



INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT (the "Agreement") refers to Customer Details in item 9. or 9.1 or 9.2 of the ^ 9.1E Service Quotation

(the "Customer")

- AND -

Express Contracting Services (hereafter referred to as "ECS") trading as Golden Brown Cleaning Services (hereafter referred to as GBCS) and Golden Brown Cleaning Supplies & Machinery (hereafter referred to as GBCS&M) of 8/217 Mickleham Rd Tullamarine, Vic 3043
(the "Contractor").

BACKGROUND:

- A. The Customer is of the opinion that the Contractor has the necessary qualifications, experience and abilities to provide services to the Customer.
- B. The Contractor is agreeable to providing such services to the Customer on the terms and conditions set out in this Agreement.

IN CONSIDERATION OF the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Customer and the Contractor (individually the "Party" and collectively the "Parties" to this Agreement) agree as follows:

1. Services Provided

1. The Customer hereby agrees to engage the Contractor to provide the Customer with services (the "Services") consisting of:
 - o As Specified in: Item **15. of the ^ 9.1E Service Quotation.**
2. The Services will also include any other tasks which the Parties may agree on. The Contractor hereby agrees to provide such Services to the Customer.

3. Term of Agreement

3. The term of this Agreement (the "Term") will begin on the date of this Agreement and will remain in full force and effect for 2 years, subject to earlier termination as provided in this Agreement. The Term of this Agreement may be extended by mutual written agreement of the Parties.
4. 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.



5. **Performance**

5. The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

6. **Currency**

6. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in AUD (Australian Dollars).

7. **Compensation**

7. For the services rendered by the Contractor as required by this Agreement, the Customer will provide compensation (the "Compensation") to the Contractor of \$33.00 per hour.

8. The Compensation will be payable, while this Agreement is in force, according to the following payment terms:

- o As Specified in: Item **11. of the ^ 9.1E Service Quotation.**

9. The Compensation as stated in this Agreement does not include sales tax, or other applicable duties as may be required by law. Any sales tax and duties required by law will be charged to the Customer in addition to the Compensation.

10. **Payment Penalties**

10. In the event that the Customer does not comply with the rates, amounts, or payment dates provided in this Agreement, 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 \$350.00 Admin & Legal Fee.

11. **Performance Penalties**

11. No performance penalty will be charged if the Contractor does not perform the Services within the time frame provided by this Agreement.

12. **Confidentiality**

12. Confidential information (the "Confidential Information") refers to any data or information relating to the business of the Customer which would reasonably be considered to be proprietary to the Customer including, but not limited to, accounting records, business processes, and client records and that is not



generally known in the industry of the Customer and where the release of that Confidential Information could reasonably be expected to cause harm to the Customer.

13. The Contractor agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information which the Contractor has obtained, except as authorized by the Customer. This obligation will survive indefinitely upon termination of this Agreement.

14. **Ownership of Materials and Intellectual Property**

14. 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 Contractor. The Customer is granted a non-exclusive limited-use license of this Intellectual Property.

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

16. **Return of Property**

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

17. **Capacity/Independent Contractor**

17. 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.

18. **Notice**

18. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties of this Agreement as follows:

- a. Customer Details; As Specified in: Item **9. or 9.1 or 9.2 of the ^ 9.1E Service Quotation**
- b. and Golden Brown Cleaning Supplies & Machinery
8/217 Mickleham Rd
Tullamarine, Victoria, 3043
Fax: 03 9338 2688
Email: info@goldenbrown.com.au

or to such other address as any Party may from time to time notify the other.

19. **Australian Business Number (ABN)**



19. The Australian Business Numbers (ABN's) for the Parties to this Agreement are as follows:

- a. Customer Name and ABN Number. As Specified in: Item **20. of the ^ 9.1E Service Quotation**
- b. Golden Brown Cleaning Services: 91 424 660 877

20. Australian Company Number (ACN)

20. The Australian Company Numbers (ACN's) for the Parties to this Agreement are as follows:

- a. Customer Name & ACN Number. As Specified in: Items **20. of the ^ 9.1E Service Quotation**
- b. Golden Brown Cleaning Services: 089 260 524

21. Indemnification

21. Each Party to this Agreement will indemnify and hold harmless the other Party, 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.

22. Insurance

22. 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.

23. Dispute Resolution

23. In the event a dispute arises out of or in connection with this Agreement, the Parties will attempt to resolve the dispute through friendly consultation.
24. If the dispute is not resolved within a reasonable period then any or all outstanding issues may be submitted to mediation in accordance with any statutory rules of mediation. If mediation is not successful in resolving the entire dispute or is unavailable, any outstanding issues will be submitted to final and binding arbitration in accordance with the laws of the State of Victoria. The arbitrator's award will be final, and judgment may be entered upon it by any court having jurisdiction within the State of Victoria.



25. Costs and Legal Expenses

25. 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.

26. Ownership & Title of Cleaning Service

26. The Customer 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 customer has no right whatsoever and under any circumstance to hire any employees or subcontractors of Express Contracting Services directly or indirectly as their employees or subcontractors 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 becoming a customer employees or subcontractors. In the event of the Customer being in breach of this Agreement, the Golden Brown Cleaning Services "GBCS" shall be entitled to terminate this Agreement and retain all payment received & demand for damage up to 3 years of total contract value charged during this period, in advance if contract terminated or breached due to hiring Express Contracting Services's employees or subcontractors directly or indirectly.

27. In the event that this Agreement is terminated in any manner whatsoever the Customer 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. Hire and acquire or attempt to Hire and acquire for its own benefit or the benefits of any other third party hire any employees or subcontractor of the Express Contracting Services;
- B. Accept any approach from any employees or subcontractors of the Express Contracting Services for which the Employees or subcontractors 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, subcontractors, 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 employees or subcontractors of the Express Contracting Services;
- E. Do or perform any act that can be damage to the Express Contracting Services's goodwill, confidential information or intellectual property.



28. 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 Customer.

29. **Modification of Agreement**

29. 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.

30. **Time of the Essence**

30. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

31. **Assignment**

31. 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 Customer.

32. **Entire Agreement**

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

33. **Enurement**

33. This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators, successors and permitted assigns.

34. **Titles/Headings**

34. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

35. **Gender**

35. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

36. **Governing Law**



36. It is the intention of the Parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of Victoria, without regard to the jurisdiction in which any action or special proceeding may be instituted.

37. **Severability**

37. 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.

38. **Waiver**

38. The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

39. **Window Cleaning Exclusion**

39. The "ECS" takes no responsibility & liability in respect of Personal Injury or Property Damage arising directly or indirectly out of or caused by or in connection with:

- scratches to the windows and/or protective or reflective film applied thereto; or
- an Insured Person operating externally above the second floor of any building.

40. **Cleaning Contractor Exclusion**

40. The "ECS" takes no responsibility & liability in respect of Personal Injury or Property Damage arising directly or indirectly out of or caused by or in connection with

- Loss of keys to any premises
- Cleaning activities performed during trading or business hours in shopping centres, shopping malls, arcades or supermarkets, inclusive of their car parks.

41. In window cleaning after builders or renovation or on construction site, GBCS takes no responsibility for any damages or scratches made or caused to windows and/or mirrors.

IN WITNESS WHEREOF the Parties have duly affixed their signatures under hand and seal on this

As Specified in: Item **18. of the ^ 9.1E Service Quotation**