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RULES OF

ENVIRONMENTAL SERVICES ASSOCIATION LIMITED

(adopted on 27th November 2003 and amended on 24th November 2006 and 9 October 2009)

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1. INTERPRETATION

1.1 In these Rules, unless the context otherwise requires:

- (a) the "**Acts**" means the Companies Act 1985 and the Companies Act 2006 and any modification or re-enactment thereof for the time being in force;
- (b) "**annual turnover**" means the annual turnover net of landfill tax (and/or any other tax payable per tonne of waste being transported and/or managed) which is related to the Environmental Services of a business;
- (c) the "**Articles**" means the Articles of Association of ESA for the time being in force;
- (d) "**Associate Member**" means any person or company who fulfils the criteria for associate membership specified by the Board from time to time and who has been duly elected as an Associate Member;
- (e) the "**Board**" means the board of Directors of ESA from time to time;
- (f) "**Chairman**" and "**Vice-Chairman**" means those Members of the Board duly elected in accordance with the provisions of Articles 7 and 9;
- (g) "**Director General**" means that Member duly elected in accordance with the provisions of Articles 7.5 and 9 who is responsible to the Board and who is the principal representative of ESA and the principal policy advisor to the Board;
- (h) "**Close Business Relationship**" means in the opinion of the Board a closely connected or associated business relationship between two or more persons, companies or firms as evidenced by any or all of the following:
 - (i) family members being officers, shareholders, owners and/or beneficiaries of the subject businesses; and/or
 - (ii) the sharing of property or other facilities or employees (including executive directors) between the subject businesses; and/or
 - (iii) any matter fact or circumstance which indicates that the subject businesses are or may not be conducted on an arm's length basis.
- (i) the "**Code of Conduct**" means the code of conduct, as amended from time to time, which governs Membership of ESA;

- (j) the "**Conflict Declaration**" means the conflict declaration, as amended from time to time, which is required to be signed by any Member who for consideration provides goods and/or services to ESA and/or a connected company;
 - (k) "**Director**" means any person elected from time to time to perform the duties of a director of ESA and a member of the Board;
 - (l) "**Disciplinary Panel**" means a tribunal of the Chairman, Vice-Chairman and immediate past Chairman (or, if any such person is unavailable to serve on the Disciplinary Panel, any alternate appointed by the Board);
 - (m) "**Environmental Services**" means the regulated management and/or transport of waste and/or secondary resources in the UK and/or technical services relating to such management/transport;
 - (n) "**ESA**" means the Environmental Services Association Limited;
 - (o) "**Financial Year**" means the period of 12 months from 1 April to 31 March inclusive;
 - (p) "**Full Member**" means any company who fulfils the criteria for full membership specified by the Board from time to time and which has been duly elected as a Full Member;
 - (q) "**Life Member**" means any person who fulfils the criteria for life membership specified by the Board from time to time and who has been duly elected as a Life Member;
 - (r) "**Member**" means a Full Member and/or Associate Member of ESA;
 - (s) "**SME**" a means small and medium enterprise as that term is defined in the Articles;
 - (t) "**SME Forum**" means the forum of SMEs;
 - (u) "**Secretary**" means any person appointed by the Director General on behalf of the Board to perform any of the duties of the Secretary, in accordance with Article 14, from time to time;
 - (v) "**UK**" means the United Kingdom of Great Britain and Northern Ireland.
- 1.2 Words importing the masculine gender only shall include the feminine gender.
- 1.3 Where reference is made to a statutory provision this includes all prior and subsequent enactments, amendments and modifications of that provision and any regulations made under it.
- 1.4 Subject to the foregoing, any words or expressions in these Rules which are defined in the Acts shall bear the same meaning in these Rules as in the Acts in force at the date at which these Rules become binding on ESA, unless the contrary intention appears.
- 1.5 References to the plural shall include the singular and vice versa.
- 1.6 The headings in these Rules are inserted for convenience only and shall not affect the construction or interpretation of any of the provisions contained in them.
- 1.7 References to writing include, unless the contrary intention appears, typewriting, printing, lithography, photography, telex, facsimile and electronic mail messages and any other method of producing words in a legible and permanent manner.

1.8 Regulations in Table A in the First Schedule to the Companies (Tables A-F) Regulations 1985 shall not apply to ESA.

2. MEMBERS

2.1 Any person, corporation or firm wishing to join ESA (as either a Full Member or Associate Member) must apply in writing to the Secretary in such form as ESA may from time to time be prescribe. The Secretary will provide copies of application forms to any persons wishing to become a Member and may do so by reference to documents which can be downloaded from ESA's website.

2.2 An applicant for membership as a Full Member of ESA must:

- (a) demonstrate that a substantial part of its business involves the provision of Environmental Services;
- (b) satisfy the Board that it will support the objects of ESA and not take any action which is prejudicial to the direct interests of ESA or ESA's good name;
- (c) acknowledge in writing receipt of these Rules, ESA's Code of Conduct and the Articles and agree to comply with them as they may be amended from time to time;
- (d) provide a signed Conflict Declaration, which the Director General in his absolute discretion requires that particular applicant to sign, with its completed application;
- (e) be a company with limited liability and incorporated within the UK; and
- (f) comply with any other requirements which the Board may set from time to time in its absolute discretion.

2.3 An applicant for membership as an Associate Member of ESA must complete all the steps set out in Rule 2.2 above, save that 2.2(a) shall be taken to read:

- (a) demonstrate that a significant part of its business involves the provision of services and/or products to companies who directly provide Environmental Services;

and that an Associate Member need not be a limited liability company or be domiciled or incorporated within the UK.

2.4 The Board may appoint individuals to be Life Members of ESA in recognition of an individual's services to ESA and/or Environmental Services (and Rules 2.5 – 2.11 inclusive, 4 and 7 below shall not apply to Life Members). Life Members shall have no voting rights or rights to attend any meeting of ESA.

2.5 Upon receipt of an application for membership, the Secretary may invite appropriate Members for their views and observations on the suitability of the applicant for membership.

2.6 The Secretary shall place any such completed applications for membership (together with any views and observations received pursuant to Rule 2.5 above) before the first meeting of the Board which follows the receipt of the completed application. If the Board votes by a two thirds majority of those present for the applicant to be admitted to membership, the Secretary shall enter the name of such applicant into the register of Members, subject to Rule 2.7 below.

2.7 Upon acceptance by the Board, the applicant shall become a Member once all of the following have taken place:

- (a) the applicant has paid to ESA a sum in respect of that year's subscription pro rata and appropriate to the category of Member to which the applicant has been admitted;
 - (b) if the applicant is a company or a firm, it has appointed two of its directors or partners to act as its representative and alternate representative respectively, in accordance with Rule 4.1; and
 - (c) the applicant has been registered as a Member in ESA's appropriate register of Members.
- 2.8 The Board shall have the right in its absolute discretion to refuse admission to membership. The Board shall act reasonably and take account of all the circumstances and the objects of ESA when making its decision. The Board may ask the applicant for further information before making its decision. The applicant shall be notified within 28 days of the Board's decision in writing of the reasons for refusal and informed of the right of appeal. An applicant may re-apply after the expiry of six months from the date of the refusal.
- 2.9 As provided in Rule 6, an applicant shall have the right to appeal any refusal of membership.
- 2.10 If any person, company or firm:
- (a) has a Close Business Relationship with; or
 - (b) owns more than 20 per cent. of the issued share capital of
- an applicant, and that person, company or firm is involved in Environmental Services, the applicant shall only be admitted as a Member if that person, company or firm is also a Member or becomes a Member at the same time as the applicant.
- 2.11 If an applicant:
- (a) has a Close Business Relationship with; or
 - (b) owns more than 20 per cent. of
- the issued share capital of another person, company or firm and that person, company or firm is involved in Environmental Services, the applicant may only be admitted as a Member if that person, company or firm is also a Member or becomes a Member at the same time as the applicant.
- 2.12 The rights and privileges of membership of ESA are not transferable.
- 2.13 Upon termination of a Member's membership howsoever occurring, the Member's name shall be struck off the appropriate register of Members.
- 2.14 Any change or proposed change in control of a Member (including any change which means the circumstances described in Rules 2.10 and 2.11 come into effect) must be reported to the Secretary within 14 days of such change.
- 2.15 A Member shall submit to the Director General and/or Secretary such information as the Board may from time to time require in such form as the Board may require in connection with the business of the Member.
- 2.16 The Board and/or Director General may require a member to sign a revised or new Code of Conduct at any time during that Member's period of membership but the absence of such

requirement will not in any circumstances permit that Member not to comply with the Code of Conduct.

3. CATEGORIES OF MEMBERSHIP

- 3.1 For the purpose of electing the Board, full membership of ESA is divided into categories which relate to the Full Members' levels of turnover related to Environmental Services. The Board in its absolute discretion shall from time to time determine the number of categories, the range of turnover for each category and the number of seats on the Board to be allocated to each category.
- 3.2 The Board may similarly divide Associate Members into categories for the purpose of determining subscriptions.
- 3.3 Full Members shall pay a subscription fee which is calculated on the basis of a percentage of each Full Member's annual turnover related to Environmental Services. The percentage level shall be set by the Board.
- 3.4 Associate Members shall pay a subscription fee on a basis determined by the Board.
- 3.5 A Life Member shall pay no subscription fee.
- 3.6 Professionals (such as lawyers, accountants, providers of financial services) other than those providing technical advice relating directly to Environmental Services shall not be eligible to be Full Members but may be eligible to be Associate Members.
- 3.7 Companies may be admitted as Full Members on a probationary period where the Board considers this to be appropriate. During any such probationary period, such Member shall pay the subscription fees due from a Full Member.
- 3.8 Members shall have the right to appeal any decision under this Rule 3, as set out in Rule 6.

4. MEMBERS' REPRESENTATIVES

- 4.1 Each Full Member shall appoint two of its directors or partners to act as its representative and alternate representative respectively to exercise and assume the rights and obligations of membership conferred by these Rules and the Articles. Each Associate Member shall appoint a director or partner to act as its representative and may similarly appoint an additional director or partner as its alternative representative to exercise and assume the rights and obligations of membership conferred by these Rules and the Articles. Each Member shall give written notice of such appointments to the Secretary immediately after such appointment.
- 4.2 The Board may at its absolute discretion reject any notice of appointment, and may request the Member to propose another representative or alternate representative, as the case may be.
- 4.3 A Member may at any time revoke such appointments by notice in writing to ESA, and upon receipt of such notice the relevant representative or alternate representative (as the case may be) shall cease to act as a representative or alternate representative (as the case may be) and any qualifying officer of the Member nominated in his place will become the representative or alternate representative (as the case may be) and be entitled to exercise the rights and obligations of membership on behalf of such Member.
- 4.4 Each Member may appoint only one representative and one alternate representative.

4.5 The appointments of a representative or alternate representative shall automatically be revoked if their appointor ceases to be a Member for any reason or if such representative ceases to be a director or partner of the Member.

4.6 Each Member has a right to appeal any decision under this Rule 4, as set out in Rule 6.

5. **DISQUALIFICATION OF MEMBERS FROM ESA AND DISCIPLINARY PROCEDURE**

5.1 Membership shall cease if:

- (a) in the opinion of the Disciplinary Panel, a Member ceases to satisfy the Disciplinary Panel that it will support the objects of ESA and not take any action which is considered to be prejudicial to the interests of ESA or ESA's good name;
- (b) the Disciplinary Panel refuses to accept a renewed subscription from any Member;
- (c) a Member ceases to have the involvement in Environmental Services required of the relevant category of Member;
- (d) a Member tenders a written resignation to the Secretary;
- (e) a Member fails to pay the annual subscription in any calendar year;
- (f) a Member becomes bankrupt or insolvent or makes any arrangement or composition with his creditors generally, or has a receiver, administrative receiver or administrator appointed, or in the case of a firm, is dissolved;
- (g) the Member becomes incapable by reason of death, unsound mind, illness or injury of managing and administering his property and affairs;
- (h) the Disciplinary Panel resolves that the Member is in material breach of the Articles or the Rules, the Code of Conduct or the Conflict Declaration for the time being of ESA as amended or supplemented from time to time and/or has otherwise acted and/or been found by an authority such as a criminal court to have acted in a manner which the Disciplinary Panel considers to be incompatible with membership; or
- (i) the Member fails to meet such requirements for the renewal or continuation of membership as may be specified from time to time in the Rules or the Articles.

5.2

- (a) The Secretary shall give the Member not less than four weeks' notice in writing of any meeting of the Disciplinary Panel at which it shall consider whether to cease that membership and of the reasons proposed for such decision and the Member shall be entitled to give a written explanation of any matters or circumstances which the Disciplinary Panel considers do or may constitute any of the grounds set out in Rule 5.1 above on the part of the Member.
- (b) Notwithstanding any provision of this Rule 5, if a Member purports to resign once notice of expulsion and/or disciplinary proceedings has been issued by the Secretary, the Disciplinary Panel may refuse to accept such resignation and instead expel the Member.
- (c) A Member shall deposit the written explanation referred to in Rule 5.2(a) to the Disciplinary Panel at ESA's registered office or, by mutual agreement between the Member and the Disciplinary Panel, shall give an oral explanation to the Disciplinary Panel, within such period as the Disciplinary Panel may specify.

- (d) If, after consideration of any such explanation or if no explanation is received within the period specified, the Disciplinary Panel is of the opinion that the matters or circumstances concerned constitute one or more of the grounds set out in Rule 5.1 above on the part of the Member, the Disciplinary Panel may, subject to Rule 5.6 below, resolve that:
- (i) specified directors, partners and/or other employees and/or agents of the Member or the Member itself shall, for such period and on such terms as the Disciplinary Panel may determine, not be permitted to serve as a Director, Member's representative, Member's alternative representative or member of any committee or working group of ESA; and/or
 - (ii) the Member be censured; and/or
 - (iii) the membership of the Member concerned shall be terminated or suspended for a specified period; and/or
 - (iv) any other sanction which the Disciplinary Panel may in its absolute discretion decide appropriate be applied.
- 5.3 The Disciplinary Panel shall be entitled, subject to the procedure described in Rule 5.2(a), in its absolute discretion, and in such manner as it thinks fit, to notify or cause to be notified the Members of ESA of the findings of any meeting of the Disciplinary Panel which is called under this paragraph, and in particular any resolution passed by the Disciplinary Panel under Rule 5.2(d) above. In addition the Disciplinary Panel shall similarly be entitled, in its absolute discretion and in such manner as it thinks fit, to notify or cause to be notified its findings to the public or any person, authority, body, commission or enquiry.
- 5.4 The Disciplinary Panel shall notify the Member concerned of a resolution under Rule 5.2(d) above within seven days of such resolution. Such resolution shall be brought into effect immediately.
- 5.5 Notwithstanding anything to the contrary herein contained, the Disciplinary Panel may make bye-laws, rules or regulations for:
- (a) the giving of directions to a Member requiring that Member either to suspend all business activity in relation to ESA or to continue the conduct of such business subject to the limitations specified in such directions, pending the commencement and conclusion of any enquiry (although the Disciplinary Panel shall not, in reaching a decision, be obliged to conduct such enquiry) into the affairs of a Member concerning ESA or prior to the exercise by the Disciplinary Panel of any of its powers under this Rule 5; and
 - (b) the publication of such directions in such form as may be thought fit in the circumstances of each case.
- 5.6 A Member may appeal against a decision taken by the Disciplinary Panel on the basis of Rules 5.1 (a), (b), (c), (h) and/or (i) by writing to the Director General within four weeks of receipt by the Member of the Disciplinary Panel's decision. On receipt of this notice of appeal, the Director General will retain an independent arbitrator who will be invited to receive a written submission from each of the appellant and ESA and to make a determination having considered such submissions and/or received such further evidence as he requires. The party against whom the arbitrator finds will pay the arbitrator's fees, the other party's legal costs (up to a maximum of £5,000 plus VAT) and its own legal costs. The Director General may before retaining an independent arbitrator require the Member appealing against ESA to deposit up to £25,000 with ESA by way of security against costs to be incurred in connection with this arbitration procedure.

6. **APPEALS**

- 6.1 Except as provided in Rule 5, any person who wishes to exercise a right of appeal given by these Rules shall notify the Board of its desire within 28 days of the relevant resolution of the Board. The notice of appeal shall be in writing signed on behalf of the appellant and indicate the grounds on which the appeal is made and must be delivered to ESA's registered office.
- 6.2 On receipt of the notice of appeal, the Board shall hear the appeal.
- 6.3 Fresh evidence may be submitted and the Board may confirm, vary or reverse the resolution of the Board appealed against.
- 6.4 The Board shall act reasonably and take into account all the circumstances and the objects of ESA in reaching its decisions.
- 6.5 The Board shall state the grounds for its decisions.

7. **SUBSCRIPTIONS**

- 7.1 Every Member shall pay in each year of its membership such annual subscriptions as may be determined by the Board and notified by the Secretary to every Member in writing before 31 January each year.
- 7.2 Prior to the Board's determining every Member's level of subscription, the Director General is entitled to ask each Member for all data pertinent to the calculation of that Member's subscription for the forthcoming year.
- 7.3 Subscriptions shall be due and payable to ESA in advance on or before 1 April each year.
- 7.4 Subscriptions are not refundable by ESA.
- 7.5 A Member shall not be entitled to exercise any of the rights or privileges of membership until it shall have paid all moneys due and payable by it to ESA.
- 7.6 If a Member fails to pay its subscription within 30 days of it falling due the Secretary shall notify it in writing of such failure.
- 7.7 Where a Member has been expelled before 21 December, it will not be liable for the subscription for the following Financial Year.
- 7.8 In order not to be liable to pay ESA at the same rate as in its final year of membership, the entire subscription for the following Financial Year, a Member must ensure that the Secretary has by 21 December received written notice of its resignation.
- 7.9 If at any stage in a Financial Year, ESA requires additional funds, ESA shall be entitled to request at a general meeting an additional subscription fee from Members, such demand to be accompanied by a budget.
- 7.10 Any surplus in subscription fees in respect of a Financial Year shall be carried forward by ESA to be used for future expenses.

8. **APPOINTMENT AND RETIREMENT OF DIRECTORS**

- 8.1 The Secretary shall, in the month of September prior to giving notice of the annual general meeting, send out to all Full Members an explanation of the basis on and procedure by which the Full Members are eligible to stand for election to the Board plus a written notice (in such form as the Board shall determine) explaining which membership category the relevant Member is in, the other Members in that category and the number

of seats on the Board available to that category. Such notice shall also request the names of individuals (who must be representatives of Full Members) who wish to stand for election to the Board.

- 8.2 Within two weeks of such request, each Full Member wishing to stand for election shall send to the Secretary a written signed notice stating his willingness to be elected and a notice in writing of another Full Member giving notice of his intention to propose the Full Member willing to be elected, as well as no more than 100 words explaining why that Member should be elected. Both the candidate and proposer must fall within the relevant category of membership.
- 8.3 The Secretary shall enclose with the notice of the annual general meeting a declaration of the name of each person seeking election, the name of the Member which he represents and the name of his proposer and of the Member employing the proposer, as well as informing each Full Member of his category of membership and the number of vacancies on the Board allocated to that category. If the number of candidates does not exceed the number of vacancies, the persons nominated shall be deemed and declared to be elected at the annual general meeting. In other cases, an election by postal ballot shall be declared by the Secretary and enclosed with the notice of the annual general meeting.
- 8.4 Each Full Member shall be entitled to vote only for the candidates within the same category of membership as itself. Each Full Member shall be entitled to exercise a number of votes equal to the number of vacancies for Directors in that Member's category of membership. Each Full Member shall give no more than one vote to any one candidate. Each postal ballot shall be returned by that Full Member to the Secretary so that it is received by him at least one week before the annual general meeting.
- 8.5 Those of the candidates who are equivalent in number to the vacancies and who receive the highest number of votes shall be declared to be elected by the Secretary at the annual general meeting. The chairman at the annual general meeting shall have the casting vote in writing in the event that any candidates receive an equal number of votes. The new Directors shall take up their appointments upon the conclusion of that annual general meeting.