

Deed of Restraint

**Fleet Focus Pro
&
Contractor - Subcontractor
ABN:**

DEED OF RESTRAINT

Date :

DEED OF RESTRAINT

Deed made on the date specified in Item 1 of the Schedule.

Parties The party described in Item 2 of the Schedule.

(Company)

The party described in Item 3 of the Schedule

(Sub-Contractor)

The party or parties described in Item 4 of the Schedule

(Driver)

Introduction

1. The Company, the Sub-Contractor, and the Driver (if any), entered into a sub-contractor agreement on the date specified in Item 5 of the Schedule (Sub-Contractor Agreement) by which the Company engaged the Sub-Contractor to provide the Services on behalf of the Company on the terms and conditions set out in the Sub-Contractor Agreement.
2. The Sub-Contractor also provides services from time to time to other entities in the Fleet Focus Pro Group.
3. In consideration of the Services, and of other members of the Fleet Focus Pro Group continuing to engage the Sub-Contractor to perform the Services, the Sub-Contractor, and the Driver (if any), have agreed to abide by certain restraints, as set out in this Deed, in favour of the Company and each entity in the Fleet Focus Pro Group.

It is agreed

1 Definitions and interpretation

1 Definitions

In this Deed

1 Business means the business conducted by the Company of supplying the Services to customers;

1 Business Day means a day that is not a Saturday, Sunday or any other day which is a public holiday or bank holiday in the place where an act is to be performed or a payment is to be made;

1 Claims means all claims of any kind and however arising;

1 Corporations Act means the Corporations Act 2001(Cth);

1 Deed means this deed and includes any schedule or annexure to it;

1 Fleet Focus Pro Business means the business of supplying the Services to customers by a corporation within the Fleet Focus Pro Group;

1 Fleet Focus Pro Group means the Fleet Focus Pro Company and each of the other entities listed;

1 Fleet Focus Pro Network means the network of Transport Fleet Service Businesses;

1 GST means GST as defined in the GST Act;

1 GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and as amended;

1 Restraint Area means the area specified in Item 6 of the Schedule;

1 Related Entity has the meaning given in section 9 of the Corporations Act;

1 Restraint Period means the period specified in Item 7 of the Schedule;

1 Services means any of the collection, transportation, distribution or delivery of goods;

1 Sub-Contractor Claims means all Claims which any of the Sub-Contractor Parties have, or might have had but for this Deed, against any member of the Fleet Focus Pro Group on any account including Claims relating to or arising out of the Sub-Contractor Agreement; and

1 Sub-Contractor Parties means the Sub-Contractor and the Driver (if any).

1 Parties

1 If a party consists of more than 1 person, this Deed binds each of them separately and any 2 or more of them jointly.

1 ~~A.2~~ obligation, representation or warranty in favour of more than 1 person is for the benefit of them separately and jointly.

1 ~~A.3~~ party

which is a

trustee is

bound

both

personally

and in its

capacity

as a

trustee.

- Restraint of trade

- 13.6.1 The Sub-Contractor, and the Driver (if any), jointly and severally agree that neither the Sub-Contractor, nor the Driver (if any), will, during the Restraint Period, directly or indirectly within the Restraint Area, supply or canvass or solicit with a view to supplying, any Services to:
- a customer of the Company; or
13.6.2
 - a customer of any entity in the Fleet Focus Pro Group.
13.6.2
- For the purposes of sub-clause 2.10, “customer” means any person who has acquired any Services (including those Services acquired on a one-off, regular or permanent basis) from an entity within the Fleet Focus Pro Group within the 12 month period immediately prior to any attempt to canvass or solicit to supply services the same, or similar to, the supply of the Services.
- The agreement by the Sub-Contractor, and the Driver (if any), in sub-clause 2.10 applies to any of them acting:
- either alone or in partnership or association with another person;
13.6.5
 - as principal, agent, representative, director, officer or employee;
13.6.5
 - as member, shareholder, debenture holder, note holder or holder of any other security;
13.6.5
 - as trustee of or as a consultant or adviser to any person; or
13.6.5
 - in any other capacity.
13.6.5
- Sub-clauses 2.10 and 2.30 have effect as comprising each of the separate provisions which results from each combination of a capacity referred to in sub-clause 2.3 0, a Restraint Area referred to in the Schedule, a Restraint Period referred to in the Schedule, and a category of conduct referred to in subclause 2.10. Each of these separate provisions operates concurrently and independently. If any separate provision is unenforceable, illegal or void that provision is severed and the other separate provisions remain in force.
- Nothing in this clause 20 prevents the Sub-Contractor Parties from:
13.6

13.6.2 Being less than 5%, by value, of securities in a corporation listed on a recognised stock
- exchange; or

13.5.1

- engaging or

13.5.2

concerned or
interested in
the Business
in accordance
with the
SubContractor
Agreement.

- The terms of

13.6 Deed

shall prevail
to the extent
of any
inconsistency
with the terms
of the
SubContractor
Agreement

- **Liability**

12.
- If the Sub-Contractor, and/or the Driver (if any), breaches the restraints contained in this
13.6 Deed, the Sub-Contractor, and/or the Driver (if any), will be liable to the Company or the
relevant entity within the Fleet Focus Pro Group for any liabilities or losses incurred by the
Company or the relevant entity of the Transprot Fleet Services Group for such breach by
the Sub-Contractor, and/or the Driver (if any).

- **Indemnity**

11.
- The Sub-Contractor Parties indemnify all of the Fleet Focus Pro Group against all
13.6 liabilities and the cost of all demands, actions and other proceedings against the Company,
including any of the Fleet Focus Pro Group's legal costs actually payable to its legal
representatives (whether or not under a costs agreement), arising directly or indirectly as a
result of or in connection with, any breach or non-performance of the warranties or
obligations of the Sub-Contractor Parties, whether express or implied, under this Deed.

- Each obligation and warranty in this Deed continues in force despite termination or
13.6 expiration of the Sub-Contractor Agreement

10. Entire understanding

- 10.1 This Deed and the Sub-Contractor Agreement are the entire agreement and
- 11. - understanding between the parties on everything connected with the subject matter
- 11.1 of this Deed.

- Benefit of third party

- 10. - The Company holds the rights under this Deed expressed to be for any entity within the
- 10.1 Fleet Focus Pro Group (Third Party) as agent of and trustee for the Third Party, and the
- Third Party must be treated to this extent as a party to this Deed.

- Variation

- 9. - An amendment or variation to this Deed is not effective unless it is in writing and signed
- 9.1 by the parties.

- Notices

- 8. - A notice or other communication under this Deed has no legal effect unless served in
- 8.1 accordance with the terms of the Sub-Contractor Agreement

- Governing law and jurisdiction

- 7. - The subject and jurisdiction of the Sub-Contractor Agreement law govern this Deed.
- 7.1

- Execution of counterparts

- 6. - This Deed may be executed in any number of counterparts. Each counterpart is an original
- 6.1 but the counterparts together are one and the same deed.

Schedule

Item 1	Date of Deed	05-Sep-2023
Item 2	Fleet Focus Pro	
	ABN	9479287489274843
	Address	Cnr. MacCauley and Stubbs Street Kensington
Item 3	Sub-Contractor	
	Name	

ABN

Address

Item 4

Driver

Name

#

ABN

#

Address

#

Item 5

Date of Sub-Contract Agreement

Item 6

Restraint Area

(a) State of operation

(b) within a 100km radius of the State capital General Post Office.

Item 7

Restraint Period

Restraint Period means each of the following times:

(a) 24 months after the expiration or termination of the Sub-Contractor Agreement;

(b) 12 months after the expiration or termination of the Sub-Contractor Agreement;

(c) 6 months after the expiration or termination of the Sub-Contractor Agreement; and

(d) the period from the beginning to the expiration or termination of the SubContractor Agreement.