

THE COMPANIES ACTS 1985 TO 1989

PRIVATE COMPANY LIMITED BY SHARES

NEW ARTICLES OF ASSOCIATION

of

THE COVENTRY AND SOLIHULL WASTE DISPOSAL COMPANY LIMITED

(adopted by Resolution passed on [ ] 1994

PRELIMINARY

1. (a) The Regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 SI 1985 No. 805) as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (SI 1985 No. 1052) (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied hereby and such Regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the regulations of the Company.

(b) The headings shall not affect the construction hereof and in the interpretation of these Articles unless there be something in the subject or context inconsistent therewith the following words and expressions shall bear the meanings set out opposite them:-

"A" Ordinary Share"

an Ordinary Share of £1 for the time being in the capital of the Company having the designation "A";

"A" Preference Shares"

a Cumulative Redeemable Preference Share of £1 for the time being in the capital of the Company having the designation "A";

"Articles"

these Articles of Association adopted by resolution in writing of the Shareholders on [ ] 1994;

"the Act"

the Companies Act 1985 but so that any reference to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force;

"the Board"

the Board of Directors of the Company from time to time;

"B" Ordinary Share"

an Ordinary Share of £1 for the time being in the capital of the Company having the designation "B";

"B" Preference Shares"

a Cumulative Redeemable Preference Share of £1 for the time being in the capital of the Company having the designation "B";

"Connected Person"

the connected person of any person as defined by Section 839 Income and Corporation Taxes Act 1988 (and "connected" shall be construed accordingly);

"Director"	a Director for the time being of the Company;
"Ordinary Share"	any "A" Ordinary Share or "B" Ordinary Share;
"Preference Shares"	any "A" Preference Shares or "B" Preference Shares;
"the Proper Officer"	in the case of the Metropolitan Borough of Solihull the Town Clerk and Chief Executive Officer for the time being thereof in the case of the Council of the City of Coventry the City Secretary for the time being and thereof in the case of the Company the Company Secretary and in the case of any other company that becomes a Shareholder, the Company Secretary of such company;
"Restricted Acquisition"	any acquisition or transaction as a result of which a Controlling Interest is obtained in the circumstances and by the persons referred to in Article 9;
"Share"	any Share in the capital of the Company;
"Shareholders' Agreement"	the Agreement entered into between the Council of the City of Coventry (1) the Metropolitan Borough of Solihull (2) and the Company (3);

"Shareholder"

a holder for the time being of any Share;

"Shareholders Panel"

the panel constituted by the Shareholders in the manner set out in the Shareholders' Agreement;

"Subsidiary"

shall have the meaning given in Section 736 of the Act;

"Voting "A" Shares"

the "A" Ordinary Shares and those of the "A" Preference Shares carrying for the time being the right to vote in General Meetings;

"Voting "B" Shares"

the "B" Ordinary Shares and those of the "B" Preference Shares carrying for the time being the right to vote in General Meetings;

"the Waste Disposal Agreement"

the Agreement of that name entered into between the Council of the City of Coventry (1) and the Metropolitan Borough of Solihull (2).

Words and expressions defined in the Act or in Table A shall unless the context otherwise requires have the same meanings in these Articles. The singular shall include the plural and the masculine the feminine and neuter and vice versa.

#### ALLOTMENT OF SHARES

2. (a) All Shares which are not comprised in the authorised Share capital with which the Company is incorporated and which the Directors propose to issue shall first be offered to the Shareholders in proportion as nearly as may be to the

number of the existing Shares of that class held by them respectively (or where the Shares to be issued are of a new class, in proportion to the Ordinary Shares held by them) unless the Company in General Meeting shall by Special Resolution otherwise direct. The offer shall be made by notice specifying the number of Shares offered, and limiting a period (not being less than 42 days unless all the Shareholders agree to any shorter period) within which the offer, if not accepted, will be deemed to be declined. After the expiration of that period, those Shares so deemed to be declined shall be offered in the proportion aforesaid to the persons who have, within the said period, accepted all the Shares offered to them; such further offer shall be made in like terms in the same manner and limited by a like period as the original offer. Any Shares not accepted pursuant to such offer or further offer as aforesaid or not capable of being offered as aforesaid except by way of fractions and any Shares released from the provisions of this Article by any such Special Resolution as aforesaid shall be under the control of the Directors, who may allot, grant options over or otherwise dispose of the same to such persons, on such terms, and in such manner as they think fit, provided that, in the case of Shares not accepted as aforesaid, such Shares shall not be disposed of on terms which are more favourable to the subscribers therefor than the terms on which they were offered to the Shareholders. The foregoing provisions of this paragraph (b) shall have effect subject to Section 80 of the Act.

(b) In accordance with Section 91(1) of the Act Sections 89(1) and 90(1) to (6) (inclusive) of the Act shall not apply to the Company.

## SHARES

3. The lien conferred by Clause 8 in Table A shall attach also to fully paid-up Shares, and the Company shall also have a first and paramount lien on all Shares, whether fully paid or not, standing registered in the name of any person indebted or under liability to the Company, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company. Clause 8 in Table A shall be modified accordingly.

4. The liability of any Shareholder in default in respect of a call shall be increased by the addition at the end of the first sentence of Clause 18 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment".

5. The Share capital of the Company at the date of adoption of these Articles is £14,925,099 divided into 66 "A" Ordinary Shares of £1 each, 33 "B" Ordinary Shares of £1 each, 9,950,000 "A" Preference Shares of £1 each and 4,975,000 "B" Preference Shares of £1 each.

The rights attaching to the respective classes of Shares shall be as follows:-

(A) Income

The distributable profits of the Company shall be applied:-

- (i) First in paying to the holders of the Preference Shares a fixed cumulative preferential net cash dividend of 8.5p per Preference Share per annum ("the Preference Dividend") payable quarterly in arrears. For this purpose each respective quarter shall comprise twelve weeks (save that the third quarter in each financial year shall comprise sixteen weeks) with the first such quarter commencing on the first day of each financial year and with the first Preference Dividend to be payable in respect of the first quarter in which subscription takes place and to be a due proportion (apportioned on a time basis) of the annual Preference Dividend from the date of subscription of the Preference Shares.
- (ii) Subject as aforesaid any remaining distributable profits of the Company in any financial year shall be distributed in accordance with the dividend policy set out in Clause 12 of the Shareholders' Agreement amongst the holders of the "A" Ordinary Shares and "B" Ordinary Shares according to the amounts paid up or credited as paid up thereon (including any premium) pari passu as if the same constituted one class of Shares.
- (iii) (1) The Preference Dividend shall accumulate whether or not the Company is prohibited from paying the Preference Dividend or any part thereof because it has insufficient profits available for distribution;
- (2) The Preference Dividend accumulated shall (if the Company has sufficient profits available for distribution) fall due for payment notwithstanding regulations 102 to 108 inclusive contained in Table A or any other provision or these Articles and in

particular notwithstanding that there has not been a recommendation of the Directors or resolution of the Company in General Meeting;

- (3) Unless the Company has insufficient profits available for distribution the Preference Dividend shall be paid on the quarter dates referred to in sub-Article 5(A)(1). If, because the Company has insufficient profits available for distribution, any part of the Preference Dividend that has accumulated cannot be paid on the dates referred to in sub-Article 5(A)(1) the Company shall then pay as much of the accumulated Preference Dividend as can lawfully be paid and the balance or any part thereof shall be paid as soon thereafter as that balance or part may lawfully be paid;
- (4) If not paid immediately on the dates referred to in sub-Article 5(A)(1) (for whatever reasons whether or not because the Company has insufficient profits available for distribution) the accumulated Preference Dividend unpaid shall increase at the rate per annum (compounded on each subsequent quarter date as determined under sub-Article 5(A)(1)) of 4 per cent. above the base lending rate from time to time of National Westminster Bank Plc from the relevant quarter date referred to in sub-Article 5(A)(1) to the date of actual payment of that Preference Dividend (including both dates).
- (5) If not paid immediately on the due date for payment the Preference Dividend shall be a debt due by the Company and payable in priority to any other dividend.



(iv) No dividend shall be declared or paid in respect of the Ordinary Shares or any other class of shares in the capital of the Company (and the Company shall not purchase or redeem any share in the capital of the Company other than a Preference Share due for redemption) for so long as:-

(1) any Preference Dividend has accumulated but remains unpaid following the relevant quarter date referred to in sub-Article 5(A)(i); or

(2) any price payable on the redemption of any Preference Shares due for redemption remains unpaid (and for this purpose a Preference Share shall be due for redemption if election for redemption has been made under Article 5(c)(i) and shall not be treated as not being due for redemption merely by virtue of Article 5(C)(v))

(B) Capital

On a return of capital on liquidation or otherwise (except on the redemption of Shares of any class) the assets of the Company remaining after the payment of its debts and liabilities and of the costs, charges and expenses of any such liquidation where applicable shall be applied in the following manner and order of priority:-

(i) first in paying to the holders of the Preference Shares the sum of £1 per Share together with a sum equal to any arrears, deficiency or accruals of the Preference Dividend calculated down to the date of the return of capital and payable whether such dividend has been declared or earned or not;

- (ii) the balance of such assets shall be distributed amongst the holders of the "A" Ordinary Shares and the "B" Ordinary Shares (pari passu as if the same constituted one class of Shares) in proportion to the amounts paid up or credited as paid up (including any premiums) on the Ordinary Shares held by them.

(C) Redemption of the Preference Shares

The Company shall be entitled to elect at any time to redeem the Preference Shares (subject to the provisions of the Act) at par rateably amongst the holders thereof provided that in any event the Preference Shares of a Shareholder shall fall due for redemption at par (subject to the provisions of the Act) at the election of that Shareholder effected immediately prior to, or at any time after, a Restricted Acquisition and (subject thereto and subject to the provisions of the Act) in any event at the election of that Shareholder effected at any time after the fifteenth anniversary of the date of allotment of the Preference Shares and the following provisions shall have effect:-

- (i) election for redemption shall be effected by notice in writing given by the Company to the holders of the Preference Shares or by notice in writing given by a holder of Preference Shares to the Company (as appropriate) stating the number of Preference Shares to be redeemed in accordance with such notice (which, for the avoidance of doubt, may be all or some only of that Shareholder's Preference Shares) and redemption shall take place within 28 days following the service of such notice;
- (ii) on the date fixed for redemption each registered holder of Preference Shares shall be bound to surrender to the Company the certificate for the Preference Shares which are to be redeemed in order that the same may be cancelled, and upon such surrender the Company shall

pay to such holder the amount payable in respect of such redemption provided that if a certificate so surrendered includes Preference Shares not then redeemable a fresh certificate for the balance of the Preference Shares not redeemable shall be issued to the holder by the Company;

- (iii) there is to be paid on each of the Preference Shares to be redeemed the sum of £1 together with a sum equal to any arrears, deficiency or accruals of Preference Dividend thereon;
- (iv) if upon the date or dates fixed for redemption redemption is not effected because the provisions of the Act do not permit such redemption then the Preference Shares which were then due for redemption shall be redeemed as soon thereafter as circumstances enable the Company to do so in accordance with the provisions of the Act. Such redemption shall, if necessary, and as often as necessary, be effected partially and ratably amongst the holders of the Preference Shares and the provisions of this Article shall apply accordingly to such redemption;
- (v) the Company shall be under no obligation to effect any redemption of the Preference Shares out of capital and the provisions of this Article shall be construed accordingly provided always that the Preference Shares shall nevertheless have become due for redemption;
- (vi) if the Preference Shares in issue at any time fixed for redemption shall have been subscribed on more than one date the redemption of all Preference Shares subscribed for on the earlier date shall take place before the redemption of the Preference Shares subscribed for on any later date or dates.

6. Whenever the capital of the Company is divided into different classes of Shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up with the consent in writing of the holders of three-fourths of the issued Shares of that class, or with the sanction of an extraordinary resolution passed at a separate meeting of the holders of the Shares of that class but not otherwise. To every such separate meeting all the provisions of these Articles relating to general meetings of the Company shall, mutatis mutandis, apply except that the necessary quorum shall be two persons holding or representing by proxy at least three-fourths nominal amount of the issued Shares of the class and any holder of Shares of the class present in person or by proxy may demand a poll (so that if at any adjourned meeting of such holders a quorum as above defined is not present any holder of Shares of the class who is present shall be a quorum), and that the holders of Shares of the class shall, on a poll, have one vote in respect of every Share of the class held by them respectively. For this purpose the "A" Ordinary Shares and the "B" Ordinary Shares shall be treated as being two separate classes of Shares and the "A" Preference Shares and the "B" Preference Shares shall be treated as being two separate classes of Shares. Without prejudice to the generality of this Article, the special rights attached to the Preference Shares shall be deemed to be varied (save where such prior consent as aforesaid shall have been given):-

- (1) by the calling of any meeting of the Company (which in these Articles shall include the issue by the Company of a written resolution) for the purpose of effecting any alteration or increase or reduction or sub-division or consolidation of the authorised or issued capital of the Company or of any of its subsidiaries, or by any variation of the rights attached to any of the Shares for the time being in the capital of the Company or of any of its subsidiaries; or

- (ii) by any alteration of the restrictions on the powers of the Directors of the Company and its subsidiaries to borrow give guarantees or create charges; or
- (iii) by the calling of a meeting of the Company for the purpose of considering a resolution for the winding up of the Company; or
- (iv) by the calling of a meeting of the Company for the purpose of considering a resolution to approve a contract by the Company to purchase or redeem any of its Shares; or
- (v) by the calling of a meeting of the Company for the purposes of amending the Company's Memorandum or amending or adopting new Articles of Association of the Company.

7. Subject to the provisions of Part V of the Act and subject to any rights attaching to any class of Share of the Company the Company may:-

(a) issue Shares which are to be redeemed or are liable to be redeemed at the option of the Company or the Shareholders concerned;

(b) purchase its own Shares (including any redeemable Shares);

(c) make payment in respect of the redemption or purchase under Section 159 or 160 or (as the case may be) Section 162 of the Act and the relevant power under (a) or (b) above, of any of its own Shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of Shares to the extent permitted by Section 171 and 172 of the Act.

## TRANSFER AND TRANSMISSION OF SHARES

8. Notwithstanding any other provision of these Articles but subject as hereinafter provided:-

(a) Any Shareholder wishing to dispose of or to charge or encumber any of its Shares in the Company or the beneficial interest therein ("the Transferor") shall give notice in writing ("a Transfer Notice") to the Company that it wishes to dispose of one or more of its Shares. A Transfer Notice may provide that unless all the Shares the subject of the Transfer Notice are sold to the persons offered the same pursuant to sub-Articles (c) and (f) of this Article none shall be sold ("a Total Transfer Condition").

(b) Every Transfer Notice shall specify the number and class of Shares to be transferred, shall be accompanied by the Certificate for the Shares the subject thereof and shall constitute the Company agent for the sale of the Shares in accordance with this Article at a price to be determined in accordance with sub-Article (d) of this Article ("the Sale Price"). If the capital is divided into separate classes of Shares a separate Transfer Notice shall be given (or be deemed to have been given) for each such class of Shares. A Transfer Notice shall be revocable by written notice to the Company from the proposing transferor within one week after receipt of the Accountant's certification under Article 8(d) whereupon the proposing transferor will be responsible to bear all the Accountants' costs in so certifying.

(c) Subject to the Sale Price being agreed or determined (as the case may be) in accordance with sub-Article (d) of this Article within 15 days of receipt of a Transfer Notice or if later forthwith upon such determination the Directors shall:-

- (1) give notice in writing of the Transfer Notice specifying the Sale Price (an "Offer Notice") to all the Shareholders of the Company (other than the Transferor) holding Shares of the same class as the Shares the subject of the Transfer Notice in proportion to their respective holdings of Shares of that class inter se (a "First Offer") and for this purpose the "A" Ordinary Shares and the "B" Ordinary Shares will be treated as the same class and the "A" Preference Shares and the "B" Preference Shares will be treated as the same class.

A First Offer shall be limited to a period of 42 days ("the First Period") from the date of the Offer Notice and shall if not accepted within such time be deemed to have been declined. The First Offer shall give the Shareholders to which it is made the right to claim Shares offered in addition to their due proportion. If any such Shareholders do not accept their due proportion then the unaccepted Shares shall be distributed among those Shareholders claiming additional Shares in proportion or as nearly as may be to their said holdings (but no Shareholder shall be bound to take more Shares than those he has claimed) up to the maximum number of Shares that each Shareholder is prepared to take. If any Shares comprised in a First Offer remain unaccepted the Directors shall issue a further Offer Notice (a "Second Offer Notice") in respect of such Shares to all the Shareholders (other than the Transferor and the Shareholders to whom the First Offer was made) in proportion to the nominal value of their holdings of Shares inter se (a "Second Offer") and the provisions of this Article shall apply thereto.

Every Second Offer shall be limited to a period of 15 days ("the Second Period") from the date of the Second Offer Notice and shall if not accepted by any such Shareholders within such time be deemed to have been

declined by such Shareholders. The Second Offer shall give the Shareholders of the Company to which it is made the right to claim Shares offered in addition to their due proportion if any other such Shareholders do not accept their due proportion. If any such Shareholders do not accept their due proportion then the unaccepted Shares shall be distributed among those Shareholders of the Company claiming additional Shares in proportion or as nearly as may be to their said holdings (but no Shareholder shall be bound to take more Shares than those he has claimed) up to the maximum number of Shares that each Shareholder is prepared to take. If the number of Shares comprised in the Transfer Notice is insufficient to enable them to be offered exactly pro rata to all the eligible Shareholders of the Company then the indivisible balance shall be offered individually to such Shareholders by the drawing of lots and the provisions of this sub-Article shall apply accordingly;

- (ii) if the Company shall within the First Period or the Second Period (as the case may be) find a transferee or transferees for the Shares or any of them it shall give notice thereof to the Transferor and he shall be bound upon payment of the appropriate Sale Price to transfer the Shares (or the appropriate number of them) to the relevant transferee or transferees provided always that if the Transfer Notice contained a Total Transfer Condition then unless the Company shall within such periods and in the manner as aforesaid find a transferee or transferees for all but not some only of the Shares offered for sale as herein referred to, the provisions of this sub-Article (ii) shall not apply.



(d) The Sale Price of the Shares comprised in any Transfer Notice shall be either the price thereof agreed between the Transferor and all other Shareholders within 15 days of the service of the Transfer Notice or (as the case may be) the date when the Transfer Notice is deemed to have been served or in default of agreement within such period such price as an independent firm of Chartered Accountants (other than the Auditors of the Company) ("the Accountants") shall on the application of the Transferor, or any of the other Shareholders, certify in writing to be the fair value thereof per Share as at the date of the relevant Transfer Notice. For this purpose a firm of Chartered Accountants who are the auditors of any Shareholder that is a body corporate shall not merely thereby be regarded as not independent. The fair value shall be calculated on the basis of the fair price of such Shares on a going concern basis between a willing seller and a willing buyer and on the basis that no additional or reduced value is attached to a holding of Shares by virtue of such holding comprising or after purchase conferring or giving rise to a majority or minority of the total issued equity Share capital of the Company and on the basis that for this purpose a value of £1 (plus a sum equal to any arrears deficiency or accruals of the Preference Dividend) is attached to the Preference Shares. The nomination of such Accountants shall in the event of disagreement between the Transferor and the other Shareholders be made by the President for the time being of the Institute of Chartered Accountants in England and Wales.

In so certifying the Accountants shall be considered to be acting as experts and not as arbitrators with regard to their determination and their decision shall be final and binding on the parties. The reasonable costs of the Accountants shall be borne equally by all the Shareholders.

(e) If the Transferor, after having become bound to transfer its Shares as aforesaid, makes default in transferring the same the Company may receive the purchase money tendered by the relevant purchasing Shareholders and the proposed Transferor shall be deemed to have appointed any one Director or the Secretary of the Company as his agent to execute a transfer of the Shares which are the subject of the Transfer Notice to the purchasing Shareholders and upon the execution of such transfer the Company shall hold the purchase money in trust for the Transferor. The receipt of the Company for the purchase money shall be a good discharge to the purchasing Shareholders and after their name has been entered on the Register of Shareholders in purported exercise of the powers conferred by this sub-Article, the validity of the proceedings shall not be questioned by any person.

(f) If the Company shall not find a transferee or transferees before the expiry of the Second Period in accordance with the preceding provisions of this Article the Company may, subject to the provisions of the Act and, where appropriate, with the sanction of the Shareholders or any class thereof and with or without the consent of the Transferor, exercise its power to purchase all or any of the Shares comprised in the Transfer Notice. If the Company declines or is unable to exercise such power it shall promptly notify the Transferor who shall be at liberty within a period of two months from receipt of such notification on a bona fide sale to transfer the Shares together with the beneficial interest therein (or where there are more Shares than one, those not transferred in accordance with the foregoing provisions of this Article), to any person at a price not less than the Sale Price previously determined or to retain them for the Transferor's own benefit provided, in the case of sale, that if the Transfer Notice contained a Total Transfer Condition the Transferor shall not be entitled under this sub-Article to transfer some only of the Shares comprised in the Transfer Notice.

(g) If any Shareholder ("the Defaulting Shareholder") shall breach a material provision of the Shareholders' Agreement or of the Waste Disposal Agreement a Transfer Notice shall be deemed to have been served in accordance with paragraph (a) of this Article provided that:-

- (i) a Transfer Notice shall only be deemed served if a party to the Shareholders' Agreement or Waste Disposal Agreement shall have served notice stated to be for the purpose of this Article on the Defaulting Shareholder within one month of such party discovering such breach; and
- (ii) if notice has been served under paragraph (i) above the Transfer Notice shall (where such breach is not capable of remedy) be deemed to have been served on the date of service of notice under paragraph (i) or (where such breach is capable of remedy, and if the Defaulting Shareholder shall have failed to remedy the breach within 14 days following service of such notice) on the 14th day following the party discovering such breach having served on the Defaulting Shareholder a further notice invoking the deemed service of a Transfer Notice under this Article; and
- (iii) where a Transfer Notice shall be deemed to have been served then the provision of paragraphs (a) to (f) of this Article shall mutatis mutandis apply subject to the following variation thereto:-
  - (a) a Total Transfer Condition shall be deemed to have been specified in the Transfer Notice;
  - (b) there shall be no right of revocation of the Transfer Notice under paragraph (b).

(iv) for the avoidance of doubt, the failure of a party to serve notice under paragraph (i) (or, where appropriate, (ii)) above shall be without prejudice to any other right or remedy available to it and shall not imply that that party has released or waived such breach in any way.

(h) Subject to the preceding paragraphs of this Article any transfer of Shares made otherwise than in accordance with the foregoing provisions of this Article shall be void and have no effect provided that the foregoing provisions of this Article may be set aside with the consent in writing of all the Shareholders.

#### LIMITATION ON TRANSFER OF CONTROL

9. (a) No sale or transfer of the legal or beneficial interest in any Shares in the Company may be made or validly registered without the previous written consent of the holders of at least 75% of the "A" Ordinary Shares and of at least 75% of the "B" Ordinary Shares if as a result of such sale or transfer (or as a result of such sale or transfer together with any previous sale or transfer) on registration thereof a Controlling Interest (as hereinafter defined) is obtained in the Company:-

(i) by a company (other than a company to which paragraph (ii) applies) or a person or persons (other than a company) who was or were not a Shareholder or Shareholders of the Company on the date of adoption of these Articles of Association unless the proposed transferee or transferees or his or their nominees are independent third parties acting in good faith and has or have offered to purchase all the Ordinary Shares at the Specified Price (as hereinafter defined) or

(11) by a company in which one or more of the Shareholders of the Company or persons acting in concert (which expression shall have the meaning ascribed to in it the January 1988 Edition of the City Code on Takeovers and Mergers) with any Shareholder of the Company has or as a result of such sale or transfer will have a Controlling Interest:

(1) for the purpose of this Article:-

(1) the expression "a Controlling Interest" shall mean an interest (within the meaning of Schedule 13 Part I and Section 324 of the Act) in Shares in a company conferring in the aggregate 50% or more of the total voting rights conferred by all the issued Shares in that company;

(11) the expression "the Specified Price" shall mean the higher of:-

(1) a price per Ordinary Share of £1; and

(2) a price per Ordinary Share at least equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees for any other Ordinary Shares plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of such other Ordinary Shares which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable for such other Ordinary Shares provided

that if any part of the price per Share is payable otherwise than by cash the holders of the remaining Ordinary Shares may at their option elect to take a price per Share of such cash sum as may be agreed by them having regard to the substance of the transaction as a whole;

and in the event of disagreement the calculation of the Specified Price shall be referred to an independent firm of Chartered Accountants (acting as expert and not as arbitrator) nominated by the parties concerned (or in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales) whose decision shall be final and binding (and whose costs shall be borne as such firm shall decide). For this purpose a firm of Chartered Accountants who are the auditors of any Shareholder that is a body corporate shall not merely thereby be regarded as not independent;

(c) All other regulations of the Company relating to the transfer of Shares and the right to registration of transfers shall be read subject to the provisions of this Article.

10. The Directors shall refuse to register any transfer prohibited by the provisions of Articles 8 or 9 unless it is made in accordance therewith and shall refuse to register a transfer unless;

(a) it is in favour of a person who is not, or persons none of whom is, a minor; and

(b) it is lodged at the registered office or at such other place as the Directors may appoint and is accompanied by the certificate for the Shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer; and

(c) it is in respect of only one class of Shares (and for this purpose the "A" Ordinary Shares and the "B" Ordinary Shares shall be treated as different classes of shares and the "A" Preference Shares and the "B" Preference Shares shall be treated as different classes of shares; and

(d) it is in favour of not more than four transferees.

But, subject thereto, the Directors shall be obliged to register any transfer made in accordance with Articles 8 and 9. Clause 24 of Table A shall not apply to the Company.

The provisions of these Articles 8, 9 and 10 shall apply to transfers renunciations and nominations of Shares and/or of the right to subscribe for Shares in like manner as they apply to transfers of Shares

#### GENERAL MEETINGS AND RESOLUTIONS

11. (a) Every notice convening a General Meeting shall comply with the provisions of Section 372(3) of the Act as to giving information to Shareholders in regard to their right to appoint proxies; and notices of and other communications relating to any General Meeting which any Shareholder is entitled to receive shall be sent to the Directors and to the Auditors for the time being of the Company.

(b) The Directors shall procure that the accounts of the Company in respect of any accounting reference period are audited and laid before the Company in an Annual General Meeting to be held not later than ten weeks after the end of the accounting reference period to which they relate.

12. (a) No business shall be transacted at any meeting unless a quorum is present. A quorum shall consist of two persons entitled to vote upon the business to be transacted of whom:-

(i) (for so long as the Preference Shares do not entitle any of the holders thereof to vote in general meetings but not otherwise) one shall hold (or represent the holder of) at least one "A" Ordinary Share and of whom one shall hold (or represent the holder of) at least one "B" Ordinary Share; and

(ii) (for so long as any "A" Preference Share entitles the holder thereof to vote in general meetings) one shall hold (or represent the holder of) at least one "A" Preference Share; and

(iii) (for so long as any "B" Preference Share entitles the holder thereof to vote in general meetings) one shall hold (or represent the holder of) at least one "B" Preference Share.

(b) If a quorum is not present within half an hour from the time appointed for a General Meeting the General Meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors may determine; and if at the adjourned General Meeting a quorum is not present within half an hour from the time appointed therefor such adjourned General Meeting shall be dissolved.



(c) Clause 41 in Table A shall not apply to the Company.

13. (a) Subject to any special rights or restrictions as to voting attached to any Shares by or in accordance with these Articles on a show of hands every Shareholder who, being an individual, is present in person or (being a corporation) is present by a representative, shall have one vote and on a poll every Shareholder who is present in person or by proxy or (being a corporation) is present by a representative or by proxy shall have one vote for each Share of which he is the holder Provided that the Preference Shares shall entitle the holders thereof to receive notice of General Meetings but shall only entitle the holders to requisition, attend and vote at any General Meeting if (subject to Article 13(b)):-

- (i) at the date of the notice or requisition to convene the meeting any Preference Dividend is in arrear and has not been either wholly or temporarily waived in writing by the holders of all Preference Shares or;
- (ii) the Company shall have failed to redeem any of the Preference Shares in accordance with these Articles and the holders of the Preference Shares in question have not agreed in writing to the deferral of the redemption; or
- (iii) any of the special rights attaching to the Preference Shares shall be deemed to have been varied in accordance with Article 6 without the prior consent or approval therein mentioned and the breach has not been wholly or temporarily waived in writing by the holders of all the Preference Shares.

(b) The right to requisition, attend and vote in the circumstances listed in Article 13(a)(i) to (iii) shall not become exercisable until the holder of any Preference Shares in question serves written election on the Company electing for such right (or any of them) to become exercisable by that Shareholder (and any such Shareholder may subsequently serve notice waiving again the exercise of such rights or any of them until such later time as such Shareholder may serve notice electing to exercise such rights or any of them).

#### APPOINTMENT AND REMOVAL OF DIRECTORS

14. (a) Clause 64 in Table A shall not apply to the Company.

(b) The maximum number and minimum number respectively of the Directors may be determined from time to time by Ordinary Resolution in General Meeting of the Company. Subject to and in default of any such determination there shall be a maximum of five Directors and the minimum number of Directors shall be one. Whenever the minimum number of Directors shall be one, a sole Director shall have authority to exercise all the powers and discretions by Table A and by (but subject to) these Articles expressed to be vested in the Directors generally, and Clause 89 in Table A shall be modified accordingly.

(c) The Directors shall not be required to retire by rotation and Clauses 73 to 80 (inclusive) in Table A shall not apply to the Company.

(d) A Shareholder or Shareholders from time to time holding a majority in nominal value of the issued Voting "A" Shares shall have power from time to time and at any time to appoint one person as a Director and (subject to Article 14(n)) to remove from office any Director so appointed by them.

(e) A Shareholder or Shareholders from time to time holding a majority in nominal value of the issued Voting "B" Shares shall have power from time to time and at any time to appoint one person as Director and (subject to Article 14(n)) to remove from office any Director so appointed by them.

(f) Any appointment or removal pursuant to Articles 14(d) or (e) shall be effected by an instrument which shall be in writing signed by the Shareholder or Shareholders making the same or by their duly authorised attorneys (or in the case of a Shareholder being a company or in the case of a Shareholder being a Local Authority signed by its Proper Officer) and shall subject to Articles 14(g)(h) and (n) take effect upon such instrument of appointment or removal being lodged with or otherwise communicated to the Company at its registered office. The Shareholder or Shareholders removing a Director pursuant to Articles 14(d) or (e) respectively shall indemnify the Company against any loss suffered by it arising out of any claim made by such a Director for loss of office or otherwise in respect of the termination of his employment or office with the Company arising from such removal.

(g) No appointment under Articles 14(d) or (e) shall take effect until notice in the form therein described in Article 14(f) has also been served on the other Shareholders (such notice to be addressed to the Proper Officer of such Shareholders where applicable).

(h) before the effective date of any removal or subsequent appointment under Article 14(d) or (e) the Shareholder wishing to remove a Director or appoint a new Director shall notify the other Shareholders and the Board of the proposed removal and appointment and such notification shall (save where the urgency of the matter requires otherwise) be given at least 14 days before such removal or appointment to allow consultation between the Shareholders and the Board

provided always that such consultation shall be without prejudice to the Shareholder's right to make such removal or appointment under Article 14(d) or (e).

(i) the appointment and removal of any directors other than those appointed under Article 14(d) or (e) shall be effected only by resolution of the Shareholders Panel and, for the avoidance of doubt, the Shareholders Panel shall have no right to remove any Director appointed under Article 14(d) or (e) and no appointment shall be made by the Shareholders Panel in breach of Article 14(b) or Article 15 and it is hereby confirmed that for the purposes of observing Article 14(b) and Article 15 any appointment under Articles 14(d) and (e) shall take priority over any appointment by the Shareholders Panel.

(j) Any appointment or removal pursuant to Article 14(i) shall be effected by an instrument which shall be in writing signed by the Chairman or Vice-Chairman of the Shareholders Panel and shall subject to Articles (k) and (l) take effect upon such instrument being lodged with or otherwise communicated to the Company at its registered office.

(k) Save where appointment is pursuant to Articles 14(d) or (e) and save where appointment is to replace an outgoing Director or fill a vacancy, no person shall be appointed a Director at any General Meeting unless either:-

- (i) he is recommended by the Directors; or
- (ii) not less than fourteen nor more than thirty-five clear days before the date appointed for the meeting of the Shareholders Panel to consider such appointment, notice signed on behalf of the Shareholders Panel has been given to the Company of the intention to propose that person for appointment, together with notice signed by that person of his willingness to be appointed.

(l) The Directors shall have no power to appoint any Director and Clause 79 in Table A shall not apply to the Company.

(m) No Director appointed under Article 14(d) or (e) may be removed other than under those Articles.

(n) Any removal of a Director shall not be effective unless and until any requirement of Section 68 of the Local Government and Housing Act 1989 to obtain the Secretary of State's direction to disregard such removal has been complied with.

(o) Clause 81(e) of Table A shall not apply to the Company.

15. The Shareholders shall procure that upon the Vesting Date and at all times thereafter as long as the Company be controlled for the purposes of the 1989 Act the Company shall be and remain an arm's length company within the meaning of Section 68(6) of the 1989 Act.

#### BORROWING POWERS

16. The amount for the time being remaining undischarged of moneys borrowed or secured or for which the Company is indebted under bonds or other obligations created otherwise for cash shall not exceed such sums as may be sanctioned by the Company from time to time by ordinary resolution but no debt incurred or security given in respect of moneys outstanding in excess of the foregoing limit shall be invalid or ineffectual except in the case of express notice at the time when the debt was incurred or the security was given that such limit had been or was thereby exceeded.

## POWERS OF DIRECTORS

17. The Directors shall have no power or authority to approve any contract, transaction, arrangement, matter or thing listed below unless the relevant matter has first been approved in accordance with Clause 18 of the Shareholders Agreement:-

(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 total capital expenditure or revenue commitment (save in relation to any unforeseen and necessary expenditure or commitment required to be undertaken by the Company not exceeding in aggregate in any financial year £50,000 and which shall go to reduce any capital expenditure or revenue commitment which was specifically allowed for in the Corporate Plan (as defined in the Shareholders' Agreement));

(f) the Company entering into any contract where expenditure exceeds £20,000 and which is for a fixed term of 12 months or more which cannot be terminated by notice expiring within 12 months of its commencement;

(g) the Company entering into any contract where expenditure exceeds £20,000 and which cannot be terminated by 12 months' notice or less;

(h) 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;

(i) 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;

(j) 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);

(k) the increase of remuneration drawings fee and benefits in kind of any Director of the Company;

(l) 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;

(m) the making of any charitable or political contributions or gifts by the Company;

(n) the factoring of the Company's debts;

(o) the making of any release to the press or media from time to time other than in accordance with guidelines made by the Company and approved by the Shareholders Panel;

(p) creating or allowing to subsist any incumbrances over the Company's assets;

(q) commencement of any legal or arbitration proceedings (other than routine debt collection) or the settlement or compromise of any material claims made by or against the Company;

(r) the Company shall not enter into any loan leasing arrangement bond or contract which is or is likely to be defined as a credit arrangement or otherwise restricted under the Local Government and Housing Act 1989 and which is likely to result in a call against the credit approvals of the Council of the City of Coventry or the Metropolitan Borough of Solihull;

(s) the adoption of or change in accounting policies or practices employed in the preparation of the management accounts or audited accounts of the Company other than or from those referred to in Schedule 6 of the Shareholders' Agreement or of a new accounting reference date (the current accounting period to end on 31st March 1994 and subsequent periods on 31st March in each year thereafter) 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;

(t) the approval, signing or filing at Companies House of any audited accounts of the Company and for this purpose the Board will supply to the Shareholders Panel draft audited accounts within 7 weeks after the end of the accounting period to which they relate, (or, in respect of the period ending 31st March 1994, within 9 weeks);

(u) the cessation or material reduction of the Company's business or any change in the nature of the Company's business or activities;



(v) the engagement of any employee on a salary (including any bonus), or the increase of any employee's salary (including any bonus) other than in accordance with the staffing structure referred to in sub-clause 17(2)(a)(iii) of the Shareholders' Agreement;

(w) the payment of compensation on the termination of employment of any employee other than minimum statutory redundancy liability or by order of a Court or Tribunal;

(x) the appointment of new auditors to the Company (the current auditors being Ernst & Young);

(y) the entering into of a written service agreement with any Director or Connected Person or the material variation of any existing service agreement with any such person.

#### ALTERNATE DIRECTORS

18. (a) An alternate Director shall not be entitled as such to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, and the first sentence of Clause 66 in Table A shall be modified accordingly.

(b) A Director, or any such other person as is mentioned in Clause 65 in Table A, may act as an alternate Director to represent more than one Director, and subject to Article 18(c) an alternate Director shall be entitled at any meeting of the Directors or of any committee of the Directors to one vote for every Director whom he represents in addition to his own vote (if any) as a Director, but he shall count as only one for the purpose of determining whether a quorum is present.

(c) An alternate Director shall only be entitled to vote at any meeting of the Directors if he represents a director appointed under Article 14(d) of (e) and not otherwise.

(d) An alternate Director shall not require the approval of the Directors and Clause 65 in Table A shall be modified accordingly. An alternate Director proposed to represent a Director nominated under Article 14(d) or (e) will require the approval of the Shareholder or Shareholders having the right to appoint or remove the Director wishing to appoint such alternate.

#### GRATUITIES AND PENSIONS

19. (a) The Directors may not exercise the powers of the Company conferred by Clause 3(t) of the Memorandum of Association of the Company unless the prior approval of the Shareholders Panel (as described in the Shareholders' Agreement) has been obtained but subject thereto the Directors shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.

(b) Clause 87 in Table A shall not apply to the Company.

#### PROCEEDINGS OF DIRECTORS

20. (a) Any Director who is interested whether directly or indirectly in any proposed contract transaction or arrangement with the Company must declare such interest and shall not be eligible to vote (or count in the quorum) at the meeting of the Board as regards any part of the business of which includes such proposed contract transaction or arrangement or, unless invited by the Board to attend that part of such meeting. For this purpose any Director who is appointed under Article 14(d) or

14(e) by a Local Authority shall not be regarded as being interested in any proposed contract transaction or arrangement with such Local Authority.

(b) The quorum for meetings of the Board shall be three Directors (present in person or by alternate) and must include those nominated under Article 14(d) and (e) or their alternates (provided that a Shareholder may from time to time waive the right to insist that the Director nominated by that Shareholder be required to form a quorum).

(c) The Directors shall appoint one or both of the Directors appointed under Articles 14(d) and (e) to be the Chairman or joint Chairman of the Board. The Directors may at any time remove such Chairman provided they appoint the other Director appointed under Articles 14(d) or (e) in his place. Such appointment shall be made by majority decision of the Directors (other than those appointed under Articles 14(d) and (e) who shall not vote on such matter). Notwithstanding the foregoing the first Chairman shall be both Directors appointed under Articles 14(d) and (e) who shall act as joint Chairman for six calendar months following the date of adoption of these Articles.

(d) Clauses 94, 95 and 97 in Table A shall not apply to the Company.

(e) meetings of the Board shall be held at least once in every successive period of five calendar weeks. Any Director or any Shareholder entitled to exercise the rights contained in Articles 14(d) or (e) may convene a meeting of the Board by written notice to the Secretary of the Company for the time being who will proceed to convene a meeting of the Board and notice of any meeting of the Board shall be given in writing by the Secretary of the Company to all the Directors and to Shareholders stating the date (save in the case where the urgency of the agenda requires, being no earlier than seven

clear days following the date of such notice), the venue, the time and a brief outline of the matters to be discussed at the meeting

#### THE SEAL

21. (a) If the Company has a seal it shall only be used with the authority of the Directors or of a committee of Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Director and by the Secretary or a second Director. The obligation under Clause 6 of Table A relating to the sealing of Share certificates shall apply only if the Company has a seal. Clause 101 of Table A shall not apply to the Company.

(b) The Company may exercise the powers conferred by Section 39 of the Act with regard to having an official seal for use abroad, and such powers shall be vested in the Directors.

#### INDEMNITY

22. (a) Every Director or other officer or Auditor of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under Section 144 or Section 727 of the Act in which relief is granted to him by the Court, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by Section 310 of the Act.

(b) The Directors shall have power to purchase and maintain for any Director, officer or Auditor of the Company insurance against any such liability as is referred to in Section 310(1) of the Act.

(c) Clause 118 in Table A shall not apply to the Company.

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## SCHEDULE 2

### CONSTITUTION OF SHAREHOLDERS PANEL

1. During the continuation of this Agreement the Shareholders Panel shall:-

(a) comprise:-

(i) three elected members (or their substitutes) appointed by the holders of the majority of the Voting "A" Shares; and

(ii) three elected members (or their substitutes) appointed by the holders of the majority of the Voting "B" Shares.

and, for so long as a Shareholder having the right to appoint members of the Shareholders Panel for the time being is a local authority no such member may be appointed or remain a member of the Shareholders Panel unless he holds office as a duly elected member of that local authority.

(b) be quorate in meetings upon three members being present provided that amongst that number there is at least one member (or their substitute) present from those appointed under paragraph 1(a)(i) and from those appointed under paragraph 1(a)(ii).

- (c) comply with the Standing Orders of Coventry for the time being in force provided that if both Coventry and Solihull shall cease to be eligible to elect members to the Shareholders Panel then the Shareholders Panel may (subject to paragraphs 1(c)(i) and (ii) below) itself determine in what manner its proceedings will be transacted and may cease to follow the Standing Orders of Coventry (or any of them) from time to time provided always that:-
- (i) any such determination by the Shareholders Panel may be overturned by the Shareholders in General Meeting who may also determine in what new manner the proceedings of the Shareholders Panel shall be transacted; and
- (ii) without the written approval of all the Shareholders the provisions of paragraphs 1(a), (b) and (d), 2, 3 and 4 of this Schedule 2 shall continue to apply to the Shareholders Panel.
- (iii) If, subsequently, either of Coventry or Solihull or both again become eligible to elect members to the Shareholders Panel, the Shareholders Panel will again comply with the Standing Orders of Coventry.
- (d) not include members of the Joint Waste Disposal Advisory Forum established by Coventry and Solihull or a member appointed to serve on a committee primarily concerned with waste regulatory matters

2. The relevant holders of the Voting "A" Shares and Voting "B" Shares may remove any of their respective members or substitute appointed under paragraph 1(a)(i) and (ii) respectively and appoint a replacement member (or substitute) such removal and appointment to be effective immediately upon receipt by the Proper Officer of the Shareholder responsible for the administration of the Shareholders Panel of a written notice signed by the Proper Officer or Officers of the Shareholders undertaking the removal or appointment
3. The meetings and proceedings of the Shareholders Panel shall be administered by the Shareholders holding for the time being the majority of the Voting "A" Shares and it is intended that the Shareholders Panel will meet no less than once in every quarter during each accounting period of the Company
4.
  - (a) The Chairman and Vice-Chairman of the Shareholders Panel shall, until its first meeting after 31st March 1994 be drawn from the members elected under paragraph 1(a) (i)
  - (b) At the first meeting of the Shareholders Panel after 31st March 1994, and until its first meeting after 31st March 1995, the Chairman and Vice-Chairman shall be drawn from the members elected under paragraph 1(a)(ii) and so shall the Chairman and Vice-Chairman of the Shareholders Panel alternate as between the members elected under paragraphs 1(a)(i) and (ii) respectively in each subsequent year for the duration of this Agreement



SCHEDULE 3

SHARE ALLOTMENTS

	<u>Ordinary Shares</u>	<u>Preference Shares</u>
Coventry	65 "A"	9,950,000 "A" 4,450,000 "B"
Solihull	32 "B"	525,000 "B"
	<hr/>	<hr/>
TOTAL	97	14,925,000

SCHEDULE 4

FIRST DIRECTORS

D. Wilson

nominated by Coventry

R.G. Brown

nominated by Solihull

G.G. Honeywell

N. Stacey

J.R. Holmes

## SCHEDULE 5

### TENDERING POLICY

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 establish Approved Lists of companies who specialise in the range of works, supplies or services required to be undertaken at Company premises. These companies will be required to meet standards of technical, commercial and financial management to the satisfaction of the Company and provide qualitative work at competitive prices, complying with Health and Safety Policy Standards. The lists will be submitted for approval by the Board of Directors, and will be reviewed annually.

#### 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. It is proposed that the select list will include four companies to be invited to tender.

#### 3. Single Contracts valued over £25,000

On each occasion a contract is to be let, if practical up to four companies will be invited to tender from the approved lists. The tender will be quoted against a design brief prepared by Company Officers. Formal contract documentation will be prepared for such contracts.

#### 4. Single Contracts valued below £25,000

Three companies (if practical) will be invited to tender for this work from the approved list. A standard set of contract documents will be used for these contracts.

5. Work valued below £5,000

Quotations would be sought from companies within the approved list, where possible if 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.

6. Opening of Tenders

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.

7. Formal Contracts

For contracts included in 2. and 3. above, then formal contract documentation would be prepared by solicitors and agreed with the successful tenderer. For all other cases exchange of letters would be followed, backed up by a standard set of conditions of contract.

8. Negotiated Contracts

There may be occasions when single tender action is required 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 following consultation with other Board Members.

9. Authorised Contract Tendering Officers

The following Officers are those who are authorised to adopt these procedures for the letting of contracts:-

D. Barlow - Chief Engineer  
J. Knight - Technical Engineer  
C. McFarlane - Maintenance Supervisor  
P. Aplin - Technical Engineer  
R. Waggitt - Technical Engineer

The above Officers (or any other authorised by the Board in addition to or substitution for any of the above) would not be present for the opening of tenders, but would be involved in the subsequent evaluation process making recommendations to Directors at the time of selection and contract award.

10. Appraisal Process

Before adding the name of any company onto the Approved List, an appraisal will be carried out to check their financial, technical and commercial status by the Executive Directors and Company Secretary. In addition, the Coventry City Council Safety Officer will check their Health & Safety Policy and Procedures.

11. Selection Process

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

Where the lowest tender is not recommended, the Technical Officer will need to satisfy the Managing or Technical 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.

12. Conditions of Contract

A standard set of Conditions of Contract will apply to all contracts except contracts valued above £25,000 where Model Forms of contracts as prepared by the Mechanical and Electrical Engineering Institutions will be adopted, appropriately modified to encompass special requirements.

13. Post Tender Negotiation

There could be a need for post tender negotiation where clarification or modifications to the works are necessary or where additional benefits could be derived by the Company. In such cases the Managing or Technical Director will lead the negotiations, supported as necessary by the appropriate Technical Officer. A Non-Executive Director will be informed of any post-tender negotiation and give approval before contract award is actioned.

14. Contract Values

It is possible that the amount of work or services obtained from certain suppliers accumulates to very high levels because of the specialised nature of the work and the very high value of parts, plant and equipment used at the Waste Reduction Unit. It is proposed to monitor the total value of business with individual companies and to

ensure that such business is subject to Tender Testing where possible if the cumulative contract value exceeds £100,000 in a year.

## SCHEDULE 6

### ACCOUNTING POLICIES AND PRACTICES

1. Prior to the preparation of the first quarter's management accounts the Company shall agree with its auditors the detailed accounting policies to be adopted in the preparation of annual audited accounts.
2. The Company shall then adopt these policies for the preparation of each set of quarterly management accounts which are prepared.
3. The Company shall prepare its quarterly management accounts in accordance with generally accepted accounting policies, consistently applied from one period to the next. The Company shall ensure that the policies adopted shall be consisted with those adopted in its annual audited accounts.
4. The Company shall, in particular and without prejudice to the above requirements:
  - 4.1 not change the rate of depreciation of its fixed assets or provide for future cost or expenditure (except as provided in the Corporate Plan) without reference to the Shareholders Panel;
  - 4.2 the Company shall recognise income in the quarterly management accounts on the same basis as that adopted for the annual audited accounts;
  - 4.3 the Company's quarterly management accounts shall include a provision for corporation tax, based on the Corporate Plan figure, adjusted for higher or lower actual profits;
  - 4.4 deferred tax shall only be provided in the quarterly management accounts insofar as the Company is required to so provide in their annual audited accounts;
  - 4.5 extraordinary or exceptional items shall only be included in the quarterly management accounts following discussions with the Shareholders Panel.

SCHEDULE 7

STATEMENT OF DISTRIBUTABLE RESERVES

£

Cumulative profits available  
for distribution

.....

less dividends paid out of current  
years profits to date

.....

Profits available for distribution (a)

.....

(a) x.95 = maximum available dividend (b)

\_\_\_\_\_

Current actual cash balance (excluding cash  
reserved or deposited as security for the  
performance of waste disposal contracts made  
with Coventry and Solihull)

.....

Inflow/(Outflow) of funds in next  
Quarter Period

.....

Contingency cash balance

(150,000)

Cash available to distribute (c)

\_\_\_\_\_

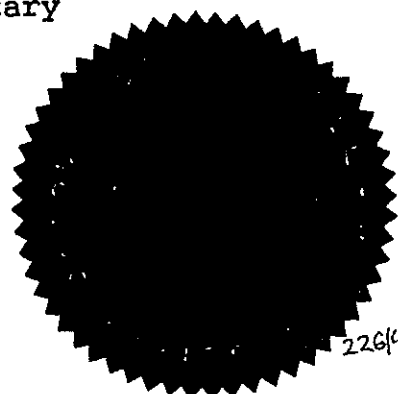
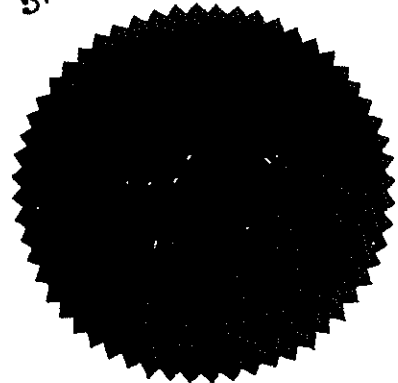
Lower of (b) and (c) Required Distribution (d)

\_\_\_\_\_

(d) will be applied in paying any Preference  
Dividend due and the balance as dividend  
on the Ordinary Shares



5155D



THE COMMON SEAL OF THE  
COUNCIL OF THE CITY OF COVENTRY  
was hereunto affixed in the  
presence of:-

*[Signature]*  
**ASSISTANT** City Secretary

THE COMMON SEAL of THE  
METROPOLITAN BOROUGH OF SOLIHULL  
was hereunto affixed in the  
presence of:-

*[Signature]*

Assistant Town Clerk and  
Head of Legal and Member Services

THE COMMON SEAL of  
THE COVENTRY AND SOLIHULL  
WASTE DISPOSAL COMPANY LIMITED  
was hereunto affixed in the  
presence of:-

*[Signature]*

Director

*[Signature]*

Director/Secretary

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