

Sewer Mining Agreement

Sydney Water Corporation

and

SEWER MINER

Jan 2010

Contents

- 1. Definitions and interpretation 4**
 - 1.1 Definitions 4
 - 1.2 Interpretation 9
 - 1.3 Sydney Water as State Owned Corporation 10

- 2. Entire, unique agreement..... 10**

- 3. Conditions precedent to Sewer Mining..... 10**
 - 3.1 Connection to the Sewerage System 10
 - 3.2 Taking Sewage 11

- 4. Nature of Connections 11**
 - 4.1 Connections and Availability Period..... 11
 - 4.2 Availability 11
 - 4.3 Risk and title..... 12
 - 4.4 Nature of Sewage 12
 - 4.5 Right to interrupt 13
 - 4.6 Obligation to notify of interruptions or other impacts..... 14

- 5. Use and Management 14**
 - 5.1 Use of the Sewage and Recycled Water..... 14
 - 5.2 Sewer Miner must comply with all Laws..... 14
 - 5.3 Operation and maintenance of the Facility and the Connection Points..... 15
 - 5.4 Alterations 15
 - 5.5 Safety and environment..... 16
 - 5.6 Sewer Mining information and records..... 17
 - 5.7 Sydney Water’s rights 18

- 6. Trade Waste Consent 18**
 - 6.1 Discharge of Trade Wastewater into the Sewerage System 18

- 7. Fees, costs and expenses 18**
 - 7.1 Fees..... 18
 - 7.2 Payment Terms..... 19
 - 7.3 Adjustment of the Fees..... 19

- 8. Liability, risk and insurance 19**
 - 8.1 Insurance 19
 - 8.2 Risk..... 19
 - 8.3 Sewer Miner’s warranties..... 19
 - 8.4 Limitation of liability of Sydney Water 20
 - 8.5 Indemnity and make good 21
 - 8.6 Release..... 22

| | |
|--|-----------|
| 9. Confidentiality..... | 22 |
| 10. Termination..... | 23 |
| 10.1 Date of termination..... | 23 |
| 10.2 Termination | 23 |
| 10.3 Consequences of termination | 24 |
| 10.4 Extension..... | 24 |
| 11. General..... | 24 |
| 11.1 Disputes..... | 24 |
| 11.2 Notices..... | 25 |
| 11.3 Governing law, jurisdiction..... | 25 |
| 11.4 Amendments..... | 26 |
| 11.5 Waiver | 26 |
| 11.6 Further acts and documents..... | 26 |
| 11.7 Consents | 26 |
| 11.8 Assignment..... | 26 |
| 11.9 Counterparts | 26 |
| 11.10 No representation or reliance..... | 26 |
| 11.11 Expenses..... | 27 |
| 11.12 Stamp duties | 27 |
| 11.13 Indemnities | 27 |
| 11.14 No Partnership..... | 27 |
| 11.15 Survival | 27 |
| 12. GST | 27 |
| 12.1 Interpretation | 27 |
| 12.2 Reimbursements and similar payments | 28 |
| 12.3 GST payable..... | 28 |
| 12.4 Variation of GST..... | 28 |
| Schedule 1 – Particulars | 29 |
| Schedule 2 – Fees | 30 |
| Appendix 1 - Drawings | 31 |
| Appendix 2 – Trade Waste Consent | 32 |
| Execution..... | 33 |

Parties

Sydney Water Corporation ABN 49 776 225 038 of 115-123 Bathurst Street, Sydney, New South Wales, (**Sydney Water**)

SEWER MINER ABN _____ of, New South Wales (Sewer Miner)

Recital

- A. Sydney Water is a statutory State Owned Corporation constituted under the *State Owned Corporations Act 1989* and under the *Sydney Water Act 1994*
- B. Sewer Miner is [.....]
- C. Sewer Miner has requested Sydney Water to permit it to connect to and take Sewage from the Sewerage System to manufacture Recycled Water for [*insert Proposed Uses*].
- D. Sydney Water is willing to grant access to the Sewage to Sewer Miner on the terms and conditions set out in this Agreement.
- E. Sydney Water will receive no financial gain from making Sewage available to Sewer Miner (other than recovery of its costs) and accordingly its principal objectives in entering into this agreement are to:
 - (i) Facilitate sewer mining by providing timely information, advice and responses to enquiries and applications;
 - (ii) Encourage improved water conservation and sewage management outcomes;
 - (iii) Ensure the operation of the sewerage system is not compromised; and
 - (iv) Ensure that the extraction and use of sewage for sewer mining does not expose Sydney Water to business or legal risks that cannot be managed.
- F. Sydney Water will adopt a first come, first served approach in allocating access to sewage flows. When advising future applicants of the availability of sewage in a particular sewerage system, Sydney Water will acknowledge and honour its existing commitments, including to other sewer mining operations.

Operative Provisions

1. Definitions and interpretation

1.1 Definitions

In this Agreement, unless the contrary intention appears:

"**Act**" means the *Sydney Water Act 1994*.

"**Agreement**" means this document once executed and any subsequent variations to this Agreement as agreed in writing between the parties;

"Application for Sewer Mining Connection" means an application made by the Sewer Miner to Sydney Water (in accordance with Sydney Water's requirements) for the construction of the Connection Points.

"Approval" means any authorisation, permit, consent, licence or approval required by any Authority under any Law;

"Authority" means any government department, local government, government or statutory authority, or any other body, which has jurisdiction over, a right to impose a requirement or whose consent is required in connection with the performance by Sewer Miner of its obligations under this Agreement.

"Availability Period" means the term of this Agreement commencing on the date of this Agreement and (unless this Agreement is terminated earlier by either party in accordance with this Agreement) expiring on the Termination Date.

"Claim" means in relation to any person, a claim, action, proceedings or demand made against the person, however arising and whether present or future, fixed unascertained, actual or contingent.

"Connection Advice Letter" means the letter entitled "Sewer Mining Connection Advice Letter" issued to Sewer Miner by Sydney Water that specifies the conditions for the construction of the Connection Points and requires the Sewer Miner to enter into a Works Agreement.

"Connection Points" mean either or both the Extraction Point and the Discharge Point.

"Consumer Price Index" means the Consumer Price Index for Sydney (All Groups) published by the Australian Bureau of Statistics as per Table 1 of ABS Catalogue 6401.0 or the index officially substituted for it.

"CPI Review Date" means each first day of July every year commencing on the first 1 July after the date of this Agreement.

"Current CPI" means the Consumer Price Index for the quarter ending immediately before the relevant CPI Review Date.

"Discharge Point" means the point for the discharge of Trade Wastewater by Sewer Miner and described in Schedule 1, which comprises both the Sewer Miner Discharge Connection and the Sydney Water Discharge Connection.

"Domestic Wastewater" means water which has in it human faecal matter, urine or refuse of any type produced in, and which is permitted to be discharged to a Sydney Water sewer from, any premises used exclusively for residential purposes.

"Extraction Point" means the point for the taking of Sewage by Sewer Miner and described in Schedule 1 which comprises both the Sewer Miner Extraction Connection and the Sydney Water Extraction Connection.

"Facility" means the water treatment facility operated by Sewer Miner to treat the Sewage to standards suitable for the Proposed Uses described in Schedule 1.

"Fee(s)" means one or more of: the Sewer Mining Connection Fee; the Sewer Mining Volume Charge; the Sewer Mining Maintenance Fee and the Sewer Mining Disconnection Fee.

"Incident" includes an event which, in the reasonable opinion of Sydney Water, causes, or has the potential to cause, an immediate threat to or of (or an adverse impact on):

- (a) the life, health and safety of any persons;
- (b) the environment;
- (c) public or private property (including the Sewerage System and any other property of Sydney Water);
- (d) interruption to availability and/or quality of services to Sydney Water's customers;
- (e) prosecution, or the imposition of fines, by an Authority;
- (f) a breach of the Trade Waste Consent;
- (g) requirements for urgent action under Law; or
- (h) the reputation or public image of Sydney Water.

"Insolvency Event" means:

- (a) a "controller" (as defined in section 9 of the Corporations Act 2001 (Cth)), manager, trustee, administrator, or similar officer is appointed in respect of a person or any asset of a person;
- (b) a liquidator or provisional liquidator is appointed in respect of a corporation;
- (c) any application (not being an application withdrawn or dismissed within 7 days) is made to a court for an order, or an order is made, or a meeting is convened, or a resolution is passed, for the purpose of:
 - i) appointing a person referred to in paragraphs (a) or (b);
 - ii) winding up a corporation; or
 - iii) proposing or implementing a scheme of arrangement;
- (d) any event or conduct occurs which would enable a court to grant a petition, or an order is made, for the bankruptcy of an individual or his estate under any law relating to insolvency, sequestration, liquidation or bankruptcy (including any law relating to the avoidance of conveyances in fraud of creditors or of preferences, and any law under which a liquidator or trustee in bankruptcy may set aside or avoid transactions), and any provision of any agreement, arrangement or scheme, formal or informal, relating to the administration of any of the assets of any person;
- (e) a moratorium of any debts of a person, a personal insolvency agreement or any other assignment, composition or arrangement (formal or informal) with a person's creditors or any similar proceeding or arrangement by which the assets of a person are subjected conditionally or unconditionally to the control of that person's creditors or a trustee, is executed, ordered, declared or agreed to, or is applied for and the application is not withdrawn or dismissed within 7 days;
- (f) a person becomes, or admits in writing that it is, is declared to be, or is deemed under any applicable law to be, insolvent or unable to pay its debts;

- (g) any writ of execution, garnishee order, mareva injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to any asset of a person;
- (h) a person becomes an insolvent under administration within the meaning of the Corporations Act;
- (i) in respect of a body corporate not incorporated in Australia or any individual not resident in Australia, any other similar event occurs under any foreign laws providing for the relief of debtors in adverse financial circumstances; or
- (j) the Commissioner of Taxation advises of an intention to issue or issues a notice under the Taxation Administration Act 1953 (Cth) requiring any person who is taken under that Act to owe money to Sewer Miner to instead pay such money to the Commissioner in respect of any Tax or other amount required to be paid by Sewer Miner to the Commissioner (whether or not due and payable).

"Law" means any legislation, regulation, rule, by-law, policy, guideline or standard of any Authority or rule of common law or equity.

"Loss" means, in relation to any person, damage, fine, penalty, order, loss, cost, expense or liability whatsoever incurred by the person.

"Month" or **"Monthly"** mean respectively, calendar month and calendar monthly.

"Operator" means any person engaged by Sewer Miner to operate the Facility, the Sewer Miner Extraction Connection or the Sewer Miner Discharge Connection, including any employees, contractors, subcontractors, or agents of that person.

"Previous CPI" means the Consumer Price Index number for the quarter ending immediately before the most recent CPI Review Date (or if there has not been one, the date of this Agreement).

"Proposed Uses" means the uses of Recycled Water so specified in Schedule 1.

"Recycled Water" means water which is non-potable and which is Recycled from the Sewage by physical, chemical and/ or biological treatment processes at the Facility.

"Requirement" means any requirement, notice, order or direction received from or given by any Authority, and **"Requirements"** has a similar meaning.

"Residue" means all by-products of the treatment of the Sewage other than the Recycled Water or Trade Wastewater.

"Security" means an amount required to be paid by Sewer Miner to Sydney Water prior to the construction of the Connection Points and to be returned by Sydney Water to Sewer Miner, in accordance with the terms and conditions set out in the Connection Advice Letter, following the satisfactory construction of the Connection Works by Sewer Miner in accordance with the Works Agreement.

"Sewage" means all matter including waste matter that is found in the Sewerage System.

"Sewer Miner Connection Works" means the Sewer Miner Extraction Connection and the Sewer Miner Discharge Connection.

"Sewer Miner Discharge Connection" means the discharge connection works described in the Connection Advice Letter, which are not the subject of the Works Agreement.

"Sewer Miner Extraction Connection" means the extraction connection works described in the Connection Advice Letter, which are not the subject of the Works Agreement.

"Sewer Mining" means the process of extracting Sewage from a Sewerage System (either before or after the system's sewage treatment plant) and treating it using physical, chemical and/or biological processes to produce Recycled Water suitable for a specific end use.

"Sewer Mining Connection Fee" means the amount so specified in Schedule 2 (being an amount, determined by Sydney Water, to be equal to the costs reasonably incurred by Sydney Water in facilitating Sewer Miner's Sewer Mining connection to the Sewerage System in accordance with this Agreement minus the savings made by Sydney Water in facilitating Sewer Miner's Sewer Mining connection to the Sewerage System in accordance with this Agreement).

"Sewer Mining Disconnection Fee" means the amount so specified in Schedule 2 (being an amount, determined by Sydney Water, representing the costs reasonably expected to be incurred by Sydney Water in removing the Connection Points and restoring the Sewerage System to a condition equivalent to its condition prior to execution of this Agreement).

"Sewer Mining Maintenance Fee" means the amount so specified in Schedule 2 (being an amount, determined by Sydney Water, to be equal to the costs reasonably incurred by Sydney Water in the maintenance of works in the Sewerage System (where such costs are caused by or directly associated with the Sewer Mining permitted by this Agreement) minus the savings made by Sydney Water in the maintenance of works in the Sewerage System (where such savings are caused by or directly associated with the Sewer Mining permitted by this Agreement)).

"Sewer Mining Volume Charge" means the amount so specified in Schedule 2 being the price per kilolitre for Sewage taken from the Sewerage System at the Extraction Point.

"Sewerage System" means the network of sewers, sewage pumping stations, sewage treatment plants and associated infrastructure owned and operated by Sydney Water.

"Site" means the land, plant and buildings specified in Schedule 1 and shown in Appendix 1, on or in which Sewer Miner undertakes Sewer Mining.

"Sydney Water" means Sydney Water Corporation.

"Sydney Water Connection Works" means the Sydney Water Extraction Connection and the Sydney Water Discharge Connection.

"Sydney Water Discharge Connection" means the discharge connection works the subject of the Works Agreement.

"Sydney Water Extraction Connection" means the extraction connection works the subject of the Works Agreement.

"Termination Date" means the date specified in item 1 of Schedule 1.

"Trade Waste Consent" means the consent by Sydney Water that permits Sewer Miner to discharge Trade Wastewater into the Discharge Point.

"Trade Waste Policy" means Sydney Water's policy detailing the conditions under which Sydney Water will agree to accept Trade Wastewater to the Sewerage System.

"Trade Wastewater" means any liquid and any substance in it that is produced by Sewer Mining at the Site and discharged into the Sewerage System but does not include Domestic Wastewater.

"Works Agreement" means the document entitled "Major Works Deed " which the Sewer Miner must enter into with Sydney Water for the construction of the Sydney Water Connection Works.

1.2 Interpretation

In this Agreement:

- (a) Any definitions or standards referred to in this Agreement but not contained in it are deemed to form a part of this Agreement with necessary changes being made to accommodate their inclusion;
- (b) Headings are for convenience only and do not affect interpretation; and
unless the context indicates a contrary intention:
- (c) A reference to party includes that party's executors, administrators, successors and permitted assignees including persons taking by way of novation; and
- (d) A reference to a document (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (e) A reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (f) A word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (g) A reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this Agreement, and a reference to this Agreement includes all schedules, exhibits, attachments and annexure to it;
- (h) If a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (i) **"includes"** in any form is not a word of limitation;
- (j) **"person"** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (k) A reference to **"\$"** or **"dollar"** is to Australian currency; and
- (l) No rule of construction applies to the disadvantage of a party on the basis that that party put forward or drafted this Agreement or any provision in it.

1.3 Sydney Water as State Owned Corporation

Sewer Miner acknowledges and agrees that:

- (a) Sydney Water has an unfettered discretion to exercise any of its functions and powers pursuant to its operating licence or any legislation;
- (b) Nothing in this Agreement will in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of Sydney Water to exercise any of its functions and powers pursuant to the *Sydney Water Act 1994*, its operating licence or any other legislation; and
- (c) Without limiting clause 1.3(a), anything which Sydney Water does, fails to do or purports to do pursuant to its functions and powers under its operating licence or any legislation will be deemed not to be, or to have caused or contributed to, an act or omission by Sydney Water under this Agreement and Sewer Miner will have no Claim against Sydney Water arising out of the subject matter of this Agreement.

2. Entire, unique agreement

- (a) To the extent permitted by law, in relation to its subject matter, this Agreement:
 - (i) Embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties; and
 - (ii) Supersedes any prior written or other agreement of the parties.
- (b) Without limiting clause 2(a), the taking of Sewage by Sewer Miner is governed exclusively by this Agreement irrespective of the terms of any customer contract between the parties.
- (c) If there is any ambiguity, discrepancy or inconsistency between the terms of the Connection Advice Letter or the Works Agreement and this Agreement, the higher standard, quality or quantum will prevail but if this does not resolve the ambiguity, discrepancy or inconsistency, this Agreement will prevail.
- (d) This Agreement sets no precedent for future arrangements between the parties.

3. Conditions precedent to Sewer Mining

3.1 Connection to the Sewerage System

Sewer Miner must not connect to the Sewerage System unless and until it has first:

- (a) Lodged an Application for Sewer Mining Connection with Sydney Water and obtained a Connection Advice Letter in response to that application;
- (b) Complied with all conditions precedent to connection specified in the Connection Advice Letter including entering into a Works Agreement;
- (c) Obtained all Approvals, and any consents (including landowner's consents) required by law, for construction of the Connection Points and the Facility;
- (d) Paid to Sydney Water the Sewer Mining Connection Fee; and

- (e) Lodged any Security required by Sydney Water specified to the Sewer Miner in the Connection Advice Letter.

3.2 Taking Sewage

Sewer Miner must not take Sewage from the Sewerage System unless and until it has first:

- (a) Constructed each of the Connection Points in accordance with all of the requirements specified in the Connection Advice Letter and with the Works Agreement;
- (b) Verified to the satisfaction of Sydney Water that each of Sydney Water's technical requirements regarding the Connection Points and the Facility as described in the Connection Advice Letter has been satisfied;
- (c) Obtained all Approvals necessary or desirable for:
 - (i) The taking of Sewage from the Sewerage System at the Extraction Point;
 - (ii) The operation of the Facility;
 - (iii) The use of the Recycled Water; and
 - (iv) The disposal or other dealings with the Recycled Water, the Trade Wastewater, the Residue or any other by-products of Sewer Mining.
- (d) Demonstrated to the satisfaction of Sydney Water that it has obtained all insurances specified in clause 8.1.
- (e) Paid to Sydney Water the Sewer Mining Connection Fee.

4. Nature of Connections

4.1 Connections and Availability Period

- (a) Sydney Water consents to Sewer Miner taking Sewage and Sewer Miner agrees to only take Sewage in accordance with the terms and conditions of this Agreement.
- (b) Sewer Miner may only connect to the Sewerage System and take Sewage during the Availability Period.

4.2 Availability

- (a) Sewer Miner must not take more Sewage through the Extraction Point than the "maximum daily instantaneous flow rate" and "maximum daily extraction volume" specified in item 5 of Schedule 1.
- (b) Sewer Miner acknowledges that:
 - (i) Sydney Water has no control over the quantity of Sewage entering the Sewerage System;

- (ii) Sydney Water has operational flow requirements for the Sewerage System;
 - (iii) without limiting clause 4.4(d)(ii), Sydney Water provides no guarantee to Sewer Miner regarding the volume of Sewage available for taking by Sewer Miner.
 - (iv) Sydney Water operates in a 5 year regulatory timeframe where its ability to provide access to its system is as a result of its operating licence.
- (c) Without limiting clause 4.5, Sydney Water will not during the Availability Period take action which is intended to permanently reduce the Sewage available for extraction by Sewer Miner below the minimum available flow specified in Schedule 1.

4.3 Risk and title

- (a) Title to and all risk in the Sewage taken through the Extraction Point passes to Sewer Miner at the Sewer Miner Extraction Connection.
- (b) Sewer Miner may not refuse or reject the Sewage after it has passed the Sydney Water Extraction Connection and entered the Sewer Miner Extraction Connection.

4.4 Nature of Sewage

- (a) Sewer Miner acknowledges that:
 - (i) Sydney Water has no control over the contents or quality of the Sewage;
 - (ii) While Sydney Water implements a *Trade Waste Policy and Management Plan*, instances of illegal dumping of substances in the Sewerage System can occur and the Sewage may contain unauthorised substances; and
 - (iii) The contents and quality of the Sewage will vary from time to time, and may change over time.
- (b) Sewer Miner acknowledges and warrants that it:
 - (i) Has not relied on any information, statement or representation, written or oral, made or provided, given by or on behalf of Sydney Water as to or in connection with the condition of or the characteristics of the Sewage;
 - (ii) Is satisfied as to the nature, quality and condition of the Sewage;
 - (iii) Accepts the Sewage as it is and subject to all defects (latent or patent);
 - (iv) Is satisfied about the purposes for which Sewage may be used; and

- (v) Has examined samples of the Sewage and satisfied itself and determined through its own investigations and tests as to the nature and characteristics of the Sewage.
- (c) Sewer Miner may not make any Claim against Sydney Water in relation to the nature, quality, availability or characteristics of the Sewage.
- (d) Sydney Water makes no representations or warranties whatsoever to Sewer Miner in relation to:
 - (i) The quality of the Sewage or its suitability for any purpose;
 - (ii) The availability or volume of any Sewage available for taking;
 - (iii) The risks or hazards associated with the use of the Sewage; and
 - (iv) The potential risks or consequences of the use of the Sewage on human health or the environment.
- (e) Without limiting clause 5.5(a), Sewer Miner must ensure that the Operator is provided with adequate and appropriate information concerning the contents, properties and risks associated with the use of Sewage and Recycled Water, including any information supplied by Sydney Water to Sewer Miner for the purpose of provision to the Operator.

4.5 Right to interrupt

Sydney Water may interrupt, postpone or limit the volume or rate at which Sewer Miner may take Sewage from the Sewerage System if Sydney Water considers that:

- (a) It is necessary in order to undertake any inspections, maintenance, repair or other works on the Sewerage System;
- (b) There is an insufficient volume or flow of Sewage in the Sewerage System;
- (c) An Incident occurs in connection with:
 - (i) The Facility or the Connection Points; or
 - (ii) The Sewerage System at a point upstream of the Extraction Point;
- (d) Sewer Miner has breached the conditions of this Agreement or any requirements of the Trade Waste Consent; or
- (e) There is a material change in circumstances such that the further taking of Sewage from the Sewerage System presents a risk to: human health or the environment (as determined in liaison with relevant authorities); Sydney Water's operations; or could give rise to a breach by Sydney Water of any Law or any Approval.

Sydney Water is not required to provide an alternative supply of Sewage to the Extraction Point if it takes action under this clause 4.5.

4.6 Obligation to notify of interruptions or other impacts

- (a) If an interruption to availability of Sewage is proposed to be made in accordance with clauses 4.5(a), (b) (c) or (e) and Sydney Water does not consider that the interruption is required as a matter of urgency, Sydney Water will notify Sewer Miner as soon as reasonably possible of the commencement date and resumption date of any anticipated interruption to availability of Sewage, and the nature of the work that will be undertaken.
- (b) Sydney Water will use its best endeavours to minimise the duration of any interruption to the availability of Sewage made by Sydney Water under:
 - (i) clauses 4.5(a) or(c)(ii); and
 - (ii) clause 4.5(c)(i) to the extent that it relates to the Sydney Water Extraction Point or Sydney Water Discharge Point.
- (c) Sydney Water will, where it has actual knowledge of a significant change in the composition of the Sewage available for taking by Sewer Miner due to activities upstream of the Extraction Point, take reasonable steps to notify Sewer Miner as soon as reasonably possible of any such known significant changes in the quality of Sewage.
- (d) Without limiting clause 5.4, Sewer Miner must notify Sydney Water as soon as possible of the commencement date and resumption date of any anticipated interruption to the taking of Sewage.
- (e) Except as provided by clause 4.6(a), Sydney Water may interrupt, postpone or limit the volume or rate at which Sewer Miner may take Sewage under this clause without prior notice to Sewer Miner. Sydney Water will take reasonable steps to notify the Sewer Miner of the proposed resumption date of any such interruption to availability of Sewage and the nature of the work that is being undertaken. If an Incident occurs in relation to the Sewerage System, Sydney Water must, as soon as it becomes aware, immediately notify Sewer Miner.

5. Use and Management

5.1 Use of the Sewage and Recycled Water

- (a) Sewer Miner must ensure that the Operator does not use or otherwise deal with the Sewage other than for the purpose of treating it in the Facility to manufacture Recycled Water.
- (b) Sewer Miner must not permit any third party to take any Sewage without the prior written consent of Sydney Water.

5.2 Sewer Miner must comply with all Laws

Sewer Miner must at all times:

- (a) Comply with all Laws and any Requirements; and

- (b) Obtain, maintain and comply with all Approvals,

with respect to the taking, storage, use, treatment and disposal of the Sewage, the Recycled Water and any Residue.

5.3 Operation and maintenance of the Facility and the Connection Points

- (a) Sewer Miner has sole responsibility for and control of all aspects of the construction, operation, maintenance and removal of the Facility and the Connection Points (other than the operation and maintenance of the Sydney Water Connection Works, which is the responsibility of Sydney Water).
- (b) Sewer Miner has sole responsibility for managing complaints from third parties about any odours emanating from the Connection Points or the Facility.
- (c) Sydney Water permits Sewer Miner to access specified areas of land or infrastructure owned or controlled by Sydney Water and shown in the attached site map (Appendix 1) for the purpose of maintaining the Connection Points provided that:
 - (i) Sewer Miner gives to Sydney Water at least 3 business days prior written notice of its intention to do so (such notice must specify the date, time and reason access is required) and Sewer Miner complies with any conditions imposed on that access by Sydney Water; and
 - (ii) Sydney Water does not notify Sewer Miner prior to the proposed time of access that access is not granted.
- (d) Without limiting Sydney Water's rights under the Sydney Water Act, Sewer Miner permits Sydney Water to access areas of land or infrastructure owned or controlled by Sewer Miner for the purpose of constructing or maintaining the Sewerage System. Except in the case of an emergency (as determined by Sydney Water), Sydney Water will give Sewer Miner at least 3 business days prior written notice of its intention to access such land or infrastructure.
- (e) Without limiting clause 8.5, when entering land or accessing property owned by the other party Sewer Miner and Sydney Water must:
 - (i) Take all reasonable action to minimise interference; and
 - (ii) Make good any damage caused.

5.4 Alterations

- (a) Sewer Miner must not make any alterations:
 - (i) To the Sydney Water Connection Works (as originally constructed); or
 - (ii) To the Sewer Miner Connection Works which would materially affect the design, construction or operation of the Sydney Water Connection Works or any aspect of the Sewerage System,unless it:

- (iii) Gives Sydney Water adequate prior notice of the proposed alteration; and
 - (iv) Obtains Sydney Water's prior consent; and
 - (v) Complies with any conditions imposed on any such consent including those specified in any additional "Sewer Mining Connection Advice Letter" issued to Sewer Miner by Sydney Water in respect of the proposed alteration.
- (b) Sewer Miner acknowledges and agrees that Sydney Water may require, acting reasonably, amendments to be made to this Agreement before providing its consent to any alteration requested by Sewer Miner under clause 5.4(a).
- (c) Except as provided by clause 5.4(a), if after it has satisfied the requirements of clause 3.2, Sewer Miner proposes to make any alterations to the design, construction or operation of the Facility which could materially alter the volume or rate of Sewage capable of being extracted or the quantity or composition of Trade Wastewater capable of being discharged by the Facility, Sewer Miner must give Sydney Water reasonable prior notice of the proposed alteration. Such notice must describe the technical details of the proposed alteration and its potential impacts on the capacity of the Facility in regards to the extraction of Sewage and discharge of Trade Wastewater.

5.5 Safety and environment

- (a) Sewer Miner must:
- (i) Ensure the safety, health and welfare of all persons who could be affected by the construction, operation or removal of the Connection Points or the Facility;
 - (ii) Independently identify, assess and control all safety and environmental risks associated with the construction and operation of the Connection Points and the Facility;
 - (iii) If undertaking any work on or near the Connection Points or near the Sewerage System ensure that that work is undertaken in compliance with all safety requirements imposed by Sydney Water;
 - (iv) Provide to Sydney Water appropriate information on the design and operation of the Connection Points to allow Sydney Water to assess the risks associated with working on or near those works;
 - (v) Ensure that all persons engaged in work on or near the Connection Points are appropriately qualified, skilled, trained and supervised;
 - (vi) Ensure that any activities it undertakes on or near the Connection Points, the Sewerage System or any land owned or occupied by Sydney Water are undertaken in a manner which protects the environment to the maximum extent possible;
 - (vii) Provide appropriate information on the nature and properties of the Sewage and the risks associated with its use to any person likely to come into contact with the Sewage as a result of Sewer Miner 's

activities.

- (b) Sydney Water and Sewer Miner will jointly develop, agree on and implement an Emergency Management and Incident Reporting Plan (for the extraction of sewage and discharge of waste by Sewer Miner) to identify each party's rights and responsibilities in the event of an incident or emergency arising from the extraction of Sewage and discharges of Trade Wastewater by Sewer Miner. The Emergency Management and Incident Reporting Plan must:
- (i) Be finalised within 90 days of the signing of this Agreement;
 - (ii) Be reviewed by both parties annually;
 - (iii) Be consistent with the provisions in this Agreement, in particular clause 4.5 and 4.6;
 - (iv) Specify that if an Incident occurs:
 - A. Sydney Water will notify the Sewer Miner (as required by clause 4.6(e));
 - B. Sewer Miner must, as soon as it becomes aware, immediately notify Sydney Water and provide it with any details on the Incident which it requests; and
 - C. Sydney Water may, if it considers it necessary, issue instructions to Sewer Miner or take other action to minimise the consequences of the Incident and Sewer Miner must promptly comply with such instructions. Without limiting clause 8.5, to the extent that the Incident was caused or contributed to by Sewer Miner, the Facility, the Connection Points or the Operator, Sewer Miner must promptly comply with the instructions issued by Sydney Water at its own cost.
 - (v) Be developed as part of, consistent with, and incorporated into any system management plans that may be required for the Facility.
- (c) Sydney Water may at any time take any action in relation to the Connection Points or the supply of Sewage that it considers necessary or desirable to protect its employees, contractors, members of the public or the environment (as determined in liaison with any relevant authorities). Without limiting clause 5.7, to the extent that the requirement for action arose out of or as a consequence of an act or omission of Sewer Miner or the Operator, the costs and expenses directly incurred by Sydney Water in the exercise of its rights under this clause 5.5(c) shall be paid by Sewer Miner to Sydney Water on demand.

5.6 Sewer Mining information and records

- (a) Sewer Miner must provide Sydney Water with a notice that specifies the day on which it commenced to take Sewage.
- (b) Sewer Miner must keep a detailed record of and regularly supply information to Sydney Water regarding:

- (i) The volume of Sewage taken from the Sewerage System each day; and
- (ii) The volume of Recycled Water manufactured each quarter.

5.7 Sydney Water's rights

If Sewer Miner fails to comply with any of its obligations under this Agreement (including its obligations under clause 10.3(a)(ii)) within a reasonable time of being required to do so Sydney Water may take all reasonably required action itself and all costs associated with taking that action will be a debt due and payable by Sewer Miner to Sydney Water on demand.

6. Trade Waste Consent

6.1 Discharge of Trade Wastewater into the Sewerage System

- (a) Sewer Miner may discharge Trade Wastewater from the Facility into the Sewerage System in accordance with the provisions of a Trade Waste Consent.
- (b) Sewer Miner may not deposit any matter into the Sewerage System unless it is authorised by a Trade Waste Consent.
- (c) Sewer Miner undertakes to enter into a Trade Waste Consent with Sydney Water on terms substantially the same as those set out in Appendix 2.

7. Fees, costs and expenses

7.1 Fees

- (a) Sewer Miner must pay to Sydney Water:
 - (i) The Sewer Mining Connection Fee, prior to the taking of any Sewage;
 - (ii) [The Sewer Mining Volume Charge, each Month;](#)
 - (iii) The Sewer Mining Maintenance Fee, each Month after the taking of Sewage commences;
 - (iv) The Sewer Mining Disconnection Fee upon termination of this Agreement;
 - (v) Fees arising from the Trade Waste Consent in accordance with the Trade Waste Consent, and
 - (vi) Any GST associated with any transactions contemplated by this Agreement as specified in clause 12.
- (b) Sewer Miner is responsible for all costs associated with constructing, maintaining and removing the Connection Points and the Facility.

7.2 Payment Terms

Each of the Fees must be paid by Sewer Miner within 30 days of the date that Sydney Water renders a statement of account for that Fee.

7.3 Adjustment of the Fees

- (a) Subject to clause 7.3(b), the Fees from and including each CPI Review Date will be the Fee immediately before that CPI Review Date multiplied by the Current CPI and divided by the Previous CPI.
- (b) Despite any other provision of this Agreement, Sydney Water may by notice to Sewer Miner vary any fees specified in clause 7.1 if the NSW Independent Pricing and Regulatory Tribunal make a determination relevant to the means of calculation of that fee.

8. Liability, risk and insurance

8.1 Insurance

- (a) Sewer Miner must, during the Availability Period, effect and maintain with a reputable insurance company, or must ensure that the Operator effects and maintains, the following insurance in respect of the Sewer Mining operation:
 - (i) Public liability insurance for [INSERT]; or any other limit that Sydney Water reasonably requires from time to time;
 - (ii) Workers' compensation insurance as required by Law; and
 - (iii) Other insurances required by Law or which Sydney Water reasonably requires from time to time.
- (b) Sewer Miner must:
 - (i) On request provide to Sydney Water all information necessary to demonstrate the currency of the insurance policies identified in 8.1(a); and
 - (ii) Notify Sydney Water immediately if a policy is cancelled or if an event occurs which could prejudice or give rise to a material claim under a policy.
- (c) Where permitted by law the insurance specified in clause 8.1(a) must be expressed to cover Sydney Water in respect of any claims by third parties against Sydney Water in any way associated with the operation of the Facility and the use of Recycled Water.

8.2 Risk

All risk in respect of the design, construction, use and operation of, and of any loss or damage to, the Sewer Miner Connection Works and the Facility remains with Sewer Miner.

8.3 Sewer Miner's warranties

Sewer Miner warrants that:

- (a) It is authorised to enter into and perform its obligations under this Agreement;
- (b) It has fully disclosed to Sydney Water all information which is material to the assessment by Sydney Water of the risks associated with permitting Sewer Miner to extract the Sewage and discharge Trade Wastewater;
- (c) It will ensure that the Sewer Miner Connection Works and the Facility are designed, constructed, maintained and operated in a condition suitable for the treatment of the Sewage, including manufacture and disposal of the Recycled Water and any by-products;
- (d) It has obtained and will comply with all Approvals required to undertake the activities contemplated by this Agreement;
- (e) In entering into this Agreement, it has not relied on any representations by Sydney Water in respect of the subject matter of this Agreement (other than those contained in this Agreement).

8.4 Limitation of liability of Sydney Water

The methods and conditions of application and use of Sewage by the Sewer Miner are beyond the control of Sydney Water. Accordingly, the following limitations of liability apply:

- (a) All implied conditions and warranties except those which by law cannot be excluded or modified are hereby excluded.
- (b) Pursuant to section 68A of the *Trade Practices Act 1974* (Cth), clause 8.4(c) applies in respect of any of the goods or services supplied under this Agreement which are not of a kind ordinarily acquired for personal, domestic or household use or consumption, provided that clause (c) does not apply if Sewer Miner establishes that it is not fair or reasonable for Sydney Water to rely upon it.
- (c) Sydney Water's liability for breach of a condition or warranty implied into this Agreement by the *Trade Practices Act 1974* (other than a condition or warranty implied by section 69 of that Act) is limited:
 - (i) In the case of goods, to the replacement of the goods or the supply of equivalent goods; and
 - (ii) In the case of services, to any one of the following as determined by Sydney Water:
 - A. the supplying of the services again; or
 - B. the payment of the cost of having the services supplied again.
- (d) References in clauses 8.4(b) and (c) to sections of the *Trade Practices Act 1974* include all similar provisions in the relevant legislation of any State or Territory.
- (e) Sydney Water will not be liable to Sewer Miner in respect of the commission of any tort, including negligence, other than to the extent that it causes:

- (i) Damage to (but not loss of) property, in which case its liability is limited to the cost of repairing or replacing that property; or
 - (ii) Death or personal injury, in which case its liability is unlimited.
- (f) Other than as provided in clause 8.4(e), to the extent permitted by law Sydney Water will not be liable to Sewer Miner in any claim for breach of contract, or the commission of any tort (including negligence) or otherwise for any loss incurred or suffered, including:
- (i) Any loss of profit, loss of revenue, loss of production, loss of use, loss of contract, loss of goodwill or credit, increased cost of working, loss of business reputation or future reputation or publicity, loss of interest, damage to credit rating, loss or denial of opportunity, loss of anticipated savings, increased or wasted overhead costs, or any other economic or financial loss;
 - (ii) Any indirect or consequential loss;
 - (iii) Any loss of data; or
 - (iv) Any loss resulting from any liability (including for breach of contract or in negligence) of Sewer Miner to any other person howsoever and whensoever arising.
- (g) Without limiting clause 8.4(a), the parties agree that the warranties provided by the *Sale of Goods Act 1923* do not apply to this Agreement.
- (h) By reason of the matters acknowledged in clause 4.4(a) Sydney Water does not warrant the fitness of Sewage for any particular purpose and Sewer Miner shall not represent to any person that Sydney Water has made such a representation.

8.5 Indemnity and make good

- (a) Sewer Miner indemnifies Sydney Water against:
- (i) Injury (including death) or harm to any person; or
 - (ii) Any Loss, damage to property (including to the Sewerage System, other works of Sydney Water, or substances under the control of Sydney Water, or sewage treatment processes carried out by Sydney Water); or
 - (iii) Any Claims by third parties, including for economic loss (including claims and demands made by the customer of Sydney Water), including for economic loss (including claims and demands made by the customers of Sydney Water),
- arising out of or as a consequence of:
- (iv) Any act or omission of Sewer Miner, the Operator or their sub-contractors, agents or employees;
 - (v) The design, construction, maintenance or operation of the Sewer Miner Connection Works or the Facility;

- (vi) The taking of Sewage; or
- (vii) Any unauthorised discharge of Trade Wastewater or other matter to the Sewerage System by Sewer Miner,

except to the extent that such loss or claim is caused by the wilful or negligent act or omission of Sydney Water, its agents contractors or employees.

- (b) To the maximum extent permissible by law Sewer Miner releases and indemnifies Sydney Water against any breaches of any Laws, Approvals or requirements applicable to the Sewer Miner Connection Works, the Facility or Sewer Miner's use of Sewage.
- (c) Sewer Miner is liable for and indemnifies Sydney Water against any Loss or Claim, to the extent it arises from:
 - (i) Sydney Water exercising its rights under clause 5.7; and
 - (ii) Sewer Miner 's default under this licence.
- (d) Any approval of, or input into, design of any of the Connection Points or the Facility or any inspection or approval given by Sydney Water in respect of the construction or operation of the Sewer Miner Connection Works or the Facility, will not relieve Sewer Miner of its obligations or responsibilities under this Agreement.

8.6 Release

Sewer Miner releases Sydney Water from and agrees that Sydney Water is not liable for any liability, Loss, Claim, damages, costs and expenses arising from or incurred in connection with:

- (a) damage, Loss, injury or death unless it is caused by the negligent act or omission of Sydney Water; and
- (b) Sydney Water doing anything Sydney Water is permitted or obliged to do under this Agreement.

9. Confidentiality

- (a) To the extent permitted by law, the parties agree to keep all confidential information obtained by the other party confidential.
- (b) For the purposes of clause 9(a) "confidential information" is information that either party has specified is "confidential information" or which is clearly of a commercial and/or sensitive nature and is not generally available in the public domain.
- (c) Sewer Miner will keep information regarding the contents or nature of the Sewage confidential.
- (d) Notwithstanding the terms of this Agreement the parties agree that "confidential information" may be disclosed by a party where:

- (i) Such disclosure has been agreed in writing by the other party's representative;
- (ii) Such disclosure is required by law or any order of any court, tribunal, authority, regulatory body or the rules of any securities exchange (whether in Australia or elsewhere) to be disclosed and the party required to make the disclosure ensures that information is disclosed only to the extent required;
- (iii) The information is disclosed only to those of its employees, advisers or related bodies corporate who have a need to know (and only to the extent each has a need to know) and who are aware and agree that the information must be kept confidential.

10. Termination

10.1 Date of termination

Unless terminated earlier by Sydney Water or by the Sewer Miner in accordance with clause 10.2 this Agreement will terminate on the Termination Date.

10.2 Termination

- (a) Sydney Water may by notice to Sewer Miner terminate this Agreement if:
 - (i) Sewer Miner breaches this Agreement and does not remedy that Breach within 30 days of receiving a notice from Sydney Water to do so;
 - (ii) There is a material change in circumstances such that the further taking of Sewage from the Sewerage System or discharging of Trade Wastewater into the Sewerage System presents a risk to: human health or the environment, (as determined by Sydney Water in liaison with relevant authorities); Sydney Water's operations; or could give rise to a breach by Sydney Water of any Law or any Approval;
 - (iii) The Sewerage System is damaged or otherwise becomes unsuitable for the taking of Sewage by Sewer Miner and Sydney Water does not consider it economical to reconstruct or upgrade that portion of the Sewerage System to permit Sewer Miner to continue to take the Sewage;
 - (iv) Sewer Miner suffers an Insolvency Event;
 - (v) Sewer Miner:
 - A. Does not commence taking Sewage from the Sewerage System within 2 years of the date of this Agreement; or
 - B. Does not take Sewage from the Sewerage System for a continuous period of more than 2 years.

- (b) Sewer Miner may terminate this Agreement by giving two months prior written notice to Sydney Water without providing reasons for such termination.

10.3 Consequences of termination

- (a) On the termination of this Agreement, Sewer Miner must at its cost immediately:
 - (i) Remove the Sewer Miner Connections Works;
 - (ii) Restore the relevant portions of the Sewerage System to a condition which is satisfactory to Sydney Water and equivalent to its condition prior to the date of this Agreement; and
 - (iii) Pay all amounts due to Sydney Water under clause 7 of this Agreement.
- (b) Where Sydney Water terminates this Agreement pursuant to clause 10.2(a)(i) - (iv) the parties' remedies, rights and liabilities will be the same as they would have been at law had Sewer Miner repudiated the Agreement and Sydney Water elected to treat the Agreement as at an end and elected to recover damages.

10.4 Extension

If this Agreement has not been terminated prior to the end of the Availability Period, the parties will negotiate in good faith for an extension of this Agreement.

11. General

11.1 Disputes

- (a) The parties to this Agreement will co-operate, so far as is reasonably practicable, to avoid a dispute.
- (b) If a dispute arises under this Agreement, the Representatives of Sydney Water and Sewer Miner nominated in Schedule 1 will negotiate to resolve it.
- (c) If a dispute remains unresolved after 30 days it will be referred, in the case of Sydney Water, to the General Manager and then the Chief Executive Officer and, in the case of Sewer Miner, the Chief Executive Officer or a senior management representative that must be notified for this purpose.
- (d) If, after referral of a dispute to the chief executive officers (or their delegates) of the parties, one chief executive officer is of the opinion that the dispute cannot be resolved after a further 30 days, then:
 - (i) the chief executive officers may appoint or arrange for the appointment of a mediator to assist the parties to resolve the dispute, and, if unresolved after a further 30 days,
 - (ii) the chief executive officer who is of the opinion that the dispute is unresolved may refer the matter to the NSW Independent Pricing and Regulatory Tribunal (IPART) for independent arbitration.

11.2 Notices

All communications (including notices, consents, approvals, requests and demands) under or in connection with this Agreement:

- (a) Must be in writing;
- (b) Must be addressed as set out in Schedule 1 (or as otherwise notified by that party to each other party from time to time)
- (c) Must be signed by the party making the communication or (on its behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
- (d) Must be delivered or posted by prepaid post to the address, or sent by fax to the number, of the addressee, in accordance with clause 11.2(b); and
- (e) Are taken to be received by the addressee:
 - (i) In the case of prepaid post sent in Australia to an address in Australia, on the third working day after the date of posting;
 - (ii) In the case of prepaid post sent in Australia to an address outside Australia or sent from outside Australia to an address in Australia, on the fifth working day after the date of posting by airmail;
 - (iii) In the case of fax, at the local time in the place to which that communication is sent equivalent to the transmission time shown on the transmission confirmation report produced by the fax machine from which that communication is sent, unless that local time is outside working hours, when that communication is taken to be received at 9.00 am on the next working day; and
 - (iv) In the case of delivery by hand, on delivery at the address of the addressee as provided in clause 11.2(b), unless that delivery is made outside working hours, when that communication is taken to be received at 9.00 am on the next working day, and where "working day" means a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered and "working hours" means between 9.00 am and 5.00 pm on a working day.

11.3 Governing law, jurisdiction

- (a) This Agreement is governed by and must be construed according to the law applying in New South Wales.
- (b) Each party irrevocably:
 - (i) Submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Agreement; and
 - (ii) Waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have

that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 11.3(b)(i).

11.4 Amendments

This Agreement may only be varied by a document signed by or on behalf of each party.

11.5 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this Agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this Agreement.
- (b) A waiver or consent given by a party under this Agreement is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this Agreement operates as a waiver of another breach of that term or of a breach of any other term of this Agreement.

11.6 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this Agreement.

11.7 Consents

A consent required under this Agreement from a party may be given or withheld, or may be given subject to any conditions, as that party (in its absolute discretion) thinks fit, unless this Agreement expressly provides otherwise.

11.8 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior consent of each other party.

11.9 Counterparts

This Agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

11.10 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this Agreement, except for representations or inducements expressly set out in this Agreement.
- (b) Each party acknowledges and confirms that it does not enter into this Agreement in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this Agreement.

11.11 Expenses

Except as otherwise provided in this Agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this Agreement.

11.12 Stamp duties

Sewer Miner :

- (a) Must pay all stamp duties and any related fines and penalties in respect of this Agreement, the performance of this Agreement and each transaction effected by or made under this Agreement;
- (b) Indemnifies Sydney Water against any liability arising from failure to comply with clause 11.12(a); and
- (c) Is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause.

11.13 Indemnities

- (a) Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this Agreement.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this Agreement.
- (c) A party must pay on demand any amount it must pay under an indemnity in this Agreement.

11.14 No Partnership

Nothing in this Agreement will be construed or interpreted as constituting the relationship between Sydney Water on the one hand and Sewer Miner on the other hand as that of partners, joint venturers or any other fiduciary relationship.

11.15 Survival

Without limiting clause 11.13, clauses 5.7, 7, 10.3 and 12 survive termination, completion or expiration of this Agreement.

12. GST

12.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 12 have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999*.
- (b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 12.

12.2 Reimbursements and similar payments

Any payment or reimbursement required to be made under this Agreement that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

12.3 GST payable

If GST is payable in relation to a supply made under or in connection with this Agreement then:

- (a) Any consideration to be provided for that supply under this Agreement is exclusive of GST;
- (b) Any party ("**Recipient**") that is required to provide consideration to another party ("**Supplier**") for that supply must pay an additional amount to the Supplier equal to the amount of that GST, at the same time as any other consideration is to be first provided for that supply; and
- (c) The Supplier must provide a tax invoice to the Recipient no later than 7 days after the day on which the Supplier receives the additional amount.

12.4 Variation of GST

If the GST payable in relation to a supply made under or in connection with this Agreement varies from the additional amount paid by the Recipient under clause 12.3 such that a further amount of GST is payable in relation to the supply or a refund or credit of GST is obtained in relation to the supply, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient.

Any payment, credit or refund under this clause 12.4 is deemed to be a payment, credit or refund of the additional amount payable under clause 12.3. If an adjustment event occurs in relation to a supply, the Supplier must issue an adjustment note to the Recipient in relation to that supply no later than 7 days after becoming aware of the adjustment.

Schedule 1 – Particulars

| ITEM | | |
|------|---|---|
| 1 | Termination Date | [date] |
| 2 | Site for which Sewer Mining and Trade Waste Consent is granted. | Location, description, drawings as attached in Appendix 1 |
| 3 | Property Number: | [Insert] |
| 4 | Extraction Point | Location, description, drawings as attached in Appendix 1 |
| 5 | Maximum Daily Extraction from the Sewerage System | (a) A maximum instantaneous flow rate of __L/s (b) A maximum daily extraction volume of ___ kL |
| 6 | Minimum available flow | [Insert] |
| 7 | Proposed Uses | [insert Proposed uses eg. municipal irrigation of XYZ Golf Club with uncontrolled public access as described in [guidelines], specify if sale to third parties is proposed] |
| 8 | Discharge Point | Location, description, drawings as attached in Appendix 1 |
| 9 | Maximum Daily Returns to the Sewerage System | As specified in the Trade Waste Consent Number: |
| 10 | Representative of Sewer Miner | [Position, name and contact details] |
| 11 | Representative of Sydney Water | [Position, name and contact details] |
| 12 | Sewer Miner's address for notices | [Address details] |
| 13 | Sydney Water's address for notices | [Address details] |

End of Schedule 1

Schedule 2 – Fees

The following fees except as adjusted under clause 7.3 are payable by Sewer Miner to Sydney Water:

| Item | Fee | Amount | Comments |
|------|--------------------------------|---|---|
| 1 | Sewer Mining Connection Fee | [\$ insert] | Payment of the Connection Fee is condition precedent to the Agreement |
| 2 | Sewer Mining Volume Charge | \$0.00 | Nil charge. |
| 3 | Sewer Mining Maintenance Fee | [\$ insert] | Payable monthly for each month of the Availability Period |
| 4 | Sewer Mining Disconnection Fee | [\$ insert] | Payable upon termination of this Agreement. |
| 5 | Trade Wastewater Fees | As specified in Trade Waste Consent Number: _____ | |

Note: All fees may be subject to IPART determination.

END OF SCHEDULE 2

Appendix 1 - Drawings

Appendix 2 – Trade Waste Consent

