



Registration of a Charge

Company name: **BIFFA PLC**

Company number: **10336040**



X85OKUKQ

Received for Electronic Filing: **17/05/2019**

Details of Charge

Date of creation: **10/05/2019**

Charge code: **1033 6040 0002**

Persons entitled: **BIFFA PENSION SCHEME TRUSTEES LIMITED AS TRUSTEE OF THE
BIFFA PENSION SCHEME**

Brief description:

Contains fixed charge(s).

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT
TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC
COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION
FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by: **GOWLING WLG (UK) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10336040

Charge code: 1033 6040 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th May 2019 and created by BIFFA PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th May 2019 .

Given at Companies House, Cardiff on 20th May 2019

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Execution version

Dated 10 May 2019

Biffa plc
as the Grantor
and

Biffa Pension Scheme Trustees Limited as trustee of the Biffa Pension Scheme
as the Pension Trustee

SHARE SECURITY AGREEMENT

Security Interests (Jersey) Law 2012

Ogier

BTLG2-38666240-5

CONTENTS

1	Definitions and interpretation	1
2	Covenant to pay	6
3	Creation and perfection of security interest	6
4	Registration of security interest	8
5	Representation and warranty	8
6	Covenants	10
7	Authority	10
8	Dividends	11
9	Events of Default	12
10	Enforcement by the Pension Trustee	13
11	Further assurance and power of attorney	14
12	Security continuing and independent	15
13	No liability	16
14	Remedies and waiver	16
15	Fees, costs and expenses	16
16	Amendment Costs	17
17	Enforcement and Preservation Costs	17
18	Indemnity	17
19	Suspense account	17
20	Illegality	17
21	Grantor intent	18
22	Immediate recourse	18
23	Certificate of Pension Trustee	18
24	Amalgamation and consolidation	18
25	Release	18
26	Amendments and waivers	18
27	Assignment	18
28	Notices and Process Agent	19
29	Counterparts	19
30	Governing law and jurisdiction	19
	Schedule 1	21
	Schedule 2	22

This agreement is made on 10 May 2019

BETWEEN:

- 1 **Biffa plc**, a company incorporated under the laws of England and Wales with registered number 10336040 and having its registered office at Coronation Road, Cressex, High Wycombe, Buckinghamshire HP12 3TZ (the **Grantor**); and
- 2 **Biffa Pension Scheme Trustees Limited**, a company incorporated under the laws of England and Wales with registration number 02694166 and having its registered office at Coronation Road, Cressex, High Wycombe, HP12 3TZ, as trustee of the **Biffa Pension Scheme** (the **Pension Trustee**).

It is agreed as follows:

1 Definitions and interpretation

- 1.1 In this agreement, words and expressions shall, except where the context otherwise requires, have the meanings given to them in the Guarantee.
- 1.2 In this agreement, the following words and expressions shall, except where the context otherwise requires, have the following meanings:

Additional Securities means any shares of the Company issued to, transferred to or otherwise acquired by the Grantor, after the date hereof (including, without limitation, the Related Rights).

Biffa Pension Scheme means the pension scheme known as the "Biffa Pension Scheme" and governed by a definitive trust deed and rules dated 30 March 2007 (as amended).

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in London and Jersey.

Collateral means the Securities and the Proceeds.

Collateral Rights means, subject always to the provisions of clause 7 in relation to the exercise of voting rights, any of the rights, powers and remedies of the Pension Trustee provided by or pursuant to this agreement or the Law.

Company means WasteHoldco 1 Limited, a company incorporated under the laws of Jersey with registered number 112027 and having its registered office at 44 Esplanade, St Helier, Jersey JE4 9WG.

Declared Default means an Event of Default which is continuing and in respect of which the Pension Trustee has exercised any of its rights or issued any notice to a Participating Company.

Event of Default means any of the events or circumstances specified in clause 9.

Gilts' Basis means that liabilities are calculated in the same way as the basis agreed from time to time by the Pension Trustee after obtaining advice of the actuary to the Biffa Pension Scheme to assess the technical provisions of the Biffa Pension Scheme for the purposes of Part 3 of the UK Pensions Act 2004, except the discount rate (pre and post retirement) is set equal to the price inflation assumption plus the real return available on index linked gilts provided that the Pension Trustee is advised that using such basis is consistent with its legal duties.

Group means Biffa Group Limited (registered in England and Wales with company number 06409675) and its Subsidiaries from time to time.

Group Company means a member of the Group that is a participating employer in or the principal employer of the Biffa Pension Scheme.

Guarantee means the guarantee dated 29 March 2019 between the Guarantors and the Pension Trustee, as trustee of the Biffa Pension Scheme.

Guarantor as defined in the Guarantee.

Law means the Security Interests (Jersey) Law 2012.

Legal Reservations means:

- (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and damages may be regarded as an adequate remedy;
- (b) the limitation on enforcement as a result of laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws affecting the rights of creditors generally;
- (c) the statutory time-barring of claims;
- (d) defences of set off or counterclaim;
- (e) rules against penalties and similar principles;
- (f) the fact that a court may refuse to give effect to a purported contractual obligation to pay costs imposed upon another person in respect of costs of an unsuccessful litigation brought against that person or may not award by way of costs all of the expenditure incurred by a successful litigant in proceedings brought before that court or that a court may stay proceedings if concurrent proceedings based on the same grounds and between the same parties have previously been brought before another court;
- (g) any steps for perfection not required by the terms of this agreement to be taken; and/or
- (h) any similar principles, rights and defences under the laws of any relevant jurisdiction,

- (i) and any other reservations or qualifications of law contained in any legal opinion delivered to the Pension Trustee in respect of this agreement;

Material Adverse Effect means any event or circumstance which in each case after taking into account all mitigating factors or circumstances including, any warranty, indemnity or other resources available to the Group or right of recourse against any third party with respect to the relevant event or circumstance and any obligation of any person in force to provide any additional equity investment, has a material adverse effect on:

- (a) the business or financial condition of the Group taken as a whole; or
- (b) the ability of the Participating Companies (taken as a whole) to perform their payment obligations under the Biffa Pension Scheme;
- (c) (subject to the Legal Reservations), the validity or enforceability of this agreement to an extent which is materially adverse to the interests of the Pension Trustee under this agreement taken as a whole and, if capable of remedy, is not remedied within 20 Business Days of the earlier of:
 - (i) the Grantor becoming aware of the issues; and
 - (ii) the giving to the Grantor of written notice of the issue by the Pension Trustee.

Order means the Security Interests (Registration and Miscellaneous Provisions) (Jersey) Order 2013.

Original Securities means the shares specified in Schedule 1 (including, without limitation, the Related Rights).

Participating Company means Biffa Corporate Holdings Limited, Biffa West Sussex Limited, Biffa Leicester Limited and Biffa Waste Services Limited and any Group Company from time to time for so long as they are a participating employer in or the principal employer of the Biffa Pension Scheme.

Party means a party to this agreement.

Payment means a payment, prepayment, redemption, defeasance or discharge in respect of any Secured Liabilities.

Permitted Reorganisation means an amalgamation, demerger, merger, consolidation or corporate reconstruction or reorganisation on a solvent basis of a member of the Group (other than the Grantor) where:

- (a) all of the business, assets and shares of (or other interests in) the relevant member of the Group continue to be owned directly or indirectly by the Grantor in the same or a greater percentage as prior to such reorganisation, other than:
 - (i) the shares of (or other interests in) a member of the Group which has been merged into another member of the Group or which has otherwise

ceased to exist (including, without limitation, by way of the collapse of a solvent partnership or solvent winding up of an entity) as a result of such a reorganisation; or

- (ii) the business, assets and shares of (or other interests in) relevant members of the Group which cease to be owned: (i) as a result of a disposal, merger, corporate reorganisation or other step not prohibited under this agreement; or (ii) as a result of a cessation of business or solvent winding up of a member of the Group in conjunction with a distribution of all or substantially all of its assets remaining after settlement of its liabilities to its immediate shareholder(s) or other persons directly holding partnership or other ownership interests in such member of the Group; and
- (b) the Pension Trustee will continue to have the same or substantially equivalent Security (as determined by the Pension Trustee in writing) over the same or substantially equivalent assets and over the shares of (or other interests in) the transferee or the entity surviving as a result of such reorganisation (and other than security and guarantees from any entity which has ceased to exist as contemplated in paragraph (a)(i) above) save to the extent such assets or shares (or other interests) cease to exist or to be owned by members of the Group as referred to in paragraph (a) above, in each case, to the extent such disposal of assets, shares or other interests are not prohibited under this agreement,

provided, in each case, that:

- (i) an Event of Default is not continuing at the time of such Permitted Reorganisation and an Event of Default would not occur as a result; and
- (ii) within 5 Business Days of any Permitted Reorganisation, the new holder of any Securities constituting part of the Collateral shall execute a new security interest agreement (materially in the form of this agreement) in favour of the Pension Trustee.

Proceeds means any proceeds (as defined in the Law) derived directly or indirectly from a dealing with the Securities or from a dealing with the proceeds of the Securities.

Related Rights means all rights of the Grantor relating to the Securities including, without limitation, any rights to receive additional securities, assets or rights or any offers in respect thereof (whether by way of bonus issue, option rights, exchange, substitution, conversion or otherwise) or to receive monies (whether by way of redemption, return of capital, distribution, income or otherwise).

Secured Liabilities means all present and future liabilities and obligations of any Participating Company arising in respect of the Biffa Pension Scheme, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any liabilities and obligations of a Participating Company relating to or arising in respect of:

- (a) any refinancing, novation, deferral or extension;

- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damage or restitution;
- (d) any claim as a result of any recovery by any Participating Company of a Payment on the ground of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

Security means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having the effect of creating a security interest.

Securities means the Original Securities and any Additional Securities.

Subsidiary means a subsidiary within the meaning of section 1159 of the Companies Act 2006 and, in respect of any entity incorporated or established in Jersey, a subsidiary within the meaning of articles 2 and 2A of the Companies (Jersey) Law 1991.

1.3 In the interpretation of this agreement, the following provisions apply save where the context requires otherwise:

- (a) for the purposes of the Law, the Pension Trustee shall be the **secured party**, the Grantor shall be the **grantor**, the Collateral (including, without limitation, any after-acquired property) shall be the **collateral**, the Events of Default shall be the **events of default** and this agreement shall be the **security agreement**;
- (b) **advances, control, further advances, investment security** and **proceeds** shall have the meanings given to them in the Law;
- (c) **prescribed unit trust** shall have the meaning given to it in Article 2(2) of the Order;
- (d) references to **liabilities** and **future liabilities** shall be construed to include **advances** and **further advances** respectively for the purposes of the Law;
- (e) references to **constitutional documents** of an entity shall include, without limitation, the certificate(s) of incorporation or establishment, the memorandum and articles of association and, where the entity is the trustee of a trust, the trust instrument constituting the relevant trust;
- (f) any reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

- (g) where references are made to the Pension Trustee holding title to or having possession or control of the Collateral or any part thereof, such references shall include any person holding title to or having possession or control of the Collateral or any part thereof for or on behalf of the Pension Trustee, whether as trustee or in some other capacity;
- (h) references to the Pension Trustee include its successors, assignees and transferees. References to the Grantor include its successors, permitted assignees and permitted transferees, if any;
- (i) words and expressions not otherwise defined in this agreement shall be construed in accordance with the Law;
- (j) except where the context otherwise requires, words denoting the singular include the plural and vice versa, words denoting a gender include every gender and references to persons include bodies corporate and unincorporate;
- (k) references to recitals, clauses and Schedules are, unless the context otherwise requires, references to recitals and clauses hereof and Schedules hereto and references to sub-clauses are, unless otherwise stated, references to the sub-clause of the clause in which the reference appears;
- (l) the recitals and the Schedules form part of this agreement and shall have the same force and effect as if they were expressly set out in the body of this agreement and any reference to this agreement shall include the recitals and the Schedules;
- (m) any reference to this agreement or to any agreement or document referred to in this agreement shall be construed as a reference to such agreement or document as amended, varied, modified, supplemented, restated, novated or replaced from time to time;
- (n) any reference to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision as the same may have been or may be amended, modified, extended, consolidated, re-enacted or replaced from time to time; and
- (o) clause headings and the index are inserted for convenience only and shall not affect the construction of this agreement.

2 Covenant to pay

The Grantor hereby covenants with the Pension Trustee that it shall, promptly on demand of the Pension Trustee, pay, discharge and satisfy the Secured Liabilities in accordance with their respective terms.

3 Creation and perfection of security interest

- 3.1 As a continuing security for the payment, performance and discharge of the Secured Liabilities, so that the Pension Trustee shall have a first priority security interest in the

Collateral pursuant to the Law, the Grantor hereby grants a security interest in the Collateral to the Pension Trustee and agrees that the Pension Trustee shall have control (as defined in the Law) of the Securities.

3.2 The Grantor hereby undertakes to the Pension Trustee that:

- (a) contemporaneously with the execution of this agreement, it shall deliver to the Pension Trustee, or to its order, certificates of title in respect of the Original Securities, together with an undated and signed duly completed stock transfer form in a form acceptable to the Pension Trustee (or, in each case, procure such delivery);
- (b) contemporaneously with the execution of this agreement, it shall deliver to the Pension Trustee a certified copy of the register of members of the Company noting the Pension Trustee's security interest created pursuant to this agreement; and
- (c) immediately upon written request from the Pension Trustee following the occurrence of a Declared Default:
 - (i) it shall assign, transfer and/or otherwise make over to the Pension Trustee title to the Securities; and
 - (ii) it shall execute and deliver to the Company a notice materially in the form set out in Schedule 2 in respect of the Securities and shall procure that the Company executes and delivers to the Pension Trustee an acknowledgement materially in the form set out in Schedule 2.

3.3 The Grantor covenants and undertakes to the Pension Trustee that if Additional Securities are issued to, transferred to or otherwise acquired by the Grantor, it shall immediately upon acquiring such Additional Securities:

- (a) deliver to the Pension Trustee, or to its order, certificates of title in respect of such Additional Securities, together with an undated and signed duly completed stock transfer form in a form acceptable to the Pension Trustee (or, in each case, procure such delivery); and
- (b) deliver to the Pension Trustee a certified copy of the register of members of the Company noting the Pension Trustee's security interest over such Additional Securities created pursuant to this agreement.

3.4 The Grantor acknowledges that value has been given in respect of this agreement.

3.5 It is acknowledged and agreed by the parties that the parties have not entered into (i) any agreement referred to in Article 18(1) of the Law which defers or delays any attachment of the security interest constituted by or pursuant to this agreement or (ii) any agreement to the contrary referred to in Article 19(2) of the Law.

4 Registration of security interest

- 4.1 Subject to clause 4.4, the Pension Trustee may in its sole discretion (but shall not be obliged to) at any time:
- (a) register the security interest created by this agreement under the Law by registration of a financing statement for any period determined by the Pension Trustee; and
 - (b) register a financing change statement under the Law in respect of any change to the details in the financing statement (including, without limitation, any amendment, renewal or discharge of the financing statement) for any period determined by the Pension Trustee.
- 4.2 The Grantor shall, promptly following written request from the Pension Trustee, deliver to the Pension Trustee such information and/or certified copy documents as the Pension Trustee may reasonably require for the purposes of the registration contemplated by this clause including, without limitation, a certified copy of the constitutional documents of the Grantor.
- 4.3 The Grantor hereby consents to the registration contemplated by this clause and waives its right to receive a copy of any verification statement in respect of such registration.
- 4.4 Clause 4.1 shall not apply where the Grantor is the trustee(s) of a trust (other than a prescribed unit trust) granting a security interest over trust property under this agreement.

5 Representation and warranty

- 5.1 The Grantor hereby represents and warrants to the Pension Trustee that:
- (a) all corporate and other action required to authorise the execution and delivery of this agreement and the creation, attachment and perfection of the security intended to be created pursuant to clause 3 has been duly taken;
 - (b) subject to the Legal Reservations, this agreement constitutes the legal, valid and binding obligations of the Grantor, enforceable against the Grantor in accordance with its terms;
 - (c) the entry into this agreement by the Grantor and the performance by it of its obligations thereunder will not conflict with:
 - (i) any law or regulation applicable to it; or
 - (ii) its constitutional documents; or
 - (iii) any agreement or instrument entered into or binding upon it or any of its assets or constitute a default or termination event (howsoever described);
 - (d) the Grantor has obtained all governmental and other consents, authorisations or permissions necessary for it:

- (i) to enter into this agreement and perform its obligations hereunder; and
 - (ii) to enable it to create the security interests pursuant to this agreement and to ensure that such security interests have the priority and ranking that they are expressed to have;
- (e) the Grantor is able to pay its debts as they fall due and will not become unable to do so as a consequence of entering into this agreement;
- (f) the Grantor is not insolvent or bankrupt under the laws of any jurisdiction (including, without limitation, **bankrupt** as defined in the Interpretation (Jersey) Law 1954) and has not, in any jurisdiction, commenced or, as far as it is aware, had commenced against it any proceedings or other actions for or indicative of insolvency or bankruptcy;
- (g) no litigation, arbitration or administrative proceedings, which if adversely determined could reasonably be expected to have a Material Adverse Effect, are currently taking place or are threatened in relation to any of the Collateral;
- (h) this agreement creates a first priority security interest in the Collateral under the Law in favour of the Pension Trustee, which has attached and is perfected under the Law;
- (i) no event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of the foregoing, would constitute) a default or termination event (howsoever described) under any document which is binding on it or any of its assets to an extent or in a manner which has or is reasonably likely to have a Material Adverse Effect;
- (j) the Grantor is the sole legal and beneficial owner of and has good title to and rights in the Collateral subject only to the rights granted in favour of the Pension Trustee by this agreement;
- (k) the Securities have been validly issued, are fully paid and constitute all of the issued ordinary shares of £0.00001 each in the Company and the certificates of title representing them as delivered to the Pension Trustee pursuant to this agreement are the only certificates of title in respect thereof;
- (l) the Collateral is not subject to any options, warrants, pre-emption or similar rights and free from all Security, registrations of any security interests over the Collateral under the Law and rights of set-off other than those created under this agreement in favour of the Pension Trustee;
- (m) the Grantor has not granted any power of attorney in respect of the exercise of any rights or powers in connection with the Securities, other than to the Pension Trustee;

- (n) the articles of association of the Company do not permit the directors of the Company from time to time to refuse to register a transfer of title to the Securities for the purposes of creating or enforcing the security created hereunder; and
- (o) it is not the trustee of a trust (other than a prescribed unit trust) granting a security interest over trust property under this agreement.

5.2 The representations and warranties in clause 5.1 are given on the date of this agreement.

6 Covenants

6.1 The Grantor covenants and undertakes to the Pension Trustee that:

- (a) it shall pay when due all calls or other payments which may be or become due in respect of any part of the Collateral, and in any case of default by it in such payment, the Pension Trustee may, if it thinks fit, make such payment on behalf of the Grantor. Any sums together with any interest payable in respect of late payment of such calls or other payments so paid by the Pension Trustee shall be reimbursed by the Grantor to the Pension Trustee on demand;
- (b) it will not do or permit to be done any act or thing which could reasonably be expected to jeopardise the rights of the Pension Trustee in the Collateral or which could reasonably be expected to adversely affect or diminish the value of the Collateral; and
- (c) if the Grantor proposes to change its name, the Grantor shall give to the Pension Trustee (for the purposes of registering a financing change statement if applicable):
 - (i) notice in writing that it proposes to change its name (along with the correct spelling of its proposed new name) at least five business days before the change takes effect; and
 - (ii) a certified copy of the constitutional documents or identity documents stating the Grantor's new name as soon as practicable after they are issued.
- (d) it shall deliver to the Pension Trustee or its nominee copies of all material information, communications, circulars, offers, reports, accounts and other documents it receives in connection with the Collateral and all information which the Pension Trustee may reasonably request in relation to the Collateral.

7 Authority

7.1 Notwithstanding the provisions of clause 3, until the occurrence of a Declared Default, the Grantor (or its agent) is hereby authorised by the Pension Trustee to exercise any voting rights in respect of the Securities provided that other than in respect of a Permitted Reorganisation, the Grantor shall not (except with the prior written consent of the Pensions Trustee) exercise its voting rights and powers in relation to the Collateral in any manner relating to, or otherwise permit or agree to, or concur or participate in any:

- (a) variation of the rights attaching to or conferred by all or any part of the Collateral;
- (b) increase in the issued share capital of the Company; or
- (c) exercise, renunciation or assignment of any right to subscribe for any shares or securities,

which, in the reasonable opinion of the Pension Trustee (acting in good faith) would prejudice the value of, or the ability of the Pension Trustee, to realise the Collateral and the proceeds of any such action in any event shall form part of the Collateral.

7.2 At any time following the occurrence of a Declared Default, the Pension Trustee may, at its discretion (in the name of the Grantor or otherwise and without any further consent or authority from the Grantor) instruct the Grantor to:

- (a) exercise (or refrain from exercising) any voting rights in respect of the Collateral;
- (b) transfer the Collateral into the name of the Pension Trustee or such nominee(s) of the Pension Trustee as it shall require in accordance with clause 3.2(c); and
- (c) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Collateral including the right, in relation to the Company, to concur or participate in the:
 - (i) reconstruction, amalgamation, sale or other disposal of the Company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof);
 - (ii) release, modification or variation of any rights or liabilities attaching to such shares or securities; and
 - (iii) exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in the manner and on the terms the Pension Trustee thinks fit and the proceeds of any such action shall form part of the Collateral.

7.3 The Pension Trustee may, in such manner as it shall determine, exercise, or cause to be exercised, or refrain from exercising, any voting or other rights which it may have pursuant to this clause 7 and, subject to clause 13, it shall not be liable for any such exercise or failure to exercise such rights.

7.4 For the purposes of Article 24 of the Law, except as expressly provided in this agreement, the Pension Trustee does not authorise the Grantor or any other person to deal with the Securities and any such dealing is prohibited.

8 Dividends

8.1 Prior to the occurrence of a Declared Default, the Grantor shall be entitled to receive all dividends, interest and other monies or distributions of an income nature arising from the Collateral.

- 8.2 Following the occurrence of a Declared Default, the Pension Trustee may, at its discretion, (in the name of the Grantor or otherwise and without any further consent or authority from the Grantor) instruct the Grantor to apply all dividends, interest and other monies arising from the Collateral as though they were proceeds of enforcement under this agreement, in such manner and on the terms the Pension Trustee sees fit, and the proceeds of any such action shall form part of the Collateral.
- 8.3 The provisions of clause 8.2 are without prejudice to the right of the Pension Trustee to credit monies received, recovered or realised to a separate suspense account pursuant to clause 19.

9 Events of Default

Each of the events and circumstances set out in this clause 9 is an Event of Default:

- (a) any Participating Company does not pay within 5 Business Days of the due date any amount payable pursuant to the Biffa Pension Scheme at the place at and in the currency in which it is expressed to be payable;
- (b) the Grantor becomes insolvent or unable to pay its debts as they fall due, suspends or threatens in writing to suspend making payments on any of its debts, or by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding the Biffa Pension Scheme) with a view to a general rescheduling of its indebtedness;
- (c) any corporate action or legal proceedings are taken or initiated in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, *désastre*, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Grantor;
 - (ii) a composition, compromise, assignment or arrangement with any creditor of the Grantor by reason of avoiding actual or anticipated financial difficulties;
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager, Viscount or other similar officer in respect of the Grantor or any of its assets;
 - (iv) enforcement of any security over any assets of the Grantor exceeding an aggregate value of £10,000,000 (or its equivalent in other currencies); or
 - (v) the Grantor or its property being adjudicated or found en *désastre*, or the Grantor becomes **bankrupt** within the meaning of Article 8 of the Interpretation (Jersey) Law 1954 or any event analogous to any of the foregoing occurs in any jurisdiction,

or any analogous procedure or step is taken in any jurisdiction.

- 9.2 Clause 9.1(c) shall not apply to any proceedings which are (1) frivolous or vexatious, or (2) contested in good faith, and, in either case, are discharged, stayed or dismissed within 15 Business Days of commencement.

10 Enforcement by the Pension Trustee

- 10.1 The power of enforcement in respect of the security interest created by this agreement shall become exercisable when:

- (a) a Declared Default has occurred; and
- (b) the Pension Trustee has served on the Grantor written notice specifying the Event of Default (unless such a notice has been served on the Grantor pursuant to clause 10.1(a) above).

- 10.2 The Pension Trustee may exercise the power of enforcement in respect of the security interest created by this agreement by doing any one or more of the following (to the extent that they are not in conflict) in relation to the Collateral:

- (a) appropriating the Collateral;
- (b) selling the Collateral;
- (c) taking any of the following ancillary actions:
 - (i) taking control or possession of the Collateral;
 - (ii) exercising any rights of the Grantor in relation to the Collateral;
 - (iii) instructing any person who has an obligation in relation to the Collateral to carry out the obligation for the benefit of the Pension Trustee;
- (d) applying any other remedy that this agreement provides for as a remedy that is exercisable pursuant to the power of enforcement, to the extent that such remedy is not in conflict with the Law.

- 10.3 Subject to Part 6 of the Law:

- (a) the power of enforcement may be exercised as determined by the Pension Trustee in its absolute discretion;
- (b) the power of enforcement may be exercised by the Pension Trustee in respect of all or any part of the Collateral; and
- (c) the exercise or non-exercise of the power of enforcement by the Pension Trustee shall not constitute a waiver of any rights or remedies, and all rights and remedies of the Pension Trustee are reserved and may be exercised without notice.

- 10.4 Subject to Article 44(3) and (4) of the Law, not less than 14 days before appropriating or selling the Collateral, the Pension Trustee shall give written notice to the following persons (if any):

- (a) any person who, 21 days before the appropriation or sale, has a registered security interest in the Collateral; and
- (b) any person other than the Grantor who has an interest in the Collateral and has, not less than 21 days before the appropriation or sale, given the Pension Trustee notice of that interest,

and where no person is entitled to receive such notice, the Pension Trustee may appropriate or sell the Collateral immediately.

10.5 The Grantor acknowledges and agrees that no notice of appropriation or sale of the Collateral needs to be given by the Pension Trustee to the Grantor under Article 44 of the Law.

10.6 The Pension Trustee shall apply the proceeds of sale of the Collateral (or the value of any Collateral which has been appropriated) in the following order:

- (a) in payment of the Pension Trustee's reasonable costs incurred in, and incidental to, exercise of the power of enforcement;
- (b) in or towards payment and discharge of the Secured Liabilities; and
- (c) in payment of the amount of any resulting surplus to the Grantor (or any other person entitled to receive it under Article 49 of the Law) or into the Royal Court of Jersey.

10.7 Within 14 days after any appropriation or sale of the Collateral by the Pension Trustee, the Pension Trustee shall give a written statement of account to the Grantor and any other person entitled to receive it under Article 48 of the Law.

10.8 Save with the prior written consent of the Pension Trustee, the Grantor shall not be entitled to reinstate this agreement (as defined in Article 54 of the Law) during the Security Period.

10.9 To the extent permitted by the laws of Jersey:

- (a) the Pension Trustee shall have no duty to preserve or enhance the Collateral or its value; and
- (b) the Pension Trustee shall have no liability for any loss arising out of (i) the exercise or non-exercise of the power of enforcement or any other rights under this agreement, or (ii) the taking of any other action in respect of the Collateral as is permitted by this agreement, whether before or after the power of enforcement becomes exercisable.

11 Further assurance and power of attorney

11.1 The Grantor shall promptly, at its own cost, take all such action (including making all filings, registrations and notarisations) and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Pension

Trustee may reasonably specify (and in such form as the Pension Trustee may reasonably require) in favour of the Pension Trustee or its nominee(s):

- (a) to perfect the security interests created or intended to be created under or evidenced in respect of the Collateral or for the exercise of the Collateral Rights; and/or
- (b) at any time after the occurrence of a Declared Default, to facilitate the realisation of the Collateral.

11.2 In accordance with Article 5(2)(a) of the Powers of Attorney (Jersey) Law, 1995 (the **Powers of Attorney Law**), with effect from the occurrence of a Declared Default, the Grantor hereby irrevocably by way of security appoints the Pension Trustee as the Grantor's attorney (with full power of substitution in accordance with Article 8 of the Powers of Attorney Law) and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- (a) carrying out any obligation imposed on the Grantor by this agreement (including the execution and delivery of any assignments or other security agreements and any transfers of the Collateral and perfecting and/or releasing the security interests created or intended to be created in respect of the Collateral); and
- (b) enabling the Pension Trustee to exercise or delegate the exercise of any of the Collateral Rights.

11.3 The Grantor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

12 Security continuing and independent

12.1 The security created by or pursuant to this agreement shall remain in full force and effect as a continuing security for the Secured Liabilities unless and until discharged by the Pension Trustee in writing.

12.2 No part of the security from time to time intended to be created by this agreement will be considered satisfied or discharged by an intermediate payment, discharge or satisfaction of the whole or any part of the Secured Liabilities.

12.3 Any release, discharge or settlement between the Grantor and the Pension Trustee shall be conditional upon no Security, disposition or payment to the Pension Trustee by the Grantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to bankruptcy or insolvency or for any other reason whatsoever, and if such condition shall not be fulfilled the Pension Trustee shall be entitled to enforce this agreement or the security interest created hereunder subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

12.4 The security created by or pursuant to this agreement, and the Collateral Rights, shall be cumulative, in addition to and independent of every other security which the Pension

Trustee or any other Secured Creditor may at any time hold for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law and shall operate as an independent Security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security. No prior Security held by the Pension Trustee (whether in its capacity as trustee or otherwise) over the whole or any part of the Collateral shall merge into the security created by this agreement.

12.5 The security created by or pursuant to this agreement, and the Collateral Rights, shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Grantor or any other person by the Pension Trustee (whether in its capacity as trustee or otherwise) or by any variation of the terms of the trust upon which the Pension Trustee holds the Security or by any other thing which might otherwise prejudice that Security or any Collateral Right.

12.6 The Grantor irrevocably waives and abandons any and all rights under the laws of Jersey:

(a) whether by virtue of the droit de division or otherwise, to require that any liability under this agreement be divided or apportioned with any other person or reduced in any manner whatsoever; and

(b) whether by virtue of the droit de discussion or otherwise, to require that recourse be had to the assets of any other person before any claim is enforced against the Grantor under this agreement.

13 No liability

Neither the Pension Trustee nor any of its nominees shall be liable for any loss arising by reason of taking any action permitted by this agreement or any neglect or default in connection with the Collateral or taking possession of or realising all or any part of the Collateral, except in the case of fraud, gross negligence or wilful default upon its part.

14 Remedies and waiver

No failure on the part of the Pension Trustee to exercise, nor any delay on its part in exercising, any Collateral Right, shall operate as a waiver of that Collateral Right or constitute an election to affirm this agreement. No election to affirm this agreement on the part of the Pension Trustee shall be effective unless it is in writing. No single or partial exercise of any Collateral Right shall preclude any further or other exercise of that or any other Collateral Right.

15 Fees, costs and expenses

The Grantor shall within five Business Days of demand pay the Pension Trustee the amount of all reasonable and documented out of pocket costs and expenses (including, but not limited to, legal fees (subject to any cap(s) agreed) and security registration fees) incurred by it in connection with the preparation, execution, perfection, discharge and/or assignment of this agreement.

16 Amendment Costs

If the Grantor requests an amendment, waiver or consent the Grantor shall within five Business Days of demand, reimburse the Pension Trustee for the amount of all reasonable and documented out of pocket costs and expenses (including legal fees) reasonably incurred by the Pension Trustee (or by any delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

17 Enforcement and Preservation Costs

The Grantor shall within five Business Days of demand, pay the Pension Trustee the amount of all out of pocket costs and expenses (including legal fees) documented and reasonably incurred by it in connection with the enforcement of or the preservation of any rights under this agreement and any proceedings instituted by or against the Pension Trustee as a consequence of taking or holding the Security constituted under this agreement or enforcing these rights.

18 Indemnity

The Grantor shall, if any obligation of the Grantor under this agreement is or becomes unenforceable, invalid or illegal, as an independent and primary obligation, indemnify the Pension Trustee immediately on demand against any cost, loss or liability it incurs as a result of the Grantor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under this agreement or the Collateral on the date when it would have been due.

19 Suspense account

All monies received, recovered or realised by the Pension Trustee under this agreement (including the proceeds of any conversion of currency) may in the discretion of the Pension Trustee be credited to any interest bearing suspense or impersonal account(s) maintained with any bank, building society, financial institution or other person which the Pension Trustee considers appropriate (including itself) for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Pension Trustee's discretion, in or towards the discharge of any of the Secured Liabilities and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

20 Illegality

If, at any time, any provision of this agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this agreement nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the security intended to be created by or pursuant to this agreement is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security.

21 Grantor intent

The Grantor expressly confirms that it intends that the security created under this agreement, and the Collateral Rights, shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to the Secured Liabilities and any fees, costs and/or expenses associated with any of the foregoing.

22 Immediate recourse

The Grantor waives any right it may have of first requiring the Pension Trustee (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any other person before claiming from the Grantor under this agreement or enforcing the security created by this agreement. This waiver applies irrespective of any law or any provision of this agreement to the contrary.

23 Certificate of Pension Trustee

Any certificate or determination made by the Pension Trustee of a rate or amount under the Secured Liabilities shall set out in reasonable detail the basis of calculation of that rate or amount and is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

24 Amalgamation and consolidation

The rights and benefits of the Pension Trustee under this agreement shall remain valid and binding for all purposes notwithstanding any change, amalgamation, consolidation or otherwise which may be made in the constitution of the Pension Trustee and shall be available to such entity as shall carry on the business of the Pension Trustee for the time being.

25 Release

If an actuarial valuation of the Biffa Pension Scheme that is supplied after the date of this agreement discloses that the Biffa Pension Scheme is fully funded on a Gilts' Basis, then the security created by or pursuant to this agreement will be released immediately and in full.

26 Amendments and waivers

Any term of this agreement may be amended or waived only if the Pension Trustee and the Grantor agree in writing and any such amendment or waiver will be binding on all Parties.

27 Assignment

27.1 The Pension Trustee may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under this agreement to another entity or entities which is or are regularly engaged in or established for the purpose of acting as trustee on behalf of the Biffa Pension Scheme.

- 27.2 The Grantor shall not assign or transfer all or any part of its rights, benefits and/or obligations under this agreement.
- 27.3 This agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Pension Trustee. References to the Pension Trustee shall include (i) any assignee or successor in title of the Pension Trustee, (ii) any entity into which the Pension Trustee is merged or converted or with which it may be consolidated, (iii) any legal entity resulting from any merger, conversion or consolidation to which such Pension Trustee is a party and (iv) any other person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Pension Trustee under this agreement or to which, under such laws, those rights and obligations have been transferred (such person described in (i) to (iv) being a successor to the Pension Trustee for all purposes under the Biffa Pension Scheme).

28 Notices and Process Agent

- 28.1 Any communication to be made under or in connection with this agreement shall be made in accordance with clause 14 of the Guarantee as if such clause were set out in full herein.
- 28.2 Without prejudice to any other mode of service allowed under any relevant law, the Grantor:
- (a) irrevocably appoints Intertrust Corporate Services (Jersey) Limited as its agent for service of process in relation to any proceedings before the Jersey courts in connection with this agreement and to accept service of notices pursuant to this agreement on its behalf, such appointment to take effect from the date of this agreement; and
 - (b) agrees that failure by a process agent to notify the Grantor of the process will not invalidate the proceedings concerned.
- 28.3 If any person appointed as agent for service is unable for any reason to act as agent for service of process, the Grantor must immediately (and in any event within five days of such event taking place) appoint another agent on terms acceptable to the Pension Trustee. Failing this, the Pension Trustee may appoint another agent for this purpose.

29 Counterparts

This agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this agreement.

30 Governing law and jurisdiction

- 30.1 This agreement shall be governed by and construed in accordance with the laws of Jersey and the parties hereby irrevocably agree for the exclusive benefit of the Pension Trustee that the courts of Jersey are to have exclusive jurisdiction to settle any dispute

arising out of or in connection with this agreement (including any dispute relating to the existence, validity or termination of this agreement) and that accordingly any suit, action or proceeding arising out of or in connection with this agreement (in this clause referred to as **Proceedings**) may be brought in such court.

- 30.2 Nothing contained in this clause shall limit the right of the Pension Trustee to take Proceedings against the Grantor in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdiction preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.
- 30.3 The Grantor irrevocably waives (and irrevocably agrees not to raise) any objection which it may have now or hereafter to the taking of any Proceedings in any such court as referred to in this clause and any claim that any such Proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any Proceedings brought in any such court as is referred to in this clause shall be conclusive and binding upon the Grantor and may be enforced in the court of any other jurisdiction.

The parties have duly executed this agreement on the date set out at the beginning of this agreement.

SCHEDULE 1

The Original Securities

42,898,630 Ordinary shares of £0.00001 each of the Company.

SCHEDULE 2

Notice and acknowledgement - title security

Notice

To: WasteHoldco 1 Limited (the **Company**)
44 Esplanade
St Helier
Jersey
JE4 9WG

From: Biffa plc (the **Grantor**)
Coronation Road
Cressex
High Wycombe
Buckinghamshire
HP12 3TZ

And: Biffa Pension Scheme Trustees Limited as trustee of the Biffa Pension Scheme (the **Pension Trustee**)
Coronation Road
Cressex
High Wycombe
HP12 3TZ

Date: []

We hereby give you notice that, pursuant to a security interest agreement dated [date] made between the Grantor and the Pension Trustee (the **Security Interest Agreement**), the Grantor has granted to the Pension Trustee a security interest in respect of, among other things, [number] Ordinary shares of £0.00001 each in the Company (being all of the issued ordinary shares of £0.00001 each in the Company) currently registered in the name of the Grantor (including, without limitation, all rights of the Grantor relating to such securities) (the **Securities**). Under the Security Interest Agreement, the Grantor has also agreed to assign, transfer and/or otherwise make over to the Pension Trustee title to the Securities.

We enclose the originals of (i) a dated and signed duly completed stock transfer form in respect of the transfer of title to the Securities to [the Pension Trustee] [name of Pension Trustee's nominee] and (ii) certificates of title in respect of the Securities.

We hereby instruct you to:

- 1 enter the name of [the Pension Trustee] [name of Pension Trustee's nominee] in the register of members of the Company as the holder of the Securities; and
- 2 issue a certificate of title to reflect such entry and deliver the same to the Pension Trustee at the address set out below.

This notice may not be varied or revoked without the Pension Trustee's prior written consent.

This notice may be executed in any number of counterparts and by each party on a separate counterpart each of which counterparts when so executed and delivered shall be an original but all such counterparts shall together constitute one and the same instrument.

Please sign and forward to the Pension Trustee at the above address the enclosed form of acknowledgement (for the attention of Head of EME Loans Agency).

This notice shall be governed by and construed in accordance with the laws of Jersey.

Signed for and on behalf of Biffa plc

Signature

Print name

Title

Signed for and on behalf of Biffa Pension Scheme Trustees Limited as trustee of the Biffa Pension Scheme

Signature

Print name

Title

Acknowledgement

To: Biffa plc (the **Grantor**)

Coronation Road

Cressex

High Wycombe

Buckinghamshire

HP12 3TZ

And: Biffa Pension Scheme Trustees Limited as trustee of the Biffa Pension Scheme (the **Pension Trustee**)

Coronation Road

Cressex

High Wycombe

HP12 3TZ

From: WasteHoldco 1 Limited (the **Company**)

44 Esplanade

St Helier

Jersey

JE4 9WG

Date: []

We hereby acknowledge receipt of a notice dated [date] (the **Notice**) from the Grantor and the Pension Trustee relating to the creation of a security interest in respect of the Securities. Terms defined in the Notice shall have the same meaning where used herein.

We confirm that:

- 1 we have not, as at the date hereof, received notice of any other security interest or encumbrance over any of the Securities and we hereby undertake to notify the Pension Trustee of any such notice received in the future;
- 2 for such time as such security interest continues, the Pension Trustee acts as secured party only and will not, save as required by law, be held liable by, or under any obligation to, the Company in respect of the Securities;
- 3 the names of the persons identified as the transferees of the Securities in the Notice have been entered in the register of members as the holders of the Securities and we enclose originals of the certificate of title reflecting such holding; and

- 4 for the purpose of the giving of notice to us, without prejudice to any other form of notice, we agree that a facsimile sent to [number] attention [●] and that an email sent to [address] shall, in each case, be sufficient notice.

This acknowledgement shall be governed by and construed in accordance with the laws of Jersey.

Signed for and on behalf of WasteHoldco 1 Limited

Signature

Print name

Title

Signatories

Grantor

Signed for and on behalf of Biffa plc



Signature

RICHARD PIKE

Print name

DIRECTOR

Title

Pension Trustee

Signed for and on behalf of Biffa Pension Scheme Trustees Limited as trustee of the Biffa Pension Scheme

Signature

Print name

Title

Signatories

Grantor

Signed for and on behalf of Biffa plc

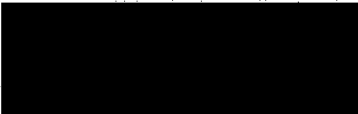
Signature

Print name

Title

Pension Trustee

Signed for and on behalf of Biffa Pension Scheme Trustees Limited as trustee of the Biffa Pension Scheme



Signature

KEITH JONES

Print name

TRUSTEE DIRECTOR

Title