

COMPANIES FORM No. 395
Particulars of a mortgage or charge

395

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Pursuant to section 395 of the Companies Act 1985
(Address overleaf - Note 5)

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

To the Registrar of Companies

For official use

Company number

3

02692681

Name of company

• Tyseley Waste Disposal Limited (the "Company")

* insert full name
of company

Date of creation of the charge

30th July, 1998

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

A guarantee and debenture (the "Guarantee and Debenture") between the Company and The Law Debenture Trust Corporation p.l.c. (the "Security Trustee") acting as security trustee for

Amount secured by mortgage or charge

The "Secured Amounts" being the moneys and liabilities which the Company covenants, subject to provisions limiting the recourse by the Security Trustee against the Company for losses, costs and liabilities in certain circumstances, in the Guarantee, the Indemnity and the Covenant to Pay (as defined below) to pay or discharge and all claims, demands and damages for breach of any such covenant (together with the Receiver-Remuneration (as defined below)):

The "Guarantee" means:

(a) an unconditional and irrevocable guarantee given by the Company as principal debtor and not merely as surety to the Security Trustee of prompt performance by Tyseley Finance PLC (the "Issuer") of all of its obligations under or in connection with the Finance

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

THE LAW DEBENTURE TRUST CORPORATION p.l.c.

Princes House, 95 Gresham Street

London

Postcode

EC2V 7LY

Presenter's name address and
reference (if any):

Watson, Farley & Williams
15 Appold Street
London EC2A 2HB

MAK/SM/5300.16000/16130707

Time critical reference

For official Use
Mortgage Section

Post room



Short particulars of all the property mortgaged or charged

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1. The Company, with full title guarantee, has charged, assigned and mortgaged to the Security Trustee as a separate and independent charge and mortgage each of:

(A) by way of first ranking legal mortgage all freehold or leasehold property set out below:

(a) the 2144 sq. metres of unregistered land situated at Tyseley located to provide a stand off of 5 metres from the canal and 5 metres from the wooded embankment adjacent to Mill Stream, the subject of a lease dated 28th September, 1994 entered into between British Waterways Board (1) and the Company (2);

(b) the leasehold land being land at James Road and adjacent to the Small Heath By-Pass, West Midlands, registered under Title Number: WM597018;

(c) the leasehold land on the North East side of Norris Road, West Midlands, registered under Title Number: WM602337;

Particulars as to commission allowance or discount (note 3)

NONE

Signed Watson, Harley & Williams

Date 19th AUGUST 1998

On behalf of [company] ~~[mortgage/charge]~~

delete as
appropriate

Notes

- 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 The address of the Registrar of Companies is:-
Companies House, Crown Way, Cardiff CF4 3UZ, DX: 33050 Cardiff

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COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)

Particulars of a mortgage or charge
(continued)

Continuation sheet No 1
to Form No 395 and 410 (Scot)

Company number

02692681

Please complete
legibly, preferably
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bold block lettering

Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~

* delete if
inappropriate

Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

and on behalf of itself, L.D.C. Trustees Limited (the "Bond Trustee", acting as bond trustee for the holders (the "Bondholders") from time to time of the £88,000,000 6.675 per cent. fixed rate guaranteed secured bonds due 1999-2018 issued by Tyseley Finance PLC (the "Bonds")), Financial Security Assurance (U.K.) Limited ("FSA") and the Bondholders.

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Documents and the payment by the Issuer on the due date of any and all amounts expressed to be due by the Issuer under the Finance Documents or any of them (the "Issuer Liabilities"); and

(b) an unconditional and irrevocable undertaking given by the Company as principal debtor and not merely as a surety to the Security Trustee that, if and each time that the Issuer does not make payment of any amount of the Issuer Liabilities in accordance with the Finance Documents, the Company shall pay to the Security Trustee the amounts not so paid upon first written demand by the Security Trustee.

The "Indemnity" means: as a separate, additional, continuing and primary obligation, an unconditional and irrevocable undertaking by the Company with the Security Trustee that, should the Issuer Liabilities not be recoverable from the Company under the Guarantee (as defined above) for any reason (including, without limitation, by reason of any provision of the Finance Documents being or becoming void, unenforceable or otherwise invalid under any applicable law), then, notwithstanding that it may have been known to the Security Trustee, the Bond Trustee, FSA and the Bondholders (together the "Beneficiaries") or any of them, the Company shall, upon first written demand by the Security Trustee under the Guarantee, indemnify the Security Trustee (on an after tax basis) against all losses, claims, costs, charges and expenses to which it or any of the Beneficiaries may be subject or which it may incur, under or in connection with, the Guarantee and Debenture or any other Finance Document not being enforceable provided the amount claimed under the Indemnity shall not exceed the amount of the obligation which would otherwise have been claimed under the Guarantee had that obligation not been or become enforceable.

The "Covenant to Pay" means: a covenant by the Company to the Security Trustee that it will pay and discharge on demand without deduction, set-off or counterclaim all moneys and liabilities whatsoever now or hereafter due, owing or incurred, in any currency, by the Company to the Beneficiaries or any of them, actually or contingently, solely or jointly and/or severally with another or others, as principal or surety, on any account, under the Finance Documents or the Guarantee and Debenture when the same become due for payment including any liability in respect of any further advances made thereunder in each case in the manner provided in the relevant document and, without double counting, all banking, legal and other costs, charges and expenses whatsoever (on a full indemnity basis) in each case in the manner provided in the relevant Finance Document or in the Guarantee and Debenture (including for avoidance of doubt the remuneration of any person or persons appointed (and any additional person or persons appointed or substituted) as administrative receiver, receiver, manager or receiver and manager or similar insolvency officer appointed by the Security Trustee under the Guarantee and Debenture or otherwise (the "Receiver")) and also interest on all of the foregoing to the date of payment in accordance with the Finance Documents relating to any such Beneficiary.

The "Receiver-Remuneration" means: the remuneration of the Receiver fixed by the Security Trustee, subject to section 36 of the Insolvency Act 1986, (which may be or include a commission calculated by reference to the gross amount of all moneys

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

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(d) the leasehold land at Tameside Drive Castle Bromwich, West Midlands, registered under Title Number: WM597022;

(e) the leasehold land at Holford Drive Perry Barr, West Midlands, registered under Title Number: WM597019;

(f) the leasehold land at Lifford Lane, West Midlands, registered under Title Number: WM597020;

(g) the leasehold land lying to the east of Golden Hillock Road, West Midlands, registered under Title Number: WM614926;

(h) the leasehold land being the site of an electricity substation lying to the east of Golden Hillock Road, West Midlands, registered under Title Number: WM615259;

(B) by way of assignment absolutely (but subject to redemption on payment in full of the Secured Amounts) and as a separate and independent assignment in each case each and all rights and claims to which the Company is now or may hereafter become entitled in respect of each of (i) a waste disposal agreement dated 9th July, 1993 and made between Birmingham City Council and the Company, (ii) the NFFO contract dated 30th September, 1996 and made between Non-Fossil Purchasing Agency Limited, Midlands Electricity plc and the Company, and (iii) any guarantee, indemnity or other assurance against financial loss in respect of any of the agreements mentioned in paragraphs (i) and (ii) above and any Defeasance Instrument acquired by or on behalf of the Company (together the "Assigned Agreements");

(C) by way of a first fixed charge:

(a) (to the extent it is not the subject of a mortgage under paragraph (A) above) any freehold or leasehold property belonging to the Company at the date of the Guarantee and Debenture;

(b) all freehold and leasehold property acquired after the date of the Guarantee and Debenture by the Company;

(c) except to the extent that the creation or subsistence of a fixed charge or, as the case may be, a floating charge is prohibited by the express terms of a Project Document, all Project Documents other than the Assigned Agreements;

(d) each and all rights and claims to which the Company is now or may hereafter become entitled in respect of each of the Assigned Agreements if and to the extent such rights and claims are not or have ceased to be effectively assigned absolutely in accordance with paragraph (B) above (subject to redemption on payment in full of the Secured Amounts);

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**COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)**

Continuation sheet No 2
to Form No 395 and 410 (Scot)

Company number
02692681

**Please complete
legibly, preferably
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bold block lettering**

Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~ *

* delete if
inappropriate

Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

received or otherwise and which may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the Company or any other person or the performance or discharge of any obligation imposed upon him by statute or otherwise), which remuneration shall be payable by the Company alone and the amount of which may be debited by the Security Trustee to any account of the Company, but shall, in any event, form part of the Secured Amounts and accordingly be secured on the property, assets, undertaking and rights for the time being comprised in or subject to the security constituted by or contained in the Guarantee and Debenture under the charges contained in the Guarantee and Debenture.

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- (e) all present and future goodwill of the Company and uncalled capital for the time being of the Company;
- (f) all rights in intellectual property for the time being owned or held by the Company including all fees, royalties and other rights derived therefrom or incidental thereto;
- (g) as a separate and independent charge each of all rights and claims to which the Company is now or may hereafter become entitled in relation to all moneys or amounts now or at any time hereafter standing to the credit of each of the following accounts:

Account Name	Account Number
Current Account	10039721
TWDL Debt Service Account	20796484
Operating Reserve Account	80373885
Supplemental Reserve Account	80614882
Recoveries Account	40316784,

all held at the branch of Barclays Bank PLC at P.O. Box 54, 54 Lombard Street, London EC3V 9EX (the "Account Bank"), any replacement or additional account (whether held at the Account Bank or otherwise) and any other bank account opened by the Company from time to time (together the "Charged Accounts"); all Authorised Investments held by the Account Bank on behalf of or to the order of the Company; and all rights relating or attaching thereto (including the right to interest);

(h) all book debts and other debts (including rents) and all moneys and liabilities whatsoever for the time being due, owing or payable to the Company (including the benefit of any judgment or order to pay a sum of money) and the benefit of any related encumbrances, guarantees and securities for the time being held by the Company in respect of any such debts or moneys and all cash deposits in any account of the Company with any person and all bills of exchange, promissory notes and negotiable instruments of any description at any time owned or held by the Company except, in each case to the extent that the same is otherwise subject to a fixed charge under the Guarantee and Debenture;

(i) all the right, title and interest of the Company to, and in any proceeds of, any present or future insurances and return of premiums in respect of them together with all moneys, benefits and advantages that may become payable or accrue thereunder and the full benefit of such policies and all the right, title and interest whatsoever of the Company therein together with power to claim and to give an effective discharge for any of the moneys assured or otherwise payable under such policies;

(j) all present and future shares, stocks, options, debentures, bonds, warrants, certificates and other securities including any Authorised Investment (together the "Investments") and rights and options to acquire Investments for the time being owned by the Company and all rights in respect of or incidental thereto including all dividends, interest and other distributions and all accretions, benefits and advantages; and

**Companies House Approval No.
CHA113**

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**COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)**

Continuation sheet No 3
to Form No 395 and 410 (Scot)

Company number
02692681

**Please complete
legibly, preferably
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bold block lettering**

* delete if
inappropriate

Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~

Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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Please complete
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Names, addresses and descriptions of the mortgagees or persons entitled to the charge

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(k) except to the extent that the creation or subsistence of a fixed charge or, as the case may be, a floating charge is prohibited by statute or by regulation made thereunder or by operation of law or by the express terms of the licence, consent or authorisation where consent has not been obtained, the benefit of the following licences: (i) a licence dated 9th June, 1995 made between Railtrack (1) and the Company (2); and (ii) a licence dated 9th November, 1995 made between British Waterways Board (1) and the Company (2); and all other present and future licences, consents and authorisations (statutory or otherwise) held in connection with the Company's business or the use of any property, assets, undertaking and rights comprised in or subject to the security constituted by or contained in the Guarantee and Debenture and specified in any other sub-paragraph of paragraphs (A), (B), (C) and (D) hereof and the right to recover and receive all compensation which may be payable to it in respect of them; and

(D) by way of first floating charge, the undertaking of the Company and all its property, assets and rights, whatsoever and wheresoever, both present and future (including all stock in trade and including all freehold and leasehold property) and whether or not expressed to be mortgaged, charged or assigned to the Security Trustee under paragraphs (A), (B) or (C) above if and to the extent such property, assets and rights are not or have ceased to be effectively mortgaged, assigned or charged by way of first fixed charge (subject to redemption on payment in full of the Secured Amounts);

but in each case so that the covenants implied by the Law of Property (Miscellaneous Provisions) Act 1994 (the "LP (MP) Act") in the mortgages and charges contained in or created pursuant to the Guarantee and Debenture are construed with the omission of: (i) the words "other than any charges, encumbrances or rights which that person does not and could not reasonably be expected to know about" in section 3(1)(b) of the LP (MP) Act; and (ii) section 6(2) of the LP (MP) Act.

2. In addition, until the Secured Amounts have been repaid and discharged and the Beneficiaries shall have no further actual or contingent liability under the Finance Documents, the Company in the Guarantee and Debenture and in the Collateral Deed covenants with the Security Trustee as follows:

(A) not to create, incur or suffer to exist, or agree to create, incur or suffer to exist, or consent to cause or permit in the future (upon the happening of a contingency or otherwise) the creation, incurrence or existence of, any encumbrance on any of its present or future property, assets or revenues whether ranking prior to, pari passu with or behind the security contained in the Security Documents except for Permitted Encumbrances; and

(B) not to, voluntarily or involuntarily, sell, lease, transfer or otherwise dispose or cease to exercise direct control of, by one or more transactions or series of transactions (whether related or not) (or agree or attempt to do any of the foregoing) the whole or any part of its revenues, undertaking, rights or assets other than pursuant to the Finance Documents and subject to the Guarantee and Debenture save for:

(a) disposals made in the ordinary course of its business including disposals of obsolete plant and equipment for full arm's length consideration payable in cash within ninety (90) days of the date of disposal;

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Continuation sheet No 4
to Form No 395 and 410 (Scot)

**Please complete
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Tyseley Waste Disposal Limited (the "Company")

limited

Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

Date	Time	Location	Weather	Remarks
1998	1998	1998	1998	1998
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1998	1998	1998	1998	1998
1998	1998	1998	1998	199

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

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

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(b) disposals, for full arm's length consideration payable in cash within ninety (90) days of the date of disposal, of assets in exchange for other assets comparable or superior as to type, value and quality;

(c) disposals, for full arm's length consideration payable in cash within ninety (90) days of the date of disposal, of assets not required or desirable for the implementation of the Project or TWDL's Business and the performance by TWDL of its obligations under the Relevant Documents to which it is a party;

(d) the application of the proceeds of any insurances towards reinstatement or replacement of the asset to which the insurances relate, to the extent required or permitted by the Collateral Deed;

(e) the use of cash in compliance with all applicable terms of the Finance Documents;
and

(f) Permitted Encumbrances.

3. All monies arising from the exercise of the powers of the Receiver or the Security Trustee (subject to any claims ranking in priority to the Secured Amounts) shall be applied in or towards discharging the Secured Amounts as follows:

(A) Any Recovery relating to non-performance by the Authority falling within paragraphs (a)(i), (a)(ii) or (b) of the definition of Authority Event which occurred prior to the exercise of any remedy pursuant to clause 8.3(a) of the Collateral Deed (Remedies upon occurrence of event of default) shall be applied by the Security Trustee to the relevant parties in the order of priority set out in paragraph 13 of Schedule 3 to the Collateral Deed.

(B) All moneys (other than as referred to in paragraph 3.(A) above) received or recovered by the Security Trustee or FSA after an Enforcement Event occurs pursuant to the Security Documents or otherwise in respect of the Finance Documents shall be held by it, to be applied, subject to the rights of the Security Trustee, the Issuer and FSA to place on suspense accounts amounts recovered, in the case of the Security Trustee, under the Security Trust Deed, the Guarantee and Debenture, the Issuer Debenture and the Share Mortgage and, in the case of the Issuer and FSA, under the Performance Guarantee and subject to FSA's right to retain amounts payable or paid to it pursuant to clause 10 of the Performance Guarantee (Withholding Tax Indemnity and Cost Indemnity) or paid to the Security Trustee under the Letter of Credit in respect of amounts payable under that clause 10, as follows:

(a) first, pro rata to expenses incurred in connection with enforcement of the security or the exercise of step-in rights, any remuneration payable to any Receiver and any costs, charges, liabilities and expenses then incurred by any such Receiver together with interest (as provided in the Security Trust Deed) and payment of the fees, costs and expenses owing to the Security Trustee and the Bond Trustee under the terms of any Finance Document to which they are a party;

(b) second, payments due and payable to FSA under the Premium Letter (as defined below) and various fees, costs and expenses incurred by FSA under the Insurance and

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COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)

**Particulars of a mortgage or charge
(continued)**

Continuation sheet No 5
to Form No 395 and 410 (Scot)

Company number
02692681

**Please complete
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Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~

* delete if
inappropriate

Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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

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Indemnity Agreement together with interest, VAT and any other tax payable in respect of such amounts;

(c) third, all costs and expense of operation of the Project and TWDL's Business, including, without limitation, capital expenditure and taxes in such amounts as is from time to time approved by the Controlling Creditor;

(d) fourth, pro rata as between Bondholders and in the following order of priority in respect of the Bonds:

(i) first, all amounts of interest (including any additional amounts payable under Conditions 4 and 7 of the Terms and Conditions) due and payable; and

(ii) secondly, all amounts of principal due and payable;

(subject to certain exceptions specified in the Bond Trust Deed);

(e) fifth, payments to such Charged Account as the Controlling Creditor shall specify, or for the purchase of investments to defease the Issuer's future obligations under the Bonds and the other Finance Documents, such amount as the Controlling Creditor sees fit in respect of future amounts of principal and interest payable under the Bonds and any additional amounts payable under Conditions 4 and 7 of the Terms and Conditions, and payment of fees, costs and expenses owing to the Security Trustee and the Bond Trustee under the Finance Documents;

(f) sixth, payments due and payable to FSA under the Insurance and Indemnity Agreement which have not been paid under (b) above (including payments by FSA under the FSA Policy in respect of scheduled principal and interest) and any other Finance Documents;

(g) seventh, payment of any other amounts due and payable under the Bonds; and

(h) eighth, after all obligations of the Issuer, the Company and Vivendi have been irrevocably discharged, any excess to the Company/the Issuer or other creditors of the Company/the Issuer entitled thereto.

Definitions

"Accounts" means each of the TWDL Accounts and the Issuer Accounts;

"**Authorised Investment**" means any of the following investments which has a scheduled maturity no later than the day preceding the day on which the next withdrawal from the relevant Account could take place (assuming no acceleration or prepayment of the Bonds or the On-Loan):

(a) gilt-edged securities and other freely transferable and marketable debt securities issued by the Government of the United Kingdom, denominated in sterling and which constitute direct, primary and unsubordinated obligations;

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**COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)**

Continuation sheet No 6
to Form No 395 and 410 (Scot)

Company number
02692681

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Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~*

Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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

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(b) certificates of deposit of any bank (which is an authorised institution under the Banking Act 1987) or bonds or notes of or guaranteed by any company or corporation, supranational entity or sovereign, the unsecured, unguaranteed and unsubordinated medium term obligations of which have a medium term senior debt rating of AA - or better issued by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., ("S&P") or Aa3 or better issued by Moody's Investors Service, Inc. ("Moody's") and the unsecured, unguaranteed and unsubordinated short term obligations which have a short term debt rating of A-1 or better issued by S&P and P-1 or better issued by Moody's in each case denominated in sterling, constituting direct, primary and unsubordinated obligations;

(c) commercial paper, denominated in sterling, constituting direct, primary and unsubordinated obligations and having an outstanding maturity of less than 90 days from the date of purchase by or on behalf of the relevant account holder, which has a short term senior debt rating of A-1 or better issued by S&P and P-1 or better issued by Moody's; and

(d) call, notice and fixed term deposits with banks and UK building societies which have a short term debt rating of A-1 or better issued by S&P and P-1 or better issued by Moody's;

"**Authority**" means Birmingham City Council;

"**Authority Event**" means, with respect to a Scheduled Payment Date, the receipt into the Current Account during the Collection Period immediately preceding such Scheduled Payment Date of:

(a) less management fees or certain other fees specified in the Waste Disposal Agreement than would otherwise have been received into the Current Account during such period as a result of:

(i) a breach by the Authority of its payment obligations (in part or in full) under the Waste Disposal Agreement (being a breach which is notified by the Company to the Controlling Creditor within 12 months of the occurrence of such a breach) except where the Authority fails to make any such payment because of: (A) a failure by the Company to perform and observe any of its obligations, undertakings and commitments under the Waste Disposal Agreement or any of the Leases or any other contract or agreement between the Company and the Authority and where such failure would entitle the Authority under the Waste Disposal Agreement or any of the Leases or any other such contract or agreement not to make any such payment in full; (B) the occurrence of certain specified force majeure events which causes the Authority to be unable to supply waste or the Company to be unable to accept waste; or (C) any court, governmental authority or agency or arbitrator having jurisdiction making a finding or ruling that such obligation is void or voidable; or

(ii) a breach by the Authority of any of its obligations (in part or in full) to deliver the specified guaranteed minimum level of waste pursuant to the Waste Disposal Agreement (being a breach which is notified by the Company to the Controlling Creditor within 12 months of the occurrence of such a breach) except where the Authority fails to make any such delivery (in part or in full) because of: (A) a failure by the Company to perform and

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COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)

**Particulars of a mortgage or charge
(continued)**

Continuation sheet No 7
to Form No 395 and 410 (Scot)

Company number
02692681

**Please complete
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Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~

* delete if
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Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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

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observe any of its obligations, undertakings and commitments under the Waste Disposal Agreement or any of the Leases or any other contract or agreement between the Company and the Authority and where such failure would entitle the Authority under the Waste Disposal Agreement or any of the Leases or any other such contract or agreement not to make any such delivery in full: (B) the occurrence of certain specified force majeure events which causes the Authority to be unable to supply waste or the Company to be unable to accept waste; or (C) any court, governmental authority or agency or arbitrator having jurisdiction making a finding or ruling that such obligation is void or voidable; or

(iii) the Company being relieved of its obligation to accept, or the Authority being relieved of its obligation to supply, waste pursuant to, and as defined in, the Waste Disposal Agreement where the relief of the Company's or, as the case may be, the Authority's obligation is solely attributable to war declared by HM Government in the United Kingdom; or

(b) less Quantified Damages than are payable by the Authority during such Collection Period;

"Bond Trust Deed" means the bond trust deed dated 30th July, 1998 between the Issuer, FSA and the Bond Trustee pursuant to which the Bonds are constituted;

"Collateral Deed" means the collateral deed dated 30th July, 1998 between the Issuer, the Company, Vivendi, the Security Trustee, the Bond Trustee and FSA;

"Collection Period" means: (a) the period commencing on the date on which the Bonds were issued by the Issuer and expiring on the first On-Loan Payment Date; and (b) thereafter, each period commencing on the first day after an On-Loan Payment Date and expiring on the immediately following On-Loan Payment Date;

"Controlling Creditor" means FSA or, if one of the specified events of default in relation to FSA has occurred and is continuing, the Bond Trustee;

"Current Account" means the account opened and maintained by the Company with the Account Bank and designated as the Current Account, as such account may be replaced, re-numbered or re-designated from time to time;

"Deed of Novation" means the deed of novation dated 17th January, 1994 made between the Authority (1), Onyx UK Limited and Esys-Montenay (2) and the Company (3);

"Defeasance Instrument" means any one or more instruments that will accrue an aggregate amount of interest per annum such that such aggregate amount is sufficient to defease the amounts payable by the Company under the On-Loan Agreement in the manner specified in the Collateral Deed;

"Direct Agreement" means the direct agreement dated 30th July, 1998 between the Authority, the Security Trustee, the Bond Trustee, FSA and the Company;

"Enforcement Event" means the occurrence of certain specified events of default which are not remedied or waived (subject to certain exceptions);

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**COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)**

Continuation sheet No 8
to Form No 395 and 410 (Scot)

Company number
02692681

**Please complete
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Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~ *

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inappropriate

Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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

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"Finance Documents" means each of the following documents:

- (a) the Bonds;
- (b) the Bond Trust Deed;
- (c) the Subscription Agreement;
- (d) the paying agency agreement dated 30th July, 1998 between the Issuer, the Bond Trustee, Banque Paribas Luxembourg, S.A. and Citibank N.A. Global Agency Trust Services;
- (e) the Offering Documents;
- (f) the FSA Policy;
- (g) the Insurance and Indemnity Agreement;
- (h) the indemnification agreement dated 22nd July, 1998 between FSA, the Issuer and the Managers pursuant to which, inter alia, FSA has made certain representations and warranties in respect of the FSA Policy;
- (i) the Premium Letter;
- (j) the On-Loan Agreement;
- (k) the Collateral Deed;
- (l) the Security Trust Deed;
- (m) the Performance Guarantee;
- (n) except in clauses 11 (Indemnities) to 17 (Law and Jurisdiction) (inclusive) of the Collateral Deed, the Letter of Credit;
- (o) the Security Documents;
- (p) the Direct Agreement; and
- (q) the indemnity agreement dated 22nd July, 1998 between Vivendi and the Managers, and any other document or agreement entered into pursuant to, or contemplated in, any of the foregoing or designated by the parties to the Collateral Deed, with the consent of the Controlling Creditor, as a Finance Document;

"FSA Policy" means the financial guarantee insurance policy issued by FSA on 30th July, 1998 in favour of the Bond Trustee guaranteeing scheduled payments of principal and interest under the Bonds and certain additional amounts in respect of United Kingdom withholding tax on the terms and conditions set out in such policy;

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**COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)**

Continuation sheet No 9
to Form No 395 and 410 (Scot)

Company number
02692681

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Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~

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Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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"Insurance and Indemnity Agreement" means the insurance and indemnity agreement dated 30th July, 1998 between the Company, the Issuer and FSA pursuant to which FSA agreed to issue the FSA Policy subject to satisfaction of the conditions precedent set out therein and the Company and the Issuer agreed to indemnify FSA in respect of, inter alia, certain amounts paid by FSA under the FSA Policy;

"Issuer Accounts" means each of the accounts opened and maintained by the Issuer with the Account Bank and designated as the Issuer Debt Service Account, the Debt Service Reserve Account and the Issuer Expense Account, as each such account may be replaced, renumbered or re-designated from time to time, and any additional accounts required by the Controlling Creditor to be opened by the Issuer upon the occurrence of certain specified trigger events, in each case charged to the Security Trustee pursuant to the Issuer Debenture;

"Issuer Debenture" means the debenture dated 30th July, 1998 between the Issuer and the Security Trustee pursuant to which the Issuer assigned the benefit of certain agreements to the Security Trustee and granted to the Security Trustee a fixed and floating charge over all its assets and its undertaking, as security for its obligations under, inter alia, the Bonds and the Insurance and Indemnity Agreement;

"Issuer Shortfall" means the difference between the aggregate amount payable under the Bonds in respect of principal and interest and certain additional amounts payable under the Bonds on a Scheduled Payment Date and the amount standing to the credit of the account designated the Issuer Debt Service Account;

"Leases" means the leases between the Authority and the Company as set out in the Schedule to the Direct Agreement and any other leases or licences entered into between the Authority and the Company and which are required by the Company to perform its obligations under the Waste Disposal Agreement;

"Letter of Credit" means the letter of credit dated 30th July, 1998 issued by Credit Commercial de France or any letter of credit that replaces that letter of credit in accordance with clause 4.4.8 (Letter of Credit) of the Collateral Deed;

"Managers" means Paribas, Barclays Bank PLC, Merrill Lynch International and Morgan Stanley & Co. International Limited;

"Offering Documents" means the preliminary offering circular prepared in connection with the issue of the Bonds, the offering circular dated 22nd July, 1998 prepared in connection with the issue of the Bonds and any other material or documents delivered to any person in connection with the offer or sale of the Bonds with the express or implied consent of the Issuer;

"On-Loan" means the loan made by the Issuer to the Company pursuant to the On-Loan Agreement;

"On-Loan Agreement" means the on-loan agreement dated 30th July, 1998 between the Issuer and the Company under which the On-Loan was made;

"On-Loan Payment Date" means the dates set out in Schedule 1 to the On-Loan

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COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
**Particulars of a mortgage or charge
(continued)**

Continuation sheet No 10
to Form No 395 and 410 (Scot)

Company number
02692681

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Name of company

Tyseley Waste Disposal Limited (the "Company")
limited

Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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

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Agreement or, as the context may require, any of them;

"Performance Guarantee" means the deed of guarantee dated 30th July, 1998 between Vivendi, the Issuer and FSA;

"Permitted Encumbrances" means:

- (a) encumbrances arising under the Security Documents;
- (b) encumbrances arising by operation of law in the ordinary course of business and securing amounts not more than 60 days overdue or which are being contested in good faith;
- (c) encumbrances arising from retention of title rights on normal commercial terms in respect of goods supplied including contractual liens and rights of set-off in respect of goods or services supplied, in the ordinary course of business;
- (d) finance leases of vehicles, plant and equipment, the combined amount of all capital payments outstanding under which is no more than £3 million (as indexed);
- (e) encumbrances approved in writing by the Controlling Creditor; and
- (f) encumbrances arising under the Waste Disposal Agreement;

"Plant" means the 350,000 tonnes per annum capacity energy from waste incineration plant (including the dedicated clinical waste incinerator) developed and operated by the Company at Tyseley, Birmingham and the associated public waste disposal site at Tyseley, Birmingham;

"Premium Letter" means the side letter dated 30th July, 1998 between FSA, the Issuer and the Company in respect of the premium payable pursuant to the Insurance and Indemnity Agreement and the aforementioned side letter and other amounts payable by the Issuer and the Company in consideration of the issuance of the FSA Policy;

"Project" means the construction and operation of the Plant, the operation of the other sites leased to the Company by the Authority, the generation, transmission and sale of electricity, the provision of certain services and the performance by the Company of its other obligations, in each case pursuant to and in accordance with the Project Documents;

"Project Documents" means:

- (a) the Waste Disposal Agreement;
- (b) the Deed of Novation;
- (c) the Waste Disposal Amendment Agreement;
- (d) the Leases;
- (e) the agreement dated 13th July, 1994 between the Company and Birwelco Limited for

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**COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)**

Continuation sheet No 11
to Form No 395 and 410 (Scot)

Company number
02692681

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Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~

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Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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

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the construction of the Plant;

(f) the waste management licences issued to the Company by the Environment Agency, or any of the statutory bodies which formerly exercised the powers exercised by that agency as at 30th July, 1998, in respect of the properties at Lifford Lane, Perry Barr, James Road, Norris Way and Castle Bromwich, Birmingham, as in force as at 30th July, 1998, or any other such licences as are issued to the Company from time to time;

(g) each governmental, administrative, regulatory and other similar conditions, authorisations, orders, approvals, licences, consents, exemptions, permissions, certificates, registrations, recordings, filings, notarisations and declarations obtained, from time to time, by the Company and any variation thereof;

(h) the NFFO contract dated 30th September, 1996 made between the Company, the Non-Fossil Fuel Purchasing Agency Limited and Midlands Electric entitled Renewables NFFO 3, Power Purchase Agreement - Non Pooled, Tyseley Waste Disposal Site, Ref No. 05036M3 relating to the supply of electrical power by the Plant;

(i) the agreement dated 7th November, 1995 between the Company and Midlands Electricity plc that relates to the sharing of certain benefits that arise as a consequence of the Company's electricity generation capacity;

(j) certain landfill agreements specified in the Waste Disposal Agreement and any further landfill agreements entered into prior to 30th July, 1998;

(k) each integrated pollution control authorisation obtained, from time to time, by the Company from Her Majesty's Inspectorate of Pollution;

(l) the guarantees contained in the deed dated 9th July, 1993 granted by Compagnie Generale d'Entreprises Automobiles S.A. in favour of the Authority and the guarantees contained in the Deed of Novation by Onyx UK Limited and Esys-Montenay in favour of the Authority guaranteeing performance of the Company's obligations under the Waste Disposal Agreement;

(m) each licence held by the Company relating to the 132 kv power cable between the Plant and the substation at Spark break;

(n) the two operating support agreements both of which are dated 29th July, 1998 between the Company and Energy and Technical Services plc, in the one case, and between the Company and Onyx UK Limited in the other case, each of which relates to the management of the Company;

(o) the bottom-ash disposal underwriting agreement dated 17th December, 1996 between the Company and Onyx UK Limited relating to the cost of disposing of bottom ash;

(p) the clinical waste agreement dated 1st October, 1996 between the Company and Onyx UK Limited relating to the management of clinical waste incineration;

(q) the service maintenance agreements from time to time entered into by the Company in connection with the maintenance of its plant, machinery and equipment;

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**COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)**

Continuation sheet No 12
to Form No 395 and 410 (Scot)

Company number
02692681

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Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~

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Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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

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(r) all other permits, licences, registrations or consents obtained, from time to time, by the Company in respect of environmental and health and safety laws;

and any other material document or agreement entered into pursuant to, or contemplated in, any of the foregoing or for the purposes of the Project or TWDL's Business and designated as such by the Controlling Creditor (acting reasonably);

"Quantified Damages" means the amount of damages suffered by the Company as a result of a breach by the Authority of its obligation to deliver waste in an amount in excess of the specified guaranteed minimum level of waste as agreed between the Authority and the Company (with the consent of the Controlling Creditor) or as determined by an arbitrator or court pursuant to a dispute referred to arbitration in accordance with the Waste Disposal Agreement;

"Recovery" means:

(a) each and every payment made by the Authority in respect of a non-performance by the Authority of any of its obligations referred to in paragraph (a)(i) or (a)(ii) of the definition of Authority Event or in the definition of Quantified Damages or pursuant to, or in settlement of, any legal (including arbitration) proceedings in respect of such non-performance or in excess of the amount due from the Authority at the time of payment which excess payment is referable to such non-performance (other than any such payment made in respect of an award or agreement of costs in favour of the Company in any proceedings against the Authority) in circumstances where:

(i) an Issuer Shortfall has been caused in whole or in part by the occurrence of an Authority Event; and

(ii) in respect of such Issuer Shortfall:

(A) payment has been made by FSA under the FSA Policy or an advance has been made to the Company or the Issuer by FSA; or

(B) monies have been paid out of the accounts designated as the Operating Reserve Account or the Debt Service Reserve Account; or

(C) monies have been paid by Vivendi in accordance with the Performance Guarantee pursuant to paragraphs 14.2(b)(ii) or (e)(iii) of Schedule 3 to the Collateral Deed; and

(b) any revenues received by the Company from parties other than any member of the Vivendi Group (so long as any liability to such member of the Vivendi Group in respect of such revenues is subordinated to liabilities to FSA and the Bond Trustee (in its capacity as trustee for the Bondholders and in its own capacity) and the Security Trustee, including on insolvency, to the Controlling Creditor's satisfaction) or other than the Authority, in any such case in excess of those that would have been received had an Authority Event not occurred;

"Relevant Documents" means the Finance Documents and the Project Documents;

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**COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)**

Continuation sheet No 13
to Form No 395 and 410 (Scot)

Company number
02692681

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Name of company

Tyseley Waste Disposal Limited (the "Company")

~~limited~~

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Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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

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"Scheduled Payment Date" means 30th January and 30th July in each year from 1999 to 2018 (inclusive) (subject to Condition 6(e) of the Terms and Conditions);

"Security Documents" means the Guarantee and Debenture, the Issuer Debenture, the Share Mortgage, the Security Trust Deed and any other document or agreement entered into pursuant to, or as contemplated in, any of the foregoing including all notices and acknowledgements of assignment;

"Security Trust Deed" means the security trust deed dated 30th July, 1998 between the Issuer, the Company, Onyx Esys Montenay Limited, Onyx UK Limited, Vivendi, Compagnie Generale d'Entreprises Automobiles S.A., Esys-Montenay, the Security Trustee, the Bond Trustee and FSA pursuant to which, inter alia, the claims of the Security Trustee, the Bond Trustee and FSA under the Finance Documents and the exercise of the rights against the Issuer, the Company and Vivendi are regulated and/or subordinated;

"Share Mortgage" means the share mortgage dated 30th July, 1998 pursuant to which Onyx Esys Montenay Limited has mortgaged its share capital in the Issuer and the Company to the Security Trustee;

"Subscription Agreement" means the subscription agreement dated 22nd July, 1998 between the Issuer, the Company, Onyx Esys Montenay Limited and the Managers pursuant to which the Managers agreed to subscribe for the Bonds subject to the terms and conditions set out therein;

"Terms and Conditions" means the terms and conditions of the Bonds as set out in the Bond Trust Deed;

"TWDL Accounts" means each of the Current Account and each of the accounts opened and maintained by the Company with the Account Bank and designated as the TWDL Debt Service Account, the Supplemental Reserve Account, the Recoveries Account and the Operating Reserve Account, as each such account may be replaced, renumbered or re-designated from time to time, and any additional accounts required by the Controlling Creditor to be opened by the Company upon the occurrence of certain specified trigger events, in each case charged to the Security Trustee pursuant to the Guarantee and Debenture;

"TWDL's Business" means the Company's business of keeping, treating and disposing of waste delivered by the Authority and other third parties including without limitation the operations required to be carried out under the Waste Disposal Agreement or the composting and recycling of waste and the development of useful products from waste;

"Vivendi Group" means Vivendi and its subsidiaries;

"Waste Disposal Agreement" means the contract for, inter alia, waste disposal services and the construction of the Plant entered into between the Authority (1) and Onyx UK Limited and Esys-Montenay (2) dated 9th July, 1993, the rights and obligations of Onyx UK Limited and Esys-Montenay under which were novated to the Company pursuant to the Deed of Novation (the "Original Waste Disposal Agreement"), and as such agreement is amended by the Waste Disposal Amendment Agreement; and

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COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)

**Particulars of a mortgage or charge
(continued)**

Continuation sheet No 14
to Form No 395 and 410 (Scot)

Company number

02692681

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Name of company

Tyseley Waste Disposal Limited (the "Company")

Limited

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inappropriate

Description of the instrument relating or evidencing the mortgage or charge (continued) (note 2)

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

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

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"Waste Disposal Amendment Agreement" means the waste disposal amendment agreement dated 30th July, 1998 between the Company, the Authority, Onyx UK Limited, Esys-Montenay and Compagnie Generale d'Entreprises Automobiles S.A. amending certain provisions of the Original Waste Disposal Agreement and the leases identified in the Schedule to the Direct Agreement.

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CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 02692681

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A GUARANTEE AND DEBENTURE DATED THE 30th JULY 1998 AND CREATED BY TYSELEY WASTE DISPOSAL LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO THE LAW DEBENTURE TRUST CORPORATION p.l.c. (THE SECURITY TRUSTEE) UNDER THE TERMS OF THE GUARANTEE AND THE INDEMNITY WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 19th AUGUST 1998.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 21st AUGUST 1998.

A handwritten signature in dark ink, appearing to read 'R. N. Owens'.

RICHARD NEIL OWENS

for the Registrar of Companies



C O M P A N I E S H O U S E