



THIS AGREEMENT dated _____ is made BETWEEN:

- (1) First Choice Executives Online Pty Limited of 1-3 Barham Place, Horsley, NSW, 2530 (“EOL”); and
- (2) *(insert company name, registration number and trading address)*
 (“the Sub-Contractor”)

WHEREAS:

- (a) EOL has been retained by the Client identified in Schedule 1 to this Agreement to provide independent management services;
- (b) EOL now wishes to sub-contract the provision of such management services to the Sub-Contractor;
- (c) The Sub-Contractor is an independent contractor willing and able to provide such management services for the period contemplated by this Agreement.

NOW IT IS AGREED AS FOLLOWS:

1. **Services**

- 1.1 The Sub-Contractor will faithfully and diligently provide management services (“the Services”) via EOL to EOL’s client identified in Schedule 1 hereto (“the Client”) in connection with the Client’s Project (“the Project”) also identified in Schedule 1.
- 1.2 The Sub-Contractor will provide the Services from the Project commencement date referred to in Schedule 1 (“Project Commencement Date”) until this Agreement is terminated in accordance with paragraph 10.4 or paragraph 11 below. The estimated duration of the provision of the Services in connection with the Project is set out in Schedule 1.
- 1.3 EOL recognises that the Sub-Contractor offers specialist management services and expertise and therefore the Sub-Contractor will determine how it shall perform the



Services. The Sub-Contractor will use its best endeavours to agree with the Client where the Services are to be performed and what hours are to be worked on the Project on the Client's premises or elsewhere.

- 1.4 In performing the Services, the Sub-Contractor will use the skills and abilities of the personnel identified in Schedule 1 but for the avoidance of doubt, it will have the ability to use other personnel with suitable skill and expertise by way of substitution (referred to hereafter as "substitutes") subject to obtaining the prior written agreement of EOL.
- 1.5 Throughout the term of this Agreement, the Sub-Contractor shall, when required by EOL, give to it such written or oral advice or information regarding any of the Services as it may reasonably require.

2. Fees

- 2.1 In consideration of the Services provided by the Sub-Contractor, EOL shall pay to the Sub-Contractor fees at the daily rate set out in Schedule 1 hereto being a daily rate per person for each working day (or part thereof) spent by the Sub-Contractor's personnel (or substitutes) working on the Project (excluding (a) any statutory and/or bank holidays and/or other holiday leave; and (b) any other days taken as sick leave and/or other leave of absence), whether the Services are carried out at the Client's premises or elsewhere. Holidays taken by the Sub-Contractor's personnel and/or substitutes during the duration of this Agreement must be with the written consent of EOL. EOL reserves the right to require the Sub-Contractor to procure that its personnel and/or substitutes avoid taking holidays at times incompatible with the Client's Project priorities.
- 2.2 The Sub-Contractor acknowledges and accepts that if the Client decides not to proceed with the Project for whatever reason before the Sub-Contractor begins to provide the Services (at the Client's premises or elsewhere), no fees will be due from EOL to the Sub-Contractor.
- 2.3 In the event that at any time after the Project commencement date, the Sub-Contractor is not able or willing for whatever reason to continue to provide the Services, EOL will not be required to pay to the Sub-Contractor any further fees or other sums (whether by way of



compensation or otherwise) beyond the days its personnel (or substitutes) have already worked on the Project.

2.4 EOL will not be liable for making any payments to the Sub-Contractor in respect of any periods of absence of the Sub-Contractor's personnel and/or substitutes from work due to sickness, injury or otherwise.

2.5 In the event of unexpected or sudden absence from the Project of any of its personnel and/or substitutes for whatever reason, the Sub-Contractor must inform EOL and the Client forthwith on the first day of such absence.

3. **Expenses**

3.1 If in connection with providing the Services, the Sub-Contractor properly incurs any necessary and reasonable travel and/or other out-of-pocket expenses, it shall claim reimbursement thereof from the Client in accordance with the Client's normal reimbursement of expense rules and procedures. The Sub-Contractor acknowledges and accepts that EOL shall have no liability to it in respect of any such travel and/or other out-of-pocket expenses.

4. **Payment terms**

4.1 The Sub-Contractor will promptly submit invoices to EOL in respect of its fees monthly in arrears. EOL will pay such invoices by electronic transfer to the Sub-Contractor's designated bank account within thirty days of receipt by EOL of invoices. Invoices must detail the Sub-Contractor's company name, registration number, GST number, personnel engaged, client name, total days worked, month of the work and bank details.

4.2 The Sub-Contractor agrees that all its invoices submitted to EOL will be supported by completed activity reports (as previously supplied to it by EOL) signed by the Sub-Contractor's personnel and/or substitutes (but not by the Client unless specifically requested).



5. Status and Indemnification

5.1 The Sub-Contractor warrants and represents to EOL that it is an independent contractor and, as such, bears sole responsibility for the payment of any tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this Agreement in connection with the Services and further, the Sub-Contractor agrees to indemnify EOL (and to keep EOL indemnified) in respect of all and any tax and national insurance contributions which may be found due from EOL on any payments or arrangements made under this Agreement together with any interest, penalties or gross-up thereon.

6. Engagement

6.1 The Sub-Contractor agrees that it will not (unless otherwise agreed in writing by EOL) accept any appointment or engagement with, or otherwise render any other services to the Client or to any associated company of the Client ("associated company" in this Agreement means any firm belonging to or to any holding company, subsidiary or associate company of the Client) at any time from the date hereof for a period of six months following the termination of this Agreement.

6.2 Likewise, the Sub-Contractor will take whatever steps are necessary in order to ensure that the personnel identified in Schedule 1 (and/or any substitutes) will not (unless otherwise agreed in writing by EOL) accept any appointment or engagement with, or otherwise render any other services to the Client or to any associated company of the Client at any time from the date hereof for a period of six months following the termination of this Agreement.

7 Sub-Contractor's Obligations

7.1 The Sub-Contractor agrees on its own part and on behalf of its personnel and/or substitutes as follows:-

7.1.1 Not to engage in any conduct detrimental to the interests of EOL or the Client including any conduct tending to bring EOL or the Client into disrepute or which results in the loss of custom or business for EOL or the Client;



- 7.1.2 To be present during those times each day and/or week of the Project as may be agreed with EOL or the Client;
- 7.1.3 To take all reasonable steps to safeguard its own safety and the safety of any other person or persons who may be affected by its work on the Project;
- 7.1.4 To comply with all statutory obligations and codes of practice to which the Sub-Contractor is subject in respect of its personnel and/or substitutes;
- 7.1.5 To comply with any rules or obligations in force at the premises where the Services are performed during the Project to the extent that they are reasonably applicable;
- 7.1.6 To co-operate with the Client and accept the direction of any person in the Client's organisation to whom it is required to report and to comply with all reasonable and lawful instructions (within the scope of the Project) given by the Client;
- 7.1.7 To furnish EOL forthwith with any progress reports as may be requested from time to time;
- 7.1.8 To comply with all the requirements of GST legislation and the Companies Acts;
- 7.1.9 To notify EOL forthwith in writing in the event that:-
 - (i) the Sub-Contractor passes a resolution or has an Order made for its winding-up other than for the purpose of reconstruction or amalgamation; or
 - (ii) a receiver or administrative receiver is appointed over all or any of the property or assets of the Sub-Contractor; or
 - (iii) an application is made for the appointment of an administrator (as defined in the Insolvency Act 1986) of the Sub-Contractor
- 7.1.10 To assist EOL (if so requested) in progressing payment by the Client of any overdue EOL invoices;
- 7.1.11 To inform EOL forthwith if the Sub-Contractor knows or suspects that the Client is in any form of financial difficulty (including, without limitation, that the Client is or may be unable to pay its debts).

8 **Confidentiality**

8.1 The Sub-Contractor will not (and shall procure that the personnel identified in Schedule 1 and/or any substitutes shall not) disclose or use or cause to be disclosed or used, at any time during or subsequent to this Agreement, any secret or confidential information of (i) EOL, (ii) the Client, or any associated company of the Client or (iii) any of the customers of the Client or of any associated company of the Client, except as required by EOL in connection with the Sub-Contractor's performance of this Agreement or as required by law. Secret or confidential information includes (without limitation) all and any information about business plans, maturing new business opportunities, research and development projects, product formulae, processes, inventions, designs, discoveries or know-how, sales statistics, marketing surveys and plans, costs, profit or loss, prices and discount structures, the names, addresses and contact details of customers and potential customers or suppliers and potential suppliers (whether or not recorded in writing or on computer disk or tape) which EOL, the Client, any associated company of the Client, or any customers of the Client or of any associated company of the Client treat or treats as confidential. On the termination of this Agreement all confidential information in written form (including that held on computer disk or tape) will be returned forthwith by the Sub-Contractor to EOL and/or the Client (as appropriate).

9 **Share Dealing**

9.1 The Sub-Contractor will not in any circumstances deal (and will procure that its personnel and/or substitutes will not deal) in any shares or securities of the Client (or any holding company, subsidiary or associated company of the Client) without the prior written permission of the Client; nor shall the Sub-Contractor advise or otherwise influence any other party or parties to deal in such shares and/or securities if the Sub-Contractor has gained information (whether deliberately or accidentally) which could be described as "insider information" or similar.

10 **Liability**

- 10.1 Other than in respect of the payment of the Sub-Contractor's fees properly due, EOL shall not be liable to the Sub-Contractor in respect of any losses suffered or incurred by it arising out of or in connection with the provision of the Services . If, however, for whatever reason, any liability shall be found to attach to EOL, any damages and/or other sums payable shall be limited to the amount of any fees already paid to the Sub-Contractor by EOL as at the date such liability arises.
- 10.2 The Sub-Contractor acknowledges and accepts that it shall be responsible for taking out full and proper insurance cover (including, inter alia, cover for professional indemnity, public liability, motor and equipment) in connection with its provision of the Services.
- 10.3 At all times, EOL shall have the right to determine what shall be the appropriate level of insurance cover as referred to in paragraph 10.2 above and shall have the right to inspect such insurance policies as are taken out by the Sub-Contractor from time to time (the Sub-Contractor being obliged to produce copies of such insurance policies to EOL within three days of any request made by EOL).
- 10.4 If for whatever reason, EOL is dissatisfied with the level or type of insurance cover taken out by the Sub-Contractor, the Sub-Contractor shall increase or amend such cover within a period of seven days as directed by EOL. If the Sub-Contractor shall fail to do so to EOL's satisfaction within the aforesaid seven day period, EOL shall have the right to terminate this Agreement forthwith and without further notice (and without any further payment to the Sub-Contractor other than in respect of any days already worked in connection with the Project and for which the Sub-Contractor has not already received payment).
- 10.5 The Sub-Contractor shall be liable for any loss, damage or injury to any party or parties (including EOL, the Client, or their officers, servants or agents) resulting from its negligent acts or omissions during the provision of the Services (including the negligent acts or omissions of any of the personnel identified in Schedule 1 and/or any substitutes) and shall indemnify and keep indemnified EOL against any claim or claims made by the Client and/or by any other party or parties in relation to such negligent acts or omissions.



10.6 The Sub-Contractor acknowledges that all copyright, trademarks, patents and other intellectual property rights deriving from the provision of the Services carried out by the Sub-Contractor and its personnel and/or substitutes for the Client during the Project shall belong to the Client.

11 Termination

11.1 In addition to termination as set out in paragraph 10.4 above, EOL may by written notice terminate this Agreement forthwith at any time and without further liability to EOL if:-

11.1.1 subject to sub-clause 11.1.3 below, the Sub-Contractor shall have been in breach of any term of this Agreement which, in the case of a breach capable of remedy, shall not have been remedied by the Sub-Contractor within three days of receipt by the Sub-Contractor of a written notice from EOL specifying the breach and requiring its remedy; or

11.1.2 the Sub-Contractor shall have refused or failed within a reasonable time to provide any one or more of the Services after being instructed in writing by EOL to do so; or

11.1.3 the Sub-Contractor shall have acted in breach of any of its obligations appearing in clauses 7, 8, and/or 9 above and in the reasonable opinion of EOL the breach or breaches is/are incapable of remedy under sub-clause 11.1.1 above; or

11.1.4 the Sub-Contractor passes a resolution or has an Order made for its winding-up other than for the purpose of re-construction or amalgamation; or

11.1.5 a receiver or administrative receiver is appointed over all or any of the property or assets of the Sub-Contractor; or

11.1.6 an application is made for the appointment of an administrator (as defined in the Insolvency Act 1986) of the Sub-Contractor; or

11.1.7 the Sub-Contractor becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or

11.1.8 for any reason, the Sub-Contractor proves unsatisfactory to the Client.



11.2 The Sub-Contractor acknowledges and accepts that the continuation of this Agreement is subject to and is conditioned by the continuation of a main agreement (“the Main Agreement”) between EOL and the Client. In the event that the Main Agreement between EOL and the Client is terminated for any reason, this Agreement (between EOL and the Sub-Contractor) shall cease with immediate effect without any liability attaching to EOL (save for any fees due to the Sub-Contractor for work undertaken up to and including the date of termination of the Main Agreement).

11.3 Other than as set out in clause 11 above (or as set out elsewhere in this Agreement), EOL and the Sub-Contractor shall have the right at any time after a period of two months following the Project commencement date to terminate this Agreement by giving not less than one month’s written notice. In the event that (a) the Sub-Contractor gives to EOL less than one month’s written notice of termination or (b) before the expiration of the aforesaid two month period following the Project Commencement Date, the Sub-Contractor gives EOL notice to terminate; this shall constitute a breach of this Agreement and shall entitle EOL to claim damages from the Sub-Contractor for any resulting loss suffered by EOL (including consequential loss).

12 **Entire Agreement**

This Agreement (together with any Pre-Contract Agreement previously entered into between EOL and the Sub-Contractor) contains the entire agreement of EOL and the Sub-Contractor. Any variation or addition to its terms (including Schedule 1) shall only be effective if agreed to in writing by both parties.

13 **Law and Jurisdiction**

EOL and the Sub-Contractor acknowledge and accept that this Agreement shall be construed and interpreted in accordance with Australian law and both agree to submit to the exclusive jurisdiction of the Australian Courts in the event of any dispute.

SCHEDULE 1

- CLIENT NAME:
- CLIENT ADDRESS:
- SUB-CONTRACTOR LTD COMPANY:
- SUB-CONTRACTOR'S BASE LOCATION:
- SUB-CONTRACTOR'S PERSONNEL WORKING ON PROJECT:
- PROJECT SUMMARY:
- PROJECT COMMENCEMENT DATE:
- PROJECT ESTIMATED DURATION:
- PROJECT LOCATION:
- EXPENSES: At cost payable directly by the Client to the Sub-Contractor
- NORMAL DAY RATE FEE: A\$ per person per day or part thereof (plus GST)

IN WITNESS whereof this Agreement has been executed on the date first before written by the undersigned persons who are duly authorised by the respective parties :-

For EOL:

By

Signed

For the Sub-Contractor:

By

Signed