

SUB-CONTRACTOR AGREEMENT

THIS AGREEMENT is made on

BETWEEN

Beau Andre Homes (.....) of 155 Torquay Road, Grovedale, Victoria, 3216 (**the "Company"**).

- AND -

..... (.....) of (**the "Sub-Contractor"**)

BACKGROUND

- A. The Company has been retained by its Client to provide Services from time to time as specified by the Service Order in Schedule 2 of this Agreement;
- B. The Company now wishes to sub-contract the provision of such Services to the Sub-Contractor;
- C. The Sub-Contractor is an independent contractor willing and able to provide such Services for the period contemplated by the Service Order in Schedule 2 of this Agreement.

LEGAL TERMS

1. Definitions and interpretation

1.1. Definitions

Business Day means a day on which banks are open for general banking business in Victoria

Commencement Date means the commencement of this Agreement as specified in Schedule 1;

Confidential Information means confidential information, in relation to a party, that by its nature or as designated by a party, which relates to the subject matter of this Agreement and includes:

- (a) information relating to the business or financial position of the party;
- (b) information relating to the internal management and structure of the party, or the personnel, policies or strategies of the party;
- (c) information supplied to a party that has any actual or potential commercial value to the party that supplied that information;
- (d) information from suppliers of goods or services to a party which relate to or is provided in connection with the Services, regardless of who supplies that information to a party;
- (e) information in the party's possession relating to the other party's clients or suppliers and like information;
- (f) information relating to the design, specifications and content or any portion of the

- Service, in object and source code form, and any related technology, ideas, algorithms or any trade secrets;
- (g) information relating the terms upon which the Service is to be distributed and marketed pursuant to this Agreement, and
 - (h) in the case of the Company, any of the above information relating to Client and any Client details;

Corporations Act means the *Corporations Act 2001* (Commonwealth);

Client means a person who contracts to be supplied with all or some of the Service, for itself or for its end-users as specified in the clause 'Service Ordering';

Defect or Defective means:

- (a) any fault, failure, degradation, deficiency, error or non-conformance of a product or Service with the specification or other provision of this Agreement;
- (b) the product or Service does not function or perform in accordance with the specification or other provision of this Agreement, but excludes any minor non-performance or lack of functionality which does not affect the Company's delivery of the Service; or
- (c) any partial performance or non-performance of a Product or Service;

Deliverable means:

- (a) the deliverables specified in the Service Order; and
- (b) the outputs from the Services described in the Service Order in Schedule 2; and
- (c) all other material created by the Subcontractor as part of the Services;

Force Majeure means an act of God, war (declared or undeclared), blockade, disturbance, lightning, fire, earthquake, storm, flood, explosion, governmental or quasi governmental restraint, expropriation, prohibition, intervention, direction or embargo, which could not have been prevented by reasonable precautions, but does not include an Insolvency event;

GST means any goods and services tax imposed by the A New Tax System (Goods and Services Tax) Act 1999 as amended or replaced from time to time, and any associated legislation, e.g. any Act that imposes GST, and any regulations, to the extent they relate to any such legislation;

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the *Corporations Act*);
- (b) it has had a Controller appointed, or is in liquidation, in provisional liquidation, under administration or wound up or has had a Receiver appointed to any part of its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved

- by the other parties to this Agreement);
- (d) an application or order has been made, resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the above;
 - (e) it is taken (under section 459(F)(1) of the *Corporations Act*) to have failed to comply with a statutory demand;
 - (f) it is the subject of an event described in section 459(C)(2)(b) or section 585 of the *Corporations Act* (or it makes a statement from which another party to this Agreement reasonably deduces it is so subject);
 - (g) it is otherwise unable to pay its debts when they fall due; or
 - (h) something having a substantially similar effect to any or all of the above happening in connection with that person under the law of any jurisdiction;

Intellectual Property Rights means all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trade marks, trade secrets, know-how, confidential information, patents, invention and discoveries and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967 and "Intellectual Property" has a corresponding meaning;

Service Order has the meaning given in the ("Service Ordering") clause and as specified in Schedule 2 of this Agreement;

Performance means the completed performance of the Service by the Sub-Contractor, in satisfaction of the Sub-Contractor's obligations under the relevant Contract in respect of that Service as specified in the Service Order in Schedule 2, and Perform and Performed have corresponding meanings;

Performance Date means the date agreed between the parties for the supply of the Services; or in respect of a Periodic Service Supply, the date specified in the Order as specified in the Service Order in Schedule 2;

Personal Information means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained, from the information or opinion or about the affairs or personal particulars of a legal entity such as a company or business which is received or learnt by each party from any source as a consequence of or in the performance of its rights and obligations under this Agreement;

Price means the price for the Performance of the Services by the Sub-Contractor in accordance with this Agreement, as set out in schedules 2;

Privacy Act means the Privacy Act 1988 (Cth);

Privacy Laws means:

- (a) the Privacy Act, the Telecommunications Act 1997 (Cth), and the Telecommunications (Interception and Access) Act 1979 (Cth); and

- (b) any other legislation, principles, industry codes and policies relating to the collection, use, disclosure, storage or gaining of access rights to Personal Information, which the Company notifies the Sub-Contractor is a Privacy Law for the purposes of this Agreement;

Service means the service described in Schedule 1 or as updated and agreed from time to time in the Service Order in Schedule 2.

1.2. Interpretations

In this Agreement, headings are only for convenience and do not affect interpretation and, unless the context requires otherwise:

- (a) a reference to a numbered Item is a reference to the information in that numbered Item in schedule 1;
- (b) words in the singular include the plural and the plural include the singular;
- (c) words of one gender include any gender;
- (d) an expression indicating a person includes an individual, a company, partnership, joint venture, association, corporation or other body corporate;
- (e) a reference to a party to this Agreement includes that party's successors and permitted assigns;
- (f) a reference to a clause, party or schedule, is a reference to a clause of, and a party and schedule to, this Agreement and a reference to this Agreement includes any schedule or annexure;
- (g) a reference to legislation includes any amendment to that legislation, any consolidation or replacement of it, and any subordinate legislation made under it;
- (h) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (i) no rule of construction applies to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or any part of it; and
- (j) where the day on or by which something must be done is not a Business Day, that thing must be done on or by the next Business Day.

1.3. Inconsistency between documents comprising this Agreement

Unless the contrary intention is expressed, if there is an inconsistency between any of one or more of:

- (a) this document;
- (b) a schedule; and
- (c) a document expressly incorporated by reference in this document or a schedule, the order of precedence between them will be the order listed above.

2. Term of Agreement

2.1. This Agreement takes effect from the Commencement Date and subject to clause 12 (Termination), continues until the Expiry Date as specified in Schedule 1.

3. Services

3.1. The Sub-Contractor will faithfully and diligently provide the Services to the Company in accordance with the terms and conditions of this Agreement.

3.2. The Sub-Contractor throughout the term of this Agreement, will provide the Services from time to time for each of the Clients of the Company during each service period as specified by the Service Order in Schedule 2 of this Agreement.

4. Fees

4.1. In consideration of the Services provided by the Sub-Contractor, the Company shall pay the Sub-Contractor fees as set out in Schedule 1 or as specified by each Service Order in Schedule 2 of this Agreement.

4.2. Prior to the acceptance of a Service Order the Sub-Contractor must provide a price quote for each Service Order as specified in Schedule 2, and once accepted by the Client the fees cannot be revised.

4.3. The Sub-Contractor acknowledges and accepts that if the Client decides not to proceed with the Services for whatever reason before the Sub-Contractor begins to provide the Services, no fees will be due from the Company to the Sub-Contractor.

4.4. In the event that at any time after the Commencement Date, the Sub-Contractor is not able or willing for whatever reason to continue to provide the Services, the Company will not be required to pay to the Sub-Contractor any further fees or other sums (whether by way of compensation or otherwise) beyond works already carried out.

5. Payment terms

5.1. The Sub-Contractor will promptly submit invoices to the Company in respect of its fees as set out in Schedule 1 or as specified under each Service Order in Schedule 2 of this Agreement. Invoices must detail the Sub-Contractor's company name, registration number, GST number, description of the Services provided and bank details.

5.2. The Sub-Contractor agrees that all its invoices submitted to the Company will be supported by completed activity reports signed by the Sub-Contractor.

5.3. The Company will pay a correctly rendered service invoice within 14 Business Days.

5.4. If the Company disputes in good faith an amount in a service invoice proposed by the Sub-Contractor, the Sub-Contractor must in writing within 30 days of the date of the Service invoice set out the reasons for its dispute and the amounts in dispute.

5.5. The parties must use reasonable endeavours to promptly resolve any dispute

notified under the dispute resolution clause.

6. Status and indemnification

6.1. The Sub-Contractor warrants and represents to the Company that it is an independent contractor and, as such, bears sole responsibility for the payment of any tax and superannuation 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 the Company (and to keep the Company indemnified) in respect of all and any tax and superannuation contributions which may be found due from the Company on any payments or arrangements made under this Agreement together with any interest, penalties or gross-up.

7. Non-solicitation

7.1. The Sub-Contractor agrees that it will not (unless otherwise agreed in writing by the Company) accept any appointment or engagement with, or otherwise render any services to the Client or to any related entity of the Client at any time from the date of this Agreement and for a period of 6 months following the termination of this Agreement.

7.2. Likewise, the Sub-Contractor will take whatever steps are necessary in order to ensure that any of its personnel working in providing the Services to the Client will not (unless otherwise agreed in writing by the Company) accept any appointment or engagement with, or otherwise render any services to the Client or to any related entity of the Client at any time from the date of this Agreement and for a period of 6 months following the termination of this Agreement.

8. Obligations of Sub-Contractor

8.1. The Sub-Contractor undertakes to use its best endeavours during the term of this Agreement to provide the Services to the Clients within the agreed timeframe.

8.2. The Sub-Contractor warrants that it is able to perform its obligations under this Agreement and each Services contemplated by the Service Order in Schedule 2.

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

- (a) Not to engage in any conduct detrimental to the interests of the Company or the Client including any conduct tending to bring the Company or the Client into disrepute or which results in loss of custom or business for the Company or the Client;
- (b) to take all reasonable steps to safeguard its own safety and the safety of any person or persons who be affected by its work in relation to the Services;
- (c) to furnish the Company with any progress reports as may be requested from time to time;
- (d) to comply with all requirements of GST Legislation and the *Corporations Act* 2001;

- (e) to notify the Company 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;
 - (iv) to inform the Company, 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).

9. Service Ordering

9.1. The Company will submit a Service Order as specified in Schedule 2 of this Agreement to the Sub-Contractor in respect of each request for the supply of the Services.

9.2. The Order must specify:

- (a) the person making the order;
- (b) a description of the Service (including, where relevant, an item number);
- (c) the Price of the Service;
- (d) the date for Delivery of the Performance of the Service, with regular reporting obligations;
- (e) the reference and order number of this Agreement; and
- (f) any other information relevant for the performance and completion of the Service deemed appropriate by the Company.

9.3. The Sub-Contractor must perform the Order within the agreed timeframe.

10. Reporting

10.1. The Sub-Contractor will appoint a representative who will be the principal contact with the Company for any issues relating to the Services. The Sub-Contractor will use its best endeavours to ensure that this representative is appropriate for the duties expected of that person as contemplated by this Agreement.

10.2. The Sub-Contractor will provide to the Company on a monthly basis or on any other agreed time, information relating to the Services that is reasonably required by the Company:

- (a) to enable The Company to monitor progress of the Service;
- (b) to assist in complying with its regulatory obligations and its obligations to report on compliance with those obligations; and

- (c) to provide updates to the Client.

11. Performance

11.1. If the Sub-Contractor reasonably believes that the Service under this Agreement will not be Performed by the Performance Date for that Service, the Sub-Contractor must give the Company prompt Notice of that fact, and extend the time for Performance of the Service to a later Performance Date.

12. Intellectual Property

12.1. The parties agree that other than as provided in this Agreement, nothing in this Agreement transfers ownership in, or otherwise grants any rights in, any Intellectual Property Rights of a party.

12.2. If either party provides any material to the other party that contains any Intellectual Property Rights which were developed independently of this Agreement by the first party ("Pre-Existing Material"), then the first party grants to the other party a non-transferable, non-exclusive, royalty-free licence to use, reproduce, copy, add to, modify and communicate the Pre-Existing Material solely for the purpose of:

- (a) in the case of the Sub-Contractor, meeting its obligations to the Company under this Agreement; and
- (b) in the case of the Company, using the Deliverables and Services for any purpose or permitting any other person to use the Pre-Existing Material for such purposes.

12.3. Notwithstanding any other provision of this Agreement, if any material (excluding Deliverables licensed to the Company under this Agreement) is created by Sub-Contractor which contains or was created using any the Company Intellectual Property ("Created Material"), then upon its creation, Sub-Contractor:

- (a) assigns all of the Intellectual Property Rights in the Created Material to the Company and will obtain any Moral Rights waivers and consents necessary. This assignment operates as an assignment of future Intellectual Property Rights to the extent that the Created Material is not in existence at the date of this Agreement; and
- (b) will deliver any or all of the Created Material to the Company and delete all copies in the Sub-Contractor's possession or control.

12.4. The parties acknowledge and agree that the Intellectual Property Rights in the Deliverables will be assigned to the Company.

12.5. The Sub-Contractor assigns to the Company all rights, title and interest (including all Intellectual Property Rights) in the Deliverables (together, the "Assigned Material"). This assignment operates as an assignment of future Intellectual Property Rights to the extent that the Assigned Materials are not in existence at the date of this Agreement.

12.6. For the avoidance of doubt the ownership of all materials developed in providing

the Services vests with the Company absolutely.

12.7. The Sub-Contractor accepts that any attempt to copy or reverse-engineer the Company's Intellectual Property by its personnel, and/or substitutes and/or sub-contractors will entitle the Company to apply for an injunction and seek damages at the Supreme Court of New South Wales at the Sub-Contractor's expense, including damages for consequential loss.

13. Termination

13.1. Either Party may terminate this Agreement on giving 14 days written notice to the other Party of its intention to terminate if the other party:

- (a) has failed to comply with any of its obligations under this Agreement and fails to comply before expiry of the 14 days day notice period;
- (b) becomes unable and or unwilling to perform any or all of its obligations and take all actions contemplated under this Agreement.

13.2. Either Party may terminate this Agreement by written notice to the other Party with immediate effect if the other party is Insolvent.

13.3. Invoices for Services rendered prior to effective date of termination will be honoured, but the Company will have no further liability to the Sub-Contractor.

13.4. Termination of this Agreement does not affect the Company's obligation to supply the Services to Customers nor its rights to terminate or amend its services pursuant to Agreements with those Customers.

14. Limited warranties and disclaimers

14.1. The Sub-Contractor warrants that its Services will be performed in a professional and workmanlike manner consistent with generally accepted industry standards. This warranty shall be valid for ninety (90) days from performance of the relevant Service or up to any other agreed time specified in the Service Order in Schedule 2. Specific results from the provision of such Services will need to be assured or guaranteed by the Sub-Contractor.

14.2. To the maximum extent permitted by law, the warranty above is exclusive and in lieu of any conditions or warranties of any kind, whether express or implied, statutory or otherwise, with respect to this Agreement, or any Services provided by the Sub-Contractor to the Company, including, without limitation, any implied warranties of satisfactory quality and fitness for a particular purpose. In particular, the sub-contractor warrants that the services will meet the company's and the client's requirements, that the operation of the service will be uninterrupted or error-free or that all service defects or errors will be corrected.

14.3. The Sub-Contractor's Services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and

- to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure, you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

15. Liability

15.1. If any law implies any condition or warranty into this Agreement, and that law avoids or prohibits provisions excluding or modifying the operation of such condition or warranty, then to the extent permitted by law, the Sub-Contractor's liability for any breach of such a condition or warranty is limited to, at the Company's option:

- (a) if the breach relates to goods:
- (b) the repair or replacement of such goods or the supply of equivalent goods; or
- (c) the payment of the cost of repairing or replacing such goods or supplying equivalent goods; or
- (d) if the breach relates to services:
- (e) the supply of the services again; or
- (f) the payment of the cost of having the services supplied again.

15.2. Other than in respect of the payment of the Sub-Contractor's fees properly due, the Company shall not be liable to the Sub-Contractor in respect of any losses suffered or incurred by its 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 the Company, any damages and/or other sums payable shall be limited to the amount of any fees already paid to the Sub-Contractor by the Company as at the date such liability arises.

15.3. The Sub-Contractor shall be liable for any loss, damage or injury to any party or parties (including the Company, the Client, or their officers, servants or agents) resulting from its negligent acts or omissions during the provision of the Services (including negligent acts or omissions of any of the personnel and/or any substitutes) and shall indemnify and keep indemnified the Company against any claim or claims made by the Client and/or by any party or parties to such negligent acts or omissions.

15.4. The above clause does not apply to any indemnity given under this Agreement in respect of a breach of any applicable laws, policies, industry codes or standards.

16. Maintenance and support

16.1. The Sub-Contractor will use its best endeavours to rectify any Defect that is reported to it, or of which it becomes aware during the Term and will promptly notify the Company of any such Defect.

16.2. Where the Client or the Company notifies of a defect, the Sub-Contractor, must ensure such defects are rectified promptly.

16.3. Where the Sub-Contractor provides maintenance and support services as specified in the Service Order in Schedule 2, then the Sub-Contractor must ensure that all such maintenance and support services are carried out within reasonably acceptable response or resolution times agreed with the Company.

17. Relationship of parties

17.1. Nothing in this Agreement (or any of the arrangements contemplated by it) is or may be deemed to constitute a partnership or joint venture or a relationship of employer and employee between the Parties nor, except as may be expressly set out in this Agreement, does it constitute either Party being the agent of the other for any purpose.

17.2. Unless the Parties otherwise agree in writing, neither may enter into contracts or commitments with third parties as agent for the other Party, or describe itself as such an agent or in any way hold itself out as being such an agent.

17.3. Neither Party shall incur any liability on behalf of the other or in any way represent or bind the other Party in any manner whatsoever.

18. Dispute Resolution

Appointment of Representative

18.1. The parties undertake to use all reasonable efforts in good faith to attempt to resolve any Dispute which arises between them in connection with this Agreement.

Notice of Dispute

18.2. Either the Company or Sub-Contractor may give the other party a Notice of Dispute in connection with this Agreement in accordance with the clause below.

Limited Rights to Commence Proceedings

18.3. A party may not commence legal proceedings (except proceedings seeking injunctive relief or provisory/conservatory measures) in respect of any dispute, claim or controversy arising out of or relating to this Agreement (hereinafter the "Dispute") until after the completion of the initial mediation session as described below, or sixty (60) days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire.

Dispute not Resolved - Mediation

18.4. If after a period of thirty (30) business days or such other reasonable period as is agreed to by the parties after delivery of a Notice of Dispute under this clause, the parties have not been able to resolve a Dispute or agree on a process to resolve a Dispute, the parties expressly agree to try to settle the dispute by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to litigation. The mediation must be conducted in accordance with the ACDC Guidelines for Commercial Mediation which are operating at the time the matter is referred to ACDC (Guidelines). The Guidelines set out the procedures to be adopted, the

process of selection of the mediator and the costs involved. The terms of the Guidelines are deemed to be incorporated into this Agreement.

18.5. Notwithstanding the foregoing, the Parties expressly agree that the mediation shall be conducted in accordance with the following principles which shall prevail over the Guidelines in the event of a contradiction between such principles and the Guidelines:

- (a) The parties will cooperate with ACDC and with one another in selecting a mediator from ACDC panel of neutrals, and in scheduling the mediation proceedings.
- (b) The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs.
- (c) All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any ACDC employees, are confidential.

18.6. This clause survives termination of this Agreement.

19. General

Acknowledgements / Entire Agreement

19.1. This Agreement, together with any Schedules issued hereunder, constitutes the entire understanding between the Parties and supersedes any and all prior and contemporaneous Agreements, understandings or representations, written or oral, with respect to the subject matter hereof. In case of inconsistency between the terms of this Agreement and any of the Schedules, the latter shall prevail unless otherwise expressly provided.

19.2. Each Party acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and conditions, and that it has not entered into this Agreement in reliance upon any representation made by the other Party but not embodied herein.

Mutual Warranties

19.3. Each of the parties represents and warrants to the other that:

- (a) it has full power and authority and the legal right to sign and deliver this Agreement, and to perform its obligations;
- (b) this Agreement and the transactions contemplated by it do not contravene its constituent documents or any law, regulation or official directive or any of its obligations or undertakings;
- (c) this Agreement has been duly signed and delivered on its behalf;
- (d) the obligations undertaken by it in this Agreement are enforceable against it in accordance with the terms; and
- (e) its officers and representatives described in this Agreement or nominated under

this Agreement have the authority to act for and on behalf of it in relation to the matters within their authority under this Agreement, unless the party notifies the other party to the contrary.

Privacy

19.4. Each party must comply with all Privacy Laws in relation to the Personal Information, whether or not the party is an organisation bound by the Privacy Act.

Confidentiality

19.5. Each Party to this Agreement must keep all Confidential Information it obtains concerning each other's affairs and must not use such information for any purpose other than as provided for under the terms and conditions of this Agreement unless otherwise agreed in writing. Information regards as confidential includes but is not limited to: the terms of this Agreement, information relating to the other Party's business plans, finances, mode of operation, technology, know-how, customers, business partners, products and services.

Set-off

19.6. The Company may set off any amounts it owes to the Sub-Contractor against any amounts payable by the Sub-Contractor to the Company.

Goods and Services Tax

19.7. All amounts referred to in this Agreement are exclusive of GST. If any supply under this Agreement is a taxable supply, the party making the supply:

- (a) may, in addition to any payment for the supply, recover the amount of the GST applicable to the supply; and
- (b) will issue a tax invoice to the recipient within 15 days of making the taxable supply.

19.8. The Sub-Contractor remains fully responsible for the performance of the Services in accordance with this Agreement notwithstanding the engagement of a sub-contractor in accordance with clause 18.8.

Notices

19.9. A notice or other communication required or permitted to be given by a Party to another must be in writing, and

- (a) delivered personally; or
- (b) sent by prepaid post; or
- (c) sent by facsimile transmission;
- (d) to that Party's address for service that is set out in the Schedule.

19.10. A notice or other communication will be taken, for the purposes of this Agreement, to have been given:

- (a) if personally delivered, upon delivery;
- (b) if mailed, on the expiration of 2 business days after the day of posting; or
- (c) if sent by facsimile transmission before 5:00 pm, on the day it is sent (or, if not sent before 5:00 pm or that is not a business day, on the next business day).

No Waiver

19.11. No failure, delay, relaxation or indulgence by a Party in exercising any power or right conferred upon it under this Agreement will operate as a waiver of that power or right. No single or partial exercise of any power or right precludes any other or future exercise of it, or the exercise of any other power or right under this Agreement.

No Variation

19.12. This Agreement may not be varied, modified or amended except in a written document signed by a duly authorised representative of each Party and no other act, document, usage or custom shall be deemed to vary, modify or amend this Agreement.

Assignment

19.13. The rights granted herein are restricted for use solely by Sub-Contractor, subject to the limitations set forth herein. Sub-Contractor may not assign this Agreement to a third party (i.e. a legal entity separate from Sub-Contractor including, for the avoidance of doubt, any of the Affiliated Entities) without the Company's prior written consent and any such attempt shall be void.

19.14. The Sub-Contractor acknowledges and agrees that the Company may transfer all of its rights and obligations to any one of its Affiliated Entities, which shall be bound, mutatis mutandis, by the terms of this Agreement.

Severability

19.15. If any provision of this Agreement is invalid, void or unenforceable, all other provisions which are capable of separate enforcement without regard to an invalid, void or unenforceable provision are and will continue to be of full force and effect in accordance with their terms.

Further Assurances

19.16. Without limiting the obligations imposed on a Party under this Agreement, each Party agrees to execute all instruments and do all other acts and deliver such further instruments and do any other acts or things necessary or desirable to give effect to the provisions of this Agreement.

Survival of clauses

19.17. The rights and obligations under clauses (Intellectual Property), (Warranties), (Indemnities), (Confidentiality), (Privacy), (Notices), (Dispute Resolution) and this clause and any other clause which by its nature is intended to survive, continues in full force and effect after the Agreement ends.

Governing Law

19.18. The validity, interpretation and performance of this Agreement will be governed by and construed in accordance with the law of Victoria and of the Commonwealth of Australia which the Parties acknowledge is the proper law of this Agreement.



SCHEDULE 1 - Service Agreement details

Item
No.

1. Date of this Agreement
.....
2. The Company Details Beau Andre Homes
155 Torquay Road, Grovedale, Victoria, 3216
3. Sub-Contractor Details
.....
4. Term Commencement Date: Date of this Agreement as stated in Item 1.
Expiry Date:
5. Services As per the Service Order as specified in Schedule 2
6. Fees Total cost not to exceed the final quote of \$..... and payable as
per the Service Order in Schedule 2.
7. Nominated Bank Account

SCHEDULE 2 - Service Order

AGREEMENT FOR SUB-CONTRACTOR SERVICES -

SERVICE ORDER SCHEDULE

Upon execution by the Company and by the Sub-Contractor specified below in this Schedule will constitute an Agreement by the Sub-Contractor to supply to the Company the Services specified below upon the terms and conditions contained in the Agreement to which this Schedule is attached, or which is referenced above.

The Company and the Sub-Contractor have agreed that, as an alternative to their execution of a hard copy of this Schedule, the Sub-Contractor may submit this Schedule to the Company by email and the Company, may accept this Schedule by return email to the Sub-Contractor. In this event, each party shall be entitled to rely on an email sent to it by the other party as being duly authorised by the other party and this Schedule, once the Company has emailed its acceptance of it to the Sub-Contractor, shall be deemed to have executed by the Company and the Sub-Contractor.

Contractor:	Beau Andre Homes 155 Torquay Road, Grovedale, Victoria, 3216
ABN/ACN:
Client: (.....)
Service Period:	Start Date: End Date/Delivery Date: If further extensions are required then the Company must be notified in writing 14 days in advance
Fees/Price:	Total Price: \$ If Deliverables are not acceptable by the Client then the fees payable will be re-evaluated at the sole discretion of the Company.

Reporting:	<ul style="list-style-type: none">• As per agreed milestones
Description of Services:
Quality/Deliverables:
Warranty, Maintenance & Support	<p>Warranty</p> <p>The Sub-Contractor warrants each of the following on the date of this Services Order is executed:</p> <ul style="list-style-type: none">(a) That the Sub-Contractor is able to perform its obligations under this Services Order.(b) That the Services required to be performed by the Sub- Contractor under this Service Order will be carried out in a proper, competent and professional manner by appropriately qualified personnel.(c) The Service will not infringe the Intellectual Property Rights of any third party and are free of any lien, encumbrance or security interest of any third party.
The Company Internal Use:	Reporting to Beau Lamanna, Director for Beau Andre Homes
Use:	

Signed for and on behalf of Signed for and on behalf of **Beau Andre Homes**

.....

Signature

Signature

.....

Name

Name

.....

Title

Title

.....

Date

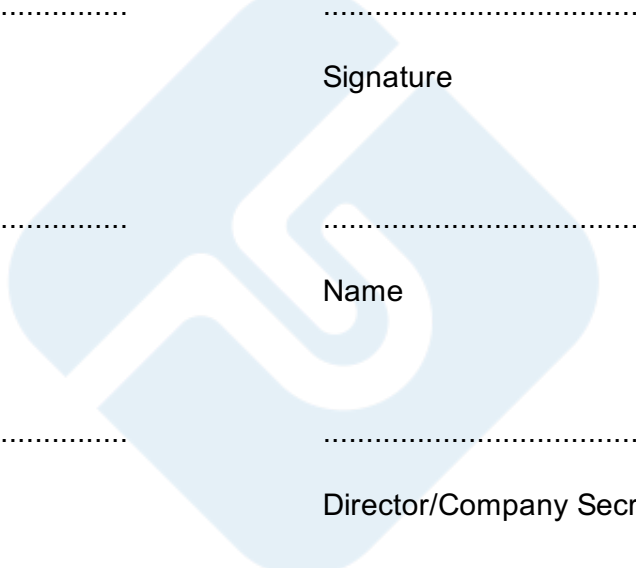
Date



Executed as an Agreement

EXECUTED by **Beau Andre Homes** in
accordance with section 127 of the
Corporations Act

.....
Signature	Signature
.....
Name	Name
.....
Director	Director/Company Secretary
.....
Date	Date



Lawpath®

EXECUTED by

.....

Signature

.....

Name

.....

Title

.....

Date