



**YOUNG WORKERS CENTRE SUBMISSION TO
THE SENATE SELECT COMMITTEE ON THE
FUTURE OF WORK AND WORKERS
FEBRUARY 2018**

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ABOUT THE YOUNG WORKERS CENTRE

The Young Workers Centre, based in Trades Hall, was established in 2016 to break the cycles of exploitation at work for young Victorians.

We educate young people on their rights, safety and wellbeing at work via training programs available to all Victorian high schools, TAFEs and technical colleges. We provide free legal advice to young people to resolve workplace issues. We organise and train young people to develop campaigns to improve their workplaces. We document life at work through our young workers research project.

OUR VISION

A state in which young people are safe at work, do not suffer harassment or bullying, and are provided their legal entitlements. For this vision to be realised, we must encourage young people to speak up without fear and join with other young workers to make change and improve their workplaces and communities.

A FUTURE OF DECENT WORK OR A DYSTOPIAN NIGHTMARE?

The world of work is rapidly changing. Technological developments are disrupting the way we work. If regulated, this disruption can prove positive for workers and our society. Changes in technology can bring about improvements to the delivery and accessibility of both public and private services. Work and workplaces can be made safer for workers as we minimise or remove hazardous processes or equipment. Technology can improve or create new processes for obtaining and managing work.

However, if our laws and regulation of work do not keep pace, there is a risk that this disruption will negatively impact workers in Australia. There are businesses, including multinational corporations, who seek to cut business costs and responsibilities under the guise of 'innovation'. Labour costs are often the first to go. Technology can enable those businesses to engage in sham or exploitative employment practices, resulting in a 'future of work' that sees workers' rights and safety reduced to those seen in the early 1900s.

Our employment and occupational health and safety laws and regulations are not keeping pace with changes in employment practices that are playing out in industries and occupations affected by this disruption, which are commonly referred to as 'the gig economy'. Like any failings in these legal and regulatory areas, the people who are most negatively impacted are those workers in our labour force who are most vulnerable: young people.

This submission will illustrate the impact of app-based work technologies on young people working in the gig economy. We draw on survey findings and real life case studies and evidence from young people who work as on-demand food delivery riders. These riders have experienced first-hand the impact of new technology and how it can facilitate dodgy employment practices in an under-regulated industrial landscape. Specifically, it will discuss the following issues related to app-based work:

- The ways businesses use technology to facilitate dodgy or sham contracting arrangements by tracking workers and automatically generating invoices.
- The ways businesses engage in sham contracting to avoid their responsibilities as employers to provide minimum wage rates, superannuation and other safety responsibilities.
- The real wage theft occurring as business successfully circumvent our minimum wage laws, penalty rates and superannuation entitlements.
- Rating systems in place of dispute resolution processes.
- The isolation of workers and its flow-on effects including reduced capacity to organise and collectively bargain.

In discussing these issues, the submission addresses two terms of reference:

- (a) the future earnings, job security, employment status and working patterns of Australians;
- (d) the adequacy of Australia's laws, including industrial relations laws and regulations, policies and institutions to prepare Australians for that change;

The Young Workers Centre welcomes the opportunity to illustrate these points further by participating in inquiry hearings.

RECOMMENDATIONS

1. The Young Workers Centre recommends expanded definitions of 'employer' and 'employee' in the *Fair Work Act 2009* (Cth) so that the 'employee' definition captures employment arrangements such as dependent on-demand contracting that are currently disguised as independent contracting.
2. The Young Workers Centre recommends that where a worker disputes their legal status as a contractor, there is a reverse onus of proof on principal companies or businesses to demonstrate that they do not control the work of the worker and establish that the worker is genuinely operating a business.
3. The Young Workers Centre recommends the *Fair Work Act 2009* be amended to make sham contracting a strict liability offence.
4. The Young Workers Centre recommends the federal government work with state and territory health and safety regulators to review Occupational Health and Safety and Workers Compensation legislation to ensure that companies operating in the gig economy are clearly responsible for the health and safety of their workers.

THE GIG ECONOMY: SHAM CONTRACTING WITH A NEW NAME

The online gig economy is growing rapidly. A new online labour index shows growth of 26% between 2016 and 2017¹. The gig economy is characterised by temporary short-term work, where workers have no guaranteed hours of work or income. Workers are frequently engaged as independent contractors, meaning they do not benefit from the protection of minimum conditions of employment contained within the National Employment Standards and relevant Awards. Workers perform piecemeal work or access short, temporary 'gigs' of work through digital platforms owned and developed by corporations such as Uber and UberEats, Deliveroo, Foodora, Airtasker and Freelancer, who take a commission or 'cut' of each gig payment.

Young people working in the gig economy as on-demand food delivery riders access delivery 'jobs' via an app controlled by Deliveroo, Foodora, UberEats and other similar companies. Riders collect food from restaurants and deliver it to people at home or work via bicycle, motorbike or scooter. Deliveroo, Foodora and UberEats partner with restaurants and take a percentage commission from all restaurant sales made through their app. These companies engage delivery riders as independent contractors who are required to have their own Australian Business Numbers (ABN), and who are most commonly paid per delivery. Though independent in name, the reality is that workers are economically dependent on a company such as Deliveroo, Foodora or UberEats to gain access to delivery 'jobs'. They are dependent contractors in that they have no authority over their own work.

This contracting arrangement deliberately shifts responsibility for working costs (including but not limited to phones, data plans, bicycles, motorbikes or cars and their maintenance) and other employer responsibilities (superannuation, tax, medical and other insurances) from the company to workers and tax-paying public.

As independent contractors, these workers are not entitled to a minimum wage, minimum or maximum weekly hours, paid leave, notice periods after dismissal, redundancy payouts or unfair dismissal protections. They are responsible for their own superannuation contributions, and may not be covered by government-run workers compensation insurance. Independent contractors can form or join a union, but cannot collectively bargain unless authorised by the Australian Competition and Consumer Commission (ACCC).

ON-DEMAND FOOD DELIVERY RIDERS SPEAK UP - AND THEY'RE NOT HAPPY

In January 2018 results of a new survey of Australian gig economy workers were released at the Transport Workers Union's on-demand food delivery rider campaign launch. The Young Workers Centre, in collaboration with the Transport Workers Union, collected and analysed surveys from 160 on-demand food delivery riders across Melbourne, Sydney and online. The results, outlined below, were alarming.

¹ Lehdonvirta, V., 2017. The online gig economy grew 26% over the past year. *Oxford Internet Institute*. Available at: <https://www.oii.ox.ac.uk/blog/the-online-gig-economy-grew-26-over-the-past-year/> [Accessed February 19, 2018].

- **On-demand food delivery is not just a ‘pocket money’ job – it’s a full time occupation**
One in four riders reported working 40 or more hours each week: the equivalent of a fulltime job. Three in four riders reported working 20 or more hours each week. These findings contradict commentators who describe gig economy jobs as work designed to supplement or ‘top up’ regular income². Some riders reported working upwards of 80 hours per week which raises safety and fatigue concerns for riders on the job and other commuters on our roads.
- **3 in 4 riders are earning less than minimum wage**
Riders were asked to report their average weekly earnings and hours worked in order to calculate effective hourly pay rates. 3 in 4 riders earned effective hourly pay rates lower than the minimum pay rates for Level 1 casual transport workers under the *Road Transport and Distribution Award (2010)*. Calculations showed effective pay rates as low as \$6.67 per hour.
- **Riders want employee entitlements**
More than 70% of riders surveyed said they should receive worker entitlements such as sick leave.
- **Riders are injured on the job – and they’re uninsured**
More than 45% of riders surveyed said they or someone they know has been hurt on the job.

See appendix A for the On-Demand Food Delivery Riders survey findings.

WHO IS RESPONSIBLE FOR RIDERS’ SAFETY AT WORK?

The intersection between WorkCover insurances and Transport Accident Commission (TAC) insurances combined with riders’ independent contractor status results in a legal grey area about who is responsible and liable for riders’ safety while working. The result is that riders are working often-dangerous jobs with precarious or no insurance.

An UberEats contract made available to the Young Workers Centre states the following about Portier Pacific, the principal contractor and self-described technology services provider for Uber and UberEats:

“Portier Pacific does not, and is not required to, maintain or provide you with workers’ compensation insurance or maintain other occupational accident injury insurance on your behalf.”

² Khaleeli, H., 2016. The truth about working for Deliveroo, Uber and the on-demand economy. *The Guardian*. Available at: <https://www.theguardian.com/money/2016/jun/15/he-truth-about-working-for-deliveroo-uber-and-the-on-demand-economy> [Accessed February 19, 2018].

Ordinarily if workers are injured on the job, WorkCover insurances cover the costs associated with injuries and/or lost earnings as a result. Employers are responsible for obtaining and paying into WorkCover. WorkCover acts to guarantee that workers have insurance that is provided by their employer, and ensures that employers do not free-ride by shifting their responsibilities to the publicly-funded Medicare system.

One of the successful elements of our WorkCover insurance system is that businesses are incentivised to provide safe workplaces for their workers as there is a risk of financial burden should they ignore those responsibilities. This incentive is key to preventing avoidable accidents, injuries or harm at work from occurring in the first place.

See appendix B for a copy of the UberEats contract.

Case study: ANDREA*, ON-DEMAND FOOD BIKE COURIER

**name has been changed to avoid identification*

Andrea is a 21-year-old food bike courier with Deliveroo. She is engaged as an independent contractor to deliver food on demand around Melbourne - rain, hail or shine. The contract Andrea signed up to when she started the job was not the result of negotiations between her and the company, rather it was the standard contract Deliveroo were using at the time. This 'standard' contract does not provide Andrea with any of the minimum pay, conditions or other entitlements set for the industry by the *Road Transport and Distribution Award (2010)*. There is in fact, no standard or floor for Deliveroo food bike couriers, as contracts change within a matter of months. As at January 2017 Deliveroo riders in Melbourne were working identical tasks and jobs, on at least five different contracts as seen by Young Workers Centre. Each contract specifies different pay rates and conditions depending on the date the worker commenced work with the company. Andrea describes being lucky enough to be on a 'good' contract compared with others, despite the fact that her contract undercuts the industry Award as shown below.

“[I] started with them [Deliveroo] in November [2015] as they first set up, and so am on a good contract and pay rate as opposed to newer riders.”

See appendix C for a copy of Andrea's Deliveroo contract.

The table below provides a comparison of three different Deliveroo contracts provided to workers between November 2015 and April 2016. This comparison shows the real wage theft workers suffer as a result of lost income and super. The analysis is based on a 21 year old casual rider:

- working four three-hour shifts per week
- with an average of five deliveries completed per shift
- Three shifts are weeknights (attracting the 'afternoon' rate under the Award)
- One shift is a Saturday night (attracting the 'Saturday' rate under the Award).

CONTRACT DATE	DELIVEROO CONTRACT TERMS	WEEKLY INCOME UNDER DELIVEROO CONTRACT	WEEKLY INCOME UNDER THE ROAD TRANSPORT & DISTRIBUTION AWARD (2015-16 RATES)	WAGES STOLEN PER WEEK
November 2015	\$18/hour + \$2.50/delivery	12 hours @ \$18 20 deliveries @ \$2.50 = \$216 + \$50 = \$266	9 hours @ \$26.72 3 hours @ \$32.81 = \$338.91 + 9.5% super \$32.20	-\$72.91 income -\$32.20 super
February 2016	\$16/hour + \$2.50/delivery	12 hours @ \$16 20 deliveries @ \$2.50 = \$192 + \$50 = \$242		-\$96.91 income -\$32.20 super
April 2016	No hourly rate \$9/delivery	20 deliveries @ \$9 = \$180		-\$158.91 income -\$32.20 super

See appendix D for supporting excerpts of Deliveroo contracts from November 2015 to April 2016.

This analysis does not include or quantify additional factors that would demonstrate further losses to workers including:

- phone & data allowance costs
- bike purchase and maintenance costs
- wages stolen due to four-hour minimum shifts under the Award
- insurance costs
- employment rights enshrined in law such as the right to a healthy and safe workplace with clearly defined employer responsibilities for workers' compensation insurance.

× **NO MINIMUM HOURLY WAGE**

Andrea must be available and 'logged on' to the company's digital platform to accept delivery tasks while on shift. She is paid a below-Award base rate with 'bonus' payments for each completed delivery. On a busy night Andrea might be flat out, but if it's quiet she will earn only the base rate of \$18 - well below the minimum pay rates under the Award of \$23.44 for casuals.

× **NO MINIMUM SHIFT LENGTHS**

Andrea works shifts allocated to her on a roster, just like an employee. However as Andrea has no right to a minimum shift length and no minimum hourly wage, she has no minimum shift *pay*. Under the Award, Andrea would be entitled to minimum four hour shifts and four hours pay - \$75 for full or part-time worker or \$93.76 for casuals.

“(The) flexibility is good, although what started off as four hour shift blocks have decreased over time to just one hour, and in some cases even just 30 minutes! (I’m) constantly checking email to 'trade' shifts with others, often leaving me with one or two hour long shifts dispersed over the week.”

× **NO WEEKEND PENALTY RATES**

The chefs, waitstaff and others employed in the preparation and cooking of the food that Andrea delivers are entitled to penalty rates for hours worked on their weekends, public holidays or late evening. Despite working the same hours, Andrea's contractor status means she misses out on those penalty rates.

× **NO SUPERANNUATION**

Andrea is over 18 and earning more than \$450 pre-tax per month, so if she were an employee she would be receiving 9.5% super paid into her account to set her up for retirement later in life. Unfortunately in her case, contractors are responsible for their own superannuation. Andrea will have to take a 9.5% pay cut and pay super out of her already below-Award pay rates if she wants to keep up her superannuation investment.

× **PAY FOR YOUR BIKE, WORK PHONE & DATA COSTS YOURSELF**

Andrea's contract states she must 'provide equipment and/or tools necessary to undertake work including but not limited to smart phone, sufficient data plan and appropriate mode of transport' (4.1.5.1.1.2). If Andrea was an employee, she would be provided transport, a phone and data or an allowance for these tools required for the job.

× **PAY FOR YOUR OWN WORK-RELATED INSURANCES - OR RISK HAVING NONE**

Andrea's contract states she's responsible for obtaining and maintaining all insurances needed including: mode of transport insurance, workers comp insurance, professional indemnity insurance, and public liability insurance (7.6.1-4). If Andrea was an employee, her work-related insurances would be provided by her employer.

"Health and safety wise, I've fallen off my bike and had my bike damaged or even at one point stolen, with no protection or support other than "contact us again once you've sorted it out" - ie leaving me out of pocket."

× **ORGANISE YOUR OWN TAX PAYMENTS**

As holder of an ABN Andrea must pay her own taxes. Andrea is also responsible for any other taxation associated with her job including payment of goods and services tax (GST). If Andrea was an employee, her workplace payroll department would deduct tax through the Pay As You Go (PAYG) scheme.

CONCLUSION

All Australian jobs must be decent, secure and safe. The federal government must make it their concern that businesses who are utilising new technologies to run their businesses do not drive down workers' rights, entitlements and safety.

The *Fair Work Act 2009*(Cth) currently permits employment practices that allow some businesses to choose to avoid their obligations for workers safety, pay and rights.

Multinational corporations like Deliveroo, Foodora and Uber (and UberEats) are reaping huge profits by using technology to shift their business employment costs, risks and responsibilities on to workers by requiring them to be independent contractors, as well as on to government by avoiding paying the relevant taxes and levies. These workers are left with little in the way of minimum employment and pay guarantees, no leave and superannuation entitlements, and responsibility for their safety at work is in limbo.

We respectfully encourage the Senate Select Committee on the Future of Work and Workers to make recommendations and take action to close the loopholes currently available to businesses exploiting young workers in the gig economy through these means, and introduce penalties that will disincentive any further exploitation.

The Young Workers Centre welcomes the opportunity to illustrate these points further by participating in inquiry hearings.

REFERENCES

Khaleeli, H., 2016. The truth about working for Deliveroo, Uber and the on-demand economy *The Guardian*. Available at: <https://www.theguardian.com/money/2016/jun/15/he-truth-about-working-for-deliveroo-uber-and-the-on-demand-economy> [Accessed February 19, 2018].

Lehdonvirta, V., 2017. The online gig economy grew 26% over the past year. *Oxford Internet Institute*. Available at: <https://www.oii.ox.ac.uk/blog/the-online-gig-economy-grew-26-over-the-past-year/> [Accessed February 19, 2018].

APPENDIX A

On-Demand Food Delivery Riders survey findings



SNAPSHOT: ON-DEMAND FOOD DELIVERY RIDERS

We surveyed 160 on-demand food delivery riders about the ups and downs of working in the gig economy. This is what they told us.

1. MORE THAN 70% SAY THEY SHOULD GET ENTITLEMENTS SUCH AS SICK LEAVE

71.5% of riders said that they should receive worker entitlements such as sick leave.¹



2. MORE THAN 45% SAY THEY OR SOMEONE THEY KNOW HAS BEEN HURT ON THE JOB

46.5% of riders said they or someone they know has been hurt while working as a food delivery rider². Some reported near accidents or minor injuries such as grazes. Others reported significant accidents that rendered riders unable to work due to injury or damage inflicted to their bikes.



"My friend was in an accident with a taxi driver and got a broken bone"
UberEats rider, 26

"I get hit nearly once a week"
Deliveroo rider, 20

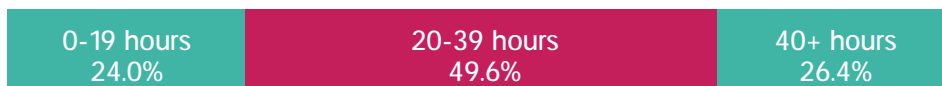
"I've had minor injuries - I have been 'doored' twice by cars"
UberEats rider

3. 1 IN 4 RIDERS WORK FULL TIME HOURS



Contrary to the idea that gig work is used to supplement or "top up" regular income, 26.4% of riders reported working 40 or more hours per week. 3 in 4 (76%) riders work 20 or more hours per week³.

HOW MANY HOURS PER WEEK DO YOU WORK?



Some riders reported working upwards of 80 hours per week which raises safety and fatigue concerns for riders themselves and other commuters on the roads.

4. 3 IN 4 RIDERS EARN LESS THAN MINIMUM WAGE

We asked riders their average weekly pay and hours worked to calculate effective hourly pay rates and found that 76.6% of riders earn effective hourly pay rates well below the minimum wage for casual workers⁴. Calculations also showed effective pay rates as low as \$6.67 per hour.



HOW ARE RIDERS' PAY RATES DETERMINED?

Almost all current riders report being paid per delivery. Some companies pay a flat rate per delivery, while others are paid a 'dynamic' rate per delivery based on distance and time travelled. Contracts that provide a minimum hourly pay rate have largely been phased out, however a small number of riders working on older contracts report hourly pay rates plus a commission based on number of deliveries. Most riders do not negotiate contracts and pay rates with companies, they are simply provided whatever the current 'standard' contract is at their time of engagement.

¹N=130 responses ²N=145 responses ³N=129 responses

⁴N=107 responses. Compared with the Road Transport and Distribution Award Casual Transport worker grade 1 rate \$24.21

WORKERS NAME THEIR BIGGEST ISSUES



NO GUARANTEED WORK OR PAY

Riders say a lack of orders combined with payment per delivery leads to low and inconsistent pay. As weekly pay goes up and down, riders often spend many hours waiting for orders to make enough money each week to meet housing and living costs.

“ We should all get a basic payment per hour. Sometimes you don't receive enough orders to earn enough money to live.”

Deliveroo rider, 25

LONG UNPAID WAIT TIMES AT RESTAURANTS

Riders reported long wait times at restaurants. Companies use mobile apps to alert riders when a delivery is ready to be collected. Riders report they frequently wait at restaurants for up to 1 hour while food is prepared. Riders are not paid for this time, but must remain at restaurants ready for the order. If riders cancel a delivery at this point, their 'delivery acceptance' rate is affected, causing them to receive less jobs. Some riders say they believe the issue is a fault in company mobile apps, others say the restaurants are at fault.

“ Restaurant wait times are a problem if the food is not ready.”

Deliveroo rider, 25

THE RULES AND PAY RATES CHANGE WITH NO CONSULTATION

Riders reported companies often change the rules and rates of pay for their work without consultation or negotiation with riders or their representatives.

Riders reported sudden company rostering policy changes. For example, removing shift rosters and asking riders to log on and off work as they like, only to reintroduce allocated shifts and rosters later, essentially "locking out" workers who aren't included in those rosters.

“ The pay has gone down - it used to be per hour, now per delivery ”

Deliveroo rider

TOO MANY RIDERS, LEADING TO LONG UNPAID WAIT TIMES BETWEEN ORDERS.

Riders say companies over-recruit, meaning there are too many riders and not enough orders and deliveries to keep them busy. The result is long wait times between jobs when riders must be ready to work, yet they receive no pay. No deliveries means no money for riders.

“ Too much waiting. You work a lot of hours, but only get paid for a small part of the time.”

UberEats rider, 23

WHAT WORKERS WANT TO SEE CHANGE



HIGHER PAY AND MINIMUM HOURLY RATES

"I would like to have my hourly wage guaranteed. Payment by delivery is not fair for us." Foodora & UberEats rider, 29

ALLOWANCES FOR WORKING IN BAD WEATHER

"We need to be safer especially in the rain. We put our life at risk and are pressured to get the delivery done quickly but we are putting our lives at risk in the rain." Deliveroo rider, 24

FIX THE BROKEN RATING SYSTEM

"Unhappy customers are only able to complain about or rate riders, not the restaurant for getting order wrong" UberEats rider, 27

This report is based on surveys conducted face to face in Sydney and Melbourne and online in January 2018. The survey received 160 responses from workers who ride bicycles, scooters or motorcycles for food delivery companies including Foodora, Deliveroo, and UberEats. This report was prepared by Sarah Bright and Amy Fitzgerald of the Young Workers Centre.



APPENDIX B

UberEats contract

PORTIER PACIFIC V.O.F.

TECHNOLOGY SERVICES AGREEMENT

Last update: November 17, 2016

This Technology Services Agreement (“*Agreement*”) constitutes a legal agreement between you, an individual (“*you*”) and Portier Pacific V.O.F., an unlimited partnership established in the Netherlands, having its offices at Vijzelstraat 68, 1017 HL, Amsterdam, The Netherlands, registered at the Amsterdam Chamber of Commerce under number 65861922 (represented by its solely authorised partner Uber Pacific Holdings B.V.) (“*Portier Pacific*”).

Portier Pacific provides the Uber Services (as defined below) for the purpose of providing lead generation to independent providers of delivery services. The Uber Services enable you (once authorised by Portier Pacific) to seek, receive and fulfill requests for delivery services from an authorized user of the Uber App (as defined below). You desire to enter into this Agreement for the purpose of accessing and using the Uber Services. For clarity, these terms apply to your use of the Uber Services for your provision of delivery services.

Uber Portier B.V. and Uber B.V. (private limited liability companies established in the Netherlands, having as their offices Vijzelstraat 68, 1017 HL, Amsterdam, The Netherlands, registered at the Amsterdam Chamber of Commerce) will perform certain functions associated with the provision of the Uber Services as authorized agents for Portier Pacific.

References herein to “Uber” shall be taken as a reference to Portier Pacific and its Affiliates.

If you are authorized by an Affiliate of Portier Pacific (*e.g.*, Rasier Pacific V.O.F., Uber Pacific V.O.F. etc.) to use its or Uber’s services to provide passenger transportation services, those passenger transportation services and related use of Uber’s or its Affiliate’s services are separate and independent of this Agreement and are subject to separate terms with the applicable Affiliate of Portier Pacific.

You acknowledge and agree that Portier Pacific is a technology services provider that does not provide delivery services.

In order to use the Uber Services, you must agree to the terms and conditions that are set forth below. Upon your execution (electronic or otherwise) of this Agreement, you and Portier Pacific shall be bound by the terms and conditions set forth herein.

You acknowledge and agree that Uber B.V. and Uber Portier B.V., each in their capacity as agent for Portier Pacific, are third party beneficiaries of this Agreement.

1. Definitions

1.1 “*Addendum*” means an addendum to this Agreement setting forth additional Territory-specific and/or service-specific terms, as made available and as updated by Portier Pacific from time to time.

1.2 “*Affiliate*” means an entity that, directly or indirectly, controls, is under the control of, or is under common control with a party, where control means having more than fifty percent (50%) of the voting stock or other ownership interest or the majority of the voting rights of such

entity, the ability of such entity to ensure that the activities and business of that Affiliate are conducted in accordance with the wishes of that entity or the right to receive the majority of the income of that Affiliate on any distribution by it of all of its income or the majority of its assets on winding up.

1.3 *"Cancellation Fee"* has the meaning set forth in clause 4.5.

1.4 *"Delivery Fee"* has the meaning set forth in clause 4.1.

1.5 *"Delivery Recipient"* means, with respect to *UberRUSH*, the intended recipient of goods being delivered by you in connection with your Delivery Services.

1.6 *"Delivery Recipient Information"* means information about a Delivery Recipient made available to you in connection with a request for and use of Delivery Services, which may include delivery drop-off location, a Delivery Recipient's name, a Delivery Recipient's contact information, a Delivery Recipient's signature, and a Delivery Recipient's photo, as well as any other relevant details specific to the items to be delivered.

1.7 *"Delivery Services"* means your provision of delivery services to or on behalf of Users via the Uber Services in the Territory using the applicable Transportation Method.

1.8 *"Negotiated Cancellation Fee"* has the meaning set forth in clause 4.5.

1.9 *"Provider App"* means the mobile application provided by (or under an agreement with) Portier Pacific that enables delivery providers to access the Uber Services for the purpose of seeking, receiving and fulfilling on-demand requests for delivery services by Users, as may be updated or modified from time to time.

1.10 *"Provider ID"* means the identification and password key assigned by Portier Pacific to you that enables you to use and access the Provider App.

1.11 *"Service Fee"* has the meaning set forth in clause 4.4.

1.12 *"Territory"* means the city or metro areas outside of the United States and Mainland China in which you are enabled by the Provider App to receive requests for Delivery Services.

1.13 *"Tolls"* means any applicable road, bridge, ferry, tunnel and airport charges and fees, including inner-city congestion, environmental or similar charges as reasonably determined by the Uber Services based on available information.

1.14 *"Transportation Method"* means a mode of transportation that: (a) meets the then-current Portier Pacific requirements for the delivery of the applicable items by you when using the Uber Services (e.g., if Delivery Services require a motor vehicle, then "Transportation Method" shall mean a motor vehicle); and (b) Portier Pacific authorizes for your use for the purpose of providing Delivery Services.

1.15 *"Uber App"* means the mobile application provided to authorized Users seeking on-demand requests for delivery services.

1.16 *"Uber Data"* means all data related to the access and use of the Uber Services hereunder, including all data related to Users (including User Information), all data related to Delivery Recipients (including Delivery Recipient Information), all data related to the provision of Delivery Services via the Uber Services and the Provider App, and the Provider ID.

1.17 *“Uber Services”* mean the electronic services provided by Portier Pacific (or at the direction of Portier Pacific) rendered via a digital technology platform, being on-demand lead generation and related services, that enable delivery providers to seek, receive and fulfill on-demand requests for delivery services by or on behalf of Users seeking delivery services; such Uber Services include access to the Provider App and Uber’s software, websites, payment services as described in clause 4 below, and related support services systems, as may be updated or modified from time to time.

1.18 *“User”* means an end user (an individual or an entity) authorized by Portier Pacific or an Affiliate to use the Uber technology platform for the purpose of requesting Delivery Services offered by Portier Pacific’s delivery provider customers (for clarity, such Delivery Services may be obtained in either of the following ways by a User: (a) to receive specific goods *from* a third party (including goods purchased from a third party (e.g., a restaurant)), or (b) to deliver specific goods *to* a third party).

1.19 *“User Information”* means information about a User made available to you in connection with a request for and use of Delivery Services, which may include delivery pick-up location, delivery drop-off location, the User’s name, the User’s contact information, the User’s signature, and the User’s photo, as well as any other relevant details specific to the items to be delivered.

1.20 *“Your Device”* means a mobile device owned or controlled by you: (a) that meets the then-current Portier Pacific specifications for mobile devices; and (b) on which the Provider App has been installed as authorized by Portier Pacific solely for the purpose of providing Delivery Services.

2. **Use of the Uber Services**

2.1 **Provider IDs.** Portier Pacific will issue you a Provider ID to enable you to access and use the Provider App on Your Device in accordance with this Agreement. You agree that you will maintain your Provider ID in confidence and not share your Provider ID with any third party. You will immediately notify Portier Pacific of any actual or suspected breach or improper use or disclosure of your Provider ID or the Provider App.

2.2 **Provision of Delivery Services.** When the Provider App is active, User requests for Delivery Services may appear to you via the Provider App if you are available and in the vicinity of the User. The User request may also specify the User’s required deadline for your completion of the Delivery Services. If you accept a User’s request for Delivery Services, the Uber Services will provide you with certain User Information, Delivery Recipient Information, and User instructions via the Provider App, including (as applicable) the User’s first name and the pickup and drop-off location of the applicable goods to be delivered. In order to enhance User satisfaction with the Provider App and your Delivery Services, it is recommended that you (i) follow the User instructions for pickup and drop-off details (e.g., the location within the building address to pick-up/drop-off a package, etc.) and (ii) wait at least ten (10) minutes for a User or Delivery Recipient to appear at the requested pick-up or drop-off location. You acknowledge and agree that once you have accepted a User’s request for Delivery Services, Uber’s technology platform may provide certain information about you to the User and Delivery Recipient, including your first name, contact information, photo and location, and as applicable,

information about your Transportation Method. You shall not contact any Users or Delivery Recipients or use any User's personal data for any reason other than for the purposes of fulfilling Delivery Services. As between Portier Pacific and you, you acknowledge and agree that: (a) you shall be solely responsible for determining the most effective, efficient and safe manner to perform each instance of Delivery Services; and (b) except for the Uber Services, you shall provide all necessary equipment, tools and other materials, at your own expense, necessary to perform Delivery Services. Additionally, depending on the type of Delivery Services you are providing, you acknowledge that you may need to acquire third party inventory (*e.g.*, food in the case of *UberEATS*) from various locations from time to time in order to fulfill certain requests for Delivery Services. In order to provide Delivery Services, you may need to accept from time-to-time, certain additional terms, as set forth in an Addendum.

2.3 Your Relationship with Users and Delivery Recipients. You acknowledge and agree that your provision of Delivery Services to Users creates a direct business relationship between you and the User, to which Portier Pacific and its Affiliates are not a party. Portier Pacific and its Affiliates are not responsible or liable for the actions or inactions of a User or Delivery Recipient in relation to your activities or your Transportation Method. You shall have the sole responsibility for any obligations or liabilities to Users, Delivery Recipients or other third parties that arise from your provision of Delivery Services. You acknowledge and agree that: (a) you are solely responsible for taking such precautions as may be reasonable and proper (including maintaining adequate insurance that meets the requirements of all applicable laws) regarding any acts or omissions of a User, a Delivery Recipient or other third party; and (b) Portier Pacific or its Affiliates may release your contact and/or insurance information to a User or Delivery Recipient upon such User or Delivery Recipient's reasonable request (*e.g.*, in connection with an accident).

2.4 Your Relationship with Portier Pacific. You acknowledge and agree that Portier Pacific's provision to you of the Provider App and the Uber Services creates a legal and direct business relationship between Portier Pacific and you. Portier Pacific does not, and shall not be deemed to, direct or control you generally or in your performance under this Agreement specifically, including in connection with your provision of Delivery Services, your acts or omissions, or your operation and maintenance of your Transportation Method. Except as expressly set out herein, you retain the sole right to determine when, where, and for how long you will utilize the Provider App or the Uber Services. You retain the option, via the Provider App, to attempt to accept or to decline or ignore a User's request for Delivery Services via the Uber Services, or to cancel an accepted request for Delivery Services via the Provider App, subject to Portier Pacific's then-current policies. You will not: (a) display Portier Pacific's or any of its Affiliates' names, logos or colors on your Transportation Method; or (b) wear a uniform or any other clothing displaying Portier Pacific's or any of its Affiliates' names, logos or colors. The foregoing does not apply if you and Portier Pacific have agreed otherwise or if so required by law. You acknowledge and agree that you have complete discretion to provide services or otherwise engage in any business or employment activities. For the sake of clarity, you understand that you retain the complete right to: (i) use other software application services in addition to the Uber Services; and (ii) engage in any occupation or business. Portier Pacific retains the right to, at any time at

Portier Pacific's sole discretion, deactivate or otherwise restrict you from accessing or using the Provider ID, Provider App and/or the Uber Services in the event of a violation of this Agreement, any relevant policy and/or the Driver Privacy Statement (Non-U.S.) located at www.uber.com/legal, your disparagement of Portier Pacific or any of its Affiliates, or your act or omission that causes harm to Portier Pacific's or its Affiliates' brand, reputation or business as determined by Portier Pacific in its sole discretion.

2.5 Ratings.

- 2.5.1 You acknowledge and agree that: (a) after completion of an instance of Delivery Services, a User and/or Delivery Recipient may be prompted by Uber's technology platform to provide a rating of you and such Delivery Services and, optionally, to provide comments or feedback about you and such Delivery Services; and (b) after providing Delivery Services, you will be prompted by the Provider App to provide a rating of the User and, optionally, to provide comments or feedback about the User. You shall provide your ratings and feedback in good faith.
- 2.5.2 You acknowledge that Portier Pacific desires that Users have access to high-quality services via Uber's technology platform. In order to continue to receive access to the Provider App and the Uber Services, you must maintain an average rating that exceeds the minimum average acceptable rating established by Portier Pacific in respect of the location for which you are registered with the Provider App from time to time, ("*Minimum Average Rating*"). The Minimum Average Rating may be updated from time to time by Portier Pacific in its sole discretion and Portier Pacific will provide you with at least 14 days' notice in the event such an update would result in an increase to the Minimum Average Rating in the location for which you are registered with the Provider App. Portier Pacific will notify you if your average rating falls below the Minimum Average Rating and Portier Pacific may provide you, in Portier Pacific's sole discretion, a limited period of time to raise your average rating above the Minimum Average Rating. If you do not increase your average rating above the Minimum Average Rating within the time period allowed (if any), Portier Pacific reserves the right to deactivate your access to the Provider App and the Uber Services. Additionally, you acknowledge that your repeated failure to accept User requests for Delivery Services while you are logged in to the Provider App creates a negative experience for Users of Uber's technology platform. If you do not wish to accept User requests for Delivery Services for a period of time, you agree that you will log off of the Provider App.
- 2.5.3 Portier Pacific and its Affiliates reserve the right to use, share and display your, User and Delivery Recipient ratings and comments in any manner in connection with the business of Portier Pacific and its Affiliates without attribution to you or your approval. You acknowledge and agree that Portier Pacific and its Affiliates are distributors (without any obligation to verify) and not publishers of your, User and Delivery Recipient ratings and comments, provided that Portier Pacific and its Affiliates reserve the right to edit or remove comments in the event that such comments include obscenities or other objectionable content, include an individual's name or other personal information, or

violate any privacy laws, other applicable laws, or Portier Pacific's or its Affiliates' content policies.

2.6 Your Device. You are responsible for the acquisition, cost and maintenance of Your Device as well as any necessary wireless data plan; and (ii) Portier Pacific or its Affiliate shall make available the Provider App for installation on Your Device. Portier Pacific hereby grants you a personal, non-exclusive, non-transferable right to install and use the Provider App on Your Device solely for the purpose of providing Delivery Services. You agree to not provide, distribute or share, or enable the provision, distribution or sharing of, the Provider App (or any data associated therewith) with any third party. The foregoing right shall immediately terminate and you will delete and fully remove the Provider App from Your Device in the event that you cease to provide Delivery Services using Your Device. You agree that: (i) use of the Provider App on Your Device requires an active data plan with a wireless carrier associated with Your Device, which data plan will be provided by you at your own expense; and (ii) use of the Provider App on Your Device as an interface with the Uber Services may consume very large amounts of data through the data plan. Portier Pacific advises that Your Device only be used under a data plan with unlimited or very high data usage limits, and Portier Pacific shall not be responsible or liable for any fees, costs, or overage charges associated with any data plan.

2.7 Location Based Services. You acknowledge and agree that your geo-location information must be provided to the Uber Services via Your Device in order to provide Delivery Services. You acknowledge and agree that: (a) your geo-location information may be obtained by the Uber Services while the Provider App is running; and (b) your approximate location will be displayed to the User and Delivery Recipient before and during the provision of Delivery Services to the User. In addition, Portier Pacific and its Affiliates may monitor, track and share with third parties your geo-location information obtained by the Provider App and Your Device for safety, security, technical, marketing and commercial purposes, including to provide and improve their products and services.

3. You and Your Transportation Method

3.1 Your Requirements. You acknowledge and agree that at all times, you shall: (a) hold and maintain (i) a valid applicable licence with the appropriate level of certification to operate your Transportation Method (*e.g.*, a driver's licence if your Transportation Method is a motor vehicle), and (ii) all licenses, permits, approvals and authority applicable to you that are necessary to provide delivery services to third parties in the Territory; (b) possess the appropriate and current level of training, expertise and experience to provide Delivery Services in a professional manner with due skill, care and diligence; and (c) maintain high standards of professionalism, service and courtesy. You acknowledge and agree that you may be subject to certain background and driving record checks from time to time in order to qualify to provide, and remain eligible to provide, Delivery Services. You acknowledge and agree that Portier Pacific reserves the right, at any time in Portier Pacific's sole discretion, to deactivate or otherwise restrict you from accessing or using the Provider ID, Provider App and/or the Uber Services if you fail to meet the requirements set forth in this Agreement.

3.2 Transportation Method Requirements. You acknowledge and agree that your Transportation Method will at all times be: (a) properly registered and licensed to operate as a

delivery vehicle in the Territory (if your Transportation Method is a vehicle); (b) owned or leased by you, or otherwise in your lawful possession; (c) suitable for performing the Delivery Services contemplated by this Agreement; and (d) maintained in good operating condition, consistent with any applicable industry safety and maintenance standards for a Transportation Method of its kind and any additional standards or requirements in the applicable Territory, and in a clean and sanitary condition.

3.3 Documentation. To ensure your compliance with all requirements in clauses 3.1 and 3.2 above, you must provide Portier Pacific with written copies of all such licenses, permits, approvals, authority, registrations and certifications prior to your provision of any Delivery Services. Thereafter, you must submit to Portier Pacific written evidence of all such licenses, permits, approvals, authority, registrations and certifications as they are renewed. Portier Pacific shall, upon request, be entitled to review such licenses, permits, approvals, authority, registrations and certifications from time to time, and your failure to provide or maintain any of the foregoing shall constitute a material breach of this Agreement. Portier Pacific reserves the right to independently verify your Documentation from time to time in any way Portier Pacific deems appropriate in its reasonable discretion.

4. **Financial Terms**

4.1 Delivery Fee Calculation and Your Payment. You are entitled to charge a delivery fee for each instance of completed Delivery Services provided to a User that are obtained via the Uber Services ("*Delivery Fee*"), where such Delivery Fee is, as applicable (a) calculated based upon a base delivery fee amount plus distance (as determined by Portier Pacific using location-based services enabled through Your Device) and/or time amounts; or (b) a flat fee, each as detailed at <http://ubermovement.com/> for the applicable Territory ("*Delivery Fee Calculation*"). You acknowledge that the Delivery Fee is the only payment you will receive in consideration for your provision of Delivery Services to a User and that neither the Delivery Fee nor the Delivery Fee Calculation includes any gratuity. You are also entitled to charge User for any Tolls, taxes or fees incurred during the provision of Delivery Services, if applicable. You: (i) appoint Portier Pacific as your limited payment collection agent solely for the purpose of accepting the Delivery Fee, applicable Tolls and, depending on the region and/or if requested by you, applicable taxes and fees from the User on your behalf via the payment processing functionality facilitated by the Uber Services that are related to your provision of Delivery Services; and (ii) agree that payment made by User to Portier Pacific (or to an Affiliate of Portier Pacific acting as an agent of Portier Pacific) shall be considered the same as payment made directly by User to you. In addition, the parties acknowledge and agree that as between you and Portier Pacific, the Delivery Fee is a recommended amount, and the primary purpose of the pre-arranged Delivery Fee is to act as the default amount in the event you do not negotiate a different amount. You shall always have the right to: (i) charge a delivery fee that is less than the pre-arranged Delivery Fee; or (ii) negotiate, at your request, a Delivery Fee that is lower than the pre-arranged Delivery Fee (each of (i) and (ii) herein, a "*Negotiated Delivery Fee*"). Portier Pacific shall consider all such requests from you in good faith. Portier Pacific agrees to remit, or cause to be remitted, to you on at least a weekly basis: (a) the Delivery Fee less the applicable Service Fee and other fees charged by Portier Pacific; (b) the Tolls; (c) any incentive payments; and (d) depending on the region, certain

taxes and ancillary fees. If you have separately agreed that other amounts may be deducted from the Delivery Fee prior to remittance to you (*e.g.*, vehicle financing payments, lease payments, government fees and charges, etc.), the order of any such deductions from the Delivery Fee is to be determined exclusively by Portier Pacific (as between you and Portier Pacific).

4.2 Changes to Delivery Fee Calculation. Portier Pacific reserves the right to change the Delivery Fee Calculation at any time in Portier Pacific's discretion based upon local market factors. Portier Pacific will provide you with notice in the event such changes would result in a change in the recommended Delivery Fee. Continued use of the Uber Services after any such change in the Delivery Fee Calculation shall constitute your consent to such change.

4.3 Delivery Fee Adjustment. Portier Pacific reserves the right to: (i) adjust the Delivery Fee for a particular instance of Delivery Services (*e.g.*, you took an inefficient route, you failed to properly end a particular instance of Delivery Services in the Provider App, technical error in the Uber Services, etc.); or (ii) cancel the Delivery Fee for a particular instance of Delivery Services (*e.g.*, a communicated User deadline for completion of delivery services was not met, User is charged for Delivery Services that were not provided, in the event of a User complaint, fraud, etc.). Portier Pacific's decision to reduce or cancel the Delivery Fee in any such manner shall be exercised in a reasonable manner.

4.4 Service Fee. In consideration of Portier Pacific's provision of the Provider App and the Uber Services for your use and benefit hereunder, you agree to pay Portier Pacific a service fee on a per Delivery Services transaction basis calculated as a percentage of the Delivery Fee determined by the Delivery Fee Calculation (regardless of any Negotiated Delivery Fee), as provided to you via email or otherwise made available electronically by Portier Pacific from time to time for the applicable Territory ("*Service Fee*"). Unless regulations applicable to your Territory require otherwise, taxes will be calculated and charged on the Delivery Fee and Portier Pacific shall calculate the Service Fee based on the Delivery Fee inclusive of such taxes. Portier Pacific reserves the right to change the Service Fee at any time in Portier Pacific's discretion based upon local market factors, and Portier Pacific will provide you with at least 14 days' notice in the event of such change. If Portier Pacific increases or provides notice of an intention to increase the Service Fee, you have the right to terminate the Agreement immediately, without notice. Continued use of the Uber Services after any such change in the Service Fee calculation shall constitute your consent to such change.

4.5 Cancellation Charges. You acknowledge and agree that Users may elect to cancel requests for Delivery Services that have been accepted by you via the Provider App at any time prior to your arrival at the drop-off location. In the event that a User cancels an accepted request for Delivery Services or the package is not available for your pick-up based on Portier Pacific's then-current policies with respect to the foregoing, Portier Pacific may charge the User a cancellation fee on your behalf. If charged, this cancellation fee shall be deemed the Delivery Fee for the cancelled Delivery Services for the purpose of remittance to you hereunder ("*Cancellation Fee*"). The parties acknowledge and agree that as between you and Portier Pacific, this Cancellation Fee is a recommended amount, and the primary purpose of such Cancellation Fee is to act as the default amount in the event you do not negotiate a different

amount. You shall always have the right to: (i) charge a cancellation fee that is less than the Cancellation Fee; or (ii) negotiate, at your request, a cancellation fee that is lower than the Cancellation Fee (each of (i) and (ii) herein, a "*Negotiated Cancellation Fee*"). If charged, the Cancellation Fee (regardless of any Negotiated Cancellation Fee) shall be deemed the Delivery Fee for the cancelled Delivery Services for the purpose of remittance to you hereunder.

4.6 Receipts. As part of the Uber Services, Portier Pacific (or an Affiliate on its behalf) provides you a system for the delivery of receipts to Users for Delivery Services rendered. Upon your completion of Delivery Services for a User, Portier Pacific prepares an applicable receipt and issues such receipt to the User via email on your behalf. Such receipts are also provided to you via email or the online portal available to you through the Uber Services. Receipts include the breakdown of amounts charged to the User for Delivery Services and may include specific information about you, including your name, contact information and photo, as well as a map of the route you took. Any corrections to a User's receipt for Delivery Services must be submitted to Portier Pacific in writing within three (3) business days after the completion of such Delivery Services. Absent such a notice, Portier Pacific shall not be liable for any mistakes in or corrections to the receipt or for recalculation or disbursement of the Delivery Fee.

4.7 No Additional Amounts. You acknowledge and agree that, for the mutual benefit of the parties, through advertising and marketing, Portier Pacific and its Affiliates may seek to attract new Users to Portier Pacific and its Affiliates and to increase existing Users' use of Uber's technology platform. You acknowledge and agree such advertising or marketing does not entitle you to any additional monetary amounts beyond the amounts expressly set forth in this Agreement. You acknowledge that the Uber Services do not provide Delivery Recipients or Users the ability to apply a gratuity through the Uber Services, as the Delivery Fees are full payment for your Delivery Services. In the event that a User pays Portier Pacific valid gratuity on your behalf, Portier Pacific will transmit such gratuity to you and will not retain any portion of that gratuity. With regard to cash gratuities provided by a User or Delivery Recipient directly to you, no portion of that gratuity is owed to or should be paid to Portier Pacific.

4.8 Taxes. You acknowledge and agree that you are required to: (a) complete all tax registration obligations and calculate and remit all tax liabilities related to your provision of Delivery Services as required by applicable law; and (b) provide Portier Pacific with all relevant tax information (including, without limitation, a valid GST registration number belonging to you, if obtaining a GST registration number is required by you by applicable law). You further acknowledge and agree that you are responsible for taxes on your own income arising from the performance of Delivery Services. Notwithstanding anything to the contrary in this Agreement, Portier Pacific may in its reasonable discretion based on applicable tax and regulatory considerations, collect and remit taxes resulting from your provision of Delivery Services and/or provide any of the relevant tax information you have provided pursuant to the requirement mentioned in this clause 4.8, directly to the applicable governmental tax authorities on your behalf or otherwise.

4.9 Incentives. From time to time, Portier Pacific may make an incentive payment(s) to you as consideration for your satisfaction of certain conditions as determined by Portier Pacific in its discretion ("*Conditions*"). These Conditions may be included in promotional materials, and/or may be communicated to you, including via text message and email. You acknowledge and

agree that any incentive payment(s) is made to you at Portier Pacific's sole discretion, subject to the Conditions.

5. **Proprietary Rights; License**

5.1 **License Grant.** Subject to the terms and conditions of this Agreement, Portier Pacific hereby grants you a non-exclusive, royalty-free, non-transferable, non-sublicensable, non-assignable license, during the term of this Agreement, to use the Uber Services (including the Provider App on Your Device) solely for the purpose of providing Delivery Services to Users and tracking resulting Delivery Fees and fees. All rights not expressly granted to you are reserved by Portier Pacific, its Affiliates and their respective licensors.

5.2 **Restrictions.** You shall not, and shall not allow any other party to: (a) license, sublicense, sell, resell, transfer, assign, distribute or otherwise provide or make available to any other party the Uber Services or Provider App in any way; (b) modify or make derivative works based upon the Uber Services or Provider App; (c) improperly use the Uber Services or Provider App, including creating Internet "links" to any part of the Uber Services or Provider App, "framing" or "mirroring" any part of the Uber Services or Provider App on any other websites or systems, or "scraping" or otherwise improperly obtaining data from the Uber Services or Provider App; (d) reverse engineer, decompile, modify, or disassemble the Uber Services or Provider App, except as allowed under applicable law; or (e) send spam or otherwise duplicative or unsolicited messages. In addition, you shall not, and shall not allow any other party to, access or use the Uber Services or Provider App to: (i) design or develop a competitive or substantially similar product or service; (ii) copy or extract any features, functionality, or content thereof; (iii) launch or cause to be launched on or in connection with the Uber Services an automated program or script, including web spiders, crawlers, robots, indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burden or hinder the operation and/or performance of the Uber Services; or (iv) attempt to gain unauthorized access to the Uber Services or its related systems or networks, all except to the extent such actions must be allowed under Dutch law.

5.3 **Ownership.** The Uber Services, Provider App and Uber Data, including all intellectual property rights therein, are and shall remain (as between you and Portier Pacific) the property of Portier Pacific, its Affiliates or their respective licensors. Neither this Agreement nor your use of the Uber Services, Provider App or Uber Data conveys or grants to you any rights) in or related to the Uber Services, Provider App or Uber Data, except for the limited license granted above. Other than as specifically permitted by Portier Pacific in connection with the Uber Services, you are not permitted to use or reference in any manner Portier Pacific's, its Affiliates', or their respective licensors' company names, logos, products and service names, trademarks, service marks, trade dress, copyrights, or other indicia of ownership, alone and in combination with other letters, punctuation, words, symbols and/or designs (the "*UBER Marks and Names*") for any commercial purposes. You agree that you will not try to register or otherwise use and/or claim ownership in any of the *UBER Marks and Names*, alone or in combination with other letters, punctuation, words, symbols and/or designs, or in any confusingly similar mark, name or title, for any goods and services.

6. **Confidentiality**

6.1 Each party acknowledges and agrees that in the performance of this Agreement it may have access to or may be exposed to, directly or indirectly, confidential information of the other party ("*Confidential Information*"). Confidential Information includes Uber Data, Provider IDs, User Information, Delivery Recipient Information, package information, and the transaction volume, marketing and business plans, business, financial, technical, operational and such other non-public information of each party (whether disclosed in writing or verbally) that such party designates as being proprietary or confidential or of which the other party should reasonably know that it should be treated as confidential.

6.2 Each party acknowledges and agrees that: (a) all Confidential Information shall remain the exclusive property of the disclosing party; (b) it shall not use Confidential Information of the other party for any purpose except in furtherance of this Agreement; (c) it shall not disclose Confidential Information of the other party to any third party, except to its employees, officers, contractors, agents and service providers ("*Permitted Persons*") as necessary to perform under this Agreement, provided Permitted Persons are bound in writing to obligations of confidentiality and non-use of Confidential Information no less protective than the terms hereof; and (d) it shall return or destroy all Confidential Information of the disclosing party, upon the termination of this Agreement or at the request of the other party (subject to applicable law and, with respect to Portier Pacific, its internal record-keeping requirements).

6.3 Notwithstanding the foregoing, Confidential Information shall not include any information to the extent it: (a) is or becomes part of the public domain through no act or omission on the part of the receiving party; (b) was possessed by the receiving party prior to the date of this Agreement without an obligation of confidentiality; (c) is disclosed to the receiving party by a third party having no obligation of confidentiality with respect thereto; or (d) is required to be disclosed pursuant to law, court order, subpoena or governmental authority, provided the receiving party notifies the disclosing party thereof and provides the disclosing party a reasonable opportunity to contest or limit such required disclosure.

7. **Privacy**

7.1 **Disclosure of Your Information.** Subject to applicable law, and notwithstanding clause 6.2, Portier Pacific and its Affiliates may provide to a User, a Delivery Recipient, an insurance company and/or relevant authorities and/or regulatory agencies any information (including personal information (*e.g.*, information obtained about you through any background check), Confidential Information, and any Uber Data) about you or any Delivery Services provided hereunder if: (a) there is a complaint, dispute or conflict, including an accident, between you and a User or you and a Delivery Recipient; (b) it is necessary to enforce the terms of this Agreement; (c) it is required, in Portier Pacific's or any Affiliate's sole discretion, by applicable law or regulatory requirements (*e.g.*, Portier Pacific or its Affiliates receive a subpoena, warrant, or other legal process for information); or (d) it is necessary, in Portier Pacific's or any Affiliate's sole discretion, to (1) protect the safety, rights, property or security of Portier Pacific or its Affiliates, the Uber Services or any third party; (2) to protect the safety of the public for any reason including the facilitation of insurance claims related to the Uber Services; (3) to detect, prevent or otherwise address fraud, security or technical issues; (4) to prevent or stop activity which Portier Pacific or any of its Affiliates, in their sole discretion, may consider to be, or to

pose a risk of being, an illegal, unethical, or legally actionable activity; or (e) it is required or necessary, in Portier Pacific's or any Affiliate's sole discretion, for insurance or other purposes related to your ability to qualify, or remain qualified, to use the Uber Services. You understand that Portier Pacific and its Affiliates may retain your personal data for legal, regulatory, safety and other necessary purposes after this Agreement is terminated.

- 7.2 Portier Pacific and its Affiliates may collect your personal data during the course of your application for, and use of, the Uber Services, or may obtain information about you from third parties. Such information may be stored, processed, transferred, and accessed by Portier Pacific and its Affiliates, third parties, and service providers for business purposes, including for marketing, lead generation, service development and improvement, analytics, industry and market research, and such other purposes consistent with Portier Pacific's and its Affiliates' legitimate business needs. You expressly consent to such use of personal data.
- 7.3 Portier Pacific and its Affiliates process personal data (including that referenced in clause 2.7 above) as provided in the Driver Privacy Statement (Non U.S.) located at www.uber.com/legal.

8. Insurance

- 8.1 Prior to doing business with Portier Pacific you agree to obtain the coverage required by clause 8.2 below at your sole cost and expense. You agree to review the terms and conditions of such coverage to ensure that it provides the amounts of coverage required by clause 8.2 while you are using a motor vehicle to provide Delivery Services. As between you and Portier Pacific, it is your sole responsibility to inform your insurer of the use of your motor vehicle while providing Delivery Services.
- 8.2 You agree to maintain during the term of this Agreement on all motor vehicles operated by you under this Agreement motor vehicle liability insurance that provides protection against bodily injury and property damage to yourself and third parties, at levels of coverage that satisfy the minimum requirements to operate a such a private passenger motor vehicle on the public roads within the Territory. This coverage must also include any other insurance required by law for the operation of a motor vehicle in the Territory that may not be waived by an insured. You agree to provide Portier Pacific a copy of the insurance policy, policy declarations, proof of insurance identification card and proof of premium payment for the insurance policy required in this clause 8.2 upon request. Furthermore, you must provide Portier Pacific with written notice of cancellation of any insurance policy required by Portier Pacific. Portier Pacific shall have no right to control your selection or maintenance of your policy. You must be a named insured or individually rated driver, for which a premium is charged or calculated, on the insurance policy required in this clause 8.2 at all times.
- 8.3 In relation to the Delivery Services, you agree that you are not an employee, a worker or a deemed worker for the purposes of Australian workers compensation laws and therefore acknowledge that Portier Pacific does not, and is not required to, maintain or provide you with workers' compensation insurance or maintain other occupational accident injury insurance on your behalf. You agree to maintain at your cost during the term of this Agreement workers' compensation insurance or other occupational accident injury insurance (or the local equivalent) as required by any applicable law in the Territory (provided that the

foregoing shall have no impact on the mutual understanding between you and Portier Pacific that you are a self-employed individual (including from a labour and social security perspective) and otherwise comply with all statutory workers compensation requirements. If permitted by applicable law, you may choose to insure yourself against industrial injuries by maintaining occupational accident insurance in place of workers' compensation insurance. Furthermore, if permitted by applicable law, you may choose not to insure yourself against industrial injuries at all, but do so at your own risk.

- 8.4 You understand and acknowledge that your private passenger motor vehicle insurance policy may not afford liability, comprehensive, collision, medical payments, first or third party no fault personal injury protection, uninsured motorist, underinsured motorist or other coverage while you provide for any Delivery Services you provide pursuant to this Agreement. If you have any questions or concerns about the scope or applicability of your own insurance coverage, it is your responsibility, not Portier Pacific's, to resolve them with your insurer(s).
- 8.5 Portier Pacific may maintain during the term of this Agreement motor vehicle insurance related to your provision of Delivery Services as determined by Portier Pacific in its reasonable discretion, provided that Portier Pacific and its Affiliates are not required to provide you with any specific insurance coverage for any loss to you or your motor vehicle. Should Portier Pacific procure insurance related to your provision of Delivery Services, Portier Pacific may cancel such coverage at its sole discretion at any time. You are required to promptly notify Portier Pacific of any accidents that occur while providing Delivery Services and to cooperate and provide all necessary information related thereto.

9. **Representations and Warranties; Disclaimers**

- 9.1 **By You.** You hereby represent and warrant that: (a) you have full power and authority to enter into this Agreement and perform your obligations hereunder; (b) you have not entered into, and during the term will not enter into, any agreement that would prevent you from complying with this Agreement; and (c) you will comply with all applicable laws in your performance of this Agreement, including holding and complying with all permits, licenses, registrations and other governmental authorizations necessary to provide (i) Delivery Services using the Transportation Method pursuant to this Agreement, and (ii) delivery services to third parties in the Territory generally.
- 9.2 **Disclaimer of Warranties.** This clause 9.2 applies only to the maximum extent permitted by applicable law, and does not (and it not intended to) override any rights that you have pursuant to applicable law. Portier Pacific and its Affiliates provide, and you accept, the Uber Services and Provider App on an "as is" and "as available" basis. Portier Pacific and its Affiliates do not represent, warrant or guarantee that your access to or use of the Uber Services or Provider App: (a) will be uninterrupted or error free; or (b) will result in any requests for Delivery Services. Portier Pacific and its Affiliates function as an on-demand lead generation and related service only and make no representations, warranties or guarantees as to the actions or inactions of Users or Delivery Recipients who may request or receive Delivery Services from you, and Portier Pacific and its Affiliates do not screen or otherwise evaluate Users or Delivery Recipients. By

using the Uber Services and Provider App, you acknowledge and agree that you may be introduced to a third party that may pose harm or risk to you or other third parties. You are advised to take reasonable precautions with respect to interactions with third parties encountered in connection with the use of the Uber Services or Provider App. Portier Pacific does not represent, warrant or guarantee the safety of any items provided to you for Delivery Services. Notwithstanding Portier Pacific's appointment as the limited payment collection agent of you for the purpose of accepting payment from Users on your behalf as set forth in clause 4 above, Portier Pacific and its Affiliates expressly disclaim all liability for any act or omission of you, any User, any Delivery Recipient or other third party.

- 9.3 **No Service Guarantee.** This clause 9.3 applies only to the maximum extent permitted by applicable law, and does not (and is not intended to) override any rights that you have pursuant to applicable law. Portier Pacific and its Affiliates do not guarantee the availability or uptime of the Uber Services or Provider App. You acknowledge and agree that the Uber Services or Provider App may be unavailable at any time and for any reason (e.g., due to scheduled maintenance or network failure). Further, the Uber Services or Provider App may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications, and Portier Pacific and its Affiliates are not responsible for any delays, delivery failures, or other damages, liabilities or losses resulting from such problems.

10. Indemnification

- 10.1 **Generally.** You shall indemnify, defend (at Portier Pacific's option) and hold harmless Portier Pacific and its Affiliates and their respective officers, directors, employees, agents, successors and assigns from and against any and all liabilities, expenses (including legal fees), damages, penalties, fines, social security contributions and taxes arising out of or related to:
- (a) your breach of your representations, warranties or obligations under this Agreement; or
 - (b) a claim by a third party (including Users, Delivery Recipients, regulators and governmental authorities) directly or indirectly related to your provision of Delivery Services or use of the Uber Services ("*Losses*").

Your liability under this clause 10.1 shall be reduced proportionately if, and to the extent that, Portier Pacific directly caused or directly contributed to any such Losses.

- 10.2 **Tax Indemnity.** You shall comply with all of your obligations under tax and social security laws to the extent applicable to this Agreement. You shall indemnify Portier Pacific and its Affiliates from all tax liabilities, duties, levies, claims and penalties that may be imposed on you or on Portier Pacific and/or its Affiliates as a result of your failure to comply with any of your tax obligations. In particular, but without limitation to the foregoing, such taxes or duties shall include taxes, wages or other duties or withholdings (including any wage tax, social insurance premiums or employee insurance premiums) ("*Tax Liabilities*") arising in the event that the relationship described in this Agreement, contrary to the intention and meaning of the parties, should be held to be an employment agreement between Portier Pacific and you by the Dutch

taxation, fiscal or social security authority or the taxation, fiscal or social security authority of any other country. The indemnity set out in this clause 10.2, insofar as it relates to a finding by a judicial body or legislative authority of competent jurisdiction that there is an employment relationship between you and Portier Pacific or an Affiliate of Portier Pacific, applies only to that proportion of Portier Pacific's liability that directly or indirectly relates to or arises from you holding yourself out to be an employee of Portier Pacific or any of its Affiliates, or any other act or omission by you that is not expressly authorised by Portier Pacific and would reasonably suggest to a third party that you are an employee of Portier Pacific or any of its Affiliates.

11. Limits of Liability. This clause 11 applies only to the maximum extent permitted by applicable law and does not (and is not intended to) override any rights that you have pursuant to applicable law. Portier Pacific and its Affiliates shall not be liable under or related to this Agreement for any of the following, whether based on contract, tort or any other legal theory, even if a party has been advised of the possibility of such damages: (i) any incidental, punitive, special, exemplary, consequential, or other indirect damages of any type or kind; or (ii) your or any third party's property damage or loss, or loss or inaccuracy of data, or loss of business, revenue, profits, use or other economic advantage. Except for the obligations on Portier Pacific (or an Affiliate of Portier Pacific) to pay amounts due to you pursuant to clause 4 above, but subject to any limitations or other provisions contained in this Agreement which are applicable thereto, in no event shall the liability of Portier Pacific and/or its Affiliates under this Agreement exceed the amount of Service Fees actually paid to or due to Portier Pacific hereunder in the six (6) month period immediately preceding the event giving rise to such claim.

You acknowledge and agree that any and all claims you have or purport to have against Portier Pacific and/or its Affiliates should be notified to Portier Pacific and/or its Affiliates within one (1) year after the event(s) that gave rise to such claim and that you forfeit all rights in respect of that claim if you fail to do so. These limitations do not purport to limit liability that cannot be excluded under applicable law.

12. Term and Termination

- 12.1 **Term.** This Agreement shall commence on the date executed by you (electronically or otherwise) and shall continue until terminated as set forth herein.
- 12.2 **Termination.** Either party may terminate this Agreement: (a) without cause at any time upon thirty (30) days' prior notice to the other party; (b) immediately, without notice, for the other party's material breach of this Agreement; or (c) immediately, without notice, in the event of the insolvency or bankruptcy of the other party, or upon the other party's filing or submission of request for suspension of payment (or similar action or event) against the terminating party. In addition, Portier Pacific may deactivate or otherwise restrict you from accessing or using the Provider ID, Provider App and/or the Uber Services immediately, without notice, in the event you no longer qualify, under applicable law or the standards and policies of Portier Pacific and its Affiliates, to provide Delivery Services or to operate your Transportation Method, or as otherwise set forth in this Agreement.
- 12.3 **Effect of Termination.** Upon termination of the Agreement, you shall immediately delete and fully remove the Provider App from Your Devices. Outstanding payment obligations and clauses

1, 2.3, 2.5.3, 4.7, 4.8, 5.3, 6, 7, 9, 10, 11, 12.3, 13, 14 and 15 shall survive the termination of this Agreement.

13. Relationship of the Parties

- 13.1 Except as otherwise expressly provided herein with respect to Portier Pacific acting as the limited payment collection agent solely for the purpose of collecting payment from Users on your behalf, the relationship between the parties under this Agreement is solely that of independent contractors. The parties expressly agree that: (a) this Agreement is not an employment agreement, nor does it create an employment relationship (including from a labour law, tax law or social security law perspective), between Portier Pacific (and/or its Affiliates) and you; and (b) no joint venture, partnership, or agency relationship exists between Portier Pacific (and/or Portier Pacific's Affiliates) and you.
- 13.2 You have no authority to bind Portier Pacific and/or its Affiliates and you undertake not to hold yourself out as an employee, agent or authorized representative of Portier Pacific and/or its Affiliates. Where, by implication of mandatory law or otherwise, you may be deemed an employee, agent or representative of Portier Pacific or an Affiliate of Portier Pacific, you undertake and agree to indemnify, defend (at Portier Pacific's option) and hold Portier Pacific and its Affiliates harmless from and against any claims by any person, entity, regulators or governmental authorities based on such implied employment, agency or representative relationship. The indemnity set out in this clause 13.2, insofar as it relates to a finding by a judicial body or legislative authority of competent jurisdiction that there is an employment relationship between you and Portier Pacific or an Affiliate of Portier Pacific, applies only to that proportion of Portier Pacific's liability that directly or indirectly relates to you holding yourself out to be an employee of Portier Pacific or any of its Affiliates, or any other act or omission by you that is not expressly authorised by Portier Pacific and would reasonably suggest to a third party that you are an employee of Portier Pacific or any of its Affiliates. You expressly agree that where required or implied by applicable law or otherwise, you may be deemed an employee, agent or representative of Portier Pacific or an Affiliate of Portier Pacific, any payments made to you will be taken to be inclusive of (i) superannuation contribution amounts; and (ii) amounts equivalent to all taxes (including but not limited to income taxes) payable by you in respect of those payments, in each case that Portier Pacific (or any of its Affiliates) may otherwise be required to pay under applicable law.
- 13.3 You expressly acknowledge and agree that by agreeing to the terms and conditions of this Agreement you intend to perform Delivery Services and, as such, Portier Pacific may, based on information provided by you and/or third parties, consider you to be registered for GST in accordance with applicable GST law.

14. Miscellaneous Terms

14.1 **Modification.** Portier Pacific reserves the right to modify the terms and conditions of this Agreement at any time, effective upon publishing an updated version of this

Agreement on the online portal available to you on the Uber Services. Portier Pacific reserves the right to modify any policies or information referenced at hyperlinks from this Agreement from time to time. Portier Pacific will provide you with at least fourteen (14) days' notice in the event of a material change to any clause of the Agreement, provided that in such event you have the right to terminate the Agreement immediately upon receiving notice from Portier Pacific. You hereby acknowledge and agree that, by using the Uber Services, or downloading, installing or using the Provider App, you are bound by any future amendments and additions to information referenced at hyperlinks herein, or documents incorporated herein, including with respect to Delivery Fee Calculations. Continued use of the Uber Services or Provider App after any such changes shall constitute your consent to such changes.

14.2 **Supplemental Terms.** Supplemental terms may apply to your use of the Uber Services, such as use policies or terms related to certain features and functionality, which may be modified from time to time ("*Supplemental Terms*"). You may be presented with certain Supplemental Terms from time to time. Supplemental Terms are in addition to, and shall be deemed a part of, this Agreement. Portier Pacific will provide you with fourteen (14) days' notice in the event that it adds or modifies Supplemental Terms in a manner that materially alters your rights under the Agreement, provided that in such event you shall have the right to terminate the Agreement immediately upon receiving notice from Portier Pacific. Supplemental Terms shall prevail over this Agreement in the event of a conflict.

14.3 **Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, under any law, such provision or part thereof shall to that extent be deemed not to form part of this Agreement but the legality, validity and enforceability of the remainder of this Agreement shall not be affected. In that event, the parties shall replace the illegal, invalid or unenforceable (part of the) provision with a (part of a) provision that is legal, valid and enforceable and that has, to the greatest extent possible, a similar effect as the illegal, invalid or unenforceable (part of the) provision, given the contents and purpose of this Agreement.

14.4 **Assignment.** You may not assign or transfer this Agreement or any of your rights or obligations hereunder, in whole or in part, without the prior written consent of Portier Pacific. Portier Pacific may assign or transfer this Agreement or any or all of its rights or obligations hereunder, in whole or in part, under this Agreement without consent or notification. Should Portier Pacific do so, you have the right to terminate this Agreement immediately, without prior notice.

14.5 **Entire Agreement.** This Agreement, including the recitals and all Supplemental Terms, constitutes the entire agreement and understanding of the parties with respect to its subject matter and replaces and supersedes all prior or contemporaneous agreements or undertakings regarding such subject matter. In this Agreement, the words "including" and "include" mean "including, but not limited to." The recitals form a part of this Agreement.

14.6 **No Third Party Beneficiaries except for Uber B.V. or Uber Portier B.V. (in their capacity as agents for Portier Pacific).** You acknowledge that there are no third party beneficiaries to this Agreement, except for Uber B.V. and Uber Portier B.V. (in their capacity as agents for Portier Pacific) and Portier Pacific's Affiliates. Nothing contained in this Agreement is

intended to or shall be interpreted to create any third-party beneficiary claims, except with respect to Uber B.V. or Uber Portier B.V. (in their capacity as agents for Portier Pacific).

14.7 **Notices.** Any notice delivered by Portier Pacific to you under this Agreement will be delivered by email to the email address associated with your account or by posting on the portal available to you on the Uber Services. Any notice delivered by you to Portier Pacific under this Agreement must be delivered by contacting Portier Pacific at t.uber.com/partner-contact. Additional Territory-specific notices may be required from time to time.

15. **Governing Law; Arbitration.** Except as otherwise set forth in this Agreement, this Agreement shall be governed by and construed in accordance with the laws of The Netherlands, excluding its rules on conflicts of laws. The Vienna Convention on the International Sale of Goods of 1980 (CISG) shall not apply. Any dispute, conflict or controversy, howsoever arising out of or broadly in connection with or relating to this Agreement, including those relating to its validity, its construction or its enforceability, shall be first mandatorily submitted to mediation proceedings under the International Chamber of Commerce Mediation Rules ("*ICC Mediation Rules*"). If such dispute has not been settled within sixty (60) days after a request for mediation has been submitted under such ICC Mediation Rules, such dispute can be referred to and shall be exclusively and finally resolved by arbitration under the Rules of Arbitration of the International Chamber of Commerce ("*ICC Arbitration Rules*"). The ICC Rules' Emergency Arbitrator provisions are excluded. The dispute shall be resolved by one (1) arbitrator to be appointed in accordance with the ICC Rules. The language of the arbitration shall be English. The existence and content of the mediation and arbitration proceedings, including documents and briefs submitted by the parties, correspondence from and to the ICC, correspondence from the mediator, and correspondence, orders and awards issued by the sole arbitrator, shall remain strictly confidential and shall not be disclosed to any third party without the express written consent from the other party unless: (i) the disclosure to the third party is reasonably required in the context of conducting the mediation or arbitration proceedings; and (ii) the third party agrees unconditionally in writing to be bound by the confidentiality obligation stipulated herein.

Nothing herein limits or excludes (nor is intended to limit or exclude) any statutory rights that you may have under applicable law that cannot be lawfully limited or excluded.

By clicking "I accept" or signing below (as such may be required by applicable law), you expressly acknowledge that you have read, understood, and taken steps to thoughtfully consider the consequences of this Agreement, that you agree to be bound by the terms and conditions of the Agreement, and that you are legally competent to enter into this Agreement with Portier Pacific.

Your Signature: _____

Name: _____

Date: _____

APPENDIX C

Deliveroo Contract

[REDACTED]

Dated [REDACTED] November 2015

DELIVEROO AUSTRALIA PTY LTD

(ACN 607 915 640)

and

[REDACTED]

[REDACTED]

INDEPENDENT CONTRACTOR AGREEMENT

Bird & Bird
Level 11, 68 Pitt Street, Sydney 2000
New South Wales, Australia
Telephone: 61 2 9226 9888
Facsimile: 61 2 9226 9899
www.twobirds.com
Ref: LEM:LTM:97055

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THIS AGREEMENT is made on [REDACTED] November 2015

BETWEEN

DELIVEROO AUSTRALIA PTY LTD ACN 607 915 640 of [Level 1, 3 Wellington Street, St Kilda VIC 3182] ("Company");

AND

[REDACTED] [REDACTED] of
[REDACTED] ("Contractor"); and

RECITALS

- A. The Company facilitates an online platform ("**Site**") which enables individuals ("**Customers**") to order food from a restaurant (partnered with the Company) via the Site, to be delivered by the closest driver to the customer. The Company is a technology company operating in the food space.
- B. The Contractor is a sole trader who provides services as a delivery driver, involved primarily in being an intermediary between the restaurant and the Customer as facilitated by the Site.
- C. The Company has determined that it requires the Contractor to provide certain services for the Company and the Contractor has agreed to provide those services in accordance with the terms and conditions set out below.
- D. The Parties have agreed to establish an independent contractor relationship subject to the terms and conditions set out in this Agreement. The Parties do not intend that this Agreement or the arrangements arising from or relating to this Agreement will create an employment relationship between the Company and the Contractor.

AGREED TERMS

- 1. **TERM**
 - 1.1 This Agreement will commence on the Commencement Date and will continue until terminated in accordance with clause 9 of this Agreement.
 - 1.2 From the Commencement Date this Agreement replaces and terminates all previous agreements between the parties in relation to the Work.

2. **DEFINITIONS AND INTERPRETATION**

2.1 In this Agreement:

"**Allocated Time**" means the Customer nominated time frame for the delivery of the Order;

"**Commencement Date**" means [REDACTED] November 20¹⁵;

"**Complaint**" means a written or oral expression of dissatisfaction made by an employee of the Company, a Client, or any other person, which is made in relation to the Work, the Contractor or any Contractor Representatives;

"**Confidential Information**" means information given to or gained by the Contractor or Representative in confidence at any time, whether before, during or after the period in which the Representative performed the Work that relates to any trade secret or any commercially sensitive or valuable information concerning the business, affairs, finances, clients, Customer data, subscribers or contacts of the Company which may come to the knowledge of the Contractor or Representative and which is not in the public domain;

"**Customer**" has the meaning set out in Recital A of this Agreement;

"**Intellectual Property**" means all forms of intellectual property rights throughout the world including copyright, registered patent, design, trade mark and Confidential Information, including know-how and trade secrets;

"**Moral Rights**" has the meaning given to it in the Copyright Amendment (Moral Rights) Act 2000 (Cth) and includes rights of integrity of authorship, rights of attribution of authorship and similar rights that exist or may come to exist anywhere in the world;

"**Order**" means the Customer's unique order for food from a selected restaurant via the Site;

"**Service Fees**" means the amount agreed upon between the Parties as per Schedule B of this Agreement as consideration for the provision of Work by the Contractor;

"**Service Standards**" has the meaning set out in Schedule A of this Agreement;

"**Site**" has the meaning as set out in Recital A of this Agreement;

"**WHS Law**" means work health and safety or occupational health and safety legislation and/or regulations as applicable in each State and Territory in Australia as well as any and all other work health and safety codes of practice, by laws, rules or regulations that apply to the performance of the Work in any State or Territory of Australia in accordance with this Agreement; and

[REDACTED]

“**Work**” means the acceptance via the Site to deliver an Order from a nominated restaurant to the Customer.

3. **APPOINTMENT**

- 3.1 The Company appoints the Contractor on a non-exclusive basis to perform the Work in accordance with the terms of this Agreement, and the Contractor accepts that appointment.
- 3.2 The Contractor retains at all times the right to work elsewhere and receive instructions from other companies without knowledge of or interference by the Company subject to ensuring that any other work being performed for other third parties, does not give rise to a conflict of interest, other conflict or in any way detract from the Contractor’s obligations under this Agreement in relation to the work including but not limited the Contractor’s obligations with respect to Confidential Information of the Company and any of its clients or customers.
- 3.3 The Contractor agrees that they will inform the Company immediately upon becoming aware of any conflict of interest directly or indirectly arising from, relating to or in connection with the Work and any other services that the Contractor is or may provide to a third party.
- 3.4 The Contractor must, prior to the Commencement Date provide the Company with evidence of a criminal record and/or background check as well as evidence of holding the requisite insurance and an ABN. Failure to provide such evidence prior to the Commencement Date or at all may result in the immediate termination of this Agreement
- 3.5 The Contractor acknowledges and agrees :
- 3.5.1 that the Company may alter the volume and nature of Work the Contractor is required to perform from time to time in accordance with the Company’s respective business and operational demands and requirements;
 - 3.5.2 to comply with the Contractor’s obligations as set out in this Agreement, including Service Standards and service expectations in relation to performance of the Work;
 - 3.5.3 that the Company may conduct periodic checks to ensure that the Contractor is complying with the Service Standards and service expectations in relation to performance of the Work pursuant to this Agreement;
 - 3.5.4 the Contractor is not an employee of the Company and that the parties do not intend for this Agreement or the engagement generally to create an employment relationship; and
 - 3.5.5 the Company is not obliged to provide any minimum volume of Work to the Contractor and makes no representation as to the volume of Work it will

provide or the amount of spend it will make during the term of this Agreement.

4. CONTRACTOR OBLIGATIONS

4.1 The Contractor acknowledges that he/she must:

- 4.1.1 ensure that at all times the Contractor is properly qualified, competent and experienced to carry out the Work requested by the Company;
- 4.1.2 ensure that the Work is carried out with a high degree of care, skill and diligence, in a timely manner, to the best of their ability and to the Service Standard set in Schedule A to this Agreement;
- 4.1.3 comply with all reasonable guidelines, requirements and instructions provided by the Company to carry out the Work. Notwithstanding, at all times the Contractor will be responsible for determining how the Work is to be performed subject to Schedule A;
- 4.1.4 carry out the Work using the mode of transport approved by the Company;
- 4.1.5 at the Contractor's own expense:
 - 1.1.1.1 perform any and all services necessary to rectify any Work that the Company determines in its sole discretion and acting reasonably, has not been completed satisfactorily in accordance with the Service Standards; and
 - 1.1.1.2 provide equipment and/or tool necessary to undertake the Work, including but not limited to a smart phone, sufficient data plan and an appropriate mode of transport.
- 4.1.6 comply with all road rules and regulations as applicable in the State or Territory in which the Work is performed;
- 4.1.7 comply with all food handling and hygiene rules that apply in relation to the Work, as applicable in the State in which the Contractor performs the Work and as available via the link set out in Item 2 of Schedule A;
- 4.1.8 notify the Company if there are any visa provisions that the Contractor is subject to which may effect, limit or prescribe conditions in relation to Contractor performing work;
- 4.1.9 at the Contractor's own expense, comply with all legislation, regulations, by-laws, ordinances or orders that affect or apply to the Contractor for the Work being carried out by the Contractor, including but not limited to those relating to unlawful discrimination, bullying, harassment and victimisation;

- [REDACTED]
- 4.1.10 at all times perform the Work and comply with WHS Law. In particular, the Contractor agrees and acknowledges that he/she:
 - 4.1.10.1 has sole management and control with respect to the performance of the Work;
 - 4.1.10.2 has responsibility to consult with the Company in relation to safe systems of work;
 - 4.1.10.3 must comply with any policies and procedures of the Company relating to WHS law; and
 - 4.1.10.4 must immediately notify the Company of any incident, accident or matter that could give rise to a risk under WHS Law and/or any other health and safety concerns he/she may have in relation to the performance of the Work.
 - 4.1.11 where required by the Company, carry a "Deliveroo Contractor Identification Card" when performing the Work;
 - 4.1.12 comply with any and all policies and procedures of the Company that apply to contractors in relation to the Work including but not limited to any WHS Law, workplace behaviour, IT and privacy policies and procedures;
 - 4.1.13 notify the Company immediately in writing if the Contractor has been charged with, implicated with or suspected of having committed any criminal offence. The Contractor agrees that failure to notify the Company may form grounds for immediate termination of this Agreement, in the Company's absolute discretion, in accordance with the immediate termination provisions of this Agreement set out at clause 9.3 below;
 - 4.1.14 if the Company suffers any loss (including but not limited to recouping any costs associated with remedying the loss), as a consequence of the actions or negligence of the Contractor, pay the Company the amount of that loss. The Company can deduct from any moneys it owes to the Contractor an amount to cover the loss;
 - 4.1.15 not make any public announcement (including on any social media forum), or press release, in connection with this Agreement and in respect of the Work, without first obtaining the consent of the Company;
 - 4.1.16 be responsible for all taxation associated with providing Work to the Company, including goods and services tax ("GST"); and
 - 4.1.17 have and continue to have, an Australian Business Number ("ABN") during the term of this Agreement.
- 4.2 The Contractor acknowledges that he/she must not:

- 4.2.1 make any false, misleading or deceptive statements, comments or representations to anyone (including on any social media site or forum) about the Company's services, or the Work. ;
- 4.2.2 make any statements, comments or representations (including on any social media site or forum) or behave in any way that will disparage or harm the Company's reputation and goodwill;
- 1.1.2 assign or subcontract this Agreement or any part of the Work without the prior written approval of the Company;
- 4.2.3 enter into any contracts, arrangements, promises or other types of agreements whilst purporting to be a representative of the Company and that are intended to be binding on the Company without prior written consent from the Company; or
- 4.2.4 except for the proper purposes of carrying out the Work, use Confidential Information for its own benefit or for the benefit of any other person or disclose Confidential Information unless required to by law.

5. **THE COMPANY'S OBLIGATIONS**

- 5.1 The Company acknowledges that it will:
 - 1.1.3 obtain an Order from the Customer;
 - 1.1.4 identify a suitable contractor, through its dispatch algorithm;
 - 1.1.5 if the algorithm selects the Contractor, notify the Contractor about the Order;
 - 1.1.6 pay the Contractor in accordance with the Service Fees for the Services as set out Schedule A of this Agreement subject to appropriate tax invoices being raised by the Contractor;
 - 1.1.7 allow the Contractor to indicate preferred hours of work and availability on a weekly basis subject to the Contractor ensuring that they are available to undertake any necessary time specific tasks required with respect to the Work and/or to discharge all obligations required under this Agreement;
- 5.1.1 request that the Contractor wear a uniform provided by the Company while performing the Work, so as to facilitate the promotion of the business by way of advertising;
- 5.1.2 specify, having regard to the Company's needs, the time required to complete the Work having regard to the Service Standards; and

- 5.1.3 issue to the Contractor a recipient created tax invoice ("RCTI") pursuant to the appropriate legislation for the issue of such invoices a regular intervals as determined by the Company during the term of this Agreement .

6. INVOICE AND PAYMENT PROCEDURES

- 6.1 The Company agrees to pay the Contractor the Service Fee set out in Schedule B for the performance of Work under this Agreement by the Contractor on a fortnightly basis following its generation of a RCTI as outlined in clause 6.3.
- 6.2 The company shall pay to the Contractor in respect to the Service Fee (set out in Schedule B) per completed hour worked. Payment of the Contractor's fee shall be paid made fortnightly in arrears.
- 6.3 The Contractor must provide the Company with its ABN upon execution of this Agreement and must include its ABN, the number of hours spent providing the Services, the days on which the Services were provided, the location at which the Services were performed and a description of the nature of the Services performed each day on every invoice issued to the Company.

7. INDEMNITIES AND INSURANCES

- 7.1 The Contractor unconditionally indemnifies and will keep indemnified the Company, its officers, employees and agents from and against all actions, claims, demands, costs, liability and expenses (including the cost of defending or settling an action, claim or demand) made, sustained, brought or prosecuted in any way including without limitation that attributable to any injury to a person (including death), loss of or damage to property or any advice or information given which arises out of, relates to or is in connection with the Contractor's performance or purported performance of the Work or in any way directly or indirectly arising from this Agreement or from any information provided by the Contractor pursuant to this Agreement being incorrect or incomplete.
- 7.2 The Contractor agrees and undertakes that the Contractor is, to the extent permitted by law, solely responsible for and liable for any and all superannuation contributions, work related insurance, tax payments and any other payments necessary for the Contractor to be able to provide the services (unless otherwise expressly provided in this Agreement) and indemnifies and will keep indemnified the Company from any and all claims whatsoever by any person in relation to any costs and/or expenses arising therefrom or resulting from the Contractor being determined not to be an independent contractor including without limitation legal costs.
- 7.3 The Contractor agrees that as an independent contractor, the Contractor is not entitled to make any claim against the Company in relation to statutory employee entitlements such as annual leave, personal leave, long service leave, superannuation, parental leave or any claim for minimum wages under a modern Award in relation to the performance of the work pursuant to this Agreement and the Contractor will indemnify and keep indemnified the Company in relation to these matters.

- 7.4 The Contractor confirms that, if applicable, he or she is registered and will remain registered in relation to the Goods and Services Tax for the term of the Agreement and the Contractor must immediately notify the Company should the Contractor cease to be so registered.
- 7.5 The indemnities contained in this Agreement survive the expiration or termination of this Agreement.
- 7.6 The Contractor agrees that he/she will obtain and maintain at all relevant times any necessary insurances and insurance cover relating to the performance of the Work and, upon request by the Company, provide proof of such insurance cover to the Company prior to commencing the Work. Such insurance cover should include, but is not limited to:
- 7.6.1 any applicable motor vehicle insurance;
 - 7.6.2 any necessary workers' compensation insurance;
 - 7.6.3 professional indemnity insurance; or
 - 7.6.4 public liability insurance.

8. **WARRANTIES**

- 8.1 The Contractor warrants that:
- 8.1.1 the Contractor is competent and has the necessary skills, expertise, and qualifications to carry out the Work and is lawfully permitted to work in Australia;
 - 8.1.2 the Contractor is a self-employed sole trader and has not established an employment relationship, partnership, joint venture or agency relationship with the Company;
 - 8.1.3 the Contractor has undertaken and completed all things required by law to register and establish him/herself with the Australian Taxation Office and all other regulatory bodies, as a sole trader;
 - 8.1.4 he/she has no conflict in performing the Work except to the extent disclosed to the Company in writing prior to the execution of this Agreement, and the Contractor will promptly disclose to the Company the details of any conflicts or potential conflicts which may arise during the term of this Agreement;
 - 8.1.5 he/she is solely responsible for all taxation matters arising from and relating to the payment of fees by the Company for the Work; and
 - 8.1.6 the Contractor has and maintains a safe system of work in accordance with WHS Law.

9. **TERMINATION**

- 9.1 The Company may terminate this Agreement at any time by providing one (1) weeks' notice in writing to the Contractor. The Company has additional rights under clause 9.4 below.
- 9.2 The Contractor may terminate this Agreement at any time by providing to the Company in writing the greater of:
- 9.2.1 1 weeks' notice; or
 - 9.2.2 a period of notice that equates to the period of time, as agreed with the Company at the relevant time, for the Contractor to complete the Work in accordance with the terms of Schedule A and the Agreement.
- 9.3 In addition to the right conferred by clause 9.1, the Company may:
- 9.3.1 terminate this Agreement at any time and without prior notice if the Contractor:
 - 9.3.1.1 is implicated with or reasonably suspected of having acted dishonestly, unethically or fraudulently, or has been charged with, has committed or is suspected to have committed any criminal or other illegal acts;
 - 9.3.1.2 breaches their obligations under clause 4 of this Agreement;
 - 9.3.1.3 refuses to comply with any reasonable instructions or directions given by the Company;
 - 9.3.1.4 is unable to carry out the Work; or
 - 9.3.1.5 performs services which are below the standard set out in Schedule A of this Agreement.
 - 9.3.2 in such circumstances the Company need not make any payments to the Contractor, except for payment for any outstanding work performed by the Contractor before the date on which this Agreement is terminated.
- 9.4 In the event that the Agreement is terminated in accordance with clauses 9.1, 9.2 or 9.3 above, or for any other reason, the Company will require the Contractor to deliver or immediately deliver, at the cost of the Contractor, all:
- 9.4.1 files or matters arising out of provision of services;
 - 9.4.2 equipment or documentation provided to the Contractor during the course of providing the services pursuant to this Agreement;

9.4.3 money owed to the Company, including but not limited to a deposit or bond; or

9.4.4 Confidential Information.

9.5 Nothing in clause 9.4 will prevent the Contractor from retaining a copy of any files, records or information it may reasonably require for the ordinary conduct of its business or otherwise comply with its obligations under law.

10. INTELLECTUAL PROPERTY AND MORAL RIGHTS

10.1 With respect to Intellectual Property and Moral Rights:

10.1.1 all Intellectual Property rights arising in relation to any material created or developed by the Contractor in connection with the provision of services by the Contractor to the Company under this Agreement (whether alone or with others) will belong to the Company and the Contractor agree to disclose to the Company all such material;

10.1.2 the Contractor acknowledges and agrees that all existing Intellectual Property rights, title and interest in all material created or developed by the Contractor during or in connection with the provision of services by the Contractor to the Company under this Agreement (whether alone or with others) are vested in the Company and, upon their creation, all such future rights will vest in the Company. The Contractor agree to execute all documents and do all acts and things required or desirable to secure any Intellectual Property rights of the Company; and

10.1.3 the Contractor consents (for the Company's benefit) to any and all acts or omissions (whether occurring before or after this consent is given) in relation to all material made or to be made by the Contractor in the course of providing services to the Company under this Agreement which might otherwise infringe the Representative's Moral Rights in any or all of that material.

11. CONFIDENTIALITY

11.1 The Contractor acknowledges that during the course of the Work it will be exposed to information that is highly confidential. The Contractor agrees not to use or disclose details of such confidential information other than for purposes directly related to the Contractor providing the services pursuant to this Agreement. "Confidential Information" includes all information, documents, software, reports, data, records, forms and other materials developed by the Contractor and/or the Approved Person or obtained by or disclosed to the Contractor and/or the Approved Person in the course of performing the Services and also includes any of the following in relation to any one or more of the Company, its Related Bodies Corporate or the Company's clients (including the client of the Company for whom the Contractor will perform the Services on behalf of the Company): the names of clients, client records, client information in tangible and intangible form (whether electronic or otherwise),

[REDACTED]

employee information, marketing and sales information, financial information, trade secrets and other information that is by its nature confidential. Confidential Information does not include information which is available to the public other than in breach of an obligation to keep that information confidential.

11.2 The Contractor agrees to be bound by the confidentiality obligations under this Agreement. Such obligations survive the termination of this Agreement.

12. GENERAL PROVISIONS

12.1 Any variation or replacement of this Agreement must be in writing and signed by the parties.

12.2 If any provision of this Agreement is or becomes wholly or partly unenforceable for any reason, then, from the date of the unenforceability, if the offending provision can be read down to make it enforceable without materially changing its effect, it must be read down to the extent necessary to achieve that result. Otherwise the offending provision must be severed from this Agreement and the remaining provisions will operate as if the severed provision had not been included.

12.3 No delay on the part of a party in exercising any right, power or privilege under this Deed will operate as a waiver.

12.4 This Agreement contains the entire understanding between the parties concerning its subject matter and replaces all earlier communications, representations and understandings between the parties.

12.5 The Parties agree that the relationship between the parties is one of independent contractor and nothing in this Agreement is to be interpreted as creating the relationship of employer and employee, master and servant, principal and agent or a partnership between the parties.

12.6 Neither this Agreement or any right or obligation under this Agreement may be assigned or otherwise transferred by either party without the consent of the other.

12.7 This Agreement is governed by the laws of Victoria and the parties submit to the non-exclusive jurisdiction of the Courts of that State.

[REDACTED]

SIGNED AS AN AGREEMENT:

SIGNED, SEALED AND DELIVERED)
for **DELIVEROO AUSTRALIA PTY)**
LTD ABN 607 915 640 by its authorised)
officer:)

DocuSigned by:)
)
F:224402343F5476...

Signature of authorised officer

wolf Aron

Name of authorised officer

SIGNED, SEALED AND DELIVERED)
by [REDACTED])
[REDACTED])

DocuSigned by:
[REDACTED]

Signature of

[REDACTED]

SCHEDULE A

Services

Item		
1.	Service Standards	<ul style="list-style-type: none">• pick up the Order from the nominated restaurant;• ensure the Order is stored in accordance with food and hygiene requirements;• maintain a polite, friendly and where applicable helpful interaction with Customers and restaurant staff.• deliver the Order to the Customer within the Allocated Time.
2.	Food and Hygiene Standards	http://www.foodstandards.gov.au/code/Pages/default.aspx

SCHEDULE B

Service Fees

1.	Service Fees	Rate per hour \$18.00 Rate per delivery \$2.50
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APPENDIX D

Deliveroo contracts November 2015 - April 2016: excerpts showing different pay structures and rates.

[REDACTED]

Dated [REDACTED] November 2015

DELIVEROO AUSTRALIA PTY LTD

(ACN 607 915 640)

and

[REDACTED]

[REDACTED]

INDEPENDENT CONTRACTOR AGREEMENT

Bird & Bird
Level 11, 68 Pitt Street, Sydney 2000
New South Wales, Australia
Telephone: 61 2 9226 9888
Facsimile: 61 2 9226 9899
www.twobirds.com
Ref: LEM:LTM:97055

SCHEDULE B

Service Fees

1.	Service Fees	Rate per hour \$18.00 Rate per delivery \$2.50
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[REDACTED]

Dated [REDACTED] February 2016

DELIVEROO AUSTRALIA PTY LTD

(ACN 607 915 640)

and

[REDACTED]

[REDACTED]

INDEPENDENT CONTRACTOR AGREEMENT

Bird & Bird
Level 11, 68 Pitt Street, Sydney 2000
New South Wales, Australia
Telephone: 61 2 9226 9888
Facsimile: 61 2 9226 9899
www.twobirds.com
Ref: LEM:LTM:97055



SCHEDULE B

Service Fees

1.	Service Fees	Rate per hour \$16.00 Rate per delivery \$2.50
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[REDACTED]

Dated April 2016

DELIVEROO AUSTRALIA PTY LTD
(ACN 607 915 640)

and

[REDACTED]

[REDACTED]

INDEPENDENT CONTRACTOR AGREEMENT

Bird & Bird
Level 11, 68 Pitt Street, Sydney 2000
New South Wales, Australia
Telephone: 61 2 9226 9888
Facsimile: 61 2 9226 9899
www.twobirds.com
Ref: LEM:LTM:97055

SCHEDULE B

Service Fees

1.	Service Fees	Drop Fee \$9.00
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