BIRMINGHAM CITY COUNCIL .

ENVIRONMENTAL SERVICES DEPARTMENT

CONTRACT FOR WASTE DISPOSAL SERVICES AND THE CONSTRUCTION OF NEW INCINERATOR PLANT

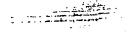
CONDITIONS OF CONTRACT

CONTRACT F4232

COPY FROM LEGAL SERVICES
RECEIVED ON 14TH DEC 1998.
WASTIF DISPOSEL SECTION

MASTER COPY

AMERICA AS 12.2 THE ABLUMBERT DATED: BOILER 1995





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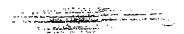
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1993 day of Council House, THIS CONTRACT is made the between (1) BYRMINGHAM CITY COUNCIL of the Square, Birmingham B1 1BB ("the Authority") and (2) ONYX UK LIMITED a Company limited by shares (Company Registration No. 2481991) whose registered office is at Onyx House 401 Mile End Road London E3 4PB and ESYS-MONTENAY S.A whose principal place of business is Espace 21 33 Place of the Cedex 81 92981 Paris La Defense ("the is Espace 21 33 Place ronde Contractor")

NOW IT IS HEREBY AGREED between the Authority and the Contractor as follows: -

Subject to the satisfaction of the Conditions Precedent the Contractor shall carry out and complete the construction of the New Incinerator the Clinical Waste Incinerator and the New Facilities and provide the Service in accordance with the Contract Documents for the Contract Period in consideration of the payment by the Authority to the Contractor of the Gate Fees and the Management Fee

DEFINITIONS AND INTERPRETATION 1.0

Major Definitions 1.1

In this Contract, except where the context otherwise requires, the following terms shall have the meaning hereby assigned to them:

"Approvals" means: -1.1.1

- The waste management licences for the Authority's Premises or the Contractor's Premises (as the case . 1 may be);
- The permissions, licences and authorities referred to in Section 1.03 of the Incinerator Brief; . 2
- The authorisation to carry on any prescribed process within the meaning of Part I of the EPA at any of the Authority's Premises
- M.Sc, M.Ed, means Mr D Bowman B.Sc(Hons), Dip.A.PC, MIEH, Director of "Authorised Environmental and Consumer Services of 1 Lancaster Circus 1.1.2 Queensway Birmingham 84 70H or if such person has retired, resigned or no longer holds the relevant position the Chief Officer of the relevant department of the Authority or such representative appointed by the Authority to act in the name of the Authority for the purposes of the Contract PROVIDED THAT: -
 - The Authority shall forthwith give notice in writing to the Contractor of the raplacement of the Authorised Officer or it any person chases to be the Authorised Officer.
 - From time to time the Authorised Officer may appoint one or more representatives to act for the Authorised Officer generally or for specified ourposes or - Immediately inv such inpointment is made,

INDEX TO CONDITIONS OF CONTRACT ALTERED BY THE AMENDMENT AGREEMENT; DATED: 30 JULY 1998

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the Authorised Officer shall give written notice thereof to the Contractor.

Reference to the "Supervising Officer" in the Contract Documents shall mean the Authorised Officer.

- 1.1.3 "Authority's Premises" subject to Condition 5.1.2 means such of the following premises namely:-
 - .1 Tyseley Depot, James Road, Small Heath, Birmingham B11 2BA;
 - .2 Lifford Depot, Lifford Lane Birmingham B30 3JH;
 - .3 Perry Barr Depot, Holford Drive Birmingham B42 3TU;
 - .4 Castle Bromwich Depot, Tameside Drive, Birmingham B35
 7AG;
 - .5 Norris Way PWD Site, off Coleshill Road, Sutton Coldfield, Birmingham 75
- "Clinical Waste Incinerator" means the clinical waste incinerator to be constructed by the Contractor at one of the Authority's Premises in accordance with the Incinerator Brief;
- 1.1.5 "Clinical Waste Incinerator Site" means the site where the construction works to provide the Clinical Waste Incinerator are to be carried out.
- 1.1.6 "Commencement Date" means 1st July 1993 or such later date upon which all the Conditions Precedent are satisfied
- 1.1.7 "Conditions Precedent" means the conditions precedent set out in Condition 3.2
- 1.1.8 "Construction Works" means the works for the construction of the New Incinerator or the Clinical Waste Incinerator as the case may be.
- 1.1.9 "Contract Documents" means these Conditions of Contract and:
 - .1. The Tender Document submitted on 15 December 1992;
 - .2. The Specification;
 - .3. The Incinerator Brief;
 - The Revised Tender Document succentrated on 17 April 1993;

all of which are either innexed hereto or are identified by the words: "This is the document referred to in Condition 1.1.9 of the Conditions of Contract in the Contract for Waste Disposal Services and the Construction of New Incinerator Plant" and signed by the parties or by their

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solicitors on their behalf and are thereby expressly incorporated into the Contract.

In the event of any inconsistency between the Tender Document and the Revised Tender Document then the Revised Tender Document shall prevail and have effect.

The document entitled "Guidance Notes - Contract for Waste Disposal Services Environmental Protection Act 1990" and any supplements to those Notes shall not form part of the Contract.

- 1.1.10 "Contract Manager" means the representative of the Contractor who is appointed and empowered by the Contractor to act on his behalf for all purposes connected with the Contract and shall include any persons authorised by the Contractor to act as deputy for the Contract Manager. Any notice, information, instruction or other communication given or made to the Contract Manager shall be deemed to have been given or made to the Contractor.
- 1.1.11 "Contract Period" means the period from the Commencement
 Date to the date immediately preceding the 25th anniversary
 of the Commencement Date (both dates inclusive)
- 1.1.12 "Contract Standard" means such standard as complies in each and every respect with all relevant provisions of the Contract PROVIDED THAT:-
 - .1 where and to the extent that no criteria are stated in the Contract the standard is to be to the reasonable satisfaction of the Authorised Officer;
 - any requirement of the Specification that any material or article shall comply with any specified . 2 standard, whether a British Standard, other named standard or otherwise, shall be satisfied by compliance with any relevant national or governmental standard of any member state of the European Communities, or any relevant international standard recognised in such a member state, provided that in either case the standard in question offers guarantees of safety, suitability and fitness for purpose equivalent to those offered by the standard which is specified in the Specification. In the event of any conflict between Condition 1.1.12.1 Condition 1.1.12.2 shall then 1.1.12.2, prevail and have effect.
 - 1.1.13 "Contractor's Employees" means any person employed by the Contractor whether under a contract of service or a contract for services to provide the Service
- "Contractor's Equipment" means any item of plant or equipment which is not a fixture and which is to be used by the Contractor for the performance of its obligations under this Contract.



- "Contractor's Fleet Item" means any vehicle which is provided by the Contractor to perform the Service and "Contractor Owned Fleet Item" means any Contractor's 1.1.15 Fleet Item which is not hired leased or subject to any charge or other incumbrance.
- "Contractor's Materials" means all materials, stores and spare parts kept by the Contractor for the performance of 1.1.16 the Service.
- "Contractor's Premises" means any premises approved by the Authorised Officer (such approval not to 1.1.17 unreasonably withheld or delayed) for use by the Contractor to provide the Service instead of or in addition to the Authority's Premises (other than premises used solely for administration, and personnel work and accounting).
- "Detailed Plans" means the plans drawings specifications throughput calculations emission standards and other data required to enable the Authority to determine whether or 1.1.18 not the Construction Works will satisfy the Incinerator Brief including as they are from time to time made any variations from or alterations and additions to such plans drawings specifications calculations standards and other data.
- "Difficult Waste" means Waste which the Contractor is not allowed by law to accept and dispose of or which will cause a breach of any of the Authorizations if it were kept 1, 1, 19 treated or disposed of at any of the Authority's Premises or the Contractor's Premises. Approvals
- "EPA" means the Environmental Protection Act 1990. 1.1.20
- "force majeure" means an event or condition over which the Authority or the Contractor as the case may be has no 1.1.21 reasonable control which shall include:-
 - War; . 1
 - Act of God; . 2
 - Riot and Civil commotion;
 - Explosion;
 - Fire; . 5
 - . 6
 - Any New legislation which directly causes the shut Flood; down of the New Incinerator

but which shall not include: -

- Non-availability of the Contractor's Materials;
- Action in contemplation of furtherence of a trade dispute other than secondary action: "trade dispute and "secondary action" shall have the same meaning as in Sections 218 and 224 respectively of the Trade . 9 . 10 Union and Labour Relations Consolidation, Act 199: but not any subsequent amendment or re-enactment o the same.

AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998



1. The definition of "Difficult Waste" in Condition 1.1.19 shall be amended by the deletion of the word "Authorisations" in line 3 thereof and its replacement by the word "Approvals".

- 1.1.22 "Funders" means the providers of capital by way of loan letters of credit guarantees leasing facilities or otherwise to the Contractor for the construction and operation of the New Incinerator, the Clinical Waste Incinerator and the New Facilities. (Amanda.)
- 1.1.23 "Gate Fees" means the Basic Fee, the Capacity Fee the First Additional Fee and the Second Additional Fee tendered by the Contractor and accepted by the Authority for the receipt of Waste delivered to the Authority's Premises for the periods and as set out in Sections A and B of the Tender Prices Schedule in the Tender Summary in Part XIII of the Tender Document:
- 1.1.24 "Incinerator Brief" means the document entitled Requirements for New Incineration Plant and Other Improvements dated 21 September 1992;
- 1.1.25 "Initial Period" means the period commencing on the Commencement Date to the New Incinerator Completion Date;
- 1.1.26 "Landfill Agreements" means those landfill agreements listed in Annex C of the Specification.
- 1.1.27 "Landfill Operator" means the person who has contracted to provide the Landfill Site the subject of the Landfill Agreement;
- 1.1.28 "Landfill Sites" means the sites the subject of the Landfill Agreements;
- 1.1.29 "Leases" means one or other of the leases to be granted by the Authority pursuant to the Transfer Scheme.
- 1.1.30 "Management Fee" means the aggregate of the fees, tendered by the Contractor and accepted by the Authority for the management of the public waste disposal facilities at the Authority's Premises as set out in Section C of the Tender Prices Schedule in the Tender Summary in Part XIII of the Tender Document.
- "New Facilities" means works of improvement and repair to two street cleansing waste bays at two of the Authority's Premises and the construction of a new street cleansing waste bay at one of the Authority's Premises and such other facilities included by the Contractor as part of his Tender whether at the Authority's Premises or not for the better provision of the Service.
- "New Incinerator" means the new incineration plant or plants to be constructed by the Contractor it one or other of the Authority's Premises or such other location as shall be approved in writing by the Authority in accordance with the Incinerator Brief and the Dutline Plans submitted to the Authority by the Contractor in accordance with the Tender Document.

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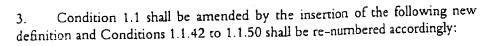
AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998

2. The definition of "Funders" in Condition 1.1 shall be amended by the insertion at the end of that Condition of the following words:

"including, without limitation, providers of finance to refinance existing indebtedness incurred for such purposes, holders from time to time of bonds issued in connection therewith, any guarantor of payments under such bonds and any agent and/or trustee of any of the foregoing (which shall include Financial Security Assurance (U.K.) Limited, The Law Debenture Trust Corporation p.l.c. (as Security Trustee) and L.D.C. Trustees Limited (as Bond Trustee))".

- 1.1.33 "New Incinerator Commencement Date" means the date for the commencement of the Construction Works for the New Incinerator as defined in the Programme
- 1.1.34 "New Incinerator Completion Date" means the date the New Incinerator successfully passes the Performance Tests as evidenced by the Certificate of the Authorised Officer issued pursuant to clause 5.6.5.3.
- 1.1.35 "New Incinerator Site" means the site where the Construction Works to provide the New Incinerator are to be carried out
- "New Legislation" means any new legislation or any change in any legislation after the date of this Contract directly increasing or decreasing the cost to the Contractor of performing its obligations under this Contract except any new legislation or any change in legislation
 - 1.1.36.1 which has been enacted before 1 April 1993 but not yet brought into force
 - which in substance has been the subject of any draft legislation published by or on behalf of the European Commission or any green paper or White Paper published by the United Kingdom Government between 1 April 1990 and 1 April 1993
 - 1.1.36.3 which in substance is provided for in or satisfied by the Outline Plans or the Detailed Plans of the New Incinerator or the Clinical Waste Incinerator
 - which is or amounts to a tax or levy or a change in existing taxation or levies other than a direct tax or levy on the deposit of waste to landfill by whomsoever payable or a tax or levy on the emission of gases or other substances to the atmosphere via the New Incinerator
 - 1.1.37 "Operational Plan" means Annex D to the Specification;
 - 1.1.38 "Outline Plans" means the outline design drawings and other information relating to the New Incinerator inclusive of a new access to the Small Heath By-Pass) or the Clinical Waste Incinerator as the case may be.
 - Performance Tests" means the tests to demonstrate the throughput performance and emission standards and otherwise the satisfactory completion and fitness for its purpose of the New Incinerator or the Clinical Waste Incinerator as the case may be submitted by the Contractor with his Tender and approved by the Authority before the date of this Contract

AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998



"1.1.42 "Quarter" means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in any Year."



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- 1.1.40 "Plant Controller" means the Contractor's senior representative present at the Authority's Premises or his nominated deputy;
- 1.1.41 "Programme" means the Contractor's programme for the design commencement carrying out completion and commissioning of the Construction Works which shall set out as a bar chart the anticipated time when each stage of the Construction Works for the New Incinerator and the Clinical Waste Incinerator are to be carried out.
- 1.1. "Service" means the keeping treatment or disposal of
 Waste and the management of the Authority's Premises by the
 Contractor as more particularly described in Condition 5.1
 in accordance with the Specification.
- 1.1.1. "Specification" mean the description of the Service as

 44 set out in the document entitled Contract No F4232

 "Contract for Waste Disposal Services Specification of the Service";
- 1.1.44 "Transfer Scheme" means the Transfer Scheme providing for the transfer to TWDL of property rights or liabilities of the transfer to TWDL of property rights or liabilities of the Authority in accordance with Schedule 2 of the EPA a the Authority in accordance with Schedule 2 of the EPA a draft of which has been for the purposes of identification draft of which has been for the purposes of identification signed by the parties or by their solicitors on their behalf.
- 1.1.45
 "TWDL" means Tyseley Waste Disposal Limited being the Company limited by Shares (Company Registration No 2692681)
 whose registered office is at Ingleby House 11 14 Cannon whose registered office is at Ingleby House 11 14 Cannon Street Birmingham B2 5EN. References in the Contract Documents to the "Joint Venture Company" "New Company" or "Partnership" shall mean TWDL.
- 1.1.46 "Waste" means waste defined by Section 75(2) EPA and

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- .1 "Clinical Waste" means clinical waste as defined by Regulation 1(2) of the Waste Regulations;
- .2 "Controlled Waste" means Household Waste, Industrial Waste or Commercial Waste;
- .3 "Commercial Waste" means waste as defined by Section 75 (7) EPA and Regulations 6 and 8 and Schedule 4 of the Waste Regulations;
- .4 "Household Waste" means waste as defined by Section 75 (5) EPA and Regulations 2 (1) and 8 and Schedule 1 of the Waste Regulations;
- 75 "Industrial Waste" means waste as leftined by Section 75 (6) EPA and Regulations (1772) insregarding 534(2) EPA) 7(1) (a), (b) and 'c' and 3 and Schedule 3 of the Waste Regulations.
 - 16 "Special Waste" means waste as defined by Section
 15 (9) EPA

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1.1.27 "Waste Collection Contract" means a contract between a 48 Waste Collection Contractor and the Authority.

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1.1.46 "Waste Collection Contractor" means any contractor 49 appointed by the Authority under the Local Government Act 1988 or otherwise to collect Waste arising within the City of Birmingham.

1.1.47 "Waste Regulations" means the Controlled Waste 50 Regulations 1992 SI 1992 No 588.

1.1.50 "Year" means a period commencing on 1 April and 51 terminating on 31 March following;

1.2 English Law and Jurisdiction

- 1.2.1 The Contract shall be governed by and construed in accordance with English Law and the Contractor irrevocably submits to the jurisdiction of the English Courts subject to Condition 31.0.
- 1.2.2 Subject to Condition 31.0 nothing contained in Condition
 1.2 shall limit the right of either party to take proceedings against the other in any other court of competent jurisdiction, nor shall the taking of proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not.
- 1.2.3 The Contractor irrevocably waives (and irrevocably agrees not to raise) any objection which it may have now or subsequently to the laying of the venue of any proceedings in any such court as is referred to in Condition 1.2.2 and any claim that any such proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgement in any proceedings brought in the English Court shall be conclusive and binding upon the Contractor and may be enforced in the courts of any other jurisdiction.
- 1.2.4 The Contractor irrevocably agrees that any writ, judgement or other notice of process shall be sufficiently and effectively served if delivered, in connection with proceedings in England to his registered office.
- The Contractor consents generally in respect of any proceedings arising out of or in connection with this Agreement to the giving of any relief or the issue of any process in connection with such proceedings, including, without limitation, the making, enforcement or execution against any property or assets whatsoever of any order or judgement which may be made or given in such proceedings.

References to Legislation

The term "legislation" shall include any European Community directive or regulation or any Act of Parliament or any order regulation statutory instrument by a law or the like and any

particular reference to one of the foregoing shall include any

Gender, Singular/Plural and Individuals 1.4

subsequent amendment or re-enactment of the same.

Words importing the masculine gender include the feminine gender and vice versa, words in the singular include the plural and vice versa, and words importing individuals shall be treated as importing corporations and vice versa.

Headings 1.5

Condition and sub-condition headings are for ease of reference only and shall not affect the construction of the Contract.

Conflict between Documents

- Except as otherwise expressly provided and in particular subject to Condition 1.6.2, the Contract Documents are to be taken as mutually explanatory of one another.
- In the event of any inconsistency between these Conditions of Contract and any of the other Contract Documents then 1.6.2 the Conditions of Contract shall prevail and have effect.

Amendments 1.7

Following the formation of a binding agreement, no deletion from, addition to, or variation of these Conditions of Contract shall be valid or of any effect unless agreed in writing and signed by the parties.

Severance 1.8

If any of these Conditions of Contract shall become or shall be declared by any Court of competent jurisdiction or an arbitrator to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other of the Conditions of Contract all of which shall remain in full force and effect.

Entire Agreement 1.9

The Contract constitutes the entire agreement and understanding of the parties as to the subject matter hereof and there are no prior or contemporaneous agreements between the parties with respect thereto

Rights and Duties Reserved 1.10

For the avoidance of doubt it is hereby agreed and declared that nothing in this Contract express or implied shall prejudice or affect the Authority's rights powers duties and obligations in the exercise of its functions as a local authority and the rights powers duties and obligations of the Authority under all public and private statutes bye-laws orders regulations and statutory instruments may be fully and effectively exercised in relation to the subject matter of the Contract including the Authority's Premises and the Contractor's Premises and any consent approval licence or permissions required under this Contract unless stated otherwise shall be in addition to and not in substitution for any consent approval licence on provided to be obtained under any approval licence or permissions required to be obtained under any statute bye-law or other legislation.

The second secon

Joint and Several Liability 1.11

Where the Contractor is two or more persons obligations expressed or implied to be made by or with the Contractor are deemed to be made by or with such persons ideals and contractor. by or with such persons jointly and severally.



VARRANTIES AND ACKNOWLEDGEMENTS 2.0

WARRANTIES BY THE CONTRACTOR 2.1

The Contractor in submitting his Tender warrants and represents to and undertakes with the Authority that:

Accuracy of information

present all information and statements of fact communicated to the Authority by the Contractor or the Contractors Employees and contained in the Tender Document submitted by the Contractor to the Authority on 15 December 1992 (as varied by the Revised Tender Document submitted on 17 April 1993) were communicated after due and careful enquiry by the Contractor and were believed by the Contractor with good reason to be true and not misleading;

Reliance upon Authority's representations 2.1.2

he has not submitted a Tender or entered into the Contract in reliance upon any representation or statement (whether made orally, in writing or otherwise) which may have been made by the Authority except where part of the information referred to in Condition 2.3;

Authority to Contract 2.1.3

he has full power and authority to enter into the Contract and carry out the Service;

Sound Financial Position 2.1.4

he is of sound financial standing and has sufficient capital available to him to begin to carry out the Service in accordance with the Contract;

Availability of Capital 2.1.5

he has received in principle support from one or more lenders of capital for the construction and completion of the New Incinerator the Clinical Waste Incinerator and the New Facilities having regard to the terms of this Contract including the amount of capital to be lent the repayment period and rate of interest

Accuracy of Contractor's rates and prices 2.1.6

he has satisfied himself before submitting his Tender as to the accuracy and sufficiency of the cates fees and other information stated by him in the Tender Summary in Part XIII of the Tender Document which shall except in so far as it is otherwise provided in the Contract? cover all his obligations under the Contract and shall be deemed to have obtained for himself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect his Tender.

2.2 ACKNOWLEDGEMENTS BY THE CONTRACTOR

The Contractor in submitting his Tender further acknowledges that:

2.2.1 Quantities of Waste

the figures set out in Annex A to the Specification are estimated quantities only and that the Authority does not warrant their accuracy and that the tonnage of Waste to be disposed of during the Contract Period may increase and/or decrease. For the avoidance of doubt this Condition 2.2.1 shall not relieve the Authority from its obligation in Condition 7.1.

2.2.2 Waste Collection Authority

the Authority is a Waste Collection Authority as defined by Section 30(3) of the EPA and that it is therefore of fundamental importance that he co-operates fully with the Authority in the discharge of its duties under the EPA whether or not the collection of refuse is undertaken by the Authority or a Waste Collection Contractor.

2.2.3 Waste Collection Contractor

nothing in this Contract shall preclude him from becoming a Waste Collection Contractor.

2.2.4 Guidance Notes

notwithstanding the fact the document entitled "Guidance Notes - Contract for Waste Disposal Services Environmental Protection Act 1990" ("the Guidance Notes") is not part of the Contract, he has studied the Guidance Notes and any supplements to those Notes issued prior to submitting his Tender and in any claim by the Contractor against the Authority the Contractor shall be taken to be, fully conversant with the contents of the Guidance Notes.

2.2.5 Analysis of Waste

he has had the opportunity prior to submitting his Tender to inspect and take samples of all types of the Waste in order to analyse and assess its nature.

2.2.6 Landfill Agreements

he has had the opportunity prior to submitting his Tender to inspect the Landfill Agreements (but not the financial terms thereof).

2.3 WARRANTIES BY THE AUTHORITY

The Authority, in accepting the tenner (from the Contractor, warrants and represents that:

2.3.1 Information

to the best of its knowledge, information and belief having made all due and diligent enquiry, the information referred to below was true and accurate in all material respects as at the date thereof and save as disclosed in writing to the Contractor prior to the date of the Contract was not misleading in any material respect as at the date of the Contract:

- (a) information on the assets and liabilities to be transferred to TWDL (including information relating to the Authority's Premises); and
- (b) information contained in the Guidance Notes and any supplements to those Notes

2.3.2 Authority to Contract

it has full power and authority to enter into and carry out its obligations under the Contract.

2.3.3 Tyseley Waste Disposal Limited

TWDL is a dormant company and has not at the date of this Contract previously carried on any trade or business.

2.3.4 Reliance upon Contractors' representations

It has not accepted the Contractor's tender or entered into the Contract in reliance upon any representation or statement (whether made orally, in writing, or otherwise) which may have been made by the Contractor except where part of the information or statements of fact referred to in clause 2.1.1.

3.0 FORMALITIES PRE CONDITIONS AND CONSULTATIONS

3.1 Execution of the Contract

Forthwith upon the written acceptance of a tender by the Authority the Contractor shall execute the Contract as prepared by the Authority and deliver it to the Authority. If the Contractor shall fail to execute the Contract as aforesaid the Authority may (without prejudice to any other right or remedy available to it) terminate the Contract in accordance with Condition 26.2.1 without giving any prior notice to the Contractor or any Funder.

3.2 Conditions Precedent

The Conditions Precedent are:

- 3.2.1 The issue of Waste Disposal Licences for each of the Authority's Premises to TWDL.
- 3.2.2 The grant of an authorisation to continue to carry on the prescribed processes carried on at the date of this Contract at the Tyseley Depot James Road Small Heath to TWDL.

- The provision to the Secretary of State for the Environment of assurances in writing in accordance with Annex E of Circular 8/91 by the persons to be appointed Directors of 3.2.3 TWDL pursuant to Condition 3.2.7
- The approval by the Secretary of State for the Environment and coming into force of the Transfer Scheme. 3.2.4
- The issue by TWDL to the Authority of a share in TWDL being the foundation share as a consequence of the coming into 3.2.5 force of the Transfer Scheme and the transfer to TWDL of the property, rights and liabilities referred to in the Transfer Scheme.
- The subscription for and issue to the Contractor or its nominees of 97 Ordinary Shares of £1 nominal value each in consideration of the payment of £97 by the Contractor or 3.2.6 its nominees to TWDL and the approval by the Secretary of State for the Environment to the restrictions (if any) to be attached to the transfer of those shares.
- The resignation of the present Directors and Secretary of TWDL and the appointment of not less than five Directors and a Secretary of TWDL being employees of either TWDL or 3.2.7 the Contractor.
- The obtaining of Orders pursuant to the Landlord and Tenant Act 1954 authorising the exclusion of the provisions of Sections 24 to 28 inclusive of the Landlord and Tenant Act 3.2.8 1954 from the Leases.
- The issue by the Secretary of State for the Environment to the Authority of a Supplementary Credit Approval of an amount sufficient to enable the Authority to relocate depot 3.2.9 facilities from the Tyseley Depot James Road Small Heath

Satisfaction of the Conditions Precedent 3.3

- The Contractor shall use its reasonable endeavours to satisfy the Conditions Precedent set out in Conditions 3.3.1 3.2.3, 3.2.6 and 3.2.7.
- The Authority shall use its reasonable endeavours to satisfy the Conditions Precedent set out in Conditions 3.3.2 3.2.4, 3.2.5, 3.2.6, 3.2.7, 3.2.8 and 3.2.9.
- The Authority and the Contractor shall immediately upon satisfaction of any of the Conditions Precedent give 3,3,3 written notice of such satisfaction to the other.

Termination 3.4

If the Conditions Precedent in Condition 3.2 are not satisfied on or before 1st October 1993 the Contractor or the Authority may terminate this Contract upon service of 30 days notice in writing on the other whereupon this Contract shall nease and determine but without prejudice to any right which may have accrued to either party before the date of determination aforesaid PROVIDED THAT if

AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998

Condition 5.1

4. Condition 5.1.2 shall be deleted in its entirety and Condition 5.1.3 shall be re-numbered accordingly.

all of the Conditions Precedent are satisfied before a notice to terminate given pursuant to Condition 3.4 has expired then such a notice shall be void and of no effect and neither the Authority nor the Contractor shall be entitled to terminate this Contract by the giving of such notice.

3.5 Execution of Further Documents

- 3.5.1 Forthwith upon the satisfaction of all the Conditions Precedent set out in Condition 3.2 the Contractor shall:
 - procure that the subscription undertaking and deed of guarantee as set out in Part III of the Tender Document as completed by the Authority is executed, and delivered to the Authority by the companies holding at least 75% of the issued share capital of the Contractor;
 - .2 if Condition 32.5 applies procure that a Vehicle Leasing Agreement as completed by the Authority is executed and delivered to the Authority subject to Condition 32.5.5: and
- Forthwith upon the satisfaction of all the Conditions Precedent the Authority shall grant and the Contractor shall procure that TWDL shall accept the Leases and the Authority and TWDL shall duly execute the originals and counterparts respectively and deliver one to the other. Completion of the Leases shall take place at the offices of the Authority's solicitors.

3.6 Consultations

The Contractor shall provide adequate information to the Authority to enable the Authority to discharge its obligations to inform and consult trade union representatives of employees of the Authority to be transferred to the employment of TWDL in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 1981 and otherwise assist the Authority in negotiations and consultations with such employees and their trade union representatives.

3.7 Copyright

Copyright in the Contract Documents shall vest in the Authority but the Contractor may obtain or make at its own expense any further copies required for use by the Contractor in the performance of its obligations contained in this Contract.

3.8 Legal Costs

Each party shall bear its own legal costs in respect of the preparation and execution of the Contract.

3.3 - Inconditionality

If and only if the Conditions Precedent are till satisfied on or before 1st October 1993 or such later date as may result from the provisions of Condition 3.4 shall the following provisions of the

Contract (other than Condition 25.2, 26.1 and 26.2) take effect.

4.0 NOVATION

The Authority and the Contractor shall forthwith enter into and the Contractor shall forthwith procure that TWDL enters into a Deed of Novation in the form set out in Part V of the Tender Document whereby the Authority will release the Contractor from the future performance of its obligations under this Contract in consideration of TWDL undertaking the future performance of the obligations of the Contractor under this Contract and the Contractor guaranteeing to the Authority the performance of those obligations and the Contractor releasing the Authority from the future performance of its obligations under this Contract in consideration of the Authority undertaking the future performance of its obligations under this Contract to TWDL. On and from the date of the Deed of Novation TWDL shall be the Contractor for the purposes of this Contract.

5. CONTRACTOR'S MAJOR OBLIGATIONS

5.1 Keeping, treatment and disposal of Waste

The Contractor shall undertake and be responsible for the keeping, treatment and disposal of all Waste that is delivered by the Authority or a Waste Collection Contractor or all Household Waste that is delivered by members of the public to the Authority's that is delivered by members of the public to the Authority's Premises or the Contractor's Premises and the management of the Authority's Premises during the Contract Period in accordance with the Specification. The Authorised Officer shall be entitled upon giving reasonable notice to issue to the Contractor instructions relating to the following:-

- 5.1.1 Subject to the Authority's obligations under Conditions 7.1 and 7.2 adding to or subtracting from the amount of Wasta delivered to any of the Authority's Premises or ceasing to deliver Wasta to any of the Authority's Premises;
- Adding new sites (which sites small then be included in the definition Authority's Premises) but only with the consent of the Contractor, such consent not to be unreasonably withheld or unnecessarily delayed Provided That it shall be reasonable for the Contractor to refuse consent unless the Management Fee is adjusted to reflect any increased cost to the Contractor of managing the Authority's Premises occasioned by the addition of such new sites:
- 7.1. Varying the hours of opening of all or any part of Authority's Premises and/or the Contractor's Premises with the consent of the Contractor such consent not to be unreasonably withheld or unecessarily delayed.

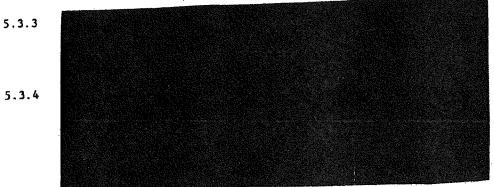
3.2 Contractor's Skill and Provision of Resources

The Contractor shall provide the Service throughout the Contract Period in a proper skilful and workmanlike manner, in accordance with the Specification to the Contract Standard. Unless stated to

the contrary in the Specification the Contractor shall provide all staff, materials premises and equipment required for the provision of the Service to the Contract Standard.

5.3 Disposal of Waste at Landfill Sites

- 5.3.1 This Condition shall apply only if the Authority accepts a tender on the basis that the Contractor makes use for part of the Contract Period of the Landfill Sites.
- The Contractor shall dispose of such quantities of Waste delivered to the Authority's Premises or the Contractor's Premises in accordance with Condition 5.1 as may be determined from time to time by the Authorised Officer at the Landfill Sites to which the Authorised Officer shall direct the Contractor during the currency of the Landfill Agreement for the particular Landfill Site and the Authority shall procure that Landfill Operators shall receive such Waste and in disposing of such Waste the Contractor shall comply with the terms of the relevant Landfill Agreement.



- 5.3.5 If at any time the Authorised Officer shall require the Contractor to supply him with:
- .1 Details of any incident with respect to a delivery of Waste by the Contractor at a Landfill Site;
- .2 Copies of any transfer note completed and signed by the Contractor which complies with the Environmental Protection (Duty of Care) Regulations 1991 and which specifies:-
 - I the gross weight of the vehicle together with the Waste; and
 - .2 the tare weight of the vehicle;

following the delivery of Waste by the Contractor at a Landfill Site;

- then the Contractor shall supply such details or copies forthwith.

5.3.6 The Contractor shall not act or fail to act in such a way as to cause a breach of any Landfill Agreement.

5.4 Instructions Needed by the Contractor

- 5.4.1 The Contractor shall give adequate notice in writing to the Authorised Officer of any further instruction that the Contractor may require for the performance of the Service.
- Officer to issue at a time reasonable in all the Officer to issue at a time reasonable in all the circumstances an instruction requested by the Contractor and considered necessary by the Authorised Officer in accordance with Condition 5.4 the Contractor suffers delay or incurs loss or expense such loss or expense shall be taken into account in determining any sum to which the Contractor is entitled and the Contractor shall be paid in accordance with Condition 21 the amount of such loss or expense as may be reasonable.

AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT

Condition 5.5

5. Condition 5.5 shall be amended by the deletion of the word "The" in line 1 thereof and its replacement by the following words:

"Subject to Condition 21A, the".



Statutory Requirements

The Contractor shall comply with all legislation (other than New Subject to Candition 21A, the Legislation) and shall use its best endeavours to comply with all New Legislation to be observed and performed in connection with the provision of the New Incinerator the Clinical Waste Incinerator the New Facilities and the Service.

Construction of the New Incinerator and the Clinical Waste 5.6 Incinerator

The Detailed Plans 5.6.1

- 5.6.1.1 The Contractor will cause to be prepared Detailed Plans as a development of and in accordance with the Outline Plans separately for the New Incinerator and the Clinical Waste Incinerator before the Contractor applies for detailed planning permission for the New Incinerator and the Clinical Waste Incinerator as the case may be.
- Detailed Plans to be 5.6.1.2 The Contractor shall cause the prepared in such form and manner as are likely to secure the Approvals.
- 5.6.1.3 The Contractor shall submit the Detailed Plans and the Programme to the Authorised Officer for his approval (such approval not to be unreasonably withheld or unecessarily delayed) PROVIDED THAT it shall be a reasonable ground for withholding such approval if the Detailed Plans do not comply with the Incinerator Brief.
- 5.6.1.4 The Contractor will not make any variation to the Detailed Plans (that is to say any alteration or addition to or omission of anything from the Detailed Plans) or the New Incinerator Commencement Date without the consent of the Authorised Officer (such consent not to be unreasonably withheld or unnecessarily delayed) PROVIDED THAT: -
 - It shall be a reasonable ground for withholding such consent if the Detailed Plans as varied will not comply with the Incinerator Brief;
 - No consent shall be required if the variations to the Detailed Plans are insubstantial or immaterial and of . 2 a routine nature;
 - It shall be a reasonable ground for withholding such consent if the New Incinerator Commencement Date as . 3 varied would prejudice the completion (to be evidenced by the satisfactory completion of the Performance Tests) of the New Incinerator by 1st December 1996.
 - 5.6.1.5 The Contractor will keep the Authority furnished throughout the Construction Works with a complete set of the Detailed Plans as amended and revised from time to time and will within a reasonable time after the completion of the

- Construction Works for the New Incinerator or the Clinical Waste Incinerator as the case may be deliver to the Authorised Officer two complete sets of the Detailed Plans of the New Incinerator or the Clinical Waste Incinerator as the case may be.
- 5.6.1.6 The Contractor will keep the Authorised Officer informed of all changes to the Programme and shall supply the Authorised Officer with a revised Programme forthwith upon any change to the Programme being made.

5.6.2 Construction of the New Incinerator and Clinical Waste Incinerator

- S.6.2.1 The Contractor shall commence the New Incinerator on the New Incinerator Commencement Date and thereafter proceed to carry out and complete (to be evidenced by the satisfactory completion of the Performance Tests) the New Incinerator and the Clinical Waste Incinerator in accordance with the Detailed Plans and the Programme at the New Incinerator Site and the Clinical Waste Incinerator Site respectively by 1st December 1996 or where the progress of the Construction Works is delayed by force majeure such later date as the Authorised Officer shall reasonably determine on the application of the Contractor for the New Incinerator or the Clinical Waste Incinerator as the case may be
- 5.6.2.2 The Contractor shall carry out and complete the New Incinerator and the Clinical Waste Incinerator with proper workmanship and good quality materials so as to be fit for the purpose of incinerating waste of the quantities identified in the Specification in accordance with all legislation except New Legislation.

5.6.3 Approvals

- 5.6.3.1 The Contractor shall apply for and use all reasonable endeavours to obtain and maintain all requisite Approvals from time to time as may be appropriate throughout the Contract Period to enable the Contractor to perform its obligations under the Contract.
- 5.6.3.2 The Contractor shall within a reasonable time notify the Authorised Officer of the grant of an Approval and deliver a copy to the Authorised Officer.

5.6.4 Inspection of the Construction Works

- 5.6.4.1 The Authorised Officer may at all reasonable times during the period when the Construction Works are being carried out enter the New Incinerator Site and the Clinical Waste Incinerator Site in order to inspect and view the state and progress of the Construction Works.
- 5.6.4.2 The Authorised Officer in doing so will not impede or obstruct the progress of the Construction Works nor issue

- any instructions to any contractor or consultant employed by the Contractor but will address any requirement comment or complaint only to the Contractor.
- 5.6.4.3 The Contractor will give to the Authorised Officer at least 7 days' prior notice of site and other formal meetings of its consultants and its contractor or any of them in connection with the Construction Works and the Authorised Officer shall be entitled to attend and participate in such meetings.

5.6.5 Performance Tests

- 5.6.5.1 As soon as the New Incinerator or the Clinical Waste Incinerator as the case may be is, in the opinion of the Contractor, ready to undergo the Performance Tests, the Contractor shall give 5 days' notice to the Authorised Officer, stating the time and date when the Performance Tests are to be conducted. The Authorised Officer shall have the right to be present throughout to witness the completion of the Performance Tests.
- 5.6.5.2 The results of the Performance Tests shall be compiled by the Contractor and submitted in a written report to the Authorised Officer within 28 days of the conclusion of the Performance Tests.
- 5.6.5.3 If the New Incinerator or the Clinical Waste Incinerator or any part thereof in the reasonable opinion of the Authorised Officer shall fail to pass the Performance Tests, then repeat Performance Tests shall be carried out within a reasonable time. Conditions 5.6.5.1 and 5.6.5.2 shall apply to such repeated Performance Tests. This Condition 5.6.5.3 shall be capable of being operated more than once. When the New Incinerator or the Clinical Waste Incinerator in the reasonable opinion of the Authorised Officer passes the Performance Tests the Authorised Officer shall issue his certificate to that effect to the Authority and the Contractor.
- 5.6.5.4 Notwithstanding the satisfactory completion of the Performance Tests the Contractor shall operate the New Incinerator or the Clinical Waste Incinerator as the case may be throughout the Contract Period so as to satisfy the requirements of the Performance Tests.

5.7 Inspection by Authorised Officer

The Contractor shall at all times without prior notice during the Contract Period allow the Authorised Officer access to the Authority's Premises and the Contractor's Premises and on entering any such premises to take with him any person duly authorised by the Authorised Officer and any equipment or materials required for any purpose for which the right of entry is being exercised and the Authorised Officer shall be entitled to:

- 5.7.1 to make such examination and investigation as may in any circumstances be necessary;
- 5.7.2 as regards the Contractor's Premises and the Authority's Premises to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under Condition 5.7.1;
- 5.7.3 to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under Condition 5.7.1
- 5.7.4 to take samples of any articles or substances found on the Contractor's Premises and the Authority's Premises;
- in the case of any article or substance found on the Contractor's Premises and the Authority's Premises which has power to enter, being an article or substance which appears to him to have caused or to be likely to cause pollution of the environment or harm to human health, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is necessary);
- 5.7.6 in the case of any such article or substance as is mentioned in **Condition** 5.7.1 above, to take possession or it and detain it for so long as is necessary for all or any of the following purposes, namely:-
 - .1 to examine it and do to it anything which he has power to do under Condition 5.7.5;
 - .2 to ensure that it is not tampered with before his examination of it is completed;
- 5.7.7 to require any of the Contractor's Employees whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under Condition 5.7.1 above to answer (in the absence of persons other than a person nominated to be present and any persons whom the Authorised Officer may allow to be present) such questions as the Authorised Officer thinks fit to ask and to sign a declaration of the truth of his answers;
- 5.7.8 to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which are required to be kept or it is necessary for him to see for the purposes of an examination or investigation under Condition 5.7.1 above and to inspect, and take copies of any entry in the records;
- 5.7.3 to require any of the Contractor's Employees to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as Authorised Officer to exercise his rights under Condition 5.7



5.7.10 inspecting the Service being performed pursuant to the Contract.

5.8 Consequence of Inspection by Authorised Officer

If following such a inspection the Authorised Officer shall require further information in order to satisfy himself that the Contract is being performed in accordance with the Contract then the Authorised Officer may by notice request the provision of such further information as he reasonably requires and the Contractor shall comply with such notice.

5.9 Contractor to provide New Facilities

The Contractor shall construct the New Facilities in accordance with plans and specifications approved by the Authorised Officer (such approval not to be unreasonably withheld or delayed) as soon as reasonably practicable after the Commencement Date and in any event no later than 31 December 1996.

5.10 Reputation of Authority

The Contractor shall not at any time provide the Service or perform the Contract in a manner which may adversely affect or be detrimental to the reputation of the Authority.

5.11 Contractor to Give Notice of Matters Affecting Provision of Service

If the Contractor shall become aware of any matter which without limitation shall include burglary, vandalism or accidental damage which affects or is likely to affect the provision of the Service or the performance of the Contract he shall immediately notify the Authorised Officer.

6.0 BREAK CLAUSE

6.1 Relevant events

In any of the following events namely:-

- 6.1.1 an application for detailed planning permission in accordance with the Detailed Plans for the construction of the New Incinerator is not submitted by the Contractor by 31 December 1993.
 - 6.1.2 planning permission (without conditions which in the reasonable opinion of the Contractor would materially increase the cost of constructing or operating the New Incinerator) has not been obtained by the Contractor for the construction of the New Incinerator by 30 June 1994;
 - 6.1.3 the Authorised Officer shall not have issued his certificate to the effect that the New Incinerator has passed the Performance Tests in accordance with Condition 5.6.5 by 1 December 1997;
 - 6.1.4 a Waste Disposal Licence or a Waste Management Licence and an Authorisation from Her Majesty's Inspectorate of

DOU: por ensideri Pollution under Part I of the EPA shall not have been obtained for the New Incinerator by 1 December 1997.

then the Authority may in the events described in Conditions 6.1.1, 6.1.3 and 6.1.4 and either party may, in the event described in Condition 6.1.2, by 12 months notice to the Contractor or the Authority as appropriate, given at any time within 3 months of the date of the occurence or non-occurence as the case may be, terminate the Contract without prejudice to any rights or remedies which either party may have against the other arising out of a prior breach of the terms of the Contract.

6.2 Consequences of termination under Condition 6.1

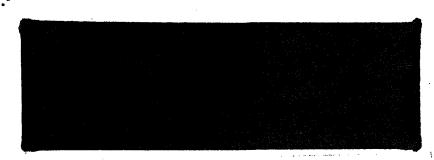
If the Contract shall have been terminated under Condition 6.1 then the Authority shall:-

- 6.2.1 cease to be under any obligation to make further payment to the Contractor (subject to the payment of sums accrued which are due);
- 6.2.2 be entitled to employ and pay other persons to provide the Service;
- be entitled to require the Contractor to assign to the Authority (or any person named by the Authority) the benefit of any agreement for the supply of any Contractor's Materials or the leasing or hiring of any Contractor's Equipment which the Contractor may have entered into for the purposes of performing its obligations under this Contract subject to the Authority undertaking responsibility for any outstanding and future liabilities of the Contractor under such an agreement;
- 6.2.4 be entitled to purchase take delivery of and remove any Contractor's Equipment or any Contractor's Materials which are not leased or hired and which are located at the Authority's Premises for a price to be determined and paid for and with the benefit of any guarantees and warranties in accordance with the procedure set out in respect of Contractor Owned Fleet Items in Condition 32.3 which shall apply mutatis mutandis to any such Contractor's Equipment or Contractor's Materials;
- 6.2.5 be entitled to serve a transfer notice under Condition 32.3.2 on the Contractor in respect of the Contractor Owned Fleet Items; and
- 6.2.6 be entitled to exercise its rights under any Vehicle Leasing Agreement in respect of any Leased Contractor Fleet [tems as defined by reference to Condition 32.5.





7.1.1



- 7.1.2 Now Waste will be supplied to the Authority's Premises in any period when the Authority's Premises are not open, as identified in Annex B of the Specification (subject to any variation under Condition 5.1.2).
- 7.1.3 The Authority shall give the Contractor notice if it is unable to supply Waste in accordance with Tables 1 or 14.
- 7.1.4 The Contractor shall only keep treat or dispose of Wasta at the Authority's Premises otherwise than in accordance with Condition 5.1 if the Contractor does not thereby adversely affect or prejudice its ability to perform the Service at the Authority's Premises.
- 7.1.5 The Authority shall use its best endeavours not to deliver to the Authority's Premises any Difficult Wasta but the Contractor shall use its reasonable endeavours to make reasonable and practical arrangements for the keeping treatment and disposal of Difficult Waste collected by the Authority on receipt of a written request from the Authorised Officer (Amported)

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AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998

6. Condition 7.1.2 shall be amended by the deletion of the word "No" from the start of that Condition and by the insertion at the beginning of that Condition of the following words:

"Without prejudice to the Authority's obligations under Condition 7.1.1, no".

7. Condition 7.1.5 shall be amended by the insertion at the end of that Condition of the following words:

"Notwithstanding the foregoing, the Contractor shall be under no obligation to make such reasonable and practical arrangements where to do so would constitute a breach of any legislation or Approval."



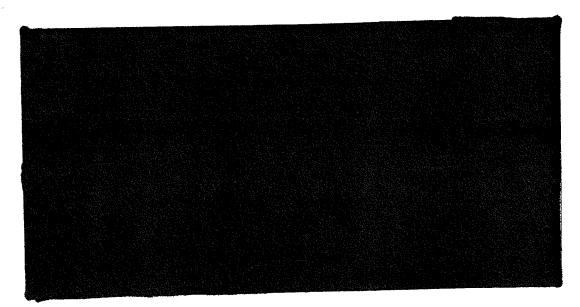
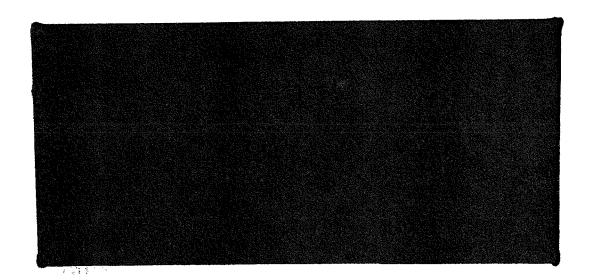


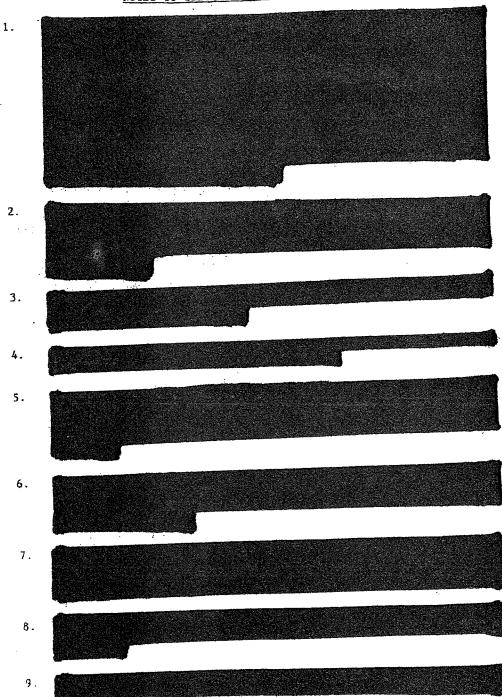
TABLE 1A



AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998 8. (b) (c)



NOTES TO TABLES 1 and 14



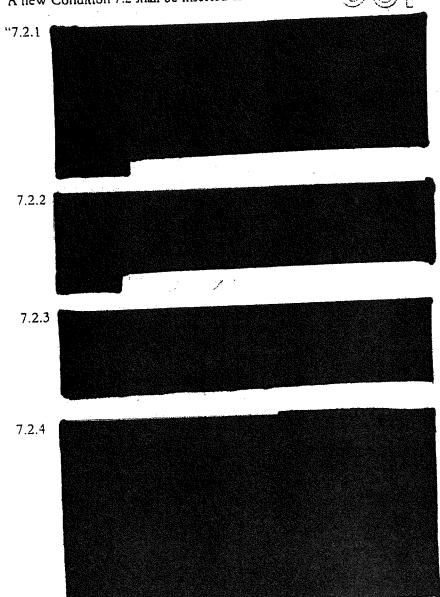
Selection of Authority's Premises

(Amended, sec page 34A)

The Authority shall be entitled to determine from time to time as to which of the Authority's Premises it shall deliver or procure the delivery of Waste and in what quantities and the Contractor shall be bound to accept delivery of Waste so delivered PROVIDED THAT:

AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998

9. A new Condition 7.2 shall be inserted as follows:



The Authority shall comply with Condition 7.1;

The Authority shall not exceed what it reasonably considers to be the capacity of the Arthority's Premises to scept the delivery of Maste;

The Authority shall subject to Condition 7.6 supply to the Contractor the minimum quantity of Household Waster Commercial Waste and Industrial Waste collected by the Authority or a Maste Collection Contractor at each of the Authority's Premises as is specified in Columns B, C and D 7.2.3 of Table 2 opposite each period.

Delivery and Acceptance 7.3

- The Authority shall be responsible for the cost of delivery of Waste to the Authority's Premises. 7.3.1
- The Authority will use its best endeavours to ensure that upon arrival at the Authority's Premises the driver of the 7.3.2 delivery vehicle will present the vehicle to be weighed on the weighbridge at the Authority's Premises.
- After weighing the Authority will use its best endeavours to ensure that the driver will tip the Waste at a point 7.3.3 within the Authority's Premises designated solely by the Contractor.
- The Authority and the Contractor shall ensure that a transfer note is completed and signed on their behalf which 7.3.4 shall comply with the Environmental Protection (Duty of Care) Regulations 1991 and specify:
 - the gross weight of the vehicle together with the . 1 Waste; and
 - the tare weight of the vehicle;

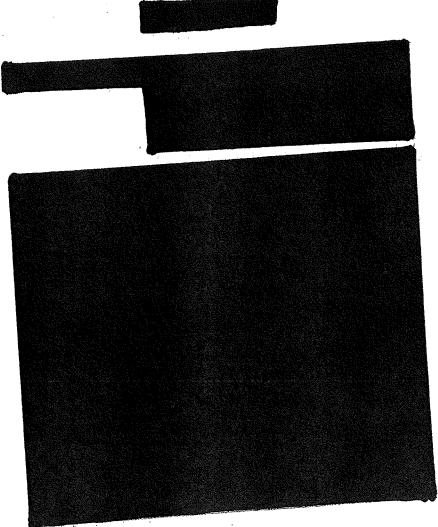
both of which shall be ascertained from the vehicle being driven on to the weighbridge at the Authority's Premises or the Contractor's Premises (as the case may be).

The Contractor shall comply with such procedures as may from time to time reasonably be requested by the Authorised 7.3.5 Officer so that the number of bags and containers of Waste in Categories 4(a), 4(b) and 4(c) as defined by the notes to Table 1 are accurately counted and recorded. Authority will use its best endeavours to ensure that upon the delivery of such Waste to the Authority's Premises the driver of the delivery vehicle complies with such procedures where they apply to the Authority or its Waste Collection Contractor.

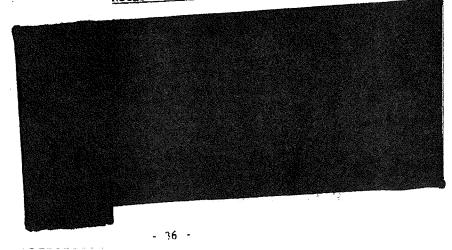
Records of Waste

Copies of the written descriptions of all Waste delivered to the Authority's Premises and the transfer notes shall be kept by the Authority and the Contractor for a period of three years from the date of delivery and each party shall submit copies of such records to the other upon request.





NOTES TO TABLE 2



7.5 Title to Waste

Full legal and beneficial title to the Waste shall pass to the Contractor upon delivery to the Authority's Premises and completion of a transfer note which satisfies Condition 7.3.4.

7.6 Force Majeure

- 7.6.1 If the Authority is unable to supply Waste or the Contractor is unable to accept Waste in accordance with this Contract because of force majeure it shall as soon as possible give written notice to the other giving such of the particulars referred to in Condition 7.6.2 hereunder as may then be practicable.
- 7.6.2 The particulars referred to in Condition 7.6.1 are the cause of and the estimated duration of the inability to supply or accept Waste and the Authority's Premises to which it applies.
- 7.6.3 Upon the giving of a notice by the Authority under Condition 7.6.1 the Authority shall be relieved of its obligation under Condition 7.1.1 to supply Waste for the period of force majeure.
- 7.6.4 Upon the giving of a notice by the Contractor under Condition 7.6.1 the Contractor shall be relieved of its obligation to accept Waste in respect of the Authority's Premises identified in the particulars under Condition 7.6.2 and the Authority shall be relieved of its obligation to supply Waste in respect of such of the Authority's Premises so identified in both cases for the period of force majeure.
- 7.6.5 The party that gave the notice under Condition 7.6.1 shall give to the other written notice of a time at which it will be able to resume the normal supply of or acceptance of Waste or of any changes to the particulars contained in the notice referred to in Condition 7.6.2.
- 7.6.6 "The period of force majeure" shall mean the period starting on the giving of the notice under Condition 7.6.1 and finishing at the time specified in the notice given under Condition 7.6.5.

7.7 Turn round Time for Deliveries

The Contractor shall ensure that a delivery vehicle can be weighed and complete its delivery of Waste at each of the Authority's Premises within 30 minutes of the time of its arrival at the boundary of such premises.

7.8 Breach by Contractor



If the Contractor shall be in breach of its obligation to keep treat and dispose of Waste in accordance with Condition 5.1 then the Contractor auch Contractor shall be responsible for paying the Authority such additional contractor) shall additional costs as it (or its Waste Collection Contractor) shall incur in delivering Waste to other premises (including the Authority's Premises or the Contractor's Premises). Such additional costs shall be ascertained by the Authorised Officer and may be deducted from any payment to be made to the Contractor under the Contract.

CONTRACT HANAGER AND CONTRACTOR'S EMPLOYEES 8.0

Appointment 8.1

The Contractor shall ensure that at all times during the Contract Period a Contract Manager (and a deputy) is appointed.

Notification of Identity of Contract Manager 8.2

The Contractor shall within one month after the acceptance by the Authority of its tender give notice to the Authorised Officer of the name, address and telephone number of the Contract Manager (and his deputy). The Contractor shall give the Authorised Officer notice forthwith of any change of Contract Manager (and any deputy).

Presence at Premises 8.3

The Contractor shall ensure that the Contract Manager, or a senior member of his staff, attends such of the Authority's Premises or the Contractor's Premises as shall be required by the Authorised Officer by reasonable notice to the Contractor in order for the Contractor to meet the Authorised Officer. The Contractor shall not be required to attend such premises at a time outside the Contractor's normal working hours.

Codes of Practice 8.4

- The Authority's written Codes of Practice shall regulate the conduct of the Contractor's Employees the Authority's employees or the employees of a Waste Collection Contractor 8.4.1 at the Authority's Premises and the Contractor's Premises,
- The Codes of Practice shall deal with the following issues:-8.4.2
 - health and safety; . 1
 - identification; . 2
 - general behaviour, noise and conduct;
 - removal of employees.
- The Contractor and the Authority shall produce that their . respective employees comply with the Codes of Practice 9.4.3 referred to under Condition 8.4.1.
 - The Contractor may at any time after the 3.4.4

Commencement date give notice to the Authorised Officer that he intends to review a Code of Practice or Revised Code of Practice (as the case may be).

- The Authorised Officer and the Contractor shall within 3 months after the Contractor's notice under Condition 8.4.4 agree the content of a revised Code of Practice to regulate the conduct of the Contractor's employees the Authority's employees or the employees of a Waste Collection Contractor at the Authority's Premises and the Contractor's Premises.
- 8.4.6 The Revised Code of Practice shall deal with the issues set out in Condition 8.4.2
- 8.4.7 If the Authorised Officer and the Contractor shall be unable to agree the content of a revised Code of Practice the Revised Code of Practice shall be determined by arbitration.
- 8.4.8 The Contractor and the Authority shall procure that their respective employees comply with the Revised Code of Practice agreed under Condition 8.4.5 or determined under 8.4.7 as appropriate.

8.5 Payment of Taxes

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The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions, or levies of any kind, relating to or arising out of the employment of the Contractor's Employees after the date the Transfer Scheme comes into force and shall fully and promptly indemnify the Authority in respect of any liability of the Authority in respect thereof.

8.6 Quality Control

- 8.6.1 The Contractor shall throughout the Contract Period institute and maintain a properly documented system of quality control designed to ensure that the Service is provided at all times and in all respects in accordance with the Specification and the Conditions of Contract and to the Contract Standard. Such a system shall:
 - 8.6.1.1 include daily supervision and the carrying out of frequent inspections; and
 - 8.6.2.2 ensure the recording in records kept for the purpose of any complaints received in connection with the provision or failure to provide the Service, whether received orally or in writing, and of the action taken by the Contractor in respect of each such complaint.
- The system shall be operated by the Contract Manager on behalf of the Contractor and shall be open to inspection at any time by the Authorised Officer. In the event that any reasonable recommendations concerning the improvement of the system are made by the Authorised Officer from time to



time, such recommendations shall forthwith be implemented by the Contractor.

8.6.3 If the Contractor's system of quality control is registered under BS 5750 or ISO 9000 the the Contractor shall have complied with Condition 8.6.

INDEX TO CONDITIONS OF CONTRACT ALTERED BY THE AMENDMENT AGREEMENT; DATED: 30 JULY 1998

CONDITION	DETAILS	PAGE No.
1	DEFINITIONS AND INTERPRETATIONS	
1.1.19	Amended	10A
1.1.22	Amended	11A
1.1.42	New condition inserted	13A
1.1.42 to 1.1.50	Renumbered	13A
5	CONTRACTOR'S MAJOR OBLIGATIONS	
5.1.2	Condition deleted	22A
5.1.3	Renumbered	22A
5.5	Amended	25A
7	SUPPLY AND PAYMENT FOR WASTE	
7.1.2	Amended	31A
7.1.5	Amended	31A
Note 1 to	Amended	33A
Tables 1 & 1A		34A
7.2.1	Deleted and replaced	34A
7.2.2	Deleted and replaced	34A
7.2.3	Deleted and replaced	34A
7.2.4	Deleted and replaced	JTA
9	DEFAULT	
9.2.3	New condition inserted	41 A
9.2.4	New condition inserted	41A
7.4.4		
10	CONFIDENTIALITY	
10.3.3	Amended	44A
11	HEALTH AND SAFETY	
11.4	Deleted and replaced	44A
15	LIABILITY AND INDEMNITY	
1611	New condition inserted	47A
15.1.1	New condition inserted	47A
15.1.2	Amended ·	48A
15.7	Amended	



8.7 Provision of Information

The Authorised Officer shall also be entitled to request any information relating to the carrying out of the Service or the performance of the Contract and such information shall be supplied by the Contractor forthwith upon request.

8.8 Attendance at Progress Meetings

The Contract Manager shall attend regular progress meetings at such times and locations as may be specified by the Authorised Officer to review the provision of the Service and the performance of the Contract and to consider such other matters as may be determined by the Authorised Officer. Such meetings will be held at intervals of approximately one month provided that if the Authorised Officer shall consider that more frequent meetings are necessary then such meetings shall be held at the frequency he considers appropriate.

8.9 Attendance at Consultative Meetings

One or more executive directors of the Contractor shall attend periodic consultation meetings with members and officers of the Authority to consider issues arising from the subject matter of this Contract. Such meetings shall be held at intervals no more frequently than 4 monthly.

9.0 DEFAULT

9.1 Default

If the Contractor fails to provide the Service (or any part thereof) to the Contract Standard in accordance with the terms of this Contract then without prejudice to any other rights that the Authority may have including termination under Condition 26 the Authorised Officer may:

- 9.1.1 On behalf of the Authority employ others under Condition 9.2: or
- 9.1.2 If the category of failure is within Table 3 issue a Default Notice under Condition 9.3; or
- 9.1.3 Issue a Failure Notice under Condition 9.4.

PROVIDED THAT the Authorised Officer may not issue a Failure Notice for a category of failure within Table 3.

9.2 Employment of Other Persons

If the Authorised Officer shall employ other persons on behalf of the Authority to provide the Service (or any part thereof) then:-

9.2.1 All costs incurred thereby may be deducted from any sums due or to become due to the Contractor under the Contract or shall be recoverable from the Contractor by the Authority as a debt;

AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998

Condition.9.2

10. Condition 9.2 shall be amended by the insertion at the end of that Condition of the following words:

"Provided that:

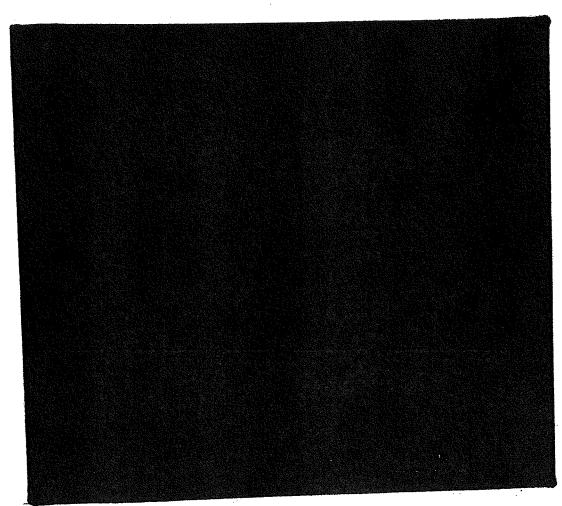
- 9.2.3 The Authorised Officer may employ such persons on behalf of the Authority to provide only that part of the Service which the Contractor has failed to provide to the Contract Standard in accordance with the terms of this Contract and the employment of such persons shall only continue until the Contractor has demonstrated to the reasonable satisfaction of the Authority its ability to recommence provision of that part of the Service to which the failure related and, in respect of a failure which has not been remedied and is capable of remedy, that such failure will be remedied by the Contractor or such persons, in either case as soon as reasonably practicable after the termination of the employment of such persons by the Authorised Officer.
- 9.2.4 The Contractor shall not be liable to the Authority (including, without limitation under or in connection with the Contract or any of the Leases) in respect of any act or omission of any person so employed by the Authority."



9.2.2 The Contractor shall not interfere with or prevent the discharge of the relevant part of the Service or the Contract by such persons as are employed by the Authorised Officer on behalf of the Authority.

(Amerded)

9.3 Default Notice



9.4 Failure Notice

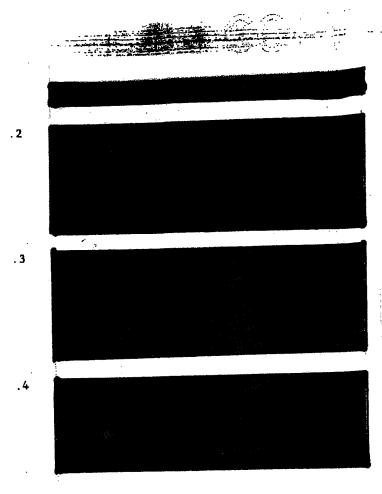
A Failure Notice shall be in writing and shall set out the general terms of the default or failure and the actual losses and damages arising as a consequence of such default or failure PROVIDED THAT:

- 9.4.1 any such notice shall state how the sum is calculated and that it is a 'failure notice';
- 9.4.2 any such sum may be deducted from any sums due or to become due to the Contractor under the Contract.

9.5 - Fluctuations for LAD

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- 43 -



10.0 CONFIDENTIALITY

10.1 Disclosure by Contractor

The Contractor shall not without the prior written consent of the Authorised Officer during the Contract Period or at any time thereafter make use of for its own purposes, or disclose to any person (except as may be required by law), any of the the Contract Documents or any information contained therein or in any material provided to the Contractor by the Authority pursuant to the Contract all of which information shall be deemed to be confidential.

10.2 Disposal of Confidential Material

The Contractor shall neither dispose nor part with possession of any confidential material provided to the Contractor by the Authority pursuant to the Contract other than in accordance with the express written instructions of the Authorised Officer.

10.3 Exceptions

The obligations of the Contractor under Condition 10.1 shall not apply to:-

- 10.3.1 information which at the time of disclosure is in the public domain; or
- 10.3.2 information which was in the possession of or becomes available to the Contractor from a source other than the Authority, provided that the source of such information was

AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998

Condition 10.3

11. Condition 10.3.3 shall be amended by the insertion after the words "any approvals" in line 2 thereof of the following words:

", or for the purposes of making any application for any approval,".

Condition 11.4

12. The text of Condition 11.4 shall be deleted in its entirety and replaced by the following words:

"In the event of non-compliance by the Contractor with this Condition 11 or with its legal duties in health and safety matters, the Authorised Officer shall be empowered to suspend the provision of that part of the Service, or the Contractor's performance of that part of the Contract, to which such non-compliance relates. The Contractor shall not resume provision of such part of the Service or performance of such part of the Contract as appropriate until the Authorised Officer is satisfied that the non-compliance has been rectified. In respect of any such period of suspension the Contractor shall be deemed for the purpose of Condition 9.1 to have failed to provide such part of the Service or to

not, so far as the Contractor was concerned, subject to any agreement or other duties relating to confidential information; or

- any disclosure of information required by law or the order of any Court of competent jurisdiction or under the conditions of any approvals A to be disclosed to any 10.3.3 governmental or regulatory authority or otherwise; or
- any disclosure of information by the Contractor to its legal, financial or other advisors or to the Funders and 10.3.4 their advisors

Indemnity

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The Contractor shall indemnify and keep indemnified the Authority against all actions, claims, demands, proceedings, damages, costs charges and expenses whatsoever in respect of any breach by the Contractor of this Condition 10.

Advertisement of the Contract 10.5

The Contractor shall not cause or permit to be advertised or promoted its performance of the Contract for the Authority without the prior written consent of the Authorised Officer.

HEALTH AND SAFETY 11.0

Nomination of Safety Officer 11.1

The Contractor shall prior to the Commencement date give written notice to the Authorised Officer of the identity, address and telephone number of the person he proposes to be responsible for health and safety matters. Such person may be the same as the Contract Manager. The Contractor shall forthwith give notice to the Authorised Officer of the change in any of these details.

Authority's Safety Officer 11.2

Whilst on the Authority's Premises the Contractor shall ensure that his employees comply with the lawful and reasonable requirements of the Authority's Safety Officer.

Compliance with Health and Safety Legislation 11.3

The Contractor shall comply with the Health and Safety at Work etc Act 1974 and with all legislation which relates to health and safety in the provision of the Service and the construction of the New Incinerator the Clinical Waste Incinerator and the New Facilities.

Suspension of the Contract 11.4

The Authorised Officer shall be empowered to suspend the provision The Authorised Utricer shall be empowered to suspend the provision of the Service or part thereof or the performance of the Contract in the event of non-compliance by the Contractor with this Condition is legal duties in health and safety matters. The Contractor shall not resume provision of the Service or such part or the performance of the Contract as appropriate until the Authorised Officer is satisfied that the non-compliance has been rectified. In respect of any such period of suspension the Contractor shall be deemed for the purpose of Condition 9.1 to have failed to provide the Service (or the relevant part thereof) or to have failed to perform the Contract to perform the Contract to the con perform the Concrect as appropriate.

Contractor's Safety Policy 11.5

The Contractor shall submit his Safety Policy with his Tender which shall deal adequately with the following health and safety issues, namely: -

- Responsibilities of different grades of the Contractor's 11.5.1 Employees;
- Safety procedures including: -11.5.2
 - Protective clothing and equipment; . 1
 - First Aid;
 - Accidents and dangerous occurrences; . 2
 - Protection of visitors; and . 3 .4
 - Safe methods of working. . 5

AGENCY 12.0

Contractor is not Servant/Agent of Authority 12.1

Neither the Contractor nor the Contractor's Employees shall in any circumstances hold himself or themselves out as being, the servant or agent of the Authority.

Contractor not to Contract on Behalf of the Authority 12.2

Neither the Contractor nor the Contractor's Employees shall in any circumstances hold himself or themselves out as being, authorised to enter into any contract on behalf of the Authority, or in any other way to bind the Authority to the performance, variation, release or discharge of any obligation.

Contractor not to Represent Power to Waive Regulations 12.3

Neither the Contractor nor the Contractor's Employees shall in any circumstances hold himself or themselves out as having, the power to make, vary, discharge or waive any bye-law or regulation of any kind.

EQUALITY OF OPPORTUNITY 13.0

Contractor's Policy 13.1

The Contractor shall adopt a policy to comply with its statutory obligations under the Race Relations Act 1976 and icnordingly will not treat one group of people less favourably than others because of their colour, race, nationality or ethnic origin in relation to decisions to recruit, train or promote employees.

Finding of Unlawful Racial Discrimination

In the event of any finding of unlawful racial discrimination being made against the Contractor in the last three years by any Court or

industrial tribunal, or of an adverse finding in any formal investigation by the Commission for Racial Equality over the same period, the Contractor period, the Contractor shall take appropriate steps to prevent repetition of the unlawful discrimination.

13.3 Contractor's Action

The Contractor shall, on request provide the Authority with details of any steps taken under Condition 13.2.

Publication of Policy 13.4

The Contractor shall set out its policy on race relations;

- In instructions to those concerned with recruitment, 13.4.1 training, and promotion;
- In documents available to employees, recognised trade unions or other representative groups of employees; 13.4.2
- In recruitment advertisements or other litersture. 13.4.3

Provision of Examples to the Authority

The Contractor shall, on request, provide the Authority with examples of the instructions and other documents, recruitment advertisements or other literature referred to in Condition 13.4.

CRE's Code of Practice 13.6

The Contractor shall observe as far as possible the Commission for Racial Equality's Code of Practice in employment as approved by Parliament in 1983, which gives practical guidance to employers and others in the elimination of racial discrimination and the promotion of equality of opportunity in employment, including the steps that can be taken to encourage members of the ethnic minorities to apply for jobs or take up training opportunities.

Provision of Information 13.7

The Contractor shall provide such information as the Authority may reasonably request for the purpose of assessing the Contractor's compliance with Condition 13.6.

14.0

Neither the Contractor nor the Contractor's Employees shall solicit GRATUITIES or accept any gratuity, tip or any other form of schev taking or reward, collection, or charge for any part of the Service or the performance of the Contract other than charges proceed by The Authorised Officer in accordance with the commissions of the Contract.

Condition 15

13. Condition 15.1 shall be amended by the insertion at the end of that Condition of the following words:

"provided always that:

- 15.1.1 the Authority shall take all reasonable steps to mitigate any costs or liability in respect of which it may seek an indemnity under this Condition 15.1; and
- 15.1.2 the Authority shall not admit any liability nor take steps to compromise or settle any claim in respect of which it would seek to be indemnified under this Condition 15.1 without the prior written consent of the Contractor (such consent not to be unreasonably withheld or delayed) and shall permit the Contractor to take over and conduct in the name of the Authority the defence or settlement of any such claim".

LIABILITY AND INDEMNITY 15.0

Indemnity to Authority Against Claims 15.1

Subject to the provisions of this Condition 15 the Contractor shall be liable for be liable for and shall fully and promptly indemnify the Authority, its officers, employees, agents and other contractors against all liabilities, fines, penalties, damages, costs, losses, claims, demands and proceedings whatsoever whether in contract, tort, under statute or otherwise, directly arising out of, or in the course of, or in connection with the breach by the Contractor of any provision of the Contract including without limitation damage to or loss of property whether real or personal.

(Amended) Indemnity is Without Prejudice to Authority's Remedies 15.2

The Contractor's liability and indemnity to the Authority arising under Condition 15 shall be without prejudice to any other right or remedy available to the Authority and in particular shall not prejudice in any way the ability of the Authority to enforce any guarantee given at any time and in any manner whatsoever.

Limitation of Authority's Liability

The Authority shall not under any circumstances be liable to the Contractor whether in contract, tort, or otherwise, for any loss damage or injury however caused or arising out of, or in the course of, or in connection with, the provision by the Contractor of the Service or the construction of the New Incinerator the Clinical Waste Incinerator or the New Facilities or the use or occupation by the Contractor or the Contractor's Employees of the Authority's Premises except in relation to:-

- any failure by the Authority or the Authorised Officer to perform its or his obligations under this Contract; and 15.3.1
- any deliberate or negligent act or omission of the Authority or any of its employees and in particular without prejudice to the generality of the foregoing any negligent 15.3.2 act or omission giving rise to death or personal injury.

Limited Liability for Consequential Loss 15.4

The Authority and, subject to Condition 15.6, the Contractor shall not be liable to each other for any indirect or consequential loss whatever and however caused.

Amount of Authority's Liability 15.5

Any damages payable by the Authority as a result of its failure to perform its obligations under Condition 7.; shail be limited to the amounts which would have been pavable by the Authority if the Authority had properly performed those obligations.

15.6 Waste Collection Contracts

The Contractor shall co-operate fully with any Waste Collection Contractor appointed by the Authority and if the Contractor is at

AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998



Condition 15.7 shall be amended: 14.

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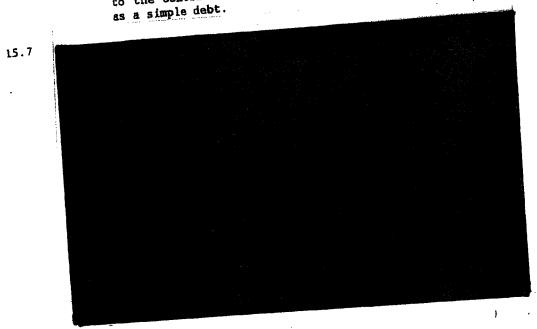
by the insertion after the word "hereunder" in line 2 thereof of the (a) following words:

"or thereunder or by way of indemnity"; and

by the deletion of the word "breach" and "breaches" throughout the Condition (save in line 2 thereof) and their replacement by the words (b) "occurrence" and "occurrences", respectively.

any time during the Contract Period a Waste Collection Contractor then the following provides then the following provisions shall have effect:-

- The Contractor shall discharge his obligations under the Waste Collection Contract so that the Authority does not incur any liability or suffer any loss pursuant to the Contract which the Authority would not have incurred or suffered but for the failure to discharge such obligations;
- If the Contractor shall fail to discharge such obligations under Condition 15.6.1 then the Authorised Officer shall ascertain and certify the amount of the liability or loss which may be deducted by the Authority from any payment due to the Contract of the C 15.6.2 to the Contractor under the Contract or may be recoverable as a simple debt.



INSURANCE 16.0

Public Liability Insurance 16.1

Without prejudice to its liability to indemnify the Authority under Condition 15 the Contractor shall throughout the Contract Period insure with an insurance company of repute in the United Kingdom against the injury to, or death of, any person and loss of, or damage to, any property arising out of or in consequent of the provision of the Service the construction of the New Incinerator the Clinical Waste Incinerator or the New Facilities by the Contractor his agents or employees and against all actions, claims, demands, nis agents or employees and against all actions, claims, demands, proceedings, damages, costs, charges and expenses in respect thereof. Such insurance cover shall not be less than five million thereof. Such insurance incident and the Contractor's insurance pounds in respect of any one incident and the Contractor's insurance pounds in respect of any one incident and the Contractor's insurance pounds in respect of any one incident and the Contractor's insurance cover shall be contracted to the Authority of the Contractor's pounds in respect of any one incident and the Contractor's insurance cover shall be contracted to the contractor's insurance cover shall be contracted to the cover shall be covered to the cover shall be contracted to the covered to the co pounds in respect of any one incluent and the contractor's insurance policy effecting such cover shall have the interest of the Authority - noted thereon.

16.2

Insurance in respect of personal injury or death of any person Insurance of Employees arising under a contract of service with the Contractor and arising

The state of the s out of an incident occurring during the course of such person's employment shall be maintained by the Contractor and shall comply with the Employer's Liability (Compulsory Insurance) Act 1969 and any statutory orders made thereunder.

16.3 Production of Policies

The Contractor shall within 7 days of the Commencement date and thereafter upon request, produce to the Authorised Officer a copy of the policies effecting the insurances referred to in Condition 16.1 together with documentary evidence that such insurances are properly maintained.

16.4 Default in Providing Insurance

Should the Contractor make default in insuring or in continuing to insure as provided in Condition 16.1 the Authority may itself provide such insurance and may charge the cost of such insurance together with an administration charge to the Contractor either by way of deduction from amounts payable by the Authority to the Contractor under the terms of the Contract or by recovering the same as a debt due to the Authority from the Contractor.

MATERIALS 17.0

Contractor to Provide 17.1

The Contractor shall provide all materials necessary for the provision of the Service.

17.2

The Contractor shall prepare and use the Contractor's Materials in a Preparation and Use safe manner and to the reasonable satisfaction of the Authorised Officer.

17.3

The Contractor shall maintain an adequate supply of Contractor's Stockholding Materials for the performance of the Service.

Patent Rights and Royalties 17.4

The Contractor shall not in connection with the Contract use manufacture supply or deliver any Contractor's Materials the use manufacture supply or delivery of which would be an infringement of any patent or patent rights.

18.0

CONTRACTOR'S EQUIPMENT The Contractor shall provide and maintain sufficient Contractor's Equipment as shall be necessary for the proper performance of the Service.

INDUSTRIAL ACTION 19.0

Contractor's Workforce 19.1

The Contract Manager shall inform the Authorised Officer as soon as he becomes aware of any threatened or actual industrial action by the Contractor's workforce which may substantially affect the performance of the Service.

Authority's Workforce 19.2

In the event of industrial action by the Authority's workforce the Contractor shall use his reasonable endeavours to continue to provide the Service.

TRADE WASTE COLLECTION CONTRACTS 20.0

Interpretation 20.1

In Condition 20:-

- "Trade Waste Collection Contract" means between the Authority and an occupier and/or an owner of 20.1.1 premises for the collection of Commercial Industrial or Special Waste from those premises
- "Trade Customer" means an occupier and/or owner of premises the subject of a Trade Waste Collection Contract 20.1.2 in existence on the Commencement Date.
- "Confidential Information" means any and all information which is now or at any time hereafter in the possession of 20.1.3 the Authority and which relates to Trade Waste Collection Contracts including without limitation data, know-how, processes, specifications, software programs, names and addresses of Trade Customers and any other material bearing or incorporating any information relating to the Trade Waste Collection Contracts.

Non-Disclosure 20.2

The Contractor hereby undertakes to maintain confidential all Confidential Information that it may acquire in any manner and it will accordingly not directly or indirectly use or disclose any of the Confidential Information in whole or in part save for the purposes of and in accordance with this Contract except that this shall not apply to any Confidential Information which:

- the Contractor can prove by documentary evidence produced to the Authority within 28 days of disclosure that such Confidential Information was already in the possession of the Contractor and at its free disposal before the disclosure hereunder to the Contractor:
- is hereafter disclosed to the Contractor without any obligations of confidence by a third party who has not 20.2.2 derived it directly or indirectly from the Authority in such a manner that he is under an obligation of confidence in respect of such information:
- is or becomes generally available to the public in printed publications in general circulation in the United Kingdom 20.2.3 through no act or default on the part of the Contractor or

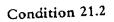
the Contractor's agents or the Contractor's Employees PROVIDED THAT information shall not be deemed to be generally available to the public by reason only that it is known to only a few of those people to whom it might be of commercial interest, and a combination of two or more portions of the Confidential Information shall not be deemed to be generally available to the public by reason only of each separate portion being so available.

20.3 Competition

Confidentiality measures 20.4

To secure the confidentiality attaching to the Confidential Information, the Contractor shall:

- keep separate all Confidential Information and all information generated by the Contractor based thereon from 20.4.1 all documents and other records of the Contractor;
- keep all documents and any other material bearing or incorporating any of the Confidential Information at the usual place of business of the Contractor in the United 20.4.2
- not use, reproduce, transform, or store any of the Confidential Information in an externally accessible computer or electronic information retrieval system or 20.4.3 transmit it in any form or by any means whatsoever outside of its usual place of business;
- allow access to the Confidential Information exclusively to those of the Contractor's Employees who have reasonable need to see and use it for the purposes of performing the 20.4.4 Service and shall inform each of such Contractor's Employees of the confidential nature of the Confidential Information and of the obligations on the Contractor in respect thereof;
- wherever reasonably practicable obtain a written statement from each of the Contractor's Employees having access to the Confidential Information undertaking to maintain the 20.4.5 same confidential, and shall take such steps as may be reasonably desirable to enforce such obligations;
 - make copies of the Confidential Information only to the extent that the same is strictly required for the purposes of the performance of the Service by the Contractor; 20.4.6
 - on request of the Authority made it any time shall deliver up to the Authority all documents and other material in the possession custody or control of the Contractor that bear 20.4.7 or incorporate any part of the Confidential Information.



15. Condition 21.2.2 shall be amended by the insertion at the end of that Condition of the following words:

"No Gate Fee shall be paid for Waste delivered by members of the public to the Authority's Premises and removed from the Authority's Premises by the Authority or its agents in accordance with the Specification."

CERTIFICATES AND PAYMENTS 21.0

Submission of Account and Issue of Certificate 21.1

- At intervals of four weeks, the Contractor shall submit to the Authorised Officer an account in respect of work forming part of the Service which has been completed by the Contractor in accordance with the Contract during the 21.1.1 immediately preceding period of four weeks. account shall be in respect of the period (which shall be deemed to be a four weekly period for the purposes of these Conditions of Contract) commencing on the Commencement Date and ending on the first Thursday thereafter which enables the remainder of the first Year of the Contract Period to be divided into four weekly periods
 - If the Authorised Officer shall require that an account submitted by the Contractor shall be contained in 21.1.2 the Contractor shall comply requirement. In particular the Contractor shall submit prescribed transfer notes duly signed in accordance Condition 7.3.4 which shall relate to the rel period. The Authorised Officer may vary his require from time to time.
 - If the Authorised Officer shall require an explan and/or further particulars of the content of Contractor's account submitted under Condition 2. the Contractor shall supply such explanation and/or further 21.1.3 particulars forthwith.
 - Within twenty one days of receipt of the account the Authorised Officer shall issue a certificate to the Authority certifying the amount due to the Contractor for the Authority having regard to any adjustments pursuant to 21.1.4 those Conditions and any sum to be added by way of Value
 - Within twenty one days of the issue of a certificate under Condition 21.1.4 the Authority will pay the net sum certified and due to the Contractor. 21.1.5

Ascertainment of Amounts Due in Certificates 21.2

- The Authorised Officer shall ascertain the sum to be certified and due under Condition 21.1.4 in accordance with the principles set out in this Condition 21.2 21.2.1
- The sum certified shall be the aggregate of the Gate Fees and the Management Fee increased or decreased on account of the provisions for adjustment and fluctuations or decreased on account of the provisions for NFFO Subsidy referred to in Conditions 23 and 24 or otherwise adjusted by reference to Conditions 21A and 213 or any other provisions of this Contract together with my sum to be added by way of Value Added Tax (Amercloss)

- The sum certified shall include an amount equal to a fair walkering. valuation of the cost to the Contractor of the keeping, 21.2.3 treatment and disposal of any Difficult Waste in accordance with Condition 7.1.5.
- For the avoidance of doubt certificates are cumulative and therefore in each certificate the Authorised Officer shall 21.2.4 state the gross sum certified to date as well as the net sums that are certified and payable and in particular:
 - It is the net sums that are certified that shall be payable by the Authority in accordance with Condition 21.1.5;
 - The net sum certified shall represent the gross sum certified less the gross sum certified in the . 2 immediately preceding certificate;
 - The Authorised Officer in certifying the gross sum may make adjustments to sums previously included in any earlier certificate.
 - In determing which of the Gate Fees shall apply as set out in the Tender Prices Schedule as set out in the Tender Summary in Part XIII of the Tender Document then for the 21.2.5 purposes of the 4 weekly account:-
 - Each figure in Table 1 in Condition 7.1 and the figure of 400,000 in that Schedule shall be divided by 13;
 - The quotient shall be absted pro rate in respect of any period of force majeure or inability or failure to accept Waste in accordance with Condition 5.1; and
 - The rates in the Tender Prices Schedule shall to applied to such abated quotient.

PROVIDED THAT: -

Following the conclusion of each Year the Authorised Officer shall recaiculate the Gate Fee Maving regard to Table 1 and any abatement for periods of force majeure or inability or failure to accept Waste in accordance with Condition 5.1 in that year and make any consequential directments. any consequential adjustments in his next pertificate.

LOSS AND EXPENSE CAUSED BY NEW LEGISLATION 21A

Contractor's Claims 21A.1

If the Contractor makes written application to the Authority stating that he has incurred or is likely to incur reasonably and necessarily direct loss and/or expense in the performance of the Service because of New Legislation for which he would not be reimbursed by a payment under any other provision in this Contract the amount of such loss and/or expense if of a recurring nature shall be added to each sum certified on account of the

- 16. Condition 21.2.5 shall be amended as follows:
- (a) the text of Condition 21.2.5.2 and Condition 21.2.5.3 shall be deleted in their entirety; and
- (b) Condition 21.2.5.4 shall be re-numbered Condition 21.2.5.2 and its text shall be deleted in its entirety and replaced by the following words:

"Following the conclusion of each Quarter and each Year (each a "Relevant Period") the Authorised Officer shall determine the amount (the "Minimum Delivery Payment") of Gate Fees that would have been payable by the Authority to the Contractor hereunder in respect of such Relevant Period if the amount of Waste delivered to the Contractor in such Relevant Period had been equal to the Minimum Waste Supply required to be delivered to the Contractor in such Relevant Period as set out in Table 1 or Table 1A (as the case may be) set out in Condition 7.1.

If the Minimum Delivery Payment in respect of the Relevant Period exceeds the Gate Fees actually paid or payable to the Contractor in respect of the Relevant Period the Authorised Officer shall adjust the next certificate issued by him pursuant to Condition 21.1.4 to include an additional amount to be paid by the Authority to the Contractor equal to such excess provided that if, following the conclusion of any Year, the Authorised Officer has made any such adjustment in respect of any Quarter in that Year (as determined in accordance with Table 1A) but there is no such excess in respect of that Year (as determined in accordance with Table 1) then a further adjustment shall be made by the Authorised Officer to the next certificate issued by him pursuant to Condition 21.1.4 deducting therefrom an amount equal to any such excess that has been paid by the Authority to the Contractor in respect of any Quarter in that Year."

the Contractor shall mitigate any loss and/or 21A.1.6 expense

Authority's Discretion 21A.2

Any amount ascertained under Condition 21A may at the discretion of the Authority be divided into equal parts to be added to the sums to be certified by the Authorised Officer under Condition 21.2 over successive periods not exceeding ten years or (if greater) the remainder of the Contract Period together with sums equivalent to interest on the amount remaining to be paid from time to time at an annual rate equal to Lloyds Bank base rate (or in its absence the nearest equivalent rate) plus 12%

WINDFALL GAINS CAUSED BY CHANGE IN LAW 218

If the Authority makes written application to the Contractor stating that in the reasonable opinion of the Authority the Contractor has secured or is likely to secure direct gains in the performance of the Service in excess of a fair return on the capital invested by the Contractor in the performance of the Service because of New legislation the amount of such gain actually secured shall be deducted from one or more of the sums certified by the Authorised Officer under Condition 21.2 as may be appropriate provided always that:

- the Authority's application shall be made as soon as reasonably practicable after it has become or should 21B.1. reasonably have become apparent to the Authority that the Contractor has secured or is likely to secure such gain
- the Authority shall in support of its application provide upon request such information and details as are available 21B.1. to it

VALUE ADDED TAX 22.0

Figures VAT exclusive 22.1

All figures in the Contract are exclusive of Value Added Tax ("TAV").

Payment of VAT 22.2

The Authority shall pay to the Contractor in accordance with Condition 21 any VAT due to Contractor for the performance of the Contract.

22.3

The Contractor shall state in each account submitted under Condition 21.1.1 his assessment ("the Assessment") as to:-

- 22.3.1 which part is exempt from VAT;
- 22.3.2 which part is zero rated for VAT:

what part has any other rate specifying the exact rate 22.3.3 chargeable.

Calculation of VAT by Reference to Assessment

Upon receipt of the Contractor's account containing the statement required by Condition 22.3 unless the Authorised Officer has reasonable objections to the assessment the Authorised Officer shall calculate the amount due to the Contractor in accordance with Condition 21.1.4.

Objection to Assessment 22.5

If the Authorised Officer has reasonable grounds for objection to the Assessment he shall within 7 days of the receipt of the Assessment notify the Contractor setting out those grounds.

Withdrawal or Confirmation of Assessment 22.6

The Contractor shall within 7 days of the receipt of the Authorised Officer's notice of objection under Condition 22.5 state either that he withdraws the Assessment in which case the Authorised Officer is released from his obligation under Condition 22.4 or that he confirms the Assessment. If the Contractor states that he withdraws the Assessment the Contractor shall promptly issue a revised Assessment to which the provisions of this Condition 22 shall apply.

Issue of receipt 22.7

Upon receipt by the Contractor of any payment made by the Authority under Condition 21, being a payment including VAT, the Contractor shall forthwith issue to the Authority an authenticated receipt in such form as may be required by the Value Added Tax Act 1983 ("the Act") or by regulations made thereunder.

Challenge by Authority 22.8

If the Authority disagrees with the Contractor's statement under Condition 22.6 it may require the Contractor to obtain the decision of the Commissioner of Customs and Excise ("the Commissioners") on the VAT properly chargeable for the performance of the Contract and the Contractor shall forthwith request the Commissioners for such decision.

Appeal by Authority 22.9

If the Authority disagrees with the decision of the Commissioners under Condition 22.8 then provided that the Authority indemnifies the Contractor against all costs and expenses, the Contractor shall in accordance with the instructions of the Authority make an appeal to the Value Added Tax Tribunal ("VAT Tribunal" in accordance with Section 40 of the Act. The Contractor shall account to the Authority for any costs awarded in his favour by the VAT Tribunal.

22.10 Deposit

If the Contractor is required to deposit a sum of money equivalent to the tax claimed and anthority to the tax claimed under Section 40(3)(a) of the Act, the Authority shall pay an equivalent sum to the Contractor.

22.11 Action on Adjudication

Within 28 days of the adjudication by the VAT Tribunal (or the date of the decision of the Commissioner if the Authority does not request the Contractor to refer such decision to appeal) the Authority or the Contractor, as the case may be, shall pay or refund to the other in contractor, as the case may be. to the other in accordance with such adjudication any VAT underpaid or overpaid as the case may be in accordance with Condition 22.

22.12 Effect of Failure to Provide a Receipt

Notwithstanding any provisions to the contrary in the Conditions the Authority shall not be obliged to make any further payment to the Contractor under the Contract if the Contractor is in default in providing the receipt under Condition 22.7 PROVIDED THAT Condition 22.12 shall only apply if:-

- 22.12.1 the Authority can show that it requires such receipt to validate any claim for credit for tax paid or payable under Condition 22 which the Authority is entitled to make to the Commissioners; and
- 22.12.2 the Authority has paid tax in accordance with the assessment under Condition 22.4 unless the Authorised Officer has sustained a reasonable objection under Condition 22.5.

23.0

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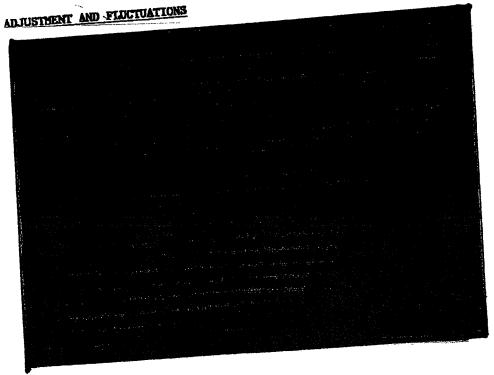
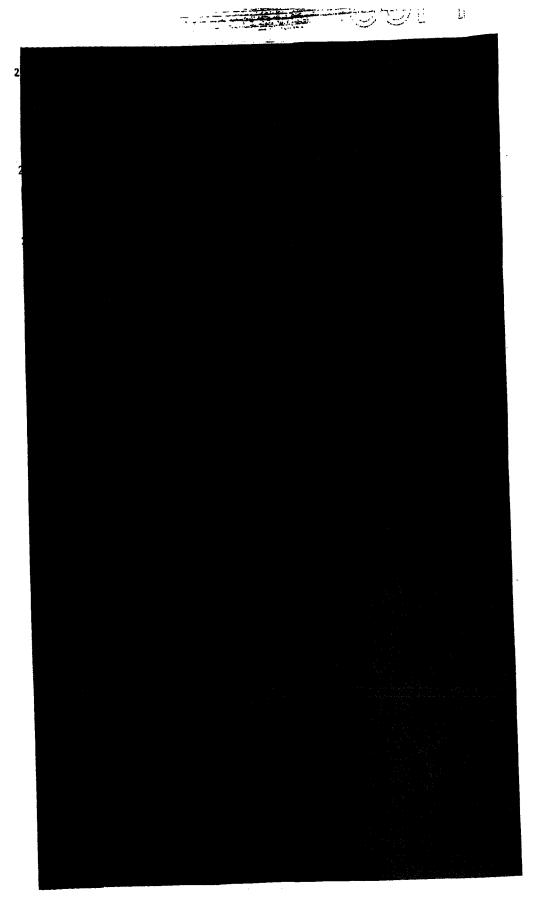
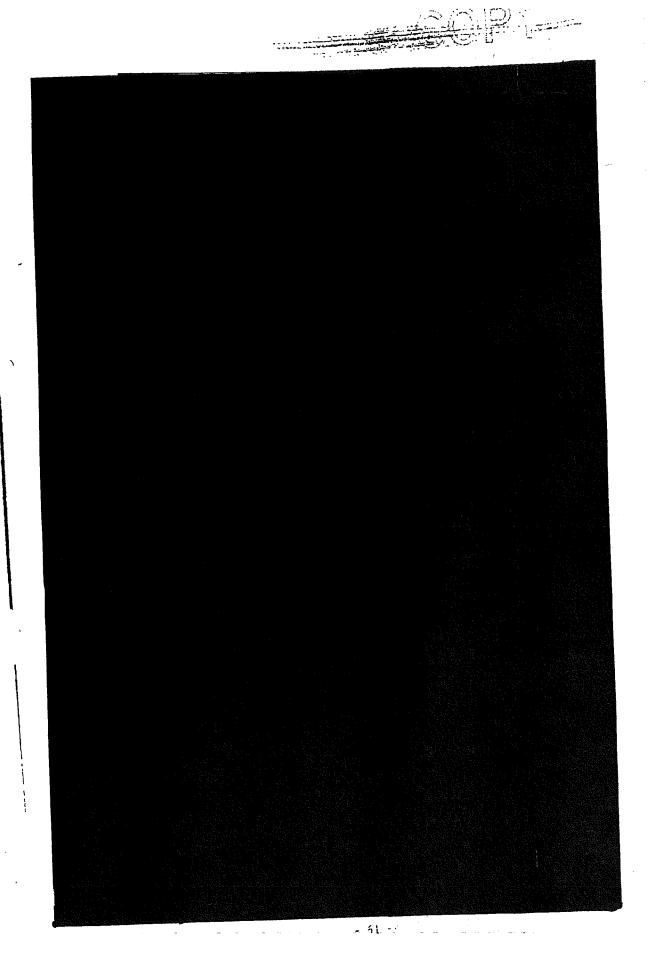
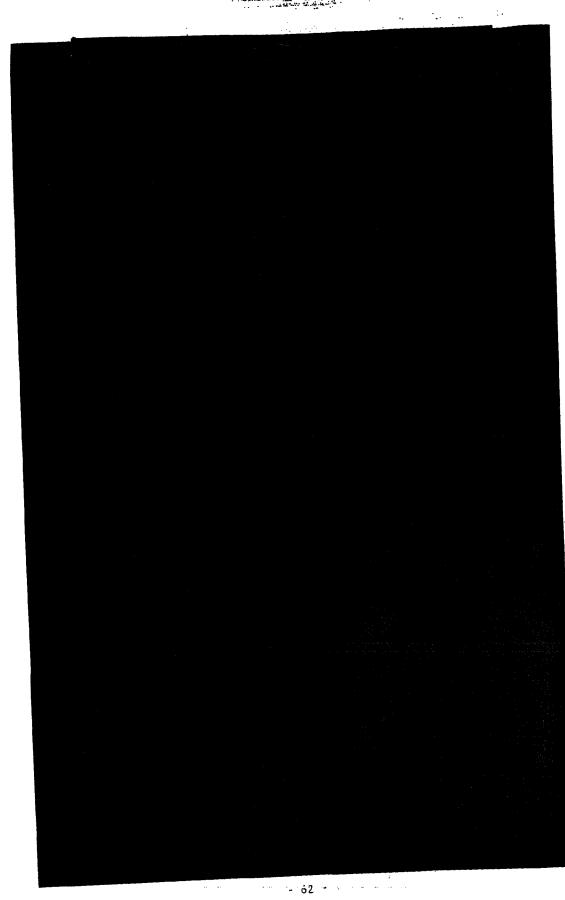


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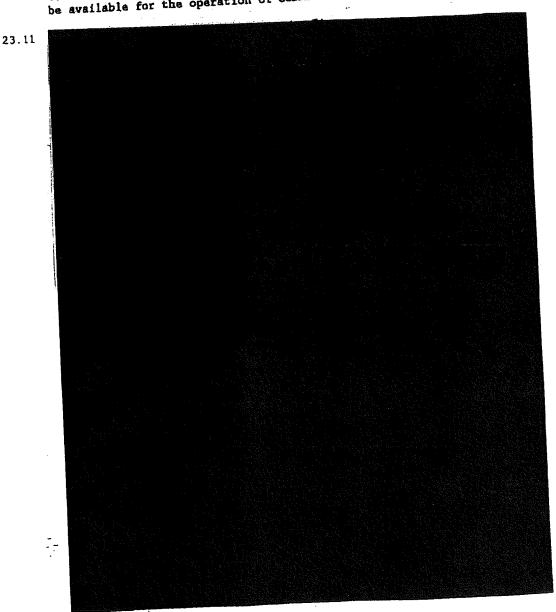
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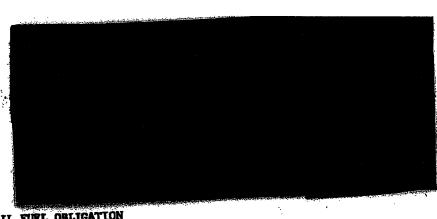
the receipt of tenders referred to in the Tender Document had been retained.

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23.10 Arbitration

In the event of it becoming impossible by reason of any change after the date hereof in the method used to compile any of the Indices in Condition 23.2 or for any other reason whatsoever to calculate the increase or decrease in the amounts payable under Condition 23 by reference to the Index or if any dispute or question whatsoever shall arise between the parties hereto with respect to the construction or effect of this Condition 23 it shall be determined by an Arbitrator appointed in accordance with Condition 31 who shall have full power to determine on such dates as he shall deem apposite what would have been the increase in the Index had it continued on the original basis an given the information assumed to be available for the operation of Condition 23.



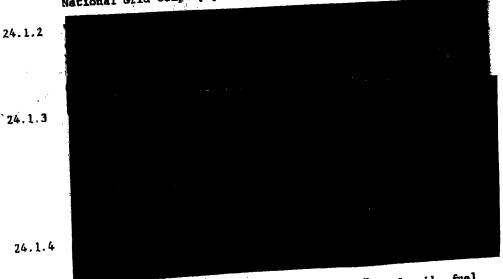


NON FOSSIL FURL OBLIGATION 24.0

Definitions 24.1

For the purposes of Condition 24

"Pool Purchase Price" has the meaning given in Schedule 9 of the Pooling and Settlement Agreement dated 30 March 1990 entered into between inter alia the founder generators named in it the founder distributors named in it and the 24.1.1 National Grid Company plc.



"public electricity supplier" and "non-fossil fuel generating station" have the same meanings as in the 24.1.5 Electricity Act 1989.

NFFO Subsidy for the New Incinerator 24.2

The Contractor shall use its reasonable endeavours to enter into a contract for differences with a public electricity supplier with respect to electricity generated via the New Incinerator and its best endeavours to secure NFFO subsidy for such electricity for the period such subsidy is offered to Waste to electricity generation and shall inform the Authority on being so requested from time to time of its endeavours to do so

24.3

The Contractor shall give credit to the Authority for the tendered percentage of NFFO subsidy federated in respect of electricity generated in every period of four weeks during the Contract Period Commencing on the Commencing of Commencing on the Commencement Date by way of a deduction from the sum otherwise payable to the Contractor arising from the account submitted to the Authority for that period of four weeks.

ASSIGNMENT AND SUB-CONTRACTING 25.0

Assignment by the Authority 25.1

The Authority shall not be entitled to assign the benefit of the Contract or any part thereof without the prior written consent of the Contractor such consent not to be unreasonably withheld or delayed and it shall be a reasonable ground for withholding consent if the Contractor reasonably believes the cost to the Contractor of performing the service may be increased by reason of such assignment.

Assignment by the Contractor 25.2

The Contractor shall not

- assign the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof except by way of an assignment by way of security of the whole benefit of the Contract in connection with the financing of the construction of the New Incinerator the Clinical Waste Incinerator and the New Facilities to a Funder such assignment being made subject to the provisions of Condition 25.2.2 and otherwise in a form approved by the Authority such approval not to be unreasonably withheld or
 - Notwithstanding that a Funder may have become entitled as against the Contractor to enforce the security constituted by an assignment permitted under Condition 25.2.1 neither 25.2.2 the Funder nor any receiver appointed by the Funder in the exercise of its powers under such an assignment shall be entitled as against the Authority to assign the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof other than by means of:
 - a reassignment of the whole benefit of the Contract to the Contractor free from all claims 25.2.2.1 of the Funder in respect of it;
 - an assignment of the whole benefit of the Contract (otherwise than by way of security) effected on or after (but not before) the New 25,2.2.2 Incinerator Commencement Date in favour of a person of sound financial standing with experience of the keeping, treatment and disposal of waste by incineration previously approved in writing by the Authority (such approval not to be unreasonably withheld or delayed where such a person gives a direct

warranty and undertaking to the Authority in a form reasonably required by the Authority for the future performance of the obligations of the Contractor under this Contract);

Sub-Contracting by the Contractor

- 25.3.1 The Contractor shall not sub-contract:
 - the construction of the New Incinerator, the Clinical Waste Incinerator or the New 25.3.1.1 Facilities except to an engineering contractor named in the Tender Document or such other engineering contractor approved by the Authorised Officer (such approval not to be unreasonably withheld or delayed) subject to the engineering sub-contractor providing a direct warranty and undertaking to the Authority for the proper performance of that part of the Contract so sub-contracted;
 - the management or operation of the Authority's Premises or the transport of waste 25.3.1.2 between the Authority's Premises without the previous written consent of the Authorised Officer (such consent not to be unreasonably withheld or delayed where such sub-contracting would not prejudice the performance of the Service).
 - No sub-contract shall relieve the Contractor from any liability or obligation under the Contract and the Contractor shall be responsible for the acts, defaults or 25.3.2 neglect of any sub-contractor or his agents, or employees in all respects as if they were the acts, defaults or neglect of the Contractor or his agents, or employees.
 - The Authorised Officer may require as a condition of giving any consent to a sub-contract a direct warranty and 25.3.3 undertaking from the sub-contractor to the Authority concerning the performance of that part of the Contract to be sub-contracted in all respects.

TERMINATION 26.0

Prevention of Corruption 26.1

The Authority shall be entitled to terminate the Contract and to recover from the Contractor the amount of any loss resulting from such termination if:

- The Contractor shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for:
 - doing or forbearing to do; or
 - having done or forborne to do:

any action in relation to:-

- the obtaining or execution of the Contract or any other contract with the Authority; or
- for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Authority; or
- if the like acts shall have been done by any person employed by him or acting on his behalf (whether without or with the knowledge of the Contractor); or 26.1.2
- if in relation to any contract with the Authority the Contractor or any person employed by him or acting on his 26.1.3 behalf shall have:
 - committed any offence under the Prevention of Corruption Acts 1889 to 1916; or
 - given any fee or reward the receipt of which is an offence under the Local Government Act 1972. . 2

Grounds for Termination - Breach & Insolvency 26.2

- commits a breach of any of its obligations under the Contract which breach is capable of a remedy and fails to If the Contractor:comply with a written notice served on the Contractor and 26.2.1 any Funder entitled to the benefit of an assignment of the Contract permitted under Condition 25.2.1 of whom the Authority has notice specifying such breach and requiring the same to be remedied within 28 days or such longer period as shall be reasonable.
 - commits a fundamental breach of its obligations under the contract which breach is not capable of remedy and 7 days shall have expired since the Authority shall have given 26.2.2 notice of such breach to the Contractor and any Funder entitled to the benefit of an assignment of the Contract permitted under Condition 25.2.1 of whom the Authority, has notice.
 - fails to perform a substantial part of the Service for a continuous period of 28 days otherwise than on account of force majeure and fails to comply with a written notice served on the Contractor and any Funder entitled to the 26.2.3 benefit of an assignment of the whole of the Contract permitted under Condition 25.2.1 of whom the Authority has notice specifying such non-performance and requiring resumption of performance within 7 days of the end of such 28 days continuous period above referred to.
 - causes permits or suffers the New Incinerator to be shut down in its entirety for any period of 60 consecutive days or a period of 70 days in any 12 month perion following its 26.2.4 completion otherwise than on account of force majeure: and/or

- 26.2.5 has a winding-up order made or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding-up passed; and/or
- 26.2.6 has a provisional liquidator appointed;

then the Authority may, without prejudice to any other right or remedy under the Contract, terminate the Contract forthwith by a written notice to the Contractor:

PROVIDED THAT the Authority shall not terminate the Contract if and so long as the Funder entitled to the benefit of an assignment of the whole of the Contract permitted under Condition 25.2.1 or a receiver on its behalf procures that the obligations of the Contractor are complied with in all respects but this proviso shall contractor are complied with in all respects but this proviso shall in no way affect the subsequent operation of this Condition 26.2 which in such circumstances shall have effect as if the notices which in such circumstances shall have effect as if the notices referred to in it were to be served on the Funder (and where applicable its receiver) and not the Contractor.

26.3 Grounds for Termination - New Legislation

- 26.3.1 If the Authority declines to consent to the Contractor's proposals for Works in accordance with Condition 21A.1.3 then either party may by 12 months' notice to the other party within 2 weeks of receipt of the Authority's notice declining consent to the Contractor's proposals declining consent to the Contractor of the any rights or terminate the Contract without prejudice to any rights or remedies which either party may have against the other arising out of a prior breach of the terms of the Contract
- 26.3.2 for the avoidance of doubt neither party may terminate the Contract on account of the Authority consenting to the Works proposed by the Contractor with modifications in accordance with Condition 21A.1.4

26.4 Consequences of Termination under Condition 26.1 or 26.2

If the Contract is terminated under Condition 26.1 or under Condition 26.2 then the Authority shall:

- 26.4.1 cease to be under any obligation to make further payment to the Contractor under the Contract until the Authority's costs, loss and/or damage resulting from or arising out of the cancellation and/or termination of the Contract shall have been calculated and provided such calculation shows a sum or sums due to the Contractor;
- De entitled to exercise a lien over any of the Contractor's Equipment or the Contractor's Materials for any sum due hereunder or otherwise due from the Contractor to the Authority;
- 26.4.3 be entitled to employ and pay other persons to perform the Contract;

AMENDMENT AGREEMENT RELATING TO WASTE DISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998

Condition 26

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18. Condition 26.3.1 shall be amended by the insertion after the words "Condition 21A.1.3" in line 2 thereof of the following words:

"or the Contractor has notified the Authority that it does not intend to exercise its option under Condition 21A.1.3 or has failed to notify the Authority within the time specified in Condition 21A.1.3 that it either does or does not intend to exercise its option".

- be entitled to deduct from any sum or sums which are due from the Authority to the Contractor under this Contract or any other contract between the Authority and the Contractor or to recover the same from the Contractor as a debt, any loss or damage to the Authority resulting from or arising out of the termination and/or cancellation of the Contract. Such loss or damage shall include the reasonable cost to the Authority of the time spent by its officers in terminating and/or cancelling the Contract and in making alternative arrangements for the performance of the Contract or any part thereof;
- when the total costs, loss and/or damage resulting from or arising out of the termination and/or cancellation of the Contract has been calculated and deducted so far as practicable from any sum or sums which are due to the Contractor, pay to the Contractor any balance shown as due to the Contract is cancelled and/or terminated otherwise than at the end of a complete month the Contractor shall be entitled to receive a payment in respect of the part of the Contract performed during such part of the incomplete month;
- be entitled to require the Contractor to assign to the Authority (or any person named by the Authority) the benefit of any agreement for the supply of any Contractor's Materials or the leasing or hiring of any Contractor's Equipment which the Contractor may have entered into for the purposes of performing its obligations under this Contract subject to the Authority undertaking responsibility for any outstanding and future liabilities of the Contractor under such an agreement;
- be entitled to purchase take delivery of and remove any Contractor's Equipment or any Contractor's Materials which are not leased or hired and which are located at the Authority's Premises for a price to be determined and paid for and with the benefit of any guarantees and warranties in accordance with the procedure set out in respect of Contractor Owned Fleet Items in Condition 32.3which shall apply mutatis mutandis to any such Contractor's Equipment or Contractor's Materials;
- 26.4.8 be entitled to serve a transfer notice under Condition 32.3.2 on the Contractor in respect of the Contractor Owned Fleet Items; and
- 26.4.9 be entitled to exercise its rights under any Vehicle Leasing Agreement in respect of any Leased Contractor Fleet Items as defined by reference to Condition 32.5;

26.5 Consequences of termination under Condition 26.3

If the Contract shall have been terminated under Condition 15.3 the same consequences shall follow as if the Contract had been terminated under Condition 6.1 save that the Authority and the Contractor shall as soon as may be practicable after the termination of the Contract agree, and in the event of failure to agree, and arbitrator appointed in accordance with Condition 31.0 shall

AMENDMENT AGREEMENT RELATING TO WASTEDISPOSAL AGREEMENT AND LEASES; DATED; 30 JULY 1998

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19. The text of Condition 26.6.6 shall be deleted in its entirety and replaced by the following words:

"the willing purchaser has all necessary licences, permits, authorities and Approvals, and all Works have been carried out, to enable it to operate the Authority's Premises, to comply with the New Legislation referred to in Condition 21A.1 and to perform its obligations under the assumed contract referred to in Condition 26.6.5."

20. The following new Condition 26.8 shall be inserted:

"26.8 Grounds for, and Consequences of Termination by the Contractor

- 26.8.1 If the Authority commits a breach of any of its payment obligations under the Contract and fails to comply with a written notice served on the Authority specifying such breach and requiring the same to be remedied within 28 days, then the Contractor may, without prejudice to any other right or remedy under the Contract, terminate the Contract forthwith by written notice to the Authority.
- 26.8.2 The parties hereby agree that if a discount rate is to be applied as part of the determination of the amount of the damages that become payable to the Contractor as a result or arising out of the termination of the Contract by the Contractor pursuant to Condition 26.8 or otherwise in connection with a failure by the Authority to comply with its obligations hereunder the discount rate that shall be applied shall be the yield on the 9 per cent. Treasury Stock 2008 as at the date of termination of the Contract."

- determine the open market value of the Authority's Premises immediately prior to the date of termination having regard to the
 - terms of the Leases (but exclusive of any right to terminate the Leases on account of the termination of the Contract) which sums shall be paid by the Authority to the Contractor at the Authority's discretion either
 - 26.5.1 by one amount within 6 months of the agreement or determination as the case may be: or
 - by twenty equal parts at the end of each successive period of six months from the date of the agreement or determination as the case may be together with on each payment date a sum equivalent to interest on the amounts remaining to be paid at an annual rate equal to Lloyds Bank remaining to be paid at an annual rate equal to Lloyds Bank base rate (or in its absence the nearest equivalent rate) plus 1½% calculated from the date of termination until the date of payment.

26.6 Open Market Value

In determining the open market value of the Authority's Premises under Condition 26.5 there shall be assumed:

- 26.6.1 a willing seller and a willing purchaser in the open market;
- 26.6.2 a reasonable period within which to negotiate the sale taking into account the nature of the Authority's Premises and the state of the market;
- 26.6.3 values will remain static throughout the period within which to negotiate the sale;
- 26.6.4 the Authority's Premises will be freely exposed to the market;
- 26.6.5 the willing purchaser will have the benefit of a contract with the Authority on substantially the same terms mutatis mutandis as this Contract for the remainder of the Contract Period; and
- 26.6.6 the willing purchaser has all necessary ligences, permits and authorities to enable it to operate the Authority's Premises and to perform its obligations under the assumed contract referred to in condition 26.6.5.

26.7 Other Remedies of the Authority

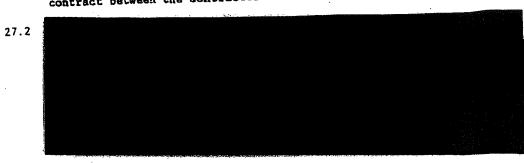
The rights of the Authority under Condition 26 are in addition to and without prejudice to any other rights the Authority may have whether against the Contractor directly or pursuant to any guarantee or indemnity but are subject to Condition 15.7.

26.8 (Amended) 27.0 RECOVERY OF SUMS

27.1 Rights of Set-Off

Whenever, under the Contract any sum of money shal be recoverable from or payable by the Contractor to the Authority, the same may be

deducted from any sum then due, or which at any time thereafter may become due to the Contractor under the Contract or any other contract between the Contractor and the Authority.



MOTICES 28.0

Interpretation 28.1

In this Condition 28:-

- "Notice" includes any instruction, notice certificate or 28.1.1 other communication;
- "Office hours" means between the hours of 0900 hours and 28.1.2 1700 hours in England;
- "Working day" means a day on which the Authority's 28.1.3 offices are open;

Condition 28 shall be interpreted subject to Condition 1.1.7.

Method of Service 28.2

Any notice, shall be sufficiently served if served personally on the addressee, or if sent by prepaid first class post, facsimile transmission or electronic transmission to the correct address set out in Condition 28.3.

28.3 Address of Parties

The Authority's address shall be the Council House Victoria Square Birmingham B1 1BB, the Authorised Officer's address shall be 1 Lancaster Circus Birmingham B4 7DH and the Contractor's address shall be that contained in his completed Tender Summary in Part XIII of the Tender Document.

Change of Address 28.4

Any of the persons referred to in the Condition 28.2 may by notice to the others change its address for service to take effect no earlier than 7 days from the service of such notice.

Date of Service 28.5

Any Notice served in accordance with the foregoing requirements of Condition 28 shall be presumed to have been received at the following time set out in Table 5:-

	Mathod of Service	Time of Receipt	Additional Formalities Required
1.	personal service	time of service	none
2.	Facsimile transmission	 (a) if transmitted during office hours - on that day. (b) if transmitted outside hours - on the next working day 	document to be sent forthwith by first class mail
3.	Electronic Transmission	 (a) if transmitted during office hours on that day, (b) if transmitted outside office hour on the next working 	s ~

28.6 Language

All notices to be given by any person to any other person under this Agreement shall be in the English Language or accompanied by an English translation certified by one of the following persons as accurate:

28.6.1 A Director or Secretary of the Contractor;

28.6.2 Counsel to the Contractor.

29.0 WAIVER

29.1 Strict Compliance with Contract

No failure of the Authority or the Authorised Officer to exercise any power given to it or him under this Contract or to insist upon strict compliance by the Contractor with any obligation or Condition hereof and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of the Authority's or the Authorised Officer's rights hereunder.

29.2 Effect of Waiver of Particular Default

No waiver by the Authority or the Authorised Officer of any particular default by the Contractor shall affect or impair the Authority's or the Authorised Officer's rights in respect of any subsequent default of any kind by the Contractor nor shall any delay or omission of the Authority or the Authorised Officer to exercise any rights arising from any default affect or impair the Authority's or the Authorised Officer's rights in respect of the default or any other default of the Contractor hereunder.

29.3 Effect of Payment by Authority

Any payment by the Authority to the Contractor shall not be deemed a waiver or any preceding breach by the Contractor of any of the terms of this Contract.

29.4 Remedies

The rights of the Authorised Officer and the Authority under each of the Conditions of the Contract are in addition to and without prejudice to any other rights the Authorised Officer and the Authority may have under any other of the Conditions of Contract.

30.0 INSPECTION OF RECORDS

30.1 Notice

The Authorised Officer may by 24 hours' written notice require the Contractor to make available for inspection all or any of the documents referred to in Condition 30.2 at such offices whether of the Contractor or of the Authority as may be specified by the Authorised Officer.

30.2 Documents

The documents which shall be available for inspection shall be:-

- 30.2.1 Transfer notes referred to in Condition 5.3.5.2;
- 30.2.2 Transfer notes referred to in Condition 7.3.4;
- 30.2.3 Written descriptions of waste delivered referred to in Condition 7.4;
- 30.2.4 Invoices vouchers and other supporting documentation relating to the calculation of NFFO subsidy referred to in Condition 24.
- 30.2.5 The records of quantities and types of waste handled at the Authority's Premises and the Contractor's Premises as referred to in Paragraph 4.3 of the Specification.

30.3 Procedure at Inspection

At such inspection the Authorised Officer shall be entitled to take copies of all or any of the documents referred to in Condition 30.2. If the inspection is at the Contractor's offices then the Contractor shall make available adequate facilities for photocopying the Authorised Officer, provided that the Authority shall be responsible for paying a reasonable charge therefor following such inspection. At such inspection the Contractor shall afford the Authority such reasonable assistance as may be required by the Authorised Officer.

Condition 31

21. Condition 31.1 shall be amended by the insertion at the end of that Condition of the following new sentence:

"The terms of reference of the Arbitrator so appointed shall stipulate that the award of the Arbitrator shall be given within a reasonable period after the date of the reference and, in any event, not more than three calendar months thereafter."

31.0 ARBITRATION

31.1 Reference to Arbitration

Subject to Condition 31.5 if any dispute or difference of any kind whatsoever shall arise between the Authority and/or the Authorised Officer on its behalf, and the Contractor in connection with or arising out of the Contract or the carrying out of the Service including any dispute as to any decision, opinion, instruction or certificate of the Authorised Officer (whether during the progress of the Contract or after its termination cancellation or completion) such dispute or difference shall be referred to the arbitration of a person to be agreed upon between the parties or (if the parties fail to appoint an arbitrator within one calendar month of either party serving on the other party a written notice to concur in the appointment of an arbitrator) a person to be appointed on the appointment of an arbitrator. The trial and all interlocutory meetings in the Arbitration shall be held in England. (Amerola;

31.2 Powers of Arbitrator

The Arbitrator shall without prejudice to the generality of his powers have power to direct such measurements and/or valuations as may be desirable in order to determine the rights of the parties and to ascertain and award any sum which might have been the subject or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

31.3 Points of Law

The parties hereby agree and consent pursuant to Sections 1(3)(a) and 2(1)(b) of the Arbitration Act 1979 that either party:-

- 31.3.1 may appeal to the High Court on any question of law arising out of an award made in an arbitration under this Condition 31;
- 31.3.2 may apply to the High Court to determine any question of law arising in the course of reference; and the parties agree that the High Court should have jurisdiction to determine any such questions of law.

31.4 Award of Arbitrator

Subject to Condition 31.3 the award of the Arbitrator shail be final and binding upon the parties.

31.5 Exclusion of disputes

This Condition 31 shall not apply to:-

31.5.1 Any failure to agree the price of the Transfer Fleet :tems under Gondition 32.3.4;

31.5.2 Any matters to be dealt with under Conditions 22.8 and 22.9.

32.0 CONTRACTOR'S FLEET ITEMS

32.1 Constitution of Contractor's Fleet

The Contractor shall give written notice to the Authorised Officer of the following particulars of the Contractor's Fleet Items:

- .1 Registration number;
- .2 Make Model Description;
- .3 Fuel Type;
- .4 Registration Date; and
- .5 Odometer Reading;

no later than 8 weeks after the Commencement date.

32.2 Updating of Notice

The Contractor shall provide the Authorised Officer with a notice under Condition 32.1 every 6 months during the Contract Period. The particulars in the notice shall be accurate on the date no earlier than 2 weeks prior to the service of the notice.

32.3 Transfer of Contractor's Fleet Itams

- 33.3.1 In the event of the termination or cancellation of the Contract under Condition 26.0 or the expiry of the Contract then this Condition 32.3 shall have effect in respect of the Contractor Owned Fleet Items
- 32.3.2 If Condition 32.3.1 shall apply then the Contractor shall forthwith upon demand made in writing ("the Transfer Notice") by the Authority:-
 - .1 sell and transfer to the Authority or such person as may be named by the Authority such of the Contractor Owned Fleet Items as may be specified in the Transfer Notice ("the Transfer Fleet Items");
 - assign to the Authority or such person as may be named by the Authority the benefit of any guarantee or warranty which may have been given to the Contractor by the Manufacturer or supplier of the Transfer Fleet Items;
 - deliver up possession to the Authority or such person as may be named by the Authority the Transfer Fleet Items; and
 - permit the Authorised Officer or such person as may be named by the Authority to enter upon the Authority's Premises and the Contractor's Premises to remove the Transfer Fleet Items therefrom.
 - 32.3.3 The price to be paid by the Authority or such person as may be named by the Authority to the Contractor for the Transfer Fleet Items shall be agreed between the Authority

or such person as may be named by the Authority and the Contractor within 7 days of the Transfer Notice and in the event of a failure to agree the price shall be the open market value of the Transfer Fleet Items as fixed in accordance with Condition 32.3.4.

- The open market value shall be fixed by an independent chartered accountant appointed by agreement between the parties or, in the event of a failure to agree within three days of a nomination notice in writing served on one party by the other party, appointed by the president for the time being of the Institute of Chartered Accountants in England and Wales. The following provisions shall apply to such appointment:
 - .1 The accountant shall be required to determine the open market value of the Transfer Fleet Items as at the date of the Transfer Notice and may take into account such factors as appear to him to be relevant.
 - .2 The accountant shall act as expert and not as arbitrator and his decision shall be final and binding upon the parties.
 - .3 The reasonable costs of the accountant shall be borne by the party which the accountant determines sought to agree a price for the Transfer Fleet Items which was furthest from the open market value as fixed by him.

32.4 Use of Contractor Owned Fleet Items

- 32.4.1 If pursuant to these Conditions of Contract the Authority shall at any time (without terminating the Contract) wish to provide, or procure from any third party the provision of the Service, or any part of the Service, the Authorised Officer may require the Contractor by notice in writing to permit the Authority to have possession and use of such of the Contractor Owned Fleet Items as may be specified in the notice.
 - Forthwith upon receipt of a notice under Condition 32.4.1 the Contractor shall deliver up possession to the Authorised Officer of the Contractor Owned Fleet Items as are specified in such notice and shall permit the Authorised Officer to enter into the Authority's Premises and the Contractor's Premises to remove such Contractor Owned Fleet Items;

32.5 Contractor Leased Fleet Items

32.5.1 If the Contractor intends to lease any Fleet Items from a vehicle lessor in order to perform the Service then the Contractor shall use its best endeavours to enter into the Vehicle Leasing Agreement as contained in Part IV of the Tender Document.



- 32.5.2 If the vehicle lessor shall refuse for any reason to enter into the Vehicle Leasing Agreement the Contractor shall give notice of the reasons therefor forthwith to the Authority together with the name and address of the vehicle lessor.
- 32.5.3 The Authority shall be entitled to negotiate directly with the Vehicle lessor so that amendments can be made to the Vehicle Leasing Agreement PROVIDED THAT such amendments do not prejudicially affect the Contractor.
- 32.5.4 If the Authority shall reach agreement with the vehicle lesson as to the form of an amended Vehicle Leasing Agreement then the Contractor shall upon the Authority's request enter the Vehicle Leasing Agreement as amended.
- 32.5.5 If the Authority shall be unable to reach agreement with the vehicle lessor it will release the Contractor from its obligations under Condition 32.5 in respect of the Fleet Items in question PROVIDED THAT Condition 32.5 shall operate and have effect in respect of any further Fleet Items which the Contractor subsequently intends to lease from any other vehicle lessor to perform the Service.

33.0 COUNTERPARTS

This Contract may be signed in any number of counterparts which when taken together shall constitute a single contract.

IN WITNESS whereof the parties have caused their respective duly authorised officers to execute this Contract the day and year hereinbefore mentioned.

SIGNED on behalf of BIRMINGHAM)
CITY COUNCIL in the presence of:-)

SIGNED on behalf of ONYX UK LIMITED)
in the presence of:-)

SIGNED on behalf of ESYS-MONTENAY
SA in the presence of:

- If the vehicle lessor shall refuse for any reason to enter into the Vehicle Leasing Agreement the Contractor shall give notice of the reasons therefor forthwith to the 32.5.2 Authority together with the name and address of the vehicle lessor.
 - The Authority shall be entitled to negotiate directly with the Vehicle lessor so that amendments can be made to the Vehicle Leasing Agreement PROVIDED THAT such amendments do 32.5.3 not prejudicially affect the Contractor.
 - If the Authority shall reach agreement with the vehicle lessor as to the form of an amended Vehicle Leasing Agreement then the Contractor shall upon the Authority's 32.5.4 request enter the Vehicle Leasing Agreement as amended.
 - If the Authority shall be unable to reach agreement with the vehicle lessor it will release the Contractor from its obligations under Condition 32.5 in respect of the Fleet 32.5.5 Items in question PROVIDED THAT Condition 32.5 shall operate and have effect in respect of any further Fleet Items which the Contractor subsequently intends to lease from any other vehicle lessor to perform the Service.

COUNTERPARTS 33.0

This Contract may be signed in any number of counterparts which when taken together shall constitute a single contract.

IN WITNESS whereof the parties have caused their respective duly authorised officers to execute this Contract the day and year hereinbefore mentioned.

SIGNED on behalf of BIRMINGHAM CITY COUNCIL in the presence of:-

SIGNED on behalf of ONYX UK LIMITED)

in the ofesence of:,

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SIGNED on behalf of ESYS-MONTENAY

SA in the presence of:-

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