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## CONSULTANCY AGREEMENT SOLE TRADER

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DATED \_\_\_\_\_ 20\_\_\_\_

BETWEEN

Company Pty Ltd ACN 111 222 333 having its registered office at 1 Sydney Street Sydney  
2000 (**"the Consuler"**);

AND

Other Company Pty Ltd ABN 333 222 111 having its registered office at 1 Brisbane Street  
Brisbane 7000 (**"the Consultant"**)

THIS CONSULTANCY AGREEMENT DATED \_\_\_\_\_ 20\_\_ .

**PARTIES**

**BETWEEN:**     **Company Pty Ltd ACN 111 222 333** having its registered office at 1 Sydney Street Sydney 2000 ("**the Consuler**") of the First Part;

**AND:**            **Other Company Pty Ltd ABN 333 222 111** having its registered office at 1 Brisbane Street Brisbane 7000 ("**the Consultant**") of the Second Part.

**RECITALS:**

- A.     The Consuler is engaged in developing, creating and/or consulting with its Customers on Installation of air-conditioning unites.
- B.     The Consultant is in the business of providing the Consulting Services as set out in Schedule One ("**the Consulting Services**").
- C.     The Consuler's Consulting Services are to be provided by the Consultant.
- D.     The Consultant is a sole trader and has agreed to make himself or herself available to the Consuler for the purposes of the carrying out of the Consulting Services.

**NOW BY THIS CONSULTANCY AGREEMENT** it is agreed as follows:

**1. DEFINITIONS**

1.1.     In this Agreement these words and phrases have the following meanings:

"**Agreement**" means this Consultancy Agreement.

"**Appointment**" means appointment of the Consultant by the Consuler as set out in Clause 2 of this Agreement.

"**Consuler**" means the Company.

"**Consuler's Facilities**" is not limited to but includes all premises of the Consuler, equipment, data bases, resources and vehicles used and/or owned by the Consuler.

"**Consuler's Business**" means the business described in recital A and any other business that the Consuler or any other Related Entity of the Consuler might at any time in the future during the Term conduct.

"**Computer Policy**" means the Computer Policy of the Consuler as set out in Schedule Three.

"**Confidential Information**" means all information of whatsoever kind or nature including:

- (a)     all information in whatsoever form that the Consultant obtains because of this Consultancy or because of the provision of the Consulting Services and whether such information is contained in a document, or in any Software, or is conveyed orally or is obtained by the Consultant through observation; and

- (b) all other information which is by its nature confidential to the Consuter and/or to the Consuter's Business and/or to any Customer of the Consuter; or
- (c) all information in any document or software, Object Code or Source Code that is marked or contained in a package or envelope that is marked "Strictly Confidential", "Confidential", "Secret", "Not to be Disclosed", "Private" or otherwise uses words which indicate that the Consuter or any other person regards the information as being of a confidential nature; or
- (d) all oral, written, recorded information and/or databases concerning the Consuter, the Consuter's Business, Customer information and Customer and/or client lists, Products and/or any intellectual property;
- (e) all other information or know how in any form whatsoever concerning the Consuter's Business or Customers that is disclosed to the Consultant or otherwise learnt by the Consultant during the Term.

But does not include any information that is or becomes generally available to the industry or becomes or is in the public domain other than as a result of a disclosure directly or indirectly by the informed party or its representatives.

**"Consulting Fees"** means the fees set out in Schedule Two and include GST (if applicable).

**"Consulting Services"** means the services provided by the Consultant being the services as set forth in Schedule One of this Agreement and all such other consulting services as may be agreed upon in writing by the Consuter and the Consultant during the Term.

**"Customer Confidential Information"** means any information which is provided to the Consuter and/or to the Consultant by either the Consuter and/or by the Customer and which the Consuter and/or the Customer stipulates is confidential to the Consuter and/or the Customer, or which bears on its face or is otherwise marked "Strictly Confidential", "Confidential", "Secret" or "Not to be Disclosed" or otherwise uses other such words or which information by its very nature indicates that the Consuter and/or the Customer regards the information as being of a confidential or commercially sensitive nature.

**"Customers"** means past, present and future Customers of the Consuter.

**"Extension of Term"** means any extension of the Term as may be agreed upon by the Parties in writing and commencing immediately upon the expiry of the Term.

**"GST"** means Goods and Services Tax as defined under a *New Tax System (Goods and Services Tax) Act 1999* (Cth) (**"the GST Act"**). Where any GST is payable, the Party making the supply shall provide a tax invoice unless the tax invoice belongs to a class of tax invoices that the Commissioner has determined in writing may be issued by the recipient of a

taxable supply under the GST Act. The Parties will, if necessary, at all times be fully and effectively registered for GST.

**“Intellectual Property”** means all inventions, copyrights, designs, trade marks and patents in any products.

**“Law”** means all Acts, statutes, regulations, by laws, common law, equity and includes Federal and State Laws as may be enacted or amended from time to time within Australia.

**“Notice”** means notice in writing including those conveyed by facsimile, letter, email and telex and conveyed in accordance with the provisions of this Agreement.

**“OH & S”** means Occupational Health and Safety.

**“Parties”** means the Parties to this Agreement and shall include their lawful successors and assigns. Any reference to a Party will include, where applicable, any subsidiary controlled by a Party or by the same persons who control that Party.

**“Person”** means any body that is recognised at Law in the Territory whether it be a natural person, entity or corporation.

**“Products”** means all the products that the Consuter sells or provides to its Customers and includes all goods and services of whatsoever kind or nature that form part of the Consuter’s Business.

**“Related Entity”** has the meaning given to it in Section 9 of the *Corporations Act* 2001 (Cth). If the Consuter is not a corporation, “Related Entity” has the meaning given to it in Section 9 of the *Corporations Act* 2001 (Cth) as if the Consuter were a corporation.

**“Software”** means any and all computer software of whatsoever kind or description.

**“Tax Invoice”** is an invoice from the Consultant to the Consuter that complies with the GST Act.

**“Term”** The period from the date hereof until the completion of the Project Plan or until \_\_\_\_/\_\_\_\_/\_\_\_\_ or until either Party terminates the Appointment as provided in this Agreement.

**“Territory”** means the whole of Australia.

**“Unsatisfactory Conduct”** means any conduct by the Consultant that constitutes a serious breach of this Agreement or which, in the reasonable opinion of the Consuter may bring the Products, any Customer, or the Consuter into disrepute or harm of any kind, or involves any misuse of the Consuter’s Facilities or involves accessing, viewing or downloading or sending any material that is pornographic, defamatory or untrue, misleading or deceptive or does any other act or thing which is harmful to the Consuter, or to any of its Customers or is a serious breach of this Agreement.



**“Year”** means each period of twelve calendar months during the Term with the first year commencing on the date hereof and expiring on the day before the anniversary of the date hereof.

- 1.2. In this Agreement, words importing any gender shall include all genders including the neuter gender. Words importing the singular shall include the plural and vice versa. Any reference to a Party includes that Party’s lawful assigns and successors in title.

## **2. APPOINTMENT BY THE CONSUMER OF THE CONSULTANT**

- 2.1. The Consumer hereby appoints the Consultant for the purpose of providing to the Consumer the Consulting Services as set out in Schedule One. The Consultant hereby accepts its appointment as Consultant and agrees to be bound by the terms and conditions herein during the Term.
- 2.2. The Consultant carry out the Consulting Services. It is an essential term of this Agreement that the Consultant must, unless the Consumer agrees in writing otherwise, carry out the Consulting Services.

## **3. CONSULTING FEES**

- 3.1. The Consultant must render Tax Invoices to the Consumer for the Consulting Services performed at the end of each month.
- 3.2. In consideration of the Consultant providing the Consulting Services to the Consumer, the Consumer covenants to pay to the Consultant, in return for the Consulting Services, the Consulting Fees within seven (7) days of the Consultant delivering a Tax Invoice to the Consumer for the Consulting Fees in accordance with this Clause and upon the acceptance of that Tax Invoice by the Consumer:
- 3.3. The Tax Invoice shall set out the days or time spent and the Consulting Fees payable together with a short description identifying the Consulting Services provided during that month and such other information as the Consumer may require;
- 3.4. Where the Consulting Fees are determined by reference to days or time spent, the Consultant shall attach to its Tax Invoice a copy of all applicable time sheets and any other such records which the Consumer may require.
- 3.5. The Consumer shall be entitled, as a pre-condition to any obligation to pay the Consultant, to request that the Consultant provide the Consumer with such further or other information or documentation as it may reasonably require in order to satisfy itself that the Consulting Services have been properly carried out and that the Consulting Fee as calculated on the Tax Invoice is true and correct and properly represents the time spent by the Consultant.

- 3.6. The Consultant shall include in its Tax Invoice to the Consuler all expenses incurred by the Consultant with the authority of the Consuler.

**4. COVENANTS AND REPRESENTATIONS BY THE CONSULTANT TO THE CONSULTER**

- 4.1. The Consultant undertakes, represents to and covenants with the Consuler that:

- 4.1.1. The Consultant has the necessary knowledge, experience, training and expertise to provide the Consulting Services in a professional and competent manner;
- 4.1.2. The Consultant will do all things necessary to ensure that the Consultant performs the Consulting Services at all times in a safe and competent manner;
- 4.1.3. The Consultant will do all things necessary to ensure that the Consultant is available as and when reasonably required by the Consuler in order to perform and carry out those Consulting Services;
- 4.1.4. The Consultant must not engage any other Person to provide the Consulting Services to the Consuler without the prior written consent of the Consuler;
- 4.1.5. The Consultant must follow all directions given by the Consuler, its other consultants (if any) or any authorised Person engaged by the Consuler as its project manager from time to time, in respect to the performance of Consulting Services;
- 4.1.6. The Consultant must carry out the Consulting Services to a standard satisfactory to the Consuler;
- 4.1.7. The Consultant must carry out the Consulting Services at such places as the Consuler may require;
- 4.1.8. The Consultant must complete all of the Consulting Services in a timely manner and in accordance with any times reasonably requested by the Consuler, its project manager (if any) or by any deadlines set by any applicable Project Plan;
- 4.1.9. The Consultant must ensure that the Consulting Services provided be of a quality reasonably acceptable to the Consuler, and to the satisfaction of its project manager (if any) and, if applicable, its Customers;
- 4.1.10. The Consultant must promptly provide from time to time, such information as the Consuler may reasonably require concerning the Consulting Services;
- 4.1.11. The Consultant must not do anything or fail to do anything which might cause embarrassment to the Consuler, the Consuler's Business, its Customers or

- potential Customers or bring the Consulter, the Consulter's Business, employees, Customers or potential customers or its Products into disrepute;
- 4.1.12. The Consultant must not do or omit to do anything which might cause the Consulter to be in breach of any of its obligations to Customers or which might cause the Consulter to be liable in tort, contract or liable under any Act, including any claims or liability pursuant to the *Trade Practices Act 1974* (Cth) and/or any relevant State *Fair Trading Act* or any other consumer legislation;
- 4.1.13. If required, the Consultant must, if requested by the Consulter, keep time sheets and such other records of Consulting Services performed for the Consulter and make those time sheets and records available to the Consulter within a reasonable period of time if so requested;
- 4.2. The Consultant promises and undertakes to the Consulter that the Consultant will at all times in the course of carrying out Consulting Services under this Agreement:
- 4.2.1. act diligently, ethically, soberly and honestly;
- 4.2.2. does not take or use any drugs, unless prescribed by a medical practitioner or lawfully available without prescription and used in accordance with directions;
- 4.2.3. does not by act or omission, commit any criminal offence;
- 4.2.4. does not act negligently or carelessly;
- 4.2.5. does not consume alcohol whilst providing Consulting Services or perform those Consulting Services under the effects of alcohol.
- 4.3. The Consultant will comply with all applicable OH & S legislation and all OH & S policies of the Consulter including but not limited to those relating to a smoke free work environment.
- 4.4. The Consultant will comply with all procedures, rules, regulations, standards of conduct and lawful directions of the Consulter in respect to the use of the Consulter's Facilities and in the communications and dealings with the Consulter.
- 4.5. The Consultant must not sexually harass any employee and/or Customer or unlawfully engage in any discriminatory behaviour whilst at the Consulter's premises or in any way connected with the Consulting Services.
- 4.6. The Consultant must not be engaged or involved in any other business apart from the provision of the Consulting Services whilst the Consultant is on the Consulter's premises, using the Consulter's Facilities or otherwise performing the Consultancy Services.



- 4.7. The Consultant must not commit any criminal offence and/or breach any Law or regulation which could adversely affect the interests of the Consuter, the Consuter's Business or the Consulting Services.
- 4.8. The Consultant must not represent in any way that the Consultant is an employee of the Consuter or that the Consultant is in any way associated with the Consuter or the Products other than as permitted under this Agreement.
- 4.9. The Consultant must, if required by the Consuter or (if applicable) any Customer, carry and display at all times appropriate identification and provide such identification as is reasonably necessary.
- 4.10. The Consultant must not otherwise act in any manner which could disrupt or adversely affect the Consuter, the Consuter's Business or the reputation of the Consuter. The Consultant must not disparage the Consuter at any time during the Term.
- 4.11. Unless otherwise agreed in writing with the Consuter, the Consultant must provide all of the necessary equipment and computers to enable the Consultant to properly and efficiently perform the Consulting Services. The Consultant acknowledges that the Consultant is solely responsible for maintaining all such equipment in good and safe working order and condition.

## **5. USE OF CONSUTER'S FACILITIES**

- 5.1. The Consultant must not use any of the Consuter's Facilities to:
- 5.1.1. publish any defamatory material;
  - 5.1.2. without authority copy any plan, document, sketch or design which copying is unauthorised and breaches any Intellectual Property and/or Confidential Information belonging to the Consuter or any other Person;
  - 5.1.3. harass, bully or discriminate against any Person;
  - 5.1.4. without authority use or disclose or in any way publish any Confidential Information or Customer Confidential Information;
  - 5.1.5. access, download, print or disseminate in any way any pornographic material;
  - 5.1.6. hold him or herself out as having any authority, entitlement, right or position which he or she does not have;
  - 5.1.7. do any act or thing which could be reasonably construed as misleading or deceptive or likely to mislead or deceive any Person.



## **6. GUARANTEES AND INDEMNITIES BY CONSULTANT**

- 6.1. If the Consultant fails to perform any of the Consultant's obligations to the satisfaction of the Consuler and/or any project manager appointed by the Consuler (if any), the Consultant covenants with the Consuler, that it shall promptly, upon receiving written Notice from the Consuler, arrange for another Person to carry out and/or perform any such outstanding obligation(s) to the full satisfaction of the Consuler and/or any such project manager.
- 6.2. The Consultant indemnifies the Consuler against any loss, liability or damage that the Consuler sustains as a direct or indirect consequence of any breach by the Consultant of any of its covenants or other obligations pursuant to or under the Agreement.

## **7. CONFIDENTIAL INFORMATION**

- 7.1. The Consultant covenants with the Consuler that:
- 7.1.1. The Consultant shall only use Confidential Information for the benefit of the Consuler and in the proper performance of the Consulting Services and shall not disclose any Confidential Information to any Person without the prior written consent of the Consuler.
- 7.1.2. The Consultant shall not use or disclose any Customer Confidential Information except to the extent permitted by the Customer and/or the Consuler for the purposes of properly performing their obligations under this Agreement.
- 7.2. The Consultant acknowledges to the Consuler and agrees that:
- 7.2.1. All Confidential Information is confidential to the Consuler;
- 7.2.2. All Confidential Information that may come into existence at any time after the date of this Agreement and during the Term whether as a consequence of this Agreement or otherwise is confidential to the Consuler;
- 7.2.3. All Confidential Information that is created by the Consultant in the course of the provision of Consultancy Services is confidential to the Consuler.
- 7.3. The Consultant shall not dispute or contest or assist any other Person in disputing or contesting the confidentiality of any Confidential Information and for the rights of the Consuler to have such information kept as Confidential Information.
- 7.4. If at any time the Consultant uses or accesses the Consuler's computers or computer network, then the Consultant agrees and acknowledges to the Consuler that the Consultant will at all times observe and abide by the Consuler's Computer Policy as set out in Schedule Three. The Consultant hereby indemnifies and agrees to keep

indemnified the Consuler against any loss, liability or damage which the Consuler might sustain as a direct or indirect result of the Consultant failing to comply with the Computer Policy.

## **8. INTELLECTUAL PROPERTY**

- 8.1. The Consultant acknowledges that the Consuler shall be the exclusive owner of all the Intellectual Property in all documents, software and training programs and/or manuals or Products in any way created or developed under or pursuant to the Agreement and/or the Consulting Services.
- 8.2. The Consultant covenants with the Consuler that the Consultant will, if requested to do so by the Consuler during the Term or at any time thereafter do all things and sign all documents reasonably necessary to assign fully the Consultant's interests both in law and in equity in any Intellectual Property (if any) to the Consuler at no charge to the Consuler.
- 8.3. The Consuler agrees to pay any expenses that have or will be incurred by the Consultant in carrying out any obligation under this clause.
- 8.4. The Consultant irrevocably appoints the Consuler as the Consultant's due and lawful attorney with full power to execute any document including any transfer or assignment to give effect to this clause.
- 8.5. Where the Consulting Services have involved the creation of any Software programs, and/or manuals by the Consultant, the Consultant acknowledges that all such Software and/or manuals are owned by the Consuler. The Consultant must provide a complete set of all such Software and manuals to the Consuler. The Consultant covenants with the Consuler not to use or allow any other Persons to use such Software or manuals.
- 8.6. Where any Software program or manual is reserved as the sole property of the Consultant then the Consultant hereby consents and agrees to the Consuler using at no charge the Software program or manual, but only for purposes of:
  - 8.6.1. Enabling the full and unfettered continued enjoyment of all the benefits by the Consuler of the Consulting Services provided by the Consultant; and/or
  - 8.6.2. Enabling the Consuler to provide the full and complete services and/or Products to its Customers; and/or
  - 8.6.3. Enabling the Consuler to fulfil and continue to fulfil any warranty or maintenance obligations it might owe to any Customers whether now or at any time in the future; and/or

8.6.4. Enabling the Consuler to continue to carry out any other obligations on its part to any Customers.

## **9. COVENANT NOT TO COMPETE OR SOLICIT CUSTOMERS**

- 9.1. For the purposes of protecting the goodwill of the Consuler's Business, the Consultant covenants with the Consuler that the Consultant shall not, without the Consuler's prior written consent, provide services or products identical or similar to the Consulting Services to any Customer or to any competitor of the Consuler.
- 9.2. The Consultant undertakes to the Consuler that the Consultant shall not during the Term or for twelve months thereafter, solicit or approach any Customers to provide or offer to provide to them services the same as or similar to the Consulting Services.
- 9.3. The Consultant undertakes and covenants with the Consuler not to solicit or attempt to solicit any employees of the Consuler with a view to inducing them to leave the employment of the Consuler.
- 9.4. The Consultant must not during the Term and for a period of twelve months after solicit or attempt to solicit any contractors or consultants engaged by the Consuler during the Term or any part thereof.

## **10. WHEN THE CONSULER CAN TERMINATE**

- 10.1. The Consuler may terminate the Appointment effective by giving written Notice to the Consultant to that effect if:
- 10.1.1. the Consultant being for whatever reason unable to perform the Consulting Services under this Agreement; or
  - 10.1.2. the Consultant committing a breach of any of the terms of the Agreement and failing to remedy the breach within seven (7) days of being requested by the Consuler to do so in writing or within such longer period as the Consuler may in its written request so specify; or
  - 10.1.3. if the Consultant is a corporation, the winding up of the Consultant or upon the appointment of any receiver to any of the assets of the Consultant or upon an Administrator or official manager being appointed pursuant to the *Corporations Act 2001 (Cth)* to the Consultant; or
  - 10.1.4. the Consultant committing any act or omitting to do any act which in the opinion of the Consuler constitutes Unsatisfactory Conduct; or
  - 10.1.5. the Consultant becoming insolvent; or
  - 10.1.6. the Consultant failing to meet any of its statutory obligations.



- 10.2. The Consuler may terminate this Agreement whether or not there has been any breach by giving the Consultant thirty (30) days prior written notice to that effect whether or not the Consulting Services have been completed and such termination will not be a breach of this Agreement and will not give rise to any claim for compensation or damages.

## **11. WHEN THE CONSULTANT CAN TERMINATE**

- 11.1. The Consultant may terminate the Appointment by giving thirty (30) days notice to the Consuler whether or not the Consulting Services have been completed and such termination will not be a breach of this Agreement and will not give rise to any claim for compensation or damages.
- 11.2. The Consultant may terminate the Appointment effective upon the issuing of a Notice to the Consuler to the effect if:
- 11.2.1. the Consuler breaches any terms of the Agreement and fails to remedy that breach within seven (7) days of being requested by the Consultant to do so in writing or within any longer period as the Consultant may in its request specify;
- 11.2.2. if the Consuler is a corporation, the Consuler is wound up or there is an appointment of any Administrator or any receiver to any assets of the Consuler or upon an official manager being appointed pursuant to the *Corporations Act 2001* (Cth).

## **12. PAYMENTS UPON TERMINATION**

- 12.1. Upon termination the Consuler shall only be liable to the Consultant for Consulting Services provided up to termination.
- 12.2. Where the Term is a shorter period than would otherwise be the case because it is terminated then the Consultant shall only be entitled to be paid Consulting Fees for work done up until the date of such termination.
- 12.3. The Consuler shall be entitled to set off against any outstanding Consulting Fees an amount, either in full or partial satisfaction on account of any loss, damage or liability which the Consuler has incurred as a direct or indirect consequence of any breach on the part of the Consultant of this Agreement.

## **13. RETURN OF CONFIDENTIAL INFORMATION AND OTHER PROPERTY OF THE CONSULER**

- 13.1. Upon termination of the Appointment for any reason, the Parties will use all reasonable commercial endeavours to return to each other all Confidential Information

and any Intellectual Property belonging to the other Party. Where such Confidential Information and/or Intellectual Property is incapable of being returned in tangible form, for example, if it is stored on computer hardware, then each Party undertakes with the other that it will, after providing copies to the other Party, destroy all electronic records of such Confidential Information and/or Customer Confidential Information.

- 13.2. The Consultant must return in a timely manner all property of the Consuter in the Consultant's possession, custody or power and covenants with the Consuter that if any such property cannot be returned in its original condition (fair wear and tear excepted) then the Consultant will reimburse the Consuter an amount equal to that item's market value.

#### **14. SURVIVAL CLAUSES**

- 14.1. Notwithstanding termination of this Appointment for any reason, all clauses of this Agreement that are expressly intended to continue to be binding and enforceable shall continue to be binding and enforceable. In addition, all obligations to pay any sum due prior to termination, keep Confidential Information confidential, keep Customer Confidential Information confidential, and all covenants not to compete, or solicit customers or employees and/or return and not use Intellectual Property or property of the Consuter shall continue to be fully binding and fully enforceable.

#### **15. RELATIONSHIP BETWEEN THE PARTIES**

- 15.1. The Parties acknowledge to each other that they are not in partnership, there is no joint venture or franchise arrangement between them or any two of them and that nothing in this Agreement gives rise to or creates an employer/employee relationship as between the Consuter and the Consultant.
- 15.2. The parties acknowledge that the only relationship that the Consuter has under this Agreement is that the Consultant is an independent contractor to the Consuter and the terms are as set out in this Agreement.
- 15.3. The Consultant shall not claim, or hold itself, himself or herself out to any Person as having any relationship, authority, right or entitlement to represent or act as agent of the Consuter or to have any interest or shareholding in the Consuter at any time during or after the Term.
- 15.4. The Parties shall in the performance of all their obligations to each other act in good faith, co-operate and act reasonably towards each other.

## **16. CONSULTANT'S OBLIGATIONS TOWARDS THE CONSULTER**

- 16.1. The Consultant acknowledges and covenants to the Consuler that the Consultant does not and will not at any time during the Term receive in excess of 80% of his or her gross income pursuant to or under this Agreement.
- 16.2. The Consultant represents to and covenants with the Consuler that:
- 16.2.1. the Consultant is fully covered for Workers Compensation Insurance at all times during the Term;
  - 16.2.2. it is the sole responsibility of the Consultant to pay all premiums in respect to the Workers Compensation Insurance and will provide to the Consuler at its request evidence to the satisfaction of the Consuler that the Consultant is in fact fully covered for Workers Compensation Insurance to the satisfaction of the Consuler;
  - 16.2.3. all superannuation and group tax obligations on behalf of the Consultant have been and will continue to be met, where due, by the Consultant and shall remain the sole responsibility of the Consultant;
  - 16.2.4. the Consultant shall be solely liable for and shall indemnify the Consuler in respect of and shall insure against any liability, loss, claim or proceedings whatsoever arising under any Law in respect of or in connection with the death of or injury to any person, or any loss of or damage to any property arising out of or in any way connected with or caused by the execution of the Consulting Services. Proof that such Insurances have been effected shall be furnished to the Consuler prior to the commencement of the Consulting Services.
- 16.3. The Consultant acknowledges to the Consuler that any breach of this Clause is a breach of an essential term and entitles the Consuler to terminate the Agreement immediately by giving notice to the Consultant to that effect.
- 16.4. In the event of any breach by the Consultant of this Clause, the Consultant must fully indemnify the Consuler for any loss or liability the Consuler might as a consequence incur or suffer.

## **17. NOTICES**

- 17.1. Any Notice to be served upon the Consultant pursuant to this Agreement may be effectively served:
- 17.1.1. by personally delivering the same to any officer of the Consultant or the Consultant; or



17.1.2. by personally delivering it to the registered office of the Consultant as shown as the address of the Consultant at the beginning of this Agreement; or

17.1.3. by sending it by facsimile transmission or email addressed to the Consultant at the facsimile number or email address as provided to the Consultant by the Consultant as its facsimile number or email address;

17.1.4. any Notice to be served upon the Consultant pursuant to this Agreement may be effectively served:

- (a) by personally delivering the same to any officer of the Consultant; or
- (b) by personally delivering it to the registered office of the Consultant as shown as the address of the Consultant at the beginning of this Agreement; or
- (c) by sending it by facsimile transmission or email addressed to the Consultant at the facsimile number or email address as provided to the Consultant by the Consultant as its facsimile number or email address.

17.2. Any address to which Notices under this Agreement may be served on any Party may be amended by that Party giving Notice of such a change.

## **18. WHOLE AGREEMENT**

18.1. The terms of this Agreement shall represent the entire terms of all agreements and understandings between the Consultant and the Consultant.

18.2. The Consultant acknowledges to the Consultant that all prior statements, representations, undertakings and promises (if any) given by the Consultant to the Consultant prior to the date hereof have not been relied on by the Consultant, and the Consultant agrees and acknowledges to the Consultant that the terms as contained in this Agreement constitute the entire Agreement between them.

## **19. GOVERNING LAW AND JURISDICTION**

19.1. This Agreement and the rights and obligations of the Parties hereunder shall be governed by and construed in accordance with the Laws of the State or Territory of Australia in which the Consultant has its registered office and the Commonwealth and the Parties hereto submit to the nonexclusive jurisdiction of the Courts of that State or Territory.

## **20. SEVERABILITY**

20.1. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be effective to the extent of such prohibition

or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability in such provision in any other jurisdiction.

**SAMPLE ONLY**  
YOUR DOCUMENT WILL VARY DEPENDING ON THE ANSWERS YOU  
PROVIDE THROUGH THE BUILDING PROCESS

**EXECUTED BY THE PARTIES AS AN AGREEMENT**

**SIGNED BY** )  
**Company Pty Ltd** )  
**ACN 111 222 333** pursuant to )  
Section 127 of the *Corporations Act* 2001 )  
(Cth) in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Director/Secretary

\_\_\_\_\_  
Print Name:

**SIGNED BY** )  
**Other Company Pty Ltd** )  
**ABN 333 222 111** )  
in the presence of:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name:



## **SCHEDULE ONE**

### **CONSULTING SERVICES**

The Consultant shall provide the following consulting services to the Consuler:

- Installation of air-conditioning unites
- Transport of Air-conditioning units
- Repairing units
- Callouts to client premise to test temperature
- Testing units
- Quoting of new units
- Adhere to OH & S procedure
- Attend meetings when required

## **SCHEDULE TWO**

### **CONSULTING FEES**

The Consultant is entitled to be paid consulting fees as follows:

The Consultant is paid \$225 per hour

### **METHOD OF PAYMENT**

The Consuler shall pay the Consultant the Consulting Fees on a monthly basis subject to first receiving a Tax Invoice for those monthly payments.

### **GST**

The Consultant must add and separately identify on each of its Tax Invoices all GST.

## **SCHEDULE THREE**

### **COMPUTER AND EMAIL POLICY**

1. Computers, computer files, computer software and the email system are the property of the Consuter and are intended to be used only for Consuter's Business.
2. Computers includes the entire computer network of the Consuter wherever located and not limited to host computers, file servers, application servers, communication severs, mail servers, fax servers, web servers, workstations, stand alone computers, laptops, handheld terminals, software, data files, firewalls and all internal and external computer and communications networks for internet commercial online services, value added networks and email systems that may be accessed directly or indirectly from the Consuter's computers or externally through dial-up connections and extended private networks.
3. The computer and email system must not be used in a manner that is disruptive or offensive to others. It will be a breach of this policy to access, download or send objectionable material including:
  - 3.1. pornography, including child pornography. You should be aware that accessing, downloading or sending child pornography is a criminal offence;
  - 3.2. material involving the instructions or promotion of crime, violence or hate;
  - 3.3. material involving an offensive description of violence to compel sexual conduct;
  - 3.4. material involving sexually degrading acts;
  - 3.5. material that is defamatory.
4. If you see another employee breaching this policy you must immediately inform management.
5. You must not download, view or send spam, junk mail or pop-ups because they may contain viruses, worms or "Trojan horses". If you receive any pornographic, spam or junk email, then it must be deleted immediately.
6. You are prohibited from intentionally creating or sending viruses, worms or "Trojan horses". You must do a virus check prior to opening any emails from unknown sources.

7. Whilst the occasional use of computers for personal purposes will be tolerated (provided this is not otherwise a breach of this policy), you must not do so excessively or allow such conduct to interfere with your normal duties.
8. If you violate this policy you may be terminated. You may also face immediate dismissal (depending upon the seriousness of your breach) for serious misconduct.
9. If you use any computer for an unlawful purpose you may be reported to the police if a crime is involved and any other appropriate authority and your employment with us may be terminated on the grounds of misconduct.
10. You must not, without the prior authorisation of the Consulter:
  - 10.1. Copy any software belonging to the Consulter;
  - 10.2. Provide copies of software belonging to the Consulter to any independent contractors, customers or third parties;
  - 10.3. Install any software on the Consulter's computers.
11. You must not use or copy any software in such a way as may breach any licences granted to the Consulter by any person.