council (or equivalent officer) before undertaking any other advertisements of any such requirement;
 - (b) establishment of suitable training opportunities for those recruited by Veolia;
 - (c) on-going notification of vacancies (particularly relating to the operation of the Development) to the unemployed and others being targeted in the Local Labour Commitment Scheme before undertaking any other advertisements of any such requirement;
 - (d) a procedure setting out criteria for initial screening of candidates for employment, and for matching of candidates to the vacancies;

- (e) a procedure for notifying the Head of Regulatory Services at the Council (or equivalent officer) of supply chain operation contracts to enable the Council to disseminate the information to appropriate local businesses;
- (f) a procedure for monitoring of the Local Labour Commitment Scheme and reporting to the Head of Regulatory Services at the council (or equivalent officer) in such a way as to comply with all relevant legislation including the Data Protection Act 1998 and which set out such detail as the Head of Regulatory Services at the Council (or equivalent officer) may reasonably require including (which for the avoidance of doubt, the submission of the following categories of information will not uniquely identify and individual):

- (i) full postcode
- (ii) gender
- (ii) age group (16-24, 25-49, 50-55 and over 55)
- (iv) length of residency in the Council's area in the following categories: (i) less than 6 months; (ii) 6-12 months; (iii) 1-5 years; (iv) 5-10 years and (v) 10 years plus
- (v) job title
- (vi) full-time or part-time
- (vii) ethnicity (using census categories)
- (viii) disability
- (ix) previous employment status (including length of previous unemployment where relevant in the following categories: (i) less than 6 months; (ii) 6-12 months and (iii) 12 months plus
- (x) sexuality

and the Council acknowledges that the provision of such data by individuals is on a voluntary basis;

- (g) a timetable for the implementation of the Local Labour Commitment Scheme; and
- (h) provisions for review

16.4 Veolia will implement the Local Labour Commitment Scheme in accordance with the timetable contained within the approved Local Labour Commitment Scheme

16.5 Veolia will carry out the Development in accordance with the approved Local Labour Commitment Scheme

- 16.6 Veolia will work with its contractors, tenants and purchasers of the Non-Residential Units to promote the Local Labour Commitment Scheme (in particular during the operation of the Development) and promote local employment (which is defined as being residents living within the Council's administrative area) during the operation of the Development and increase the percentage of the total workforce of the Development to be resident in the Council's administrative area during the end use of the Development.
- 16.7 Veolia will appoint and identify to the Head of Regulatory Services at the Council (or equivalent officer) an employment liaison officer who will be responsible for implementation of the Local Labour Commitment Scheme and to be the principal point of contact for the Head of Regulatory Services at the Council (or equivalent officer).
- 16.8 Veolia will use reasonable endeavours to procure that Veolia and contractors engaged in the operation of the Development interview and, if appropriate, recruit suitably qualified applicants put forward by the Head of Regulatory Services at the Council (or equivalent officer)
- 16.9 Veolia will provide such other reasonable assistance as the Head of Regulatory Services at the Council (or equivalent officer) from time to time reasonably considers appropriate to support Local Labour Commitment Scheme

17. Public Access

- 17.1 Within twelve (12) months of the date of this Deed Veolia shall provide the Council with a realistic timeframe for achieving phased public access to the Property.

18. Council's Absolute Right to Assign or Sub-let Lease

- 18.1 The Council at its absolute discretion should it accept the grant of any lease of the Property (excluding subsoil beneath the bentonite cap) may assign or sub-let that lease. This clause takes precedence over any contrary provision in this Deed.

Schedule2

Provisions relating to Zone A, Zone B, Zone C, Zone D and Zone E – Operator Leases

1 Procurement of the grant of leases

- 15.7 Upon the proposal of the Operator by the Council under paragraph 5 of Schedule 5 (occurring prior to any lease of the Owners' respective interests in Zone A, Zone B, Zone C, Zone D and/or Zone E to the Council in accordance with any options entered into under Schedule 4 of this Deed) and subject to Clause 10 and paragraph 1.3 of this Schedule 2, the Owners will use reasonable endeavours to procure the grant of leases (where these relate to land within their respective ownerships) on terms acceptable to the relevant Owners (acting reasonably) of:
- 15.7.1 Zone A to the Operator of the Visitor Centre and for the avoidance of doubt Veolia shall not be required to lease the land at Zone A in any better state and condition than it is in at the date of this Deed as indicated on the photographic schedule of condition attached at Appendix ~~15~~;
- 15.7.2 Zone B to the Operator of the Car Parking Area which shall be let at a standard which Veolia (acting reasonably) considers to be acceptable for use as a car park (and for the avoidance of doubt Veolia shall meet the costs of any necessary works in Zone B to let it at such standard and the lease shall require the Operator to keep the land at that standard) Provided That the relevant Owners shall not be required to lease the land at Zone B:
- 15.7.3 Zone E to the Operator of the Car Parking Area which shall be let at a standard which Veolia (acting reasonably) considers to be acceptable for use as a car park (and the lease shall require the Operator to keep the land at that standard) Provided That Veolia shall only be required to lease Zone E in the event that the Council has served the Council's Car Park Extension Notice in accordance with paragraph 5 of Schedule 1.
- 15.7.4 Such right, title or interest as is held by the relevant Owners in Zone C to the Operator of the Water Sports Facility and for the avoidance of doubt the relevant Owners shall not be required to lease the land at Zone C in any better state and condition than it is in at the date of this Deed ~~as indicated on the photographic schedule of condition attached at Appendix 16~~; and
- 15.7.5 Zone D to the Operator of the Recreational Facilities ~~which shall be let at a standard which Veolia (acting reasonably) considers to be acceptable for use as recreational facilities in accordance with the Landscape and Restoration Masterplan~~ and for the avoidance of doubt the relevant Owners shall not be required to lease the land at Zone D in any better state and condition than it is in at the date of this Deed as indicated on the photographic schedule of condition attached at Appendix 17 Provided That Veolia will not be required to procure the same prior to completion of the Restoration Works in respect of Zone D.
- 15.8 And Further Provided That nothing in this Deed shall require the relevant Owners:
- 15.8.1 to develop, construct or ~~to~~ undertake any preparatory works to enable the construction or development of the Visitor Centre, the Water Sports Facility or the Recreational Facilities; or
- 15.8.2 to grant any lease to any Operator for a term which expires after 31 December 2031.
- 15.9 Paragraph 1.1 of this Schedule 2 is subject to:
- 15.9.1 the relevant Owners' approval (acting reasonably) of the Operator following the Council carrying out the procedure referred to at paragraph 5 of Schedule 5; and
- 15.9.2 the respective uses and locations of Zone A, Zone B, Zone C, Zone D or Zone E (as the case may be) identified at paragraph 1.1 of this Schedule being consistent with the uses and locations of the recreational or related facilities identified in the Landscape and Restoration Plan.

16 Services

- 16.4 Veolia shall use reasonable endeavours to lay the Services up to the boundary of Zone A and Zone C (to which the relevant Owners² hereby consent) and the relevant Owners shall consent to a reasonable request for connection to the Services by a tenant of Zone A or Zone C.

Schedule 3

Covenants by Veolia and the other Owners

1 Works to the Property

16.5 Subject to Clause 10, the Owners shall not undertake any works on the Property that would adversely affect the integrity and/ or effectiveness of the bentonite wall, the basal clay, the capping and restoration layer, the leachate control and drainage system and the gas control and extraction system constructed under the Existing Planning Permission, the New Planning Permission and/or in accordance with the Environmental Permit.

17 Yellow Land

17.4 Veolia and Oldrealm shall make the Yellow Land available to the Council (but without any cost to Veolia (save for all legal cost transfer of the Yellow Land to the Council) and/or Oldrealm) for the purposes of nature conservation PROVIDED THAT Veolia and Oldrealm shall only make the Yellow Land available to the extent that they have any interest in the Yellow Land and shall only do so until whichever is the earlier of:

17.4.1 The end of the Aftercare Period; or

17.4.2 the date any transfer of the Yellow Land is completed pursuant to the option in respect of the Yellow Land in accordance with the provisions of Schedule 4 paragraph 1.2.3.

18 Green Land

18.4 Save in respect of the use and operation of the facilities shown on the Site Infrastructure Plan and for use as part of a landfill site on the land outside of those facilities, Veolia and Oldrealm shall not permit the Green Land to be used for any commercial purpose unless otherwise agreed in writing with the Council.

18.5 In accordance with Condition 7 of the Existing Permission Veolia shall remove the facilities shown on the Site Infrastructure Plan, which shall be removed on or before 31 December 2024 unless otherwise agreed in writing with the Council.

19 Advance Routes

19.4 Within three (3) months following completion of the Restoration Works within each of Zone 1 and Zone 2 respectively Veolia shall commence construction of the Advance Routes for each of Zone 1 and Zone 2 respectively and shall thereafter diligently carry out construction of the same in accordance with the Advance Route Specification.

19.5 Within one (1) calendar month of completion of the construction of the Advance Routes in each of Zone 1 and Zone 2 respectively Veolia shall serve an Advance Routes Notice confirming the line of the route(s) constructed and such Notice shall immediately take effect upon service so as to permit the public temporary access over that route(s) on the terms set out at paragraph 4.3 of this Schedule 3.

19.6 For the period or periods starting from service of the Advance Routes Notice until Service of the Public Routes Notice, Veolia shall maintain the Advance Routes to the standard constructed (save for fair wear and tear) and the Owners shall permit (by way of non-exclusive and revocable licence only) members of the public ~~to~~ temporarily to access on foot over and along the line of the route(s) referred to in the relevant Advance Routes Notice subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time Provided That:

- 19.6.1 The temporary access permitted over and along the Advance Route(s) shall be subject to:

Provided Further That in the event of a permanent closure which is not intended to be replaced by the creation of a route which may be notified as falling within the Public Routes, Veolia shall provide an alternative route which connects with the remaining permissive access routes and which shall be constructed in accordance with the Advance Route Specification.

- 19.7 In the event that the Advance Routes (or any one of them) are varied, diverted or closed in accordance with paragraph 4.3.1 (b) of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency, the variation, diversion or closure made, and its likely duration, as soon as is reasonably practicable following the said emergency having arisen.

20 Public Routes

- 20.4 Veolia shall use reasonable endeavours to ensure that the Public Routes are constructed as soon as reasonably practicable in accordance with a programme and standard to be specified in the Landscape and Restoration Plan.

- 20.5 Within one (1) calendar month of completion of the construction of the Public Routes Veolia shall serve a Public Routes Notice confirming the line of the route(s) constructed and such Notice shall immediately take effect upon service so as to permit the public access over those routes on the terms set out at paragraph 5.3 of this Schedule 3.

- 20.6 Until the last day of the Aftercare Period, Veolia shall maintain the Public Routes and the Owners shall permit (by way of non-exclusive and revocable licence only) members of the public access on foot and by bicycle over and along the Public Routes subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time Provided That:

- 20.6.1 the access permitted shall be subject to:

- 20.7 In the event that the Public Routes (or any one of them) are varied, diverted or closed in accordance with paragraph 5.3.1 (b) of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency, the variation, diversion or closure made, and its likely duration, as soon as is reasonably practicable following the said emergency having arisen.

21 Coldharbour Lane, the First Access Road and the First Car Park

- 21.4 Upon service (or deemed service) of the Implementation Notice ~~(or deemed service)~~ and until the Deed of Rights of Access has been entered into, the Owners shall, on the terms and provisos set out at paragraph 6.3 of this Schedule 3, permit members of the public access over and along those parts of the First Access Road and Coldharbour Lane as are within their respective ownerships and shall permit members of the public to park private vehicles in the First Car Park.

- 21.5 ~~Upon~~On or ~~prior to~~before the last day of the Aftercare Period, the Owners shall use reasonable endeavours to enter into the Deed of Rights of Access, upon the terms and provisos set out at paragraph 6.3 of this Schedule 3, to permit members of the public access over and along those parts of the First Access Road and Coldharbour Lane that are within their respective ownerships, and to permit members of the public to park private vehicles in the First Car Park.

- 21.6 The terms and provisos referred to at paragraph 6.1 of this Schedule 3 and the terms of the Deed of Rights of Access referred to at paragraph 6.2 of this Schedule 3 shall be as follows:

- 21.6.1 that members of the public shall be permitted to pass and repass during daylight hours by private car, bicycle or on foot along the First Access Road and to park private vehicles in the First Car Park subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time;

- 21.6.2 that members of the public shall be permitted to pass and repass during daylight hours by private car ~~or bicycle~~ along those parts of Coldharbour Lane that are within the Property subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time; and
- 21.6.3 that the access permitted shall be subject to:
- 21.7 in the event that Veolia temporarily or permanently close the Second Car Park in accordance with paragraph 7.2.1 of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency and the details of any temporary or permanent closure as soon as is reasonably practicable following the said emergency having arisen.

22 Maintenance of Coldharbour Lane, the First Access Road, the First Car Park and the Second Car Park, and Control of Vegetation Growth

- 22.4 Following service of the Advance Routes Notice and until (and including) the last day of the Aftercare Period, Veolia shall, to a standard suitable and reasonable for use by the public to gain access to the Property:
- 22.4.1 maintain that part of Coldharbour Lane which falls within the Orange Land; and
- 22.4.2 use reasonable endeavours to procure the maintenance of those parts of Coldharbour Lane which fall within those parts of the Property of which the PLA and Oldrealm are the registered freehold proprietors.
- 22.5 Veolia shall maintain, and the PLA hereby consent to Veolia maintaining, that part of the First Access Road and the First Car Park which is situated within the Brown Land until (and including) the last day of the Aftercare Period to a standard suitable and reasonable for use by the public to gain access to the Property.
- 22.6 Veolia shall maintain the Second Car Park until (and including) the last day of the Aftercare Period or, if earlier, until either:
- 22.6.1 Zone E has been let to the Operator in accordance with the provisions of the Second Schedule; or
- 22.6.2 the Zone A and Car Parking Lease (as defined in the Fourth Schedule) has been let to the Council in accordance with the provisions of the Fourth Schedule and such maintenance shall be carried out to a standard suitable and reasonable for use by the public to gain access to the Property.
- 22.6.3 Veolia shall undertake all necessary works to control vegetation growth which is adjacent to the First Riverside Footpath, the Second Riverside Footpath, the Third Riverside Footpath, the Footpath and the Existing Car Parks until and including the last day of the Aftercare Period Provided That nothing in this paragraph 8.4 shall require Veolia to undertake any works which cannot be performed within the Property and the other Owners and the Council hereby consent to Veolia undertaking such works within the Brown Land, the Blue Land and the Green Land.

22.6.4

23 Dedication of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath

- 23.4 ~~Upon~~On or ~~prior to~~before the last day of the Aftercare Period and subject always to paragraph 9.2 of this Schedule the Owners ~~covenant to~~shall enter into a public path creation agreement pursuant to section 25 of the Highways Act 1980 (substantially in the ~~substantial~~ form of the agreement annexed at Appendix 13) to dedicate their respective interests in the Footpath, the Second Riverside Footpath and the Third Riverside Footpath as a public footpath and, following such dedication, the Owners shall permit use of the same as cycleways and shall co-operate with the Council to formalise use of the same as cycleways as may be necessary.

- 23.5 The dedication of the Second Riverside Footpath shall be subject to:
- 23.5.1 the existing right of the PLA to access ~~["by foot, bicycle or vehicle*,"]~~ **the lighthouse the Beacon Land** over the Second Riverside Footpath ~~*by foot, bicycle or vehicle*~~; and
- 23.5.2 Oldrealm retaining the right at all times (subject to obtaining any necessary consents and orders including, for the avoidance of any doubt, any necessary consent or licence from the PLA as navigation authority) to construct at its own cost across the Second Riverside Footpath an access for all purposes to the river from the Blue Land PROVIDED THAT such access to the river shall be exercised in a manner that does not obstruct the public right of way dedicated over the Second Riverside Footpath.
- 23.6 Veolia covenants at its own expense to procure that a notice of the dedication of the Footpath is recorded on the title to the Brown Land at the Land Registry and the dedication of the Second Riverside Footpath is recorded on the title to the Orange Land, the Green Land and the Blue Land at the Land Registry and dedication of the Third Riverside Footpath is recorded on the title to the Orange Land, the Green Land and the Brown Land at the Land Registry as soon as reasonably practicable after completion of ~~thea~~ public path creation agreement relating to the same and Oldrealm and the PLA hereby consent to the same and will provide all reasonable assistance in connection with the application to register any notices.
- 23.7 Until the last day of the Aftercare Period:
- 23.7.1 Veolia shall maintain the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with the Riverside Footpaths and Footpath Specification Provided That nothing in this paragraph 9.4 shall require Veolia to undertake any works which cannot be performed within the Property and the other Owners and the Council hereby consent to Veolia undertaking such works within the Brown Land, the Blue Land and the Green Land; and
- 23.7.2 the Owners shall permit members of the public access on foot and by bicycle over and along those parts of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath that are within their respective ownerships during daylight hours and subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time Provided That:
- i. in the case of emergency in connection with Veolia's use or operation of the Development or with Veolia's duties to be undertaken in accordance with the Environmental Permit, Veolia's right ~~to~~ temporarily or permanently, to vary, divert or close the same; and
 - ii. Veolia's ability ~~to~~ temporarily or permanently, to vary, divert or close the same if previously agreed with the Council in writing.
- 23.8 In the event that Veolia temporarily or permanently, vary, divert or close the Footpath, the Second Riverside Footpath or the Third Riverside Footpath in accordance with paragraph 9.4.2 (b) (i) of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency and the details of any temporary or permanent variation, diversion or closure as soon as is reasonably practicable following the said emergency having arisen.

10 — *Environmental Centre*

- 10.1** ~~*Upon service of the Final Completion Notice and until the end of the Aftercare Period *the Owners* shall make available to the Council, for use as an environmental centre, the Gatehouse (or any alternative building of a similar specification suitable for use as an environmental centre) and during this period *the Owners* shall maintain and repair the Gatehouse (or such alternative building) so as to be fit for purpose Provided That this shall not require the repair of any damage in excess of fair wear and tear caused by the Council, its employees or visitors.*~~

15 ~~44~~-Disposal or creation of interests in the Property

15.1 ~~44.1~~The Owners covenant that prior to the last day of the Aftercare Period, the Owners shall not:

15.1.1 ~~44.1.1~~ dispose of any part of the Owners' respective interests in the Property, save for:

15.1.2 ~~44.1.2~~ create or allow to be created any interests in land or occupational interests or charges over their respective interest in the Property that would materially affect any intended use of that part of the Property to be used as public open space or for uses ancillary to public open space following the last day of the Aftercare Period Provided That the interests to be created in accordance with this Deed shall not be taken to be inconsistent with this obligation.

16 ~~42~~-Duty to co-operate

16.1 ~~42.1~~ Upon the Council's request each Owner shall use reasonable endeavours to facilitate any Party in fulfilling their respective obligations under this Deed including without limitation allowing access without charge or cost onto any of the Owners' respective interests in the Property to enable such obligations to be performed.

16.2 ~~42.2~~ Each Owner hereby covenants with the others and accepts the resulting requirements and restrictions so far as the Council is concerned, that where details of any works or plans are to be provided or consents are required to be obtained by the Owners under this Deed, then those details may be agreed or consents sought by, and only by, either:

16.2.1 ~~42.2.1~~ the holder of the Environmental Permit; or

16.2.2 ~~42.2.2~~ all of the relevant Owners.

Schedule 4

Provisions relating to the option agreements

1 Definitions

1.1 In this Schedule 4, the following expressions shall have the following meanings:

Brown Lease

a lease of the Brown Land to be made between PLA as landlord (1) and the Council as tenant (2) on the following terms:

- a) to exclude the subsoil beneath the Brown Land below a depth from the surface to be specified by Veolia (in consultation agreement with the PLA and the Council) but to include the air above the Brown Land;
- b) to exclude any part or parts of the Brown Land which at the time of completion of the lease is or are being used for the PLA's statutory functions;
- c) to exclude any boreholes, wells and monitoring and control equipment situated on the Brown Land;
- d) to be for a term of 150 years commencing on the date the lease is entered into;
- e) to be granted for a rent of one peppercorn per annum (if demanded);
- f) to be for use only as public open space ~~as more particularly and strictly in accordance with the use~~ identified in the Landscape and Restoration Plan for the Brown Land;
- g) to be granted subject to the Licence (as defined in clause 1.1 of this Deed) in so far as the same is still subsisting;
- h) to be granted subject to and with the benefit of all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Brown Land to the extent so demised;
- i) to be granted subject to any leases granted pursuant to Schedule 2;
- j)** to be granted subject to ~~a right of way over the Brown Land along Coldharbour Lane and the route dashed black on Plan 1*~~ in favour of the Beacon Land, the Blue Land, the Green Land and the Orange Land (with or without heavy goods vehicles)* and for services; the right of free and uninterrupted passage and running of water soil gas electricity and all other services or supplies through such conduits as are now or may hereafter be in on or under the Brown Land and serving or capable of serving the Orange Land, the Green Land or the Blue Land together with the right to lay any new conduits in on under or over the Brown Land and to connect into such conduits together also with the right to enter upon the Brown Land to inspect repair maintain or install any such conduits
- k)** to be granted subject to rights of way over the Brown Land along the First Access Road, that part of Coldharbour Lane and that part of the route shown dashed black between points C and D on Plan 1 that lie within the Brown Land, and subject to a right to park in the First Car Park, such rights* in favour of the Beacon Land, the Blue Land, the Green Land and the Orange Land (with or without heavy goods vehicles)*;
- l)** ~~k)~~ to reserve to Veolia vehicular rights of access from and to the

Jetty through the premises so demised along that part of Coldharbour Lane and that part of the route shown dashed black on Plan 1 between points C and D on Plan 1 that lie within the Brown Land (with or without heavy goods vehicles);

- m)** ~~l)~~ to reserve to Veolia vehicular rights of access over the Brown Land along ~~Coldharbour Lane and~~ the First Access Road, that part of Coldharbour Lane and that part of the route shown dashed black between points C and D on Plan 1 that lie within the Brown Land, and the right to park in the First Car Park (with or without heavy goods vehicles);
- n)** ~~m)~~ to reserve to Veolia a right of entry through the premises so demised on reasonable prior notice (and without notice in the case of emergency) to the subsoil or any adjoining premises including the Orange Land or the Green Land for the purposes of complying with any statutory requirement; ~~and~~
- o)** ~~n)~~ to reserve to Veolia a right of entry on to the premises so demised on reasonable prior notice (and without notice in the case of emergency) for Veolia to undertake any works necessary to comply with its duties or obligations under the New Planning Permission or Environmental Permit Provided That any damage is promptly made good by Veolia to the standard and condition of the premises immediately prior to entry; ~~and~~
- p)** to reserve to Veolia the right to erect or alter or to consent to the erection or alteration of any building for the time being on any adjoining land or the carrying out of any works or the making of any alterations to the adjoining land notwithstanding that such erection or alteration may diminish the access of light and air to or enjoyed by the Brown Land and the right to deal with any such property as it may think fit.
- q)** ~~o)~~ to reserve the following rights to the PLA:
- i) rights for vehicular access to and egress from that part of Coldharbour Lane that lies within the Brown Land for the benefit of the Beacon Land to enable the PLA to carry out its statutory functions or inspect or maintain any equipment therein or from that part of Coldharbour Lane that lies within the Brown Land along the First Access Road to the sea wall to carry out its statutory functions or inspect or maintain any equipment, piers, pipelines, pipebridges or other works under in or over the Brown Land;
 - ii) the right to retain any equipment, piers, pipelines, pipebridges (including the Pump Ashore Facility) or other works under in or over the Brown Land at the date of the lease and used by the PLA for any of its statutory functions;
 - iii) rights to retain, use, inspect, cleanse, maintain, repair and replace any service media serving land used for the PLA's statutory functions and any equipment, piers, pipelines, pipebridges (including the Pump Ashore Facility) or other works and rights to lay new service media along such reasonable routes as the parties shall agree (both parties acting reasonably); and
 - iv) such other rights as the PLA shall reserve at the date of completion of the lease for the benefit of and which are necessary for the reasonable enjoyment of the Beacon Land Provided That such reservations do not prejudice the future use of the Brown Land as public open space (except

such reservations as are necessary to enable the PLA to carry out its statutory functions as navigation or port authority which shall be permitted notwithstanding any such prejudice).

r) ~~p)~~ to be granted subject to:

- i) the grant to the Environment Agency of rights to be exercised in the future relating to the common sewer and sluice near the north ~~eastern~~**western** boundary of the Brown Land and vehicular rights of way along the First Access Road to the common sewer and sluice and the river wall together with any rights for service media;
- ii) the Environmental Permit granted to Veolia or any amendment or variation of the same;
- iii) implementation of the New Planning Permission and any amendment or variation of the same;
- iv) any interests in land and occupational interests existing at the date of this Deed, details of which in so far as they are known shall be disclosed by the PLA to the Council;
- v) any other interests created before completion of the lease that do not materially affect the Brown Land's intended use as public open space following the last day of the Aftercare Period (and the PLA shall notify Veolia and the Council of any **such** interests ~~so~~-created **which are within the PLA's actual knowledge**); and
- vi) the provisions of this Deed.

s) ~~q)~~ to contain all such reciprocal rights and reservations ~~over~~**in favour of** the Orange Land and the Green Land as the parties consider reasonably necessary and which do not materially affect the Property's intended use as public open space;

t) ~~r)~~ to contain a covenant on the part of the Council not to breach the provisions of this Deed, the Licence, or any planning permission, or environmental permits subsisting in respect of the land so demised and a covenant that the Council will enter into a deed of covenant with Veolia or its successors in title to comply with the terms of this Deed, the Licence, any planning permissions, and/or permits authorising the use of such land for waste disposal and to indemnify Veolia and the PLA (save in respect of any negligent acts or omissions of Veolia ~~and~~ or the PLA) against any such breach;

u) ~~s)~~ to contain a covenant **on the part of the Council** that the Council will not act, suffer or permit a third party to act in a way which would adversely affect the integrity of any engineering, capping, cut off walls, restoration, monitoring or control equipment;

v) ~~t)~~ to contain such other reasonable and appropriate covenants as the PLA requires to protect any land, equipment, lighthouses, piers, pipelines **including the Pump Ashore Facility** or other works of the PLA used for its statutory functions under in or over the Brown Land or on land excluded from the Brown Land Provided That the same does not materially affect the Brown Land's intended use as public open space;

w) ~~u)~~ to contain a covenant on the part of the Council to maintain warning signs on the river frontage as to the presence of the river as a hazard and such other warning signs as are reasonably required by Veolia relating to restrictions on use of the land as public open space due to the presence of the

restored landfill;

- x) ~~v)~~ to contain a covenant on the part of the Council to obtain and maintain on foot a policy of insurance to be paid for by Veolia covering public liability risks arising from access over, or use of, or the proposed use of the Brown Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and on which the PLA's interest shall be endorsed;
- y) ~~w)~~ to contain an indemnity from the Council to the PLA against all expenses, losses, damage, liability and claims whatsoever for the avoidance of doubt limited to the extent of the leasehold demise (save in respect of any negligent acts or omissions of the PLA ~~and~~ or Veolia) arising from the proposed use of the Brown Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and against the PLA's liability for any breach of the obligations for which the PLA will remain bound after completion of the lease, as well as a covenant ~~for on the part of~~ the Council to observe and perform such obligations;
- z) ~~x)~~ to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of part to any operator of recreational or related facilities identified in the Landscape and Restoration Plan; and
- aa) ~~y)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably and on the same terms as set out in the definition of the Green Lease and the Orange Lease mutatis mutandis.

Green Lease

a lease of the Green Land to be made between Oldrealm as landlord (1) and the Council as tenant (2) on the following terms:

- a) to exclude the subsoil beneath the Green Land below a depth from the surface to be specified by Veolia (in consultation with Oldrealm and the Council) but to include the air above the Green Land;
- b) to exclude any boreholes, wells and monitoring and control equipment situated on the Green Land;
- c) to be for a term of 150 years commencing on the date the lease is entered into;
- d) to be granted for a rent of one peppercorn per annum (if demanded);
- e) to be for use only as public open space ~~or for~~ and strictly in accordance with the uses identified in the Landscape and Restoration Plan for the Green Land;
- f) to be granted subject to the Lease (as defined in clause 1.1 of this Deed in so far as the same is still subsisting);
- g) to be granted subject to and with the benefit of all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Green Land;
- h) to be granted subject to any interests in land and occupational interests existing at the date of this Deed, details of which in so far as they are known shall be disclosed by Oldrealm to the Council;
- i) to be granted subject to any leases granted pursuant to Schedule 2;

- i)** to be granted subject to the right of free and uninterrupted passage and running of water soil gas electricity and all other services or supplies through such conduits as are now or may hereafter be in on or under the Green Land and serving or capable of serving the Orange Land, the Brown Land or the Blue Land together with the right to lay any new conduits in on under or over the Green Land and to connect into such conduits together also with the right to enter upon the Green Land to inspect repair maintain or install any such conduits;
- k)** ~~j)~~ to be granted subject to a right of way over the Green Land along that part of Coldharbour Lane and that part of the route shown dashed black between points C and D on Plan 1 that lie within the Green Land in favour of the Beacon Land, the Blue Land, the Brown Land and the Orange Land (with or without heavy goods vehicles) ~~and for services~~;
- l)** ~~k)~~ to be granted subject to any other interests created before completion of the lease that do not materially affect the Green Land's intended use as public open space following the last day of the Aftercare Period (and Oldrealm shall notify ~~the~~ Veolia and the Council of any such interests ~~so~~ created which are within Oldrealm's actual knowledge);
- m)** ~~l)~~ to reserve to Veolia vehicular rights of access from and to the Jetty through the premises so demised along that part of Coldharbour Lane and that part of the route shown dashed black ~~on Plan 1~~ between points C and D on Plan 1 (with or without heavy goods vehicles) that lie within the Green Land;
- n)** ~~m)~~ to reserve to Veolia a right of entry through the premises so demised to the subsoil or any adjoining premises including the Orange Land or the Brown Land for the purposes of complying with any statutory requirement;
- o)** ~~n)~~ to reserve to Veolia a right of entry on to the premises so demised on reasonable prior notice (and without notice in the case of emergency) for Veolia to undertake any works necessary to comply with its duties or obligations under the New Planning Permission or Environmental Permit Provided That any damage is promptly made good by Veolia to the standard and condition of the premises immediately prior to entry;
- p)** to reserve to Veolia the right to erect or alter or to consent to the erection or alteration of any building for the time being on any adjoining land or the carrying out of any works or the making of any alterations to the adjoining land notwithstanding that such erection or alteration may diminish the access of light and air to and enjoyed by the Green Land and the right to deal with any such property as it may think fit.
- q)** ~~o)~~ to contain all such reciprocal rights and reservations ~~over in~~ favour of the Orange Land and the Brown Land as the parties consider reasonably necessary and which do not materially affect the Property's intended use as public open space;
- r)** ~~p)~~ to contain a covenant on the part of the Council not to breach the provisions of any planning permission, this Deed, the Lease, or any planning permission or environmental permits subsisting in respect of the land so demised and a covenant that the Council will enter into a deed of covenant with Veolia or its successors in title to comply with the terms of ~~the planning permission,~~ this Deed, the Lease, any planning permissions,

and/or ~~the permit~~permits authorising the use of such land for waste disposal and to indemnify Veolia and Oldrealm (save in respect of any negligent acts or omissions of Veolia ~~and/~~ or Oldrealm) against any such breach;

- s) ~~q)~~ to contain a covenant that the Council will not act, suffer or permit a third party to act in a way which would adversely affect the integrity of any engineering, capping, cut off walls, restoration, monitoring or control equipment;
- t) ~~r)~~ to contain a covenant on the part of the Council to maintain warning signs on the river frontage as to the presence of the river as a hazard and such other warning signs as are reasonably required by Veolia relating to restrictions on use of the land as public open space due to the presence of the restored landfill;
- u) ~~s)~~ to contain a covenant on the part of the Council to obtain and maintain on foot a policy of insurance to be paid for by Veolia covering public liability risks arising from access over, or use of, or the proposed use of the Green Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and on which Oldrealm's interest shall be endorsed;
- v) ~~t)~~ to contain an indemnity from the Council to Oldrealm against all expenses, losses, damage, liability and claims whatsoever (save in respect of any negligent acts or omissions of Oldrealm ~~and/~~ or Veolia) arising from the proposed use of the Green Land for the avoidance of doubt limited to the extent of the leasehold demise by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and against Oldrealm's liability for any breach of the obligations for which Oldrealm will remain bound after completion of the lease, as well as a covenant ~~for~~on the part of the Council to observe and perform such obligations;
- w) ~~u)~~ to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of part to any operator of recreational or related facilities identified in the Landscape and Restoration Plan; and
- x) ~~v)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably and on the same terms as set out in the definition of the Brown Lease and the Orange Lease mutatis mutandis.

Jetty Licence

the riverworks licence in respect of the Jetty granted to Veolia by the PLA on 14 December 1983

Orange Lease

a lease of the Orange Land to be made between Veolia as landlord (1) and the Council as tenant (2) on the following terms:

- a) to exclude the subsoil beneath the Orange Land below a depth from the surface to be specified by Veolia (in consultation with the Council) but to include the air above the Orange Land;
- b) to exclude any boreholes, wells and monitoring and control equipment situated on the Orange Land;
- c) to be for a term of 150 years commencing on the date the lease is entered into;
- d) to be granted for a rent of one peppercorn per annum (if demanded);

- e) to be for use only as public open space ~~or for~~ **and strictly in accordance with** the uses identified in the Landscape and Restoration Plan for the Orange Land;
- f) to be granted subject to any interests in land and occupational interests existing at **the date of** this Deed, details of which in so far as they are known shall be disclosed by Veolia to the Council;
- g) to be granted subject to any leases granted pursuant to Schedule 2;
- h) to be granted subject to the right of free and uninterrupted passage and running of water soil gas electricity and all other services or supplies through such conduits as are now or may hereafter be in on or under the Orange Land and serving or capable of serving the the Brown Land, the Green Land or the Blue Land together with the right to lay any new conduits in on under or over the Orange Land and to connect into such conduits together also with the right to enter upon the Orange Land to inspect repair maintain or install any such conduits**
- i) ~~h)~~ to be granted subject to a right of way over the Orange Land along that part of Coldharbour Lane ~~and the route dashed black on Plan 1~~ that lies within the Orange Land in favour of the Beacon Land, the Blue Land, the Green Land and the Brown Land (with or without heavy goods vehicles) ~~and for services~~;**
- j) ~~i)~~ to be granted subject to and with the benefit of all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Orange Land;**
- k) ~~j)~~ to be granted subject to any other interests created before completion of the lease that do not materially affect the Orange Land's intended use as public open space following the last day of the Aftercare Period (and Veolia shall notify the Council of any such interests ~~so~~ created which are within Veolia's actual knowledge);**
- l) ~~k)~~ to reserve to Veolia vehicular access rights from and to the Jetty through the premises so demised along that part of Coldharbour Lane ~~and the route dashed black on Plan 1~~ that lies within the Orange Land (with or without heavy goods vehicles);**
- m) ~~l)~~ to reserve to Veolia a right of entry through the premises so demised to the subsoil or any adjoining premises including the Green Land or the Brown Land for the purposes of complying with any statutory requirement;**
- n) ~~m)~~ to reserve to Veolia a right of entry on to the premises so demised on reasonable prior notice (and without notice in the case of emergency) for Veolia to undertake any works necessary to comply with its duties or obligations under the New Planning Permission or Environmental Permit Provided That any damage is promptly made good by Veolia to the standard and condition of the premises immediately prior to entry;**
- o) to reserve to Veolia the right to erect or alter or to consent to the erection or alteration of any building for the time being on any adjoining land or the carrying out of any works or the making of any alterations to the adjoining land notwithstanding that such erection or alteration may diminish the access of light and air to and enjoyed by the Orange Land and the right to deal with any such property as it may think fit.**

- p)** ~~n)~~ to contain all such reciprocal rights and reservations ~~overin~~ **favour of** the Green Land and the Brown Land as the parties consider reasonably necessary and which do not materially affect the Property's intended use as public open space;
- q)** ~~e)~~ to contain a covenant on the part of the Council not to breach the provisions of any planning permission, this Deed, or environmental permits subsisting in respect of the land so demised and a covenant that the Council will enter into a deed of covenant with Veolia or its successors in title to comply with the terms of the planning permission, this Deed, and/or the permit authorising the use of such land for waste disposal and to indemnify Veolia (save in respect of any negligent acts or omissions of Veolia) against any such breach;
- r)** ~~p)~~ to contain a covenant **on the part of the Council** that the Council will not act, suffer or permit a third party to act in a way which would adversely affect the integrity of any engineering, capping, cut off walls, restoration, monitoring or control equipment;
- s)** ~~q)~~ to contain a covenant on the part of the Council to maintain warning signs on the river frontage as to the presence of the river as a hazard and such other warning signs as are reasonably required by Veolia relating to restrictions on use of the land as public open space due to the presence of the restored landfill;
- t)** ~~r)~~ to contain a covenant on the **part of the** Council to obtain **and maintain on foot** a policy of insurance to be paid for by Veolia covering public liability risks arising from access over, or use of, or the proposed use of the Orange Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and on which Veolia's interest shall be endorsed;
- u)** ~~s)~~ to contain a covenant on the part of the landlord to procure a policy of insurance covering potential pollution and environmental risks associated with the waste deposited by Veolia underneath the land to be demised to the tenant under the Brown Lease, the Green Lease and the Orange Lease as well as for public liability arising from any such pollution or environmental risks, **such covenant to be expressed to be for the benefit of and enforceable by the owner(s) for the time being of the Brown Land and the Green Land as envisaged by the Contracts (Rights of Third Parties) Act 1999;**
- v)** ~~t)~~ to contain an indemnity from the Council to Veolia against all expenses, losses, damage, liability and claims whatsoever for the avoidance of doubt limited to the extent of the leasehold demise (save in respect of any negligent acts or omissions of Veolia) arising from the proposed use of the Orange Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and against Veolia's liability for any breach of the obligations for which Veolia will remain bound after completion of the lease, as well as a covenant ~~for~~ **on the part of** the Council to observe and perform such obligations;
- w)** ~~u)~~ to contain a covenant on the part of the landlord not ~~to~~ unreasonably **to** withhold or delay consent for underletting of part to any operator of recreational or related facilities identified in the Landscape and Restoration Plan; and

- ~~x)~~ ~~v)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably and on the same terms as set out in the definition of the Green Lease and the Brown Lease mutatis mutandis.

Zone A and Car Parking Lease

a lease of Zone A and either Zone B or Zone E (as the case may be) made between the relevant Owner as landlord (1) and the Council as tenant (2) to be made on the following terms:

- (a) to exclude the subsoil beneath Zone A and either Zone B or Zone E (as the case may be) below a depth from the surface to be specified by Veolia (in consultation with Oldrealm and the Council) but to include the air above Zone A and either Zone B or Zone E (as the case may be);
- (b) ~~contains~~ contain a right for the relevant Owner in the event that the Council does not subsequently enter into the Brown Lease, the Green Lease and the Orange Lease on or before the Call Date (as defined at paragraph 1.4 of this Schedule), to determine the Zone A and Car Parking Lease on service by the relevant Owner of not less than one month's notice on the Council and providing that on expiry of such notice the Zone A and Car Parking Lease shall determine and cease to be of effect subject to any subsisting rights or liabilities and also subject to any subsisting interests created prior to 31 December 2031;
- (c) to be for a term of 150 years commencing on the date such lease is entered into;
- (d) to be granted for a rent of one peppercorn per annum (if demanded);
- (e) to be for a permitted use in Zone A as a visitor centre and in Zone B or Zone E as a car park to serve the visitor centre in Zone A;
- (f) to be granted subject to any leases granted pursuant to Schedule 2;
- (g) to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of the whole to any operator of recreational or related facilities identified in the Landscape and Restoration Plan;
- (h) where not inconsistent with paragraphs (a) to (g) above, to contain the same terms as set out in the definition of the Green Lease and the Orange Lease, or the definition of the Orange Lease as the case may be;** and
- (i)** ~~(h)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably.

Zone C Lease

a lease of Zone C made between the relevant Owner as landlord (1) and the Council as tenant (2) to be made on the following terms:

- (a) to exclude the subsoil beneath Zone C below a depth from the surface to be specified by Veolia (in consultation with the Council) but to include the air above Zone C;
- (b) contains a right for relevant Owner in the event that the Council does not subsequently enter into the Brown Lease, the Green Lease and the Orange Lease on or before the Call Date (as defined at paragraph 1.4 of this Schedule), to determine the Zone C Lease on service by the relevant Owner of not less than one month's notice on the Council and providing that on expiry

of such notice the Zone C Lease shall determine and cease to be of effect subject to any subsisting rights or liabilities and also subject to any subsisting interests created prior to 31 December 2031;

- (c) to be for a term of 150 years commencing on the date such lease is entered into;
- (d) to be granted for a rent of one peppercorn per annum (if demanded);
- (e) to be for a permitted use as water sports facilities and recreational facilities;
- (f) to be granted subject to any leases granted pursuant to Schedule 2;
- (g) to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of the whole to any operator of recreational or related facilities identified in the Landscape and Restoration Plan;
- (h) where not inconsistent with paragraphs (a) to (g) above, to contain the same terms as set out in the definition of the Orange Lease;** and
- (i)** ~~(h)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably.

Zone D Lease

a lease of Zone D made between Veolia as landlord (1) and the Council as tenant (2) to be made on the following terms:

- (a) to exclude the subsoil beneath Zone D below a depth from the surface to be specified by Veolia (in consultation with the Council) but to include the air above Zone D;
- (b) ~~contains to~~ **contain** a right for Veolia, in the event that the Council does not subsequently enter into the Brown Lease, the Green Lease and the Orange Lease on or before the Call Date **(as defined at paragraph 1.4 of this Schedule)**, to determine the Zone D Lease on service by Veolia of not less than one month's notice on the Council and providing that on expiry of such notice the Zone D Lease shall determine and cease to be of effect subject to any subsisting rights or liabilities and also subject to any subsisting interests created prior to 31 December 2031;
- (c) to be for a term of 150 years commencing on the date such lease is entered into;
- (d) to be granted for a rent of one peppercorn per annum (if demanded);
- (e) to be for a permitted use as recreational facilities;
- (f) to be granted subject to any leases granted pursuant to Schedule 2;
- (g) to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of the whole to any operator of recreational or related facilities identified in the Landscape and Restoration Plan;
- (h) where not inconsistent with paragraphs (a) to (g) above, to contain the same terms as set out in the definition of the Orange Lease;** and
- (i)** ~~(h)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed

between the parties acting reasonably.

1.2 Subject to paragraph 1.4 of this Schedule 4, upon the Council so requesting the Owners by written notice on or before 31 December 2030:

1.2.1 the Owners will ~~procure the grant of~~ option agreements to the Council on the following terms for the Brown Lease, the Green Lease and the Orange Lease:

- i) Veolia shall at its own cost and following completion of the Restoration Works commission an independent review, the scope of which shall first be agreed in writing by the Council and Veolia, of the effectiveness of the Restoration Works and Veolia shall provide the said review to the Council on or before 30 June 2031;
- ii) the Council's exercise of the options shall be entirely at the Council's discretion;
- iii) the options shall, if exercised, only be exercisable simultaneously and shall only be exercised on or before 31 October 2031;
- iv) the options shall each contain a term requiring completion of the relevant lease pursuant to the option on or before the end of the Aftercare Period, after which the exercise of the option shall be of no effect;
- v) the consideration for entering into each option shall not exceed one pound (£1.00) in each case;
- vi) there shall be annexed to the option agreements draft forms of the Brown Lease, the Green Lease and the Orange Lease and on the exercise of the options the Brown Lease, the Green Lease and the Orange Lease shall be completed ~~in accordance~~ substantially in the form of the drafts annexed to the option agreements;
- vii) the leases shall be completed simultaneously and only on or before the end of the Aftercare Period, after which the exercise of the options shall be of no effect; and
- viii) all other terms shall be agreed between the parties acting reasonably and in good faith towards each other.

1.2.2 Veolia will use reasonable endeavours up to the last day of the Aftercare Period to assist the Council in securing a Riverworks Licence to use the Jetty (subject to Veolia's Jetty Licence to use the Jetty for waste management purposes) and, so far as it lawfully may, the PLA undertakes that upon the Council's application to acquire the Jetty it will not unreasonably refuse to grant a Riverworks Licence.

1.2.3 Veolia and Oldrealm will use reasonable endeavours to procure the grant of an option for the transfer of such interest (if any) as may be held by Veolia and/or Oldrealm in the Yellow Land by Veolia and/or Oldrealm as transferor to the Council as transferee on the following terms:

- i) the Council shall be permitted to assign the benefit of the option subject to Veolia's and Oldrealm's prior written consent, such consent not to be unreasonably withheld or delayed;
- ii) the option shall only be exercised on or before 31 October 2031 and shall contain a term requiring completion of the transfer pursuant to the option on or before the end of the Aftercare Period, after which the purported exercise of the option shall be of no effect;
- iii) the consideration for entering into the option and completing the transfer shall not exceed one pound (£1.00) in each case;
- iv) the transfer shall contain a covenant that the Yellow Land shall not be used otherwise than as public open space for the purpose of nature conservation; and

- v) the Council shall raise no requisition or objection in respect of the lack of documentary title to the Yellow Land and no covenants for title shall be requested by or provided to the Council in respect of the Yellow Land.
- 1.3 Upon the Council so requesting the relevant Owners by written notice on or before 31 December 2030, the relevant Owners will use reasonable endeavours to procure the grant of leases to the Council for the Zone A and Car Parking Lease; and/ or the Zone ~~BC~~ Lease; and/ or the Zone D Lease (as the case may be) Provided That the said leases shall be completed on or before the end of the Aftercare Period.
- 1.4 In the event that the Council enters into the lease(s) referred to at paragraph 1.3 of this Schedule 4, the Council shall only be entitled to request the Owners to procure the grant of option agreements to the Council for the Brown Lease, the Green Lease and the Orange Lease ~~within seven (7) years of the first request made in accordance with paragraph 1.3 of this Schedule 4 or by 31 December 2022 if earlier (Call Date) by the Call Date~~ Provided That, in the event that it would otherwise have fallen earlier, Veolia shall have absolute discretion to extend the Call Date up to 31 December 2030 which may be so extended by written notice served upon the Council.
- 1.5 In the event that the Council does not enter into the Brown Lease, the Green Lease and the Orange Lease on or before the end of the Aftercare Period, Veolia shall be entitled to call upon the PLA and Oldrealm to procure the grant of the Brown Lease and the Green Lease respectively to a tenant not being the Council, whereupon the PLA, Oldrealm and Veolia shall use reasonable endeavours to procure the simultaneous grant of the Brown Lease, the Green Lease and the Orange Lease to such a tenant and for the avoidance of doubt the PLA and/or Oldrealm shall be entitled to refuse to grant the same but only on the Grounds for Refusal.**
- 1.6 Veolia shall meet the reasonable and proper legal fees of the PLA and Oldrealm incurred in entering into the options and leases required by this Schedule 4.**

Schedule5

Covenants by the Council

1 Issue of New Planning Permission

- 1.1 The Council shall issue the New Planning Permission to Veolia within 7 days of the date hereof.

2 Enforcement of Obligations

- 2.1 ~~The~~Subject to paragraph 2.4 below the Council shall not enforce the planning obligations on the part of the Owners (or any of them) contained in this Deed otherwise than as set out below:

2.1.1 in relation to any planning obligation restricting the use of the Property and made pursuant to section 106(1)(a) of the Act, the Council shall be entitled, at any time, to take such legal proceedings enforcement action or to seek an injunction in relation to any breach or non-compliance with any such planning obligation pursuant to section 106(5) of the Act against the Owner of the respective interest in the Property to which the breach or non-compliance applies; and

2.1.2 in relation to any planning obligation made pursuant to section 106(1)(b) and (c) of the Act the Council shall first seek to enforce such obligations against Veolia.

- 2.2 If the Council are unable to enforce any planning obligation as provided for in paragraph 2.1 of this Schedule 5 then the Council may at its discretion use its powers of entry under section 106(6) of the Act to enter on to the relevant part of the Owners' Property to carry out the relevant specified operation or activity or to enable the land to be used in the specified way and shall seek to recover its costs of so doing directly from Veolia.

- 2.3 On or before the last day of the Aftercare Period, the Council shall be entitled to recover any expenses reasonably incurred by it in enforcing planning obligations in accordance with paragraphs 2.1 and 2.2 of this Schedule 5 by calling upon the Bond with written evidence of its costs so incurred, save in respect of those planning obligations in this Deed which relate to the restoration of the Property in accordance with the Environmental Permit (including, but not exhaustively, monitoring of restoration measures, maintaining and monitoring of extraction of gas and leachate, and engineering works for installing the capping and restoration layer with associated landscaping works) Provided That the same are fully discharged in accordance with the requirements of the Environment Agency or any successor body carrying out its principal functions.

- 2.4 ~~The~~Notwithstanding paragraphs 2.1, 2.2 and 2.3 above the Council shall not be entitled, in any circumstances whatsoever, to seek to recover costs from the PLA or Oldrealm in relation to any non-compliance with the obligations in this Agreement with respect to operations or activities carried out or to the use enabled~~z~~ on the Property.

3 Owner Assistance

- 3.1 Subject to clause 9 of this Deed, the Council covenants and undertakes with the Owners:

3.1.1 Upon written request, and subject to being indemnified in relation to any costs, expenses or liabilities incurred by the Council (acting reasonably) as a direct consequence, to assist any Owner in ensuring that all Owners comply with the covenants, obligations and restrictions on the part of the Owners contained in this Deed; and

3.1.2 Upon written request, and subject to being indemnified in relation to any costs, expenses or liabilities incurred by the Council (acting reasonably) as a direct consequence, to use such statutory or other powers as it may have to assist the Owners in carrying out the covenants, obligations and restrictions on the part of the Owners contained in this Deed.

4 Certification for Creation of Interests

- 4.1 The Council shall on any written request from the Owners, or any one of them, certify whether or not they believe the creation of an interest in land or occupational interest or charge would materially affect any intended use of that part of the Property over which the creation of an interest in land or occupational interest or charge is proposed as public open space or for uses ancillary to public open space following the last day of the Aftercare Period and, if such a certificate is given that there would be no such material effect, that shall be conclusive for the purposes of this Deed and in particular for determining that the creation of the interest in land or occupational interest or charge has not resulted in a breach of the provisions of paragraph 9 of Schedule 3 to this Deed.

5 Approval of Operator

- 5.1 The Council shall propose the Operator to Veolia by providing the following matters (or such other matters as requested by Veolia) to Veolia in writing for Veolia's approval (which approval, for the avoidance of doubt, Veolia shall be entitled to refuse but only on the Grounds for Refusal):
- 5.1.1 evidence of the Operator's financial standing, including their audited annual accounts for the last three years;
 - 5.1.2 at least one reference confirming the Operator's acceptability as a tenant of the nature proposed and, where applicable, such reference shall be provided by a person or body who is a current landlord of the tenant; and
 - 5.1.3 details of the Operator's proposals for the design, construction and operation of the Car Parking Area, the Recreational Facilities, the Visitor Centre or the Water Sports Facility as the case may be.

6 Maintenance of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath

- 6.1 Provided that Veolia has substantially complied with its covenant to maintain the Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with paragraph 9.4.1 of Schedule 3 of this Deed, the Council covenants to enter into a public path creation agreement pursuant to section 25 of the Highways Act 1980 (substantially in the ~~substantial~~ form of the agreement annexed at Appendix 13) to accept the Owners' dedication of the same as public footpaths and to covenant to the Owners that the Council shall maintain the same and, following such dedication, the Council shall permit their use as cycleways and shall co-operate with the Owners to formalise their use as cycleways as may be necessary.

Appendix 1
Plan 1 – The Property

Appendix 2

Plan 2 – First Access Road, First Car Park, First Riverside Footpath, Footpath, Second Riverside Footpath, Coldharbour Lane and Second Car Park

Appendix 3
Plan 3 – Restoration Concept

Appendix4
Plan 4 – Zone Access Plan

Appendix 5
Plan 5 – Phasing Sequence

Appendix6

Plan 6 – Advance Routes Specification (Kissing Gate Specification)

Appendix7

Plan 7 – Advance Routes Specification (Footpath Specification)

Appendix8
Plan 8 – Advance Routes Specification (Fence Specification)

Appendix9

Riverside Footpaths and Footpath Specification

In this specification the term “major damage” shall be taken to mean that the condition of the path would present a health or safety risk to members of the public using the path or would cause the path to be inaccessible to wheelchair users.

The Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath shall be maintained in accordance with the principles and objectives set out below:

1 Mowing

Mowing of the verges to a width of 1m at each side of the footpaths shall be carried out at regular intervals during the growing season to ensure that an even grass covering is maintained and reeds, brambles and shrubs etc are not allowed to encroach onto the path.

2 Inspections and Weed Control

Visual inspections shall be carried out at the time of mowing to determine if weeds etc. are growing in the footpath or through the macadam surface. Where such growth is identified, spraying with appropriate weed killer shall be carried out to prevent further deterioration.

3 Repairs to major damage to the Footpath and the First Riverside Footpath

Where major damage to these footpaths occurs, the path shall be closed if deemed a hazard to pedestrians and the damaged area reconstructed with 100mm of Type 1 sub-base and a 40mm macadam wearing course.

4 Repairs to major damage to the Second and the Third Riverside Footpaths

Where major damage to these footpaths occurs, the path shall be closed if deemed a hazard to pedestrians and the footpath reconstructed with a minimum of 200mm Type 6F2 (if the stabilised layer is damaged), 100mm of Type 1 sub-base and a 40mm macadam wearing course.

Appendix10
New Planning Permission

Appendix11
Form of Deed of Grant

20112014[]

Deed of Grant

of rights of access relating to land at Rainham, Essex

Oldrealm Limited ⁽¹⁾

London Borough of Havering ⁽²⁾

The Port of London Authority ⁽³⁾

Veolia ES Cleanaway (UK) Limited ⁽⁴⁾

DRAFT

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2 Grant.....	3
3 No Dedication and Conditions.....	3

DRAFT

DATED

~~2014~~2014[]

PARTIES

- (1) OLDREALM LIMITED (company number 1960419) whose registered office is situated at Kinetic Centre, Theobold Street, Borehamwood, Hertfordshire, WD6 4PJ (**Oldrealm**).
- (2) THE MAYOR & BURGESSES of the LONDON BOROUGH OF HAVERING of Town Hall, Main Road, Romford, Essex, RM1 3BB (**Council**).
- (3) THE PORT OF LONDON AUTHORITY whose principal office is situated at London River House, Royal Pier Road, Gravesend, Kent, DA12 2BG (**PLA**).
- (4) VEOLIA ES CLEANAWAY (UK) LIMITED (company number 806128) whose registered office is situated at Veolia House, 154A Pentonville Road, London, N1 9PE (**Veolia**).

BACKGROUND

- (A) This Deed is made pursuant to the S.106 Agreement.
- (B) The Council is, and enters into this Deed as, the local planning authority for the area in which the Development is situated.
- (C) The Council has granted the Planning Permission for the Development.
- (D) Oldrealm is the freehold owner of the Green Land.
- (E) The PLA is the freehold owner of the Brown Land.
- (F) Veolia is the freehold owner of the Orange Land and has a leasehold interest in the Green Land and an interest in the Brown Land as licensee.
- (G) The Grantors have agreed to allow the public access to the Public Routes owned by the Grantors as set out below.
- (H) This Deed is made pursuant to Section 106 of the Town and Country Planning Act 1990 and shall bind those elements of the Property upon which the Public Routes are from time to time provided and the obligations shall be enforceable by the Council as local planning authority for the area.
- (I) References to “the Grantors” in Clause 2 are references to Veolia and either Oldrealm or the PLA as the case may be being the person who is the freeholder of the land referred to in the relevant sub-clause of Clause 3.

NOW THIS DEED WITNESSETH as follows:

1 Definitions and interpretation

1.1 In this Deed the words below have the meanings next to them unless the context requires otherwise:

Brown Land the freehold land on the south west side of Coldharbour Lane, Rainham forming part of the land registered at the Land Registry under title number EGL 510484 and shown coloured brown on Plan 1.

Coldharbour Lane ~~that the unadopted~~ part of Coldharbour Lane ~~as shown by~~ between points A, B and C, shown for the purposes of identification only by black dashed ~~black~~ lines on Plan 2.

Council ~~the Mayor and Burgesses of the London Borough of Havering of Town Hall, Main Road, Romford, Essex RM1 3BB~~

Development the development of the Property in accordance with the Planning Permission.

Environmental Permit	the variation, number EPR/EP 3136GK/V 002, to environmental permit number EPR/EP 3136GK <u>as varied by variation notice number EPR/EP 3136GK/V002,</u> issued to Veolia by the Environment Agency permitting the recontouring of the landfill site at the Property.
First Access Road	the access road from Coldharbour Lane to the First Car Park shown by red dashed lines on Plan 2.
First Car Park	the car park situated on the Brown Land shown coloured red on Plan 2.
Grantors	Oldrealm, PLA and Veolia.
Green Land	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry comprising the whole of title number EGL 111270 and part of title number EGL 182072 and shown coloured green on Plan 1.
Landscape and Restoration Plan	the masterplan to be submitted to the Council to establish the landscape and restoration outcomes as part of the Development.
Orange Land	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry under title number EGL 232704 shown coloured orange on Plan 1.
Plan 1	the plan marked Plan 1 and annexed to this Deed at Appendix 1.
Plan 2	the plan marked Plan 2 and annexed to this Deed at Appendix 2.
Planning Permission	a Planning Permission dated [] reference number [].
Property	the Orange Land, the Green Land and the Brown Land together known as land at Rainham Landfill Site, Coldharbour Lane, Rainham shown for the purposes of identification only edged red on Plan 1.
Restoration Works	these works to restore the Property in accordance with the Planning Permission and the Landscape and Restoration Plan.
Section 106 Agreement	a Section 106 Agreement between the Council, Veolia, the PLA, Oldrealm and the National Westminster Bank Plc dated [].

2 Grant

2.1 Subject always to Clause 3, the Grantors hereby grant the following rights in perpetuity:

- 2.1.1 to the public to pass and repass during daylight hours by private car, bicycle or on foot along those parts of the First Access Road that are within their respective ownerships and to park private vehicles in the First Car Park subject to such restrictions as ~~Veolia~~ the Grantors and the Council shall agree in writing from time to time; and

2.1.2 to the public to pass and repass during daylight hours by ~~private car or bicycle~~ along those parts of Coldharbour Lane that are within their respective ownerships subject to such restrictions as ~~Veolia~~ the Grantors and the Council shall agree in writing from time to time.

3 No Dedication and Conditions

3.1 The Grantors hereby declare that this Deed is not a dedication of any right of way and that the access permitted hereunder shall be subject to:

3.1.1 in the case of emergency in connection with Veolia's use or operation of the Development or with Veolia's duties to be undertaken in accordance with the Environmental Permit, Veolia's right ~~to~~ temporarily or permanently, to vary, divert or close the same or any part thereof; and

3.1.2 Veolia's ability ~~to~~ temporarily or permanently, to vary, divert or close the same or any part thereof if previously agreed with the Council in writing.

3.2 The Grantors hereby give notice pursuant to the Highways Act 1980 Section 31(5) that the First Access Road, the First Car Park and Coldharbour Lane have not been dedicated to the public, nor is their use with permission to be taken in any way as an indication of an intention by the Grantors to dedicate the same to the public. The Grantors ~~shall be entitled~~ reserve the right to erect a notice to ~~such that~~ effect.

3.3 The permission and rights contained in this Deed shall only be exercised and are only made available for the use by members of the public for the purposes of recreation and the enjoyment of open space.

Any use of the First Access Road, the First Car Park or Coldharbour Lane hereby permitted shall only be allowed to the extent that such use is in accordance with the Landscape and Restoration Plan.

THE COMMON SEAL of **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HAVERING** was hereunto affixed in the presence of:)
)
)
)

Authorised Person

Authorised Person

THE COMMON SEAL of **OLDREALM LIMITED** was hereunto affixed in the presence of:)
)
)
)

Authorised Person

Authorised Person

EXECUTED AS A DEED BY VEOLIA ES CLEANAWAY (UK) LIMITED acting by 2 Directors or a director/its secretary)
)
)

Director

Director/Secretary

THE COMMON SEAL of **PORT OF LONDON AUTHORITY** was hereunto affixed in the presence of:)
)
)
)

Authorised Person

Authorised Person

Appendix12
Form of Bond

BY THIS BOND

[] whose registered office is situated at []
(**Surety**) is held and firmly bound to the London Borough of Havering (**Council**) in the sum of £1,071,242 (ONE MILLION, SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) to be paid to the Council for the payment of which sum the Surety binds itself and its successors.

EXECUTED and **DELIVERED** as a Deed this day of 2014

WHEREAS

- (A) By an agreement under section 106 and section 106A of the Town and Country Planning Act 1990 dated [] and made between the Council (1) Veolia ES Cleanaway (UK) Limited (**Veolia**) (2) Port of London Authority (3) Oldrealm Limited (4) and National Westminster Bank Plc (5) (**Agreement**) Veolia are required to carry out specified operations and activities, and to enable the land at Rainham Landfill Site, Coldharbour Lane, Rainham Essex to be used in ways specified in and required by the Agreement, which include works to restore the said land and permit public access over it (**Works**).
- (B) By the provisions of the Agreement Veolia contracted to provide a Bond to secure the performance of the Works, save in respect of restoration works which are required to be completed in accordance with an Environmental Permit reference number EPR/EP 3136GK/V002 (and subject to the extent that Veolia discharges the restoration requirements of the Environmental Permit), and such Works shall be referred to in this Bond as **Bond Works**.

NOW THIS DEED WITNESSETH as follows:

1. The Surety is hereby bound to the Council in the sum of £1,071,242 (ONE MILLION, SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) (**Bond Figure**).
2. The Surety shall in the event of any breach or non-observance of any of the terms or covenants to undertake and complete the Bond Works on the part of Veolia contained in the Agreement pay to the Council on demand such sum of money as the Council reasonably certifies was necessary to complete the Bond Works Provided That:
 - 2.1 Before recovering any sum from the Bond Figure the Council shall first be required to follow the procedure referred to at Schedule 5 of the Agreement; and
 - 2.2 The total sums payable by the Surety shall not exceed the Bond Figure.
3. The rights of the Council and the obligation of the Surety shall not be prejudiced or affected by any extension of time, indulgence, forbearance or concession given to Veolia or by virtue of any modification or variation of the terms of the Agreement or by any assertion of or failure to assert any right or remedy against Veolia or by the administration, receivership, insolvency, liquidation, dissolution, reconstruction, amalgamation, incapacity or other change of Veolia.
4. It is hereby agreed and declared that, to the extent not previously called upon, the Council shall release the Surety from this Bond on the last day of the Aftercare Period (as defined in the Agreement).
5. Reference wherever it appears in this Deed to Veolia shall include its respective successors in title and references to the Council and the Surety shall include their respective statutory successors.

THE COMMON SEAL of
{SURETY}
was hereunto affixed in the
presence of:

)
)

Authorised Person

Authorised Person

EXECUTED AS A DEED BY VEOLIA ES
CLEANAWAY (UK) LIMITED acting by
two Directors or a director/its secretary

)
)
)

Director

Director/Secretary

The Common Seal of **THE**
MAYOR AND BURGESSES
OF THE LONDON BOROUGH
OF HAVERING was hereunto
Affixed in the presence of:

Authorised person

Authorised person

Appendix13
{Form of Public Path Creation Agreement}

Site Infrastructure Plan

Appendix 15
Schedule of Condition – Zone A

APPENDIX 16
Schedule of Condition – Zone C

APPENDIX 17
Schedule of Condition – Zone D

**THE COMMON SEAL of THE MAYOR AND
BURGESSES OF THE LONDON BOROUGH
OF HAVERING** was hereunto affixed in the
presence of:)
)
)
)

Authorised Person

Authorised Person

**EXECUTED AS A DEED BYVEOLIA ES
CLEANAWAY (UK) LIMITED** acting by)
two Directors or a director/its secretary)
)

Director

Director/Secretary

**THE COMMON SEAL of THE PORT OF
LONDON AUTHORITY** was hereunto affixed)
in the presence of:)
)

Authorised Person

Authorised Person

**THE COMMON SEAL of OLDREALM
LIMITED** was hereunto affixed in the)
presence of:)
)

Authorised Person

Authorised Person

THE COMMON SEAL of
NATIONAL WESTMINSTER BANK PLC
was hereunto affixed in the
presence of:

)
)

Authorised Person

Authorised Person

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