

Private & Confidential

Dated

2011

THE COUNCIL OF THE CITY OF COVENTRY (1)

THE METROPOLITAN BOROUGH OF SOLIHULL (2)

AND

THE COVENTRY AND SOLIHULL WASTE DISPOSAL COMPANY LIMITED (3)

SUPPLEMENTAL SHAREHOLDERS AGREEMENT

THIS AGREEMENT is dated 2011

and is made **BETWEEN:**

- (1) **THE COUNCIL OF THE CITY OF COVENTRY** of the Council House, Coventry. CV1 5RR (“**Coventry**”);
- (2) **THE METROPOLITAN BOROUGH OF SOLIHULL** of the Council House, Solihull. B91 3QS (“**Solihull**”); and
- (3) **THE COVENTRY AND SOLIHULL WASTE DISPOSAL COMPANY LIMITED** (registered in England number 2690488) having its registered office at Bar Road, Coventry. CV3 4AN (“the **Company**”);

WHEREAS:

- (1) On 15 March 1994 the parties entered into a Shareholders Agreement in relation to the Company and such agreement was amended by agreements between the parties hereto dated 31 October 1995 and 10 June 1999 (“the **Principal Agreement**”);
- (2) The parties have now agreed to vary further the provisions of the Principal Agreement.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

1. The Principal Agreement shall be deemed to be amended with the consent of the parties with effect from 1 April 2010 so that:
 - a. The first sentence of clause 6 (k) shall be deleted and replaced with the following sentence “meetings of the Board shall be held at least quarterly. In addition to quarterly Board meetings the Directors of the Company will hold quarterly review meetings with the senior managers of the Company.”
 - b. The words “it is intended that the Shareholder Panel will meet no less than once in every quarter during each accounting period of the Company” in lines four and five of Schedule 2 clause 3 shall be deleted and replaced by the words “it is intended that the Shareholder Panel will meet no less than half yearly on a formal basis during each accounting period of the Company. Interim formal Shareholders Panel meetings may also be held to enable Panel members to review issues with the Company’s Board of Directors.”
 - c. Sub-clauses (a) to (x) of clause 18 (2) shall be deleted and replaced by the following:
 - (a) the acquisition or formation of any subsidiary by the Company or any other investment in or acquisition of another company, a partnership, consortium or joint venture;
 - (b) the adoption of a new head office for the administration of the Company, or of a new registered office;
 - (c) the acceptance of any contracts for the disposal of waste the consequence of which is or may be that any waste to be disposed of for the Council of the City of Coventry or the Metropolitan Borough

of Solihull is diverted away from the waste reduction unit operated by the Company at London Road, Coventry;

- (d) the early repayment of any finance owed to any shareholder;
- (e) any single capital expenditure or revenue scheme with a value in any year in excess of £1,000,000, even if specifically allowed for in the Corporate Plan (as defined in the Shareholders' Agreement);
- (f) the acquisition or disposal of any freehold or leasehold property or parts thereof or the granting or surrendering of a lease in respect thereof by the Company;
- (g) the acquisition or disposal of assets by the Company (other than in the ordinary course of business) where the item to be disposed of is a capital item the net book value of which exceeds £1,000;
- (h) any loan or advance by the Company or the granting of any guarantee or indemnity of the obligation of any person, firm or company by the Company (other than an advance against expenses or salary which is repayable on the next due date for payment of such salary and other than in the ordinary course of business);
- (i) any transaction, arrangement or agreement with or for the benefit of a shareholder or any director of the Company or any subsidiary or any person connected with any such shareholder or director;
- (j) the making of any political contributions or gifts by the Company;
- (k) the making of any charitable contributions or gifts by the Company of a value in excess of £5,000 in any financial year;
- (l) the factoring of the Company's debts;
- (m) creating or allowing to subsist any incumbrances over the Company's assets;
- (n) the Company entering into any loan leasing arrangement, bond or contract which is or is likely to be a credit transaction (as that term is defined in the 2003 Act without the prior written consent of The Council of the City of Coventry and The Metropolitan Borough of Solihull);
- (o) the adoption of or change in accounting policies or practices employed in the preparation of the management accounts or audited accounts of the Company or of a new accounting reference date or the preparation of any accounts which (by writing off any asset or creating provision or reserve for any liability or otherwise) thereby show distributable profits lower than would be shown had such accounts insofar as lawfully permitted not included such item;
- (p) the approval, signing or filing at Companies House of any audited accounts of the Company without having first notified year end results to the Shareholders' Panel no later than 7 weeks after the end of the accounting period to which they relate;
- (q) the cessation or material reduction of the Company's business or any change in the nature of the Company's business or activities;
- (r) the appointment of new auditors to the Company; and
- (s) the entering into a written service agreement with any director or connected person or a variation of any existing service agreement with any such person

- (t) the increase in the remuneration package of any director of the Company above the limits set out in article 24.5 of the Articles of Association.
- d. The contents of Schedule 5 Tendering Policy shall be deleted in their entirety and replaced by the following:

“The Tendering Procedures shown below are to be adopted for all contracts and purchase and supply of goods and services.

1. General

The procedure will be adopted for the tendering of contracts, except where this is covered by EC Directives or other legislation, in which case the latter requirements will apply.

The Company will only use suppliers and contractors who meet good standards of technical, commercial and financial management and provide quality work at competitive prices, complying with Health and Safety Policy Standards.

2. Contracts Subject to EC Directives

Public advertisement in the European Journals and local press will be adopted for all of these contracts. A pre-qualification process will be followed to establish a select list of companies who will be invited to submit a tender against a design brief. Where practical, the select list will include four companies to be invited to tender. Formal contract documentation will be prepared by solicitors and agreed with the successful tenderer.

3. Single Contracts valued over £150,000 and not subject to EC Directives

On each occasion a contract is to be let with the prior approval of the Managing Director, and if practical up to four companies will be invited to tender. The tender will be quoted against a design brief

prepared by the Company and a standard set of tender documentation which will form the contract with the successful bidder, together with a purchase order.

4. Single Contracts valued below £150,000

Quotations will be sought from up to three suitable companies where benefits can be seen to be derived for the Company, but single tender action with individual companies may be adopted for work valued below this level and contract prices negotiated if appropriate. The contract will take the form of a purchase order and a standard set of terms and conditions.

5. Opening of Tenders

For contracts valued over £150,000, a timetable for preparation and delivery of quotations will be sent out with each set of tender documents. All tenders will be required to be delivered to the Company premises for the attention of the Company Secretary on a defined date. The opening of tenders will be witnessed by the Company Secretary in the presence of an Executive Director.

6. Negotiated Contracts

There may be occasions when single tender action is required for a contract which falls below the EU threshold for services and works to be adopted due to the specialist nature of work, work associated with on site plant or where there are time constraints and emergencies. On such occasions, approval for the work to proceed will require a decision of the Managing Director.

7. Appraisal Process

Before adding the name of any company onto the list of suppliers, an appraisal will be carried out to check their financial, technical and commercial status by the Executive Directors and Company Secretary. Prospective contractors tendering for site work will also be required to demonstrate that they have adequate policies and procedures in place to ensure good standards of health, safety and environmental performance.

8. Selection Process

Tender submissions will be subjected to technical, financial and commercial evaluation. Selection of the successful tenderer will be passed upon value for money, quality and compliance with specification. Other factors will be taken into account such as delivery, reliability and other services.

Where the lowest priced tender is not recommended, the person responsible for the tendering process will need to satisfy the Managing Director in writing, and await written approval, before proceeding to let any contract.

All tenderers will be advised of the results of the evaluation process.”

2. This Agreement may be executed in any number of counterparts by the different parties to it on separate counterparts, each of which when executed and delivered shall constitute an original, but all of which shall together constitute one and the same instrument.
3. Save to the extent expressly varied by the provisions of this Agreement, the Principal Agreement shall remain in full force and effect and shall not be affected by the execution and delivery of this Agreement.

IN WITNESS whereof the parties have respectively executed this deed the day and year first before written.

For and on behalf of The Council of the City of Coventry

..... Date: 2011

For and on behalf of The Metropolitan Borough of Solihull

..... Date: 2011

For and on behalf of The Coventry and Solihull Waste Disposal Company Limited

..... Date: 2011