



Contractor Agreement

Express Contracting Services Pty. Ltd.

Trading As:

Golden Brown Cleaning Services

8/217 Mickleham Rd

Tullamarine VIC 3043

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1. This Agreement is made on the date appearing in item 1 of the Schedule.

BETWEEN

EXPRESS CONTRACTING SERVICES PTY LTD ACN: 089 260 524

A company duly incorporated in the State of Victoria and having its principal place of business at Unit 8 no 217 Mickleham Road Tullamarine Vic, 3043 (hereafter referred to as “the consultant”) of the one part hereafter referred to as "GBCS”

AND:

The party, person or Company whose name and address appears in below Forms (hereafter referred to as “the contractor”) of the other part upon the terms and the conditions laid out in this agreement

- ^ 0.0P Apply 0 New Position** and / or
- ^ 1.0P Contract Schedule** and / or
- ^ 3.0P Contract Job Offer** and / or
- ^ 3.1P Term & Condition F** and / or
- ^ 7.2P Sub Payment C** and / or
- ^ 7.2P Sub Payment D**

RECITALS

- A. The consultant operates the business of marketing and providing professional cleaning services & supplies to industry and generally.
- B. The consultant has agreements with the owners or occupiers of premises (“the clients”) for the cleaning of the premises (“**^ 9.1E Service Quotation** and/or **^ 2.2E Job Specification**”)
- C. The consultant has agreed to make available and the contractor has agreed to perform (as an independent contractor) contractual cleaning work for the term which appears in **^ 0.0P Apply 0 New Position** and/or **^ 1.0P Contract Schedule**
- D. The parties have agreed that the total value of contractual cleaning work (as verified by **^ 1.0P Contract Schedule**) that the consultant shall make available for the benefits of the contractor during the term of this Agreement will be for the value which appears in **1.1 E.** of the **^ 1.0P Contract Schedule**
- E. The parties agree that their relationship shall be governed by the provisions of this Agreement.

2.INTERPRETATION

- 2.1 In this Agreement, including the Recital, unless the context otherwise requires.
- 2.2 “Contractual Cleaning Work” includes, without limiting the generality thereof, the performance of the cleaning services which are detailed in the purchase orders between the consultant and the client.
- 2.3 “Confidential Information” any ideas, concepts, data, information or documents of any kind and in any form or medium relating to and concerning the business of the consultant including, without limiting generality thereof, marketing systems, cleaning systems. Client lists, client details. Prices. Costs, cleaning agreements, contractor lists. Contractor details. Contractor agreements, samples, advertising and promotional literature business affairs, security codes for access to client’s premises and the premises of the consultant. The technical data. Trade processes and trade secrets.
- 2.4 “Intellectual Property” all copyrights of the consultant and proprietary know-how developed by the consultant which is not otherwise available in the public domain.
- 2.5 “Marketing Fees” means those fees defined in clause 9 hereof.
- 2.6 “The clients” includes all persons, bodies, corporations and other entities with which the consultant has an existing agreement, has previously had an agreement and/or has approached with a view to concluding an agreement for the cleaning of premises.
- 2.7 In this Agreement unless the context otherwise requires:
- A. Words denoting a singular number include the plural and vice versa;
 - B. Words denoting any gender include all genders;
 - C. Where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
 - D. Words denoting natural persons include bodies corporate and unincorporated and vice versa;



- E. Reference to sections and Schedules are to the sections and Schedules to this Agreement only;
- F. Headings are for convenience only and may not affect interpretation;
- G. References to any party to this Agreement or any other agreement of instrument include the party's permitted successors and permitted assigns; and
- H. References to any agreement or instrument include references to that agreement or instrument as amended, noted, supplements, varied or replaced from time to time.

2.8 In the event that the Contractor is a Company the following sub clauses shall apply;

- A. Words importing the male gender shall be read as including the neuter gender.
- B. The person signing this agreement on behalf of the Contractor hereby personally guarantees to the Consultant the due performance of this Agreement by the Contractor.
- C. The provisions of this Agreement shall be read as if the name of the person signing this Agreement on behalf of the Contractor were substituted for the Contractor.

3 ACKNOWLEDGMENT BY THE CONTRACTOR

3.1 The contractor irrevocably acknowledges and assures the Consultant that prior to having executed this Agreement he/she has:

3.2 Carefully read the provisions of this Agreement and has understood them;

3.3 Not relied on any statement, representation or warranty made by the Express Contracting Services or any of its staff other than set out herein;

3.4 Been advised by the Express Contracting Services to seek such independent advice with respect to any particular clause and/or condition, and/or section of this Agreement if he/she has not understood them;

- A. Understands and acknowledges that this Agreement constitutes a legal, valid and binding obligation of the contractor enforceable in accordance with its terms by appropriate legal remedy; and
- B. Irrevocably acknowledges that this Agreement does not conflict with or result in a breach or default under any provisions of the contractor's memorandum and articles of association (if the contractor is a company) or any material, term or provision of any agreement deed or any writ, order or by injunction, judgment, law, rule or regulation to which it is a party or a subject or by which it is bound.

4 GOVERNING LAW

4.1 This Agreement is governed by and must be interpreted in accordance with the laws for the time being and in force in the State of Victoria, and the parties submit to the non-exclusive jurisdiction of the courts of or exercising jurisdiction in that State provided however that the provisions of paragraph 8 shall apply to any dispute or difference.

5 NONWAIVER

5.1 The failure of any party at any time to require performance by another party of any provision of this Agreement shall not affect in any way the full right of the waiving party to require such performance at any time thereafter nor shall the waiver by any party of breach of any provision hereof be deemed a waiver of the provision itself or any other provision hereof.

6 MODIFICATION AND SEVERANCE

6.1 Any modification or amendment to this Agreement shall be in writing signed by the parties hereto. Should any provision of this Agreement or the application thereof be held invalid or unenforceable by a Court of competent jurisdiction, the remainder of this Agreement and the application thereof other than those provisions as to which it shall be held invalid or unenforceable shall not be affected thereby and shall continue valid and enforceable to the fullest extent permitted by law or equity.

7 ENTIRE AGREEMENT

7.1 This Agreement constitutes the full and complete understanding between the parties with respect to the subject matter of this Agreement there is no other oral understanding, agreement warranty or representation whether express or implied in any way extending, defining or otherwise relating to the provisions hereof or binding on the parties with respect to any of the matters to which these presents relate.

7.2 Each of the parties hereby covenants and irrevocably acknowledged that it has not been induce to enter into this Agreement by any statement, warranty, representation, understanding, act, omission, fact, matter, thing or conduct by or on behalf of any person, other than as expressly recorded in this Agreement.

7.3 All previous Agreements between the Contractor and Express Contracting Services are hereby terminated.

8 CONTRACTUAL CLEANING WORK

8.1 The consultant shall commence to supply contractual cleaning work to the contractor from the commencement date specified in [^] 2.2E Job Specification

8.2 The consultant shall use its best endeavours to provide contractual cleaning work to the contractor on a regular basis and/or irregular but the consultant makes no warranty that the actual weekly value of contractual cleaning work shall equal in each week the amount specified in [^] 7.2P Sub Payment C or [^] 7.2P Sub Payment D and/or [^] 1.0P Contract Schedule.

8.3 The contractor shall issue invoices to the GBCS for the contractual cleaning work it performs.

8.4 Where the consultant invoice the client directs on behalf of the contractor the consultant will pay the contractor upon receipt of payment by that client. The consultant will endeavour to assist in the recovery of any monies owed to the contractor but will not be held liable for such monies if they are not paid.

9 MARKETING FEES

9.1 All marketing fees payable by the contractor to the consultant shall be as follows:

9.2 The contractor shall upon execution of this Agreement pay to the consultant an establishment fee being the sum, which appears in item 1.1 H of the [^] 1.0P Contract Schedule item (1.0S1).

9.3 The contractor shall upon the execution of this agreement commence to pay an administration fee. This fee shall be based on a percentage of the contractor's monthly gross earnings. The percentage value appears in item 1.1 A.1 of the [^] 1.0P Contract Schedule item (1.0S1). The monthly administration fee shall be payable by the contractor to the consultant on or before the tenth (10) day of each calendar month for the preceding month during the term of this agreement.

9.4 The contractor shall upon the execution of this agreement provide the consultant with a monthly summary related to the contractual cleaning work provided to the contractor by the consultant for administration fee purposes.

9.5 The parties agree that the marketing fees payable by the contractor to the consultant are non-refundable.

INDEPENDENT CONTRACTOR

10.1 The parties have agreed that the contractor shall act at all times as an independent contractor and that nothing in this Agreement shall be construed as or deemed as or shall have the effect of:

- A. Constituting or creating the relationship of principal and agent between the consultant and the contractor;
- B. Constituting or creating the relationship of employer and employee between the consultant and the contractor; or
- C. Constituting or creating the relationship of a partnership or joint venture between the consultant and the contractor.

10.2 The contractor agrees to be solely responsible for the performance of the contractual cleaning work and results of such performance and for any and all liabilities, claims or demands arising out of or in connection with the operation of the contractor's business, for any and all liabilities, claims or demands for damages to property or for injury or death of any persons directly or indirectly resulting therefrom, and for any other liability, claim or demand of whatsoever nature arising out of or in connection with the contractor's relations with the clients, its employees, sub-contractors, agents, servants or any other third party or because of any breach of this Agreement. The contractor agrees to indemnify and save harmless the consultant from any and all such liabilities, claims or demands, including legal fees.

10.3 The contractor agrees to immediately give notice to the consultant of any action or claim or pending proceedings brought or likely to be brought against the contractor or any of its employees, sub-contractors, agents or servants in relation to the contractor's business acquired under this Agreement.

10.4 The contractor shall, at its own expense, take out public risk insurance to the value of five million dollars (\$ 10,000,000.00) in the joint names of the consultant and the contractor and shall comply with the provisions of the *Accident Compensation (Work Cover Insurance) Act 1993* and pay any premium required to be paid with respect to employees of the contractor. Evidence of such insurance shall be provided by the contractor to the consultant prior to the commencement date of this Agreement and compliance with the *Accident Compensation (Work Cover Insurance) Act 1993* shall be provided by the contractor to the consultant upon request from time to time.

10.5 The contractor agrees as a condition precedent to accepting and /or engaging in work provided by the consultant that public risk insurance as described in clause 10.4 is current and valid.

11 CONFIDENTIALITY

- 11.1 The contractor acknowledges that as a condition precedent to it entering into this Agreement the contractor shall keep confidential all of the confidential information and the intellectual property and shall not except as previously authorised by the consultant in writing or as otherwise required by law reveal in any manner whatsoever either directly or indirectly to any person or company.
- 11.2 The contractor irrevocably acknowledges and agrees that the contractor or any of its directors, employees, sub-contractors, agents or servants shall not use the confidential information, the intellectual property or any other knowledge of the business of the consultant to acquire in any manner whatsoever either directly or indirectly for themselves, on behalf or, or through, or in conjunction or partnership with any third party any commercial cleaning business or any other business of similar nature.
- 11.3 The obligations under this section of the Agreement will survive the termination or expiration of this Agreement and will continue for the period of twenty-four (24) months from the date of expiration of termination of this Agreement.
- 11.4 The contractor must ensure its directors; employees, sub-contractors, agents or servants enter into a Deed on terms similar to this section prior to disclosure of any of the confidential information.
- 11.5 In the event of a breach or threatened breach of this clause, the consultant will be entitled to an injunction restraining the contractor or any other person from committing any threatened breach or breach of this section.
- 11.6 The contractor irrevocably acknowledges and agrees that the existence of any claims or demands that the contractor may have against the consultant shall not operate as a bar or defence to the enforcement of the covenants set out in this section.
- 11.7 The contractor agrees that any confidential information of the consultants clients is maintained confidential with the same standard of care that they protect their own confidential information and that it is not disclosed to or used by any unauthorised person and is only used for the approved purpose for which it was given.

12 OBLIGATIONS OF THE CONTRACTOR

- 12.1 The contractor will notify the consultant in advance and in writing of any change in their address, telephone number and/or fax number.
- 12.2 The contractor acknowledges and agrees that the consultant has dedicated substantial time, effort, and resources to secure the [^ 9.1E Service Quotation](#)



and/or [^] 2.2E Job Specification and to make available such [^] 2.2E Job Specification for the benefit of the contractor. The contractor assures the consultant and warrants that:

- A. The contractor shall accept contractual cleaning work (as verified by a [^] 9.1E Service Quotation and/or [^] 2.2E Job Specification) offered by the consultant to the contractor under the terms and conditions of this Agreement and perform such contractual cleaning work in a good workmanlike manner to the satisfaction of the clients;
 - B. The contractor is experienced and of good character and will have all necessary machinery, labour, materials and skills to enable the contractor to carry out the contractor's obligations for the performance of the contractual cleaning work;
 - C. All keys & equipments provided by GBCS as verified by a [^] 3.3P Site Equipments List are property of GBCS and should be returned immediately on completion of Job or requested by GBS. and;
 - D. The [^] 9.1E Service Quotation and/or [^] 2.2E Job Specification leased by the contractor from the consultant during the terms of this Agreement remain the exclusive property of the consultant.
- 12.3 The contractor may decline acceptance of a [^] 3.0P Contract Job Offer or [^] 2.2E Job Specification only by notifying the consultant in writing. In the event that the contractor declines to accept the [^] 3.0P Contract Job Offer or [^] 2.2E Job Specification offered by the consultant to the contractor under the terms and conditions of this Agreement the value of contractual cleaning work which appears in [^] 7.2P Sub Payment C or [^] 7.2P Sub Payment or item of 1.1 G. of [^] 1.0P Contract Schedule shall be reduced on such occasion by the sum of the total value of the contractual cleaning work verified by the [^] 7.2P Sub Payment C or [^] 7.2P Sub Payment or item of 1.1 G. of [^] 1.0P Contract Schedule declined by the contractor.
- 12.4 The contractor shall give one month notice on advance to cancel or terminate the [^] 2.2E Job Specification
- 12.5 The contractor agrees that if due to improper performance or improper conduct by the contractor or any of its employees, sub-contractors, agents or servants the contractor is dismissed from servicing a [^] 9.1E Service Quotation and/or [^] 2.2E Job Specification or a client terminates or fails to renew a [^] 9.1E Service Quotation with the consultant then the weekly value of the contractual cleaning work which appears in 1.1 D. of [^] 1.0P Contract Schedule shall be reduced on any such occasion by the weekly value verified by such [^] 7.2P Sub Payment C or [^] 7.2P Sub Payment D and the total value of the contractual cleaning work which appears in [^] 7.2P Sub Payment C or [^] 7.2P Sub Payment D shall be reduced by an amount equal to the sum total of the weekly value of the contractual work verified by such 1.1 of [^] 1.0P Contract Schedule for the remaining period of the Agreement between the consultant and the contractor.

- 12.6 In the case of serious misconduct by the contractor or any of its employees, sub-contractors, agents or servants that threatens the health, safety, security and welfare of the consultants staff, and/or the clients of the consultant and their staff and in order to guard the consultant and its clients against foreseeable risks to their safety and welfare the consultant has the right to terminate this Agreement forthwith and retain all fees previously paid by the contractor and recover any unpaid fees.
- 12.7 The contractor irrevocably acknowledges and agrees that all marketing fees payable by the contractor to the consultant shall be paid promptly when due and in accordance with the terms and conditions of this Agreement and that any failure, refusal, neglect or withhold by the contractor to do so shall give the consultant the right to terminate this agreement, retain all marketing fees previously paid by the contractor and recover any unpaid marketing fees.
- 12.8 The contractor understands and agrees that the consultant may, from time to time, require a written report from the contractor containing, without limiting generality thereof, the details of the client served, the amount invoiced to each client or any other information whatsoever in relation to the contractor's business acquired under this agreement and that the contractor shall prepare and submit such a report to the consultant within seven (7) days upon request made by the consultant.
- 12.9 The contractor shall upon the execution of this agreement provide the consultant with a monthly summary related to the contractual cleaning work provided to the contractor by the consultant including;
- A. Details of the amount of work completed;
 - B. Details of the amount of work not completed;
 - C. Any other jobs from clients of GBCS completed by the contractor including the type of service, date and service charge.

13 ASSIGNMENT

- 13.1 The Contractor will not voluntarily or by operation of law assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Consultant.
- 13.2 This agreement is fully assignable by the consultant in whole or in part and shall continue for the benefit of any assignee or other legal successor to its interest. Any such assignment shall contain a covenant that the assignee shall honour all of the obligations of the consultant under this Agreement.

13.3 The contractor shall not, without the prior written consent of the consultant, transfer, assign, grant any licence affecting, mortgage, charge, pledge or otherwise deal with the contractors' interests accruing under this agreement.

13.4 Where the contractor wishes to assign its rights and obligations hereunder to another person (an 'assignee'), it shall give to the consultant a four (4) week written notice (a transfer notice) which states:

- A. The full name and address of the proposed assignee; and
- B. the full terms and conditions (including the price and payment of price) upon which the contractor proposes transferring that interest to the proposed assignee.

13.5 Subject to section 13.3 the consultant shall not unreasonably withhold its consent to an assignment by the contractor of its interests in this agreement if:

- A. the contractor is not, at the time of giving the transfer notice, in default in respect of any payments owing to the consultant;
- B. the proposed assignee is a respectable, responsible, solvent financially sound person with sufficient experience and capability to carry out the contractor's obligations under this agreement;
- C. the proposed assignee enters into such covenants and in such form as are prescribed by the consultant by which it agrees to be bound and perform the contractor's obligations under this agreement as if it were originally named herein and execute such documents as are customarily required by the consultant;
- D. the proposed assignee procures the provision to the consultant of such guarantees, indemnities and other securities as the consultant may require for the fulfilment of the proposed assignee's obligation's hereunder;
- E. the assignee assumes all of the contractor's liabilities in relation to this agreement; and
- F. the contractor pays to the consultant at the time of assignment a sum equal to fifteen percent (15%) of the monies received by the contractor from the proposed assignee. The consultant may require the quantum of monies to be verified by a statutory declaration of either or both the contractor and the proposed assignee.

14 DISPUTE RESOLUTION

14.1 Any dispute or difference whatsoever arising out of or in connection with this Agreement ("dispute") and the contractual cleaning work proposed or undertaken shall be resolved as follow:

- A. where a dispute arises between the parties the complainant will set out in writing the nature of the dispute;
 - B. the parties will make every effort to resolve the dispute by mutual negotiation within seven (7) days;
 - C. reference to a dispute shall commence when any party gives written notice to the other(s) specifying the details of the dispute and advising the others that it seeks to have the dispute resolved by conciliation through the Mediator;
 - D. in the event that the parties are unable to reach a resolution of the dispute either party or parties shall refer the dispute to mediation by the Law Institute of Victoria (“the institute”)
 - E. he President of the Law Institute of Victoria or his nominee shall appoint a Mediator in accordance with the standard mediation agreement terms approved by that institute.
 - F. The parties to the conciliation will agree that:
 - (1) everything that occurs before the Conciliator will be in confidence and in closed session;
 - (2) all discussions will be without prejudice; and
 - (3) no documents brought into existence specifically for the purpose of the conciliation process will be called into evidence in any subsequent litigation by any of the parties;
 - G. Any fees payable for mediation to the Institute shall be met on a 50/50 basis by the contractor and the consultant.
- 14.2 Any proceedings under this section shall be held at the venue nominated by the Mediator unless the parties otherwise agree.
- 14.3 Each party shall continue to perform their obligations under this Agreement notwithstanding the existence of a dispute or any proceedings under this section.
- 14.4 Without limiting the generality of the foregoing, the contractor shall be deemed to be in breach of this Agreement if the contractor or any of its directors, employees, sub-contractors, agents or servants:
- A. fails to perform contractual cleaning work specified in the purchase orders in a proper workmanlike manner and to the satisfaction of the client named in said purchase orders;

- B. diverts and acquires or attempts to divert and acquire in any manner whatsoever either directly or indirectly for its own benefit or the benefit of any other third party any business or client of the consultant;
- C. accepts in any manner whatsoever either directly or indirectly approach from any client of the consultant for which the contractor acted to provide the contractual cleaning work;
- D. interferes or attempts to use in any manner whatsoever either directly or indirectly with the relationship between the consultant and any of its clients, directors, employees, contractors, agents, servants, associates or any related companies;
- E. uses or attempts to use in any manner whatsoever either directly or indirectly for its own benefit or the benefit of any third party any intellectual property or any confidential information relating to and concerning the business of the consultant;
- F. changes or attempts to change in any manner whatsoever directly or indirectly the terms and conditions specified in the purchase orders;
- G. fails to make payments to the consultant promptly and in accordance with the terms and conditions of this Agreement;
- H. does or performs any other act that can be injurious or prejudicial to the consultant's goodwill, confidential information or intellectual property.

14.5 In the event of the contractor being in breach of this Agreement, the consultant shall be entitled to terminate this Agreement and retain all marketing fees previously paid to the consultant. The termination of the Agreement shall be without prejudice to any remedy or cause of action that the consultant may have against contractor for the recovery of any unpaid monies or for the recovery of any damage in connection therewith and/or any other payment recoverable pursuant to the terms hereof.

15 EXPIRY, RENEWAL OR TERMINATION OF AGREEMENT

15.1 This Agreement shall expire when the total value of contractual cleaning work (as verified by the [^] 9.1E Service Quotation), that appears in item 1.1 D. of the [^] 1.0P Contract Schedule, has been provided to the contractor less any reduction due to performance issues as outlined in Section 10 and Section 12 of this agreement.

15.2 Upon the expiration of the terms of this Agreement, then provided that:



- A. the contractor shall have performed , observed and is not in default of any of the covenants contained in this Agreement;
- B. acknowledges in writing that all clients supplied by the consultant for whom work is being performed by the contractor are clients of the consultant;
- C. then the consultant shall offer the contractor the right to renew this Agreement at the current market rate for a further period as agreed upon.

15.3 In the event that this agreement is terminated in any manner whatsoever the parties agree that the marketing fees paid by the contractor are non-refundable.

15.4 In the event that this Agreement expires or is terminated in any manner whatsoever the contractor or any of its directors, employees, sub-contractors, agents or servants shall not in any manner whatsoever either directly or indirectly for itself, on behalf of, or through, or in conjunction or partnership with any third party;

- A. divert and acquire or attempt to divert and acquire for its own benefit or the benefits of any other third party any business or client of the consultant;
- B. accept any approach from any client of the consultant for which the contractor has acted to provide the contractual cleaning work;
- C. interfere or attempt to interfere with the relationship between the consultant and any of its clients, directors, employees, contractors agents, servants, associates or any related companies;
- D. use or attempt to use for its own benefit or the benefit of any third party any intellectual property or any confidential and secret information relating to and concerning the business of the consultant;
- E. do or perform any act that can be injurious or prejudicial to the consultant's goodwill, confidential information or intellectual property.

15.5 The parties agree that each of the foregoing covenants constitutes an independent and separate restraint of this Agreement. If any of those covenants is or will become unreasonable or enforceable, that shall not affect validity and enforceability of other covenants imposed under this section, which remain binding on the contractor.

15.6 For the purpose of section 15.4 the period of restraint shall be for a period of twenty-four (24) months. If the period set out in this clause is found to be excessive by any court of competent jurisdiction then the consultant may serve upon the contractor notice of variation of this clause specifying a reduced period and upon service of such notice the period shall be reduced that the parties agree to be bound by the provisions of this clause as varied by the notice of variation.



Nothing in this clause shall prevent any court of competent jurisdiction from reading down the period of restraint if such court is empowered to do so in order to validate these restraints.

15.7 The parties agree that this clause is for the benefit of the consultant to protect the goodwill of the consultant's business. If the contractor is a company or corporation then the contractor shall on or before the commencement date of this Agreement obtain a covenant in terms of section 15.4 from the directors and shareholders of the contractor in favour of the consultant. The contractor agrees that in the event that the Agreement expires or is terminated in any manner whatsoever the contractor shall co-operate in the execution of all documents as are customary required by the consultant to complete the termination of this Agreement.

15.8 The contractor irrevocable acknowledges and agrees that in the event that this Agreement expires or is terminated in any manner whatsoever or in the event the contractor being in breach of the Agreement all purchase orders and any other properties of the consultant including, without limitation, any confidential information, intellectual property, keys to buildings or any other means of access to a client's premises in the power, custody, control or possession of the contractor shall be returned by the contractor to the consultant within twenty-four (24) hours upon request made by the consultant.

16 Ownership of Materials and Intellectual Property

16.1 All intellectual property and related materials (the "Intellectual Property") including any related work in progress that is developed or produced under this Agreement, will be the property of the Consultant. The Contractor is granted a non-exclusive limited-use license of this Intellectual Property.

16.2 Title, copyright, intellectual property rights and distribution rights of the Intellectual Property remain exclusively with the Consultant.

17 Return of Property

17.1 Upon the expiry or termination of this Agreement, the Contractor will return to the Consultant any property, keys, documentation, records, or Confidential Information which is the property of the Consultant.

18 Capacity/Independent Contractor

18.1 In providing the Services under this Agreement it is expressly agreed that the Contractor is acting as an independent contractor and not as an employee. The Contractor and the Customer acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service.

19 Indemnification



19.1 The Contractor to this Agreement will indemnify and hold harmless the GBCS, as permitted by law, from and against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever to the extent that any of the foregoing is proximately caused either by the negligent or wilful acts or omissions of the indemnifying Party or its agents or representatives and that are incurred or paid after the date of this Agreement and which result from or arise out of the indemnifying Party's participation in this Agreement. This indemnification will survive the termination of this Agreement.

20 Insurance

20.1 The Contractor will be required to maintain general liability insurance including coverage for bodily injury and property damage at a level that would be considered reasonable in the industry of the Contractor based on the risk associated with characteristics of this Agreement and only to the extent permitted by law. All insurance policies will remain materially unchanged for the duration of this Agreement.

21 Costs and Legal Expenses

21.1 In the event that legal action is brought to enforce or interpret any term of this Agreement, the prevailing Party will be entitled to recover, in addition to any other damages or award, all reasonable legal costs and fees associated with the action.

22 Ownership & Title of Cleaning Service

22.1 The Contractor acknowledges and agrees that all rights, title and interest in any cleaning service & its employees and subcontractor will remain the exclusive property of the Golden Brown Cleaning Services. And contractor has no right whatsoever and under any circumstance to hire any employee or subcontractor of Express Contracting Services directly or indirectly as their employee or subcontractor or employee of other contractor. Accordingly, the Golden Brown Cleaning Services employees and subcontractor specifically agrees and acknowledges that the Employee or Subcontractor will have no interest in the Confidential Information, including, without limitation, no interest in know-how, copyright, trade-marks or trade names and avoiding them to become a contractor employee or subcontractor. If contractor hire the employee or subcontractor of Express Contracting Services directly or indirectly, then Express Contracting Services has right to sue contractor for damage up to 5 year of profits lost during that period.

23 Modification of Agreement

23.1 Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorized representative of each Party.



24 **Entire Agreement**

24.1 It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

25 **Severability**

25.1 In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

26 **Return of Property**

26.1 Upon the expiry or termination of this Agreement, the Contractor will return to the GBCS any property, keys, documentation, records, or Confidential Information which is the property of the GBCS.

27 **Non-Solicitation**

27.1 The Contractor understands and agrees that any attempt on the part of the Contractor to induce GBCS employees or contractors to leave the GBCS's employ, or any effort by the contractor to interfere with the GBCS's relationship with its employees and contractors would be harmful and damaging to the Consultant. The Contractor agrees that during the Contractor's term of agreement with the Consultant and for a period of five (5) years after the end of that term, the Contractor will not in any way, directly or indirectly.

- a. Induce or attempt to induce any employee or contractor of the GBCS to quit employment or retainer with the Consultant;
- b. Otherwise interfere with or disrupt the Consultant's relationship with its employees and contractors;
- c. Discuss employment opportunities or provide information about competitive employment to any of the Consultant 's employees or contractors; or
- d. Solicit, entice, or hire away any employee or contractor of the Consultant for the purpose of an employment opportunity that is in competition with the consultant.

27.2 This non-solicitation obligation as described in this section will be limited to employees or contractors who were employees or contractors of the Consultant/GBCS during the period that the agreement was contracted by the Consultant.

27.3 During the term of the Contractor's active relation with the Consultant, and for five (5) years thereafter, the Contractor will not divert or attempt to divert from the Consultant any business the Consultant had enjoyed, solicited, or attempted

to solicit, from its customers, prior to termination or expiration, as the case may be, of the Employee's employment with the Employer.

28 Term of Agreement

28.1 The term of this Agreement (the "Term") will begin on the date of issue date ^ 0.0P Apply 0 New Position form and will remain in full force and effect for terms appear in ^ 0.0P Apply 0 New Position or ^ 1.0P Contract Schedule, subject to earlier termination as provided in this Agreement. The Term of this Agreement may be extended only by GBCS acceptance. If GBCS wish to do so then has right to terminate contact at any time without further notice.

28.2 In the event that either Party wishes to terminate this Agreement, that Party will be required to provide thirty (30) days notice to the other Party.

28.3 Where there is no termination date on the ^ 0.0P Apply 0 New Position or ^ 1.0P Contract Schedule forms then the contract term shall be for one year.

29 Termination of Agreement

29.1 Upon the terms of this Agreement.

- A. The Contractor shall have performed , observed and is not in default of any of the covenants contained in this Agreement;
- B. Acknowledges in writing that all clients supplied by the Express Contracting Services for whom work is being performed by the Contractor are clients of the Express Contracting Services trading as Golden Brown Cleaning Services and Golden Brown Cleaning Supplies & Machinery

29.2 In the event that this Agreement is terminated in any manner whatsoever the Contractor or any of its directors, employees, sub-contractors, agents or servants shall not in any manner whatsoever either directly or indirectly for itself, on behalf of, or through, or in conjunction or partnership with any third party;

- A. Divert and acquire or attempt to divert and acquire for its own benefit or the benefits of any other third party any business or client of the Express Contracting Services;
- B. Accept any approach from any client of the Express Contracting Services for which the Contractor has acted to provide the contractual cleaning work;
- C. Interfere or attempt to interfere with the relationship between the Express Contracting Services and any of its clients, directors, employees, contractors agents, servants, associates or any related companies;
- D. Use or attempt to use for its own benefit or the benefit of any third party any intellectual property or any confidential and secret information relating to and concerning the business of the Express Contracting Services;
- E. Do or perform any act that can be injurious or prejudicial to the Express Contracting Services's goodwill, confidential information or intellectual property.

29.3 The parties agree that each of the foregoing covenants constitutes an independent and separate restraint of this Agreement. If any of those covenants is or will become unreasonable or enforceable, that shall not affect validity and enforceability of other covenants imposed under this section, which remain binding on by the Contractor

30 Remedies

30.1 In the event of a breach or threatened breach by the Contractor of any of the provisions of this Agreement, the Contractor agrees that the GBCS is entitled to a permanent injunction, in addition to and not in limitation of any other rights and remedies available to the Contract law or in equity, in order to prevent or restrain any such breach by the Contractor or by the Contractor 's partners,

agents, representatives, servants, employees, and/or any and all persons directly or indirectly acting for or with the Contractor.

31 **Termination & Penalties for Breaching of the Contract**

31.1 Each party shall continue to perform their obligations under this Agreement not with standing the existence of a dispute or any proceedings under this section.

31.2 Without limiting the generality of the foregoing, the contractor shall be deemed to be in breach of this Agreement if the Employee or any of its directors, employees, sub-contractors, agents or servants;

- A) Fails to perform contractual cleaning work specified in the **2.2E Job Specification** in a proper work man like manner and to the satisfaction of the client named in said **2.2E Job Specification** or in item **1.0P Contract Schedule**;
- B) Diverts and acquires or attempts to divert and acquire in any manner whatsoever either directly or indirectly for its own benefit or the benefit of any other third party any business or client of the Express Contracting Services;
- C) Accepts in any manner whatsoever either directly or indirectly approach from any client of the GBCS for which the contractor acted to provide the contractual cleaning work;
- D) Interferes or attempts to use in any manner whatsoever either directly or indirectly with the relationship between the consultant and any of its clients, directors, employees, contractors, agents, servants, associates or any related companies;
- E) Uses or attempts to use in any manner whatsoever either directly or indirectly for its own benefit or the benefit of any third party any intellectual property or any confidential information relating to and concerning the business of the Express Contracting Services;
- F) Changes or attempts to change in any manner whatsoever directly or indirectly the terms and conditions specified in the **2.2E Job Specification & 1.0P Contract Schedule**;
- G) Fails to make payments to the Express Contracting Services promptly and in accordance with the terms and conditions of this Agreement;
- H) Does or performs any other act that can be injurious or prejudicial to the Express Contracting Services's goodwill, confidential information or intellectual property

31.3 In the event of the Contractor being in breach of this Agreement, the Express Contracting Services trading as Golden Brown Cleaning Services and Golden Brown Cleaning Supplies & Machinery shall be entitled to terminate this Agreement and retain all payment & demand for damage up to 9 years of contract value in advance if contract lost by Contractor directly or indirectly.



The termination of the Agreement shall be without prejudice to any remedy or cause of action that the Express Contracting Services may have against Contractor for the recovery of any unpaid monies or for the recovery of any damage in connection therewith and/or any other payment recoverable pursuant to the terms hereof.

32 Payment Penalties

32.1 In the event that the Contractor does not comply with the rates, amounts, invoices from time to time issues by GBCS regarding purchase of goods or services or payment dates provided in **^ 1.0P Contract Schedule** to Contractor a late payment penalty will be charged as follows:

- o Note: Delinquency penalties apply for late payment.
 1. Pay to be made in full in 20 days net from date of invoice.
 2. 31-60 days - 10% delinquency penalty on the outstanding amount and possible application of 'Stop Credit'.
 3. 61-90 days - 19% delinquency penalty on the outstanding amount with 'Stop Credit' and debt recovery action being taken together with possible refusal of further supply & service plus \$60.00 late payment fee (inc GST).
 4. Over 90 days - 19% delinquency penalty from date of purchase till date of payment made plus Admin & Legal Fee

33 Shedule

SCHEDULE

Item 1. Date of Agreement; Refer to:

^ 0.0P Apply 0 New Position	and / or
^ 1.0P Contract Schedule	and / or
^ 2.2E Job Specification	

Item 2. Date of Commencement; Refer to:

^ 0.0P Apply 0 New Position	and / or
^ 1.0P Contract Schedule	and / or
^ 2.2E Job Specification	

Express Contraction Services requires a reasonable amount of time to develop a cleaning run for the contractor based on the contractors regional preference for work; the job availably within this area the contractors available time.



Item 3. Name and address of contractor; Refer to:
^ 0.0P Apply 0 New Position and / or
^ 1.0P Contract Schedule

Item 4. Term of agreement:

Commencing from the commencement date to term of contract that appear in item of **1.1 J.** of **^ 1.0P Contract Schedule** or **^ 0.0P Apply 0 New Position**. If the consultant makes available for the benefit of the contractor the sum that appears in Item **1.1 E.** of the **^ 1.0P Contract Schedule** or **^ 0.0P Apply 0 New Position** at any date prior to the date of expiration pursuant to this item, such date shall then become the date of the expiration of this Agreement.

Item 5. Total Minimum value of contractual cleaning work; Refer to:
^ 1.0P Contract Schedule

Item 6. Average weekly value of contractual cleaning work; Refer to:
^ 1.0P Contract Schedule

Item 7. Contract Start Up Fee Options:

- a. Once off payment
- b. The total amount appear in item **1.1 H.** of the **^ 1.0P Contract Schedule**

Item 8. Administration fee: % of monthly invoiced contractual cleaning work; Refer to:
1.1 A1 of the **^ 1.0P Contract Schedule**



ATTESTATION

IN WITNESS WHEREOF the Parties have hereunto executed this Agreement the day and year first herein before written

**THE COMMON SEAL of EXPRESS)
CONTRACTING SERVICES PTY)
LTD A.C.N. 089 260 524)
Was hereunto affixed in accordance)
With its articles of association)
In the presence of;)**

.....**Director**

**SIGNED, SEALED AND DELIVERED)
In the presence of;)**

.....
Contractor

.....
(Print Name)

.....**Witness**)

**SIGNED, SEALED AND DELIVERED)
In the presence of:)**

.....
Contractor

.....
(Print Name)

.....**Witness**)

COMPLETE IF FOR CORPORATION:

**THE COMMON SEAL of)
)
)
)
Was hereunto affixed in accordance)
With its articles of association)
In the presence of:)**

.....**Director**)

.....**Secretary**