

Date

2011

Factoring Agreement

XMAS PTY LIMITED

(ACN 003 220 906)

AND

«Franchisee»

The logo for Kells THE LAWYERS features a solid orange horizontal bar above the word "Kells" in a large, bold, blue sans-serif font. To the right of "Kells", the words "THE LAWYERS" are written in a smaller, blue, all-caps sans-serif font with wide letter spacing.

Kells THE LAWYERS

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Factoring Agreement

Date: 2011

Parties:

Xmas Pty Limited (ACN 003 220 906) of 119 Montague Street Fairy Meadow NSW
("Factor")

AND

«Franchisee» of «Franchisee_Address»

("Franchisee")

Background:

- A The franchisee owns and operates an independent courier business. It trades under the business name Barnettts Couriers pursuant to a franchise agreement with Langmana Pty Limited (ACN 001 932 010) the owner of that business name. The franchise agreement is a business format franchise agreement.
- B The factor is an associate of the franchisor and provides various services to the franchisor, the franchisee and other franchisees, subcontractors and employees of the franchisor.
- C The franchisee has requested the factor provide certain services to the franchisee in connection with its franchise business. The factor has agreed to provide such services on the terms and conditions in this agreement.

Operative Part:

1. Bookings

- 1.1 The factor may for the purpose of establishing the credit worthiness of customers, take bookings from customers for courier jobs to be carried out by the franchisee.
- 1.2 The bookings may be taken through the Barnettts Couriers website www.barnettts.com.au, by facsimile, by mail or by telephone.
- 1.3 The factor agrees to take bookings and give service commitments in accordance with the information published from time to time on the Barnettts Couriers website.

2. Revenue collection

- 2.1 The factor will on behalf of the franchisee issue tax invoices to customers and collect revenue from customers in accordance with the terms and conditions provided on Barnetts Couriers website and the standard form of Barnetts Couriers tax invoice as varied from time to time.

3. Barnetts franchisees

- 3.1 The franchisee acknowledges that the factor is also the factor for Langmana Pty Limited, its subcontractors, franchisees and employees and that it collects revenue on invoices for courier services provided by the franchisor, its subcontractors and employees and other franchisees.

4. Distribution of revenue

- 4.1 The factor agrees to distribute the revenue collected by it to each franchisee, subcontractor and the franchisor as the case may be as makes a contribution to the courier job. The factor agrees to apportion the revenue according to the methodology prescribed in the operations systems of Barnetts Couriers.
- 4.2 The factor acknowledges that franchisees from time to time vary the distribution of revenue between themselves for particular courier jobs and agrees it will distribute revenue according to such individual agreements provided it is notified by each affected franchisee prior to the revenue distribution date.
- 4.3 In the event a customer fails or refuses to pay an account on time, the factor shall pay to the franchisee from the factor's own funds, the amount which the franchisee would have received had the invoice been paid on time. For the avoidance of doubt it is the intention of the parties that the commercial risk of customers failing to pay accounts is the factor's risk and is part of the consideration for the factoring fee.
- 4.4 The factor agrees to have its internal auditor implement and monitor the revenue distribution provided for in this clause.

5. Factoring fees

- 5.1 The franchisee agrees to pay a factoring fee to the factor for the services provided in this agreement. Such fee shall be a percentage of the revenue collected on behalf of the franchisee as follows:

- 5.1.1 if for the job, the franchisee uses its own vehicle (whether the vehicle is owned personally or is on a commercial finance or lease arrangement) - 30%; and
- 5.1.2 if for the job, the franchisee uses a vehicle provided by the factor or its nominee by loan or bailment - 40%.

6. Revenue distribution cycle

- 6.1 The factor shall distribute the revenue to the franchisee in accordance with clause 4 within 14 calendar days of the second Friday of each month.

7. Method of payment of factoring fees

- 7.1 The franchisee agrees the factor may deduct the factoring fees provided for in clause 5 from the revenue payable to the franchisee in accordance with clauses 4 and 6.

8. Agency

- 8.1 The franchisee appoints the factor for the term of this agreement as its agent to collect the revenue due to the franchisee by customers and authorises the factor to take such steps as may be necessary to recover such revenue including prosecution of proceedings in a court of competent jurisdiction.

9. Restriction on franchisee's rights

- 9.1 The franchisee agrees during the term of this agreement to take no steps itself to recover revenue from customers and to appoint no other agent, representative or factor to collect such revenue on behalf of the franchisee without first obtaining the consent of the factor which consent shall not be unreasonably withheld.

10. Debt compromise

- 10.1 The franchisee authorises the factor to compromise debts with customers on behalf of and as agent for the franchisee on such commercial terms as the factor considers reasonable in the circumstances.

11. Limitation period

- 11.1 The franchisee and the factor agree that the limitation period for any alleged breach of this agreement is reduced to 12 months from the date of the alleged breach.

12. Restriction on factor

- 12.1 The factor agrees not to take bookings nor act as an agent or factor for any other courier provider other than the franchisor, its subcontractors, employees and franchisees unless the required service is not readily available from a franchisee.

13. Franchise agreement

- 13.1 This agreement is conditional upon the franchisee entering a franchise agreement with the franchisor and shall be of no effect until such agreement has commenced.
- 13.2 This agreement shall continue during the currency including holding over, of a franchise agreement between the franchisor and the franchisee.

14. Dispute resolution

- 14.1 Upon any dispute occurring between the parties to this agreement in respect of its interpretation or application the dispute must first be referred to mediation and:
- 14.1.1 the mediator must be a mediator agreed upon by the parties and failing agreement within 14 days of a request to do so as shall be nominated by the Office of Mediation Advisor;
 - 14.1.2 the mediation must be in accordance with the procedure determined by the mediator;
 - 14.1.3 the parties will be jointly responsible for the fees of the mediation and each must pay their costs in respect of it;
 - 14.1.4 the parties may be legally represented.

15. Interpretation

- 15.1 The provisions of this agreement represent the whole of the agreement between the parties.

- 15.2 This agreement is governed by the law of New South Wales and any legal proceedings must only be taken in the courts or tribunals have jurisdiction in New South Wales.
- 15.3 Wherever there are 2 or more franchisees their obligations in this agreement are joint and several.
- 15.4 Whenever any clause or a part of a clause in this agreement is void, invalid or unenforceable then the remaining parts are not effected and they will survive and to extent required to be given adequate meaning they must be read down, reduced or varied so as to allow for the continued enforceability of this agreement.

Executed as a deed

Executed by XMAS Pty Limited in accordance with s127 of the corporations Act by:

Signature of Director

Signature of Director/Secretary

Name of Director

Name of Director/Secretary

Executed by «**Franchisee**» in accordance with s127 of the corporations Act by:

Signature of Sole Director/Director

Signature of Director/Secretary

Name of Sole Director/Director

Name of Director/Secretary