

<b>PROJECT NAME (the "Project")</b>	
<b>AGON PROJECT NUMBER</b>	
<b>PROJECT ADDRESS</b>	

**BETWEEN** Agon Environmental Pty Ltd ("Agon") (ACN: 167 746 063 )  
 OF 3/224 Glen Osmond Road, Fullarton, SA 5063 **Attention:**  
**Address for Service:** 3/224 Glen Osmond Road, Fullarton, SA 5063

**AND** (the "Subconsultant") (ACN: )  
**OF** **Attention:**  
**Address for Service:**

**CONDITIONS OF AGREEMENT**

This QFB-018 *Subconsultancy Agreement* forms the basis on which the Subconsultant will undertake the Subconsultant Services. They may be supplemented by the special terms and conditions as per the attached schedules.

**1 THE SUBCONSULTANT SERVICES**

- a) The Subconsultant will perform the consulting Subconsultant Services as described in the attached schedules to this Agreement (the "Subconsultant Services").
- b) Despite any other term of this Agreement or any legal requirement to the contrary, and to the extent permitted by law, the Subconsultant's sole and overriding obligation is to perform the Subconsultant Services to the standard of skill, care and diligence as is generally exercised by competent members of the Subconsultant's profession performing services of a similar nature at the time the Subconsultant Services are provided. The Subconsultant must continually use its best endeavours to promote the interests and welfare of Agon.
- c) The Subconsultant guarantees that if there is a defect in the performance of the Services the Subconsultant will remedy the defect or redo the Services at no additional cost to Agon. Where the Subconsultant refuses or fails to remedy a defect in performance of the Services or redo the Services within an agreed timeframe, the Subconsultant agrees that Agon may arrange for the performance of the necessary remedial work and recover any costs from the Subconsultant.
- d) The Subconsultant must ensure that it, together with its employees and sub-subconsultants hold the requisite licence(s) and qualification(s) to legally perform the Services. The Subconsultant has obtained and will continue to maintain all permits, visas and licences necessary for the lawful performance of the Services and agree to provide evidence of this to Agon upon request
- e) The Subconsultant agrees that it will fully abide by any relevant and related legislation applicable to Services provided in accordance with this Agreement.
- f) The Subconsultant is free to engage in other business activities at any time when the Services are not required to be performed under this Agreement provided that the provision of the Services by the Subconsultant under this Agreement is not affected or prejudiced in any way, or may create a potential conflict of interest.
- g) The relationship between the Subconsultant and Agon is that of principal and Subconsultant. Nothing in this Agreement is to be construed as constituting the Subconsultant or any employee of the Subconsultant and Agon as partners. Nor shall this Agreement be construed as creating the relationship of employer and employee between the Subconsultant and Agon or between any employee or director of the Subconsultant and Agon.
- h) The Subconsultant may assign and/or subcontract any part of the Services with the prior written consent of Agon. Such consent will not be unreasonably withheld. Any consent given by Agon permitting the Subconsultant to subcontract or assign any portion of the Services does not relieve the Subconsultant of its obligations and liabilities under this Agreement
- i) The Subconsultant is liable to pay all Personnel for Services provided under this Agreement. The Subconsultant must pay all payroll tax due in respect of the Personnel who provide Services under this Agreement as required.
- j) The Contractor is expected, at its own expense, to supply certain equipment necessary to perform the Services.
- k) The Company may agree to provide the Contractor with tools and equipment required for the Contractor to carry out the Services. Any provision of tools and equipment will be taken into account when determining the Fee under this Agreement.
- l) The Company expects that, consistent with industry practice, the Contractor will need to adopt a flexible approach to hours of work in order to meet the requirements of the Agreement.

**2 FEES**

- a) Agon will pay to the Subconsultant:
  - i) the fee and the reimbursable expenses as set out in the attached schedules (as adjusted in accordance with clause 2.b); and
  - ii) an additional amount for the goods and services tax ("GST") required to be charged by Subconsultant in relation to the supply of the Subconsultant Services to the extent that amounts payable under this Agreement are not expressed to be GST inclusive.
- b) The fee and reimbursable expenses will be adjusted ("Variation") to reflect:
  - i) additions to or omissions from the Subconsultant Services as notified in writing by Agon and accepted by the Subconsultant;
  - ii) any change in legislative requirements and/or standards that apply in any way to the Subconsultant Services; and/or

- iii) any change in the Subconsultant Services as is reasonably necessary.
- c) The Subconsultant will advise Agon of the Variation and any impact on the programme as reasonably practicable of it becoming aware of the circumstances set out in clause 2.b. The amount of a Variation will be calculated by reference to applicable rates and amounts in the attached schedules or, if none are specified, to reasonable rates and amounts.
- d) The Subconsultant may claim payment in accordance with the times set out in the attached schedules, or if no time is set out, monthly in arrears, and upon termination of the Agreement. Agon must pay to Subconsultant, without set-off or deduction the amount payable (including GST) under this Agreement for the Subconsultant Services provided during the relevant period, within the times set out in the attached schedules, or if no time is set out within 30 days of receiving a valid tax invoice.

### 3 INTELLECTUAL PROPERTY

- a) The Subconsultant grants to Agon a non-exclusive, royalty-free and irrevocable licence to use (and allow others to use) the intellectual property for the deliverables of the Subconsultant Services created or produced by the Subconsultant ("IP Rights") for the purposes of completing the Project. As between Agon and the Subconsultant the ownership of the IP Rights vests in Agon.

### 4 CONFIDENTIALITY

- a) The Subconsultant shall not disclose to any third party or use for any purpose (other than for the purpose for which the Subconsultant Services are to be performed) any information including, but not limited to, business, financial, commercial, and technical information provided by the other unless:
  - i) required by law;
  - ii) the information is or becomes generally known to the public other than as a result of a breach of this Agreement;
  - iii) the disclosure is made to the Subconsultant's financial, legal or insurance advisers or to its insurers; or
  - iv) Agon consents to the disclosure, such consent not to be unreasonably withheld.

### 5 INSURANCE

- a) The Subconsultant must on request provide Agon with proof of all insurance policies required to be maintained by the Subconsultant.
- b) The Subconsultant must obtain and maintain a policy of professional indemnity insurance, with a limit of liability not less than \$10,000,000, and public liability, with a limit of liability not less than \$20,000,000, with an insurer for the duration of this Agreement and for a period of 12 months after the termination, however caused, of this Agreement. On reasonable request by Agon, the Subconsultant must liaise with Agon to ensure the insurer is approved by Agon (which approval will not be unreasonably withheld).
- c) Where required under law, the Subconsultant must obtain and maintain for the duration of this Agreement a workers' compensation and employer's liability insurance policy covering liability for loss, damage, claims, and all direct or indirect costs and expenses arising at common law or under workers' compensation or employer's liability legislation in respect of persons employed or deemed to be employed by the Subconsultant.

### 6 DISPUTES

- a) If a party claims that a dispute has arisen in connection with this Agreement ("Dispute"), it must deliver to the other party a notice in writing outlining the Dispute ("Dispute Notice"). The parties must:
  - i) within 7 days of delivery of the Dispute Notice, meet to negotiate, in good faith, resolution of the Dispute;
  - ii) if they do not resolve the Dispute in accordance with subclause (6.a.i), then within 28 days of delivery of the Dispute Notice, attend mediation before a mediator appointed by the Resolution Institute and subject to procedures as determined by the mediator; and

- iii) if they do not resolve the Dispute by mediation, be entitled thereafter to refer the Dispute to litigation.

### 7 TERMINATION & SUSPENSION

- a) Agon may, without prejudice to any other rights or remedies it may have, by written notice served on the Subconsultant to terminate this Agreement:
  - i) if the Subconsultant is in breach of the terms of the Agreement and the breach has not been remedied within 7 days of Agon serving on the Subconsultant a written notice (or such longer period as Agon may specify in that notice) providing details of the breach and requiring the breach to be remedied ("Breach Notice"); or
  - ii) upon Agon giving the Subconsultant not less than 14 days' written notice of its intention to do so; or
  - iii) subject to the statutory stay provisions of the Corporations Act 2007 (Cth), if the Subconsultant becomes bankrupt, or becomes subject to any official management, receivership, liquidation, provisional liquidation, voluntary administration, winding up or external administration ("Insolvency Event "); or
  - iv) upon the termination of the Agon's contract with its client.

### 8 NON-SOLICITATION

- a) In this provision, Client means any person, firm or company who at any time during the period of 12 months prior to the cessation of this Agreement was a Client of Agon in respect of the part or parts of the business in which the Subconsultant is providing the Subconsultant Service.
- b) From the date this Agreement ceases, the Subconsultant agrees that it will not directly or indirectly, whether for the Subconsultant's own benefit or for the benefit of another entity, solicit, canvass, approach (or attempt to solicit, canvass or approach) or accept an approach from a client of Agon's for a period of:
  - i) 12 months
  - ii) 6 months; or
  - iii) 3 months.
- c) Each of the above obligations are separate and independent obligations. In the event that one or more of the obligations are found to be unenforceable, the remaining obligations will continue to apply.
- d) The Subconsultant acknowledges that each of the above restrictions are reasonable and necessary to protect Agon's legitimate interest.
- e) The Subconsultant acknowledges that the Subconsultant will be liable in damages (including punitive or special damages) arising out of the breach of any of the terms of this provision.

### 9 GENERAL

- a) The Subconsultant shall not novate, transfer or sublet any obligations or assign any benefit under this Agreement without the written consent of Agon. Unless stated in writing to the contrary, no novation, transfer, subletting, or assignment shall release the Subconsultant from any obligation/liability under this Agreement.
- b) Notices referred to in this Agreement must be served at the Address for service stated on the first page of this Agreement.
- c) References to days in this Agreement refer to calendar days. In counting the number of days, the dates between 22 December and 10 January inclusive, and between Good Friday and Easter Monday inclusive, are not to be counted.
- d) Where the schedules includes or refers to the Agon's Brief and the Subconsultant's Fee Proposal, to the extent of any ambiguity, Agon's Brief takes precedence.
- e) These Terms will be construed according to the laws of South Australia and the Parties submit themselves to the non-exclusive jurisdiction of the courts of South Australia and any competent appellate courts.
- f) The Subconsultant may accept the terms of this Agreement by:
  - i) signing and returning a copy of this document; or

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- ii) commencing or continuing to provide instructions and / or payment to the Subconsultant in relation to the Subconsultant Services.
- g) This Agreement may be executed in counterparts (including by facsimile and PDF copies of this Agreement) and all executed

counterparts together are deemed to be an original of these terms and conditions of Agreement.

**EXECUTED as an Agreement by or on behalf on the parties:**

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**AGON – AGON ENVIRONMENTAL PTY LTD**

**(ACN: 167 746 063**

**)**

SIGNED for and on behalf of Agon by its duly authorised delegate:

Signature of the duly authorised delegate of Agon

**Name:**

**Position:**

**Dated:**

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**SUBCONSULTANT – [INSERT THE SUBCONSULTANT'S REGISTERED NAME]**

**(ACN:**

**)**

SIGNED for and on behalf of the Subconsultant by its duly authorised delegate:

Signature of the duly authorised delegate of the Subconsultant

**Name:**

**Position:**

**Dated:**

**SCHEDULES**

**A. SPECIAL CONDITIONS**

The following Special Conditions, Add, Amend, Replace and/or Delete to the Conditions of Agreement:

**B. CONSULTANCY AGREEMENT DETAILS**

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Item 1	Subconsultant Services Description	[ INSERT DETAILS OF SUBCONSULTANT’S SERVICES ]
Item 2	Commencement Date	[ INSERT DAY, MONTH, YEAR ]
Item 3	Fee	[ INSERT FEE ]
Item 4	Name of person and/or position to whom invoices should be sent	Email to <a href="mailto:finance@agonenviro.com.au">finance@agonenviro.com.au</a> with both the Agon Project Name and Number quoted on the invoice
Item 5	Number of days for payment under invoice terms	30 days from the end of the month

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