

Declaration by the directors of a holding company in relation to assistance for the acquisition of shares

155(6)b

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32

✶ insert name(s) and address(es) of all the directors

~~XXXXXX~~ [all the directors] † of the above company (hereinafter called "this company") do solemnly and sincerely declare that:

The business of this company is:

(c) something other than the above §

This company is [the] ☒ holding company of* WRG WASTE SERVICES LIMITED
(COMPANY NUMBER: 00988844) _____ which is
proposing to give financial assistance in connection with the acquisition of shares
in ~~XXXXXXXXXX~~ WASTE RECYCLING GROUP LIMITED (COMPANY NUMBER: 02902416)
_____ the holding company of this company.] t

WEDNESDAY



AL38TLWG
A17 03/01/2007 367
COMPANIES HOUSE

The assistance is for the purpose of ~~£100,000,000~~ [reducing or discharging a liability incurred for the purpose of that acquisition]. † (note 1)

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

The number and class of the shares acquired or to be acquired is: 265,848,603 COMPANY SHARES
OF £0.25 EACH

The assistance is to be given to: (note 2) AZINCOURT INVESTMENT S.L.
(COMPANY NUMBER: B84825793) WITH REGISTERED OFFICE BEING C/FEDERICO
SALMON 13, MADRID, 28-MADRID

The assistance will take the form of:

SEE APPENDIX 2

The person who [has acquired] ~~£100,000,000~~ † the shares is:

AZINCOURT INVESTMENT S.L. (COMPANY NUMBER: B84825793)

† delete as appropriate

The principal terms on which the assistance will be given are:

SEE APPENDIX 3

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is NIL

The amount of cash to be transferred to the person assisted is £ NIL

The value of any asset to be transferred to the person assisted is £ UP TO £457,000,000

Please complete legibly, preferably in black type, or bold block lettering

☒ We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

- * delete either (a) or (b) as appropriate
- (a) ☒ We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date]* (note 3)

(b) ~~XXXXX We have formed the opinion that this company will be unable to pay its debts in full within 12 months of the date on which the assistance is proposed to be given. (note 3)~~

And ☒ we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at

Declarants to sign below

LINKLATER, ZURBARAN, 28-28010 MADRID

on

Day	Month	Year
21	12	2006

before me JAMES ALEXANDER POINTON

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies
Companies House
Crown Way
Cardiff
CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies
Companies House
37 Castle Terrace
Edinburgh
EH1 2EB

Appendices of WRG (Management) Limited (Company Number: 02563475)

APPENDIX 1

Name: Leslie James Davidson Cassells

Address: Bridge Cottage, 6 Hodges Lane, Kislingbury, Northamptonshire NN7 4AJ

Name: Steven Neville Hardman

Address: Toft Hill, Toft, Dunchurch, Rugby CV22 6NR

Name: James Robert Meredith

Address: 2 Prestwick Road, Biddenham, Bedford, Bedfordshire MK40 4FH

Name: Malcolm Robinson

Address: 1 Low Meadows, Hacheston, Woodbridge, Suffolk IP13 0DQ

APPENDIX 2

The execution of the following documents by the Company (as the same may be amended, varied, supplemented or substituted from time to time, the "**Documents**") and the performance of all of its obligations thereunder:

- 1 a facility agreement (the "**Facility Agreement**") to be entered into between Azincourt Investment, S.L. (the "**Borrower**"), Waste Recycling Group Limited (the "**Target**"), certain subsidiaries of the Target that will accede to the Facility Agreement as obligors (together with the Target, the "**Obligors**"), Banco Bilbao Vizcaya Argentaria, S.A. ("**BBVA**"), Banco Santander Central Hispano, S.A., London Branch ("**Banco Santander**"), The Royal Bank of Scotland plc ("**RBS**") and together with BBVA and Banco Santander, the "**Lenders**") and BBVA as agent (the "**Agent**"), pursuant to which the Lenders agree to make available to the Borrower a facility of up to £625,000,000 in order to assist the Borrower in refinancing the acquisition by the Borrower of the Company (the "**Acquisition**");
- 2 a debenture (the "**Debenture**") to be entered into between the Company, the Obligors and certain subsidiaries of the Company which individually represent at least 5 per cent. of EBITDAP or 5 per cent. of the total gross assets of the group (listed in Schedule 1 to the Debenture) (together with the Company and the Obligors, the "**Chargors**") and Banco Santander as the security trustee for the Finance Parties (as defined in the Debenture) (the "**Security Trustee**"), pursuant to which the Chargors will grant security in favour of the Security Trustee;
- 3 a charge (the "**Account Charge**") over each of the cash accounts (the "**Cash Accounts**") specified in Schedule 4 (*Cash Accounts*) to the Account Charge to be entered into between the Target, certain subsidiaries of the Target, including the Company, listed in Schedule 1 to the Account Charge (together with the Target, the "**Cash Pooling Subsidiaries**") and the Security Trustee, pursuant to which the Cash Pooling Subsidiaries will each grant a floating charge over all its present and future rights, title and interest to the Cash Accounts and all amounts credited to it in its name in favour of the Security Trustee;
- 4 a security trust agreement (the "**Security Trust Agreement**") to be entered into between the Borrower, the Target, the Obligors, the Chargors, any subsidiary of the Target which is an intermediate holding company of a Chargor (together, the "**Mortgagors**"), the Cash Pooling Subsidiaries, the Lenders in their capacity as arrangers and lenders under the Facility Agreement, RBS in its capacity under the RBS facilities, the Agent and the Security Trustee, setting out the Security Trustee's rights, powers, authorities and discretions;
- 5 an intra-group funding agreement (the "**Intra-Group Funding Agreement**") to be entered into between the Borrower and the Cash Pooling Subsidiaries, pursuant to which the Cash Pooling Subsidiaries will agree to advance available funds to the Borrower, for the purposes of, amongst other things, the repayment of principal, interest or other amounts under the Facility Agreement, or the payment of any other costs, expenses incurred by the Borrower directly or indirectly in connection with the Acquisition; and

any other financial assistance constituted by the Documents, the amounts payable thereunder and/or the transactions contemplated thereby, and the exercise by the Company of its rights and the performance of its obligations thereunder, which shall include, without limitation, and condition, undertaking, representation, warranty, guarantee, indemnity or any other thing done or to be done in connection with the Documents which would constitute financial assistance.

APPENDIX 3

"Act" means the Law of Property Act 1925.

"Account Charge" means the charge over the Cash Accounts entered into between WRG, the Cash Pooling Subsidiaries and the Security Trustee, pursuant to which the Cash Pooling Subsidiaries will each grant a floating charge over all its present and future rights, title and interest to the Cash Accounts and all amounts credited to it in its name in favour of the Security Trustee.

"Acquisition" means the acquisition by the Borrower of WRG.

"Advances" means an advance made or to be made by a Cash Pooling Subsidiary to the Borrower or the principal amount for the time being of that advance.

"Agent" means Banco Bilbao Vizcaya Argentaria, S.A.

"Arrangers" means the BBVA, Banco Santander and RBS.

"Availability Period" means the period from and including the date of the Intra-Group Funding Agreement to and including the date the Facility Agreement is to be repaid.

"Azincourt Loan" means the loan in the amount of one hundred and ninety three million pounds sterling (£193,000,000) granted to WRG in which the Borrower is subrogated in the contractual position of the Lenders.

"Banco Santander" means Banco Santander Central Hispano, S.A., London Branch.

"BBVA" means Banco Bilbao Vizcaya Argentaria, S.A.

"Book Debts" means, in relation to a Chargor, all its book debts arising in the ordinary course of trading.

"Borrower" means Azincourt Investment, S.L., a company incorporated under the laws of Spain with tax company number (*Código de Identificación Fiscal*) B84825793.

"Business Day" means any day of the week except for: (i) Saturdays and Sundays, (ii) days on which bank branches are not open for general business in Madrid or London, and (iii) days on which the Trans-European Automated Real Time Gross Settlement Express Transfer System (the **"Target System"**)- is not available or does not operate (or, if the TARGET System is no longer available, any other set-off system that the Agent may appoint subject to prior consultation with the Borrower) for payments in pounds sterling.

"Cash Accounts" means each of the cash accounts specified in Schedule 4 (*Cash Accounts*) to the Account Charge.

"Cash Pooling Subsidiary" means WRG and certain subsidiaries of WRG, listed in Schedule 1 to the Account Charge, which utilise the Cash Accounts.

"Chargor" means each Original Chargor and each New Chargor.

"Company" means the company giving the financial assistance.

"Debenture" means the debenture entered into between WRG, the Chargors and the Security Trustee, pursuant to which the Chargors will grant security over their Shares and Security Assets in favour of the Security Trustee.

"Default Rate" means the rate of interest specified in, and calculated in accordance with, Clause 6.6 (*Default Interest*) of the Facility Agreement.

"Disruption Costs" means the possible reduction of profitability suffered by a Lender or Lenders deriving from the cancellation, renewal or alteration of the liability operations to finance the Loan as a consequence of the repayment of the Loan (ordinary or early, voluntary or obligatory, with or without a breach of the Facility Agreement) on a date that does not coincide with that of the end of an Interest Period, with respect to the profitability that may have been obtained should that repayment have taken place on a date coinciding with that of the completion of an Interest Period. The Disruption Cost will be calculated in accordance with the following formula:

$$\text{Disruption Cost} = (IA \times (L1 - L2) \times N) / 36,000 + M$$

Being:

IA: the amount of the corresponding repayment of the Loan;

L1: the rate of reference (LIBOR) corresponding to the Interest Rate in which the repayment set in accordance with Clause 6.4 of the Facility Agreement takes place;

L2: the rate of reference (LIBOR) set two (2) Business Days prior to the repayment date for the period N, less five (5) basic points;

N: the number of days between the repayment date and the date of completion of the Interest Period in progress;

M: the Margin applicable for the Interest Period in progress, including the first day of the Interest Period and excluding the last one.

"Distribution Rights" means all allotments, accretions, offers, options, rights, bonuses, benefits and advantages, whether by way of conversion, redemption, preference, option or otherwise which at any time accrue to or are offered or arise in respect of any Investments or Shares, and includes all dividends, interest and other distributions paid or payable on or in respect of them.

"Distributions" means any payments made by way of: (i) distribution of dividends (in cash, in kind, interim or charged to reserves), (ii) reductions in capital with repayment of contributions or issue premiums, (iii) payment of interest on or repayment of Subordinated Debt or the Azincourt Loan, or (iv) any other operations of similar or analogous nature to the foregoing the effect of which is the repayment of capital or contributions or distribution of profits or reserves to shareholders.

"Event of Default" means any event or circumstance specified as such in Clause 16 (*Events of Default*) of the Facility Agreement.

"Facility Agreement" means the facility agreement entered into between the Borrower, WRG, the Obligors, the Lenders and the Agent, pursuant to which the Lenders agree to make available to the Borrower a facility of up to £625,000,000 in order to assist the Borrower in refinancing the Acquisition.

"FCC" means Fomento de Construcciones y Contratas, S.A.

"Final Maturity Date" shall have the meaning given thereto in Clause 7.1 of the Facility Agreement.

"Finance Document" means the Facility Agreement, the Intercreditor Agreement, the Hedging Agreement, any Transaction Security Document, the RBS Facilities, the fee letters, the Sponsor Support Agreement, the Security Trust Agreement and any other document designated as a Finance Document by the Majority of Finance Parties and the Borrower.

"Finance Parties" means the Agent, the Arrangers, the Security Trustee, the Working Capital Finance Parties, the Lenders and the Hedge Counterparties.

"Financing Agreements" means (a) the Facility Agreement, (b) the Security Agreements including the Security Trust Agreement, (c) the side letters establishing the terms and conditions of commissions which are not regulated by Clause 8 of the Facility Agreement, (d) the Hedging Agreements, (e) the Creditors Agreement, and (f) the Support Agreement and (g) any other document which a Majority of Lenders and the Borrower designate as such.

"Group" means WRG and all its subsidiaries.

"Hedging Agreements" means the framework agreement or agreements for financial operations (conforming to the CMOF model of the Spanish Banking Association or the ISDA specimen copy of the International Swaps and Derivatives Association, Inc.) which have been entered into by the Borrower and the Hedging Entities on the Signing Date together with the corresponding confirmations to cover the risk of fluctuation in interest rates to be entered into now or in the future by the Borrower with the Hedging Entities, together with successive modifications and novations thereof, the foregoing in accordance with the provisions of Clause 15.1.(n) of the Facility Agreement.

"Hedging Counterparty" means any of the Arrangers (or an entity belonging to their group appointed by them) which at any time has the status of a counterparty of the Borrower under any of the Hedging Agreements and **"Hedge Counterparties"** shall be construed accordingly.

"Intercreditor Agreement" means the intercreditor agreement entered into between the Finance Parties.

"Interest Period" shall have the meaning given to it in Clause 6.2 of the Facility Agreement.

"Interest Rate" shall have the meaning given to it in Clause 6 of the Facility Agreement.

"Intra-Group Funding Agreement" means an intra-group funding agreement entered into between the Borrower and the Cash Pooling Subsidiaries, pursuant to which the Cash Pooling Subsidiaries will agree to advance funds held in the Cash Accounts to the Borrower, for the purposes of, amongst other things, the repayment of principal, interest or other amounts under the Facility Agreement, or the payment of any other costs, expenses incurred by the Borrower directly or indirectly in connection with the Acquisition.

"Investments" means all or any stocks, shares (other than any Shares), bonds and securities of any kind (marketable or otherwise), negotiable instruments and warrants and any other financial instruments (as defined in the Regulations).

"JV Company" means any of BDR Waste Disposal Limited, Derbyshire Waste Limited and Pennine Waste Management Limited.

"Lenders" means:

- (a) BBVA, Banco Santander and RBS, together with their successive assignees under the scope of the Facility Agreement; or
- (b) any bank, financial institution, trust, fund or other entity which has become a party to the Facility Agreement in accordance with Clause 20 of the Facility Agreement,

which in each case has not ceased to be a party to the Facility Agreement in accordance with the terms of the Facility Agreement.

"LIBOR" shall have the meaning given to it in Clause 6.4.2 of the Facility Agreement.

"Loan" means the commercial loan in the amount of six hundred and fifty million pounds sterling (£625,000,000) granted by the Lenders to the Borrower on the terms and conditions of the Facility Agreement.

"Majority of Finance Parties" shall have the meaning given to the term *"Mayoría de los Prestamistas"* in section 5.2 of the Intercreditor Agreement.

"Margin" shall have the meaning given to it in Clause 6.4.3 of the Facility Agreement.

"Mortgage over securities" means one of the mortgage over securities entered into between one of the Mortgagors and the Security Trustee, pursuant to which the Mortgagor will grant security over their shares in the Chargor in favour of the Security Trustee.

"Mortgagor" means the Borrower and any subsidiary of WRG who is an intermediate holding company of a Chargor.

"New Chargor" means a company which grants Security over its assets in favour of the Security Trustee by executing a Security Accession Deed in accordance with Clause 20 (*Additional Chargors*) and Clause 18 of the Facility Agreement.

"Notary" means the notary of Madrid, Mrs Isabel Estape, for all of the purposes set out in section 517.2.4 of the Civil Procedure Act, as well as articles 1,216, 1,865, 1,924.3 and 1,929 of the Civil Code, Section 90.6 of the Bankruptcy Act and the other applicable legal provisions.

"Obligors" means the Borrower and any Group company that may become an obligor pursuant to the Facility Agreement.

"Original Chargors" means the companies listed in Schedule 1 (*Original Chargors*) to the Debenture together with the WRG.

"RBS" means The Royal Bank of Scotland plc.

"RBS Facilities" means:

- (a) a bilateral letter of credit facility between WRG, the Original Borrowers (as defined therein) and RBS dated 27 September 2006; and
- (b) a revolving credit facility between WRG, Waste Recycling Limited and RBS dated 30 October 2006.

"Receiver" means a receiver appointed pursuant to either the Account Charge, the Mortgage over Securities or the Debenture, or to any applicable law, whether alone or jointly, and includes a receiver and/or manager and, if the Security Trustee is permitted by law to appoint an administrative receiver, includes an administrative receiver.

"Regulations" means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements, and **"Regulation"** means any of them.

"Secured Liabilities" means the liabilities of the Borrower and each Obligor to the Finance Parties under or pursuant to the Finance Documents except for any liabilities which, if secured by the Debenture, Mortgage over securities or Account Charge, would result in a contravention by a Chargor, Mortgagor or Cash Pooling Subsidiary of section 151 of the Companies Act 1985.

"Security" means a mortgage, charge, pledge, lien, assignment by way of security, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of,

granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect.

"Security Accession Deed" means a deed executed by a New Chargor substantially in the form set out in Schedule 6 (*Form of Security Accession Deed*) to the Debenture, with those amendments which the Security Trustee may approve or reasonably require.

"Security Agreements" means the agreements referred to in Clauses 18.1 and 18.2 of the Facility Agreement and any agreement entered into in the future to secure the obligations of the Obligors under the Facility Agreement and/or under the Hedging Agreements, provided that in the latter case each Hedging Entity has joined in to the Creditors Agreement in its capacity as such Hedging Entity.

"Security Assets" means, in relation to a Chargor, all of its assets which are the subject of any Security created or to be created by the Debenture and in relation to a Cash Pooling Subsidiary, all its assets which are the subject of any Security created or to be created by the Account Charge.

"Security Trust Agreement" means a security trust agreement entered into between the Borrower, WRG, the Chargors, the Cash Pooling Subsidiaries, the Mortgagors, the Lenders, the Agent and the Security Trustee, setting out the Security Trustee's rights, powers, authorities and discretions.

"Security Trustee" means Banco Santander as trustee for the Finance Parties.

"Shares" means all shares held by a Chargor in the Subsidiary referred to opposite its name in Schedule 2 (*Shares*) to the Debenture.

"Signing Date" means the date of signing of the Facility Agreement.

"Sponsor Support Agreement" has the meaning given to the term "Contrato de Apoyo" in the Facility Agreement.

"Statutory Declaration" means the form to which this Appendix 3 relates.

"Subordinated Debt" means the loans, bonds or facilities granted to any Group company in which the respective creditors have acknowledged, whether by stipulations in favour of third parties or by a creditors agreement, the absolute preference of obligations assumed now or in the future by the Obligors pursuant to the Financing Agreements over obligations assumed now or in the future by the corresponding Group company to creditors of the Subordinated Debt which are part of the Facility Agreement. In particular, the creditors under the Subordinated Debt agree that:

- (a) the Subordinated Debt shall not provide for any payment obligation deriving therefrom until a minimum date of twelve (12) months subsequent to the Final Maturity Date, unless (i) prior to said date all of the amounts due to the Lenders by virtue of the Financing Contracts have been satisfied (ii) payments are made by means of a capital increase of the debtor pursuant to section 156 of the Public Limited Companies Act or the equivalent British rule or (iii) said payments are permitted in accordance with Clause 15.2.(g) of the Facility Agreement) until a date at least twelve (12) months after the Final Maturity Date;
- (b) the creditors of the Subordinated Debt are not entitled to declare early maturity of any payment deriving from the said Subordinated Debt until all obligations arising out of the Financing Agreements have been settled in full;
- (c) the Subordinated Debt is not secured by any type of security in rem or in personam;

- (d) within a reasonable period, and in any event no later than one (1) month after the date of entry into the agreements documenting the Subordinated Debt, security in rem is granted in favour of the Lenders and the Hedging Entities over credit rights arising out of the said Subordinated Debt on the terms laid down that are substantially identical to the credit rights deriving from Subordinated Debt granted on the Signing Date, and
- (e) any payments (whether in respect of principal, interest of any type, commissions, expenses or in any other respect) which they are entitled to receive from the corresponding Group companies by virtue of the Subordinated Debt shall be of lesser ranking and shall be subordinated to payment of any amounts which the Obligors owe to: (a) the Lenders and the Hedging Entities (whether in respect of principal, interest of any type, commissions, expenses, disruptions costs thereunder or in any other respect); and (b) any other third party creditors in accordance with the provisions of Section 92.2 of the Spanish Bankruptcy Act (*Ley Concursal*).

"Subsidiary" means a subsidiary undertaking within the meaning of Section 258 of the Act.

"Support Agreement" means, together with any other modifications and novations, the sponsor's support agreement executed on today's date between FCC, the Borrower and the Lenders, which was publicly recorded by virtue of a deed executed before the Notary before which the Facility Agreement is publicly recorded, and by virtue whereof, FCC undertakes to make certain provisions of funds in favour of the Group.

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"Transaction Security Documents" means the Debenture, the Mortgage over securities, the Account Charge and the remaining in rem security interests to be granted pursuant to Clause 18.2 of the Facility Agreement, together with any other document entered into by any Obligor creating or expressed to create, evidencing or granting any Security in favour of the Finance Parties (or any of them) over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents, each in form and substance satisfactory to the Agent.

"Working Capital Finance Parties" means:

- (a) RBS in its capacity as lender under the RBS Facilities;
- (b) any financial institution, trust, fund or other entity which has become a lender in accordance with the terms contemplated therein; and
- (c) any agent appointed under either of the RBS Facilities.

"WRG" means Waste Recycling Group Limited.

1 Facility Agreement

By entering into the Facility Agreement as an Obligor, the Company will among other things:

- 1.1 ensure, and procure that each of the Obligors ensures, that the free cashflows generated by the Group companies are transferred to the Borrower in at least the amount necessary to punctually meet payments of principal, interest, expenses, Disruption Costs, compensation and penalties under the Facility Agreement (including as a consequence of

its early termination) and the Hedging Agreements and also by payment of extraordinary or interim dividends from profits for the financial year. In particular, with the aim of permitting the Borrower to meet the payments deriving from the Financing Agreements, the Obligors undertake to grant, within two (2) days from the Signing Date, the Intra-Group Funding Agreement to the Borrower for an amount of £457,000,000, which the Borrower shall be entitled to draw provided that the relevant Obligors have enough free cashflow to fund the requested drawdown;

- 1.2 undertake to ensure that in the event of early repayment, each Group Company takes such steps as it is lawfully able, to enable the Borrower to make early repayment of the Loan;
- 1.3 undertake to ensure that, no later than 28 February 2007, BDR Waste Disposal Limited, Derbyshire Waste Limited and Pennine Waste Limited (i) stop being a party to any cash pooling arrangements whatsoever in relation to the Cash Accounts; and (ii) relinquish any power to dispose/make use in any manner whatsoever of the funds deposited in the Cash Accounts from time to time;
- 1.4 undertake not to carry out, or allow any Obligor or Chargor to carry out, any cash pooling transaction through any bank accounts other than the Cash Accounts, unless a floating charge has been previously granted over the interests arising under the Cash Accounts in favour of the Lenders, the Creditors of Existing Debt with the Arrangers and the Hedging Entities on terms substantially the same as those in the Debenture;
- 1.5 undertake not to create or permit any Group company to create any security in rem or encumbrance over any of the property or assets of any Group companies or over their rights or income, whether present or future (subject to certain exceptions);
- 1.6 undertake not to grant or permit any Group company to grant loans, credit, guarantees, counter-guarantees or any type of financing in favour of third parties not belonging to the Group and in particular, to the companies Kent Energy Limited and Kent Enviropower Limited;
- 1.7 undertake not to resolve on or pay any Distributions or permit any Group company to pay the same, to any third party not belonging to the Group, subject to certain conditions. For these purposes, any Distribution between Obligors or any other Group company in favour of an Obligor, any Distributions made in favour of majority shareholders or partners of the Group companies not relating to the Group and any payments and fees payable to FCC under any management contracts, up to a certain maximum amount, shall be permitted;
- 1.8 undertake not to enter into, or permit Group companies to enter into, agreements for the hedging of interest rates, exchange rates or derivative or futures contracts other than the Hedging Agreement and any other non-speculative exchange rate Hedging Agreements entered into in the ordinary course of business;
- 1.9 undertake not to make, or permit Group companies to make, investments to acquire new assets or to enter into commitments for the acquisition thereof which overall exceed a stipulated amount;
- 1.10 undertake not to contract any indebtedness to FCC or any company in its group under contracts for loan, credit, discount or current account overdraw, which is not Subordinated Debt;
- 1.11 undertake not to sell, lease, transfer or otherwise dispose of (or permit Group companies to sell, lease, transfer or otherwise dispose of), by one or more transactions or series of

transactions (whether related or otherwise), the whole or part of the assets thereof unless certain conditions are met;

- 1.12** undertake not to carry out, or permit any Group company to carry out, any cash-pooling transactions through bank accounts on which no security has been established in favour of the Lenders, the Creditors of the Existing Debt with Arrangers and Hedging Entities on similar terms to the security evidenced in the appendices to the Facility Agreement;
- 1.13** undertake that the Obligors shall together represent (i) at all times at least 75 per cent of the consolidated EBITDAP of the Group; and (ii) 90 days after the Signing Date, at least 75 per cent. of the Consolidated Total Assets of the Group, and to the extent that the Obligors come to represent less than 75 per cent of the EBITDAP or Consolidated Total Assets (90 days after the Signing Date), undertake to accede another subsidiary of the Borrower to the Facility Agreement as an Obligor; and
- 1.14** undertake to enter into a Debenture (for the purposes of granting a mortgage or fixed charge over the shares of each Chargor and for the purposes of granting a floating charge over all the assets of the Chargors) and an Account Charge (for the purposes of granting a floating charge over their interest in the Cash Accounts).

2 Debenture

2.1 *Fixed Security and Floating Charge*

By executing the Debenture, the Company will, amongst other things:

- 2.1.1** mortgage or (if to the extent that the Debenture does not take effect as a mortgage) charge by way of fixed charge:
 - (i) all Shares; and
 - (ii) all related Distribution Rights; and
- 2.1.2** charge by way of floating charge all its present and future business, undertaking and assets which are not effectively mortgaged, charged by way of fixed charge or assigned as described under paragraph 2.1.1 above.

2.2 *Nature of Security*

The Security created under the Debenture is created by the Company:

- 2.2.1** as a continuing security to secure the payment and discharge of the Secured Liabilities;
- 2.2.2** (except in the case of assets which are the subject of a legal mortgage under the Debenture) over all present and future assets of the kind described which are owned by the Company and, to the extent that it does not own those assets, shall extend to any right or interest which it may have in them;
- 2.2.3** in favour of the Security Trustee as trustee for the Finance Parties; and
- 2.2.4** with full title guarantee (except that the covenant set out in section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to all charges, incumbrances and rights, even if the Company does not know and could not reasonably be expected to know about them).

2.3 *Negative Pledge*

The Company agrees not to create or permit to subsist any Security over any Security Asset except for Security permitted pursuant to the terms of the Facility Agreement.

2.4 *General Indemnity and Indemnity out of Security Assets*

2.4.1 The Company, with respect to all the Chargors, shall indemnify the Security Trustee, the other Finance Parties, any Receiver and their respective officers and employees against all actions, proceedings, demands, claims, costs, expenses, and other liabilities incurred by them in respect of all or any of the following:

- (i) any act or omission by any of them in relation to all or any of the Security Assets;
- (ii) any payment relating to or in respect of all or any of the Security Assets which is made at any time by any of them;
- (iii) any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, the Debenture;
- (iv) carrying out or purporting to carry out any of the rights, powers and discretions conferred on them by or permitted under the Debenture; and
- (v) any breach by the Company of any of its covenants or other obligations to the Security Trustee or any other Finance Party,

except in the case of gross negligence or wilful misconduct on the part of that person.

The Company shall pay interest at the Default Rate on the sums payable from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

2.4.2 The Security Trustee, the other Finance Parties, any Receiver and their respective officers and employees shall be entitled to be indemnified out of the Security Assets in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in paragraph 2.4.1 above.

2.5 *Further Assurance*

2.5.1 The Company provides the following further assurance:

- (i) Subject to the terms of the Debenture, on conversion of the floating charge created by the Debenture into fixed charges pursuant to Clause 4 (*Conversion of floating charges*) of the Debenture the Company consents to the registration against the registered titles of:

- (a) a restriction in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate [or by the proprietor of any registered charge] is to be registered without a written consent signed by the proprietor for the time being of the debenture dated ** [date of Debenture] in favour of ** [insert name of Security Trustee] (as trustee for the Finance Parties referred to in that

debenture) referred to in the charges register or, if appropriate, signed on such proprietor's behalf by an authorised signatory of ** *[insert name of Security Trustee] (Form P)*"; and

- (b) a notice that the Lenders are under an obligation to make further advances on the terms and subject to the conditions of the Finance Documents.
- (ii) The Company shall, at its own expense, promptly take any action and sign or execute any further documents which the Security Trustee may require in order to:
 - (a) give effect to the requirements of the Debenture;
 - (b) protect, preserve and perfect the Security intended to be created by or pursuant to the Debenture;
 - (c) protect and preserve the ranking of the Security intended to be created by or pursuant to the Debenture with any other Security over any assets of any Chargor; or
 - (d) facilitate the realisation of all or any of the Security Assets or the exercise of any rights, powers and discretions conferred on the Security Trustee, any Receiver or any administrator in connection with all or any of the Security Assets,

and any such document may (i) disapply section 93 of the Act and (ii) following conversion of the floating charge created by the Debenture into fixed charges pursuant to Clause 4 (*Conversion of floating charge*) of the Debenture contain an assignment to the Security Trustee of the Book Debts in any manner reasonably required by the Security Trustee.

- (iii) The Company covenants that, on the date of the Debenture and at all times during the Security Period as soon as it receives them (and in any event as soon as the Security Trustee so requests), it shall deposit with the Security Trustee, in respect of or in connection with the Shares:
 - (a) all deeds, certificates and other documents of or evidencing title to the Shares;
 - (b) signed undated transfers, completed in blank and, if the Security Trustee so requires, pre-stamped; and
 - (c) any other documents which the Security Trustee may from time to time require for perfecting its title, or the title of any purchaser of the Shares,

all of which will be held by the Security Trustee at the expense and risk of the Chargors.

- (iv) The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the provisions set out in Clause 15 (*Further Assurance*) of the Debenture.

2.6 Set-off

The Security Trustee may, following the occurrence of an Event of Default set off any matured obligation due from the Company under any Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Company, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

3 Account Charge

3.1 Floating Charge

By executing the Account Charge, the Company will, amongst other things, charge by way of floating charge all its present and future rights, title and interest to the Cash Accounts and all amounts credited to the Cash Accounts in its name.

For the avoidance of doubt, any right, title or interest of a JV Company to the Cash Accounts shall be excluded from the floating charge created by the Account Charge.

3.2 Nature of Security

The Security created under the Account Charge is created by the Company:

- 3.2.1 as a continuing security to secure the payment and discharge of the Secured Liabilities;
- 3.2.2 over all present and future rights in the Cash Accounts which are owned by the Company and, to the extent that it does not own those rights, shall extend to any right or interest which it may have in them;
- 3.2.3 in favour of the Security Trustee as trustee for the Finance Parties; and
- 3.2.4 with full title guarantee (except that the covenant set out in section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to all charges, incumbrances and rights, even if the Company does not know and could not reasonably be expected to know about them).

3.3 Negative Pledge

The Company agrees not to create or permit to subsist any Security over the Security Asset except for Security permitted pursuant to the terms of the Facility Agreement.

3.4 General Indemnity and Indemnity out of the Security Assets

3.4.1 The Company, with respect to all the Cash Pooling Subsidiaries, shall indemnify the Security Trustee, the other Finance Parties, any Receiver and their respective officers and employees against all actions, proceedings, demands, claims, costs, expenses, and other liabilities incurred by them in respect of all or any of the following:

- (i) any act or omission by any of them in relation to all or any part of the Security Asset;
- (ii) any payment relating to or in respect of all or any part of the Security Asset which is made at any time by any of them;

- (iii) any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, the Account Charge;
- (iv) carrying out or purporting to carry out any of the rights, powers and discretions conferred on them by or permitted under the Account Charge; and
- (v) any breach by the Company of any of its covenants or other obligations to the Security Trustee or any other Finance Party,

except in the case of gross negligence or wilful misconduct on the part of that person.

The Company shall pay interest at the Default Rate on the sums payable from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

- 3.4.2** The Security Trustee, the other Finance Parties, any Receiver and their respective officers and employees shall be entitled to be indemnified out of the Security Assets in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in paragraph 3.4.1 above.

3.5 Further Assurance

The Company provides the following further assurance:

- 3.5.1** that the Company shall, at its own expense, promptly take any action and sign or execute any further documents which the Security Trustee may require in order to:
- (i) give effect to the requirements of the Account Charge;
 - (ii) protect, preserve and perfect the Security intended to be created by or pursuant to the Account Charge;
 - (iii) protect and preserve the ranking of the Security intended to be created by or pursuant to the Account Charge with any other Security over any assets of any Cash Pooling Subsidiary; or
 - (iv) facilitate the realisation of all or any part of the Security Asset or the exercise of any rights, powers and discretions conferred on the Security Trustee, any Receiver or any administrator in connection with all or any part of the Security Asset,

and any such document created by the Account Charge may disapply section 93 of the Act.

3.6 Set-off

The Security Trustee may, following the occurrence of a Event of Default set off any matured obligation due from the Company under any Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Company, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

4 Security Trust Agreement

By executing the Security Trust Agreement, the Company will amongst other things:

4.1 Acknowledge and agree to the arrangements between the Finance Parties, including:

- 4.1.1** the appointment of the Security Trustee to hold any Security created by the Transaction Security Documents on trust for the Finance Parties;
- 4.1.2** authorising the Security Trustee to exercise the rights, powers, authorities and discretions specifically given to the Security Trustee under or in connection with the Finance Documents only together with any other incidental rights, powers, authorities and discretions;
- 4.1.3** that each Finance Party authorises and instructs the Security Trustee, on its behalf to execute and deliver the Transaction Security Documents and to give any authorisations and confirmations to be given by the Security Trustee under them; and
- 4.1.4** that each Finance Party confirms that it does not wish to be registered as a joint proprietor of any mortgage or charge created pursuant to any Transaction Security Document and accordingly it authorises the Security Trustee to hold any such mortgages and charges in its sole name as trustee for the Finance Parties.

4.2 Acknowledge and agree that no obligation in the Security Trust Agreement is for the benefit of the Obligors.

5 Intra-Group Funding Agreement

By entering into the Intra-Group Funding Agreement, the Company will agree, amongst other things:

- 5.1** to advance available funds, up to the aggregate principal amount of £457,000,000, to the Borrower during the Availability Period; and
- 5.2** that the Advances may at the request of the Borrower be made to WRG on the terms of the Intra-Group Funding Agreement, *mutatis mutandis*, and that such Advances are on-lent to the Borrower on the terms of the Intra-Group Funding Agreement or otherwise made available to the Borrower as instructed thereby.



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Our ref dm/by/238

Contact Ben Yorke
Tel 0113 231 3895

21 December 2006

Dear Sirs

Auditors' report to the directors of WRG (Management) Limited ('the Company') pursuant to Section 156(4) of the Companies Act 1985

We have examined the attached statutory declaration of the directors of the Company dated 21 December 2006 in connection with the proposal that WRG Waste Services Limited, of which this Company is a holding company, should give financial assistance for the purchase of all of the ordinary shares of this Company's holding company, Waste Recycling Group Limited.

This report is made solely to the Company's directors as a body in accordance with Section 156(4) of the Companies Act 1985. Our work has been undertaken so that we as the Company's auditors might state to the Company's directors those matters we are required to state to them in a report under Section 156(4) of that Act and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company and the Company's directors as a body for our work under Section 156(4) of that Act or for this report.

We have enquired into the state of the Company's affairs in order to review the bases for the statutory declaration.

We are not aware of anything to indicate that the opinion expressed by the directors in their declaration as to any of the matters mentioned in Section 156(2) of the Companies Act 1985 is unreasonable in all the circumstances.

Yours faithfully

KPMG LLP

KPMG LLP
Registered Auditor