

Contractor's Agreement – Blu Couriers

Between:

Any Fastway Couriers Courier Franchisee or Regional Franchisee who has accepted the terms of this Agreement (**Fastway Franchisee**); and

Any Blu Courier Driver who has accepted the terms of this Agreement (**Contractor**)

(the terms of which are to apply in relation to Services to be performed where the Fastway Franchisee offers to the Contractor the opportunity to perform pick-up and/or deliveries of Fastway Couriers packaged goods and the Contractor accepts that offer via the Blu Couriers electronic platform, evidencing a concluded agreement on these terms).

RECITALS:

- A. Courier Franchisees operate a Fastway Courier Franchise business in a defined territory pursuant to a Courier Franchise Deed entered into with a Fastway Regional Franchisee. Fastway Regional Franchisees operate a Fastway Regional Franchise business in a defined territory pursuant to a Regional Franchise Deed entered into with Australian Couriers Pty Ltd.
- B. The Courier Franchisee's defined territory referred to in Recital A is an exclusive territory so that only the Courier Franchisee has the right to pick-up and deliver Fastway freight in that territory. If there is no Courier Franchisee in that territory then the Regional Franchisee is entitled to pick-up and deliver Fastway freight in that territory.
- C. The Fastway Franchisee wishes to engage the Contractor to provide pick-up and delivery services within its exclusive territory using the Blu Courier electronic platform.
- D. The Blu Couriers electronic platform allows the Fastway Franchisee to offer to Blu Courier drivers the opportunity to perform selected pick-ups and deliveries within their exclusive territory for a nominated 'per packaged good' consideration rate (**Offer** or **Offers**).
- E. The Contractor may accept but is not obliged to accept one or more Offers.
- F. If the Contractor accepts an Offer and notifies the Fastway Franchisee of its acceptance using the Blu Couriers electronic platform then a contract is formed between that Fastway Franchisee and that Contractor to perform the Services in accordance with the terms of this Agreement.

1. Engagement

The Fastway Franchisee engages the Contractor to provide the Services described in **Schedule 1 (Services)** subject to the terms and conditions in this Agreement.

2. Duration

This Agreement will commence on the date upon which the Contractor accepts an Offer and notifies the Fastway Franchisee of its acceptance using the Blu Couriers electronic platform and will continue until terminated in accordance with this Agreement (**Term**).

3. Provision of services by the Contractor

3.1 Services to Fastway Franchisee

The Contractor will provide the Services to the Fastway Franchisee in the manner set out in **Schedule 1**. The Fastway Franchisee does not guarantee any minimum level of Fees or number of Services that the Contractor will earn or be entitled to provide.

3.2 Equipment

The Contractor is required to have available a registered and road worthy motor vehicle and a mobile telephone and number. The equipment provided and used by the Contractor to provide the Services must be suitable for the Services and must be maintained by the Contractor in good working condition.

4. Fees

4.1 Fees

The Fastway Franchisee must pay the fees to the Contractor in consideration of providing the Services as set out in **Schedule 1 (Fees)**. The Fees are exclusive of any goods and services tax imposed under *The New Tax System (Goods and Services Tax) Act 1999 (GST)*. Where GST is payable on a supply made by the Contractor under this Agreement, the Contractor may charge the Fastway Franchisee an additional amount equal to the GST payable on that supply.

4.2 Payment

The Fastway Franchisee must pay the Fees and any GST amount weekly in arrears and will issue a Statement of Services and Fees detailing the Offers accepted and completed by the Contractor.

A recipient-created tax invoice will accompany the Statement of Services and Fees, including the Contractor's ABN and such other details as required by the Fastway Franchisee from time to time.

5. Use of the Fastway Franchisee's facilities

The Contractor may, for the purpose of performing the Services, use the property or facilities of the Courier Franchisee or Regional Franchisee with their prior consent. The Contractor's use of any such property or facilities is at its own risk, except to the extent that any damage is caused by the Fastway Franchisee's act, omission or negligence.

6. Contractor's obligations

- (a) The Contractor must perform the Services in a diligent and professional manner as set out in **Schedule 1** and otherwise according to any standards that would normally apply to the provision of such services and must take all reasonable and necessary steps to ensure that any employees or agents involved in providing the Services do so in the same manner.
- (b) The Contractor must take out and maintain all insurances required by law including the insurances listed in **Schedule 1**. The insurances must be taken out for the minimum amount set out in **Schedule 1** and must be maintained during the Term.
- (c) The Contractor must provide the Services at its own cost and, unless specified in **Schedule 1**, and will not be reimbursed for any out of pocket expenses.
- (d) The Contractor must pay its own taxes, including any payroll tax.
- (e) The Contractor is solely responsible for paying its employees and agents all remuneration and benefits including salary, superannuation, annual leave, sick leave, long service leave and any other benefits to which they may be entitled as its employees and agents and for otherwise complying with all relevant legislation and industrial awards which are applicable to its employees.
- (f) The Contractor must obtain and provide to the Fastway Franchisee an Australian Business Number and evidence of its right to work in Australia.

7. Relationship between parties

The relationship between the Fastway Franchisee and the Contractor is that of a principal and independent contractor. Nothing in this Agreement constitutes the relationship of partnership or employer and employee between the Fastway Franchisee and the Contractor.

8. Confidentiality

- (a) The Contractor must not, and must ensure that its employees and agents do not, either during or after the Term, disclose any confidential information relating to the Fastway Franchisee, except in the proper course of performing its duties under this Agreement, as required by law, or with the previous written consent of the Fastway Franchisee.
- (b) The Contractor and its employees and agents must only use the confidential information for the purpose of performing the Services and must not use or attempt to use any such confidential information in any manner which may injure or cause loss to the Fastway Franchisee.
- (c) The Contractor must, upon request from the Fastway Franchisee, procure a confidentiality undertaking from any or all employees or agents of the Contractor who provide Services under this Agreement. The terms of that undertaking must be in or to the same effect as the terms of this clause.

9. Indemnity

The Contractor will indemnify the Fastway Franchisee against liability for all loss, damage or injury to any person or property caused by the Contractor or its employees or agents in the course of providing the Services. This clause survives the termination of this Agreement.

10. Termination of Agreement

10.1 Termination by notice

Either party may terminate this Agreement by giving at least 7 days written notice to the other party.

10.2 Termination for breach

- (a) If a party breaches any term of this Agreement, the other party may give notice requiring that party to rectify the breach. If the notified party fails to rectify the breach to the satisfaction of the notifying party within one day of the notice, the notifying party may terminate this Agreement by notice in writing.
- (b) The Fastway Franchisee may terminate this Agreement at any time without notice if the Contractor engages in a serious, material or fundamental breach of this Agreement.
- (c) The Fastway Franchisee may terminate this Agreement at any time by notice in writing to the Contractor if the Contractor:
 - (i) is guilty of any dishonesty, serious misconduct or serious neglect of duty in connection with the provision of the Services; or
 - (ii) engages in any act or omission that in the reasonable opinion of the Fastway Franchisee has or will likely have the effect of causing material damage to the Fastway Franchisee or the Fastway network.

10.3 Termination for insolvency

Either party may terminate this Agreement if:

- (a) the other party enters into a Deed of Arrangement or an order is made for it to be wound up;
- (b) an administrator, receiver or receiver/manager or a liquidator is appointed to the other party pursuant to the *Corporations Act 2001 (Cth)*; or
- (c) the other party would be presumed to be insolvent by a court in any of the circumstances referred to in the *Corporations Act 2001 (Cth)*.

10.4 Obligations upon termination

If on termination of this Agreement the Contractor is owed any Fees, expenses or reimbursements, subject to the Fastway Franchisee having the right to set-off any moneys owing to it by the Contractor, whether a liquidated amount or otherwise, the Fastway Franchisee will issue a Statement of Services and Fees and corresponding recipient-created tax invoice to the Contractor and pay all amounts payable to the Contractor within 7 days of the date of termination.

11. Assignment

11.1 A Fastway Franchisee (**Assignor**) may assign, transfer or novate its rights under this Agreement to another Fastway Franchisee (**Assignee**) upon that Assignee entering into a Courier Franchise Deed with the Regional Franchisee in relation to the Assignor's Fastway exclusive territory without the prior consent of the Contractor.

11.2 The Contractor may not assign, transfer or novate its rights or obligations under the Agreement.

12. General

12.1 Entire Agreement

This Agreement constitutes the entire agreement of the parties in respect of the matters dealt with in this Agreement and supersedes all prior agreements, understandings, undertakings and negotiations in respect of the matters dealt with in this Agreement.

12.2 Governing law

This Agreement is governed by, and is to be construed and take effect in accordance with, the laws of the State in which the Services are provided. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the State in which the Services are provided.

SCHEDULE 1

1. Services

The Services to be performed are the pick-up and/or delivery of packaged goods within the Fastway Franchisee's exclusive territory offered to the Contractor by the Fastway Franchisee and accepted by the Contractor via the Blu Couriers electronic platform in accordance with Fastway delivery standards set out at www.fastway.com.au.

2. Fees

The Fees for each pick-up and delivery performed by the Contractor for the Fastway Franchisee will set out on the Blu Couriers electronic platform and will be paid in accordance with this Agreement after completion of the service.

3. Insurances

Public liability insurance included in the Fees