



**ACT**  
Government

Transport Canberra and  
City Services

## FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: TCCSFOI 2019 - 026

Information to be published	Status
1. Access application	Published
2. Decision notice and schedule	Published
3. Documents	Published
4. Additional information identified	No
5. Fees	n/a
6. Processing time (in working days)	72 days
7. Decision made by Ombudsman	n/a
8. Additional information identified by Ombudsman	n/a
9. Decision made by ACAT	n/a
10. Additional information identified by ACAT	n/a

## Martyniak, Alexandra

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**From:** TCCS\_FreedomOfInformation  
**Sent:** Thursday, 14 March 2019 5:08 PM  
**To:** Martyniak, Alexandra  
**Subject:** FW: FOI Request - 19-026 - Remondis contract

UNCLASSIFIED Sensitive

Hi Alex – can you add to objective. I have given this request number 19-026

**From:** TCCS\_FreedomOfInformation  
**Sent:** Thursday, 14 March 2019 5:04 PM  
**To:** Trushell, Michael <Michael.Trushell@act.gov.au>  
**Cc:** Corrigan, Jim <Jim.Corrigan@act.gov.au>; Haraldson, Greg <Greg.Haraldson@act.gov.au>; Haraldson, Anthony <Anthony.Haraldson@act.gov.au>; Scheul, Kristine <Kristine.Scheul@act.gov.au>; Thomas, Emma <Emma.Thomas@act.gov.au>; Willson, Helen (TCCS) <Helen.Willson@act.gov.au>; Martyniak, Alexandra <Alexandra.Martyniak@act.gov.au>  
**Subject:** FOI Request - 19-026 - Remondis contract

UNCLASSIFIED Sensitive

Michael

TCCS has received an FOI application from the Canberra Times seeking the following documents (contracts and lease):

- If the ACT had (or has) a lease with Group 8 (perhaps Group 8 Environmental and Recycling) at Symonston/Hume (perhaps John Cory Circuit) can you provide that lease please. For information, Group 8 said in 2015 that it had a 5+2 year lease on a government building there (or perhaps on a piece of land)
- 2. Can you provide the contracts between the ACT and Remondis and between the ACT and ReGroup to operate the materials recovery centre - the current contract and the contracts that applied in the period from 2013. Please provide the contracts applying in 2012, 2013, and 2104 with Remondis or whoever was contracted to take recycling.
- Please provide any records in the government's possession that indicate how much glass (and other recyclables, if any) Group 8 took from the materials recovery centre and over what period.
- Please provide any records in the government's possession that indicate how much Group 8 was paid to take glass (and other recyclables if any)?

Can you please:

1. notify me, within 2 days of receiving this request, if the volume of documentation is expected to exceed 50 pages (Processing Charges) and/or if the request is complex requiring extra time.
2. notify me if there is any information taken to be contrary to the public interest to disclose.
3. provide any documents falling within the scope of this request by close of business **20 March 2019**.

Regards

**Nicole Bruan | Freedom of Information Coordinator**  
Phone 02 6205 5408 | Email: [tccs.foi@act.gov.au](mailto:tccs.foi@act.gov.au)  
Legal and Contracts | Transport Canberra and City Services Directorate |  
ACT Government | GPO Box 158 Canberra ACT 2601 | [www.tccs.act.gov.au](http://www.tccs.act.gov.au)

**From:** [REDACTED]@fairfaxmedia.com.au>  
**Sent:** Thursday, 14 March 2019 4:30 PM  
**To:** TCCS\_FreedomOfInformation <[TCCS.FOI@act.gov.au](mailto:TCCS.FOI@act.gov.au)>  
**Subject:** Fwd: remondis contract

hi Nicole, thanks for your call just now.

Further to our conversation, I have re-worded my questions to better suit the FOI format and respond to the issues you raised. As follows:

1. If the ACT had (or has) a lease with Group 8 (perhaps Group 8 Environmental and Recycling) at Symonston/Hume (perhaps John Cory Circuit) can you provide that lease please. For information, Group 8 said in 2015 that it had a 5+2 year lease on a government building there (or perhaps on a piece of land)
2. Can you provide the contracts between the ACT and Remondis and between the ACT and ReGroup to operate the materials recovery centre - the current contract and the contracts that applied in the period from 2013. Please provide the contracts applying in 2012, 2013, and 2104 with Remondis or whoever was contracted to take recycling.
3. Please provide any records in the government's possession that indicate how much glass (and other recyclables, if any) Group 8 took from the materials recovery centre and over what period.
4. Please provide any records in the government's possession that indicate how much Group 8 was paid to take glass (and other recyclables if any)?

I hope this can be expedited, noting the timing of my formal request, Feb 27.

thank you



The Canberra Times



----- Forwarded message -----

From: [redacted]@fairfaxmedia.com.au  
Date: Wed, 13 Mar 2019 at 12:43  
Subject: Re: remondis contract  
To: Riley, Renee <Renee.Riley@act.gov.au>  
Cc: Garner, Jeff <Jeff.Garner@act.gov.au>

hi Renee, I don't seem to have had an acknowledgement from the FOI team on this

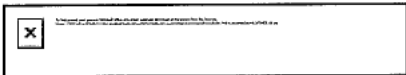
can you confirm this has been activated and is being processed?

thank you



**The Canberra Times**

9 Pirie Street, Fyshwick, ACT 2609



On Wed, 27 Feb 2019 at 17:13, Riley, Renee <Renee.Riley@act.gov.au> wrote:

UNCLASSIFIED

Hi [redacted]

Your email has been forwarded on to the FOI team.

Kind regards,

Renee

**From:** [REDACTED]@fairfaxmedia.com.au>  
**Sent:** Wednesday, 27 February 2019 5:05 PM  
**To:** Garner, Jeff <Jeff.Garner@act.gov.au>  
**Cc:** Riley, Renee <Renee.Riley@act.gov.au>  
**Subject:** Re: remondis contract

hi jeff, these are specific questions

if you don't want to answer them the usual way, please consider my request a request under the Freedom of Information Act

thank you

[REDACTED]

[REDACTED]  
The Canberra Times

[REDACTED]  
9 Pirie Street, Fyshwick, ACT 2609

[REDACTED]

On Wed, 27 Feb 2019 at 17:03, Garner, Jeff <Jeff.Garner@act.gov.au> wrote:

UNCLASSIFIED

Hi [REDACTED]

Thanks for your email.

Transport Canberra and City Services has nothing further to add.

Regards,

Jeff.

Jeff Garner | Senior Communications Officer |

Phone 02 6207 1422 | Fax 02 6207 6148 |

Corporate Communications | Transport Canberra and City Services Directorate | ACT Government

496 Northbourne Avenue, Dickson | GPO Box 158 Canberra ACT 2601  
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Connected services for the people of Canberra

**From:** [REDACTED]@fairfaxmedia.com.au>  
**Sent:** Tuesday, 26 February 2019 4:34 PM  
**To:** Riley, Renee <Renee.Riley@act.gov.au>  
**Cc:** Garner, Jeff <Jeff.Garner@act.gov.au>  
**Subject:** Re: remondis contract

hi Renee, thanks for your answers to some of my questions.

I am numbering my follow up questions in the hope you can answer each in turn

1. has the ACT ever had a lease with group 8? group 8 said in 2015 that it had a 5+2 lease on a section as detailed below. Is that correct?

2. you say that the contract from which I quoted was for the transfer station, not the MRF. Can you provide the contract for the MRF please - the current contract and the one that applied in the period from 2013

3. as requested below, please provide the contracts applying in 2012, 2013, and 2104 with Remondis or whoever was contracted to take recycling

4. I note your response that the arrangement between Remondis and Group 8 is a matter for them. I also note that Simon Corbell wrote to residents in July 2015 outlining the Group 8 proposal. I have two questions on this:

4a. Was there any requirement for Remondis to seek approval or to consult about the recyclers or other companies to which it sold or gave material?

4b. was there any oversight of any kind of what Remondis did with the material beyond the MRF?

5. How much glass (and other recyclables if any) was Group 8 contracted to take over what period?

6. how much was Group 8 paid to take glass (and other recyclables if any)?

deadline 3pm tomorrow Wednesday.

Renee, with respect, you provided three lines and no information in response to my earlier questions. You took an entire week to do so. I would appreciate a more forthcoming and timely response to my follow ups.

I am very happy, as always, to deal with my questions in a phone call with the right official, if that expedites it.

thank you

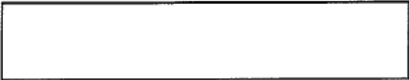




The Canberra Times



9 Pirie Street, Fyshwick, ACT 2609



On Tue, 26 Feb 2019 at 15:56, Riley, Renee <[Renee.Riley@act.gov.au](mailto:Renee.Riley@act.gov.au)> wrote:

UNCLASSIFIED

Hi 

Please see a statement below in response to your questions. This can be attributed to a TCCS spokesperson.

Kind regards,

Renee

The contract you quote from is for the Mugga Lane Resource Management Centre *Transfer Station*. This is not a contract for the operation of the Materials Recovery Facility (MRF).

ACT NoWaste does not have a lease arrangement in place with Group 8 in Symonston or Hume.

Details on sales transactions between Remondis and Group 8 is a matter for those two parties, as ownership of collected material was vested in Remondis, as the MRF operator, when it was delivered to the MRF.

**From:** [REDACTED]@fairfaxmedia.com.au>  
**Sent:** Tuesday, 26 February 2019 8:50 AM  
**To:** Riley, Renee <Renee.Riley@act.gov.au>  
**Subject:** Fwd: remondis contract

hi Renee, see below,. I recieved an out of office from Jeff.

I was expecting a response on Monday to my questions lodged a full week ago

can you help?

thank you

[REDACTED]  
**The Canberra Times**

[REDACTED]  
9 Pirie Street, Fyshwick, ACT 2609



----- Forwarded message -----


**From:** [REDACTED]@fairfaxmedia.com.au>  
**Date:** Tue, 26 Feb 2019 at 08:37  
**Subject:** Re: remondis contract  
**To:** Garner, Jeff <Jeff.Garner@act.gov.au>  
**Cc:** Riley, Renee <Renee.Riley@act.gov.au>

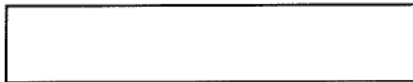
hi Jeff, checking when this response is coming?

thank you



  
**The Canberra Times**

  
9 Pirie Street, Fyshwick, ACT 2609



On Thu, 21 Feb 2019 at 14:13, Garner, Jeff <[Jeff.Garner@act.gov.au](mailto:Jeff.Garner@act.gov.au)> wrote:

UNCLASSIFIED

Hi 

I have an update for you.

Our line area manager is away till Monday and has asked to respond to you next week.

Regards,

Jeff.

Jeff Garner | Senior Communications Officer |

Phone 02 6207 1422 | Fax 02 6207 6148 |

Corporate Communications | Transport Canberra and City Services Directorate | ACT Government

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**From:** [REDACTED]@fairfaxmedia.com.au  
**Sent:** Wednesday, 20 February 2019 2:04 PM  
**To:** Garner, Jeff <[Jeff.Garner@act.gov.au](mailto:Jeff.Garner@act.gov.au)>  
**Cc:** Riley, Renee <[Renee.Riley@act.gov.au](mailto:Renee.Riley@act.gov.au)>  
**Subject:** Re: remondis contract

oh dear. thanks for letting me know

[REDACTED]

[REDACTED]

**The Canberra Times**

[REDACTED]  
9 Pirie Street, Fyshwick, ACT 2609

[REDACTED]

On Wed, 20 Feb 2019 at 14:01, Garner, Jeff <[Jeff.Garner@act.gov.au](mailto:Jeff.Garner@act.gov.au)> wrote:

UNCLASSIFIED

Hi [REDACTED]

I have been advised we may not make a response today on this for you.

We are trying however.

Regards,

Jeff.

Jeff Garner | Senior Communications Officer |

Phone 02 6207 1422 | Fax 02 6207 6148 |

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Connected services for the people of Canberra

**From:** [REDACTED] <[REDACTED]@fairfaxmedia.com.au>  
**Sent:** Tuesday, 19 February 2019 3:49 PM  
**To:** Riley, Renee <[Renee.Riley@act.gov.au](mailto:Renee.Riley@act.gov.au)>  
**Cc:** Garner, Jeff <[Jeff.Garner@act.gov.au](mailto:Jeff.Garner@act.gov.au)>  
**Subject:** Re: remondis contract

3pm tomorrow will be fine

Cheers

Sent from my iPhone

On 19 Feb 2019, at 3:33 pm, Riley, Renee <[Renee.Riley@act.gov.au](mailto:Renee.Riley@act.gov.au)> wrote:

UNCLASSIFIED

Not a worry. Are you able to please advise what your deadline for both is?

Thanks,

Renee

**From:** [REDACTED]@fairfaxmedia.com.au  
**Sent:** Tuesday, 19 February 2019 3:32 PM  
**To:** Riley, Renee <[Renee.Riley@act.gov.au](mailto:Renee.Riley@act.gov.au)>  
**Subject:** Re: remondis contract

Great . You're dealing with both then. Thank you.

[REDACTED]

Sent from my iPhone

On 19 Feb 2019, at 3:25 pm, Riley, Renee <[Renee.Riley@act.gov.au](mailto:Renee.Riley@act.gov.au)> wrote:

UNCLASSIFIED

Hi [REDACTED]

EPSDD have forwarded us your email below for a response. We have also just received the below questions from EPSDD:

I'm trying to work out whether the ACT govt has a lease with Group 8 (perhaps Group 8 Environmental and Recycling) at Symonston/Hume (John Cory Circuit maybe)

Group 8 said in 2015 that it had a 5+2 year lease on a government building there (or perhaps on a piece of land)

can you confirm please

also, can you let me know the status of the lease

- does it still exist
- what is group 8 paying
- what is the site being used for
- is there a building on the site

Can you please advise what your deadline is?

Thank you.

Renee

**From:** [REDACTED]@fairfaxmedia.com.au]  
**Sent:** Tuesday, 19 February 2019 3:11 PM  
**To:** Virtue, Geoff <Geoff.Virtue@act.gov.au>  
**Subject:** remondis contract

hi Geoff, I am hoping you can help me with an inquiry about Remondis's contract with the ACT Govt for recycling in 2012, 2013 and in 2014

i have found this contract online, but it doesn't say what day it took effect (signed sept 2014 but I'm not sure when the start date was):

[https://www.procurement.act.gov.au/\\_data/assets/pdf\\_file/0009/643833/Services-Agreement-V17-Final.pdf](https://www.procurement.act.gov.au/_data/assets/pdf_file/0009/643833/Services-Agreement-V17-Final.pdf)

can you provide:

1. the contracts applying in 2012, 2013, and 2104 with Remondis or whoever was contracted recycling
2. the contract(s) that Remondis (or whichever company had the recycling contract) had with take glass and any another recyclables
3. how much glass (and other recyclables if any) was Group 8 contracted to take over what p
4. how much was Group 8 paid to take glass (and other recyclables if any)

I note that the contract referenced above includes these provisions:

*11.1.5 The Territory and the Contractor must liaise with each other to agree a list of approve that will receive any or all of the categories of Recyclables as agreed by the parties. The Con ensure that all Recyclables are delivered to one of the approved recyclers ("Approved Recyc. otherwise specifically permitted by the Territory in writing*

and this:

*The Contractor must keep proper records of: (c) total weight of Recyclables by product type transported from the Transfer Station to the Approved Recycler for each month of the Term;*

given those requirements I assume you hold the info I am seeking

thank you



**The Canberra Times**

t [redacted] m [redacted]  
9 Pirie Street, Fyshwick, ACT 2609

<image001.jpg>

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**ACT**

Government

Transport Canberra and  
City Services

Ms [REDACTED]  
Canberra Times  
9 Pirie Street  
FYSHWICK ACT 2609

Email: [REDACTED]@fairfaxmedia.com.au

Dear Ms [REDACTED]

**Freedom of information request: Reference – 19 - 026**

I refer to your application made under the *Freedom of Information Act 2016* (the FOI Act), received by Transport Canberra and City Services Directorate (TCCS) on 27 February 2019, in which you sought access to:

1. If the ACT had (or has) a lease with Group 8 (perhaps Group 8 Environmental and Recycling) at Symonston/Hume (perhaps John Cory Circuit) can you provide that lease please. For information, Group 8 said in 2015 that it had a 5+2 year lease on a government building there (or perhaps on a piece of land)
2. Can you provide the contracts between the ACT and Remondis and between the ACT and ReGroup to operate the materials recovery centre - the current contract and the contracts that applied in the period from 2013. Please provide the contracts applying in 2012, 2013, and 2104 with Remondis or whoever was contracted to take recycling.
3. Please provide any records in the government's possession that indicate how much glass (and other recyclables, if any) Group 8 took from the materials recovery centre and over what period.
4. Please provide any records in the government's possession that indicate how much Group 8 was paid to take glass (and other recyclables if any)?

I am an Information Officer appointed by the Director-General under section 18 of the FOI Act to deal with access applications made under Part 5 of the FOI Act.

I would like to thank you for your patience in granting extensions to TCCS until 22 May 2019 to process your application. Unfortunately, processing was unable to be completed within the extension time and will be reported under section 39 of the Act. The reason for the delay was, amongst other thing, that a 2014 contract was not published as is the requirement and thus additional time was required to identify the contract and to seek to assess the issues of confidential text which is discussed below.

### **Decision on access**

Under section 45 of the FOI Act, information already available to an applicant as part of a public register established under a territory law does not need to be dealt with by an agency as part of an FOI request. In this case, relevant contracts and service agreements are available online at:

<https://tenders.act.gov.au/ets/contract/view.do?id=73837&returnUrl=%252Fcontract%252Flist.do%253F%2524%257Brequest.queryString%257D>

I have identified two documents (64 pages) that are not publicly available that fall within the scope of your request. These are the 2014 contract and 2014 land licencing agreements between the ACT Government and Remondis Australia Pty Ltd. I have decided to grant partial access to the documents, under section 50 of the FOI Act. The documents identified as relevant to your request contain information that I consider to be, on balance, contrary to the public interest to disclose under the test set out in section 17 of the FOI Act.

The documents are at Attachment A to this decision letter.

### **Statement of Reasons**

#### ***Part One, Three and Four of request***

In response to part one, three and four of your request, I can advise that there have been no documents identified as being held by TCCS. A comprehensive search for any contract or lease with Group 8, ABN and contracts or similar with the words 'recycling' and 'glass' was undertaken. ACT NoWaste confirmed that it does not have a lease arrangement in place with Group 8 in Hume.

I am satisfied that the appropriate searches were completed and that no documentation relevant to this part of your request is held by TCCS.

ACT NoWaste have advised that if there are or were commercial agreements between Remondis and Group 8, that these are private commercial matters between contractors and their business partners. TCCS would not necessarily hold any documentation between independent commercial partners.

TCCS FOI officers also contacted ACT Property Group to make enquiries. Information provided to me is that ACT Property Group could find no agreements with Group 8 for lease or rent of property. It was noted that there would be no record if a Territory's tenant subleased property. In some cases, subleasing is not precluded from arrangements that the Territory has with tenants.

## Part Two

As an Information Officer, I am required to decide where, on balance, public interest lies. In assessing the public interest, I must consider factors favouring disclosure and non-disclosure of information as provided in the public interest test set out in section 17 of the FOI Act.

I have decided to grant partial access, under section 50 of the FOI Act, to copies of the two documents identified under part two of your request. Deletions have been applied to information that I consider would be contrary to the public interest to disclose.

In reaching my access decision, I have taken the following into account. The FOI Act, in particular:

Factors favouring disclosure at Schedule 2.1:

- (i) promote open discussion of public affairs and enhance the government's accountability;
- (iv) ensure effective oversight of expenditure of public funds.

Factors favouring non-disclosure in the public interest at Schedule 2.2(a) :

- (ii) prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*;
- (xiii) prejudice the competitive commercial activities of an agency; and
- (xi) prejudice trade secrets, business affairs or research of an agency or person.

### Document 1 – Service Agreement 2014

I considered carefully the nature of the document as having been bought into existence to contract for services for recycling and material recovery within the ACT jurisdiction. The document would ordinarily be published on the ACT Government's Contracts Register however in this case it is not. There is no apparent reason for the omission from the Register.

ACT government contracts of a certain value must be published to give effect to the government policy of open and accountable government. In this regard, I find the contract in the public interest to release consistent with the policy and the principles that underpin it. This is also covered by several factors favouring disclosure in the public interest as contained in Schedule 2 of the FOI Act and listed above.

There is, nevertheless, information contained in contracts and service agreements which is not in the public interest to release. This includes, for example, information which is commercially sensitive or has commercial value. The ACT government's procurement policy protects such information as confidential text. Confidential text is removed from publicly reported contracts under the Territory's standard confidential text clause contained in contracts. An example of this clause can be seen in the attached contract at document 1, folio 10 at clause 8.

There appears to be no confidential text identified in this contract. If this is the case there is a strong argument that the contract should be released without redaction as being in the public interest to release.

In making my decision, I considered whether the contracting parties had turned their mind to the publication of the contract and, in turn, confidential text or not. Clause 8 of the contract provides that grounds for confidentiality of confidential text be included at item 8 Schedule 1 of the contract. Item 8, Schedule 1 of this contract states '*not applicable*'. This contrasts with the usual terminology of '*not used*' if there is no confidential text. It is unclear from the statement '*not applicable*' what the situation was at the time of signing the contract. I have decided that I cannot rely on the statement in the contract to determine if a decision was made at the time about confidential text.

Instead I am forced to return to the identification of factors favouring nondisclosure in the public interest under the FOI Act. Specifically, information which could reasonably be expected to prejudice the business affairs of an agency or person (2.2(a)(xi)) or prejudice the competitive commercial activities of an agency (2.2(a)(xiii)).

I have also, to a lesser extent, considered clause 8.3 of the contract which provides that the Territory is bound not to release information without the agreement of the contractor unless certain criteria apply.

In this case I have decided to remove information from the contract which goes to the business affairs of Remondis. This includes, for example, information about the cost for services or the application of fees. It also covers information about the plant that is owned and used by Remondis and the location of that plant. I have also removed information about the business relationship under the contract between Remondis and the Territory where that information could be used by other competitors in commercial situations to the disadvantage of either the Territory or Remondis.

I considered the age of the information and if this would affect the currency of the commercial value of the information. I decided that the age of the contract would reduce the commercial value and the relevance to business affairs but that the overall situation for seeking contracted services for waste reduction and recycling had not changed. Therefore, I concluded that I could not make a judgement about this without significant consultation and inquiry. On balance, I believed that if the information is not in the public interest to release it would remain so even if it had been several years since the contract was concluded.

## **Document 2 – Licence**

Document 2 is a licence for the use of Territory land at Hume. The licence is interdependent with the Service agreement (Document 1). I have decided to release the standard land licencing conditions covered by the principal part of the Licencing agreement.

I have removed information from schedule 2 of the Licence which is about the distribution of licensor and licensee responsibilities in relation to statutory outgoings, service charges and general charges. While this information may appear innocuous, releasing information about the split of responsibilities may prejudice the future competitive commercial activities as this information could be used by other competitors or land licenses to negotiate better commercial conditions from TCCS as the licensor. I considered this weighed in favour against release. I do not however believe that it effects the quality of the information released.

I have removed information I believe to be commercially sensitive and a factor in favour of nondisclosure under schedule 2.1 (a)(xi)(xiii) of the FOI Act. The information is contained in Schedule 5 of the licencing agreement and covers variations to the standard licencing terms. I have decided that the information removed is information about the business affairs of the licencing parties and should be protected from public release. I am not persuaded that the information is in the public interest to release.

### ***Personal information***

In both documents personal information has been removed. This includes names and signatures. I have decided to remove this information as personal information that could prejudice the protection of an individual's right to privacy or any other right under the *Human rights Act 2004* (Schedule 2.2(a)(ii)).

I consider that the individuals who are named in the documents may have an expectation of privacy as they are not public figures and the information contained in the documents is not public knowledge. Release of this information would be contrary to the *Information Privacy Act 2014* (ACT).

### **Online publishing – disclosure log**

Under section 28 of the FOI Act, TCCS maintains an online record of access applications called a FOI disclosure log. Your original access application, my decision and documents released will be published in the TCCS disclosure log from 3 days after the date of this decision. Please note that your personal details will not be published. You may view TCCS' disclosure log at [www.tccs.act.gov.au/about-us/freedom\\_of\\_information](http://www.tccs.act.gov.au/about-us/freedom_of_information).

### **Ombudsman review**

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek an Ombudsman review of this outcome under section 73 of the FOI Act within 20 working days from the day that my decision is published in TCCS' disclosure log or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision, you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601  
Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

### **ACT Civil and Administrative Tribunal (ACAT) review**

Under section 84 of the FOI Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from ACAT at:

ACT Civil and Administrative Tribunal  
Level 4, 1 Moore Street  
GPO Box 370  
CANBERRA CITY ACT 2601  
Telephone: (02) 6207 1740  
[www.acat.act.gov.au](http://www.acat.act.gov.au)

**Questions about this decision**

If you have any questions concerning the directorate's processing of your request, or would like further information, please contact the directorate's FOI Coordinator on 6205 5408 or email [tccs.foi@act.gov.au](mailto:tccs.foi@act.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cherie Hughes', written over a faint, illegible background.

Cherie Hughes  
Information Officer

6 June 2019



**ACT**  
Government

# SERVICES AGREEMENT

Date

18 August 2014

Parties

**AUSTRALIAN CAPITAL TERRITORY**

**REMONDIS AUSTRALIA PTY LIMITED**  
**ACN 002 429 781**

**THE OPERATION AND MAINTENANCE OF THE  
RECYCLABLE MATERIALS RECOVERY  
FACILITY AT HUME**

**Reference: Hume MRF-07/2014**

Prepared by

ACT Government Solicitor  
Level 5, 12 Moore Street  
Canberra City ACT 2601  
Ph: 02 6207 7602  
Fax: 02 6207 0650  
Ref: HT:623464

Version

FINAL 31/07/2014

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**PARTIES:** AUSTRALIAN CAPITAL TERRITORY, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by ACT NOWaste, Territory and Municipal Services Directorate.

REMONDIS AUSTRALIA PTY LIMITED ACN 002 429 781 of Level 4, 163 O'Riordan Street, Mascot NSW 2020 (**Contractor**).

**BACKGROUND**

- A. The Territory has undertaken a procurement process and has selected the Contractor to provide the Services.
- B. The Territory has agreed to purchase and the Contractor has agreed to provide the Services in accordance with the provisions of this Agreement.
- C. The Territory has agreed to purchase and the Contractor has agreed to sell the Designated Plant in accordance with the provisions set out in the Special Conditions.

**IT IS AGREED** by the parties as follows.

**1. Interpretation**

**1.1 Definitions**

The following definitions apply in this Agreement, unless the context otherwise requires.

<b>Confidential Text</b>	any text of this Agreement that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in <b>Item 7 Schedule 1</b> .
--------------------------	--

<b>Contract Material</b>	all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, information and data stored by any means.
--------------------------	--

<b>Contract Officers</b>	in relation to each party, the representatives whose names and contact details are specified in <b>Item 1 Schedule 1</b> , or as notified from time to time by one party to the other.
--------------------------	--

<b>Contract Price</b>	the amounts specified in, or calculated in accordance with, <b>Item 3 Schedule 1</b> .
<b>Contractor Material</b>	all material owned by the Contractor and used for the purpose of providing the Services, including documents information and data stored by any means.
<b>GST</b>	has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>Insurance Determination</b>	any relevant statutory instrument relating to public liability insurance made under the <i>Financial Management Act 1996</i> (ACT).
<b>Invoice</b>	an invoice that: <ol style="list-style-type: none"><li>(1) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth);</li><li>(2) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Agreement;</li><li>(3) is accompanied by any other details or reports required under this Agreement; and</li><li>(4) is rendered at the times specified in <b>Item 3 Schedule 1</b> (if any) and addressed to the Territory's Contract Officer.</li></ol>
<b>Licence</b>	the licence between the Territory and the Contractor dated on or around the date of this Agreement in respect of the land being Block 6 Section 25 Division of Hume, and all improvements thereon including the facility known as the Hume Materials Recovery Facility.
<b>Personal Information</b>	information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the

information or opinion.

**Prescribed Insurer**

in relation to:

- (1) public liability insurance, an insurer that is:
  - (a) accepted by the Australian Capital Territory Insurance Authority (ACTIA) for the purposes of the Insurance Determination, and in the absence of a relevant Insurance Determination, an insurer having a Standard and Poor's or Best's Rating A- or better,
  - (b) authorised by the Australian Prudential Regulation Authority (APRA) to conduct new and renewal insurance business in Australia, or
  - (c) if not authorised by APRA to conduct new or renewal insurance business in Australia, rated at A- or better by a ratings agency acceptable to ACTIA,
 or any other insurer prescribed under the Insurance Determination from time to time; and
- (2) other insurance, an insurer having a Standard and Poor's or Best's Rating A- or better.

**Procurement Act**

the *Government Procurement Act 2001* (ACT).

**Services**

the services described in the Special Conditions.

**Special Condition**

any provision set out in **Schedule 2**.

**Specified Personnel**

any person named in **Item 4 Schedule 1**, or any other employee or agent of the Contractor, who is approved by the Territory from time to time for the purpose of **clause 6**.

**Term** the term specified in **Item 2 Schedule 1**

**Territory** when used:  
(1) in a geographical sense, the Australian Capital Territory; and  
(2) in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

**Territory Information** the kind of information that:  
(1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;  
(2) is notified (whether in writing or not) by the Territory to the Contractor as being confidential;  
(3) is specified in **Item 6 Schedule 1**; or  
(4) is Personal Information,  
but does not include information that:  
(5) is or becomes public knowledge other than by breach of this Agreement;  
(6) has been independently developed or acquired by the Contractor; or  
(7) has been notified by the Territory to the Contractor as not being confidential.

**Territory Material** any material provided by the Territory to the Contractor for the purposes of this Agreement including documents, equipment, information and data stored by any means.

**1.2 General**

In this Agreement, unless a contrary intention is expressed:

- (1) references to "Contractor" include any employees, agents or subcontractors of the Contractor; and
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

## 2. Services

The Contractor must perform the Services in accordance with the provisions of this Agreement and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

## 3. Term

- (1) This Agreement is for the Term unless terminated under the provisions of this Agreement.
- (2) If the Territory gives written notice to the Contractor no more than six months and no less than three months before the date of expiry of the Term that the Territory requires an extension of the Term of up to a maximum period of 12 months (**Further Term**), then the Term of this Agreement shall be extended for the Further Term subject to mutual agreement to the terms of that extension by the parties.

## 4. Contract Price

### 4.1 Invoice

The Territory must pay the Contractor the Contract Price following its receipt of an Invoice and otherwise in accordance with **Item 3 Schedule 1**.

### 4.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Contractor or by the Contractor to the Territory (as the case may be) under this Agreement.

## 5. Ownership and use of material

### 5.1 Ownership of material

Ownership of:

- (1) all Contract Material, including any intellectual property rights, vests on its creation in the Contractor;
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and
- (3) all Contractor Material, including any intellectual property rights, remains with the Contractor.

### 5.2 Licence of material

- (1) The Territory grants to the Contractor a royalty-free, limited licence to use the Territory Material for the Term.
- (2) The Contractor grants to the Territory a royalty-free, perpetual, limited licence to use the Contract Material.
- (3) For the purpose of this clause, "use" includes:

- (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Contract Material, and
- (b) such uses as are reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory, and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires.

### 5.3 Third party rights

The Contractor must ensure:

- (1) its use of any Contract Material will not infringe the intellectual property rights of any third party; and
- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or its agents') use of any Contract Material.

### 5.4 Moral rights

The Contractor must, in relation to the authors of any work that comprises or forms part of the Contract Material for which the Contractor is responsible:

- (1) use its best endeavours to include in the Contract Material an attribution of those authors; and
- (2) procure from those authors their genuine written consent for the Territory to:
  - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent,
  - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public), and
  - (c) materially alter the work in any way.

### 5.5 Safekeeping and preservation of material

The Contractor must ensure the safe-keeping and proper preservation of Contract Material and Territory Material in its possession or control and deliver to the Territory all Contract Material and Territory Material on the expiration or termination of this Agreement (other than copies of material that the Territory has authorised the Contractor to retain). The Territory will permit the Contractor to retain copies of material reasonably necessary to comply with clause 15.1.6 of Schedule 2 and for good governance and proper record keeping but such material shall continue to be subject to the obligations for safe-keeping and proper preservation under this clause.

## 6. Contractor's personnel

The Contractor must:

- (1) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;

- (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;
- (3) ensure the services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services; and
- (4) if the Territory requires, use its best endeavours to procure that each person engaged in the performance of the Services executes a deed of confidentiality in a form acceptable to the Territory, and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies

## 7. Non-disclosure of Territory Information

### 7.1 Contractor's use of Territory Information

The Contractor must:

- (1) use Territory Information held in connection with this Agreement only for the purposes of fulfilling its obligations under this Agreement;
- (2) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cth) as if they were provisions of this Agreement and the Contractor was a collector and/or record-keeper of the Personal Information as defined in the Act;
- (3) not transfer Territory Information held in connection with this Agreement outside the Territory, or allow any person (other than its authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and
- (4) notify the Territory immediately if the Contractor becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred.

### 7.2 Contractor to protect Territory Information

- (1) Except as provided in this Agreement, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
  - (a) required or authorised to be disclosed by law,
  - (b) disclosed to the Contractor's related bodies corporate as defined in the *Corporations Act 2001* (Cth), solicitors, auditors, insurers or advisers,
  - (c) generally available to the public, or
  - (d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.

- (2) The Contractor must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Agreement is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information.
- (3) The Contractor must do all things necessary to ensure that Territory Information accessible to the Contractor and the Contractor's personnel by virtue of the performance of this Agreement is not accessed, published or communicated in any way, including imposing upon the Contractor's personnel obligations of confidentiality with respect to Territory Information.

### 7.3 Acknowledgement of effect of Crimes Act

The Contractor acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Agreement (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

## 8. Confidential Text under Procurement Act

### 8.1 Territory may make Agreement publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Agreement may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Agreement available to the public, including by publication on a public contracts register.

### 8.2 Confidential Text

If **Item 7 Schedule 1** states that this Agreement is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 8 Schedule 1**, and **clause 8.3** applies.

### 8.3 Territory must not disclose Confidential Text

Except as provided in this Agreement, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;

- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

## 9. Insurance and indemnity

### 9.1 Contractor's insurance

The Contractor must effect and maintain for the Term all insurance coverage required to be effected by it by law, public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 5 Schedule 1**, and any other insurance specified in **Item 5 Schedule 1** with a Prescribed Insurer.

### 9.2 Indemnity

The Contractor indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses in relation to all loss, damage, injury or death to persons or property to the extent caused or contributed to by the Contractor, in connection with the provision of the Services, except to the extent that the Territory caused or contributed to the relevant loss, damage or injury.

### 9.3 Claims to be made good

The Contractor must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 9.2** and the Territory may deduct the amount, or any part of it, from any moneys due or becoming due to the Contractor under this Agreement.

## 10. Termination

### 10.1 Default

The Territory may terminate this Agreement, at any time, by notice to the Contractor, if the Contractor:

- (1) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
- (2) fails to commence timely provision of the Services or to meet any timeframes specified in this Agreement; or
- (3) is in breach of a provision of this Agreement, where that breach:
  - (a) if capable of being remedied, is not remedied within the reasonable period specified in a notice by the Territory, or
  - (b) is not capable of being remedied.

## 10.2 Termination for any reason or reduction of Services

The Territory may, at any time by 3 months' written notice to the Contractor, terminate this Agreement or reduce the Services for any reason, and in that event:

- (1) the Territory will be liable only for:
  - (a) payments under this Agreement for Services rendered before the date of termination, and
  - (b) subject to clauses 10.2(2) and 10.2(3), any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of any other loss whether of prospective profits or otherwise;
- (2) on receipt of a notice of termination or reduction, the Contractor must:
  - (a) stop work as specified in the notice,
  - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and
  - (c) continue to perform any part of the Services not affected by the notice; and
- (3) in the event of a reduction of the Services, the Territory's liability to pay the Contract Price will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.

## 10.3 No prejudice

Nothing in this clause 10 prejudices any other rights or remedies of the Territory in respect of any breach of this Agreement.

## 11. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Agreement either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, undertake mediation with an independent mediator, the cost to be shared by the parties unless otherwise agreed.
- (2) Nothing in this clause 11 will prejudice the rights of either party to institute proceedings to enforce the Agreement or to seek injunctive or urgent declaratory relief in respect of any Dispute.

## 12. General

### 12.1 General responsibilities of parties

Each party will:

- (1) fully cooperate with each other to ensure timely progress and fulfilment of the Agreement; and
- (2) act reasonably and in good faith with respect to matters that relate to the Agreement.

**12.2 Conflict of interest**

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Agreement and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

**12.3 No employment, partnership or agency relationship**

Nothing in this Agreement constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

**12.4 No assignment or subcontracting**

- (1) The Contractor must not subcontract the performance of the Services or assign the whole or part of this Agreement without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any reasonable conditions.
- (2) A change in the control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment, the term "control" including the direct or indirect holding of more than 50% of the share capital of a corporation.
- (3) If the Contractor breaches clause 12.4(1), the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor's or assignee's capability to continue performing this Agreement or to provide security to ensure the proper performance of this Agreement.

**12.5 Entire agreement**

This Agreement and the Licence comprise the entire agreement between the parties in relation to the Services and supersede any prior representations, negotiations, writings, memoranda and agreements.

**12.6 Severability**

Any provision of this Agreement that is illegal, void or unenforceable will not form part of this Agreement to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Agreement will not be invalidated by an illegal, void or unenforceable provision.

**12.7 Variation**

This Agreement may be varied or the Term extended only by the written agreement of the parties prior to the expiration of this Agreement.

**12.8 No waiver**

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

**12.9 Governing law and compliance with the law**

This Agreement is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with the laws from time to time in force in the Territory in performing the Services.

**12.10 Notices**

Any notice, including any other communication, required to be given or sent to either party under this Agreement must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

**12.11 Special Conditions**

Each party must comply with its obligations set out in the Special Conditions. In the event of any inconsistency between any Special Condition and any other provision of this Agreement then, to the extent of any inconsistency, the Special Condition will prevail.

**12.12 Survival of clauses**

Clauses 7, 9.2 and 9.3 will survive the expiration or earlier termination of this Agreement.

**SCHEDULE 1****CONTRACT DETAILS****Item 1. Contract Officers**  
*See clauses 1.1 and 12.10***For the Territory:**

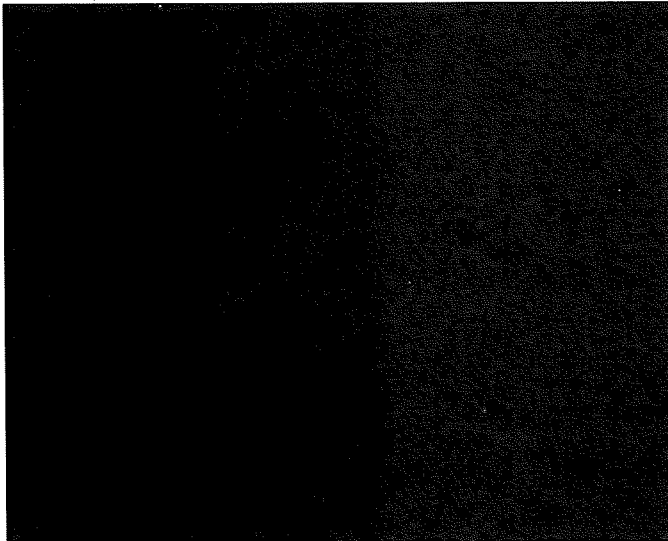
Manager, Contracts  
 ACT NOWaste  
 GPO Box 158  
 CANBERRA CITY ACT 2601  
 Ph: (02) 6205 9880  
 Fax: (02) 6207 6255

**For the Contractor:**


ACT Area Manager  
 Remondis Australia Pty Ltd  
 Level 4, 163 O'Riordan Street  
 MASCOT NSW 2020  
 Ph: (02) 9623 4733  
 Fax: (02) 9667 0994

**Item 2. Term**  
*See clause 3*

12 months from 18 February 2014 to  
 17 February 2015

**Item 3. Contract Price**  
*See clause 4***Item 4. Specified Personnel**  
*See clause 6*

Not used

- Item 5. Other amounts and insurance**  
*See clause 9.1*
- (1) Public liability insurance: \$20 million (in respect of each claim).
  - (2) Full comprehensive insurance for all vehicles, materials and plant that will be used in the performance of this Agreement. 
  - (3) Insurance for ~~the~~ all the full replacement value, against loss or damage of all Designated Plant and Other Plant.
- Item 6. Territory Information**  
*See clauses 1.1 and 7* Not used
- Item 7. Confidential Text**  
*See clauses 1.1 and 8* Not used
- Item 8. Grounds for confidentiality of Confidential Text**  
*See clause 8* Not applicable

## SCHEDULE 2

### SPECIAL CONDITIONS

*See clause 12.11*

#### 1. Additional definitions

In these Special Conditions, unless the context indicates otherwise, the following definitions apply.

- (1) **Adjustment Date** means each anniversary of the Commencement Date.
- (2) **Beneficial Products** means any materials that are recovered by the Contractor from the processing of Recyclable Materials at the MRF that can be either marketed for re-use in a manner consistent with environmentally sound principles.
- (3) **Collection Contractor** means the contractor to the Territory providing domestic waste and recyclables collection services.
- (4) **Commencement Date** means the commencement date of the Term in Schedule 1 Item 2.
- (5) **Commercial Services** means services other than the Services provided by the Contractor under agreements between the Contractor and third parties to recover recyclable materials from commercial premises.
- (6) **Contaminated Materials** means all material that the Contractor reasonably determines unacceptable for processing at the MRF including due to Recyclable Materials being contaminated with Garbage.
- (7) **Designated Plant** means all equipment and machinery used by the Contractor to provide the Services including, but not limited to the items specified in the annexure to this Agreement.
- (8) **Excluding QCC** means all Materials other than Materials that are Including QCC.
- (9) **Garbage** has the meaning given to it in the *Waste Minimisation Act 2001* as may be amended from time to time.
- (10) **Hazardous Materials** includes but is not limited to any substances that are or that are likely to be radioactive, volatile, highly flammable, explosive, bio-medical, toxic or hazardous, hypodermic needles and syringes and asbestos.
- (11) **Including QCC** means Materials originating from QCC.
- (12) **Licence** means the licence of the Site entered into between the parties on or about the date of this Agreement.
- (13) **Materials** means Recyclable Materials and Contaminated Materials.
- (14) **Materials Recovery Facility or MRF** means the recycling facility located at the Site also known as the Hume MRF.
- (15) **Operational Management Plan** means a document prepared by the Contractor setting out the Contractor's program for management of the

- Services as amended from time to time in accordance with this Agreement.
- (16) **Other Plant** means anything used by the Contractor to provide the Services, other than the Designated Plant, and includes the demountable buildings, vehicles, forklifts, loader, compactor and compactor bins.
- (17) **Public Education Program** means a program designed to educate the community about recycling and promoting the recovery of Recyclable Materials which includes, but is not limited to, producing and distributing pamphlets, posters and other written information and advertising, developing and giving presentations and providing guided tours of the MRF.
- (18) **QCC** means Queanbeyan City Council.
- (19) **Recyclable Materials** means
- a) newspaper and magazines;
  - b) all paper, packaging including cardboard and corrugated cardboard (other than plastic or wax coated items);
  - c) glass jars and bottles;
  - d) steel cans (including aerosols);
  - e) aluminium cans trays and foil;
  - f) all liquid paperboard cartons;
  - g) all plastic containers, 1, 2, 3 and 'R';
  - h) all Rigid Plastic containers; and
  - i) such other materials as identified and agreed by the Territory and the Contractor as recyclable from time to time.
- (20) **Regional Areas** means those areas outside but close to the geographical boundary of the Territory but does not include the area administered by QCC.
- (21) **Site** means Block 6 Section 25 Hume.
- (22) **Wage Cost Index** means ABS Catalogue No. 6345.0, Total Hourly Rates of Pay Excluding Bonuses, Private Sector, Transport and Storage Industry.
- (23) **Waste Reduction Fund** means the fund referred to in **Special Condition 6 (Waste Reduction Fund)**.
- (24) **WHS Legislation** means:
- (a) the *Work Health and Safety Act 2011 (ACT)*;
  - (b) the *Work Health and Safety Regulation 2011 (ACT)*;
  - (c) all instruments issued under the *Work Health and Safety Act 2011 (ACT)* or the *Work Health and Safety Regulation 2011 (ACT)*;
  - (d) all laws that replace the above laws; and
  - (e) all other laws applicable in the Territory dealing with work health and safety matters.
- (25) **Working Day** means every day except Saturday, Sunday, Christmas Day and Good Friday.

- (26) **Working Hours** means the hours of 4.30am to 10.30pm on each Working Day and 7:00am to 11:00am Saturdays.

## 2. Materials Recovery Services

- 2.1.1 The Contractor shall accept all Materials delivered to the MRF by the Collection Contractor and other collectors of Recyclable Materials approved by the Territory and agreed with the Contractor.
- 2.1.2 The Contractor will provide a delivery point at the MRF to enable direct delivery of the Materials.
- 2.1.3 The Contractor will work co-operatively with the Collection Contractor to maximise recovery of Recyclable Materials including entering into a tripartite deed with the Territory and the Collection Contractor to facilitate coordination of the respective services provided by each party, the terms of such deed to be agreed between the parties acting reasonably.

2.1.4



- 2.1.5 The Contractor shall process and recover all Materials in accordance with the Operational Management Plan in a timely and efficient manner.
- 2.1.6 Proceeds from the sale of any Recyclable Materials will be recorded by the Contractor and the records supplied to the Territory in accordance with **Special Condition 15 (Reporting and Meetings)**.
- 2.1.7 The Contractor will be responsible for the sale of all recovered Recyclable Materials. The Territory may assist the Contractor in the sale of recovered Recyclable Materials but will bear no responsibility for the conduct or proceeds of such a sale and will be under no obligation to the Contractor whatsoever as a result of any assistance or lack thereof.
- 2.1.8 The Contractor shall not dispose of Contaminated Materials and unsaleable Recyclable Materials at landfill sites or other sites without the prior written approval of the Territory.

## 3. Operational Management Plan

- 3.1.1 The Contractor shall process the Materials accepted at the MRF in accordance with the Operational Management Plan a copy of which must be provided to the Territory on request.
- 3.1.2 The Contractor shall review the Operational Management Plan:
- (1) six (6) months following the Commencement Date;
  - (2) twelve (12) months following the Commencement Date; and
  - (3) annually thereafter.

3.1.3 Following each review, the Operator shall provide the Territory with an updated copy of the Operational Management Plan.

**4. Ownership and Storage of Recyclable Materials**

4.1.1 Ownership of and responsibility for all Materials accepted at the MRF shall vest in the Contractor at the time of delivery.

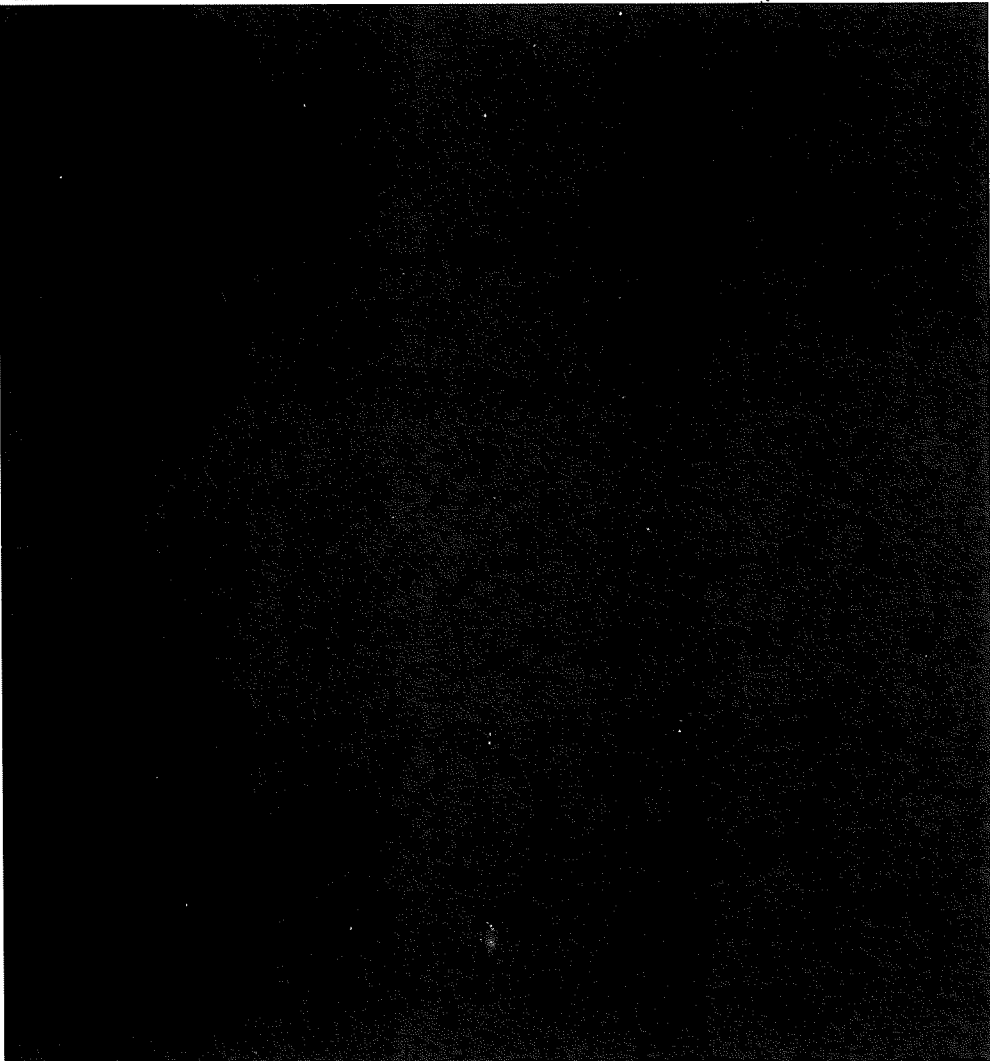
4.1.2 The Contractor shall comply with all reasonable directions of the Territory relating to the storage and disposal of Materials accepted at the MRF.

4.1.3 The Territory, acting reasonably, may at any time issue a direction to the Contractor to reduce the quantity of Materials accepted and stored at the MRF.

**5. Contract Price**

5.1.1 At the Commencement Date, the Contract Price 

5.1.2



5.1.3

**6. Waste Reduction Fund**

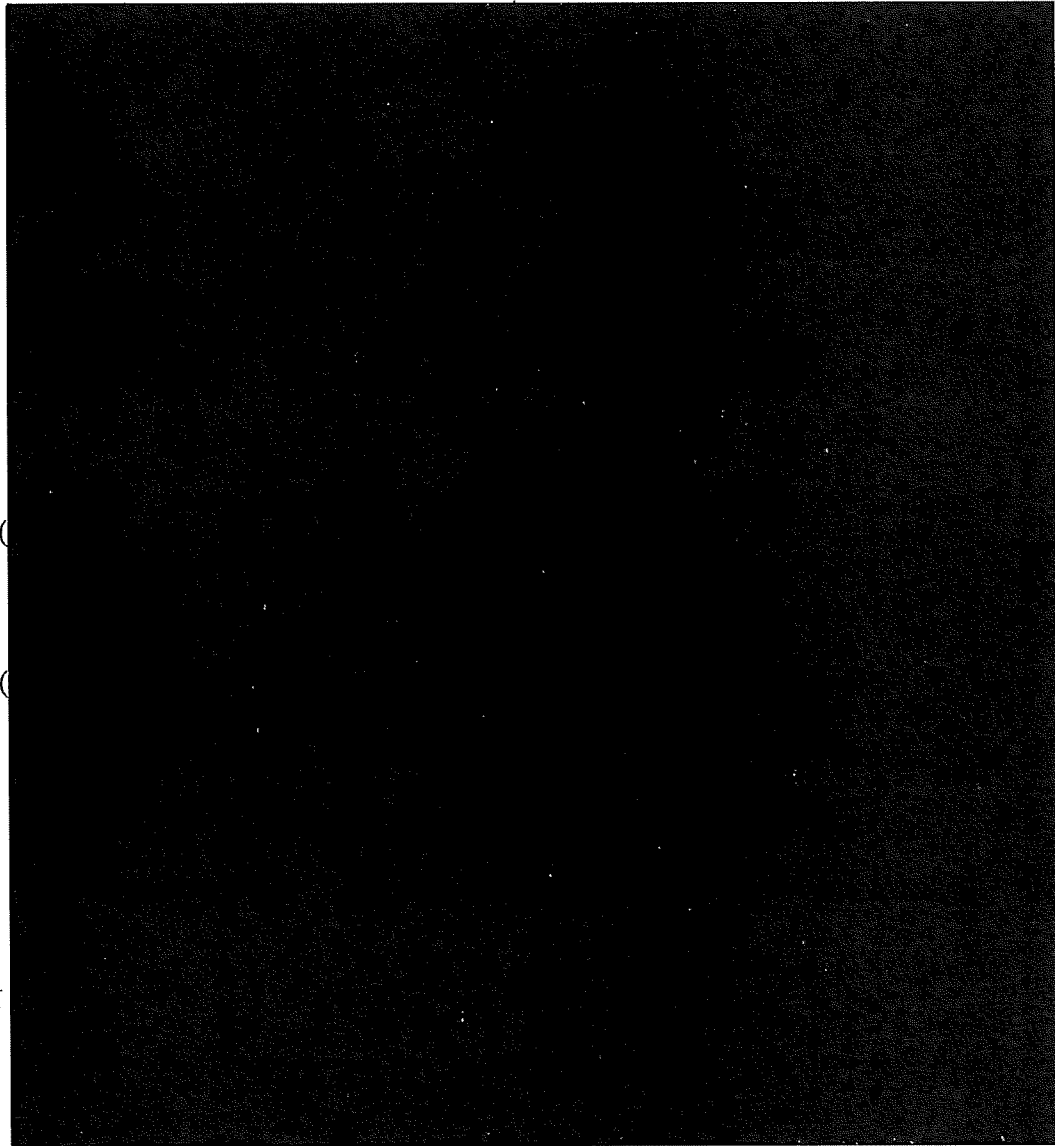
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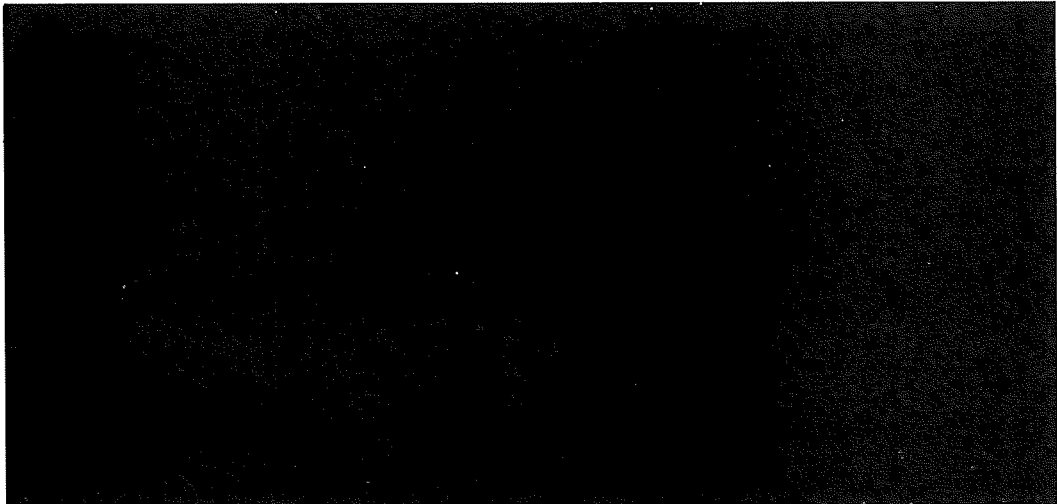


**7. Security for Due Performance**

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7.1.2

7.1.3

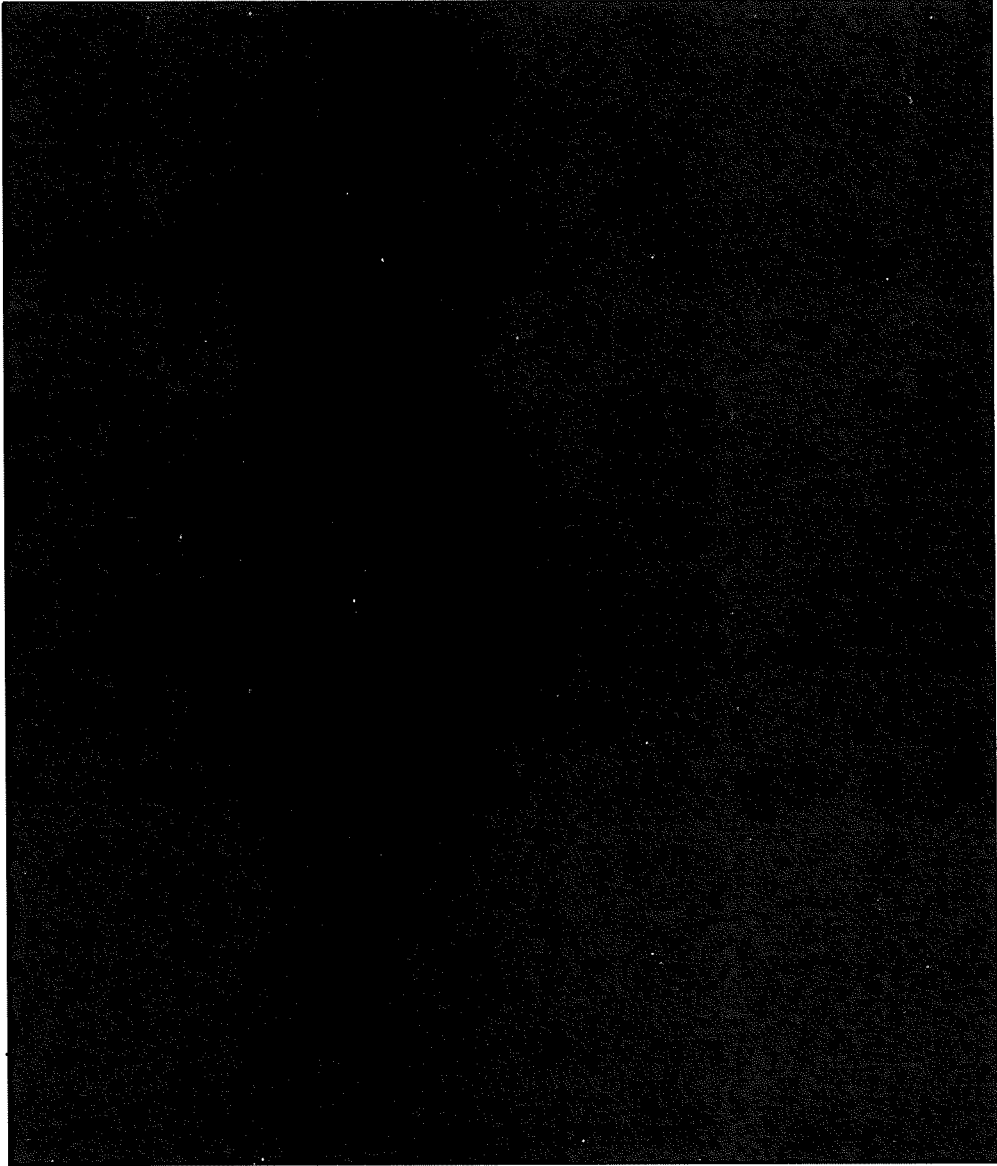


7.1.4



**8. Public Education Program**

8.1.1



8.1.2

8.1.3

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8.1.5

8.1.6

8.1.7

8.1.8

**9. The MRF and Designated Plant**

9.1.1



9.1.2

9.1.3

9.1.4



9.1.5



9.1.6



**10. Maintaining the MRF and the Plant**

10.1.1



10.1.2



10.1.3



10.1.4



10.1.5



**11. Hazardous Materials**

11.1.1 If the Contractor in carrying out the Services identifies any Hazardous Materials, the Contractor shall, immediately isolate the Hazardous Materials, notify the Territory and deal with the Hazardous Materials strictly in accordance with any direction given by the Territory. The Territory shall be liable for the reasonable cost of removing and disposing of any Hazardous Materials.

11.1.2 The Contractor shall not, without the prior approval of the Territory, store any dangerous materials, explosives, corrosive or inflammable liquids, gas, oil,

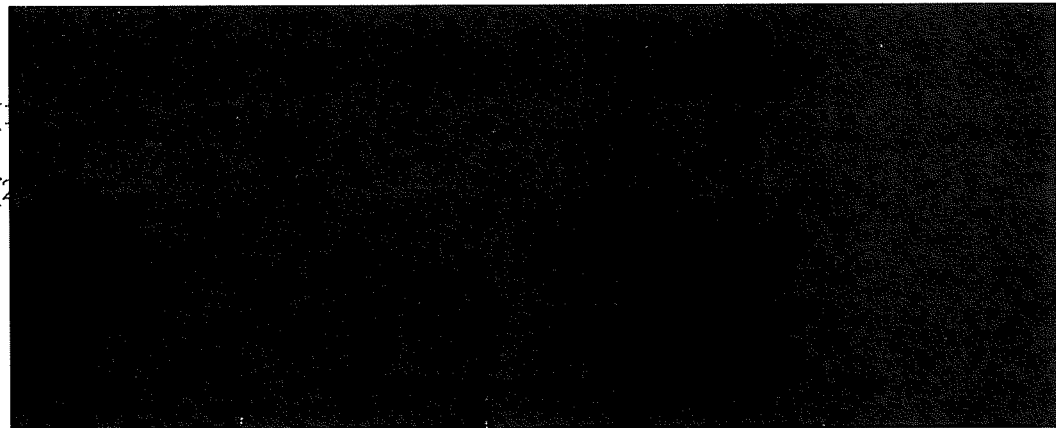
mixture, compound or any such substance or fluids for any purposes other than for customary cleaning applications.

**12. Interdependent Licence**

- 12.1.1 This Agreement is conditional on the parties entering into the Licence.
- 12.1.2 This Agreement and the Licence are interdependent and the termination of one agreement will give rise to the immediate termination of the other.

**13. Performance Measures**

13.1.1



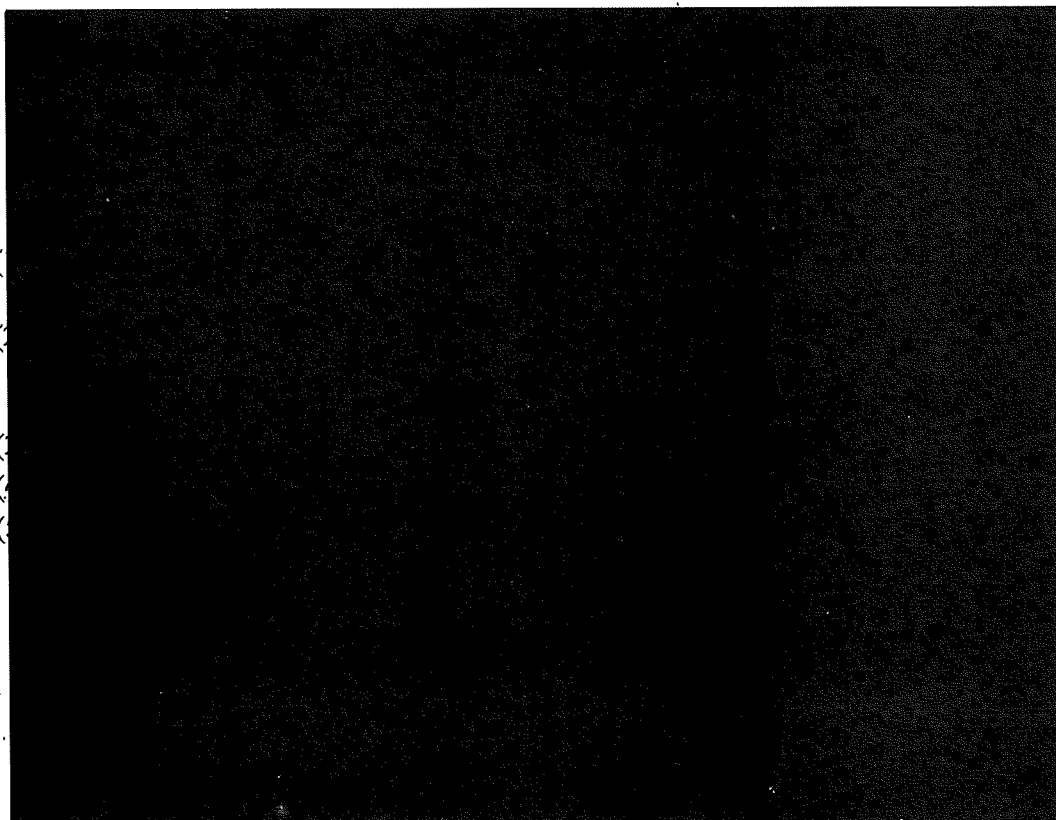
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**14. End of Term**

**14.1 Transition-out Plan**

14.1.1



14.1.2

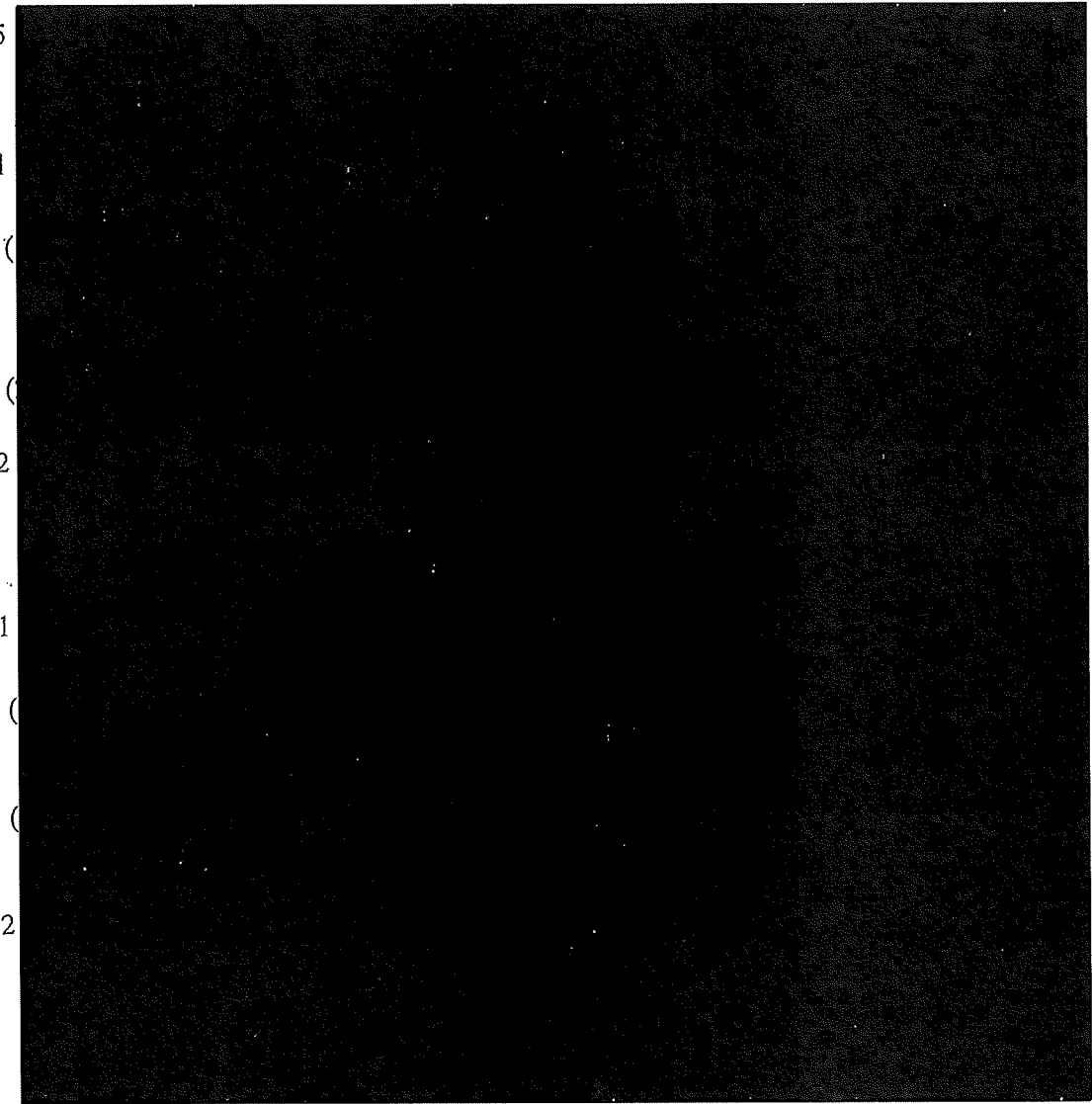
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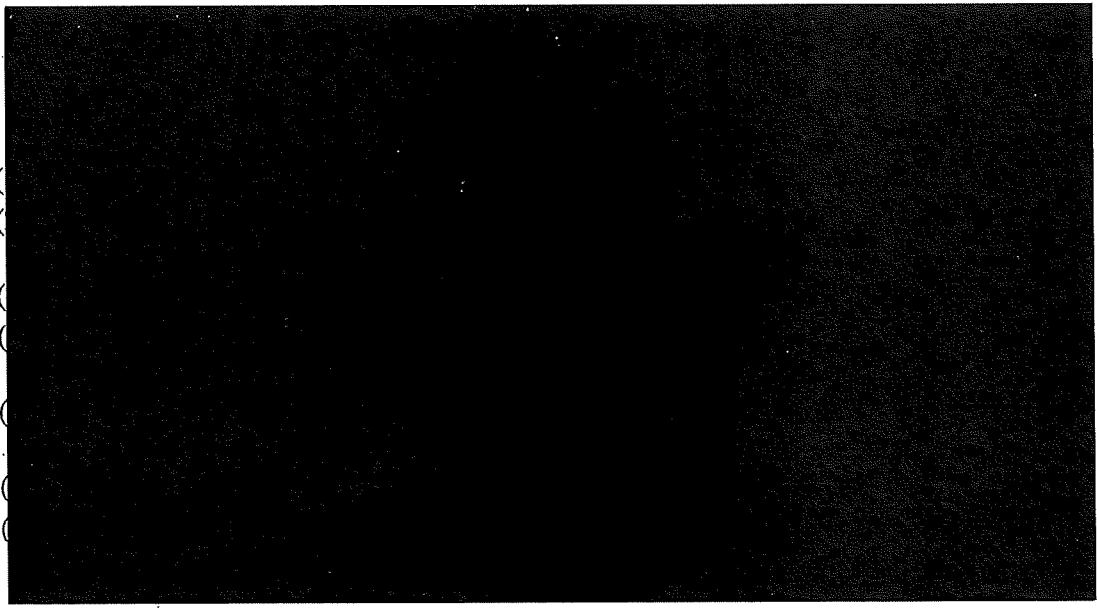
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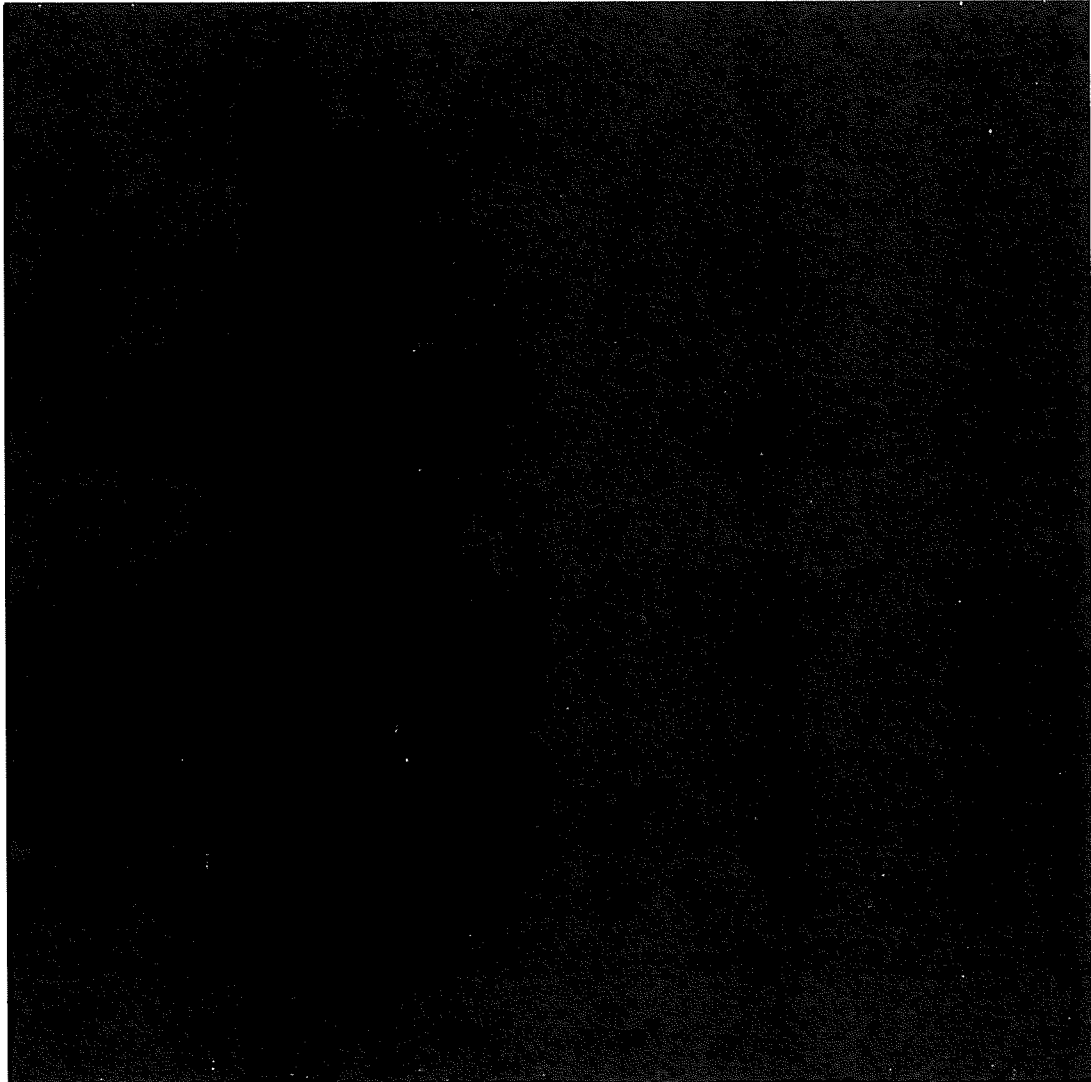
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14.3.2

**15 Reporting and Meetings**

15.1.1





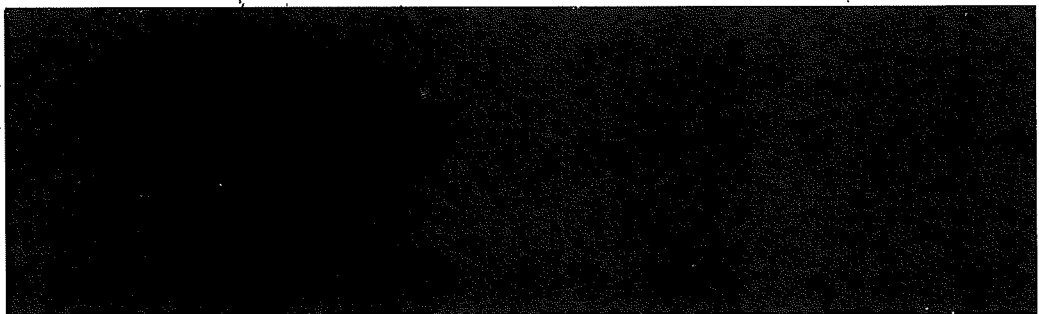
## **16 Contract Management**

- 16.1.1 At all times during Working Hours, a manager of the Contractor must be available at the MRF to supervise all employees, contractors and invitees of the Contractor and must be available to communicate with the Territory. Duties of the Manager also include liaison with the public, ensuring energy conservation and the maintenance and safety of the MRF, the Designated Plant and all Materials used under this Agreement.

## **17 Regional and Commercial Services**

17.1

17.1.1



17.1.2

17.1.3

17.2

17.2.1

17.2.2

**17.3 Commercial Services**

17.3.1

17.3.1

17.3.2

17.3.3

17.3.4

**18 Work Health and Safety**

18.1.1 The Contractor must comply with the WHS Legislation and ensure all Services are carried out safely and in a manner that does not put the health and safety of persons at risk.

18.1.2 The Contractor must comply with its duty under the WHS Legislation to consult, cooperate and coordinate activities with all persons who have a work health and safety duty in relation to the same matter.

18.1.3 The Contractor must exercise a duty of utmost good faith to the Territory in carrying out the Services to enable the Territory to discharge the Territory's duties under the WHS Legislation.

- 18.1.4 The obligations set out in this Agreement do not detract from the Contractor's obligations under the WHS Legislation. If there is an inconsistency between this Agreement and the WHS Legislation, the Contractor must comply with the WHS Legislation.

## 19 Changes in control of Contractor

19.1.1



## 20 Non-Performance of Services

- 20.1.1 The Contractor must carry out the Services to the reasonable satisfaction of the Territory in compliance with this Agreement unless unable to carry out the Services as a result of:
- (1) breach by the Territory of its obligations under this Agreement; or
  - (2) events beyond the reasonable control of the Contractor including but not limited to, a change in law, wars, riots, civil disturbance, strikes, chemical biological or nuclear leaks, spill or other contamination and fire, flood, earthquake or other natural disaster.
- 20.1.2 Should the Territory reasonably determine that the Contractor is not carrying out the Services, or any of them, it may notify the Contractor of those Services that are deficient, direct that the Contractor rectify or satisfactorily carry out the Services in accordance with this Agreement within a specified time, such time to be reasonable in the circumstances, and withhold any payment or payments until such time as the Services has been carried out to the satisfaction of the Territory in accordance with this Agreement.
- 20.1.3 If the Contractor fails to provide the Services and the Territory acting reasonably determines that it must take over the provision of those Services, then the Contractor will be liable for the Territory's reasonable costs and expenses of providing the Services until the Contractor resumes its provision of the Services.
- 20.1.4 If the Contractor fails to provide the Services for three (3) consecutive months or on more than three (3) occasions that give rise to costs and expenses to the Territory under Special Condition 20(3), the Territory may exercise its rights under clause 10 (Termination). If at any time the Contractor becomes aware that the Contractor will be unable to comply with its obligations under this Agreement, the Contractor shall immediately give notice in writing to the Territory specifying the details of and the reasons for the inability to comply.

20.1.5 If at any time the Contractor becomes aware that the Contractor will be unable to comply with its obligations under this Agreement, the Contractor shall immediately give notice in writing to the Territory specifying the details of and the reasons for the inability to comply.

Remondis Australia Pty Ltd

DATE OF THIS AGREEMENT

18 AUGUST 2014

SIGNED for and on behalf of the  
AUSTRALIAN CAPITAL TERRITORY  
in the presence of:

[Redacted Signature]

Signature of Territory delegate

[Redacted Signature]

Signature of witness

[Redacted Name]

Print name

[Redacted Name]

Print name

*At the 18/8/14*  
SIGNED by or for and on behalf of  
REMONDIS AUSTRALIA PTY  
LIMITED ACN 002 429 781 in  
accordance with section 127 of the  
*Corporations Act 2001 (Cth)* by authority  
of its directors:

[Redacted Signature]

Signature of director

[Redacted Name]

Print name

[Redacted Signature]

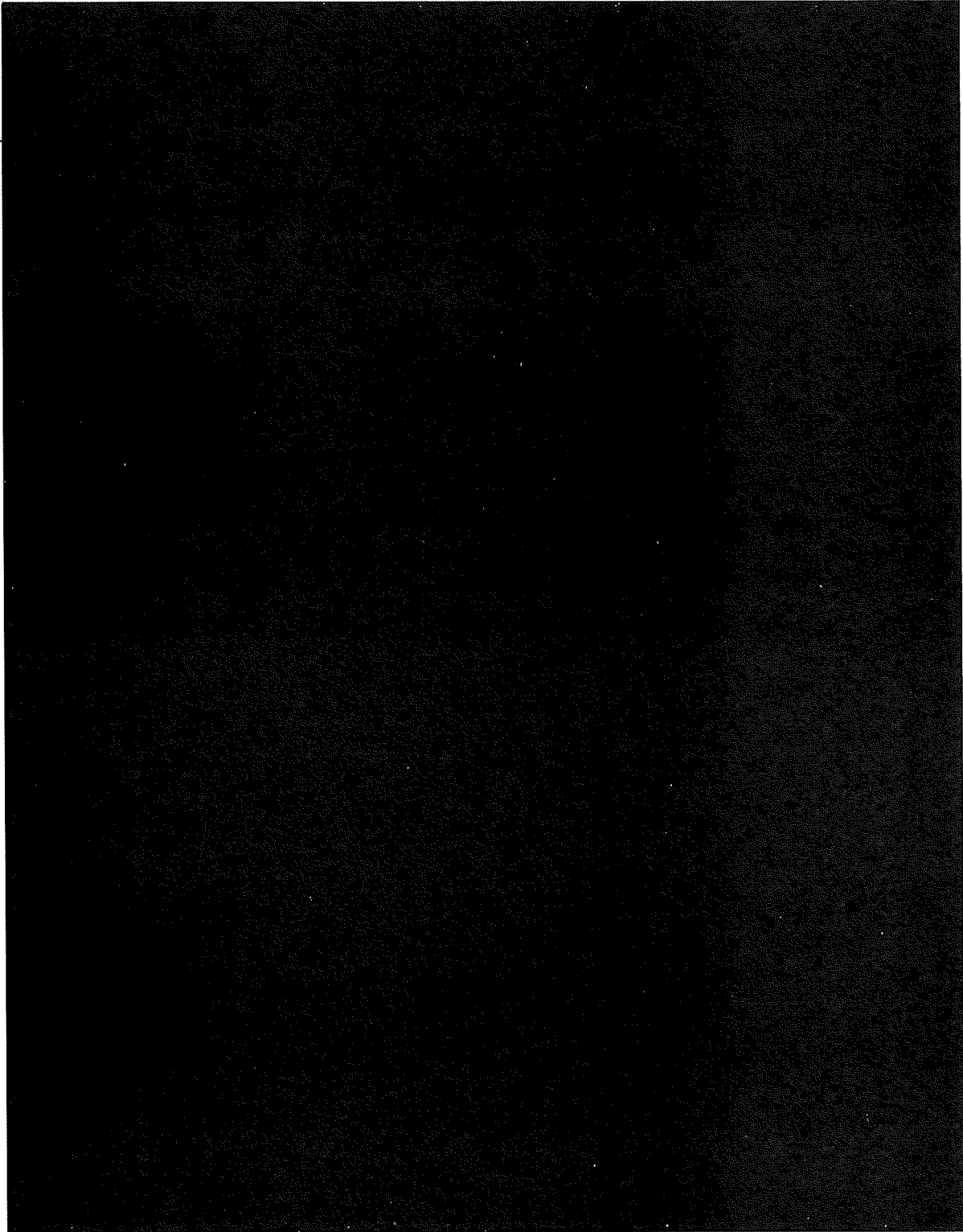
Signature of director/ secretary

[Redacted Name]

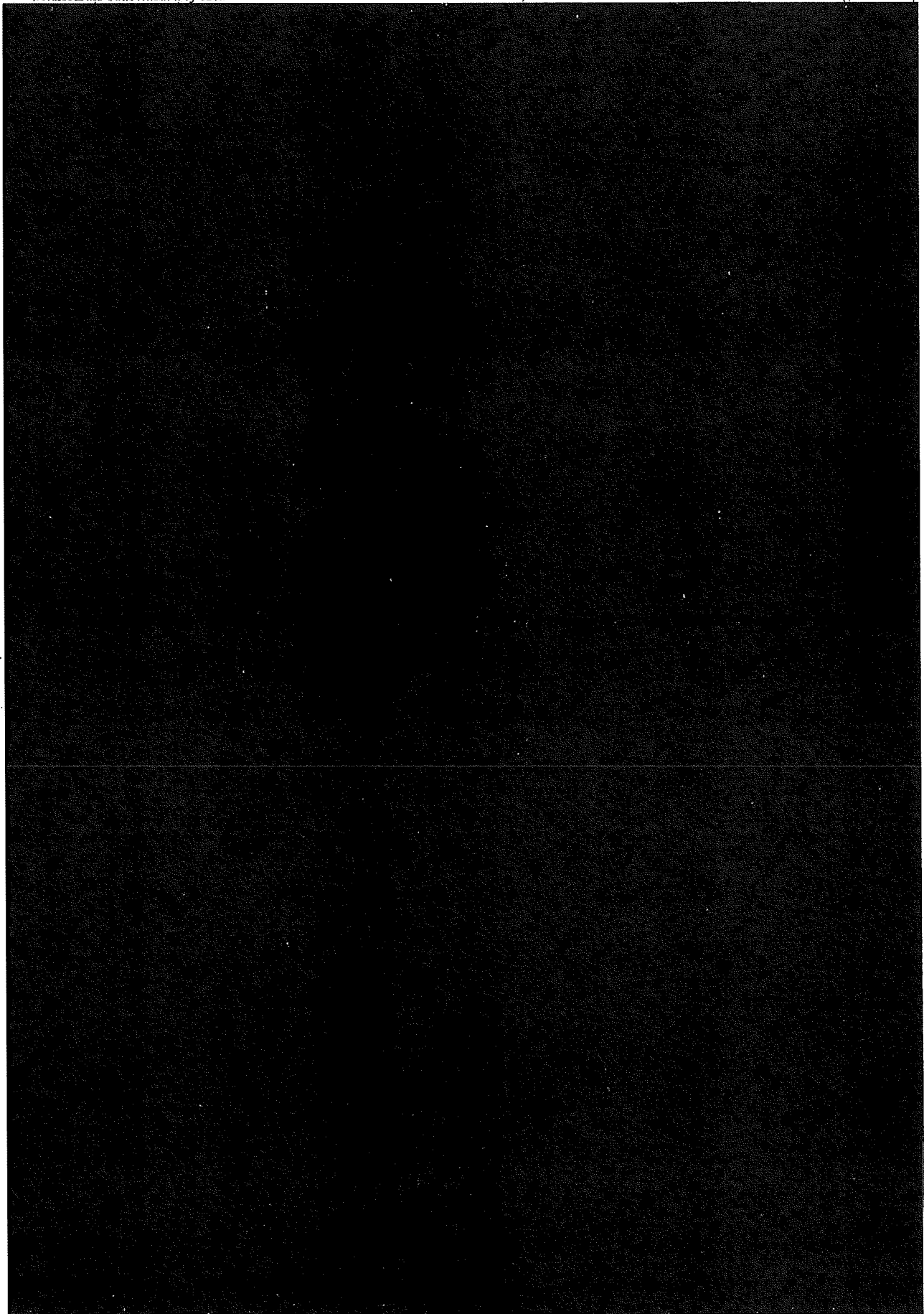
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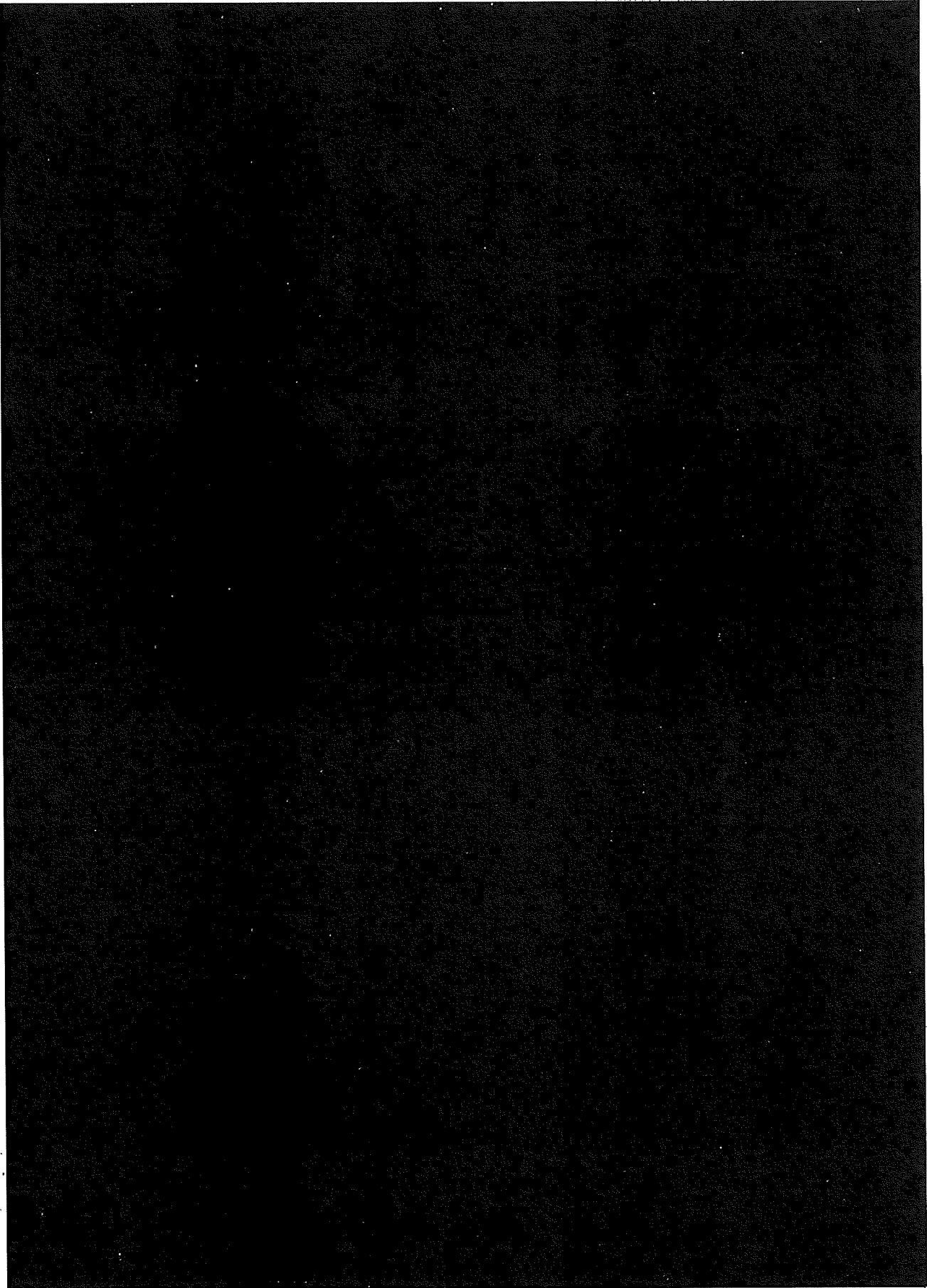
**ANNEXURE**

Designated Plant



Remondis Australia Pty Ltd







# LICENCE

Date

18 AUGUST 2014

Parties

AUSTRALIAN CAPITAL TERRITORY

REMONDIS AUSTRALIA PTY LIMITED  
ACN 002 429 781

LICENCE FOR USE OF TERRITORY  
LAND SUBJECT TO CROWN LEASE  
(EXISTING BUILDING)

Reference: HUME MRF-07/2014.

Prepared by

Act Government Solicitor  
Level 6, 12 Moore Street  
Canberra City ACT 2601  
Ph: 6207 5547  
Ref: 623464

Version

FINAL 30 July 2014

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Remondis Australia Pty Ltd

**PARTIES:** AUSTRALIAN CAPITAL TERRITORY, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (Licensor) represented by ACTNOWaste being an administrative unit of the Territory and Municipal Services Directorate.

REMONDIS AUSTRALIA PTY LIMITED ACN 002 429 781  
of Level 4, 163 O'Riordan Street Mascot NSW 2020 (Licensee).

IT IS AGREED by the parties as follows:

## 1. Interpretation

### 1.1 Definitions

1.1.1 In this Licence unless the context otherwise requires:

<b>Air-Conditioning System</b>	means the plant, equipment, machinery or ducting for heating, cooling and/or circulating air supplied by the Licensor.
<b>Building</b>	means any building on the Land in which the Premises are located.
<b>Commencement Date</b>	means the date set out in Item 5.
<b>Common Area</b>	means those parts of the Building and Land which are not let or licensed and are intended by the Licensor to be for the common use of occupiers of the Land.
<b>Contact Officer</b>	means, in relation to each party, the representative whose name and contact details are specified in Item 15, or as notified in writing from time to time by one party to the other.
<b>Designated Plant</b>	has the meaning given to it in the Services Agreement.
<b>Disclosure Statement</b>	means a disclosure statement referred to in the Leases Act.
<b>General Charges</b>	means those items set out in section 3 of Schedule 2.
<b>Guarantor</b>	means the person or persons set out in Item 16.
<b>Insolvency Event</b>	means: <ul style="list-style-type: none"> <li>(a) in respect of a natural person: <ul style="list-style-type: none"> <li>(i) any orders or agreements made in respect of the affairs of the person in accordance with the <i>Bankruptcy Act 1966</i>; or</li> <li>(ii) in the reasonable opinion of the Territory the person is likely to be declared bankrupt or lose control of the management of their</li> </ul> </li> </ul>

- financial affairs; or
- (b) in respect of all other entities:
- (i) any of the events listed in s459C of the *Corporations Act 2001* occur in respect of the entity; or
- (ii) any other event occurs which, in the reasonable opinion of the Territory is likely to result, or has resulted, in the:
- (a) insolvency;
- (b) winding up; or
- (c) appointment of a controller (as that term defined in the *Corporations Act 2001*) in respect of part or all of the assets.
- Item** means an item in Schedule 1.
- Land** means the land described in Item 2.
- Leases Act** means the *Leases (Commercial and Retail) Act 2001* (ACT) as amended or varied from time to time.
- Licence** means this licence and includes all schedules and attachments.
- Licence Fee** is the licence fee per annum in Item 7 as varied from time to time in accordance with this Licence.
- Licence Fee Review Dates** means the dates set out in Item 8(a).
- Licensee** means the person or organisation named in Item 1 and, if a natural person or persons, their respective executors, administrators and permitted assigns, and if a company or incorporated association, its successors and permitted assigns.
- Licensee's Property** means anything in or on the Premises which is not Licensor's Property.
- Licensor** means the Territory, its successors and assigns.
- Licensor's Property** means each of the following, as applicable:
- (1) the physical structure of the MRF including the Buildings comprising the Premises supplied by the Licensor, including the roof, walls, ceilings and lifts;
- (2) any improvements forming part of Designated Plant and the MRF including the Premises erected at the expense of the Licensor;

- (3) any fittings, fixtures, or goods in or on the Premises erected, installed or placed by the Licensor; or
- (4) any systems installed in the Premises by the Licensor including the Air-Conditioning System and fire and sprinkler systems.
- MRF** means the Recyclables Materials Recovery Facility at Hume (also known as the Hume MRF) located on the Premises.
- Option Term** means a Licence for a further term for the period set out in Item 13.
- Premises** means the premises described in Item 3.
- Prescribed Insurer** means an insurer that is authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia and is rated AA or better by Standard and Poors.
- Rules** means the rules attached in Schedule 3.
- Schedule** means any schedule forming part of this Licence.
- Services Agreement** means the agreement between the parties for the operation and maintenance of the MRF dated on or about the date of this Licence.
- Service Charges** means those items set out in section 2 of Schedule 2.
- Statutory Outgoings** means those items set out in section 1 of Schedule 2.
- Term** means the term specified in Item 4, or if extended under clause 2.2, the initial term and the extended term.
- Territory** means:
- (2) when used in a geographical sense, the Australian Capital Territory; and
- (3) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

## 1.2 General

1.2.1 In this Licence, unless a contrary intention is expressed:

- (1) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations, determinations and instruments issued under the legislation;
- (2) words importing a gender include the others; words in the singular number include the plural and vice versa; and where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (3) "include" is not to be construed as a word of limitation;
- (4) headings have no effect on the interpretation of the provisions;
- (5) an obligation imposed by this Licence on more than one person binds them jointly and severally;
- (6) words and expressions importing natural persons include body corporates, associations, government and local authorities and agencies;
- (7) any provisions in a Schedule form part of this Licence; and
- (8) the parties will not be bound by the standard provisions referred to in section 20(3) of the Leases Act.

## 2. Licence

### 2.1 Grant

2.1.1 From the Commencement Date, the Licensor grants a Licence over the Premises to the Licensee for the Term, at the Licence Fee on the terms set out in this Licence.

### 2.2 Holding Over

2.2.1 If the Licensee continues to occupy the Premises after the expiration of the Term, with the consent of the Licensor, the Licensee:

- (1) is a monthly Licensee at the monthly Licence Fee then applying; and
- (2) otherwise occupies the Premises upon the conditions of this Licence.

2.2.2 The monthly occupancy arrangement may be ended by either party giving one month's written notice to the other and the notice may be given at any time.

## 3. Not used

## 4. Licence Fee

### 4.1 Licence Fee

4.1.1 The Licensee must pay the Licence Fee if and when demanded by the Licensor.

### 4.2 Interest on Overdue Monies

4.2.1 If the Licence Fee or any other monies payable by the Licensee are not paid by the due date, then the Licensee must pay to the Licensor interest at the rate per

annum shown in Item 14 on those monies from the date on which they fall due until the date of payment or recovery.

- 4.2.2 The Licensor is entitled to recover the interest from the Licensee as if it was Licence Fee in arrears. Nothing in this clause restricts or prejudices any right of the Licensor in respect of the monies due.

## **5. Other Payments**

### **5.1 Statutory Outgoings, Service Charges, General Charges**

### **5.2 Licensor's Report**

- 5.2.1 The Licensor must, if required by the Leases Act, give the Licensee a report, within three months after the end of each accounting period in accordance with the Leases Act, which:

- (1) details the Licensor's expenditure for that accounting period on account of applicable Services Charges or General Charges to which the Licensee is required to contribute; and
- (2) complies with the provisions of section 66 of the Leases Act.

### **5.3 After hours use of Air-Conditioning System**

- 5.3.1 If the Licensee uses the Air-Conditioning System outside the hours stated in the Rules, the Licensee must pay the Licensor, on demand, the Licensor's costs of operating the Air-Conditioning System during those additional hours, such costs to be calculated using the hourly rate notified by the Licensor to the Licensee from time to time and reflecting the Licensor's reasonable costs of operating the Air-Conditioning System including, without limitation, allowances for maintenance, repair and replacement of the Air-Conditioning System.

## **6. Air-Conditioning and Heating**

### **6.1 No Interference**

- 6.1.1 The Licensee will at all times comply with the reasonable requirements of the Licensor in relation to the Air-Conditioning System. The Licensee will not do or permit or suffer to be done, anything which, in the reasonable opinion of the Licensor, might interfere with or impair the efficient operation of the Air-Conditioning System including the use of any heating or cooling devices or any other devices.

### **6.2 Failure of Air-Conditioning System**

- 6.2.1 Should the Air-Conditioning System fail to function for any reason, the Licensee will not, by reason of any such failure, be entitled to terminate this Licence, nor will the Licensee have any right of action or claim for compensation or damages against the Licensor, except in accordance with section 81 of the Leases Act.

### **6.3 Maintenance and Repair of Air-Conditioning System**

- 6.3.1 The Licensor must maintain and repair the Air-Conditioning System.

**6.4 Licensee Air-Conditioning or Heating**

6.4.1 The obligations imposed on the Licensor by this clause will not apply to any plant, machinery, ducting or unit for air-conditioning and/or heating purposes installed by the Licensee.

**7. Legal Costs and Disbursements****7.1 Cost of Licence Preparation**

7.1.1 The Licensor and Licensee will each bear their own costs (including legal costs and disbursements) in relation to the negotiation, preparation and execution of this Licence.

**7.2 Stamp Duty**

7.2.1 The Licensor will pay all stamp duty (if any is payable) assessed with respect to the Licence.

**7.3 Licensee's Additional Costs**

7.3.1 In addition to all costs and expenses for which the Licensee is liable at law or in equity to pay, the Licensee will pay to the Licensor, on demand, the Licensor's reasonable costs and expenses (including reasonable legal costs assessed on a solicitor and client basis and registration fee and taxes, which may be payable):

- (1) for, and incidental to, any variation, surrender or termination of this Licence;
- (2) in respect of any consent by the Licensor required under this Licence;
- (3) incurred by or on behalf of the Licensor in consequence of, or arising out of, any default in the due observance or performance of any covenant or obligation on the part of the Licensee;
- (4) incurred by the Licensor in consequence of any request of, or application by, the Licensee; or
- (5) incurred by the Licensor as a result of the exercise, or attempted exercise, of any of the Licensor's rights or powers.

**8. Licence Only****8.1 No Interest in Land**

8.1.1 Nothing contained in this Licence will create, or is to be construed as creating any estate or interest in the Land or the Premises in favour of the Licensee.

**8.2 Rights Personal to Licensee**

8.2.1 The rights granted by this Licence are personal to the Licensee.

**9. Use of Premises****9.1 Use of Premises**

9.1.1 The Licensee may use and occupy the Premises for the use set out in Item 9 or any such other purpose consented to by the Licensor in writing. The Licensee must not use the Premises except for the permitted use.

**9.2 Crown Lease**

9.2.1 The Licensee must not use the Premises for any purpose other than as permitted by the Crown lease for the Land or any superior occupancy agreement in respect of the Premises.

**9.3 No Interference**

9.3.1 The Licensee must not do anything in or about the Premises or the Building which, in the reasonable opinion of the Licensor (having due regard to the purpose for which this Licence has been granted):

- (1) is noisy, obnoxious, immoral, offensive or a nuisance or disturbance to the Licensor or other persons using the Building or the Land;
- (2) may be the cause of damage or vibration; or
- (3) interferes with the orderly operation of the Building.

**9.4 No Warranty as to Suitability**

9.4.1 The Licensee acknowledges that no promise, representation, warranty or undertaking has been given by or on behalf of the Licensor as to the suitability of the Premises, the Building or the Land for any purposes or as to the fittings, finishing, facility and amenities of the Premises, the Building or the Land, except as contained in this Licence. The Licensee must satisfy itself in respect to the use to which the Premises may be put and acceptance of this Licence acknowledges full knowledge of any prohibitions or restrictions on the use of the Premises, including any imposed by law.

9.4.2 Where the permitted use of the Premises requires the consent of any authority, the Licensee must obtain that consent at its own expense. The Licensee must keep current the licenses and permits required to carry on its activities from the Premises.

**9.5 Signs**

9.5.1 The Licensee must not fix or place any sign, notice, advertisement or other thing on any part of the Premises or the Building without the consent in writing of the Licensor and then only in such colour, size and style and in such places as approved by the Licensor, such approval not to be unreasonably withheld.

**9.6 Compliance with Laws**

9.6.1 The Licensee must comply, at its expense, with all laws and the requirements of any authority in connection with the Licensee's use or occupation of the Premises.

**9.7 Keep Clean**

9.7.1 The Licensee must (to the extent reasonable having regard to the use for which this Licence has been granted) keep the Premises and immediate surrounds clean, tidy and free from refuse and vermin.

**9.8 Statutory Notices**

9.8.1 If the Licensee receives a notice from any authority in respect of the Premises, the Licensee must immediately notify the Licensor in writing.

9.8.2 The Licensee must comply promptly with all notices received from any authority in respect of the Premises except such notices as would have been given irrespective of the Licensee's use and occupation of the Premises.

#### 9.9 Notice of defect

9.9.1 The Licensee must immediately give notice to the Licensor of any damage to the Premises and any accident affecting water, gas or oil pipes, electrical wiring, the Air-Conditioning System or any defect in them and any other fittings, fixtures or facilities provided by the Licensor.

#### 9.10 Infectious Illnesses

9.10.1 If any infectious illness occurs in the Premises which in the reasonable opinion of the Licensee is sufficiently serious, the Licensee must immediately notify the Licensor and have the Premises fumigated and disinfected by a suitably certified contractor, at the expense of the Licensee, to the satisfaction of any relevant authority.

#### 9.11 Rubbish

9.11.1 The Licensee will, to the extent reasonable having regard to the use for which this Licence has been granted, keep the Premises free from rubbish. The Licensee will arrange for the regular removal of rubbish.

#### 9.12 Flammable Liquids and Substances

9.12.1 The Licensee must not store or use chemicals or flammable, volatile or explosive substances on the Premises except to the extent consistent with the proper operation of the Premises in accordance with the Services Agreement and must not in any way create any actual or potential fire hazard in the Premises. The Licensee must ensure its storage or use is kept to a reasonable minimum.

9.12.2 The Licensee must permit the Licensor to enter the Premises at any time to control any actual or potential fire hazard and if the hazard, in the reasonable opinion of the Licensor, results from the use of the Premises by the Licensee, the Licensee must pay to the Licensor immediately on notification, the costs of the Licensor in carrying out that work.

### 10. Alterations and Fitout

#### 10.1 No alterations Without Consent

10.1.1 The Licensee will not, without the prior written consent of the Licensor, make any alterations or additions in or to the Premises or permit or suffer the same to be made. The Licensor may, in its absolute discretion, refuse to consent to any proposed alterations or additions.

10.1.2 The Licensee will not mark, paint, drill or in any way deface or damage the walls, partitions, ceiling, floor or surrounds of the Premises.

10.1.3 The Licensee must, in the course of any alterations or additions:

- (1) comply with the requirements of the Licensor and all relevant authorities; and
- (2) if required, use persons nominated or approved by the Licensor to carry out the work.

**10.2 Installing Equipment**

10.2.1 The Licensee will not, without the prior written consent of the Licensor, install any water, electrical or gas fixture or appliance or any apparatus for light, air, heating or cooling.

**10.3 Heavy Installation**

10.3.1 The Licensee will not bring in or on the Premises any fixtures or goods:

- (1) of such nature, weight or size; or
- (2) creating such noise or vibration in their operation,

such as to cause or, in the reasonable opinion of the Licensor, be likely to cause, any structural or other damage to the floors or walls or any other part of the Premises. Any damage to the Premises caused by the movement or placement of any such items will be made good at the Licensee's expense.

**10.4 Not Used****10.5 No Obstruction of Light or Air**

10.5.1 The Licensee must not obstruct the flow of air to or from or the admission of light to the Premises except for curtains or blinds approved by the Licensor, which approval will not be unreasonably withheld.

**11. Repairs, Maintenance and Replacement****11.1 Inconsistency**

11.1.1 Where there is an inconsistency between this clause and Schedule 2, Schedule 2 will prevail.

**11.2 Not Used****11.3 Repair Obligations**

11.3.1 Subject to clauses 11.3.3, 11.3.4 and 11.3.5, the Licensor must keep the Licensor's Property in good and tenable repair and condition having regard to the condition of the Premises at the Commencement Date, subject to fair wear and tear.

11.3.2 The Licensee must maintain and keep the Licensee's Property in good and tenable repair and condition subject to fair wear and tear.

11.3.3 The Licensor's obligation to repair under subclause 11.3.1 will not apply when the requirement for repair arises as a result of the negligence or act or omission of the Licensee or the Licensee's employees, agents, contractors or invitees. The Licensee must repair or replace any item of Licensor's Property requiring repair or replacement as a result of the negligence or act or omission of the Licensee or the Licensee's employees, agents, contractors or invitees.

11.3.4 The Licensor may require the Licensee to contribute an amount for each item of repair of the Licensor's Property as set out in Item 12. The Licensor will be under no obligation to repair unless and until the required contribution is made by the Licensee to the Licensor.

11.3.5 The Licensee must maintain the Licensor's Property to a standard equivalent to that at the date of first occupation by the Licensee (or, if the Licensor has

upgraded the Licensor's Property, to the upgraded standard) subject to fair wear and tear.

#### 11.4 Replacement Obligations

- 11.4.1 Subject to subclause 11.4.2, the Licensor will replace any Licensor's Property which, in the Licensor's reasonable opinion, requires replacement.
- 11.4.2 The Licensor's obligation to replace the Licensor's Property will not apply when the requirement to replace arises as a result of the negligence or act or omission of the Licensee, or the Licensee's employees, agents, contractors or invitees or the failure of the Licensee to maintain the Licensor's Property.
- 11.4.3 The Licensee will be responsible for the replacement of the Licensee's Property.

#### 11.5 Obligations on Expiry

The Licensee must, at the time of, or immediately before, the expiration of the Licensee's occupancy (and in this regard time is of the essence);

- (1) carry out repairs as required by this clause 11;
- (2) remove all signs, notices, advertisements, ornaments or other things placed by the Licensee on the Premises;
- (3) remove the Licensee's Property and make good any damage arising as a result of the removal;
- (4) leave the Premises in a clean and tidy condition, free from all rubbish; and
- (5) peaceably surrender and yield up the Premises.

#### 11.6 Notices to Repair

- 11.6.1 The Licensor may, at any time, serve on the Licensee a notice in writing of any defect which the Licensee is required to repair under the terms of this Licence and which the Licensee has failed to repair. The Licensee will repair the defect within 21 days of the date of service of the notice (or such other period as agreed). The Licensor may specify a period of less than 21 days within which to repair the defect if the defect is likely to cause damage to the Premises or Building or may cause injury to any person.
- 11.6.2 Where the Licensor is required to repair, due to the default of the Licensee, the Licensee must pay to the Licensor the cost of those repairs and any associated expenses within 7 days of notification of the amount.

#### 11.7 Leaving Licensee's Property, Goods or Fixtures Behind

To the extent permitted by law, if the Licensee leaves any Licensee's Property, goods or fixtures in the Premises for more than 21 days after the expiry or termination of this Licence, the Licensor may dispose of them in any way the Licensor sees fit. In addition, any such Licensee's Property, goods or fixtures will, at the Licensor's election, become the Licensor's property absolutely and the Licensor may deal with them without accounting to the Licensee or being required to compensate the Licensee for the same.

#### 11.8 Other Services

- 11.8.1 During the Term, and any extension or renewal of it, the Licensor must maintain in good working order the lifts, fire services and any other services within the Premises and the Building which are the responsibility of the Licensor.

11.8.2 If any of the services specified in this subclause:

- (1) malfunction;
  - (2) become unsafe; or
  - (3) are otherwise incapable of being operated as a result of any cause,
- the Licensor will, within a reasonable time after receipt of written notification from the Licensee, repair or replace the services (or part of the services) with services of an equivalent type and quality.

11.8.3 The Licensor will not be required to repair or replace any of the services referred to in subclause 11.8.1 where the repair or replacement arises as a result of the negligence or default of the Licensee or the Licensee's employees, agents, contractors or invitees.

#### 11.9 Licensor's Right to Enter

11.9.1 The Licensor and persons authorised by the Licensor have the right to enter the Premises with necessary materials and equipment at reasonable times, and on reasonable notice (but without any notice in any case which the Licensor considers an emergency):

- (1) to view the state of repair and condition of the Premises and conduct investigations;
- (2) to carry out any work or make any repairs or alterations or additions to the Premises or the Building;
- (3) to carry out repairs as the Licensor thinks fit;
- (4) where the Licensee has failed to repair any defect in accordance with any notice served by the Licensor; or
- (5) to comply with the terms of any present or future law affecting the Premises or any notice served on the Licensor or the Licensee by the Territory or any competent authority.

## 12. Insurance

### 12.1 Public Liability

12.1.1 The Licensee, during the Term and any holding over under this Licence, must keep current a public risk liability policy with a Prescribed Insurer for an amount for any single occurrence of not less than the amount referred to in Item 11. The policy must indemnify the Licensor against all actions and demands of any kind arising from the use and occupation by the Licensee and/or the Licensee's employees, agents, contractors and invitees of the Premises. The policy must note the Licensor's interest.

### 12.2 Other Insurance

12.2.1 The Licensee will be responsible for insuring the Licensee's Property and all other property of the Licensee in the Premises.

### 12.3 General Obligations not to Increase Licensor's Insurance

The Licensee must not do, or permit to be done, anything that would result in any insurance in relation to the Premises being:

- (1) unenforceable;
- (2) voidable; or

- (3) likely to increase the rate of premium on any insurance taken out by the Licensor (except with the approval of the Licensor in writing).

#### 12.4 Fire regulations

- 12.4.1 The Licensee must comply with the insurance, sprinkler and fire alarm regulations in relation to any partitions and other permitted fixtures or fittings which may be erected by or on behalf of the Licensee on the Premises.
- 12.4.2 The Licensee must pay the Licensor the cost of any alterations to the sprinkler or fire alarm installations that may become necessary by reason of any non-compliance by the Licensee with the relevant Australian Standards (determined by Standards Australia or any substituted body), directions or orders of any relevant authority and/or the requirements of the insurer.

#### 12.5 Production of Policy

The Licensee, in respect of any policy of insurance to be taken out by the Licensee, must, on request, produce to the Licensor either a:

- (1) policy of insurance; or
- (2) certificate of currency for the policy.

### 13. Indemnity and Release

#### 13.1 Risk

- 13.1.1 The Licensee will occupy, use and keep the Premises at its own risk.

#### 13.2 Indemnity

- 13.2.1 The Licensee indemnifies the Licensor, its employees, agents and contractors against liability in respect of all claims, costs and expenses and for all loss, damage, injury or death to persons or property to the extent caused or contributed to by the Licensee and/or its employees, agents, contractors or invitees in connection with this Licence, except to the extent that the Licensor has, through negligence or unlawful act or omission, caused or contributed to the relevant loss, damage or injury.

#### 13.3 Claims to be Made Good

- 13.3.1 The Licensee must, at its expense, make good the amount of all claims, loss, damage, costs and expenses, the subject of the indemnity in clause 13.2.

#### 13.4 Release

- 13.4.1 To the full extent permitted by law, the Licensee hereby releases the Licensor, its employees, agents and contractors from all claims and demands of every kind and from all liability which may arise in respect of any death or injury to any person or any accident or damage to property of any kind or nature, in or near the Premises or the Land other than as may be caused by the wilful or negligent act of the Licensor, its employees, agents or contractors.

### 14. No Compensation

- 14.1.1 At the expiration or termination of this Licence, the Licensee will not be entitled to receive any form of compensation from the Licensor in respect of any Licensee's Property on the Premises.

## 15. Damage or Destruction to the Premises

### 15.1 Damage or Destruction to the Premises

15.1.1 If the Premises or the Building or both are materially damaged or destroyed, and as a result, the Licensee cannot use or access the Premises, then the Licensor must, within 2 months, tell the Licensee whether or not the Licensor proposes to repair the Premises or the Building and if so, the approximate start and finish dates for the work. Meanwhile the Licensee must continue to use any part of the Premises that is useable, safe and accessible, and to obey this Licence as far as possible.

### 15.2 Termination by Licensor

15.2.1 If:

- (1) the Licensor gives the Licensee a notice under subclause 15.1 that the Licensor does not intend to repair the Premises or Building; and
- (2) one of the following applies:
  - (a) the Premises or Building has to be, or has been, demolished because of the damage;
  - (b) the damage extends to more than 50% of the Premises or Building;
  - (c) it is impracticable to repair or reinstate the Premises or Building within one year of the date of damage; or
  - (d) the Licensee cannot use the Premises and this Licence expires within 2 years of the damage occurring and there is no option for a further term;

then the Licensor may terminate this Licence by 30 days' written notice to the Licensee.

### 15.3 Termination by Licensee

15.3.1 If one of the following applies:

- (1) the Licensor gives the Licensee a notice under subclause 15.1 that the Licensor does not intend to repair the Premises or Building;
- (2) the Licensor gives the Licensee a notice under subclause 15.1 that the Licensor does intend to repair the Premises or Building but the Licensor unreasonably departs from the proposed start and finish dates; or
- (3) the Licensee will not be able to use the Premises within a reasonable period or for more than one year after the day, or last day, the damage happened;

then the Licensee may give a written notice terminating the Licence on 30 days' notice and specifying the reason for that termination.

### 15.4 No Payment of Licence Fee

15.4.1 While the Licensee cannot use the Premises due to damage to the Premises or the Building, the Licensee is not required to pay the Licence Fee and any other money payable under this Licence unless the Licensor and the Licensee otherwise agree or unless the Court orders otherwise.

**15.5 Payment of Licence Fee continues**

15.5.1 If the Premises or the Building are damaged but the Licensee is still able to use the Premises (in full or in part), then the Licensee must continue to pay the Licence Fee and other money payable under this Licence unless the Licensor and the Licensee otherwise agree or unless the Court orders otherwise.

**15.6 Agreement to End Licence**

15.6.1 The Licensor and the Licensee may also agree to end this Licence without the Licensor giving the notice under subclause 15.1.

**15.1 Obligation to Repair or Reconstruct**

15.6.2 Other than as set out in this clause, nothing in this Licence imposes an obligation upon the Licensor to repair or reconstruct the Premises or the Building in the event of damage to or destruction as described in this clause.

**16. No Assignment****16.1 No Assignment or Sublicensing**

16.1.1 The Licensee may not assign transfer, sublet, licence or mortgage its rights in respect of this Licence or the Premises.

**17. Default and Re-entry****17.1 Default by Licensee**

17.1.1 Where the Licensee is in breach of any condition in this Licence, the Licensor may remedy the breach at any time without notice to the Licensee and without limiting the rights of the Licensor as a consequence of that breach. Where the Licensor so acts, all reasonable costs and expenses incurred by the Licensor (including reasonable legal costs on a solicitor and client basis) in remedying any breach, must be paid by the Licensee to the Licensor immediately upon written notification of the amount and, in default, the amount may be recovered in a court of competent jurisdiction.

**17.2 Termination for Breach**

17.2.1 Where:

- (1) any instalment of the Licence Fee or other money payable by the Licensee to the Licensor is 21 days in arrears (in case of the Licence Fee whether or not demand has been made for it);
- (2) a notice has been served on the Licensee by, or on behalf of, the Licensor specifying a breach of this Licence and, if applicable, that breach has not been remedied or compensated for in accordance with the notice, provided the notice has allowed at least 21 days in which to remedy or compensate; or
- (3) the Licensee:
  - (a) becomes bankrupt or is subject to an Insolvency Event; or
  - (b) makes any assignment for the benefit of creditors, or makes any arrangement with creditors for liquidation of the debts of the Licensee by composition or otherwise; or

- (c) being a company or an incorporated association, goes into liquidation either voluntarily or compulsorily (except for the purpose of reconstruction or amalgamation) or is wound up or dissolved or placed under official management or a receiver or manager of any of its assets is appointed or an inspector is appointed under the *Corporations Act 2001* (Cth),

the Licensor may, at any time thereafter give written notice to the Licensee that the Licensor intends to terminate this Licence (the "Termination Notice").

### 17.3 Date of Termination

17.3.1 The termination referred to in the Termination Notice takes effect on the earlier of:

- (1) the date that the Licensee agrees to the termination by notice in writing to the Licensor; or
- (2) the date 14 days after the service of the Termination Notice (the "time period") provided that the Licensee does not contest the termination by application to the Magistrate's Court within the time period.

17.3.2 If the Licensee contests the termination in accordance with subclause 17.3.1(2), the termination has effect on the date ordered to be the date on which the termination takes effect by the Magistrate's Court.

## 18. Fixtures Remaining after Breach

### 18.1 Application

18.1.1 This clause applies:

- (1) where this Licence has been terminated or the Licensor has re-entered the Premises; and
- (2) in relation to any fixtures or goods in the Premises which do not, on termination or re-entry, pass to the Licensor and which remain in the Premises for 14 days after the date of termination or re-entry.

### 18.2 Removal by Licensor

18.2.1 The Licensor may:

- (1) remove any fixtures or goods to which this clause applies from the Premises and store them in such place and manner as the Licensor thinks fit;
- (2) on reasonable notice to the Licensee, place any fixtures or goods outside the Premises; and/or
- (3) sell the fixtures and goods and deduct from the proceeds, the Licensor's costs in removing, storing and selling them, and account to the Licensee for the balance.

### 18.3 Payment of Costs

18.3.1 The Licensee must pay to the Licensor, on demand, all reasonable costs and expenses of the Licensor in removing or storing fixtures or goods.

## 19. Essential Terms

### 19.1 Essential Terms

19.1.1 Each of the following covenants by the Licensee is an essential term of this Licence:

- (1) subclause 4.1 relating to payment of Licence Fee and subclauses 5.1 and 5.3 regarding other payments to be made by the Licensee;
- (2) clauses 9.1 and 9.2 relating to use of the Premises;
- (3) clause 10.1 relating to alterations and additions;
- (4) clauses 11.3 and 11.5 relating to repair, maintenance and make good;
- (5) clauses 12.1 and 12.3 relating to insurance;
- (6) clause 16 relating to assignment and underletting; and
- (7) clause 24.2 relating to payment of GST.

### 19.2 Acceptance of Arrears

19.2.1 The acceptance by the Licensor of arrears or the late payment of Licence Fee or other monies does not constitute a waiver of the essential and continuing obligation of the Licensee to pay Licence Fee and other moneys during the Term on the dates specified in the Licence.

### 19.3 Breach of an Essential Term

19.3.1 The Licensee must compensate the Licensor in respect of any breach of an essential term of this Licence and the Licensor is entitled to recover damages from the Licensee in respect of such breaches. The Licensor's entitlement under this clause is in addition to any other remedy or entitlement (including the right to terminate this Licence).

### 19.4 Loss on Repudiation or Breach

19.4.1 Where the Licensee's conduct (whether acts or omissions) constitutes:

- (1) a repudiation of the Licence; or
- (2) a breach of any covenant contained in the Licence,

the Licensee will compensate the Licensor for the loss or damage suffered by reason of the repudiation or breach.

### 19.5 Quantum of Damages Recoverable

19.5.1 The Licensor is entitled to recover damages against the Licensee in respect of repudiation or breach of covenant for the damage suffered by the Licensor during the entire Term.

### 19.6 Certain events of no Effect

19.6.1 The Licensor's entitlement to recover damages is not affected or limited by any of the following:

- (1) if the Licensee abandons or vacates the Premises;
- (2) if the Licensor elects to re-enter or to terminate the Licence;
- (3) if the Licensor accepts the Licensee's repudiation; or
- (4) if the party's conduct constitutes a surrender by operation of law.

**19.7 Licensor may Remedy Defaults**

19.7.1 The Licensor may remedy without notice, any default by the Licensee under this Licence and whenever the Licensor elects to do so, all costs and expenses incurred by the Licensor (including legal costs and expenses) are to be paid by the Licensee immediately on notification.

**20. Not used****21. Rules****21.1 Rules**

21.1.1 The Licensee must comply with the Rules and the Licensee acknowledges that, if it fails to comply with any of the Rules, the failure constitutes a breach of this Licence.

**21.2 Compliance with Rules**

21.2.1 The Licensee must take all reasonable steps to ensure that its employees, agents, contractors and invitees comply with the Rules.

**21.3 Variation of Rules**

21.3.1 The Licensor may delete, vary or add to the Rules provided that the Licensor notifies the Licensee of the changes within 30 days of making the changes.

**22. Common Area****22.1 Common Area**

22.1.1 Subject to subclause 22.2, the Licensee and all persons authorised by it, will, at all times, have the right to use the Common Area as ancillary to its occupation of the Premises and, in common with other persons having rights to be on the Land:

- (1) to enter and leave the Premises;
- (2) to load or unload vehicles in any area designated for the purpose by the Licensor;
- (3) to park private motor vehicles or cycles in such a place and for such a time as the Licensor designates from time to time;
- (4) to use the toilets and washrooms as allocated by the Licensor from time to time; and
- (5) to place rubbish in such proper receptacles as are approved by the Licensor from time to time.

**22.2 Control of Common Area**

22.2.1 The Common Area will, at all times, be subject to the control of the Licensor who has, subject to this Licence, the right from time to time to establish, modify and enforce reasonable rules in this regard.

**23. Variations****23.1 Variation of Provisions**

23.1.1 The parties agree that the standard provisions of this Licence are varied as set out in Item 17.

**23.2 Inconsistency**

23.2.1 Where there is any inconsistency between the provisions of Item 17 and any other provision of this Licence, the provisions of Item 17 will prevail.

**24. GST****24.1 GST definitions**

24.1.1 In this clause:

**Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended) and any regulation made under that Act;

**GST, Taxable Supply, Input Tax Credit, Supply and Tax Invoice** have the same meaning as in the Act;

**GST Rate** means 10% or if the rate at which GST is calculated under the Act changes, the rate applicable at the relevant time.

**Payment** includes consideration in the form of money given or received and in a form other than money given or received.

**24.2 Payment of GST**

24.2.1 A party making Payment to another party for a Taxable Supply under this Licence must pay to the other party at the same time, an additional amount equal to the amount of the Payment multiplied by the GST Rate.

**24.3 Reimbursements**

24.4.1 When calculating the amount of:

- (a) any reimbursement to a party under this Licence; and
- (b) the indemnification under this Licence of an expense, loss or liability incurred or to be incurred by that party,

the other party may include the GST paid or payable on the Supply giving rise to the amount, but if that party includes the GST that party must deduct the amount of any Input Tax Credit from the amount paid.

**24.4 Tax Invoice**

24.4.1 A party receiving a Payment of GST under this clause must provide a Tax Invoice to the party making the Payment before or at the same time as the Payment is received.

**25. Leases Act****25.1 Application of Leases Act**

25.1.1 Subject to clause 25.4; the parties agree that the provisions of the Leases Act apply to this Licence. Where there is an inconsistency between the provisions of this Licence and the Leases Act, the Leases Act will prevail.

**25.2 Disclosure Statement**

25.2.1 Where a Disclosure Statement complying with the Leases Act, was not given to the Licensee at least 14 days before this Licence was entered into and the Licensee has agreed to waive this requirement, the Licensee must provide the Licensor with a certificate made under section 30 of the Leases Act certifying that the Licensee has been independently advised by a lawyer (as defined in the Leases Act and not acting for the Licensor) of its right under the Leases Act.

**25.3 Approved Handbook**

25.3.1 The Licensee warrants that the Licensee was advised of the existence of the approved handbook and of its availability, as early as practicable in negotiations relating to this Licence.

**25.4 Standard Provisions**

25.4.1 The standard provisions in any regulations prescribed under the Leases Act do not apply to this Licence.

**25.5 Term of Lease less than 5 years**

25.5.1 Where the Term (including any prior option period or option contained in this Licence) is less than 5 years (as is otherwise required by the Leases Act), the Licensee warrants:

- (1) that it has been independently advised by a lawyer (as defined in the Leases Act and not acting for the Licensor) of the Licensee's rights pursuant to section 104 of the Leases Act; and
- (2) that the lawyer has provided the certificate set out in Schedule 1, as required by section 104 of the Leases Act.

**26. Not Used****27. Miscellaneous****27.1 No Waiver**

27.1.1 Failure or omission by the Licensor at any time to enforce or require strict or timely compliance with any provision of this Licence will not:

- (1) affect or impair that provision in any way;
- (2) affect the right or remedy that the Licensor may have in respect of that provision; or
- (3) act as a waiver of any other breach by the Licensee.

**27.2 Entire Agreement**

27.2.1 This Licence and the Services Agreement contain the entire agreement between the parties in relation to the Premises and supersede any prior representation, negotiations, writing, memoranda and agreements.

**27.3 Variation**

27.3.1 This Licence may be varied only by the written agreement of the parties prior to the expiration of this Licence.

**27.4 Severability**

27.4.1 Any provision of this Licence that is illegal, void or unenforceable will not form part of this Licence to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Licence will not be invalidated by an illegal, void or unenforceable provision.

**27.5 Governing Law**

27.5.1 This Licence is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

**27.6 Compliance with Laws**

27.6.1 The Licensee must comply with the laws from time to time in force in the Territory.

**27.7 Notices**

27.7.1 Any notice, including any other communication, required to be given or sent to either party under this Licence must be in writing. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent; or
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address.

27.7.2 In addition, where a notice is given by either party to repair or replace, the notice may be sent by electronic mail to an electronic mail address provided to the transmitting party and is deemed to be served at the time the email was sent.

**27.8 Authority to Complete**

27.8.1 The Licensee authorises the Licensor and its solicitors to complete any blanks with a proper date or details and to make any formal correction necessary to this Licence.

**Schedule 1**

- Item 1:** Licensee: Remondis Australia Pty Limited
- Item 2:** Land: Block 6 Section 25 Division of Hume
- Item 3:** Premises: The Land and all improvements thereon including the facility known as the Hume Materials Recovery Facility
- Item 4:** Term: 12 months from the Commencement Date until the Expiry Date
- Item 5:** Commencement Date: 18 February 2014
- Item 6:** Expiry Date: 17 February 2015
- Item 7:** Licence Fee: [REDACTED]
- Item 8:** (a) Licence Fee Review Dates: Not applicable  
(b) Method of review: Not applicable
- Item 9:** Use of Premises: Operation of the MRF in accordance with the Services Agreement.
- Item 10:** Outgoings: As per Schedule 2
- Item 11:** Public Liability Insurance: \$20 million
- Item 12:** Repair contribution: Not applicable
- Item 13:** Option Term: Not applicable
- Item 14:** Interest Rate: [REDACTED]
- Item 15:** Address for Notices: **Licensor:**  
ACT NOWaste  
Level 4, Macarthur House  
12 Wattle Street, Lyneham ACT 2602  
Contact Officer: Manager, Contracts  
**Licensee:**  
Remondis Australia Pty Limited  
Level 4 163 O'Riordan Street  
MASCOT NSW 2020  
Contact Officer:  
ACT Area Manager
- Item 16:** Guarantor: Not applicable
- Item 17:** Variations: The standard terms of this Licence are varied in accordance with Schedule 5

**Schedule 2**

**DISTRIBUTION OF LICENSOR AND LICENSEE RESPONSIBILITIES IN RELATION TO STATUTORY OUTGOINGS, SERVICE CHARGES AND GENERAL CHARGES**

Details of Charges	Percentage of Licensor responsibility (A)	Percentage of Licensee responsibility (B)
<b>SECTION 1 - STATUTORY OUTGOINGS</b>		
Land Tax		
General rates		
Water and Sewerage rates		
<b>SECTION 2 - SERVICE CHARGES</b>		
Electricity		
Gas		
Water Usage		
Telephone and Communications		
Cleaning - General		
Cleaning - Toilet requisites		
Cleaning - windows Internal		
Cleaning - windows external		
Rubbish removal/tradewaste bins		
Grease trap/triple inceptor - cleaning and emptying		
Insurance - Plate glass		
Insurance - Public Liability		
Landscaping/Gardening		
After hours Air-Conditioning		
Air-Conditioning Repairs		
Security system - Premises		
Pest Control		

Remondis Australia Pty Ltd

Details of Charges	Percentage of Licensor responsibility (A)	Percentage of Licensee responsibility (B)
<b>SECTION 3 - GENERAL CHARGES</b>		
Insurance - Building		
Fire Brigade Monitoring		
Fire Protection & Fire Extinguishers		
Security System - Building		
Signage - Internal		
Painting		
Lifts		
Locks and Keys		
Floor coverings		

### Schedule 3 – Rules

1. All requests for consents or approvals required from the Licensor, all notices required to be given by the Licensee to the Licensor and all enquiries, complaints and suggestions which the Licensee may wish to communicate to the Licensor, are to be in writing to the Contact Officer named in Item 16.
2. The Licensee must keep all doors and other means of access to the Premises securely fastened when the Premises are left unoccupied. The Licensor reserves the right to enter the Premises and fasten them if they are left insecurely fastened.
3. The Licensee must ensure that, at all times, the Licensor has a current address and telephone number at which the Licensee, or a responsible representative of the Licensee, can be reached when the Licensee or representative is not in the Premises.
4. No curtains, window blinds, window screens or awnings may be erected without the approval of the Licensor.
5. The Licensee must not cause obstruction in the Common Area.
6. No rubbish or waste may, at any time, be burnt on the Premises or in the Building.
7. The Licensee may not conduct, or permit to be conducted, on the Premises any auction, bankrupt or fire sale.
8. The Licensee may not use or permit the Common Area to be used for any business or commercial purpose or the display or advertisement of any goods or services.
9. The Licensee must, at the Licensee's own expense, replace all electrical light bulbs and globes and tubes which may become damaged or broken or fail to light in the Premises.
10. The Licensee must not use the Premises as a residence or sleeping place.
11. The Licensee must not keep on the Premises any animals, fishes, reptiles or birds.
12. In respect of the Premises where air-conditioning is supplied by the Licensor, the Licensor must endeavour to keep the Air-Conditioning System in working order between the hours of 8:00am and 5:30pm Monday to Friday excluding public holidays.
13. The Licensee may not smoke or permit any person to smoke any form of tobacco or similar substance within 15 metres of the Premises or the Building.
14. The Licensee must comply with any fire management plan produced by the Licensor which is made known to the Licensee or, if reasonably required by the Licensor, the Licensee will produce its own fire management plan.
15. The Licensee will participate in any fire management exercise conducted by the Licensor, of which the Licensee has received reasonable notice.

Remondis Australia Pty Ltd

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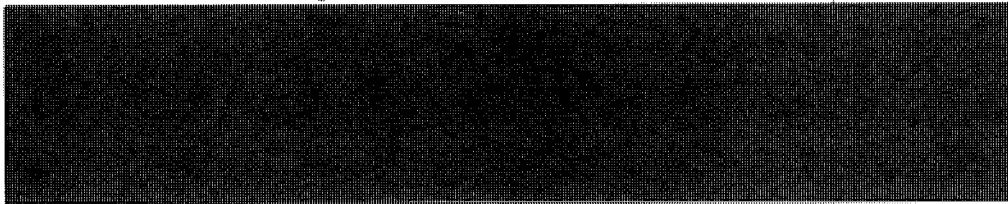
**Schedule 4 – Licence Fee Review**

Not used

**Schedule 5 – Variation to Standard Licence Terms****1 Licence interdependent with Services Agreement**

This Licence and the Services Agreement are interdependent and if:

- (1) the term of the Services Agreement is extended, then the Term is extended to the same extent; and
- (2) the Services Agreement is terminated, then this Licence is terminated with immediate effect.

**2 Transfer of MRF and Designated Plant****3 Licensee to insure Designate Plant**

Notwithstanding clause 12.2 (Other insurance) of this Licence, the Licensee must during the Term insure the Designated Plant for its full replacement value.

**4 Licensor's access to the Premises**

For the purposes of clause 11.9 (Licensor's right to enter) of this Licence:

- (1) "reasonable times" shall be taken to be any time between the hours of 8am and 5pm Monday to Friday; and
- (2) the Licensor has the right to enter the Premises for purposes pertaining to:
  - (a) evaluations;
  - (b) procurement processes;
  - (c) planning;
  - (d) design and upgrade of equipment; and
  - (e) asset stock-take and condition inspections of equipment on site.

Remondis Australia Pty Ltd

Executed as an Agreement

DATE OF THIS AGREEMENT ..... 18 AUGUST ..... 2014

SIGNED for and on behalf of the  
AUSTRALIAN CAPITAL TERRITORY  
in the presence of:

) [Redacted Signature]

) Signature of Territory delegate

[Redacted Signature]

Signature of witness

[Redacted Name]

Print name

[Redacted Name]

Print name

*Done 18/8/14*  
EXECUTED by REMONDIS  
AUSTRALIA PTY LIMITED ACN 002  
429 781 in accordance with section 127 of  
the Corporations Act 2001 (Cth):

[Redacted Signature]

) Signature of director

[Redacted Signature]

Signature of director/ secretary

[Redacted Name]

Print name

[Redacted Name]

Print name