

REGISTER OF CONTRACT AGREEMENTS

CONTRACT AGREEMENT NO: CA05/7

TITLE: **Toll Priority - DX/State Mail Services Contract Agreement**

I.R.C. NO: IRC5/4338

DATE APPROVED/COMMENCEMENT: 29 August 2005 / 29 August 2005

TERM: 28

**NEW AGREEMENT OR
VARIATION:** New.

GAZETTAL REFERENCE: 6 January 2006

DATE TERMINATED:

NUMBER OF PAGES: 20

COVERAGE/DESCRIPTION OF

EMPLOYEES: The Contract Agreement applies to all contract carriers employed by Toll Transport Pty Ltd trading as Toll Priority engaged in DX/State Mail Services operating out of 60 O'Riordan St, Alexandria NSW or any subsequent/future site utilised to support the product of Toll Priority DX/State Mail Services, who falls within the coverage of the Transport Industry - General Carriers Contract. Determination.

PARTIES: Toll Transport Pty Ltd t/as Toll Priority -&- the Transport Workers' Union of New South Wales

SPECIFIC YARD AGREEMENT

BETWEEN

TOLL TRANSPORT PTY LTD trading as
TOLL PRIORITY DX/STATE MAIL SERVICES

ABN

AND

THE NEW SOUTH WALES BRANCH OF THE
TRANSPORT WORKERS UNION OF AUSTRALIA

TABLE OF CONTENTS

Section

1. Definitions
2. Appointment of Contract Carrier
3. Remuneration
4. Condition of Carriage
5. Terms of Engagement
6. Responsibilities of the Contract Carrier
7. Insurance
8. Signatures
9. Uniforms
10. Runs
11. Sale of Vehicle with Run
12. GST
13. Vehicle Selection
14. Breakdown and Accidents
15. Additional Contract Carriers
16. Vehicle Decaling
17. Code of Conduct
18. Information Pertaining to Business Activities
19. Travel on Contract Carrier Vehicle
20. Period of Non Engagement
21. Excessive Period of Non Engagement
22. Payment of Invoice
23. Occupational Health and Safety
24. Workers Compensation
25. Redundancy
26. Termination by the Principal Contractor or Contract Carrier
27. Transfer to Company Vehicles
28. Communication Systems
29. Disputes
30. Security
31. Parking Fines
32. Meeting and Education
33. Governing Law
34. Interpretation of the Agreement
35. Legal Relationship
36. Entire Agreement
37. Term and Application of this Agreement

Attachment I	Passage Indemnity Form
Attachment II	Guide Lines for Excessive Period of Non Engagement
Attachment III	Rate Schedule
Attachment IV	Code of Conduct
Attachment V	Radioactive and Dangerous Goods

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. Definitions

Contract Carriers shall mean any person not being a common Carrier who supplies and drives their own vehicle under sub-Contract to the Principal Contractor engaged in accordance with this Agreement for the carriage of goods in a transport operation and who does not employ another driver on a full time basis. Being under verbal or written agreement he/she must devote him/herself in a permanent capacity to the operational requirements of the Principal Contractor.

For the purpose of this agreement the following terms shall bear meaning:

THE ACT shall mean the New South Wales Industrial Relations Act, 1996 (as amended)

CONTRACT CARRIER shall mean Contract Carrier as defined in the Act.

CONTRACT OF CARRIAGE shall be as defined under the Act.

PRINCIPAL CONTRACTOR shall mean Principal Contractor as defined in the Act.

UNION shall mean the Transport Workers Union of Australia, New South Wales Branch.

TRANSPORT SERVICES shall include: Driving, Use of Electronic Data Terminals I.E Scanners, Delivering/pick-ups, Collecting, Marking and Sticking of freight, Handling, Loading and Unloading of his/her vehicle.

PICK-UPS shall mean: the collection of Freight / Mail from a customer of Toll Priority regardless of the number of individual journeys between the Contract Carrier's vehicle and the premise of the customer of Toll Priority.

DRIVER REPRESENTATIVE shall mean, but not limited to a duly elected Yard delegate.

SINGULAR means in this Agreement - unless a contrary intention appears words incorporating the singular number shall include the plural number and vice versa.

ALTERNATIVE GENDER means in this Agreement - unless a contrary intention appears words purporting the Masculine gender shall include the female gender also and vice versa.

FOR THE PURPOSE OF THIS AGREEMENT the term freight includes but is not restricted to Mail, Zip Bags, PRS Bags, Travcour bags or any other product applicable to Toll Priority.

2. Appointment of Contract Carrier

The Principal Contractor hereby engages the Contract Carrier(s) and the Contract Carrier(s) hereby accept the engagement for the provision of Transport Services in accordance with the terms and conditions of this Agreement and the Transport Industry General Carriers Contract Determination, as applicable. Provided, this Agreement will apply in lieu of the Determination to the extent of any inconsistency.

3. Remuneration

Contract Carriers engaged in accordance with this agreement shall be remunerated in accordance with Attachment **III** of this Agreement.

4. Conditions of Carriage

The Principal Contractor's Conditions of Carriage printed on the back of the consignment note will apply to Contract Carriers as written, excepting in the case of proven negligence or dishonesty of the Contract Carrier. In the absence of a consignment note the same conditions will apply.

5. Terms of Engagement

Contract Carriers who were engaged prior to the commencement of this Agreement continue engagement subject to the terms and conditions of this Agreement.

6. Responsibilities of the Contract Carrier

- (i) The Contract Carrier is to be available for engagement on all days not declared as public holidays; between Monday and Friday inclusive and to be licensed to drive the class of vehicle he/she is required to operate.

Where customer needs or market demands necessitate weekend work, then subject to consultation with Contract Carrier(s), runs will be arranged to service such needs or demands.
- (ii) Contract Carriers will be called on periodically to show or to produce copies of a current NSW drivers licence and to wear ID badges on their uniforms when performing a service for and on behalf of the Principal Contractor. Any loss of licence or ID Badge is to be communicated in writing to the Principal Contractor. The contract carrier is to supply current copies of certificates of currency for Insurances, Public Liability, Licences and Registration.
- (iii) The Contract Carrier is to notify immediately the Principal Contractor of the Contract Carriers inability to perform Contracts of carriage on any day prior to their agreed start time.
- (iv) The Contract Carrier shall observe run requirements as set by the Principal Contractor.
- (v) During the course of delivery and/or picking up of goods, the Contract Carrier's vehicle shall be kept in a secure/locked condition at all times and the vehicle shall be at all times weather proofed. All freight that the Principal/Contract Carrier considers valuable must be brought to the attention of the Principal Contractor representative on duty.
- (vi) On returning to the depot, the Contract Carrier shall unload his/her vehicle and place the freight in the appropriate location as requested by the Principal Contractor where practicable and transfer out from the scanner.
- (vii) The Contract Carrier shall acknowledge that all consignees and consignors served at all times are clients of the Principal Contractor and accordingly, not undertake any Contract of carriage with another Principal Contractor whilst engaged by the Principal Contractor performing Transport Services.
- (viii) The Contract Carrier must not pick up Dangerous Goods that don't comply *with legislation (as amended)* and/or is poorly packaged.
- (ix) The Contract Carrier shall not carry any animals or unauthorised passengers in the vehicle without the authorisation of the Principal Contractor whilst undertaking Contracts of carriage for the Principal Contractor.
- (x) The Contract Carrier must carry adequate equipment, for example, trolley, connote books and a current street directory, relevant stationery/equipment, necessary to adhere to policy issued by the Principal Contractor from time to time.
- (xi) The Contract Carrier is to ensure that all paperwork *or the like* is handed in on the completion of work on a daily basis, for example, POD capture sheets, connote etc.
- (xiii) The Contract Carrier is required to ensure all consignments are scanned before leaving the depot.

(xiv) As a back-up manual system for a system failure, the following details must be completed on relevant documents before leaving the depot and a duplicate copy left in an appropriate place for customer service enquires:

- Sending state
- Full Connote number (alpha/numeric) where in depot scanning is not available.
- Number of parcels
- Receivers full name and suburb
- Bulk weight
- Date
- Run Number

In addition, each Contract Carrier is required to ensure as a minimum that the following information appears on all manual paperwork.

- Date
- Run Number
- Signature, surname or "authority to leave number"
- Time
- *Card left*
- *Change of address*

All paperwork will be completed as appropriate (eg; delivery or pick-up point) as required by the Principal Contractor.

(xv) The Contract Carrier is to check potential query freight before leaving the depot. If queries arise on the Contract Carriers run the Contract Carrier(s) must contact the radio operator and provide details in an effort to find a correct address or answer a query.

(xvi) Where freight is returned to the depot the Contract Carrier must follow "Returned to Depot" freight procedure as amended from time to time. The card left system must apply to returned freight and the unable to deliver sticker will be applied to the undelivered consignment and full details completed, as required by the Principal Contractor.

(xvii) Non-delivered freight must be reported to the radio operator at the completion of the Contract Carriers delivery run.

Known missed pick-ups must be reported immediately for appropriate action. In the event contact cannot be made the Contract Carrier will advise the Principal Contractor by the completion of the pick up run. Contract Carrier must call clear prior to exiting their pickup / delivery run area.

(xviii) The Contract Carrier will ensure that the delivery and permanent pick-up data base/sheet is updated regularly. The Principal Contractor will supply a copy of such sheets to the Contract Carrier and the Contract Carrier will within 48 hours update and return such updated information to the Principal Contractor.

(xix) The Contract Carrier will comply with all special delivery instructions, where practicable. If for any reason the Contract Carrier is unable to do so the Contract Carrier must bring this to the attention of the Principal Contractor representative before leaving the depot. The onus will be on the Contract Carrier to justify why special delivery instructions cannot be complied with.

- (xx) The Contract Carrier will be responsible to complete all deliveries and pick-ups allocated to him/her by the Principal Contractor and shall deliver and/or pick up to or from all areas of the customers premises as requested unless otherwise authorised by the Principal Contractor or Duty Supervisors. The onus is on the Contract Carrier to service the customer.
- (xxi) The Contract Carrier shall at all times observe the departure time from depot as requested by the Principal Contractor. A Contract Carrier may be required by the Principal Contractor to return all freight to the depot to be available for linehaul movements by a set time.

Failure to meet depot arrival times may result in the Principal Contractor reviewing such runs to compliment linehaul departure times.
- (xxii) The Contract Carrier is to ensure no deliveries or pick-ups allocated to the Contract Carrier by the Principal Contractor are unloaded or off loaded without regard to the security and well being of that freight. This includes the practise of leaving freight in a prearranged place for a second Contract Carrier to later collect, unless authorised by the Principal Contractor or Duty Supervisor.
- (xxiii) Under no circumstances shall a Contract Carrier claim payment of hours done by another Contract Carrier without the prior written consent of the Principal Contractor. The Principal Contractor reserves the right to withdraw such consent on the basis of customer or business needs. One off circumstances from time to time will be acceptable as part of servicing a client for unexpected circumstances.
- (xxiv) Contract Carriers are to be contactable for customer service enquiries outside of their standard rest breaks.
- (xxv) Subject to consultation with a Contract Carrier representative, Contract Carrier(s) will comply with all new technology requirements (eg Driver manual, memo's etc) associated with any new technology and with any modifications made to such technology, as required from time to time.
- (xxvi) Scanners will be taken out and used daily and will be returned to their respective depot each day by the Contract Carrier for the purpose of uploading/downloading data.
- (xxvii) In the event, where Linehaul arrangements cannot be arranged out to a region then Contract Carriers who have completed their run deliveries/pick-ups can be called upon by the Principal Contractor, with mutual consent, to provide supplementary Transport Services as part of a second wave delivery/pick-up fleet to address matters such as: - late freight; freight left behind and other special freight contingencies.
- (xxviii) Contract Carriers and non designated run drivers are required to take out all freight associated with their run, failure to take out freight or leave freight behind will be treated as a serious matter. The onus on every driver is to eliminate freight in the depot and service the customer, where practicable

7. Insurance

- a. The Contract Carrier shall insure the Contract Carrier's vehicle and keep it insured under a comprehensive policy of insurance and shall present evidence of current insurance to the Principal Contractor on renewal. Copies of all certificates of currency are to be provided.

- b. It is strongly recommended that a Contract Carrier shall take out and maintain a Personal Sickness and Accident Policy.
- c. The Contract Carrier shall take out and maintain a Public Liability Policy not less than \$10,000,000 and shall present evidence of current insurance to the Principal Contractor on renewal. A copy of Current Policy to be provided.
- d. The Contract Carrier agrees to indemnify the Principal Contractor for passenger(s) travelling in the Contract Carrier vehicle whilst providing Transport Services. (A passenger indemnification form is attached and marked Attachment I).
- e. New Contract Carriers can be engaged as Incorporated entities and or partnerships/Sole traders

8. Signatures

- a. The Contract Carrier will gain a signature on any freight *as follows*:
 - Displaying a signature required sticker.
 - Freight marked as such (i.e. where instructions are pre-printed).
 - Where advised in writing for special customers.(ATL's do not apply to the above circumstances).
- b. In addition, the Contract Carrier will also comply with other operational requirements for, signatures, card left, Authority To Leave (ATL), etc, subject to appropriate procedures being in place.
- c. Contract Carriers will gain signatures and printed surname, time, date, in accordance with operational procedures.
- d. Failure to gain a signature and a printed surname in accordance with operational procedures and/or falsifying documentation/data will be treated as a serious matter.

9. Uniforms

- a. The Principal Contractor shall supply to the Contract Carrier a Uniform(s) as required. Uniform items will be replaced on a fair wear and tear basis and remain the property of the Principal Contractor and are to be returned upon termination.
- b. The Contract Carrier is required to be neat and presentable at all times and to wear the uniform whilst engaged to perform Transport Services on behalf of the Principal Contractor. The uniform also includes the wearing of an Identification Card when supplied by the Principal Contractor. Such Identification Cards remain the property of the Principal Contractor.

10. Runs

- a. The Principal Contractor reserves the right to reconstruct Principal Contractor Runs and re-allocate work deemed necessary between Contract Carrier(s) or employee(s) of Toll Priority to operate efficiently, and provide proper levels of service to customers Toll Priority Network. Any disputes arising from such changes will be discussed between the Contract Carrier, the Contract Carriers representative and the Principal Contractor.

- b. The Principal Contractor is responsible for the allocation of pick-ups and deliveries within a geographical area or designated run. Individual pick-ups or deliveries to or from customers remain the property of Toll Priority.
- c. The Principal Contractor reserves the right to reallocate work so as to enable the Contract Carrier to complete Transport Services within the expected pick-up and delivery times.
- d. Should a Contract Carrier leave the Company or a run become vacant then the Principal Contractor shall determine how runs are allocated. Where the company determines a run is vacant the company will advertise the run. A Contract Carrier may apply in writing for the run but it will be assessed by seniority and allocated.
- e. The Principal Contractor shall review, as applicable, a Contract Carriers performance after two (2) weeks and where a Contract Carrier is unable to satisfy the run requirements then the Contract Carrier will be removed from the run and returned to original run and vice versa.
- f. Seniority of Contract Carrier covered under this agreement will continue to apply as recognised at the date of making this agreement.

11. Sale of Vehicle with Run

All work remains the property of the Principal Contractor and under no circumstances can:

- a. A run be sold
- b. A vehicle be sold with a right to a run

Goodwill remains the property of the Principal Contractor and is not transferable under any Circumstances.

12. GST

- (i) The Transport Industry (GST Facilitation) Contract Determination will apply, as amended.

13. Vehicle Selection

- a. The Fleet Manager and/or Branch Manager can only approve vehicle purchases. At the time of engagement of a Contract Carrier or at the time vehicle replacement is due, the Principal Contractor reserves the right to prescribe the vehicle(s) mechanical and carrying specifications, and body type, the manufactures model being optional. Only vehicles which are less than 20,000 km old and twelve (12) months from the date of purchase as a new vehicle will be purchased. Unless otherwise agreed by the Principal Contractor.
- b. The Principal Contractor reserves the right to alter the composition of the Contract Carrier fleet or part thereof as related to changing trends and market conditions dictate. Refer to section 27c
- c. Notwithstanding subclause (a) above, vehicle(s) purchased may remain satisfactory (subject to wear and tear condition) for not less than four (4) years from the date of initial registration after which the Principal Contractor at its discretion may nominate a replacement with a new vehicle of the same capacity in accordance with subclause (a) above OR nominate a replacement vehicle of a different capacity so as to meet changing customer, business and/or market needs. Refer to section 27c.

d. **Notice Provisions (Principal Contractor).**

The Principal Contractor by giving reasonable written notice to Contract Carrier(s) can require any of the following to occur: -

- (i) The Contract Carrier(s) to upgrade or downgrade their vehicle(s) capacity in accordance with this clause.
- (ii) The Contract Carrier(s) to replace their vehicle(s) with an applicable vehicle(s), which compliments customer, business and/or market, needs.
- (iii) Update the Contract Carrier(s) vehicle(s) where it is deemed such vehicle(s) are unsuitable for the work to be undertaken.

Contract carriers will be given a maximum of six months to comply.

f. **Notice Provisions (Contract Carrier(s)).**

The Contract Carrier(s) who elect to change, replace or update their vehicle(s) as part of providing a Contract of carriage with the Principal Contractor shall discuss and gain Agreement in writing from the Principal Contractor on the type of replacement vehicle and carrying capacity, make and model proposed to be purchased.

14. Breakdowns and Accidents

In the event of a breakdown or accident the Contract Carrier will be given time to arrange repairs to his/her vehicle. If vehicle is off the road for longer than twenty four (24) hours the Contract Carrier may hire a vehicle in order to perform his/her normal duties. Contract Carriers who have in excess of three vehicle breakdowns in a twelve (12) month period will be required to produce evidence identifying the repairs carried out.

15. Additional Contract Carriers

The Principal Contractor reserves the right to determine the number of Contract Carriers to a level that enables the Principal Contractor to perform all work to the Principal Contractor's and the clients standard of service and performance. All additional contact carriers will be bound by this agreement.

16. Vehicle Decaling

If the Principal Contractor requires the Contract Carriers vehicle to be decaled in Principal Contractor decals the Principal Contractor agrees to:

- a. Meet the expense of putting decals on Contract Carriers vehicles.
- b. Any alterations to decals etc are to be paid for by the Principal Contractor.
- c. In the event of damage to the paint work and/or vehicle during the application or removal of the decals, the Principal Contractor reserves the right to obtain three (3) quotes for repairs and/or repainting to original condition of the Contract Carriers vehicle and will only make cheques payable to the repair Company or painting shop on completion of the repair work.

The Contract Carrier agrees to deliver the vehicle ready for decals at a mutually agreeable time. In addition the Contract Carrier must allow repainting or re-decating of the vehicle if the Principal Contractor so decides.

If the contractor is contracted to the principle contractor a vehicle will be made available to the contract carrier whilst repairs are carried out so he or she can continue to carry out contracts of carriage.

The Principal Contractor will make good damage to a Contract Carrier vehicle caused by faulty or negligent workmanship.

17. Code of Conduct

All Contract Carriers whilst engaged by the Principal Contractor agree to:

- a. Work in a safe and healthy manner.
- b. Treat all person's customers, colleagues and Principal Contractor representatives with honesty, courtesy and respect.
- c. Effectively perform their duties in line with this Agreement.
- d. Complete documentation correctly and accurately.
- e. Follow the primary contractors code of conduct.
- f. Insure all accidents &, or injuries are reported to management immediately and all appropriate documentation completed.

(A detailed code is attached and marked Attachment IV).

18. Information Pertaining to Business Activities

The Contract Carrier shall use all reasonable efforts to protect and advance the reputation of the Principal Contractor and shall not divulge any information pertaining to the Principal Contractor's business activities or those of its clients. Information in this clause is deemed to be any details about the Principal Contractor and/or its client other than what is publicly available.

19. Travel on Contract Carrier Vehicle

The Contract Carrier shall comply with any Principal Contractor requirement to have authorised passenger's travel on the vehicle for any of the following reasons with notice:

- a. Log each individual run
- b. Assess difficulties being experienced by a Contract Carrier(s)
- c. Training purposes with mutual Agreement.
- d. Sales staff visits to customers on the run with mutual Agreement.
- e. Familiarisation of new Contract Carrier
- f. Such passenger will be covered by the Principal Contractor for workers compensation entitlements.

Note: In respect of (c) and (d) consent will not be unreasonably withheld by a Contract Carrier(s). Notice of intent to have authorised passenger's travel with the contract carrier will be given by the Principal Contractor one shift prior.

The Principal Contractor will indemnify the Contract Carrier against any claim for or from an authorised passenger.

20. Period of Non-engagement

- (i) A Contract Carrier who regularly performs Contracts of carriage for the Principal Contractor shall be *allowed* to take periods of non-engagement, of at least four (4) weeks subject to consultation and Agreement with the Principal Contractor. Period(s) of *non-engagement* attract no remuneration.
- (ii) The Principal Contractor agrees to hire each Contract Carrier for at least forty eight (48) weeks in every year and reserves the right to require each Contract Carrier to disengage four (4) weeks each year.
- (iii) A minimum of four (4) weeks notice to be given for periods of non-engagement unless agreed with the Principal Contractor.
- (iv) For extraordinary circumstances not covered by the above, consideration by the Principal Contractor will be given for an extended period of non-engagement and will be reviewed on an individual basis.
- (v) a) Contract Carriers that wish to have holidays at Christmas must nominate by August 31 each year; however, such request is still subject to Management authorisation.

Non engagement period will not be allowed in the two (2) weeks prior to Christmas Eve unless by special arrangement, in writing, with the Principal Contractor.

- (vi) Non designated run drivers will be arranged as appropriate to the needs of each site.

21. Excessive Period of Non-Engagement

Each Contract Carrier will be responsible and accountable for addressing excessive periods of non-engagement. Contract Carrier(s) who have an excessive period of non-engagement (ie, as a guide up to eight (8) days in twelve months. Non-Engagement will be monitored for abuse. Poor performers will be subject to counselling, etc. and/or in severe matters may face possible termination.

Accordingly, the Principal Contractor when reviewing a Contract Carrier(s) circumstances of excessive non-engagement will exclude (within reason) from such review instances prescribed in clause 14 of this Contract.

The Principal Contractor will review each individual case on its merits. The Contract Carrier will need to provide proof to the satisfaction of the Principal Contractor with each instance of non-engagement.

To assist this process please refer to Attachment II.

Any disputes will be dealt with in accordance with clause 29.

22. Payment of Invoice

Contract Carriers will be remunerated on a weekly basis on a set day for the services provided. Payment will be made by EFT into an account nominated by the contract carrier.

Where the Company or contract carrier fails to properly comply with payment or fails to accurately provide invoices (run sheets) then corrections will be made within a 48hr period. The company reserves the right to pay additional unclaimed amounts in the following payment period where there is evidence of consistent non compliance with respect of accurate paperwork being completed by the contract carrier.

Any variations to rates described in this agreement will take effect from the commencement of the first pay period following the agreement.

23. Occupational Health and Safety

The Principal Contractor and the Contract Carrier(s) shall ensure that they act in accordance with their responsibilities as contained in the NSW Occupational Health and Safety Act 2000. This includes provision of first aid facilities at the Branch location. Contract Carriers are entitled to be part of the OH&S Consultation Process.

24. Workers Compensation

See NSW Occupational Health and Safety Act 2000.

25. Redundancy

Voluntary or forced redundancy will be calculated using the current Toll Priority Policy. Before any redundancies are forced or offered there will be consultation with the Transport Workers Union. (TWU)

26. *Termination by the Principal Contractor or Contract Carrier*

26.1 Termination by the Contract Carrier

- a. Unless otherwise agreed the Contract Carrier shall give one (1) weeks' notice of termination.
- b. The Contract Carrier shall return all Company property upon termination prior to final payment being made.

26.2 Termination by the Company

- a. The Company can terminate a Contract Carrier by giving one (1) weeks' written notice to the Contract Carrier.
- b. In the event of serious breach of this Agreement, a breach of its responsibilities or misconduct, the Company can terminate a Contract Carrier immediately without notice.

26.3 Natural Justice and Procedural Fairness will apply to circumstances, in accordance with the IR Act, chapter 6, as amended.

27. Transfer to Company Vehicles

- a. The Principal Contractor may at some future time find it necessary to alter the composition of its fleet or part thereof by purchasing Contract Carrier(s) vehicles as part of any fleet re-organisation.
- b. Should the situation arise, wherein Contract Carriers are to be replaced by employee drivers of Principal Contractor owned vehicles, the Contract Carrier involved shall be offered first refusal of employment on a "last on first off" basis. This does not prejudice either party in regards to redundancy.
- c. In the event of the Principal Contractor altering its fleet composition pursuant to this clause, or in circumstances where a permanent Contract Carrier is made redundant but in no other circumstances, the Principal Contractor may assist in the sale of the Contract Carrier's vehicle and will make good any shortfall between the residual value due to the early retirement of the Contract Carriers original vehicle lease, and

the market value achieved through the sale of the vehicle. (Toll Redundancy Policies will apply.)

- d. The Principal Contractor will only offer this assistance if:
 - (i) The vehicle has been maintained to a good standard

28. Communication Systems

- a. All communication systems remain the property of the Principal Contractor and the Contract Carrier authorises the Principal Contractor to install in his/her vehicle a communication system. Such system must be left turned on at all times during engagement hours and to the appropriate channel as designated by the Principal Contractor.
- b. Installation and maintenance costs shall be borne by the Principal Contractor. The Contract Carrier is to notify his/her base of any malfunction or defect in the instrument immediately.
- c. The Contract Carrier shall when requested present his/her vehicle at a mutually agreed time and place for installation, replacement and/or repairs.
- d. The Principal Contractor is required to give ample notice of appointments made relative to installations and/or repairs.
- e. Where tested and proven to have better reception, then a centre-mounted aerial will be installed. Such hole to be repaired to the Contract Carriers satisfaction when the vehicle is exchanged. The cost is to be borne by the Principal Contractor.
- f. The Contract Carrier shall observe all laws in force governing the use of such transmitting and receiving equipment, and shall pay any penalties imposed on either the Contract Carrier or the Principal Contractor as a result of the Contract Carriers misuse of the said equipment.
- g. The Contract Carrier must ensure that any other radio; CB or tape player etc, in the vehicle does not interfere with the communication system.
- h. The Contract Carrier must contact the depot at regular intervals,
- i. The Contract Carrier must respond to any message sent by the Principal Contractor via radio or telephone.
- j. The Principal Contractor will from time to time introduce new technology to automate its business. Contract Carriers will make themselves available for training in the use of this technology. The use of such technology and any modification requirements to the technology will form part of the provisions of Transport Services. Training outside of normal hours will be paid

29. Disputes

The parties agree that in the event of a question, dispute or difficulty arising from the content of this Agreement, the following procedure shall apply:

- a. (i) the matter shall first be discussed between the aggrieved Contract Carrier(s) and the Principal Contractor Representative(s)
- (ii) if not settled the matter shall then be taken up by an accredited Union Representative or Union Organiser with the Principal Contractor Representative(s).

- (ii) if the matter is not settled it shall be referred to the Sub-Branch Secretary and State Principal Contractor Representative (or respective nominees) and may also include involvement of an employee relations representative of the Principal Contractor.
 - (iii) if the matter cannot be settled at this level then the parties shall refer the matter to the State Secretary and the Principal Contractor's Chief Executive Officer, or their Representatives, in an attempt to settle the matter.
- b. Notwithstanding any of the above, work shall continue as normal while the disputes procedure is adopted. No party shall be prejudiced as to the final settlement by the continuation of work in accordance with this clause.
- c. The parties agree to a cooling off period and reasonable time frames between each stage of the process contained in (a) above.
- d. Should a Contract Carrier be stood down as a result of misconduct then he/she will do so with pay until a review of the situation is carried out in a timely manner by the Principal Contractor.

30 Security

For the purpose of security of both the Principal Contractor and Contract Carriers and at Principal Contractor discretion, Contract Carriers on entering or leaving the depot may be audited with the numbers of items compared to paperwork. This will be performed by the Principal Contractor or a designated person of the Principal Contractor in conjunction with the Contract Carrier and driver's representative, or other third party (as agreed), if requested.

31 Parking Fines

Parking fines incurred and approved by branch manager within forty-eight (48) hours of receipt will be paid subject to:-

- a. They were incurred during working hours and within their specific run
- b. The principal contractor will pay the minimum payment plus 50% of any fine above the minimum; i.e. the minimum fine is for the lowest grade of parking fine as it may be at the time.
- c. Those fines that fall within the above conditions will also require a written explanation from the driver stating when the fine occurred and the customers name being serviced at the time.

32 Meetings and Education

(i) Meetings

The Principal Contractor may assist the Union in the holding of meetings within the yard, provided that adequate notice (e.g. 24 hours) of such meetings has been given to the Principal Contractor and the meeting does not interfere with the operation of the yard.

The Union's duly elected Driver Representative(s) shall be reimbursed by the Principal Contractor for any loss of earnings incurred while attending to any legitimate and authorised Union business, which has been approved by the Principal Contractor. Subject to reasonable Driver Representative requests approval by the Principal Contractor will not be unreasonably withheld.

The Principal Contractor reserves the right to review such reimbursement or meeting circumstances on a case-by-case basis.

(ii) Education

Where Contract Carriers are to be engaged the Principal Contractor will provide training before they commence. This may involve a five (5) day training period in which all paperwork and Principal Contractor policy will be detailed and explained.

33. Governing Law

This Agreement is to be governed and construed according to the Laws of the State of New South Wales and the Commonwealth and any action thereon shall be subject to the jurisdiction of the said State and Commonwealth and the Courts thereof.

34. Interpretation of the Agreement

If any clause of this Agreement is void, or not in accordance with legislation, then such clause shall be considered unenforceable, the balance of the Agreement will remain in full force.

35. Legal Relationship

The Principal Contractor and the Contract Carrier agree that the legal relationship between the Principal Contractor and the Contract Carrier is that of Principal and independent Contract Carrier and not that of employer and employee and no term of this Agreement shall be construed as creating the relationship of employer and employee between the Principal Contractor and the Contract Carrier.

36. Entire Agreement

The terms and conditions contained in this Agreement constitute the entire Agreement and supersede any other Agreement, arrangements or understanding whether written or verbal between the Principal Contractor, the Contract Carrier or the Union, in relation to matters, which are dealt within this Agreement.

Both parties acknowledge that changing circumstances may require changes to this Agreement.

37. Term and Application of Agreement

- a. Subject to Clause 26 of this Agreement, this Agreement shall come into effect from certification in the Commission and remain in force for the period concurrent with the Toll Heads of Agreement or until the variation or rescission by the parties in accordance with section 329 or rescission by the parties in accordance with section 330 of the Act
- b. This Agreement will apply to all Contract Carriers currently engaged by Toll Priority DX/State Mail Services operating out of 60 O'Riordan Street, Alexandria OR, Any subsequent / future site utilised to support the product of Toll Priority DX/State Mail Services.
- c. Principal Contractor and representatives of Contract Carriers agree to commence negotiations for a new Agreement three (3) months prior to the expiry of the current Agreement.

Signed for and on behalf of
Toll Priority Pty Ltd

Authorised Representative
Toll Pty Ltd

Witness

Date

Date

Signed for and on behalf of the
Transport Workers Union of Australia,
New South Wales Branch.

Authorised Representative
TWU of Australia

In the presence of
Contract Carrier Representative

Date

In the presence of
Contract Carrier Representative

In the presence of
Contract Carrier Representative

ATTACHMENT I

INDEMNITY BY CONTRACT CARRIER TO CARRY PASSENGER(S)

In consideration of, among other things, permitting the carriage of passengers in my vehicle or otherwise while providing transport services for, to or on behalf of the Principal Contractor, and in addition to any and all other Contractual obligations, I _____
(Print Name of Contract Carrier)

The Contract Carrier agree to indemnify the Principal Contractor (Toll Priority Pty Ltd) in respect of any claim, loss or damage suffered by or against the Principal Contractor (including personal illness, injury or death of any person and loss of or damage to property) arising out of or relating to the carrying of passengers in my vehicle or otherwise while providing transport services for, to, or on behalf of the Principal Contractor.

This indemnity shall not apply where passengers are carried as a result of a request initiated by the Principal Contractor.

Signature: _____
Contract Carrier

Print Name

Date: _____

Signature: _____
Authorising Principal Contractor Representative

Print Name & Position

Date: _____

ATTACHMENT II

GUIDELINES FOR EXCESSIVE PERIODS OF NON-ENGAGEMENT

The following steps have been developed to assist with the elimination of excessive periods of non-engagement in the business on a case-by-case basis.

If the first instance Contract Carriers will be spoken to and made aware of their excessive period of non-engagement and what the next step will be if they do not improve the excessive periods of non-engagement.

Where a further instance of excessive non-engagement occurs, then a written warning will be issued and other disciplinary measures will be considered where a previous history has been shown.

In the event a Contract Carrier has a further instance of non-engagement then a final warning can be issued.

Should a further instance of non-engagement occur the Principal Contractor would have the discretion to terminate the Contract Carrier?

ATTACHMENT III

RATE SCHEDULE

(All-inclusive rates)

RATES: -

1 Same Day Product

Contract Carriers will be required to support the Same Day product aligned with Toll Priority DX/State Mail Services. Jobs will be allocated as per the client requirement and remuneration for that services will be at the standard applicable hourly rate and any applicable kilometre allowance.

All Inclusive Rates

- | | |
|----------------------------|---------|
| → For hour engaged day car | \$27.42 |
| → For night key or PM Work | \$31.86 |

For weekend work (minimum four hours) \$31.86

All future labour increases will be in line with the Toll Heads of agreement.

Contact carrier rates are based on the TWU grade 3 labour rate as defined in the Toll Transport Pty Ltd Heads of Agreement

All future non-labour increases will be based on the General Carriers Contract determination increases

- An additional km rate of \$0.22 per km will apply to runs in excess of 150 km's per day. Driver claim sheet must be completed showing the start and finish odometer readings. Misrepresentation is in breach of contract.
- Kilometre rates for Same Day will be set at \$0.35 for Same Day work only. Same Day rates apply to deliveries or pick-ups outside of a driver's normal run area.
- **Portability**

Non-designated run drivers will be assigned to depots as required by the Principal Contractor.

The Principal Contractor reserves the right to move such drivers between depots to meet the circumstances at the time.

Portability of general run Contract Carriers is to be used by the Principal Contractor to assist operational restructures and the like.
- The Union and Contract Carriers undertake there shall be no extra claims for money increases for the life of this Agreement, Other than as applies above. This agreement shall run concurrent to the Toll Heads of agreement.

ATTACHMENT IV

CODE OF CONDUCT

- (A) The following Code of Conduct has been designed to ensure all Principal Contractor officers, including management, and Contract Carriers, its employees, agents and representatives, including the Approved Driver, understand their obligations and responsibilities with regard to general discipline.

All Contract Carriers are required to ensure they:

- (i) Works in a safe and healthy manner.
- (ii) Treats clients and colleagues with honesty, courtesy and respect and upholds the policy of No Intimidation in any way or form towards work colleagues and clients.
- (iii) Effectively provides transport services in line with business objectives and this Agreement.
- (iv) Provides transport services as required under this Agreement.
- (v) Reports any inability to provide transport services immediately and prior to the standard agreed start time.
- (vi) Ensures all documentation is completed correctly and accurately as required.

- (vii) Makes themselves familiar with the Principal Contractor's policies and procedures shall ensure compliance with such policies and procedures.
 - (viii) Makes themselves available for training, which is deemed appropriate or necessary to perform transport services for the Principal Contractor.
 - (ix) Complies with the applicable motor traffic laws at all times whilst performing transport services for the Principal Contractor.
 - (x) Complies with all OH&S requirements of the principal contractor and OH&S Legislation whilst performing transport services.
 - (xi) Performs all Contracts of carriage, as required.
- (B) In the event of a breach of this Agreement, including the responsibilities that are incidental to performing transport services under this Agreement, by the Contract Carrier, its employees, representatives, or agents, the Principal Contractor may terminate a Contract Carrier immediately without notice and without any further obligation or liability to the Contract Carrier.

For the purpose of this clause, a breach of the Agreement includes, but is not limited to, the following actions by the Contract Carrier and/or the Approved Driver;

- (i) The consumption of intoxicating liquor on duty, or being under the influence of alcohol or an illegal drug while providing transport services.
- (ii) Misrepresenting and/or falsifying documents submitted to the Principal Contractor, misappropriation of cash or equipment belonging to the Principal Contractor. All Contract Carriers will complete documentation fully, correctly and accurately as required by the Principal Contractor.
- (iii) Being dishonest, rude, abusive, offensive, aggressive or initiate or provoke arguments with a client, general public or Principal Contractor, while performing transport services for the Principal Contractor or in dealing with the Principal Contractor or its clients, consignors, consignees or their representatives.
- (iv) Acts contrary to the interests and safety of the Principal Contractor, other Contract Carriers, employees and/or clients of the Principal Contractor. This includes non-compliance to all OH&S requirements set out by the principal contractor and OH&S Legislation.
- (v) Refusal to perform a Contract of carriage.
- (vi) Failure to carry out a reasonable demand by the Principal Contractor under terms of the Contract, immediate.
- (vii) Failure to fulfil any fundamental conditions of this agreement.
- (viii) Failure to comply with the Principal Contractor or customer OH&S requirements.
- (ix) Being intimidatory, aggressive or using physical violence against another Contract Carrier, employee, customer, representative of the Principal Contractor or member of the public.
- (x) The damaging of property (including graffiti) of the Principal Contractor, customer or other individual(s).
- (xi) Reckless and/or dangerous driving by a Contract Carrier.

- (xii) Failure to comply with delivery/pick up or operating procedures.
- (xiii) Use of offensive language, actions or behaviours which can be deemed to be discriminatory, harassing, unwelcomed etc, will not be tolerated.
- (xiv) Contract Carriers will not carry passengers or animals in their vehicles unless written authorisation has been obtained from the Principal Contractor.

The above are intended as examples only of breaches of the Agreement and are not exhaustive of such breaches that will result in immediate termination of the Contract Carrier's engagement by the Principal Contractor.

ATTACHMENT V

RADIOACTIVE & DANGEROUS GOODS

The aim of this section is to ensure Contract Carrier achieve a level of protection concerning damage and/or spillage(s)/exposure(s) concerning the carriage of radioactive goods or dangerous goods.

Accordingly, customers have arranged to indemnify Contract Carriers and the Principal Contractor concerning the carrying of radioactive goods and the customer will be responsible for damage, spillage and/or exposure created from radioactive goods and any associated clean up requirements and costs.

In respect of Dangerous Goods the Principal Contractor has relevant insurance to cover Contract Carriers for damages and/or spillage concerning the carriage of Dangerous Goods.