

Trade Waste Agreement

FTW-008a

Revision 02

SOUTH GIPPSLAND REGION WATER CORPORATION

and

OCCUPIER

PROFORMA TRADE WASTE AGREEMENT

TRADE WASTE AGREEMENT

This Agreement is dated

B E T W E E N:

THE CORPORATION **SOUTH GIPPSLAND REGION WATER CORPORATION**
of 14-18 Pioneer Street, Foster, Victoria 3960

and

THE OCCUPIER As detailed in item 1 of Schedule 1.

RECITALS

- A The Occupier must not discharge Trade Waste into the Corporation's System otherwise than in accordance with a Trade Waste Agreement.
- B The Occupier has requested the Corporation to accept Trade Waste from the Occupier's operations at the Premises.
- C The Corporation has agreed to accept the Trade Waste into the Corporation's System in accordance with this Agreement.

DEFINITIONS

- 1 In this Agreement the terms and words shall have the following meaning unless otherwise indicated, either expressly or by context.
 - 1.1 "**Act**" means the *Water Act* 1989 or any successor legislation.
 - 1.2 "**Agreement**" means this Trade Waste Agreement including the Schedules and recitals.
 - 1.3 "**By-Law**" means any By-Law of the Corporation applying from time to time in relation to Trade Waste.
 - 1.4 "**Charges**" means any fees or charges levied by the Corporation in consideration of the Corporation making available or creating capacity within the Corporation's System and receiving, treating and otherwise dealing with Trade Waste from the Premises including interest and other fees applicable to same. The Charges are detailed in Schedule 2 and otherwise in this Agreement.
 - 1.5 "**Commencement Date**" means the date set out in item 2 of Schedule 1.
 - 1.6 "**Corporation's System**" means all present and future assets of the Corporation including such pipes, treatment plants, storage and waste disposal infrastructure to which the Premises may be connected or to which Trade Waste may be discharged or in which Trade Waste may be treated, reused or disposed.

- 1.7 “**Discharge Point**” means the point at which the Trade Waste is deemed to enter the Corporation’s System as specified in Schedule 3.
- 1.8 “**EPA**” means the Victorian Environment Protection Authority.
- 1.9 “**GST**” means the goods and services tax levied under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or any other goods or services tax, value added tax, consumption tax or tax of similar effect levied from time to time.
- 1.10 “**Occupier**” means the occupier of the Premises and is the party so recorded in item 1 of Schedule 1.
- 1.11 “**Occupier’s Works**” means any works undertaken by the Occupier in accordance with clause 15.
- 1.12 “**Operating Procedures**” means the documents in the form of written instructions provided by the Corporation to the Occupier from time to time which specifies the procedures with which the Occupier must comply in relation to Trade Waste treatment, batch management, storage, transport, discharge and monitoring (including for the purpose of calculating the Charges) as contemplated generally in this Agreement and specified in Schedules 3 and 4.
- 1.13 “**Owner**” means the registered proprietor of the Premises and is the party so recorded in item 3 of Schedule 1.
- 1.14 “**Price Determination**” means a determination of the Essential Services Commission in relation to the Corporation pursuant to the Water Industry Regulatory Order 2003 issued pursuant to section 4D(1)(a) of the *Water Industry Act 1994* and in force from time to time.
- 1.15 “**Premises**” means the land (and buildings upon that land) detailed in item 4 of Schedule 1 from where the Trade Waste is to be discharged from.
- 1.16 “**Regulatory Compliance**” means any action by the Corporation, including any additional works to the Corporation’s System that arises out of the Corporation’s obligation to meet any new, increased or enhanced requirements associated with the Corporation’s receipt, treatment and dealing with Trade Waste imposed by the EPA, the Essential Services Commission, or any other relevant regulatory body.
- 1.17 “**Schedule**” means a schedule annexed to and forming part of this Agreement.
- 1.18 “**Term**” means the term of this Agreement as set out in item 5 of Schedule 1.
- 1.19 “**Trade Waste**” means:
- 1.19.1 any water-borne waste (other than domestic sewage) which is suitable, according to the criteria of the Corporation for discharge into the Corporation’s sewage system;
 - 1.19.2 any other water-borne waste which is declared by a By-Law made under the Act to be Trade Waste;
 - 1.19.3 any other water-borne waste which is declared by the Corporation from time to time to be Trade Waste;
 - 1.19.4 any other liquid waste and any substance contained in it deriving from any business, trade, industry or commercial activity.

- 1.20 “**Trade Waste Management Plan**” means the plan referred to in clauses 10 - 12 of this Agreement.
- 1.21 “**Trade Waste Performance Report**” means the report referred to in clauses 13 - 14 of this Agreement.
- 1.22 “**Works**” means any works which have, or will be, undertaken to the Corporation’s System, as generally described in item 6 of Schedule 1.

COMMENCEMENT

- 2 This Agreement shall commence on the Commencement Date and shall be for the Term.

AGREEMENT TO DISCHARGE TRADE WASTE

- 3 The Occupier may, subject to:
- 3.1 this Agreement;
 - 3.2 the Act; and
 - 3.3 any By-Law of the Corporation (to the extent not altered by this Agreement);

discharge Trade Waste from the Premises to the Corporation's System at the Discharge Point for the Term.

THE CORPORATION’S OBLIGATIONS

- 4 The Corporation must receive the Occupier’s Trade Waste, subject to the terms and conditions set out in this Agreement, provided further that it is acknowledged that the Corporation will not be obliged to receive Trade Waste which may:
- 4.1 endanger human life;
 - 4.2 compromise the safety of any person or any asset of the Corporation;
 - 4.3 prevent or disrupt the operation of the Corporation’s System;
 - 4.4 detrimentally effect any aspect of the environment; or
 - 4.5 cause the Corporation to fail to comply with the Act , the *Environment Protection Act 1970* or any works approval, licence, notice or direction issued under those Acts or any other law.

CHARGES

- 5 In consideration of the Corporation accepting the Occupier’s Trade Waste, the Occupier must pay to the Corporation the Charges calculated in accordance with Schedule 2 of this Agreement.
- 6 The Occupier acknowledges that the Charges may be varied from time to time.
- 7 Unless otherwise provided in the By-Law, or otherwise agreed with the Corporation, the Occupier must pay the Charges and any other fee, levy or cost imposed under this Agreement within thirty (30) days of receiving an invoice in relation to same from the Corporation, provided further:

- 7.1 each amount, of whatever description (including, without limitation, the Charges), payable by the Occupier to the Corporation under this Agreement is expressed exclusive of GST; and
- 7.2 in addition to any amount payable, the Occupier must, to the extent permitted by law, pay to the Corporation a sum equivalent to the GST paid or payable, if any, by the Corporation in respect of that amount; and
- 7.3 the Corporation agrees to provide tax invoices to enable the Occupier to claim input tax credits in relation to any GST payable under this clause.

FAILURE TO PAY

- 8 Failure to pay any of the Charges by the Occupier within thirty (30) days from the date such payment is due shall result in interest being payable by the Occupier on any monetary amount outstanding from the date payment is due at the maximum rate of penalty interest as fixed by the Corporation from time to time pursuant to section 281 of the Act.
- 9 The Owner (if the Occupier is not the Owner) agrees that any amount due to the Corporation by the Occupier is a charge on the land making up the Premises pursuant to section 274(4A) of the Act.

TRADE WASTE MANAGEMENT PLAN

- 10 The Occupier shall within 6 months of a request by the Corporation prepare and submit to the Corporation a Trade Waste Management Plan generally in accordance with:
 - 10.1 Schedule 5 of this Agreement;
 - 10.2 the joint EPA and Victorian Water Industry Association publications:
 - (a) 'Trade Waste Management Plans: A Guide and Industry Template for Improving Trade Waste Discharges'; and
 - (b) 'Best Practice Trade Waste Management for Water Businesses';as amended or replaced from time to time.
- 11 The Occupier must review and update the Trade Waste Management Plan upon a request by the Corporation and provide a copy of the updated Plan to the Corporation not later than 120 days following the request.
- 12 Recommendations emanating from the Trade Waste Management Plan must be implemented on a programmed basis approved by the Corporation.

TRADE WASTE PERFORMANCE REPORT

- 13 Not later than 1 August in each year of the Term, the Occupier must submit a Trade Waste Performance Report to the Corporation to the Corporation's specifications, and, subsequent to the submission of the Trade Waste Performance Report, the Occupier and the Corporation must meet on or before 1 September of the same year to discuss arrangements between the parties relating to the Trade Waste discharge generally and matters raised in the Trade Waste Performance Report.
- 14 No later than 60 days after the lodgement of the Trade Waste Performance Report by the Occupier, the Corporation may, where the circumstances are reasonable and

appropriate, advise the Occupier that additional parameters, or modified parameters shall be imposed, effectively constituting an amendment to Schedule 3 in terms of those parameters. Subject to a Price Determination, the introduction of new or modified parameters may, as the circumstances provide, result in a change (ie increase or decrease) in the total usage Charges.

THE OCCUPIER'S WORKS

- 15 The Occupier will be required at its cost to construct, maintain and operate, to the satisfaction of the Corporation, any works for the purposes of:
 - 15.1 treating the Trade Waste on the Premises to a standard and in a manner required by the Corporation so as to achieve the standard set out in Schedule 3;
 - 15.2 conveying the Trade Waste to the Discharge Point;
 - 15.3 incorporating such measures to minimise the volume and rate of flow as the Corporation requires;
 - 15.4 incorporating facilities to sample and otherwise monitor flow rates and such other characteristics of the Trade Waste as are set out in this Agreement; and
 - 15.5 incorporating the Operational Procedures (if any) and the Works as set out in item 6 of Schedule 1.
- 16 The Works to be carried out by the Occupier must be designed, produced in writing and by drawing to a standard the Corporation requires and submitted to the Corporation prior to any connection to the Corporation's System or the commencement of discharge of Trade Waste under this Agreement.
- 17 If, during the course of this Agreement it is reasonably apparent to the Corporation that the Works or methods relating to:
 - 17.1 the treatment of Trade Waste on the Premises;
 - 17.2 the conveying of the Trade Waste into the Corporation's System; or
 - 17.3 the monitoring of the flow rates and other characteristics of the Trade Waste;are inadequate for any sound reason (including any external requirement placed upon the Corporation), the Corporation may require, and the Occupier must comply with, additional works or monitoring to be carried out by the Occupier at the Occupier's cost. The Corporation will issue written advice specifying the additional works or monitoring required.
- 18 The method of measurement (including annual calibration of flow meters) of the rate and volume of Trade Waste admitted into the Corporation's System must be as directed by the Corporation at the Occupier's cost.
- 19 If in the opinion of the Corporation the method used to measure the volume and rate of the flow of Trade Waste is functioning inaccurately, the Corporation may compute or estimate the quantity of Trade Waste flowing from the Premises in any manner as it reasonably thinks fit, after proper consultation with the Occupier and the Corporation's computation or estimate will (subject to manifest established error) then apply for the purposes of this Agreement.

NATURE AND CHARACTERISTICS OF THE TRADE WASTE

- 20 The Occupier must provide details of:
- 20.1 the nature of the manufacturing or other process from which Trade Waste originates;
 - 20.2 the nature, chemical composition and physical characteristics of the Trade Waste from every source which contributes to the discharge;
 - 20.3 any treatment applied to the Trade Waste prior to its discharge to the Corporation's System; and
 - 20.4 sufficient production information to determine loads of contaminants per unit of production entering the Corporation's System.
- 21 The Occupier must ensure the Trade Waste discharged from the Premises complies with the following requirements and characteristics:
- 21.1 the maximum volume and rate of discharge must not exceed (for the relevant time periods set out) the amounts set out in Schedule 3;
 - 21.2 discharge may only occur between the hours and on the days designated in Schedule 3;
 - 21.3 its physical and chemical make-up must comply with the standards set out in Schedule 3; and
 - 21.4 must not include stormwater or other material specified by the Corporation unless specifically agreed to by the Corporation.
- 22 The Corporation may amend the standards with which the Occupier is required to comply detailed in Schedule 3 as are fair and reasonable in all the circumstances to:
- 22.1 avoid or minimise material damage to any person, property, the Corporation's System or the environment generally or;
 - 22.2 avoid or minimise materially adverse impacts on the Corporation's System in terms of the efficient processing or capacity of the Corporation to treat Trade Waste and domestic sewage (including the minimisation of odours); or
 - 22.3 ensure compliance with, or avoid a likely breach of, the requirements of the EPA, or any other government, local government, statutory corporation or other external entity which has the legal power to enforce compliance;

provided, however, that if the Corporation amends the standards as specified in Schedule 3 then it must provide at least one month's written notice to the Occupier and in addition it is specifically noted that this clause is subject to the dispute resolution clauses of the Agreement and after the Corporation has made such amendments they shall apply for the purposes of this Agreement.

MONITORING/SAMPLING

- 23 The Occupier must undertake monitoring and otherwise deal with the Trade Waste as specified in the Trade Waste Management Plan and Schedule 4, provided further:
- 23.1 this must be carried out to ensure compliance on the part of the Occupier with respect to the particulars set out in Schedule 3, namely those particulars which the Trade Waste must meet or otherwise accord with; and

- 23.2 the outcomes of such measuring, monitoring or sampling shall be utilised as the basis for calculation of components of the Charges; and
- 23.3 specific details of the Operating Procedures relating to the monitoring obligations shall be provided by the Corporation to the Occupier from time to time and must be complied with by the Occupier.
- 24 In respect of any measurement, monitoring or sampling:
- 24.1 the Occupier must, if directed by the Corporation to do so, install, maintain, repair or replace any appropriate equipment for the purposes of measuring the various parameters set out within Schedule 3; and
- 24.2 the Occupier shall meet the cost of:
- 24.2.1 any costs associated with actions pursuant to clause 24.1;
- 24.2.2 Charges payable to the Corporation in respect of such measurement, monitoring or sampling as provided otherwise in this Agreement.
- 25 Any decision of the Corporation to undertake the various measurement, monitoring and sampling or testing as contemplated in this Agreement in no way:
- 25.1 affects the responsibility of the Occupier to ensure all Trade Waste discharged meets the various parameters contemplated within Schedule 3; and
- 25.2 affects the right of the Corporation to undertake its own measurement, monitoring or sampling for its own purposes, including ensuring compliance with the requirements of this Agreement.
- 26 It is expressly agreed by the Occupier that where for sound reasons the Corporation seeks to vary the sampling or monitoring required by the Occupier including through alteration of the Operating Procedures, the Occupier at its cost will comply with such amended requirements.

INSPECTION

- 27 The Occupier will allow representatives of the Corporation:
- 27.1 access to the Premises;
- 27.2 access to any works associated with the creation, treatment, conveying and discharge of the Trade Waste;
- 27.3 access to any records arising from sampling, monitoring or flow assessment;
- 27.4 access to any physical samples taken;
- 27.5 to take such further samples as the representative of the Corporation thinks fit; provided the Corporation and its representatives must use reasonable endeavours not to inconvenience the Occupier and its activities on the Premises unless that is necessary for the purposes of inspection or emergency.

SIGNIFICANT EVENTS

- 28 If the Occupier becomes aware of any event which may:
- 28.1 give rise to a breach of this Agreement, the Act, or any By-Law;

- 28.2 have a materially significant or detrimental effect on any person, animal, land, the operation of any part of the Corporation's System or the environment generally; or
 - 28.3 constitute a breach, in relation to the Premises, or the Trade Waste discharging from the Premises, of the *Environment Protection Act 1970* or the *Occupational Health and Safety Act 2004* or any other relevant Act;
 - 28.4 the Occupier must advise the Corporation within one (1) hour by telephone (and in writing within seven (7) business days) from when the Occupier becomes aware of that event.
- 29 The notice in writing of the event detailed in the preceding clause must include:
- 29.1 complete details of the nature of the incident as they are then available;
 - 29.2 details of measures the Occupier will instigate or has instigated to clean up, rectify or make good (if that is possible) any damage caused as a result of the event; and
 - 29.3 measures the Occupier will instigate to ensure the event does not occur again.
- 30 The Corporation must advise the Occupier in writing annually or as agreed with the Occupier, the current emergency contact phone numbers and facsimile numbers for the relevant Corporation personnel to be contacted.
- 31 If for any reason whatsoever:
- 31.1 the nature of the business operated at the Premises changes which may affect the characteristics of the Trade Waste; or
 - 31.2 the Occupier intends to vacate the Premises; or
 - 31.3 the volume, rate or any characteristic of the Trade Waste discharged from the Premises has or is likely to change; or
 - 31.4 there is any change in the hours or days of the week that Trade Waste is to be discharged;
 - 31.5 the Occupier must advise the Corporation in writing of that fact and the Corporation may take such action in relation to that advice as it deems appropriate.

CESSATION OF DISCHARGE

- 32 If the Corporation is no longer able to receive the Trade Waste from the Premises (either temporarily or permanently) due to reasons beyond the Corporation's control, including:
- 32.1 accident; or
 - 32.2 strike; or
 - 32.3 civil commotion; or
 - 32.4 natural disaster; or
 - 32.5 an overloading of the Corporation's System which receives the Trade Waste; or
 - 32.6 the Corporation receiving from the EPA or such other statutory body an order which varies or effectively prohibits the basis upon which the Corporation can receive the Trade Waste; or

32.7 any other incident beyond the Corporation's control;

the Corporation will no longer be obliged to receive the Trade Waste from the Premises and the Occupier can make no claim against the Corporation in relation to a cessation of discharge right pursuant to this clause, provided however the Corporation must work diligently, expeditiously and proactively, both on its own behalf and with the Occupier to resolve the problem and recommence this discharge of the Trade Waste in the appropriate volumes.

33 The Corporation may require the Occupier to stop discharging Trade Waste into the Corporation's System either immediately (in an emergency, where written notice is not required) or by written notice from a particular time and date specified in the notice if:

33.1 the Corporation is of the view that discharge of Trade Waste from the Premises may be causing adverse effects to persons, the environment generally or the operation of any part of the Corporation's System; or

33.2 the Corporation requires a temporary shutdown in order to carry out maintenance (for routine maintenance thirty (30) days written notice will be provided), upgrading or repairs to the Corporation's System; or

33.3 the Corporation requires the Occupier to carry out repairs, maintenance or upgrading of works within the Premises relating to the discharge of Trade Waste after prior consultation with the Occupier; or

33.4 the Occupier is in breach of this Agreement (including breach relating to the required volume, rate, type and characteristics of the Trade Waste) and has failed to remedy that breach within thirty (30) days of being notified to do so.

LIABILITY/INDEMNITY

34 The Occupier agrees that it will make no claim, bring any proceeding, make any demand, or otherwise seek any damages, loss, costs or expense of any kind whatsoever suffered by the Occupier (either directly or indirectly) arising as a result of:

34.1 discharging Trade Waste under the terms of this Agreement;

34.2 the Corporation requiring the Occupier to stop discharging Trade Waste under the terms of this Agreement;

and other than as a result of the Corporation's negligence.

35 The Occupier indemnifies (and will keep indemnified) the Corporation against any claim, order, damage, loss, penalty, cost, legal proceeding, prosecution or other such demand raised by any party howsoever suffered by the Corporation arising out of discharge (past or future) of Trade Waste from the Premises other than any matter arising from the negligence of the Corporation.

36 If the Trade Waste discharged from the Premises:

36.1 causes damage to the Corporation's System;

36.2 causes damage to any third party, any property or the environment generally;

36.3 then the Corporation may in its discretion make good that damage and recover the cost of so doing from the Occupier as a debt due and payable from the date of demand for that payment.

- 37 The obligations created in the preceding three clauses, that is 34, 35 and 36 apply whether the damage in question occurs or is discovered prior to or during any term of this Agreement or after this Agreement has come to an end.

ASSIGNMENT OR NOVATION

- 38 This Agreement must not be assigned or novated by the Occupier to another party (the “**New Party**”) without the Corporation's written consent. The Corporation will not unreasonably withhold its consent provided:
- 38.1 any New Party enters into an agreement with the Corporation upon terms satisfactory to the Corporation or the New Party agrees to be bound by all the terms of this Agreement; and
- 38.2 any Charges outstanding under this Agreement at the time of transfer, assignment or entry into a new agreement by any New Party shall either;
- 38.2.1 remain payable by the Occupier regardless of whether or not the assignee agrees or becomes liable to pay for any part or all of those outstanding Charges; or
- 38.2.2 the Corporation may release the Occupier from liability for any such Charges provided any New Party either satisfies the Corporation of its capacity to pay any outstanding Charges or provides security for payment of such Charges to the satisfaction of the Corporation.
- 39 This Agreement (together with the relevant rights and obligations) may be assigned or novated by the Corporation.

DIRECTIONS OF THE CORPORATION

- 40 The Occupier agrees that where in this Agreement it is obliged to comply with directions of the Corporation such obligation means the same as compliance with any written or verbal directions of any officer or agent of the Corporation.

DISPUTE RESOLUTION

- 41 Any dispute or difference arising out of the Agreement or concerning the performance or the non-performance by either party of its obligations under the Agreement must be referred, upon the giving of seven (7) days written notification by either party, to a dispute panel (“**Dispute Panel**”):
- 41.1 consisting of at least two members;
- 41.2 with each party appointing an equal number of members; and
- 41.3 which shall meet within either seven (7) days as provided in the written notice or within any other period agreed by the parties.
- 42 Any unanimous decision of the Dispute Panel is binding on the parties, however, if the Dispute Panel either fails to reach a decision on the matter or one or both parties refuses to participate in this process, the dispute may be resolved by mediation or arbitration if the parties so agree or by recourse to the courts should that be necessary.
- 43 The provisions of this Agreement regarding dispute resolution do not prevent any party from obtaining any injunctive, declaratory or interlocutory relief from a court which may be urgently required.

- 44 Notwithstanding the existence of a dispute, the parties must continue to perform their respective obligations under this Agreement. The parties acknowledge that if the Occupier disputes an invoice received from the Corporation, the Occupier must pay the disputed amount, until such time as the matter is resolved in accordance with this clause.

NOTICE OF BREACH

- 45 Where the Occupier is in breach of this Agreement, the Act or any By-Law, the Corporation may take the following steps:
- 45.1 serve a written notice (“**Notice of Breach**”) on the Occupier indicating the breach that has occurred;
 - 45.2 require the Occupier to rectify any on-going breach and to take steps to repair any damage caused by any breach;
 - 45.3 require the Occupier to respond to the Corporation in writing within fourteen (14) days indicating the steps taken to rectify any continuing breach and measures taken to ensure the breach does not re-occur; and
 - 45.4 if the Occupier fails to take reasonable action to the satisfaction of the Corporation or fails to respond within the thirty (30) day period, the Corporation, in addition to other rights under this Agreement, may terminate this Agreement.
- 46 In any case, where over any twelve (12) month period, the Corporation has served three Notices of Breach on the Occupier in accordance with the preceding clause the Corporation may in its discretion terminate the Agreement provided however:
- 46.1 where the Occupier has taken expedient and necessary steps to rectify the breach; and
 - 46.2 the Occupier has put in place various measures to limit the potential of such breach occurring again; and
 - 46.3 where the breach in question has not been substantial or created any lasting damage to either the Corporation's System or the environment generally;
- the Corporation shall not exercise its rights under this clause in relation to the particular breach.

SERVICE REDUCTION

- 47 If the Occupier has failed to make any payment of money owing under this Agreement by the due date for such payment, or has failed to respond to a Notice of Breach within fourteen (14) days, the Corporation may act to reduce, restrict or cease altogether the Trade Waste flow from the Premises until such time as any monies outstanding are paid or the Occupier has appropriately responded to the relevant Notice of Breach.

ENDING OR EXTENSION OF TERM

- 48 A party wishing to bring the Agreement to an end upon the expiration of the Term shall provide to the party not less than six months written notice of that intention.
- 49 Prior to the end of the Term, the parties may agree to consult as to any further Term or in respect of a new Trade Waste discharge agreement.

- 50 If the Term expires without any notice by a party that this Agreement is ended then the arrangements for the discharge of Trade Waste shall continue upon the same terms as this Agreement, provided either party may then terminate the Agreement upon six months written notice to the other party.

TERMINATION BY OCCUPIER

- 51 The Occupier may advise the Corporation at any time during the Term that it wishes to permanently cease discharging Trade Waste from the Premises in which case the Occupier:
- 51.1 must provide that advice to the Corporation in writing;
 - 51.2 agrees that it will receive no refund of any of the Charges or any fee paid to the Corporation; and
 - 51.3 must pay any Charges then outstanding.

TERMINATION BY CORPORATION

- 52 This Agreement will be terminated by the Corporation in the following manner:
- 52.1 in accordance with the provisions of this Agreement; or
 - 52.2 by agreement; or
 - 52.3 as provided in clause 46; or
 - 52.4 sixty (60) days after the Occupier ceases to discharge Trade Waste provided the Corporation will first provide written notice to the Occupier of its intention to terminate this Agreement; or
 - 52.5 immediately upon written notice to the Occupier by the Corporation if the Occupier acts in a manner (in relation to the Trade Waste discharge) which is fraudulent or in the reasonable opinion of the Corporation amounts to serious misconduct or results in a significant risk of damage to the environment, property or any person; or
 - 52.6 immediately on the happening of the following events, that is to say, if the Occupier:
 - 52.6.1 suffers the appointment of a receiver, official manager or receiver and manager, or takes any steps towards or is placed in liquidation, or takes any steps towards or is made bankrupt;
 - 52.6.2 enters into any arrangement with creditors due to financial difficulties of the Occupier in the reasonable opinion of the Corporation; or
 - 52.6.3 ceases to operate as a business or company or partnership in its form at the date of this Agreement, provided however the Corporation may re-negotiate this Agreement with any restructured entity; or
 - 52.7 sixty (60) days after failure to make any due payment to the Corporation, provided however the Corporation will (without any reduction in its discretion to terminate under this clause) consider carefully whether it is necessary, in protecting the position of the Corporation, to terminate this Agreement having regard to the Occupier's need to continue operating. Any decision by the Corporation not to terminate will not restrict or remove the right of the Corporation to terminate the Agreement at some later time.

TERMINATION OBLIGATIONS

- 53 Upon termination of this Agreement, including expiry of the Term or any extended Term, the Occupier must:
- 53.1 take any necessary steps at the Occupier cost to assist the Corporation in terminating the discharge of Trade Waste from the Premises (if that is still occurring), including payment for any necessary works, to the satisfaction of the Corporation;
 - 53.2 meet the cost of any necessary works to repair any damage caused to the Corporation's System by the Occupier's discharge of Trade Waste under this Agreement, provided the Corporation shall inspect the relevant components of the Corporation's System to assess such damage and the Occupier shall be entitled to a similar inspection in the company of the Corporation's representatives; and
 - 53.3 immediately pay to the Corporation any Charges which are payable or may become payable to the Corporation including on a pro-rata basis Charges attributable to the Trade Waste discharge since the date of the last invoice by the Corporation up to the date on which discharge of Trade Waste ceases
- 54 Further it is agreed that unless provided in this Agreement the Occupier shall not be entitled to any refund of any part or all of the Charges.

GENERAL PROVISIONS

- 55 In this Agreement for the purposes of interpretation (unless it is otherwise implied expressly or by context):
- 55.1 reference to any legislation includes subordinate legislation, consolidations, amendments, re-enactments and replacements;
 - 55.2 singular includes the plural and vice versa;
 - 55.3 any reference to a clause or a schedule is to a clause or a schedule of this Agreement;
 - 55.4 the Schedules and the recitals form part of this Agreement;
 - 55.5 where an expression is defined, another part of speech or grammatical form of that expression has the same meaning;
 - 55.6 headings in the Agreement are for convenience only;
 - 55.7 in interpreting this Agreement a construction that would promote the purpose or object of the Agreement must be preferred to the construction that would not; and
 - 55.8 this Agreement succeeds and effectively revokes any prior written or verbal agreement of the Corporation for the reception of Trade Waste from the Premises or from the Occupier provided however the Occupier expressly agrees that it remains liable to the Corporation at common law or under the terms of any previous agreement for any works undertaken or needing to be undertaken, and further for the cost of repair, reinstatement or replacement of relevant parts of the Corporation's System which have arisen as a result of damage caused by discharge of Trade Waste from the Premises.

- 56 Any waiver or agreement on the part of the Corporation in not enforcing any terms of this Agreement shall not be deemed to be a waiver in any way of any other right of the Corporation.
- 57 Any notices that are given under this Agreement by either of the parties shall be effective if delivered, posted or provided by facsimile to the address of the respective parties recorded in this Agreement or at the last address of each respective party notified in writing to the other party.
- 58 Any amendment to this Agreement must be made in writing.
- 59 If any term of this Agreement or its particular application is or becomes invalid or unenforceable, the remaining terms shall not be affected and it shall be valid and enforceable to the fullest extent permitted by law.
- 60 This Agreement shall be governed by the laws of Victoria.

As a record of this Agreement the parties have executed it:

THE COMMON SEAL of the **SOUTH**)
GIPPSLAND REGION WATER)
CORPORATION (ABN 40 349 066 713))
was hereunto affixed in the presence of:)

.....
Chairman

.....
Director

.....
Managing Director

SIGNED for and on behalf of **Occupier**)
(ABN) by its authorised representative:)
.....)

.....
Signature

.....
Name (Block letters)

.....
Title (Block Letters)

SCHEDULE 1

AGREEMENT PARTICULARS

1 OCCUPIER

Name:

ABN/ACN:

Address

Phone:

Fax:

2 COMMENCEMENT

Date when agreement starts

3 OWNER

Name:

ABN/ACN:

Address:

Phone:

Fax:

4 PREMISES

As Above

5 Term

USUALLY FOR THREE YEARS?

THIS WOULD BE MORE THE LENGTH OF TIME: IE. FROM THE COMMENCEMENT DATE FOR X YEARS. SEE CLAUSES 1.18 AND 48-50

6 WORKS

ANY PRE-TREATMENT REQUIRED?

7 Nature of business being conducted by the Occupier

DESCRIBE IN GENERAL WHAT TYPE OF BUSINESS?

8 Sewerage Treatment Plant

WHICH WWTP DOES THE TRADE WASTE DISCHARGE TO?

SCHEDULE 2

TRADE WASTE CHARGES

1 INTRODUCTION

The following Charges (set out in further detail below in this Schedule 2) make up the Charges to be paid by the Occupier. The Charges are:

- application fee;
- access fee;
- management charges;
- quantity charge;
- quality charge; and
- other charges.

The Charges set out in this Agreement are the amounts specified in the Price Determination. In respect of the Charges to be paid over the Term:

- the Charges specified in this Agreement may be adjusted up or down in accordance with the Price Determination yet to be issued by the Essential Services Commission and appropriate adjustment between the parties in relation to amounts paid or payable must occur; and
- the Charges payable over the Term and any extended period of discharge will be adjusted on an annual basis (generally on 1 July in any particular year) in accordance with the statutory rights and obligations of the Corporation and the applicable Price Determination.

2 APPLICATION FEE

A fee payable in relation to initial application, follow up contact, review and establishment of a trade waste agreement.

In this Agreement – \$ 109.35

3 ACCESS FEE

A fixed charge relating to administrative costs for managing the Trade Waste arrangements. The fee is payable on an annual basis or pro-rata for any part of year of discharge.

Access fee for this Agreement - \$ 513.60

4 MANAGEMENT CHARGE

The charge to be paid by the Occupier relating to the Corporation's recovery of all costs associated with the Corporation's actions in relation to the Occupier, the Premises and the relevant Trade Waste including but not limited to:

- direct costs such as labour, materials or costs associated with consultants or contractors; and

- costs of sampling, monitoring and testing including all internal and external laboratory costs.

In respect of all direct costs there is to be added a 25% contribution to overheads.

5 QUANTITY CHARGE

The quantity charge is a standard charge that is calculated as following:

Quantity Charge (for a month) = $V \times a$

Where

V is the recorded wastewater volume discharged in kilolitres

a is the charge per kilolitre

Dependent on the Price Determination but in the value of:

a equals \$0.685

The actual wastewater volume (**V**) is obtained from a specifically installed flow meter installed for the purpose of obtaining flow variances from the Occupier's effluent discharge to the Corporation's System.

6 QUALITY CHARGE

The quality charge is a non-standard charge that can be applied where:

- the Occupier fails to meet the quality limits of Schedule 3; and
- the Corporation is able to accept and treat the waste that fails to meet the quality limits of Schedule 3 but there is a cost involved.

The quality charge shall be calculated as following:

Quality Charge (for a month) = $(B \times b) + (S \times c) + (N \times d) + (P \times e)$

Where

B is the Biochemical Oxygen Demand (BOD) in kilograms

S is the **Suspended Solids** content in kilograms

N is the Total Nitrogen content in kilograms

P is the Total **Phosphorus** content in kilograms

b is the charge **per** kilogram of BOD

c is the charge per **kilogram** of Suspended solids.

d is the charge per **kilogram** of Total Nitrogen

e is the charge per **kilogram** of Total Phosphorus

Dependent on the Price Determination but in the value of:

b equals \$0.53

c equals \$0.50

d equals \$2.23

e equals \$12.715

The BOD (**B**), Suspended Solids (**S**), Total Nitrogen (**N**) and Total Phosphorus (**P**) loads are to be obtained by using the average results of the grab samples per month as provided by an agreed NATA certified laboratory and applied to the volume of

effluent discharged by the occupier and recorded by the specifically installed flow meter.

7 OTHER CHARGES

Any other cost to the Corporation in occurred in relation to the provision of the services for the benefit of the Occupier of the Premises shall be levied by the Corporation and paid by the Occupier.

8 FUTURE ENVIRONMENTAL ISSUES

The pricing structure outlined allows for the current level of discharge requirements placed on the Corporation by the government. A review of the pricing policy will occur if legislation and/ or environmental policy imposes different standards than those currently in place.

SCHEDULE 3

CHARACTERISTICS OF THE TRADE WASTE

1 METHOD OF DISCHARGE

- 1.1 Trade Waste discharge must occur first to an appropriate site or facility approved by the Corporation.
- 1.2 The Corporation will establish and provide to the Occupier an Operating Procedure in relation to the filling, testing and operation of the discharge tank. Discharge to the Corporation's System may only occur based on the Corporation's direct instruction. Procedure established by the Corporation in relation to the discharge may be modified from time to time to the satisfaction of the Corporation. Once such modified system is provided to the Occupier in writing, the modified system must be adopted and complied with.

[THESE ITEMS CAN BE CHANGED AS NECESSARY]

USUALLY NOT APPLICABLE

2 DISCHARGE POINT

The Discharge Point means the point at which the Trade Waste leaves the Occupier's site and enters the Corporation's System. The Oblique Junction or OB is the point at which the Corporation takes responsibility for the sewer connection and is considered the Discharge point. All sewer pipe work after the OB is the Occupiers responsibility.

3 MAXIMUM RATES OF DISCHARGE TO DISCHARGE TANK

Daily	5	Kilolitres per operating day
Weekly	25	Kilolitres per operating week
Monthly	775	Kilolitres per month

4 WHEN DISCHARGE CAN OCCUR

When permitted by the Corporation, in accordance with the procedure established pursuant to Item 1 of this Schedule 3.

5 PHYSICAL CHARACTERISTICS OF THE TRADE WASTE

5.1 Temperature

The temperature shall not exceed 30 degrees celsius.

5.2 Solids

- 5.2.1 Gross solids shall pass a bar screen with 20 mm openings between the bars and gross solids shall have a quiescent settling velocity not greater than 3m/hr.
- 5.2.2 The suspended solids concentration shall not exceed 600 mg/L.
- 5.2.3 The total dissolved solids concentration shall not exceed 1000 mg/L or 1600 microS/cm.
- 5.2.4 The sodium concentration shall not exceed 200 mg/L.
- 5.2.5 No fibrous material which in the opinion of the Corporation is likely to cause obstructions in the sewer or drain shall be present.

5.3 Oils, Greases, Organic Material and Plastics

- 5.3.1 There shall be no free or floating layer.
- 5.3.2 Emulsified oil, fat or grease, organic materials or plastics shall not exceed 30mg/L when the emulsion is unstable at a temperature of between 10 degrees celsius and 30 degrees celsius and when the emissions is in contact with raw sewage within the pH 6 to pH 9.

5.4 Radioactivity

Wastes shall comply with the standards specified in the *Health (Radiation Safety) Regulations* 1995 made pursuant to the provisions of the *Health Act* 1958.

5.5 Colour

Wastes containing colour greater than 300 ADMI units utilising standard measurements, or in the opinion of the Corporation cause any discernable colour in the wastewater treatment plants, shall not be discharged.

6 Chemical Characteristics

6.1 pH Value

The pH value shall be within the range of 5 to 10.

6.2 Organic Strength

The 5 – day Biochemical Oxygen Demand (“BOD”) concentration shall not exceed 600 mg/L.

The Chemical Oxygen Demand concentration shall not exceed 1500 mg/L.

6.3 Nitrogen

The concentration of:

- 6.3.1 Total Nitrogen shall not exceed 150 mg/L;
- 6.3.2 Total Kjeldahl Nitrogen plus Nitrate shall not exceed 150 g/L;
- 6.3.3 Ammonia, plus ammoniacal ion (expressed as N) shall not exceed 50 mg/L; and
- 6.3.4 Total Phosphorus shall not exceed 10 mg/L.

6.4 Corrosive and Toxic Substances

- 6.4.1 The maximum allowable concentrations in milligrams per litre of corrosive and toxic substances shall be as stated in Table 1.
- 6.4.2 No waste which the authorised officer deems may be toxic to any person, to sewage treatment processes of the Corporation, to the environment receiving treated effluent or may be harmful to the composition of the sewer or other equipment comprising the sewage system shall be discharged to the discharge tank, sewer or drain without the specific agreement of the Corporation.

Table 1 –Corrosive and toxic substances

Element	Maximum Allowable Concentrations Milligrams Per Litre
Arsenic	0.5
Cyanide as CN	5
Fluoride	5
Formaldehyde (expressed as HCOH)	50
Phenol & chemical derivatives of Phenol (as Phenol)	100
Phosphorus as P	10
Total Oxidised Sulphur	100
Sulphide as S	1
MBAS	500

6.5 Metals

The maximum allowable concentration in milligrams per litre of metals shall be as stated in Table 2.

Table 2 - Metals

Element	Maximum Allowable Concentrations Milligrams Per Litre
Aluminium	10
Beryllium	0.2
Boron as B	1.0
Cadmium	0.05
Chromium (Total)	0.5
Cobalt	0.5
Copper	0.1
Iron	10
Lead	0.3
Manganese	0.4
Mercury	0.001
Molybdenum	0.05
Selenium	0.03
Silver	1
Nickel	0.5

Tin	0.5
Zinc	0.3
Total Heavy Metals (not including Iron)	10

6.6 Head space air

The Occupier must not discharge Trade Waste to the discharge tank, which at the nearest point of the sewer accessible by humans from the Point of Discharge, in any respect fails to comply with every relevant Work Safe Australia Exposure Standard relating to short term exposure levels.

6.7 Other Substances

Except as provided in items 6.4 and 6.5 of this Schedule, the Occupier may discharge Trade Waste containing any substance not otherwise mentioned in this Agreement in a concentration no greater than 1 µg/L.

SCHEDULE 4

SAMPLING AND MONITORING PROGRAM

1. FLOW MONITORING

1.1 The actual Trade Waste volume shall be obtained from a flow meter specifically installed for the purpose of obtaining the flow variances from the Occupier's Trade Waste discharge to the Corporation's System. This meter shall be maintained and calibrated regularly at the expense of the Occupier.

1.2 The flow shall be suitable for measuring both instantaneous and total flow in each 24 hours period.

1.3 During the Term, the Corporation will manage the flow of Trade Waste from the Trade Waste discharge tanks in accordance with Schedule 3.

[THESE ITEMS CAN BE CHANGED AS NECESSARY]

USUALLY NOT APPLICABLE

2. SAMPLING POINTS

The sampling point(s) shall be as decided by the Corporation from time to time.

3. QUALITY MONITORING

3.1 Once a week, unless not discharging Trade Waste the Corporation's System, the Occupier will:

- a) take a composite sample over a 24 hour period of Trade Waste discharged at the sampling point(s); and
- b) record the time and date when the sample is taken; and
- c) as a minimum determine and record the levels and concentrations of the following components and characteristics in the sample:

- pH;
- BOD;
- Suspended Solids;
- Total Dissolved Solids;
- Total Nitrogen;
- Total Kjeldahl Nitrogen;
- Ammonia Nitrogen;
- Total Phosphorus; and
- Nitrate Nitrogen.

3.1.1 The Occupier must provide the results of the sampling taking in accordance with item 3.1 above to the Corporation once the results are known.

3.2 The sampling program outlined in item 3.1 above provides the basis for calculating monthly accounts. In addition, at any time grab or additional samples may be collected and analysed to assess the quality of waste being discharged to the Corporation's System. Grab samples may be used in place of composite samples for the purpose of calculating monthly fees where:

- there is evidence to suggest that a composite sample has been tampered with;
- an attempt to collect a composite sample has failed;
- collection of a composite sample is not easily achieved; or
- an officer of the Corporation determines a composite sample to be misrepresentative of the waste quality discharged to the Corporation's System.

USUALLY NOT APPLICABLE

4. SAMPLING TECHNIQUES AND STORAGE

The Occupier will ensure that samples required by clause 3 are taken, analysed and stored in the manner specified in the current edition of "A Guide to the Sampling and Analysis of Waters, Wastewaters, Soils and Wastes", EPA Publication 441.7 March 2000, as amended from time to time and to the satisfaction of the Corporation.

Analysis of any Trade Waste required by this Schedule must only be undertaken by a laboratory registered to analyse the relevant parameters by the National Association of Testing Authorities.

5. OPERATING PROCEDURES

The Corporation may provide details of specific or additional requirements regarding monitoring and sampling in Operating Procedures provided by the Corporation which must be complied with by the Occupier.

6. CORPORATION SAMPLING

The Corporation will undertake any necessary sampling if requested in writing by the Occupier at the Occupier's cost.

SCHEDULE 5

TRADE WASTE MANAGEMENT PLAN

The purpose of the Trade Waste Management Plan is to identify ways and means to reduce Trade Waste volumes, improve Trade Waste quality and reduce metered water consumption. It shall also provide the Corporation with sufficient information to understand the overall manufacturing and waste generation process and the potential impact of the Occupier's Trade Waste upon the Corporation's System.

The Trade Waste Management Plan is to identify and commit to actions that will:

- improve quality of Trade Waste discharge flows;
- decrease Trade Waste volumes where appropriate; and
- utilise trade waste as reuse water where viable and appropriate.

The key headings to be included in the Trade Waste Management Plan are outlined below:

1 ENDORSEMENT OF TRADE WASTE MANAGEMENT PLAN BY SENIOR MANAGEMENT

2 MANUFACTURING/PROCESS OVERVIEW

- Site plan identifying key infrastructure and connection point
- Description of manufacturing processes
- Flow and schematic diagrams of all major manufacturing processes

3 TRADE WASTE MANAGEMENT

- EPA Licences and Trade Waste agreements
- Compliance limits
- Description of sources and generation of Trade Waste
- Typical raw Trade Waste characteristics and mass loads
- Description of pre-treatment systems and controls
- Flow and schematic diagrams of the Trade Waste pre treatment and transfer systems
- Trade Waste HACCP risk register and critical point controls (where applicable)
- Pre treatment operational manuals and procedures

4 MONITORING

- Instrumentation calibration schedules
- Monitoring schedules, sampling locations and procedures

5 TRADE WASTE IMPROVEMENT

Details of projects/actions planned to reduce Trade Waste volumes and improve quality.

6 REPORTING

- Incident response procedures
- The Corporation's reporting procedures
- Annual customer report

7 RISK MANAGEMENT

The risk management component of the Trade Waste Management Plan shall include detail to ensure comprehensive incident response procedures, to the satisfaction of the Corporation.

SCHEDULE 6

SITE PLAN