

## DRIVER / RIDER AGREEMENT

THIS SUPPLIER AGREEMENT is entered into on

**BETWEEN**

- 1 \_\_\_\_\_ of \_\_\_\_\_ (“You”, the “Supplier”);
- 2 **EATSAPP PTY LTD (T/A Eatsapp)** of Level 32/101 Miller St, North Sydney 2060.

### BACKGROUND

- A. Eatsapp is a business built on collecting food and drink from local restaurants and other outlets with which it has business partnerships and delivering it to the locations of customers. It requires a large pool of suppliers to perform delivery services for it by car, bicycle or motorcycle;
- B. You are a supplier in business on your own account who wishes to join Eatsapp’s supplier pool, on and subject to the below terms and conditions, and are able to meet the service standards Eatsapp expects as more fully set out in the Schedule to this Agreement.

### IT IS AGREED AS FOLLOWS:

#### 1 COMMENCEMENT AND DURATION

- 1.1 This Agreement commences on the date set out above and will continue until it is terminated by either party in accordance with clause 11 below.
- 1.2 Eatsapp appoints you to perform Services for it from time to time on the terms set out in this Agreement.
- 1.3 Throughout this Agreement, “Services” means the collection by you of hot/cold food and/or drinks (“Order Items”) from such restaurants or other partners (“Partners”) as are notified to you through the Eatsapp rider app, and the delivery of such Order Items by car or motorbike to Eatsapp’s customers at such locations as are notified to you through the app, in accordance with the Service Delivery Standards contained in the Schedule.

#### 2 STATUS

- 2.1 You are a self-employed supplier and therefore acknowledge that you are neither an employee of Eatsapp, nor a worker within the meaning of any employment rights legislation. For the avoidance of doubt, throughout the term of this Agreement you are free to work for such third parties as you choose provided always this does not prevent you from performing the Services in accordance with the Service Delivery Standards.
- 2.2 You further warrant that neither you nor anyone acting on your behalf will present any claim in the Employment Tribunal or any civil court in which it is contended that you are either an employee or a worker.
- 2.3 If, despite clause 2.2 above, either you or anyone acting on your behalf (or your substitute or

anyone acting on your substitute's behalf) presents any claim in the Employment Tribunal or any civil court which would not be able to proceed unless it was successfully contended that you (or your substitute) are an employee or a worker within the meaning of any employment rights legislation, you undertake to indemnify and keep indemnified Eatsapp against costs (including legal costs) and expenses that it incurs in connection with those proceedings, and you agree that Eatsapp may set off any sum owed to you against any damages, compensation, costs or other sum that may be awarded to you in those proceedings.

- 2.4 Nothing in this Agreement shall make you an agent of Eatsapp and you shall not have any right or power to enter into contracts on behalf of Eatsapp with third parties. Unless specifically authorised to do so by Eatsapp, you shall not have any authority to incur any expenditure in the name of Eatsapp.

### 3 PERFORMING THE SERVICES - PRACTICALITIES

- 3.1 Eatsapp is not obliged to make available any minimum level or amount of work to you, nor are you obliged to perform any minimum level or amount of work.
- 3.2 Without prejudice to clause 3.1, when applying to join Eatsapp's supplier pool and at regular intervals thereafter you will provide an indication of the time periods during the week in which you typically expect to be available to work. Eatsapp places reliance on such indications provided by suppliers in planning to meet customer demand. We accordingly expect you to inform a member of the Operations Team if this changes materially, and reserve the right to terminate this Agreement if you are no longer able to work at time periods which meet Eatsapp's needs.
- 3.3 During your onboarding process, you will have discussed with a member of the Operations Team the level of demand for suppliers within your zone and consequently the level of availability to perform Services which Eatsapp expects you to provide. You are expected to be as flexible as you can to meet Eatsapp's needs.
- 3.4 It is your responsibility to engage with the Staffomatic system at regular intervals. This is the means by which you will confirm your availability and willingness to perform Services in a particular zone during a particular time period.
- 3.5 When you have confirmed your availability to perform Services during a particular time period, it is your responsibility to log on to the app during this period and to accept actively any orders in your zone which you are able to accept.
- 3.6 You will ensure that you perform the Services in accordance with the Service Delivery Standards set out in the Schedule, including the standards of dress contained there. However, and for the avoidance of doubt, you will not be subject to the supervision, direction or control of Eatsapp in performing the Services.
- 3.7 You must immediately notify a member of the Operations Team if you become unable to work during a time period that you have previously agreed to work in accordance with clause 3.4, and explain the reasons for this. For the avoidance of doubt, no fee shall be payable in respect of such period.

## **4 EQUIPMENT**

- 4.1** You will supply either an iPhone or Android smartphone (or such other make of phone as may subsequently be notified to you by Eatsapp) and ensure that it is sufficiently charged and subject to a current mobile phone subscription which enables you to access voice and data services at all times while this Agreement is in force.
- 4.2** You will download and install, or permit Eatsapp to download and install, such applications as are required for you to be able to perform the Services and will also apply any and all new versions, revisions and fixes to such software as may be required by Eatsapp from time to time.
- 4.3** You will supply your own car or motorbike for the purposes of providing the Services. You will ensure that at all times your motorbike is clean, in a good state of repair, and roadworthy, covered by a current registration certificate, and has up-to-date road tax.
- 4.4** You will not, at any time, drive the car or ride the motorbike while under the influence of drugs or alcohol. You acknowledge that you are responsible for all and any charges, penalties and fines relating to your usage of the car or motorbike, including but not limited to parking charges, congestion charges and traffic offences.
- 4.5** You will provide (either personally or by way of purchase of the equipment pack referred to in 4.7), and at all times when providing the Services wear, your own safety helmet which you will ensure is safe to be worn and in a good state of repair.
- 4.6** You will immediately inform a member of the Operations Team if you are involved in any accident when using your car or motorbike while performing the Services or are arrested in respect of a cycling offence (including but not limited to dangerous cycling, careless or inconsiderate cycling, or cycling while under the influence of drink or drugs).

## **5 FEES AND INVOICING**

- 5.1** Eatsapp will pay you a variable fee for each completed delivery. This fee may be varied depending on the day, time and location and any changes will be notified to you in advance by Rider Operations. A delivery, for these purposes, being the collection of Order Items from a Partner and delivery to a customer of Eatsapp.
- 5.2** You will not be entitled to petrol allowance.
- 5.3** You may keep any tips or gratuities paid to you directly by any of Eatsapp's customers in respect of Services provided by you under this Agreement.
- 5.4** You will indemnify Eatsapp and keep Eatsapp indemnified against any claim or demand made against Eatsapp in respect of any income tax, value added tax, any other tax or national insurance or social security contributions due on fees payable under this Agreement and against any interest or penalties imposed in connection with any such tax or contributions. You will inform Eatsapp of your tax reference number on request. Eatsapp may at its option satisfy such indemnity in whole or in part by way of deductions from any payments owed to you.

## **6 WARRANTIES**

- 6.1** As strict conditions of this Agreement you warrant that:
- (a)** You are a self-employed independent contractor in business on your own account;

- (b) You have the right to reside and work in Australia and have all necessary visas, licenses and permits allowing you to do so;
- (c) You hold, and will continue to hold, a clean driver's license which permits you to drive or ride a motorbike in Australia, and will notify Eatsapp immediately should this cease to be the case;
- (d) You hold, and will continue to hold, valid motor vehicle insurance in respect of the car or motor scooter and will notify Eatsapp immediately should this cease to be the case;
- (e) You have never been convicted of any criminal offence; and
- (f) You will comply with the Service Delivery Standards.

## **7 INSURANCE**

- 7.1 You will obtain at your own cost appropriate insurance which shall remain in force in respect of the provision of the Services by you throughout the life of this Agreement, either by availing yourself of a group insurance policy put in place by Eatsapp, or obtaining equivalent cover on your own account. You shall, on request, supply copies of such policies together with evidence that the relevant premiums have been paid to Eatsapp.

## **8 LIABILITY AND INDEMNITY**

- 8.1 You acknowledge and agree that you are personally responsible for the performance of the Services, regardless of whether actually performed by you, and accordingly accept liability for any costs, claims, proceedings, damages or other liabilities (including legal costs) (together, "Losses") threatened, suffered or incurred by Eatsapp as a result of your negligent provision of the Services or failure to ensure that the Services are provided with a sufficient standard of care. You agree to indemnify and keep indemnified Eatsapp against all such Losses.

## **9 RIGHT TO APPOINT SUBSTITUTE**

- 9.1 While as a general rule you are expected to perform the Services personally you do have the right, without the need to obtain Eatsapp's prior approval, to arrange with another registered Eatsapp driver/cyclist for them to perform a particular delivery or deliveries on your behalf. In such event you acknowledge that this will be a private arrangement between you and that individual and you will continue to bear full responsibility for meeting the Service Delivery Standards in relation to such delivery and all other obligations under this Agreement. You will continue to invoice Eatsapp in accordance with this Agreement, and shall be wholly responsible for the remuneration of your substitute.

## **10 CONFIDENTIALITY AND DETRIMENTAL REMARKS**

- 10.1 Both during the term of this Agreement and following its termination you must not (unless required to do so by law, protected in doing so by a legal right of protected disclosure or doing so in properly providing the Services):
- (a) disclose any of Eatsapp's trade secrets or confidential information to any person; or
  - (b) use any of Eatsapp's trade secrets or confidential information for any purposes other than Eatsapp's.

- 10.2** The words “confidential information” include but are not limited to:
- (a) personal data identifying or relating to any of Eatsapp’s customers (including but not limited to names, addresses and other personal information such as dietary requirements and details of other household members), suppliers or employees;
  - (b) training materials, and other confidential material provided to you during the course of Eatsapp’s onboarding process;
  - (c) details of relationships or arrangements with Eatsapp’s other suppliers and business partners, including but not limited to restaurants;
  - (d) details of Eatsapp’s business methods, finances, pricing strategy, marketing or development plans or strategies; and
  - (e) any other information you know to have been divulged to you by Eatsapp, or by a third party in the course of performing the Services, in confidence.
- 10.3** You will not make, directly or indirectly, any detrimental or derogatory comments about Eatsapp, its officers, employees, business partners (including restaurants) or suppliers (including other drivers and cyclists), either verbally or in writing, including in particular but not limited to on any social media platform or forum. A failure to comply with these obligations shall be considered a serious breach of this agreement.

## **11 TERMINATION**

- 11.1** Eatsapp may terminate this Agreement at any time and for any reason on giving you not less than one week’s notice in writing, and you may terminate this agreement at any time and for any reason on giving Eatsapp not less than two weeks’ notice in writing.
- 11.2** Without prejudice to 11.1 above, Eatsapp also reserves the right to terminate this agreement with immediate effect in the event of any serious or material breach by you of any obligation owed to Eatsapp.
- 11.3** Upon termination of this Agreement, you shall be entitled to invoice Eatsapp in respect of Services performed by you up to the date termination takes effect but you acknowledge you have no other right to any further or final payments in respect of termination or severance or otherwise from us.
- 11.4** Upon termination of this Agreement for whatever reason, you shall deliver to Eatsapp all property belonging to Eatsapp which is in your possession or control, and permit Eatsapp to disable and / or remove from your smartphone any Eatsapp application. You shall also permit Eatsapp to re-purchase from you any equipment you purchased from Eatsapp on commencement in accordance with clause 4.
- 11.5** Following the termination of this Agreement you will no longer represent yourself as being connected in any way with the business of Eatsapp, and in particular shall no longer wear any Eatsapp branded apparel.

## **12 DATA PROTECTION AND MONITORING**

- 12.1** You acknowledge that Eatsapp may need to process personal data about you for a variety of legal and administrative purposes. This data may include information relating to arrangements

with you and your performance of the Services and for the purposes of record keeping and invoicing.

**12.2** You may have access to personal data about the employees, customers and suppliers of Eatsapp. If the performance of the Services involves you processing personal data (whether as data controller or data processor), you must:

- (a) act only on instructions from Eatsapp or as set out in this Agreement; and
- (b) take appropriate technical and organisational measures to keep the data secure and protect against unauthorised or unlawful processing of such data and against accidental loss or destruction of, or damage to, such data.

### **13 MISCELLANEOUS**

**13.1** Eatsapp reserves the right in its sole discretion to make changes to the terms of this Agreement at any time upon written notice to you.

**13.2** No person other than you and Eatsapp may enforce any term of this Agreement.

**13.3** This Agreement contains the whole agreement between you and Eatsapp in connection with your engagement by Eatsapp and you confirm that you are not entering into the Agreement in reliance upon any oral or written representations made to you by or on behalf of Eatsapp.

**13.4** This Agreement is personal to you and may not be assigned to a third party without Eatsapp's express written agreement.

**13.5** This Agreement will be governed by the laws of Australia and the Courts of Australia will have non-exclusive jurisdiction to adjudicate any disputes arising under it.