

**AGREEMENT
RELATING TO LAND AT KARNUP
COVERED BY MINING LEASE
APPLICATION M70/1262**

Western Australian Land Authority

Eclipse Resources Pty Ltd

Urban Resources Pty Ltd

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AGREEMENT

PARTIES:

Name: Western Australian Land Authority trading as Development WA Development WA

Address: Level 6, 40 The Esplanade
Perth
Western Australia

Name: Eclipse Resources Pty Ltd Eclipse

ACN: 062 212 140

Address: PO Box 911 474
West Perth subdialo
Western Australia 6104



Name: Urban Resources Pty Ltd Urban Resources

ACN: 121 043 034

Address: PO Box 1528
Bibra lake DC 6965
Western Australia

BACKGROUND

- A. Eclipse is the registered applicant for Mining Lease 70/1262.
- B. The land covered by the Application is located at Karnup and comprises part of each of Crown Reserves 37090 and 38575.
- C. The land the subject of the Application has been identified by Eclipse as land available for the extraction of sand.
- D. Development WA is the owner of or has the right to become the owner of the land the subject of the Application.
- E. Eclipse has granted to Urban Resources a sub-lease of Mining Lease 70/1262 (subject to grant) which allows Urban Resources to explore ,prospect and mine minerals on Mining Lease 70/1262 (subject to grant).
- F. Development WA Urban Resources and Eclipse have agreed to enter into this Agreement for the purpose of:
 - (a) on the part of Urban Resources to optimize the amount of sand or other resource extracted from the Tenement Land whilst on the part of Development WA providing for the timely and optimal future urban development of the Tenement Land;
 - (b) obtaining the grant in favour of Eclipse of the Application.

1 DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement unless the contrary intention appears:

"Agreement" means this agreement and, where applicable, includes any drawings, specifications or other documents as attached.

"Application" means application for Mining Lease 70/1262.

"Approvals" means all approvals necessary to be obtained to allow Mining Operations to be conducted on the Mining Area.

"Authority" means any governmental, semi-governmental, statutory, local or public authority and every and any other board, person or authority whatsoever now or at any time in the future exercising under any present or future Act of Parliament (Federal or State) any control or jurisdiction over or power in connection with the Mining Operations and every officer or person acting under the authority of such authority or under the authority of any such Act or By-law.

"Claim" means any right, cause of action, charge, claim, action, proceedings, judgment, damage, injury, loss, cost (including legal costs on a full indemnity basis), expense or liability incurred to or made or recovered against any person or entity howsoever arising and whether present, unascertained, immediate, future or contingent.

"Commencement Date" means the latest date of execution of this Agreement by the Parties.

"Confidential Information" means any written or oral information concerning the confidential business activities or affairs of Development WA, Urban Resources or Eclipse, or any written or oral information which:

- (a) is taken by any provision of this Agreement to be Confidential Information;
- (b) by its nature is confidential, or either Party ought to know is confidential; or
- (c) either Party makes the other Party aware that the information is considered to be confidential and proprietary,

but does not include information which either Party can establish:

- (d) was in the public domain when it was given to a Party;
- (e) becomes, after being given to a Party, part of the public domain, except through disclosure by or through either Party contrary to this Agreement;
- (f) was already in a Party's possession when it was given to a Party and was not otherwise acquired from a Party directly or indirectly; or
- (g) was lawfully received from another person having the unrestricted legal right to disclose that information without requiring the maintenance of confidentiality.

"Contamination" has the meaning given in section 4 of the CSA.

"CSA" means the Contaminated Sites Act 2003 (WA).

"Dispute" means a dispute arising out of or in connection with this Agreement.

"Dispute Notice" means a notice given in accordance with clause 22.

"DMIR" means the Department of Mines and Industry Regulation (Western Australia).

"Environmental Law" means:

- (h) all laws relating to Contamination (including the CSA and the Mining Act);

- (i) all conditions of all consents, approvals, authorizations, licenses and permits issued under any law in sub-clause (a) above; and
- (j) regulations and any order, guideline, notice, direction or requirement of any authority administering a law relating to Contamination.

"EPA" means the Environmental Protection Act 1986 (WA).

"Expert Determination Notice" means a notice in the form referred to in **clause 22.3**.

"Expert Determination Rules" means the Institute of Arbitrators and Mediators Australia Determination Rules current as at the date that an Expert Determination Notice is given.

"Explosives Reserve" means that part of the Land shown as the Explosives Reserve on the Staging Plan.

"Floor Plan" means the finished levels (being the minimum level of the Mining Area) that Urban Resources must leave at the termination of this Agreement as annexed in Annexure A, subject to review as may be agreed by Development WA in its absolute discretion.

"Holcim Access Area" means the area required for access by Holcim (Australia) Pty Ltd and any related company as indicated on the plan annexed as Annexure A.

"Insolvency Event" means:

- (a) being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act) receiver or analogous person appointed to it or any of its property;
- (b) being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (c) being unable to pay its debts or otherwise insolvent;
- (d) dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason;
- (e) entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event under the laws of any applicable jurisdiction.

"Land" means the land the subject of the Application.

"Latest Date" means the latest date for completion of Mining Operations on each Stage as identified on the Staging Plan and being:-

- (a) three years from the date of obtaining all Approvals for Stages 1A and 1 B but no later than three years and six months from the last date of signing this Agreement;
- (b) a further three years from the date of obtaining all Approvals for Stage 2 (subject to clause 6) but not later than six years and six months from the last date of signing this Agreement; and
- (c) a further three years from the date of obtaining all Approvals for Stage 3 (subject to clause 7) but no later than nine years and six months from the last date of signing this Agreement.

"Law" means:

- (a) the common law and equity;
- (b) all present and future Acts of Parliament of the Commonwealth of Australia and Parliament of the State of Western Australia; or

- (c) all enforceable regulations, subsidiary legislation, codes, ordinances, local laws, by-laws, orders, judgements, licences, rules, permits, agreements and enforceable requirements of any Authority.

"Legal Dispute" means a dispute relating to the proper construction of this Agreement.

"Local or Public Authority" means any governmental, semi-governmental, statutory, local or public authority and every and any other board, person or authority whatsoever now or at any time in the future exercising under any present or future Act of Parliament (Federal or State) any control or jurisdiction over or power in connection with the Operations and every officer or person acting under the authority of such local or public authority or under the authority of any such Act or By-law.

"Mine Closure Plan" means, as required by the Mining Act, a plan and programme for the completion of all Mining Operations, Reinstatement, Remediation, Rehabilitation and removal of Plant and Equipment in respect of Mining Operations in the form annexed as Annexure C.

"Mining Act" means the Mining Act 1978 (WA).

"Mining Area" means the land as indicated on the plan as attached as Annexure A.

"Mining Operations" has the meaning given in the Mining Act.

"Mining Proposal" means the proposal required under the *Mining Act 1978* in the form annexed as Annexure B and approved by DMIR in respect of the Mining Area and including the Staging Plan and the Mine Closure Plan

"Mining Safety Act" means the Mines Safety and Inspection Act 1994 (WA).

"Minister" means the Minister for Mines and Petroleum.

"Obligations" means all obligations on the part of any Party under this Agreement.

"Operations" means all Mining Operations conducted under this Agreement by Urban Resources

"OSH Legislation" means the *Occupational Safety and Health Act 1984 (WA)*, the *Occupational Safety and Health Regulations 1996 (WA)*, the *Dangerous Goods Safety Act 2004 (WA)* and any other legislation (Federal or State), codes of practice, other compliance codes, guidance notes, directions on safety or notices (both present and future) issued by any relevant authority and standard applicable to any part of the Operations.

"Party" means Development WA Urban Resources or Eclipse or any of them (as applicable).

"Permitted Persons" means Urban Resource's officers, employees, agents, contractors, subcontractors and invitees.

"Plant and Equipment" means all items of plant and equipment installed or brought upon the Land before or during the Term by or on behalf of Urban Resources.

"Pollution" has the same meaning as that expression is given in the EPA.

"Post Contamination" means Contamination that satisfies each of the following sub-clauses (a) to (d) inclusive:

- (a) did not exist prior to the Commencement Date; and
- (b) does not arise out of any Contamination that did exist prior to Commencement Date; and

- (c) is not and does not arise out of any Contamination caused or contributed to by Development WA at any time (whether before or after the Commencement Date); and
- (d) is or arises out of any Contamination caused or contributed to by Urban Resources or for which it is liable under the CSA.

"Proposed Development" means any land development proposed by Development WA for the Land whether for residential use or otherwise.

"Prudent Industry Practices" means in relation to the Operations and activities on the Land generally the best practices, methods and acts, as varied from time to time, that are commonly used by skilled and experienced operators in Western Australia.

"Quarter" means the three month period expiring on 31 December, 31 March, 30 June and 30 September during the Term

"Rehabilitation" means the rehabilitation of mining activities in each Mining Area in accordance with the Mining Proposal and the Mine Closure Plan.

"Reinstatement" means the reinstatement of a Mining Area upon completion of mining in accordance with the Mining Proposal and the Mine Closure Plan.

"Remediation" and **"Remediate"** has the same meaning as that expression is given in the CSA and includes the management of any contaminated site.

"Representatives" means any employee, director, executive, agent or consultant of a Party.

"Rights" means all rights granted by a Party to the other Party under this Agreement.

"Safety Management Plan" means a safety management plan prepared by Urban Resources for the Operations.

"Safe Work Procedures" means the safe work procedures or safe work method statement to be prepared by Urban Resources for the Operations.

"Schedule" means the schedule to this Agreement.

"Stage" means the respective stage or stages for Mining Operations as set out in the Staging Plan.

"Staging Plan" means the plan setting out the respective stage or stages for Mining Operations and annexed as Annexure A.

"State" means the State of Western Australia.

"Surrender Area" means that part of the Land the subject of Mining Lease 70/1262 as delineated on the Plan annexed as Annexure A.

"Tax Invoice" has the meaning given in Section 195-1 of the GST Act.

"Taxable Supply" has the meaning given in Section 195-1 of the GST Act.

"Tenement Land" means land the subject of Mining Lease Application 70/1262 comprising the Mining Area.

"Term" means the term described in **clause 4**.

1.2 In this Agreement unless the contrary intention appears:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations and bodies politic;

- (d) references to a person include the legal personal representatives successors and assigns of that person;
- (e) a reference to a Statute Ordinance Code or other Law includes regulations and other statutory instruments under it and consolidations amendments re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (f) references to this or any other document include the document as varied or replaced and notwithstanding any change in the identity of the parties;
- (g) references to writing include any mode of representing or reproducing words in tangible and permanently visible form and includes telex and facsimile transmissions;
- (h) an obligation of two or more parties binds them jointly and severally;
- (i) if a word or expression is defined cognate words and expressions have corresponding definitions;
- (j) references to an association body or authority which is reconstituted amalgamated reconstructed or merged or the functions of which have become exercisable by any other person association body or authority in its place shall be taken to refer to the person association body or authority established or constituted in its place or by which its functions have become exercisable;
- (k) reference to any thing (including without limitation any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (l) reference to a month and cognate terms means a period commencing on any day of a calendar month and ending on the corresponding day in the next succeeding calendar month but if a corresponding day does not occur in the next succeeding calendar month the period shall end on the first day of the next succeeding calendar month;
- (m) references to this Agreement includes its schedules and annexures;
- (n) headings are inserted for ease of reference only and shall be ignored in construing this Agreement;
- (o) references to time are to local time in Perth Western Australia;
- (p) where time is to be reckoned from a day or event that day or the day of that event shall be excluded;
- (q) a reference to a business day is a reference to a day other than a Saturday Sunday or gazetted public holiday.

2 CONDITION PRECEDENT AND APPLICATION OF AGREEMENT TO ECLIPSE

- 2.1 This Agreement is subject to and conditional upon:-
- (a) the grant of Mining Lease 70/1262 to Eclipse; and
 - (b) Eclipse entering into a sub-lease with Urban Resources of Mining Lease 70/1262 with power under the sub lease for Urban Resources to undertake all Obligations under this Agreement (Sub lease) ;
 - (c) the Sub Lease and this Agreement each being registered as an Agreement by DMIR under the Mining Act; and
 - (d) all Approvals being obtained
- 2.2 The conditions precedent in clause 2.1 are for the benefit of all Parties and may only be waived by all Parties.
- 2.3 If the conditions precedent in clause 2.1 are not satisfied by the date being six months from the last date of signing this Agreement then this Agreement shall immediately terminate and no Party shall have any Claim against the other.
- 2.4 If for any reason, the Sub Lease is terminated, then:-
- (a) all applicable obligations of Urban Resources must be met in addition by Eclipse. All references in this Agreement to Urban Resources shall then be read as a reference to Eclipse and Urban Resources; and
 - (b) the Obligations of Urban Resources and Eclipse shall be enforceable by Development WA jointly and severally.

3 MINING LEASE 70/1262

- 3.1 Upon execution of this Agreement, Development WA will notify DMIR immediately that Development WA has no objection to the grant of Mining Lease 70/1262.
- 3.2 Development WA and Eclipse shall use their best endeavours and do all things necessary and desirable to expedite the grant of Mining Lease 70/1262 in relation to the Mining Area in accordance with the terms of this clause as soon as practicable after execution of this Agreement.
- 3.3 Urban Resources may vary the Mining Proposal with the written approval of Development WA and provided that the Staging Plan and Mine Closure Plan are not varied unless agreed in writing by Development WA and the variation is approved by DMIR.
- 3.4 Eclipse or Urban Resources shall not object to the grant of a Miscellaneous Licence over the Holcim Access Area subject to Urban Resources having completed mining of sand from the Holcim Access Area as provided for in the Staging Plan.
- 3.5 If for any reason, access is not available to Holcim (Australia) Pty Ltd or any related company over the Holcim Access Area, Urban Resources agrees to an alternate access area and the grant of a Miscellaneous Licence over the alternate access area provided that such alternate access area does not have a materially adverse effect on the Operations of Urban Resources.

- 3.6 Development WA Eclipse shall promptly lodge and pursue with DMIR a surrender of all or part of the Surrender Area as specified by Development WA, each surrender to be at the reasonable cost of Development WA in any of the following events:
- (a) the date of completion of Mining Operations on a Stage;
 - (b) any of the events or on the date mentioned in clause 4.1.
- 3.7 Within 14 days of the date of the approval of the Mining Proposal by DMIR, Eclipse shall lodge with DMIR a partial surrender of Mining Lease 70/1262 relating to the area shown as Stages 4 and 5 on the Staging Plan.

4 TERM

- 4.1 This Agreement shall commence on the Commencement Date and shall continue until the earlier of:
- (a) the expiration or earlier surrender of Mining Lease 70/1262;
 - (b) the date when Urban Resources gives notice in writing to Development WA that it has completed Operations on the Mining Area and has ceased all other activities it intends to complete under any other terms of this Agreement;
 - (c) Nine (9) years after the first date for obtaining an Approval for a Stage;
 - (d) subject to clauses 4.2 and 7, the Latest Date for completion of Operations of all Mining Areas as set out in the Staging Plan;
 - (e) termination of this Agreement pursuant to **clauses 4.2 ,4 and 19.**
- 4.2 In the event that, as at any time during the Term it becomes apparent that, an economic sand resource is not reasonably expected by Urban Resources to exist in any area of the Mining Area, Urban Resources shall promptly notify Development WA and at the request of Development WA Eclipse shall partially or wholly (as is applicable) surrender the Mining Lease over that area (to the extent permitted by DMIR).
- 4.3 Upon the termination of this Agreement, Eclipse shall immediately surrender Mining Lease 70/1262 in its entirety.

5 MINING PROPOSAL

- 5.1 The Mining Proposal shall include the Mine Closure Plan and the Staging Plan.
- 5.2 If it has not already done so, Eclipse or Urban Resources on behalf of Eclipse shall submit the Mining Proposal to DMIR for approval as soon as practicable after execution of this Agreement.
- 5.3 If DMIR require any amendments to the Mining Proposal in order to approve the Mining Proposal, then Urban Resources on behalf of Eclipse shall negotiate in good faith with Development WA in relation to such amendments as are necessary to obtain the approval of DMIR.
- 5.4 Urban Resources shall give written notice to Development WA in the event that the Mining Proposal is approved or not approved by DMIR or amendments are required to the Mining Proposal by DMIR.
- 5.5 Urban Resources shall only undertake Mining Operations in accordance with the Mining Proposal.

- 5.6 Urban Resources shall ensure that in undertaking Operations all bush land on the Mining Area is cleared (with relevant approvals). Operations must be undertaken in accordance with the plan attached as Annexure A and in accordance with the specifications set out in the plan. If approval is not obtained to clear the area being the Tramway Area as shown on the plan attached as Annexure A as vegetation to be cleared, then Development WA shall provide an alternate plan by which Operations must be conducted.
- 5.7 Urban Resources shall use its best endeavors to obtain an Approval for Stages 1A and 1B as soon as possible after the Commencement Date.

6 STAGING PLAN AND MINE CLOSURE PLAN

- 6.1 Urban Resources shall, subject to clause 3.3, undertake all Operations in accordance with the Staging Plan strictly in the order outlined in the Staging Plan.
- 6.2 Subject to **clause 7.2** all Operations, Reinstatement, Remediation, Rehabilitation and the removal of Plant and Equipment relating to its Mining Operations shall be completed by Urban Resources by not later than the Latest Date in accordance with the Mine Closure Plan.
- 6.3 Subject to the requirements of the Mining Act, as mining is completed on each Stage, Urban Resources shall comply with the Mine Closure Plan for each Stage and promptly effect a partial or total (as required) surrender of Mining Lease 70/1262 with respect to the completed Stage.

7 COMPLETION OF MINING OPERATIONS

- 7.1 Urban Resources shall complete all Mining Operations on the Land and satisfy all requirements of the Mine Closure Plan including complying with the levels in the Floor Plan by the final date specified as the Latest Date.
- 7.2 If any Proposed Development on a Stage by Development WA is or is likely to be delayed beyond the Latest Date, Development WA may give not less than six (6) months written notice to Urban Resources to that effect and may nominate a date subsequent to the Latest Date as the Latest Date for that Stage.
- 7.3 The Parties acknowledge and agree that Stage 2 Mining Operations cannot commence until the Explosives Reserve has been moved and decommissioned to Development WA's satisfaction. If for any reason the Explosives Reserve has not been decommissioned by the date being three years from the date of Approvals for Operations on stages 1A and 1B, then Urban Resources and Development WA agree to negotiate in good faith an extension to the Latest Date for Stage 2 nominally based upon the principle of an extension equivalent to the duration of the delay in decommissioning the Explosives Reserve.
- 7.4 If Development WA undertakes works in respect of its Proposed Development and at the same time Urban Resources is continuing Mining Operations, then Urban Resources shall in respect of such Mining Operations meet the reasonable requirements of Development WA in relation to such operations including, but not limited to, safety issues, an appropriate buffer zone, road access and dust minimization.

8 STAGING PLAN

- 8.1 Urban Resources shall undertake all Operations in accordance with the Staging Plan and the Mining Proposal approved under clause 5 strictly in the order outlined in the Staging Plan. Nothing in the Staging Plan precludes work on more than one Stage as long as Mining Operations are completed by the Latest Date for the relevant Stage.

- 8.2 All Operations, Reinstatement, Remediation, Rehabilitation and the removal of Plant and Equipment relating to its Operations shall be completed by Urban Resources by not later than the Latest Date in respect of each Stage.
- 8.3 Notwithstanding the requirements of the Mining Act, all Operations in respect to each Stage and all Reinstatement, Remediation and Rehabilitation in respect to each Stage shall only be deemed to be completed on receipt by Development WA of certification from appropriate independent experts employed by Urban Resources but approved by Development WA that the provisions of the Mining Proposal have been complied with. Urban Resources will meet the cost of the agreed completion criteria the subject of the Mine Closure Plan.
- 8.4 Subject to the requirements of the Mining Act, as mining is completed on each Stage, Urban Resources shall comply with the Mine Closure Plan for each Stage and promptly effect a partial or total (as required) surrender of Mining Lease 70/1246 with DMIR in respect of each Stage, as described in the Staging Plan as varied by extensions to the Latest Date for a relevant Stage from time to time, to enable Development WA to acquire freehold title for that part of the Mining Area when mining is completed on each Stage.
- 8.5 Notwithstanding any other provision of this Agreement, nothing in this Agreement, in the Mining Proposal, or in the Staging Plan requires Urban Resources to take all of the sand resource that it is able to take in accordance with those documents and its Obligations under the Mine Closure Plan are to be limited to the extent to which it has undertaken the removal of the sand resource as to the date when the Mine Closure Plan for that Stage takes effect. The Parties acknowledge and agree that the Mine Closure Plan is to address the process to be followed in making changes to Reinstatement, Remediation and Rehabilitation Obligations arising from Urban Resources not having removed all of the sand resource available to it under this Agreement. These provisions in no way affect the obligation of Urban Resources not to exceed the minimum finished floor levels as required by the Floor Plan or as otherwise required under the Staging Plan.
- 8.6 Urban Resources shall provide to Development WA not later than 14 days after the expiration of each Quarter a statement from a qualified Surveyor as to the level of all Mining Operations as at the expiration of each Quarter.
- 8.7 LandCorp will continue to provide acceptable access to Urban Resources for Stages 2 and 3 following the relinquishment of Stage 1 and make best endeavours to seek the approval of Holcim to maintain this access within the Miscellaneous License granted to Holcim.

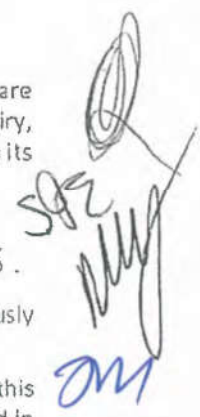
9 ACCESS AND AUDIT

- 9.1 At all times during the Term, Development WA shall be entitled to appoint a suitably qualified person or company ("Auditor") to undertake an audit of all Operations to ascertain if there has been compliance with the terms of this Agreement generally and in particular the Mine Closure Plan and the Mining Proposal.
- 9.2 Urban Resources shall give the Auditor reasonable access (not to be unreasonably withheld or delayed) to the Operations and shall provide such information as may be reasonably requested by the Auditor. Such access will only be permitted and continued subject to the Auditor complying with the site safety and operational requirements of Eclipse and causing as little interruption to the business and Operations of Eclipse as is reasonably practicable.

10 REPRESENTATIONS AND WARRANTIES

- 10.1 Eclipse and Urban Resources each represents and warrants that:

- (a) it has full legal capacity and power to enter into this Agreement;
 - (b) no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or to the knowledge of any of its officers after due inquiry, threatened which, if adversely decided, could have a material adverse effect on its ability to perform its obligations under this Agreement;
 - (c) it has not caused or contributed to any Contamination on the Land;
 - (d) no Insolvency Event has occurred by either Party, *since July 2018.*
- 10.2 The representations and warranties in this paragraph are taken to be repeated continuously on the basis of the facts and circumstances as at any time.
- 10.3 Eclipse and Urban Resources acknowledge that Development WA has executed this Agreement in reliance on the representations and warranties that are made or repeated in this clause.
- 10.4 Subject to the terms of this clause, Eclipse and Urban Resources acknowledge that neither of them have relied and will not rely on any representation, statement or promise made by or on behalf of Development WA in deciding to agree to this Agreement or undertake Operations or to exercise any right or perform any obligation under it.



11 INSURANCE

- 11.1 Urban Resources shall effect and maintain throughout the Term on terms approved by Development WA including as to levels of deductibles (such approvals not to be unreasonably withheld):
- (a) Workers Compensation insurance where required by Law in the name of Urban Resources with insurers approved by Development WA including liability at common law; and
 - (b) Public liability insurance in respect of any loss or injury to any person or damage to any property in relation to the Operations by Urban Resources or any act or omission of Urban Resources, its employees and consultants and shall extend to indemnify Development WA as an insured (other than to the extent to which the loss, injury or damage is attributable to an act or omission of Development WA or any officer, employee or agent of or contractor to Development WA) in an amount of twenty million dollars (\$20,000,000) (or such greater amount as may be reasonably required by Development WA from time to time in order to effect sufficient and proper cover); and
 - (c) such other insurance as may be usual and appropriate in relation to the Operations and which are reasonably required by Development WA.
- 11.2 Urban Resources must ensure that:
- (a) the terms of each insurance policy referred to in clause 11.1, with the exception of statutory workers' compensation, that insures more than one insured provides that:
 - (i) the policy will operate in the same manner as if it were a separate policy of insurance covering each party comprising the parties insured (but not so as to increase the limit of liability under the policy) for the purposes of determining an insured's right to cover;
 - (ii) each third party liability policy covers the liability of any insured to any other insured;

- (iii) failure by any insured to observe and fulfil the terms of the policy or to comply with the duty of disclosure does not prejudice the insurance of any other insured;
 - (iv) the insurer waives all rights, remedies or relief to which it may become entitled by way of subrogation against named insureds (to the extent they are insured under the policy);
 - (b) the terms of the insurance policy provide that the insurer waives all rights of contribution from any other insurance policies maintained for the benefit of Development WA; and
 - (c) all insurance referred to in **clause 11.1** is to be entered into on terms and conditions approved by Development WA (acting reasonably).
- 11.3 Urban Resources must ensure that each insurance policy referred to in **clause 11.1** (other than statutory workers compensation), are effected with insurers acceptable to Development WA and, in any event, with a financial security rating of 'A-' or better as rated by Standard and Poors or the equivalent rating with another recognized reputable rating agency.
- 11.4 Urban Resources must ensure that:
 - (a) all premiums and other amounts payable in respect of effecting the insurances are punctually paid on or before the due date for payment;
 - (b) it does not do or omit to do anything that would entitle the insurer to cancel or avoid the contract of insurance, or reduce the amount payable on a claim;
 - (c) it shall rectify anything which might prejudice the insurances;
 - (d) the insurances are not materially varied or cancelled without Development WA's consent which consent must not be unreasonably withheld;
 - (e) full and true information is provided to the insurers of all matters and things the non-disclosure of which may in any way prejudice or affect the insurances or payment of all or any claims under the policies; and
 - (f) it does everything reasonably required to enable Development WA to claim and to collect or recover monies due to them under the insurance policies.
- 11.5 If Urban Resources :
 - (a) fails to:
 - (i) effect and maintain, or cause to be effected and maintained, the insurances required by this Agreement; or
 - (ii) pay the appropriate premiums when due;
 - (b) becomes aware that an insurer may become entitled to cancel or avoid an insurance policy required by this Agreement; or
 - (c) acting reasonably, determines that an insurer may not be capable of meeting a claim,

then Development WA may do anything necessary to take out or keep in force a policy required under **clause 11.1** of this Agreement at the cost of Urban Resources and Urban Resources shall do anything reasonably requested of it by Development WA (including by providing information or completed proposals to prospective insurers) to allow Development WA to exercise its rights under this clause.

- 11.6 If Urban Resources:
- (a) receives a notice of cancellation of a policy required by **clause 11.1** or an insurer notifies Urban Resources that it intends not to offer a renewal of a policy;
 - (b) receives any other notice in respect of such a policy; or
 - (c) gives an insurer under such a policy a notice of cancellation.
- Urban Resources must ensure that Development WA is promptly given a copy of the notice. In relation to insurances effected by any subcontractors, Eclipse must include an equivalent obligation in any contract with such persons and must notify Development WA if it receives a notice as referred to in this clause.
- 11.7 Insurance effected in accordance with this Agreement shall not limit the liability or Obligations of Urban Resources under any other provisions of this Agreement and shall not in any way limit any claim which may be made by Development WA against Urban Resources.
- 11.8 Before the Commencement Date and at least annually on the anniversary of the Commencement Date or any other date specified by Development WA, Urban Resources shall provide evidence to Development WA of the insurance taken out under **clause 11.1** and at any other time when requested in writing by Development WA, Urban Resources shall produce evidence to the satisfaction and approval of Development WA of the insurance effected and maintained in accordance with this Agreement.
- 11.9 As soon as practicable and to the extent permitted under any applicable policy, Urban Resources shall give notice to Development WA in writing of any actual, threatened or likely claim or any occurrence which may give rise to a claim under a policy of insurance required under this Agreement and shall keep Development WA informed of all subsequent developments concerning the claim.
- 11.10 When reasonably required by Development WA, Urban Resources shall make a claim under any insurance effected under this clause and do all things necessary to prosecute the claim. If the insurer meets the claim, the proceeds of the insurance shall be first applied towards any insured loss incurred by Development WA.

12 INDEMNITIES

- 12.1 Notwithstanding the existence of any policy or policies of insurance or that Urban Resources or any other person may hold a licence, permit or authority from any Local or Public Authority, Urban Resources hereby indemnifies and agrees to keep indemnified Development WA from and against all Claims which may be sustained or suffered by Development WA, or recovered or made by Urban Resources (or any other person) against Development WA whilst Urban Resources is undertaking Operations arising out of or in connection with:
- (a) loss or damage to the Mining Area or the adjoining or nearby property caused by an act, omission or the negligence of Urban Resources or any of its Permitted Persons;
 - (b) any injury Urban Resources or any other person may sustain when on, using or entering or near the Mining Area or any appliance connected with the Mining Area whether or not such injury arises or has arisen as a result of the negligence of or as a result of the creation of some dangerous thing or state of affairs by Urban Resources or its Permitted Persons and whether the existence of such dangerous thing or dangerous state of affairs was or ought to have been known to Development WA or Urban Resources or not;

- (c) the use or occupation of the Land by Urban Resources or its Permitted Persons;
- (d) any work carried out by or on behalf of Urban Resources or its Permitted Persons;
- (e) Urban Resource's activities, Operations, business or other use of the Mining Area;
- (f) Contamination or Pollution of the Land or any land or groundwater adjoining or near the Mining Area and of the air generally above the Land by any act or omission of Urban Resources or its Permitted Persons, including but not limited to the escape from the Mining Area of petroleum or any other inherently dangerous or inflammable liquid or matter;
- (g) any breach of the Obligations by Urban Resources ; and
- (h) the proper exercise or attempted exercise of Rights by Development WA,

PROVIDED THAT Urban Resources shall not be responsible for any loss or damage to the extent to which it is caused by the act, neglect or default of Development WA or its officers, employees, agents or contractors or of those Development WA permits to enter upon or use the Land (other than Urban Resources and Urban Resources 's Permitted Persons).

- 12.2 Urban Resources shall indemnify and keep indemnified Development WA against any excess under any policy of insurance taken out by Development WA in respect of a Claim arising out of negligence, whether by a way of act, error or omission in the Operations by Urban Resources or any Permitted Person as the case may be. In the case of the public liability insurance, Urban Resources's liability to indemnify Development WA against the excess shall be reduced proportionately to the extent to which any act or omission of Development WA or employees or agents of Development WA may have contributed to the loss, damage, death or injury the subject of the Claim.
- 12.3 The indemnities referred to in this clause shall:
- (a) be a continuing obligation;
 - (b) constitute a separate and independent obligation of Urban Resources from Urban Resources 's other Obligations under this Agreement; and
 - (c) survive termination of this Agreement and, in respect of negligence the subject of a claim under the insurance shall survive for a period of six (6) years from the date of termination of this Agreement.

13 COMPLY WITH LEGISLATION

- 13.1 Eclipse and Urban Resources shall comply with and observe the provisions of the Mining Act and where there is any conflict between the provisions of the Mining Act and this Agreement, the provisions of the Mining Act shall prevail.
- 13.2 Urban Resources and Eclipse shall comply with and observe all present and future laws, statutes, legislation, regulations and by-laws and the requirements and orders of all Local or Public Authorities affecting the Land or relating to its obligations under this Agreement.
- 13.3 Urban Resources shall, in relation to its Operations, comply with all Environmental Investigation Levels and Health Investigation Levels of the Department of Environment Regulation and the National Environment Protection (Assessment of Site Contamination) Measure 1999 Standards for use of the Land.

14 NOT TO CARRY ON OFFENSIVE ACTIVITIES

- 14.1 Subject to the carrying on of the Operations and such other activities on the Mining Area that Urban Resources may carry on pursuant to a licence or authority from DMIR or a Local or Public Authority, Urban Resources shall not carry on or permit to be carried on at the Land:
- (a) any noxious, noisome or offensive activity nor anything which may be a nuisance, an annoyance or objectionable or cause damage or loss to Development WA or the owners or occupiers of any adjoining property or any other person unless in accordance with approved plans or in accordance with applicable standards or authorized by law;
 - (b) any activity that gives rise to a Claim against Development WA; or
 - (c) any activity which is illegal.
- 14.2 Notwithstanding that Urban Resources may hold a licence or authority from DMIR or a Local or Public Authority, Urban Resources shall not, except to the extent permitted by such licence or authority, cause or contribute to any Contamination or Pollution on or from the Mining Area which will give rise to any common law or statutory liability.

15 LICENCES AND APPROVALS

- 15.1 Urban Resources shall undertake all Operations in accordance with Prudent Industry Practices.
- 15.2 Urban Resources shall keep in force all licences, permits and mining leases required by law for the Operations.
- 15.3 Urban Resources shall carry on the Operations in accordance with the requirements of the Mining Act and all applicable requirements of Local and Public Authorities including all applicable environmental approvals and requirements. The fact that Development WA has entered into this Agreement shall not be regarded as a consent to any application to obtain an approval to carry out the Operations.

16 DEFAULT

- 16.1 If Eclipse or Urban Resources commits any default under this Agreement, then Development WA may give written notice to the relevant Party requiring the default to be remedied. Unless the relevant Party gives written notice to Development WA within three (3) business days after receipt of such notice that it intends to rectify the default with details of the steps to be taken to rectify the default and actively pursues the remediation of the default thereafter, Development WA shall be entitled (but not bound) to do all such acts, matters and things as may be necessary or reasonably prudent to remedy the default within the limits of the laws of Western Australia. In exercising such Rights, Development WA shall be entitled, after not less than seven (7) days notice to the relevant Party of its intention to do so, to:
- (a) enter the Land with necessary materials and labour and execute repairs or works to the Land; and
 - (b) expend reasonable monies on behalf of the defaulting Party .
- 16.2 The defaulting Party shall pay to Development WA on demand all reasonable costs and expenses incurred by Development WA pursuant to the exercise of its powers under this clause.

- 16.3 Eclipse and Urban Resources shall indemnify Development WA against all costs, expenses, Claims, demands, losses and liabilities directly arising from any default of Eclipse or Urban Resources including all reasonable legal costs.
- 16.4 No consent or waiver expressed or Implied by Development WA to any default of a Party shall be construed as a consent or waiver to or of any other default.
- 16.5 If DMIR exercises statutory authority with respect to any matters in clauses 16.1 to 16.3, Development WA agrees not to unreasonably interfere with or impede the performance of such authority by DMIR.

17 CONFIDENTIALITY

- 17.1 Subject to clauses 17.2, 17.4 and 17.5, each Party must not use any of the Confidential Information except to the extent necessary to exercise its Rights and perform its Obligations under this Agreement.
- 17.2 Each Party may disclose Confidential Information to an officer, employee, agent, contractor, or legal, financial or other professional adviser if:
- (a) the disclosure is necessary to enable Eclipse or Urban Resources to perform its Obligations or to exercise its Rights under this Agreement; and
 - (b) prior to disclosure, Eclipse informs the person of Eclipse's or Urban Resource's Obligations in relation to the Confidential Information under this Agreement.
- 17.3 Each Party must ensure that any person to whom Confidential Information is disclosed under this clause is aware of the need to keep the Confidential Information confidential and not to use it for any purpose other than as permitted under this clause.
- 17.4 Subject to clause 17.6, each Party may disclose Confidential information that each Party is required to disclose:
- (a) by Law or by order of any court or tribunal of competent jurisdiction; or
 - (b) by any government agency or authority, stock exchange or other regulatory body.
- 17.5 Development WA may disclose Confidential Information to the Minister from time to time responsible for the administration of the Western Australian Land Authority Act 1992 (WA).
- 17.6 If either Party is required to make a disclosure under clause 17.4, either Party must:
- (a) notify the other that it may be required to disclose any of the Confidential Information;
 - (b) consult with and follow, at its sole cost, any reasonable directions from the other Party to minimise disclosure or to take action to protect the disclosure of the Confidential Information; and
 - (c) if disclosure cannot be avoided:
 - (i) only disclose Confidential Information to the extent necessary to comply; and
 - (ii) use reasonable efforts to ensure that any Confidential Information disclosed is kept confidential.
- 17.7 The Obligations imposed by this clause survive the termination of this Agreement and remain enforceable indefinitely.

17.8 A Party shall not use or attempt to use any Confidential Information in any manner which may injure or cause loss either directly or indirectly to the other Party or its business or may be likely to do so.

17.9 The parties agree that the terms of this Agreement must also be kept confidential by each Party.

18 OCCUPATIONAL SAFETY AND HEALTH

- 18.1 (a) Urban Resources acknowledges that the safety and health of:
- (i) its employees;
 - (ii) its contractors;
 - (iii) any other persons engaged or employed by it in the Operations; and
 - (iv) the public,
- affected by the Operations is the paramount consideration in the undertaking and completion of the Operations.
- (b) Urban Resources acknowledges that it is familiar with and has the capability and resources to comply with the OSH Legislation applicable or relevant to the Operations.
- (c) Urban Resources must comply with all OSH Legislation.
- (d) Urban Resources shall co-operate with any other contractors or other persons engaged in or associated with the Operations in order to maintain uniform safety and industrial practices.
- 18.2 Urban Resources must:
- (a) exercise every authority as is necessary to enable it to discharge its responsibilities under OSH Legislation;
- (b) ensure the Operations are planned and managed in a way that prevents or minimises risks to the health and safety of:
- (i) workers; and
 - (ii) other persons at or near any site on which the Operations will be undertaken.
- (c) prepare a proper and appropriate Safety Management Plan and Safe Work Procedures and work in accordance with the Safety Management Plan and Safe Work Procedures for the Operations and, demonstrate compliance with the OSH Legislation and such procedures including providing information above measures taken to achieve compliance.
- 18.3 Urban Resources acknowledges that it:
- (a) has management and control of the Operations;
 - (b) must perform all relevant functions and fulfill all relevant duties of an employer, person having control and person conducting a business or undertaking under the OSH Legislation; and
 - (c) must comply with the provisions of the Mining Safety Act.

- 18.4 Urban Resources must, before undertaking the Operations, undertake an assessment of the risks associated with the Operations and identify and implement appropriate measures to control all such risks.
- 18.5 Urban Resources must, to the extent permitted by law, indemnify and hold harmless Development WA against any Claim, costs, losses, liabilities or expenses which Development WA may incur arising out of, or in connection with, non-compliance or breach by Urban Resources of any requirement of **clause 8** including any reasonable costs incurred by Development WA in taking steps to ensure compliance by it or Urban Resources with the OSH Legislation, where those steps or equivalent steps should have been taken by Eclipse in compliance with **clause 8**. Urban Resources liability to indemnify Development WA under this clause shall be reduced proportionately to the extent to which any act or omission of Development WA or officers, employees or agents of or contractors to Development WA may have contributed to the loss, damage, death or injury the subject of the Claim.

19 TERMINATION

- 19.1 Subject to first giving full effect to the provisions of **clause 22** (other than in respect of an Insolvency Event when **clause 22** shall not apply) and the elapsing of the time periods permitted under that clause for resolution of a Dispute, this Agreement may be terminated forthwith by Development WA by giving written notice to Eclipse and Urban Resources if:
- (a) an Insolvency Event occurs in relation to Eclipse or Urban Resources; or
 - (b) Eclipse or Urban Resources is in material and substantial default under this Agreement and fails to remedy that default within thirty (30) days of receipt of a written notice from Development WA specifying the breach and requiring the same to be remedied.
- 19.2 Nothing in **clause 9** should be taken in any way to restrict any rights of Development WA to claim and institute proceedings for damages arising out of any breach of this Agreement by Eclipse or Urban Resources and vice versa.
- 19.3 On termination of this Agreement, Eclipse shall promptly surrender Mining Lease 70/1262, and Eclipse and Urban Resources shall promptly deliver up to Development WA and return to Development WA all LandCorp's documents, data and other information created for the purposes of this Agreement or supplied to Eclipse or Urban Resources by Development WA, in each case in any form, including written, printed or electronic but any surrender shall not release Eclipse or Urban Resources from its obligations set out in **clause 7**.

20 RIGHTS AND DUTIES ON TERMINATION

- 20.1 The provisions of this clause will apply in respect of any termination of this Agreement by expiry, cessation or by reason of default.
- 20.2 At the expiration, cessation or sooner determination of this Agreement and in accordance with the Mining Act requirements, Urban Resources shall, unless Development WA otherwise agrees in writing, at Urban Resource's own expense:
- (a) remove from the Land the Plant and Equipment;
 - (b) deliver up possession of the Land to Development WA in accordance with the terms of the Mining Proposal including the Mine Closure Plan; and

- (c) ensure that all Post Contamination whether on or below the surface of the Land is Remediated or removed or otherwise contained as reasonably required by Development WA.
- 20.3 Subject to the written approval of Development WA, Urban Resources may leave any surface or sub-surface structures in place on the Land upon the termination of this Agreement.
- 20.4 Urban Resources obligations under this clause shall survive the expiration or other termination of this Agreement.
- 20.5 Urban Resources shall, in respect of the final expiration, cessation or sooner determination of this Agreement comply with the Mine Closure Plan for final mining closure and for vacating the Mining Area and completing final Reinstatement, Remediation and Rehabilitation so that the entire Mining Area shall be available to Development WA not later than the Latest Date.
- 20.6 Urban Resources shall provide to Development WA a detailed report not less than 6 months, 4 months and 2 months prior to the Latest Date in respect of each Stage indicating all steps taken by Urban Resources to meet its obligations under the Mine Closure Plan.

21 ENVIRONMENTAL

- 21.1 Urban Resources shall at all times during the Term comply with all Environmental Laws including, but not limited to, compliance with the Mining Act.
- 21.2 Notwithstanding any other provision of this Agreement, Development WA is not responsible for any Post Contamination.
- 21.3 Urban Resources agrees that it will be liable for Remediation of any Post Contamination to the extent required by Development WA acting reasonably and, in any event, to the minimum requirements under the provisions of the CSA.
- 21.4 Urban Resources releases and discharges Development WA from all claims whatsoever in relation to the Post Contamination on the Land.
- 21.5 Urban Resources is fully responsible and liable for all investigations, Remediation (whether insitu clean up, removal or disposal of Post Contamination) and all other costs whether direct or indirect associated with Post Contamination on the Land to a standard to allow residential use of the Land.
- 21.6 Urban Resources agrees it will comply with all present or future laws in relation to the removal, containment or Remediation of any Post Contamination on the Land.
- 21.7 For the purposes of the provisions of Urban Resources relating to termination, Urban Resources shall ensure that on the Latest Date in respect of each Mining Area, Urban Resources shall:
 - (a) remove, contain or otherwise deal with any Post Contamination as reasonably required by Development WA and in accordance with the requirements of the Mining Act and/or any Local or Public Authority to a standard to allow residential use of the Land; and
 - (b) deliver up the Land to Development WA in a condition consistent with the performance of Urban Resource's Obligations.
- 21.8 Urban Resources shall promptly inform Development WA if it becomes aware of or suspects the presence of Contamination on the Land.

- 21.9 Urban Resources shall, if required in writing by Development WA, provide to Development WA a copy of any environmental reports submitted by Eclipse to DMIR.

22 DISPUTE RESOLUTION

- 22.1 If a Dispute arises between the Parties:
- (a) one of them may notify the other Party, in writing, of the existence of the Dispute under this clause and the nature of the Dispute (**Dispute Notice**); and
 - (b) within seven (7) Business Days after the Dispute Notice is given, a senior manager appointed by each party must meet and consult to try to resolve the Dispute.
- 22.2 If the Dispute is resolved under **clause 22.1**:
- (a) the Parties must, as soon as possible, execute a statement setting out the terms of the agreement reached; and
 - (b) each Party must do anything (including execute any document) reasonably required by the other Parties to give effect to the agreement.
- 22.3 If the Dispute is not resolved under **clause 22.1** within 20 Business Days of the date of the Dispute Notice:
- (a) senior executives from each Party must meet and consult to try to resolve the Dispute; and
 - (b) if the Dispute is resolved, the provisions of **clause 22.1** shall apply; or
 - (c) if the Dispute cannot be resolved, then either Party may, within twenty (20) Business Days of the meeting of senior executives pursuant to paragraph (a):
 - (i) give a notice to the other Parties if the Dispute is other than a Legal Dispute requiring the Dispute to be referred to an Expert for determination in accordance with the principles and procedures set out in this clause; or
 - (ii) commence legal or other proceedings if the Dispute is a Legal Dispute.
- 22.4 An Expert is a person, having the qualification set out in **clause 22.5**:
- (a) selected by the Parties within fourteen (14) days after the Expert Determination Notice is given; or
 - (b) if the Parties fail to agree as to the Expert, a person nominated by the President of the Western Australian Division of Engineers Australia.
- 22.5 An Expert must:
- (a) have suitable and reasonable qualifications as well as commercial and practical experience in the area of the Dispute;
 - (b) be independent of each Party and not be, or have been, an employee, agent, contractor, advisor or consultant of either Party; and
 - (c) have no interest or duty which conflicts or may conflict with the Expert's function as an expert.
- 22.6 If an Expert Determination Notice is given:
- (a) the Parties must, within 7 Business Days after an Expert is selected or nominated, arrange for the Expert to be appointed; and

- (b) each Party must use its reasonable efforts to provide the Expert with any information reasonably required by the Expert and in any event each Party must provide the Expert with its preferred position in relation to the Dispute based on its understanding of the relevant facts.
- 22.7 The Parties agree that:
 - (a) the Dispute is sought to be resolved according to the Expert Determination Rules; and
 - (b) they must abide by the Determination Rules and must procure the Expert's agreement to seek to resolve the Dispute according to those rules.
- 22.8 The Parties must use their best efforts to enable the Expert to give the Parties a written decision within thirty (30) Business Days after the Dispute is referred to the Expert.
- 22.9 The Expert's decision is, in the absence of manifest error, final and binding on the Parties.
- 22.10 The Expert must give reasons for the decision.
- 22.11 Each Party must pay:
 - (a) its own expenses incurred in connection with the dispute resolution processes under this clause; and
 - (b) an equal proportion of the Expert's costs and the costs of the Expert's advisers unless the Expert, in its absolute discretion, decides otherwise.
- 22.12 The Parties to a Dispute must continue performing their obligations under this Agreement while the dispute is being resolved.
- 22.13 The Parties acknowledge and agree that the purpose of a Party providing any information, including the making of any offer of settlement, under this **clause 2**, is to attempt to resolve the Dispute between the Parties.
- 22.14 The information referred to in **clause 22.6(b)** is taken to be Confidential Information under **clause 7** and no Party may use that information for any purpose other than to resolve the Dispute between them.
- 22.15 If, in relation to a Dispute, a Party materially and substantially breaches any provision of this **clause 2**, the other Party is not bound by the clause in relation to that Dispute.

23 ASSIGNMENT

- 23.1 Eclipse or Urban Resources shall not assign, transfer or otherwise dispose of (including by a declaration of trust) the whole or any part of its Rights or Obligations under this Agreement or sell, transfer, mortgage, charge or otherwise dispose of or deal with an interest in Mining Lease 70/1262 without the prior written consent of Development WA and without complying with the requirements of the Mining Act.
- 23.2 Subject to **clause 23.3**, Development WA shall not unreasonably withhold its consent to assignment or other disposition mentioned in **clause 23.1** if:
 - (a) Development WA is satisfied (acting reasonably) that the proposed assignee is of good financial standing and has the capacity and ability to perform the obligations of Eclipse or Urban Resources under this Agreement; and
 - (b) the assignee enters into a deed of assumption with Development WA on terms reasonably required by Development WA whereby the assignee or disponent agrees to be bound by the terms of this Agreement.

- 23.3 Where any Obligation (including an Obligation to Rehabilitate or Remediate) remains outstanding as at the date of the assignment or disposition, then Eclipse or Urban Resources (as the case may be) shall remain liable for that Obligation until it is satisfied.
- 23.4 Eclipse and Urban Resources agrees that Development WA may lodge a caveat over Mining Lease 70/1262 in accordance with this clause pursuant to section 122A of the Mining Act and Development WA agrees to remove such caveat to allow for an assignment or other dealing to occur once the provisions of this clause have been satisfied and subject to the right to then re-lodge a caveat after such dealing.

24 NO PARTNERSHIP

Nothing in this Agreement shall be taken as construing Eclipse or Urban Resources as an employee or agent of Development WA or constituting a partnership or joint venture between Development WA and Eclipse or Urban Resources.

25 GOODS AND SERVICES TAX

- 25.1 The parties to this Agreement agree that all Taxable Supplies to be made under this Agreement are exclusive of GST and the Party receiving the Taxable Supply shall pay all GST on that supply. The party supplying the Taxable Supply shall provide a Tax Invoice for the amount claimed by it.
- 25.2 The party or parties to this Agreement providing supplies for consideration expressed otherwise than an amount of money, in accordance with the terms of this Agreement, which will constitute a Taxable Supply shall provide a Tax Invoice to the other party for that Taxable Supply based on the GST inclusive market value of that consideration as determined by the party making the supply.
- 25.3 A written statement given to Eclipse by Development WA of the amount of GST that Development WA is liable to pay on a Taxable Supply made or to be made under this Agreement is conclusive between the parties except in the case of an obvious error.
- 25.4 This Agreement and supporting material is not a document notifying an obligation to make payment and is not considered an invoice under the GST Act.

26 NOTICES

- 26.1 Any notice given or required to be given under this Agreement:
- (a) must be in writing addressed to Development WA or to Eclipse or Urban Resources (as the case may be), to Development WA's or Eclipse's or Urban Resources address shown in this Agreement (or to any other address specified by Eclipse or Urban Resources to Development WA or Development WA to Eclipse or Urban Resources by notice);
 - (b) must be signed by the sender or an officer of, or under the common seal of the sender or by the sender's lawyer or other authorised representative (as the case may be);
 - (c) is to be regarded as being given by the sender and received by the addressee:
 - (i) if by delivery in person, when delivered to the addressee;
 - (ii) if by post (which posting must be by pre paid security post), 3 business days from and including the date of posting to the addressee; and

(iii) if by facsimile transmission:

on the date the notice or communication is transmitted in its entirety by a facsimile machine; and

that facsimile machine produces a transmission report which indicates that the facsimile was sent in its entirety to the facsimile number of the addressee,

but if the delivery or transmission by facsimile is on a day which is not a business day or is after 5.00 p.m. (addressee's time) it is to be regarded as being given at 9.00 a.m. (addressee's time) on the next succeeding business day; and

(d) can be relied upon by the addressee, and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.

27 MISCELLANEOUS

- 27.1 Time shall be of the essence of this Agreement in all respects and no extension or variation thereof shall operate as a waiver of this clause.
- 27.2 This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter thereof and contains all of the representations warranties covenants and agreements of such Parties and there are no oral statements representations undertakings covenants or agreements between the Parties hereto expressed or implied except as are herein contained.
- 27.3 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and (unless such interpretation shall be repugnant to the sense or context) their respective executors administrators personal representatives successors and assigns.
- 27.4 This Agreement may be amended or varied only by agreement in writing signed by the Parties hereto.
- 27.5 All remedies rights undertakings Obligations or agreements of the Parties hereto arising by law disagreement or otherwise shall be cumulative and none thereof shall be in limitation of any other right remedy undertaking obligation or agreement of such Party. Each Party may follow any remedies to which such party is entitled by law this agreement or otherwise concurrently or successively at that Party's option.
- 27.6 Each Party shall bear its own costs of and incidental to the instructions for and the preparation and execution of this Agreement.
- 27.7 This Agreement may be executed in counterparts.
- 27.8 Each indemnity in this Agreement survives the expiry or termination of this Agreement.
- 27.9 The Parties hereto shall execute and do all such acts and things as shall be necessary or desirable in order to implement and give full effect to the provisions and purposes of this Agreement.
- 27.10 For all purposes this Agreement shall be governed by and construed in accordance with the laws of Western Australia and where applicable the laws of Australia.

28 PERFORMANCE GUARANTEE OR BOND

- (a) On or before execution of this Agreement, Urban Resources shall deliver to Development WA either a bank guarantee in an amount of \$200,000 (Bank Guarantee) or provide to Development WA a bond in the sum of \$200,000 (Bond)

- (b) The Bank Guarantee or Bond shall secure the performance of all of the obligations of Urban Resources including but not limited to the Mine Closure Plan
- (c) If a Bond is paid, the Bond shall be deposited by Development WA in an interest bearing bank account and all interest accrued shall form part of the Bond
- (d) If Urban Resources does not comply with any obligations under this Agreement, Development WA may call on the Bank Guarantee or Bond without notice to Eclipse to meet all costs necessary to meet the obligations of Urban Resources .
- (e) If Development WA calls on the Bank Guarantee or Bond, upon written notice being given by Development WA , Urban Resources shall provide a replacement or additional bank guarantee or in the case of a bond pay to Development WA such amount as is necessary to reinstate the Bank Guarantee of Bond to \$200,000
- (f) The bank guarantee is to be an irrevocable and unconditional guarantee:-
 - (i) on terms reasonably acceptable to Development WA; and
 - (ii) issued in favour of Development WA by a bank licenced to carry on business in Australia and having a branch office in Perth.
- (g) Upon termination of this Agreement and all obligations of Urban Resources being satisfied (as determined by Development WA acting reasonably) the Bank Guarantee or Bond shall be returned to Urban Resources.

ANNEXURE B – MINING PROPOSAL


ANNEXURE C – MINE CLOSURE PLAN

Executed as a deed on 5th April 2020
~~2019.~~

SIGNED on behalf of the WESTERN AUSTRALIAN LAND AUTHORITY by person(s) authorised by its Board in accordance with Section 45(2)(b) of the Western Australian Land Authority Act 1992.



Authorised Officer



Authorised Officer

Date

Executed by ECLIPSE RESOURCES PTY LTD
ACN 062 212 140 in accordance with section
127 of the Corporations Act 2001 (Cth) by or in
the presence of:



Director Signature



Secretary/Director Signature

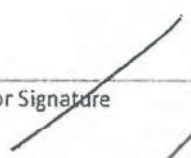
ROBERT SIPPES

Name of Director (print)

ROONEY HANSEN

Name of Secretary/Director (print)

Executed by URBAN RESOURCES PTY LTD
ACN 121 043 034 in accordance with section 127
of the Corporations Act 2001 (Cth) by or in the
presence of:



Director Signature



Secretary/Director Signature

STEPHEN ELLIOTT

Name of Director (print)

STEPHEN ELLIOTT

Name of Secretary/Director (print)