

# M

CHFP025

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in black type, or  
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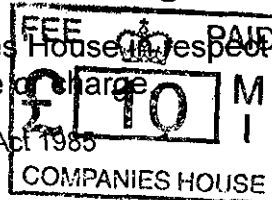
\* insert full name  
of Company

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

A fee of £10 is payable to Companies House in respect  
of each register entry for a mortgage or charge

Pursuant to section 395 of the Companies Act 1985



118350  
**395**

To the Registrar of Companies  
(Address overleaf - Note 6)

For official use

		4
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Company number

988844

Name of company

\* SHANKS WASTE SERVICES LIMITED (the "Chargor")

Date of creation of the charge

23 December 2002

Description of the instrument (if any) creating or evidencing the charge (note 2)

CHARGE dated 23 December 2002 and made between the Chargor and the Borrower (the "Deed")

Amount secured by the mortgage or charge

All obligations (whether present or future, actual or contingent and whether owned jointly or severally or in any capacity whatsoever) which are owed to the Borrower by the Chargor under the Operating Contract and the Deed (the "Secured Obligations").

continued on addendum 2/4

Names and addresses of the mortgagees or persons entitled to the charge

ELWA Limited, 2nd Floor, Rainham House, New Road, Rainham, Essex (the "Borrower")

Postcode RM13 8RA

Presentor's name address and  
reference (if any):  
Ashurst Morris Crisp  
Broadwalk House  
5 Appold Street  
London EC2A 2HA

WBR/Banking/2889700

Time critical reference

For official Use  
Mortgage Section



PMO \*PG4P5003\* 1680  
COMPANIES HOUSE 31.12.02

A10 \*AULQUHFS\* 0810  
COMPANIES HOUSE 08/01/03

A09 0818  
COMPANIES HOUSE 31/12/02

RE-SCAN

## 1. CHARGING CLAUSE

### 1.1 Fixed charges

The Chargor, as security for the Secured Obligations, charged in favour of the Borrower with full title guarantee by way of first fixed charge if not effectively assigned by clause 3.2 (Security Assignment) of the Deed, all its rights and interests in (and claims under) the Assigned Agreements, both present and future, from time to time owned by it or in which it has an interest,

### 1.2 Security assignment

(a) As further security for the Secured Obligations, the Chargor assigned absolutely (subject to the proviso for reassignment and release contained in clause 23.7 (Covenant to release) of the Deed) with full title guarantee to the Borrower all its right, title and interest in (and claims under) the Assigned Agreements and any guarantees, warranties, licences and/or other agreements collateral to the Assigned Agreements and all related property rights in respect of the above.

continued on addendum 4/4

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bold block  
lettering

Particulars as to commission allowance or discount (note 3)

N/A

Signed

*Arthur Morris Crip*

Date 24.12.02

On behalf of [mortgagee/chargee]<sup>†</sup>

A fee of £10 is  
payable to  
Companies House  
in respect of each  
register entry for a  
mortgage or  
charge.  
(See note 5)

## NOTES

† delete as  
appropriate

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage" or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his;
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 Cheques and Postal Orders are to be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-  
Companies House, Crown Way, Cardiff CF14 3UZ

Name of company

\* insert full name  
of company

\* SHANKS WASTE SERVICES LIMITED (the "Chargor")

Addendum 2/4

2. Amount due or owing on the mortgage or charge (continued)

Note.

In this form:

"Account Bank" means ABN AMRO BANK N.V.;

"Accounts Agreement" means the accounts agreement dated 23 December 2002 and made between the Borrower, the Account Bank, the Security Agent and the Facility Agent;

"Assigned Agreements" means the agreements listed in schedule 1 to the Deed;

"Charged Property" means the assets mortgaged, charged or assigned to the Borrower by the Deed;

"Credit Agreement" means the credit agreement dated 23 December 2002 between the Borrower, the financial institutions named therein as arrangers, the financial institutions named therein as lenders, the financial institution named therein as facility agent, the financial institution named therein as security agent, the financial institution named therein as account bank and the financial institution named therein as technical bank;

"Enforcement Event" means the earlier of:

(a) the occurrence of an Insolvency Event (as defined in the Operating Contract);

(b) the Borrower giving notice to terminate the Operating Contract in accordance with clause 51 of the Operating Contract; and

(c) the Borrower fails to pay on the due date any amount required to be paid under the Operating Contract.

"Facility Agent" means ABN AMRO Bank N.V.;

"Finance Documents" means:

(a) the Credit Agreement;

(b) the Intercreditor Agreement (as defined in the Credit Agreement);

(c) the Security Documents (as defined in the Credit Agreement);

(d) the Accounts Agreement;

(e) the Equity Subscription Agreement (as defined in the Credit Agreement);

(f) each Letter of Credit (as defined in the Credit Agreement);

(g) each Hedging Agreement (as defined in the Credit Agreement);

(h) the Fees Letters (as defined in the Credit Agreement);

(i) the Mandate Letter (as defined in the Credit Agreement);

(j) each Transfer Certificate (as defined in the Credit Agreement); and

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(k) each other document that is designated as a Finance Document by the Borrower and the Facility Agent;

"Operating Contract" means the operating contract dated 23 December 2002 in relation to the Project (as defined in the Credit Agreement) and made between the Chargor and the Borrower;

"Project Accounts" means the Buy-Down Account, the Capex and Maintenance Reserve Account, the Change in Law Reserve Account, the Compensation Account, the Debt Service Reserve Account, the Distribution Account, the Holding Account, the Insurance Proceeds Account, the Joint Insurance Account, the Lifecycle Retention Account and the Proceeds Account (all of which are as defined in the Credit Agreement);

"Security Agent" means ABN AMRO N.V.;

"Security Interest" means any mortgage, charge (fixed or floating), pledge, lien, hypothecation, right of set-off, security trust, assignment by way of security, reservation of title, any other security interest or any other agreement or arrangement (including a sale and repurchase arrangement) having the commercial effect of conferring security.

Name of company

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## Addendum 4/4

## 4. Short particulars of all the property mortgaged or charged (continued)

(b) Until the occurrence of an Enforcement Event, but subject to clause 7.3 (Assigned Agreements) of the Deed and to the terms of the Finance Documents the Chargor may continue to deal with the counterparties to the relevant Assigned Agreements and exercise its rights thereunder and receive all monies due thereunder

## 2. FURTHER ASSURANCE

## 2.1 General

(a) The Chargor will, at its own expense, as soon as is reasonably practical following request by the Borrower, execute such deeds and other agreements and otherwise take whatever action the Borrower acting reasonably may require:

(i) to perfect and/or protect the security created (or intended to be created) by the Deed;

(ii) to facilitate the realisation or enforcement of such security;

(iii) to facilitate the exercise of any of the Borrower's rights, powers or discretions under the Deed; and/or

(iv) to confer on the Borrower security over any assets of the Chargor (in whatever jurisdiction situated) equivalent or similar to the security intended to be conferred by the Deed,

including the conversion of charges to assignments, equitable security to legal security, the execution of any transfer, conveyance, assignment or assurance whatsoever and the giving of all notices, orders, instructions and directions whatsoever.

(b) Any security document required to be executed by the Chargor under clause 5.1 of the Deed will contain clauses corresponding to the provisions set out in the Deed.

## 3. NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS

The Chargor may not:

(a) create or agree to create or permit to subsist any Security Interest over all or any part of the Charged Property;

(b) sell, transfer, lease out, lend or otherwise dispose of all or any part of the Charged Property or the right to receive or to be paid the proceeds arising on the disposal of the same, or agree or attempt to do so; or

(c) dispose of the equity of redemption in respect of all or any part of the Charged Property,

where to do so would put the Borrower in breach of the Finance Documents.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No. 00988844

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A CHARGE DATED THE 23rd DECEMBER 2002 AND CREATED BY SHANKS WASTE SERVICES LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO ELWA LIMITED UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 31st DECEMBER 2002.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 10th JANUARY 2003.



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —