



THIS DEED made the _____ day of _____ 20__

BETWEEN: **BURWOOD COUNCIL** of Council Chambers, 2 Conder Street, Burwood in the State of New South Wales ("the Council") of the first part

WHEREAS:

- A. BURWOOD COUNCIL ("the Council") is a local council empowered to exercise a function or functions under section 11 of the Graffiti Control Act 2008 ("the Act"), namely to carry out graffiti removal work on private land with the agreement of the owner or occupier of the private land.
- B. _____ ("the Applicant") is the owner and / or occupier (remove which ever doesn't apply or keep and/or if both apply) of private land located at ("the private land").
- C. There is graffiti upon the private land, including on buildings, fences, walls and the like that are located on the private land.
- D. The Council and the Applicant have agreed in accordance with section 11 of the Act that the Council may carry out graffiti removal work.
- E. As a condition of undertaking graffiti removal work in accordance with section 11 of the Act, the Council requires an indemnity be given to it and to its employees, contractors and any sub-contractors by the Applicant with said indemnity releasing the Council, its employees, contractors and any sub-contractors from all suit that may arise out of entry on to the private land (including touching and interference with the private land) and in relation to any suit or liability that may arise from any damage to the private land as a result of any acts or omissions whatsoever in connection with the Council, its employees, its contractors and any sub-contractors undertaking the graffiti removal work on the private land.

NOW THIS DEED WITNESSES AS FOLLOWS:

- 1. It is agreed between the parties that the Council shall carry out graffiti removal work in respect of the above mentioned private land.

The private land

- 2. Although the Council intends to only remove graffiti that is accessible from a public location (for example, the street or foot path) the parties agree that the Council, its employees, its contractors and any sub-contractors will not be held liable for any action in the event that the Council does any one or more of the following:

- i. touches any part of the private land including but not limited to walls, fences, buildings and the like for the purposes of undertaking the graffiti removal work on the private land;

Graffiti removal work

- 3. Despite entering into this deed:
 - i. The Council may at its discretion not undertake any graffiti removal work on the private land under this deed;

ii. Commencement of, the progress of and the conclusion of graffiti removal work under this deed is at the sole discretion of The Council.

4. Despite the terms of section 11 of the Act, the Applicant acknowledges that Graffiti removal work by the Council will only take place if the graffiti can be easily accessed from a public place.

5. In the event that the Council does not commence graffiti removal work on the private land before the expiration of **60 days** of executing this deed then this deed is terminated and is null and void. Nothing in this clause prevents the parties from executing a new deed for graffiti removal work by the Council.

6. The undertaking of any graffiti removal work in accordance with this deed remains solely at the discretion of the Council:

- i. Despite the execution by the parties of this deed, the Applicant cannot compel, force or otherwise require the Council to undertake any graffiti removal work;
- ii. In the event that the Council has commenced graffiti removal work under this deed the Applicant cannot compel, force or otherwise require the Council to complete any graffiti removal work so commenced.

7. On the execution of this deed the Applicant cannot direct, order, compel or demand that the Council cease or desist to undertake any graffiti removal work under this deed.

No liability for damage to the private land

8. The Council, its employees, contractors and any sub-contractors will not be liable for any damage that may reasonably occur to the private land as a result of or associated with the graffiti removal work.

9. The Applicant acknowledges that the Council will not remove graffiti if the removal of the graffiti may cause harm, loss or jeopardise the health, safety or wellbeing of anyone removing the graffiti.

Executed by:

Burwood Council by its General Manager)

Pursuant to *Section 683 Local Government Act 1993*)

I certify that I am an eligible witness and that the delegate signed in my presence:

.....

Signature of witness

.....

Name of Witness

.....

Address of Witness

Executed by)

In the Presence of)