

**REGISTER OF  
CONTRACT AGREEMENTS**

**CONTRACT AGREEMENT NO:** CA23/01

**TITLE:** FedEx Express Australia - TWU New South Wales (Contract Carriers) Agreement 2022-2024

**CASE NO:** 2023/183893

**DATE APPROVED/COMMENCED:** 13 June 2023/20 June 2023

**TERM:** 12 months

**NEW AGREEMENT OR VARIATION:** Replaces CA19/02

**GAZETTAL REFERENCE:** 23 June 2023 (394 I.G. 657)

**NUMBER OF PAGES:** 55

**COVERAGE/DESCRIPTION OF EMPLOYEES:**

The agreement applies to nominated Contract Carriers in NSW engaged by FedEx Express Australia Pty Limited, located at 201 Coward Street, Mascot NSW 2020, who fall within the coverage of the Transport Industry - General Carriers Contract Determination 2017.

**PARTIES:**

FedEx Express Australia Pty Limited -&- Transport Workers' Union of New South Wales

# FEDEX EXPRESS AUSTRALIA– TWU NEW SOUTH WALES (CONTRACT CARRIERS) AGREEMENT 2022-2024

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## **PART A - FORMAL MATTERS AND COMPANY OBLIGATIONS**

### **1. Title**

This agreement shall be known as the "FedEx Express Australia - TWU New South Wales (Contract Carriers) Agreement 2022-2024"

### **2. Parties**

The parties to this Agreement are:

- (i) FedEx Express Australia Pty Limited, trading as "FedEx Express" (ABN 41 000 495 269)
- (ii) Transport Workers' Union of New South Wales

### **3. Objects of the Agreement**

The objects of the Agreement include:

- Security, effective contractor representation, safety and training
- Maintaining safety and enhancing fair contractor conditions
- Productivity and fairness
- Facilitating cooperative industrial relations and good faith between the Parties
- To protect the terms and conditions of current Contract Carriers, whilst allowing the parties to negotiate new arrangements facilitating engagement of new contract carriers.

### **4. Conduct of the Parties**

The Parties agree that mutual respect is necessary to achieve an efficient and mutually beneficial relationship. To this end, the parties will continue to deal with each other honestly and genuinely, and in a manner which maintains the integrity of this Agreement. Where disputes arise the parties are committed to following the disputes procedure in Clause 18 of this Agreement.

### **5. Definitions**

- (i) In this Agreement:

**"Act"** means the *Industrial Relations Act 1996*, as amended

**"Agreement"** means this agreement, the FedEx Express Australia - TWU New South Wales (Contract Carriers) Agreement 2022-2024

"**All Groups Consumer Price Index - Sydney**" means the All Groups Consumer Price Index, for Sydney, as published in ABS Catalogue No. 6401.0.

"**Commission**" means the Industrial Relations Commission of New South Wales

"**Company**" means FedEx Express Australia Pty Limited (ABN 41 000 495 269)

"**contract agreement**" means an applicable agreement between the parties made pursuant to Chapter 6 - Part 3 of the *Industrial Relations Act 1996* or the parts of the relevant predecessor industrial relations acts applying at that time

"**Contract Carrier**" means any contractor performing a contract of carriage, as defined by section 309 of the *Industrial Relations Act 1996*, for FedEx Express Australia Pty Limited.

"**Sydney CPI**" means the percentage change (12 months to year end) in the All Groups Consumer Price Index - Sydney for the June quarter.

"**Determination**" means the Transport Industry - General Carriers Contract Determination 2017 and the Transport Industry – Mutual Responsibility for Road Safety (State) Contract Determination.

"**Fund**" means the TWU Superannuation Fund

"**Outside Hire**" means employees or contract carriers of suppliers engaged by the Company to perform transport services.

"**Parties**" means FedEx Express Australia Pty Limited (ABN 41 000 495 269), and the Transport Workers' Union of New South Wales

"**TWU**" means the Transport Workers' Union of New South Wales

(ii) In this agreement:

- (a) Words importing the singular shall include the plural; and
- (b) Words importing the masculine gender shall include the female gender.

## 6. Operation

(i) Application of Agreement

- (a) This Agreement shall come into effect on seven (7) days after it has been approved by the Commission (**Commencement Date**), whichever is the later and shall remain in operation until 30 June 2024 provided that any labour component increase prescribed by a future agreement will not become due or payable before 1 July 2024.

- (b) This Agreement rescinds and replaces the TNT Australia Pty Limited – TWU New South Wales (Contract Carriers) Agreement 2017 – 2020.
  - (c) This Agreement is to be read in conjunction with the Determination and any applicable contract agreements, other than the contract agreement referred to in (b) above. Where there is an inconsistency between this Agreement and the Determination or applicable contract agreements, this Agreement shall prevail, except as otherwise provided in this Agreement.
  - (d) The parties agree that this Agreement, the TNT Domestic and International Express Ancillary Contract Determination and the applicable contract agreements will only apply to Contract Carriers who were engaged under applicable contract agreements referred to in this clause 6 prior to the Commencement Date (subject to paragraph 6(ii) (c)) and who are listed in the Annexures to this Agreement.
- (ii) Relation to TNT Domestic and International Express Ancillary Contract Determination
- (a) Subject to paragraph 6(ii)(b), the TNT Domestic and International Express Ancillary Contract Determination prevails over this Agreement and any other general contract determination applicable to other contract carriers in relation to the subject matter of the TNT Domestic and International Express Ancillary Contract Determination.
  - (b) Subject to paragraph 6(ii)(c), the parties agree that the TNT Domestic and International Express Ancillary Contract Determination and the applicable contract agreement will only apply to the priority Contract Carriers listed in Annexure F and will not apply to any new Contract Drivers engaged by the Company after the Commencement Date.
  - (c) Where a Contract Carrier listed in Annexure F wishes to terminate the contract between the Company and the Contract Carrier and the Company chooses not to exercise its option under clause 7.1(a) of the TNT Domestic and International Express Ancillary Contract Determination and the Contract Carrier sells the Vehicle to an Approved Purchaser in accordance with the TNT Domestic and International Express Ancillary Contract Determination, then the Approved Purchaser will be covered by the TNT Domestic and International Express Ancillary Contract Determination and the applicable contract agreement.
  - (d) For the avoidance of doubt, the former priority Contract Carriers listed in Annexure F continue to be covered by the relevant contract agreement, regardless of which depot they are located.
- (iii) Application of this Agreement to former Riteway Transport Pty Limited Contract Carriers.

- (a) The terms of the Riteway Express contractors' agreement, shown in Annexure A to this Agreement, shall apply to Contract Carriers formerly engaged by Riteway Transport Pty Limited and who are now engaged by the Company. These Contract Carriers are listed in Annexure A.
- (b) Where there is an inconsistency between this Agreement and the Riteway Express contractors' agreement shown in Annexure A, this Agreement shall apply.
- (iv) Application of this Agreement to former McPhee Transport Pty Ltd Contract Carriers
  - (a) Part A of Annexure D to this Agreement records the current conditions of engagement of contract carriers who were formerly engaged by McPhee Transport Pty Ltd.
  - (b) Part B of Annexure D to this Agreement records the Contract Carriers to whom subclause (iv) (a) of this clause applies.
- (v) Application of this Agreement to former Comet and Kwikasair Contract Carriers
  - (a) For the avoidance of doubt, the former Comet Contract Carriers continue to be covered by the relevant contract agreement, regardless of which depot they are located.
  - (b) For the avoidance of doubt, the former Kwikasair Contract Carriers continue to be covered by the relevant contract agreement, regardless of which depot they are located.
  - (c) Annexure H records the former Kwikasair Contract Carriers and former Comet Contract Carriers.
- (vi) Wollongong and Newcastle Contract Carriers will be covered by Annexure G from the Commencement Date.
- (vii) Negotiation of Future Agreement

The parties agree to commence negotiations for a future agreement by 1 April 2024. However, this does not prevent the parties from negotiating depot specific agreements during the life of this agreement.

## **7. Custom and Practice**

For the avoidance of doubt, this Agreement is not intended to alter custom and practice currently applicable to the Company and Contractors.

## **8. Obligations of the Company**

The Company shall ensure the following:

- (i) That the spirit and intent of the letter dated 6 August 2003 (attached to this Agreement as Annexure B) which applies to outside hire and Contract Carriers of labour hire companies will be extended to cover new Contract Carriers and will be strictly adhered to at all Company sites.
- (ii) That it shall consent to the making and approval of an industrial instrument as may be necessary to give enforceable effect to this Agreement under the Act, in respect of the Company's New South Wales operations.
- (iii) That the Company, at its expense, will train its Contract Carriers in work health and safety.

## **PART B – RATES AND CONDITIONS**

### **9. Conditions of Engagement**

Subject to clause 6 (i)(c), in relation to any matter in respect of which this Agreement does not make provision, the terms of the Determination or contract agreement where applicable to the Company's operations shall apply.

### **10. Labour Component Adjustments**

- (i) The Company shall increase the existing labour component of the Contract Carriers contractual rate as shown below:
  - (a) 3.25%, from the first full pay period commencing on or after 1 July 2021;
  - (b) 3.5% from the first full pay period commencing on or after 1 July 2022;
  - (c) 3% from the first full pay period commencing on or after 1 July 2023.
- (ii) The increases referred to in subclause (i) of this clause shall apply, provided that any increase to the rates in the Determination will be absorbed by the increases in labour components provided by this Agreement.



## **11. Vehicle Component Adjustments**

- (i) The Company will vary the vehicle component for all Contract Carriers at 1 January each year. The percentage increase will be in accordance with Sydney CPI.
- (ii) The increases referred to in subclause (i) of this clause shall apply, provided that any increase to the rates in the Determination will be absorbed by the increases in vehicle components provided by this Agreement.

## **12. Deductions from Remuneration**

In accordance with current practice, the Company will facilitate Contract Carrier deductions as outlined below:

- (i) All non-statutory, agreed and duly authorised deductions from a Contract Carrier's pay shall be applied to the purpose of the deduction within 10 days of each month's end. Where the Company remits membership fees to the TWU it shall do so together with all necessary information, subject to privacy legislation, to enable the reconciliation and crediting of subscriptions to Contract Carriers' TWU membership accounts, including, but not limited to, names, addresses, and phone numbers.
- (ii) The Company will facilitate deductions for contributions from individual Contract Carriers who elect to make additional superannuation contributions to the Fund, in accordance with Annexure E of this Agreement. Provided that such additional contributions shall not be required to be made by the Company.
- (iii) The Company shall maintain records of the following transactions:
  - (a) Deductions. Such deductions shall appear on the Contract Carrier's next pay advice; and
  - (b) Payments to recipient institutions. The Company shall provide the Contract Carrier with evidence that such a payment has been made upon the request of the Contract Carrier.

## **13. Superannuation**

- (i) Superannuation arrangements are contained in Annexure E of this Agreement.
- (ii) The Company will increase the percentage referenced in paragraph (b) of Annexure E as follows:
  - a) With effect from the first full pay period on or after 1 July 2021, an additional 0.5%;

- b) With effect from the first full pay period on or after 1 July 2022, an additional 0.5%;
  - c) With effect from the first full pay period on or after 1 July 2023, an additional 1%.
  - d) Prior to the application of the above increases, the Company acknowledges that the percentage referenced in paragraph (b) of Annexure E as at the date of this Agreement is 11%.
- (iii) The Company shall provide its Contract Carriers with written advice, at least on a quarterly basis, which includes all relevant details of the contributions made to the Fund in accordance with this clause.

#### **14. Discretionary Leave**

- (i) The Company, at its discretion, provides leave to Contract Carriers to assist in situations declared by the state emergency services organisations. The Company will continue to support such leave subject to the approval of the relevant Station Manager, consistent with current practice.
- (ii) Leave granted under this arrangement will have regard to pay supplementation by emergency services organisations and the Company will ensure the Contract Carrier receives the labour and truck component for any time lost from work.
- (iii) The Company may request "proof of attendance" documentation as part of the discretionary leave approval process.
- (iv) The arrangements contained in sub-clauses (i), (ii) and (iii) of this clause shall apply to Contract Carriers wishing to donate blood.

#### **15. Tolls & Charges**

- (i) The Company will continue current arrangements and pay road tolls incurred by a Contract Carrier in the performance of services for the Company as a consequence of any mandatory legal obligations upon commercial vehicles to:
  - a) use certain toll roads; or
  - b) avoid certain roads including light limit roads which has the result of requiring the use of a toll road.
- (ii) In all other circumstances, the Company shall pay road tolls incurred by a Contract Carrier in the performance of services for the Company unless the Company expressly directs the Contract Carrier in writing to not use a toll road.

An express direction may include:

- a) a standing written direction issued by the Principal Contractor to Contract Carriers on an enterprise or fleet basis; or
- b) individual written directions issued by the Principal Contractor to Contract Carriers.

- (iii) In order to be reimbursed for tolls in accordance with this clause, the Contract Carrier must request payment of toll amounts via messaging on their Company provided mobile worker device. The Company may also request evidence of tolls claimed by the Contract Carrier in the form of an electronic statement from the Contract Carrier's toll tag provider. Failure to provide evidence will result in non-reimbursement of tolls claimed.

## **16. Parking Fines**

- (i) The Company will continue current arrangements applicable to Contract Carriers for payment of parking fines. Within 6 months of the Commencement Date, the Company will develop standard operating procedures to formalise current arrangements for payment of parking fines and process for Contract Carriers to claim reimbursement.
- (ii) Prior to implementation the Company will consult with a nominated committee of sub-contractors which will not exceed 6 sub-contractors.

## **17. Implementation of Technology and Operational Procedures**

- (i) The Parties agree that in order to develop a more efficient and productive enterprise it is necessary to create a co-operative work environment and appropriate consultative mechanisms involving the Company, the TWU and Contract Carriers.
- (ii) Contract Carriers will co-operate in the introduction and continuing use of technology which assist in improving and maximising the performance of the business, improves customer service, enhances monitoring and measurement of service quality.
- (iii) The Company may, at its own expense and using qualified technicians, supply and fit the Vehicle with technology and other equipment. Such technology and other equipment will remain the property of the Company.
- (iv) The Contract Carrier shall ensure that care is exercised in the use and security of the Company's technology and other equipment.
- (v) The Contract Carrier must immediately inform the Company if any of the Company's equipment requires servicing or repair, is lost or stolen.
- (vi) The Company will pay for the removal of the Company's equipment if the engagement of the Contract Carrier is terminated. The Company will make good any damage to the Vehicle caused by the installation or removal of such equipment.
- (vii) All labour component increases paid under this Agreement are in full satisfaction of any claims that may arise relating to the use of technology and/or operating procedures during the operation of this Agreement.

- (viii) The Company shall make no further payments on account of the use and application of technology regardless of whether or not, after the approval of this Agreement, increases or new allowances are prescribed by any applicable determination in relation to the introduction or use of any technology.
- (ix) The Company shall provide additional support to Contract Carriers who are experiencing problems with using the new technology. Where such support is given and the Contract Carrier's performance has not improved, the Company will discuss options for dealing with the situation with the TWU.
- (x) Any productivity improvements which arise out of the introduction of new technology and operational procedures during the operation of this Agreement may be subject to future heads of agreement negotiations.
- (xi) The parties commit to consultation on the implementation of new technology including but not limited to the impact on changed work processes and job security.
- (xii) Introduction of new technology and operational procedures will not change the classification of Contract Carriers as a transport worker for the purposes of the Determination.
- (xiii) It is a term of this Agreement that the Company will allow one meeting at each depot to be covered by this Agreement for the purpose of explaining the content, rights, obligations and operation of this Agreement to Contract Carriers and endorse the agreement, provided that:
  - (a) the meeting is conducted prior to the Commission approving the Agreement; and
  - (b) the report back meeting will be at a time that is convenient to the operation of the depot and which minimises any disruption to customers.
- (xiv) The TWU Contract Carrier Delegates of the Sydney depots may attend one meeting if it is convened by the TWU in preparation for the depot meetings referred to in subclause (xiii) of this clause.

## **PART C – TWU RECOGNITION**

### **18. TWU Recognition, Induction and TWU Contract Carrier Delegates' Rights**

#### **A. TWU Recognition**

- (i) The Company recognises the TWU as being the sole union that shall represent Contract Carriers in relation to all terms and conditions of their engagement, whether those terms and conditions are subject to this agreement or not.

- (ii) All new Contract Carriers covered by this Agreement, will be given an application form and any literature provided by the TWU so they may join the TWU if they so wish.
- (iii) The Company will not take any actions or make any statements that will directly or indirectly state or imply opposition by the Company to Contract Carriers electing to join or remain members of the TWU.

## **B. Induction**

- (i) Noting the requirement to comply with section 209(2) of the Act, a nominee or nominees of the TWU shall be given a reasonable opportunity to recruit all Contract Carriers into the TWU. The recruitment may involve an induction which will be used to outline the value of TWU membership and to encourage the Contract Carriers to join the TWU. To this end the Company agrees to ensure the following:
  - (a) that the induction will take place on the site at which the work is to be performed;
  - (b) that a space is provided for the induction and is appropriate for such use (such as a training room);
  - (c) that 30 clear minutes be allowed for the induction to take place;
  - (d) that Contract Carriers receive no less than their usual or (where they have not yet commenced work) proposed rate of pay for the duration of the induction; and
  - (e) that prior to the induction there shall, at the request of the TWU, be posted in a prominent position accessible to all Contract Carriers in the workplace, a TWU generated and authorised notice as to the purpose of, and any other relevant information about, the induction.
- (ii) The Company will notify the TWU Contract Carrier Delegates of all upcoming site inductions for new Contract Carriers as soon as practicable and within the spirit of the letter contained in Appendix 1 to this Agreement.

## **C. TWU Contract Carrier Delegates' Rights**

A TWU Contract Carrier Delegate, as the workplace representative, shall:

- (i) be treated fairly and perform their role as TWU Contract Carrier Delegate without any discrimination in the workplace;
- (ii) be recognised by the Company as the endorsed representative to represent TWU members in the workplace;
- (iii) bargain collectively on behalf of those Contract Carriers they

represent;

- (iv) have access to new Contract Carriers to explain the benefits of TWU membership;
- (v) respect the right of association of an individual Contract Carrier.
- (vi) Be paid to:
  - (a) represent the interests of TWU members to the Company and industrial tribunals;
  - (b) consult with TWU members during normal working hours;
  - (c) participate in the operation of the TWU, by agreement with the Company where agreement will not be unreasonably withheld and if no agreement is reached the settlement of disputes procedure at clause 17 will be applied.
  - (d) attend accredited TWU education and training, by agreement with the Company.
- (vii) In recognition of the Company's support, the Company expects the TWU Contract Carrier Delegate to:
  - (a) encourage members of the TWU to comply with the Determination, and this Agreement and the contract agreement.
  - (b) encourage members of the TWU to comply with workplace health and safety rules at all times;
  - (c) encourage members of the TWU to follow the Settlement of Disputes procedures at all times;
  - (d) have reasonable access to the following Company resources for the purpose of carrying out his/her TWU Contract Carrier Delegate's duties:
    - landline telephone
    - facsimile
    - photocopying; and
    - noticeboards

#### **19. TWU Picnic Day**

- (i) Clause 27 - TWU Picnic Day - of Transport Industry (State) Award will be extended to Contract Carriers.
- (ii) The TWU undertakes to supply the Company with a list of financial members of the TWU to whom this benefit applies.

## 20. Settlement of Disputes

- (i) The Parties agree that the following settlement of disputes procedure shall apply:
  - (a) The matter should first be discussed at the workplace level between the Contract Carrier and relevant management and where requested, a TWU Contract Carrier Delegate;
  - (b) If the matter is not settled, discussions shall occur between the appropriate TWU Official, TWU Contract Carrier Delegate and management;
  - (c) If the matter is still not settled, it shall be discussed between the Branch Secretary (or nominee) of the TWU and the Company. At each discussion, other Company and TWU representatives may be in attendance as required.
  - (d) If the matter is still not settled, it may be submitted by one of the Parties to the Commission which may conciliate the matter.
  - (e) The Commission may make a determination, which is binding on the Parties, where there is no likelihood that within a reasonable period conciliation or further conciliation will result in agreement.
- (ii) The above steps do not preclude reference of a dispute to the Commission at any stage of this procedure if one of the Parties believes it necessary. In these circumstances, the Commission will retain its discretion to refer the Parties back to a continuation of this procedure where the Commission considers that course appropriate.
- (iii) While the Parties attempt to resolve any matter work will continue as directed by the Company, subject to a Contract Carrier's rights regarding health and safety issues in accordance with the Act.
- (iv) The ultimate terms of settlement of the dispute will not be affected in any way nor will the rights of any person involved in or affected by the dispute be prejudiced by the fact that work has continued without interruption.
- (v) The procedures and obligations contained herein will be equally binding on the Parties to this Agreement. The decisions of the Commission will be accepted and adhered to by all the Parties subject to their appeal rights under the Act. Where yard meetings are held, Company representatives will be given the opportunity to address the yard and propose solutions to any matter in dispute.
- (vi) Notwithstanding the contents of this clause, it has always been the policy of the Company and of the TWU to ensure the supply of blood and emergency and medical supplies to customers.

## **PART D – SAFETY**

### **21. Engagement of Outside Hire**

- (i) The Company will take reasonable steps to ensure that Outside Hire suppliers which engage employees or contract carriers to provide services to the Company;
  - (a) pay their employees an hourly rate (including casual loading, where applicable) at least equivalent to 10% above the RTD Award Rate of Pay; and
  - (b) pay their contract carriers in accordance with any contract determination, as varied from time to time.

For the purposes of this clause 19(i), the "RTD Award Rate of Pay" means the minimum hourly wage rate applicable to the employee's grade, contained in clause 15.2 of the *Road Transport and Distribution Award 2010*, as varied from time to time.

- (ii) "Reasonable steps" will involve the Company implementing commercial arrangements which provide for compliance by suppliers in the areas of workplace health and safety, road transport laws, safe driving times and wages paid to the supplier's employees or contractors.
- (iii) Where the TWU or TWU Contract Carrier Delegates have information or evidence that work performed by Outside Hire is not being performed in a safe manner or suppliers of Outside Hire are not providing to the transport workers performing the work at least the remuneration and conditions of the applicable Award, contract determination or industrial instrument, the TWU (including delegates) may:
  - (a) provide this information or evidence to the Company; and/or
  - (b) institute legal proceedings for underpayment against the relevant supplier
- (iv) Where the TWU provides information or evidence to the Company in accordance with (iii) (a) of this subclause, the Company will advise the supplier of the existence and nature of information provided by the TWU, inform the supplier of the TWU's powers of inspection under the Act and make all reasonable attempts to investigate the matter in line with the Companies contract arrangements.
- (v) Should a breach be proven by decision of an appropriate court or tribunal, the Company may use the commercial provisions available to it under the service level agreement to terminate the supplier's agreement.
- (vi) Where Contract Carriers consider that significant WHS issues exist concerning suppliers or the performance of work by transport workers



not directly engaged by, but supplying services to the Company, the following steps will occur:

- (a) The matter may be reported to the appropriate WHS representative and management representative.
  - (b) The delegate may request the matter be investigated. The Company will use available information from appropriate Company and other sources.
  - (c) Relevant Linehaul Services Payment Advices (LSPA) will be examined by the Company to determine if significant issues exist and if potential false declarations have been made.
  - (d) Without in any way detracting from the capacity of the Company to exercise its rights under a Linehaul Services Agreement independently of this process, should significant doubts remain concerning the safety of any supplier arrangement after completion of this process the Company will exercise its rights under its service level agreement.
- (vii) The above arrangements will also apply to issues raised by the TWU except that in the first instance they will be raised in writing with the Company.
  - (viii) Clause 10.4 of the *FedEx Express Australia – TWU Fair Work Agreement – 2021 – 2024* will apply in so far as it applies to Contract Carriers.
  - (ix) In instituting any investigation under this Clause the Parties accept that certain information is commercially confidential to the Company.
  - (x) The Company shall comply with the requirements of laws and regulations relating to the road transport industry.
  - (xi) The Company shall comply with the requirements of workplace health and safety legislation. Further, the Company is committed to the implementation of the National Safety Council of Australia's *5 Star WHS Management System* or other relevant Australian Standards or International Standards Organisation programs.

## **22. Safe systems of work/ drug and alcohol and safe driving plans**

The Company agrees that all work will be performed lawfully and in accordance with safe systems of work which shall, inter alia, include:

- (i) ensuring that all work is performed in a manner consistent with all relevant workplace health and safety legislation;
- (ii) meeting the cost of any medical or other examination connected with the fulfilment of work requirements;
- (iii) assessing the risk of harm from fatigue (where applicable) and speeding and eliminating or controlling the risk to the extent

reasonably practicable;

- (iv) safe driving plans and procedures which are reviewed regularly, updated when there is any change to the circumstances applicable to the work and which are developed and monitored in consultation with contractors;
- (v) the documentation, review and monitoring of trip schedules and rostering in order to minimise their contribution towards fatigue;
- (vi) maintenance of the current Company drug and alcohol policy which is consistent with the parameters set out in the Transport Industry – Mutual Responsibility for Road Safety Contract Determination; and
- (vii) the keeping (for a period of (5) years) of all records necessary to determine compliance with clauses dealing with job security, Safe Rates Committees and safe systems of work clauses.

## **PART E – MAJOR CHANGE**

### **23. Major Change**

The Company commits to the following process in the instance of major change to the business:

- (i) Where the Company has made a decision to introduce workplace changes, including changes as a result of the 'new economy' that are likely to have significant effects on Contract Carriers covered by this Agreement, the Company will consult the TWU and those Contract Carriers prior to the Company implementing the changes.
- (ii) "significant effects", referred to in subclause (i) of this clause, means major changes in the composition, operation and engagement of the Company's workforce covered by this Agreement.
- (iii) The Company will discuss the introduction of changes referred to in subclause (i) of this clause, the effects the changes are likely to have on the Contract Carriers and any measures to avert or mitigate the effects of such changes on the Contract Carriers with the TWU.
- (iv) For the purposes of the discussion the Company will provide, in writing, to the relevant State Secretary of the TWU and relevant Contract Carriers all relevant information with respect to the change and the expected effects on those Contract Carriers, including but not limited to all relevant information about the matters set out in clause 21 (iii), above.
- (v) Before a final decision is made, the Company will give consideration to matters raised by these Contract Carriers and/or the TWU in relation to the changes, prior to implementation of the changes.
- (vi) Where a decision to introduce a major change is likely to have

significant effects, the parties will agree on arrangements for meetings between the relevant Contract Carriers and the TWU, in paid time.

## **PART F – TRAINING**

### **24. Training**

- (i) The Company will continue training in areas such as vocation, product knowledge, customer service, trade practices compliance, workplace health and safety, safer work practices and knowledge of the Determination for the benefit of the Contract Carriers bound by this Agreement.
- (ii) The Company and the TWU recognise that induction training is necessary to promote an understanding of the Company's businesses and enhance customer service, productivity, efficiency and compliance with legal obligations.
- (iii) The Company commits to continue the training of Contract Carriers. As a minimum, such training will include:
  - (a) Induction, including site and job function
  - (b) Workplace health and safety
  - (c) Industrial rights and obligations, including the operations of this Agreement and the Determination
  - (d) Legal compliance
  - (e) Fatigue management
- (iv) Where the Company requires particular training to be undertaken by Contract Carriers, the Company will conduct the training at its own expense.
- (v) The Company commits to the following additional training:
  - (a) comply with its obligations under relevant Workplace Health and Safety Legislation, including all current Codes of Practices, Regulations, Worksafe Australia documentation and approved and recognised industry standards as a minimum requirement.
  - (b) authorise all Contract Carriers elected to WH & S Committees and/or as WHS Representatives to attend a committee training course as soon as practicable.
  - (c) train all TWU Contractor Delegates and Co-delegates to "Certificate 4 in Workplace Training and Assessing" trainer standard within three months of either the commencement of this Agreement or the TWU Contractor Delegate or Co-delegate assuming the position of delegate or co-delegate;

- (d) provide Contract Carriers that perform driving duties, scheduling and rostering with an opportunity and time to undertake driver fatigue management programs.

## 25. TWU Training Days

- (i) The Company shall permit elected TWU Contract Carrier Delegates to attend the following number of TWU Training Days, within each year of the operation of this Agreement:
  - (a) FedEx Express (Metropolitan Depots) - a total of 120 days
  - (b) former Riteway Express Contract Carriers – a total of 10 days
  - (c) TNT Express (Wollongong, Newcastle, Gosford) – a total of 10 days per depot
  - (d) Non-metro Contract Carrier Delegates to attend BCOM – a total of 5 days
- (ii) Having regard to the travel time between the Contract Carrier's depot and training venue, TWU Contract Carrier Delegates who attend a TWU Training Day shall be paid in accordance with the following arrangements:
  - (a) Where a TWU Contract Carrier Delegate returns to the workplace after a TWU Training Day or part of a day and continues to work after his/her ordinary hours, the Company will pay the overtime for all hours worked in excess of the ordinary hours
  - (b) Where a TWU Contract Carrier Delegate attends a TWU Training Day or part of a day and fails to present and be available for work either before or after the TWU Training Day, the TWU Contract Carrier Delegate will only be paid base rate of pay for the period in attendance at the Union Training Day
  - (c) Where a TWU Contract Carrier Delegate attends a TWU Training Day for the whole day, and provided that notice has been given to the Company in accordance with sub-clause (iv) of this clause, the Company will pay the TWU Contract Carrier Delegate the hours worked under normal circumstances
  - (d) The payment for one day will be based the delegate's average earnings (averaged over the 5 working days prior to the leave) during any such periods of delegates' leave.
- (iii) The number of TWU Contract Carrier Delegates (or Co-Delegates where the TWU Contract Carrier Delegate nominates the Co-Delegate to access one or more of the TWU Contract Carrier Delegate's leave days in lieu of that TWU Contract Carrier Delegate) who will be paid to attend TWU Training Days shall be as follows:

- (a) TNT Express – Erskine Park, Botany, Enfield :  
Up to 2 TWU Contract Carrier Delegates per meeting per depot
- (iv) Notice to TWU Training Days:
  - (a) The Company requires, from the TWU, 5 days written notice for TWU Contract Carrier Delegates to attend TWU Training Days.
  - (b) Notice referred to in (a) of this subclause shall be provided by the TWU to the Employee Relations Manager, TNT Express.
  - (c) Notice referred to in (a) of this subclause shall include the expected duration of the TWU Contract Carrier Delegate's absence from the workplace, purpose of the training, date, time and location of the training.
- (v) NSW Safe rates Committee
  - (a) TNT will permit up to two TWU Contract Carrier delegates to attend the NSW Safe rates committee meetings when they are held.
  - (b) The TWU is required to provide 5 days written notice to the Employee Relations Manager – TNT, with the names of the contractor delegates it wishes to nominate to attend this meeting
  - (c) The release of the specific TWU Contract Carrier delegates will be subject to operational requirements.

## **PART G – MISCELLANEOUS**

### **26. Anti – Discrimination**

- (i) It is the intention of the Parties to this agreement to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure set out in this Agreement the Parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the Parties to make application to vary any provision of this Agreement which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise a Contract Carrier because the Contract Carrier has made or may make

or has been involved in a complaint of unlawful discrimination or harassment.

- (iv) Nothing in this clause is to be taken to affect:
  - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (d) a party to this Agreement from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

This clause does not create legal rights or obligations in addition to those imposed upon the Parties by the legislation referred to in this clause.

## **27. Disaster leave**

- (i) In this clause, "Natural Disaster" means an extreme weather event or other natural occurrence which results in the relevant government minister or authority declaring the area in which the Contract Carrier lives and/or works to be a natural disaster zone.
- (ii) If a Contract Carrier is:
  - (a) unable to travel to work due to a Natural Disaster; and/or
  - (b) required to respond to the consequences of the Natural Disaster by performing emergency repairs on their home or arranging emergency accommodation;
  - (c) the Contract Carrier will be entitled to paid leave of up to 3 days. Payment for the leave will be at the Contract Carrier's base labour component.
- (iii) In addition to any leave available to the Contract Carrier under this clause 25, the Contract Carrier will be entitled to take any of their accrued annual leave for any additional period where circumstances in clause 25(ii) continue.
- (iv) The Company may request a Contract Carrier to provide evidence to the Company's satisfaction that any absence for which leave is sought under this clause was caused by the Natural Disaster.

## **28. No Extra Claims**

- (i) It is a condition of this Agreement that the TWU on behalf of itself, officers and members shall not make or pursue any extra claims during the operation of this Agreement.
- (ii) The TWU on behalf of itself, officers and members agree that where any

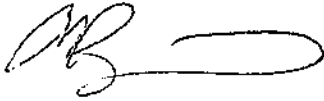
future agreement provides for wage increases in addition to those contained in this Agreement, then any such wage increase will not become due or payable before 1 July 2020.

- (iii) Nothing in this clause precludes individual sites from agreeing to performance based schemes which will bring benefit to the Company and the Contract Carriers. Such schemes shall only be implemented by mutual agreement.

**PART H – EXECUTION**

**29. Signatories**

SIGNED by **FEDEX EXPRESS AUSTRALIA PTY LIMITED**  
ABN 41 000 495 269 pursuant to section  
127(1) of the Corporations Act 2001:



(signed)  
Secretary

Michael Brennan  
Name of Secretary  
201 Coward Street, Mascot, 2020

02.06.2023  
Date:



(signed)  
Director

Peter Langley  
Name of Director  
201 Coward Street, Mascot, 2020

02.06.2023  
Date:

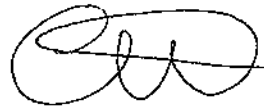
SIGNED by the **TRANSPORT WORKERS'  
UNION OF NEW SOUTH WALES:**



(signed)  
Secretary

Richard Olsen  
Name of Secretary

15 May 2023  
Date:



(signed)  
Witness

Gavin Webb  
Name of Witness

15 May 2023  
Date:



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Annexure A

AN AGREEMENT BETWEEN:

RITEWAY TRANSPORT PTY LIMITED

AND

TRANSPORT WORKERS' UNION OF NEW SOUTH WALES

This Agreement made on the 15 February 2001, between Riteway Transport Pty Limited (trading as Riteway Express), (hereinafter called the company) of the first part and members of the Transport Workers' Union of Australia (hereinafter called the union) engaged by the company in the state nominated in Annex A here to of the second part WHEREBY the company and the union have mutually agreed that the conditions and terms of engagement of the above members of the said union shall be as set out herein.

1. RATES

1.1 Rates of pay are contained in Annex A herein.

2. VARIATION

2.1 The rates and conditions applicable in Annex A herein shall be reviewed annually and maybe adjusted only by mutual consent of the company and the contractor drivers (hereinafter called the contractors). The labour, and vehicle fixed and running costs shall be varied in accordance with the method outlined in Annex A.

2.2 The union reserve the right to approach the company for variation in respect of any extraordinary increase in any of the costs incurred by contractors in the normal operation of their vehicles, or in the event that the Consumer Price Index for the capital city of the state nominated in Annex A hereof, should exceed 2.5 percent in any quarter during the period of the agreement.

2.3 The company and contractor recognise the introduction of new technology following appropriate training will promote employee skills, productivity and efficiency. No extra claims will be pursued for such technology.

3. HOURS

3.1 The contractors shall work as directed by Management in the depot or on the road on all days Monday to Friday, public holidays excepted, for a period of hours per day as specified in Annex A exclusive of meal breaks, attending to the pick-up and delivery of the company freight and duties associated therewith.

- 3.2 Payment will be made to the contractors on the basis of the said specified hours worked each day whether hours worked are less than or in excess of those specified hours.
- 3.3 If in any calendar month a contractor works more hours than the specified hours on average for each day worked, then the contractor will be entitled to accumulate such hours as are in excess of noted hours per day and be granted time off with pay for such hours at a time convenient to the company and the contractor. All hours worked above those specified are to be approved by the company. No overtime above the specified hours is payable.
- 3.4 The company and the union acknowledge that it is not desirable that any contractor will work an average in excess of the specified hours per day for which payment is being made and will work together in order to achieve the most even distribution of work possible.
- 3.5 A daily meal break (unpaid) of 30 minutes will be taken each day between 11:00 a.m. to 2:00 p.m.

#### 4. PAYMENTS

- 4.1 Accounts shall be paid to all contractors on a weekly basis and under no circumstances shall money be deducted from contractors accounts unless an itemised statement is shown setting out each deduction. The weekly amount of such deduction shall be by mutual consent only.

#### 5. STARTING TIME

- 5.1 Work for contractors shall commence on each day at or prior to 8:00 a.m. PROVIDED THAT the union and the company may agree to a later starting time for contract carriers to meet the requirements of work.
- 5.2 Once fixed, starting times for contractors may be changed on the giving of seven (7) days notice, or as agreed.
- 5.3 For the time being, the starting time is as specified in Annex A

#### 6. UNIFORMS

- 6.1 Contractors shall be issued with uniforms, provided by the company at no cost to the contractors.
- 6.2 Subject to fair wear and tear, the company as required shall replace such uniform items.
- 6.3 Contractors must wear such uniforms whilst undertaking work for the company. Uniforms must be maintained in a clean and pressed condition, and minor repairs shall be affected by the contractor.
- 6.4 The company may require contractors to return fair wear and tear items to the company at the time of replacement. The company, at its discretion, may use these returned items to replace damaged items or uniforms during the currency of any issue for short engagement period.

- 6.5 Singlets, football shorts, or any other variations of the company uniform are not to be worn whilst engaging in deliveries and pickups.
- 6.6 Non company issued accessories, such as gloves, hats and scarfs, are to be unbranded (no logos) and neutral in colour or preferably, in Riteway Express corporate colours (black, grey, red or white). Accessories deemed inappropriate by the company will be required to be removed.

## 7. VEHICLE SELECTION

- 7.1 The contractor shall supply and keep fully maintained and serviceable, a company approved vehicle. The company shall approve the type and classification of vehicles, as specified in Annex A, proposed to be operated prior to their being brought into service, and the company may make directions as to the ongoing condition and presentation of such vehicles.
- 7.2 Approval shall not be withheld unreasonably and should any dispute arise regarding the suitability of any vehicle, it shall be dealt with pursuant to the provisions of Clause 17 - Settlement of Disputes, hereof.
- 7.3 Initially, all vehicles when supplied shall be painted white. The company will provide identification decals that will be fitted to the vehicles at the company's expense and or sign writing of the company identification at the company's expense.
- 7.4 All contractors shall be required to replace their vehicle with a new vehicle once the vehicle age has reached 5 years, providing however, that if the vehicle is kept well and fully maintained and its appearance is in a condition acceptable to the company then the company at its sole discretion can extend this replacement period of 5 years at one year at a time, on not more than 3 occasions, so that the maximum vehicle life may be 8 years.
- 7.5 The body of the vehicle (meaning the tray, pan or taut liner box) maybe transferred from one vehicle to another, only once, provided it meets the vehicle specification in Annex A, and its appearance is in a condition acceptable to management. If the body of the vehicle is transferred it must be re painted and repaired to the company's requirements at the contractor's expense. The decals will remain the responsibility of the company.
- 7.6 Irrespective of the age of the vehicle or body, where the vehicle or body deteriorates either in mechanical performance to the point where it is unreliable, or in appearance which cannot be satisfactorily rectified by repainting or panel repairs, the company may give the contractor two (2) months notice that it requires the vehicle or body to be changed.

## 8. TWO WAY RADIO

- 8.1 Contractors shall permit and facilitate the installation of a two-way radio and equipment in their vehicle. Such two way radio and equipment shall remain the property of the company but the contractor shall exercise a duty care to ensure the security and protection of the said radio and equipment.

- 8.2 Contractors shall be liable for repairs or replacement of radio or equipment lost or damaged as a consequence of the attributable negligence of the contractor.
- 8.3 Otherwise, maintenance and repairs to the radio and equipment shall be the responsibility of the company.
- 8.4 The two-way radio shall be operated strictly in accordance with the procedures laid down by the company, and only for the purposes of transacting the business of the company.
- 8.5 Upon ceasing to undertake work for the company the contractor shall immediately permit and facilitate the removal of the said radio and equipment by the company, at no cost to the contractor. In these circumstances the company will ensure that bodywork is made good.
- 8.6 Radios to be installed at company's time and expense by a qualified technician.

#### 9. CODES OF CONDUCT

- 9.1 The codes of conduct are contained in Annex A herein.

#### 10. UNION MEMBERSHIP

- 10.1 Contractors are encouraged by the company to consider making application to become financial members of the Transport Workers' Union of Australia.

#### 11. WORKERS COMPENSATION FOR INCORPORATED CONTRACT DRIVERS

- 11.1 All incorporated contractors are required by law to have their own personal current workers compensation policy for their business. The premium for this policy will be reimbursed by the company as specified in Annex A.

#### 12. OUTSIDE OPERATORS

- 12.1 Riteway Express will cooperate with the TWU in addressing matters of non compliance with legal awards and agreements where this is an issue with companies that provide contractors to Riteway Express.

#### 13. PERMANENCE

- 13.1 The number of contractors engaged at any time is at the sole discretion of the company. Any new contractor will be engaged for a probationary period of not less than 13 weeks. Where performance related issues are identified and counselling has ensued, the probationary period may be extended by an additional month by mutual consent. Nothing in this clause detracts from the company's sole discretion to discontinue engagement during the course of or at the end of the probationary period on the basis of performance.

- 13.2 Any offer to a casual contractor to become a permanent will be at the sole discretion of the company. The company is entitled to engage such contractors as it requires, provided that outside-carriers comply in full with the provisions of this agreement.

#### 14. SALE OF VEHICLE WITH WORK

- 14.1 During the period of this agreement, only contractors as specified in Annex A herein are permitted to offer their vehicle for sale with goodwill to a person approved by the company on the following terms and conditions:

14.1.1 The company will have the first right of refusal to purchase the vehicle in accordance with this clause.

14.1.2 The value of the vehicle will be determined by the average of three quotes from reputable motor vehicle dealers. If the variation between the lowest and highest quote is more than 15%, or if the company believes the quotes to be unreasonable, then the company may obtain alternative quotes directly from other dealers.

14.1.3 The run may be sold for a premium fixed at a maximum of TWENTY THOUSAND DOLLARS (\$20,000).

14.1.4 The new contractor may need to spend two full working weeks with the retiring contractor during his induction. Only (1) labour rate in addition to the vehicle rebate will be paid during the two-week induction period.

14.1.5 The new contractor acknowledges that he/she understands that the probationary period shall be of no less than thirteen (13) weeks, and if he/she is not found to be suitable, he/she shall dispose of the vehicle on the same terms and conditions as purchased within two (2) months of the notification date whereby termination of the probationary contract shall occur.

14.1.6 The new contractor and the retiring contractor acknowledge that the monies paid in respect of transfer are as per this agreement and in the event that any additional money is paid above this agreement, then the new contractor will be terminated and the company shall seek to recover such additional monies from the retired contractor by way of liquidated damages for breach of this agreement.

#### 15. CONVERSION TO COMPANY FLEET

- 15.1 In the event that the company wishes to convert all or any number of contractor position(s) to a company position(s) it shall do so by giving 3 months notice to the yard of its intention to do so. Contractors may volunteer to accept conversion and remain with the company as an engaged driver if acceptable. In the event that the number of volunteers exceeds the positions to be converted, preference will be given by order of seniority. In the event that there are no or insufficient volunteers, conversion will be determined by last on first off principle, with the converted contractor at the sole discretion of

the company been given the option of remaining with the company as an engaged driver.

- 15.2 The price payable for conversion will be fixed at TWENTY THOUSAND DOLLARS (\$20, 000), and is only offered to those drivers as specified in Annex A herein.
- 15.3 A contractor who volunteers or who is directed to convert to a company driver will be able to sell his vehicle to the company.
- 15.4 If the company wishes to retain his or her vehicle then the purchase price will be determined by the average of three quotes from reputable motor vehicle dealers. If the variation between the lowest and highest quote is more than 15% or if the company believes the quotes to be unreasonable, then the company may obtain alternative quotes directly from other dealers.
- 15.5 If the company does not wish to retain the vehicle then it will still offer to purchase the vehicle at its trade-in value. The company may then use the vehicle as a trade-in for a new replacement vehicle.
- 15.6 The contractor will have the option to sell the vehicle privately if they believe they can obtain a better price than what the company is offering. The sale of the vehicle must be transacted within a period of two months from notification of the company's intention.
- 15.7 If a contractor converts within the first year of having purchased a new vehicle, an additional payment will be paid above the normal conditions. This additional payment is to recognise the accelerated depreciation that may occur during the first year after purchase.
- 15.8 The payment is based on a set percentage of the difference between the purchase price and the established market price at the date of conversion, as opposed to the date of notice of conversion. The percentage that will apply is as follows:
  - A vehicle up to six months old - the payment is 100% of the difference;
  - A vehicle over six months and up to twelve months old - payment is 50% of the difference;
- 15.9 Conversion to company fleet does not constitute redundancy.

## 16. RESPONSIBILITIES OF CONTRACTORS

- 16.1 Contractors shall be available for work at the time and place determined on all days, Monday to Friday inclusive not declared as Public Holidays.
- 16.2 Upon attending for work, contractors shall locate and load freight allocated to them and shall check all freight against freight documents prior to leaving the depot. Any discrepancies shall be reported to the person in charge prior to leaving the depot. Contractors shall be responsible for any discrepancies not so reported.
- 16.3 Contractors shall properly maintain the delivery sheet, including obtaining a legible and identifiable signature for all deliveries effected, and notations

- relating to the time of delivery, and particulars of any claim of discrepancies. These notations shall be made also on the delivery consignment notes. All delivery sheets and other documentation shall be handed in to the person in charge, on the return to the Depot of the contract carrier. All parcels signed for by the contractor shall be received, loaded on to the vehicle with appropriate care, recorded on the pick up sheet, and checked off on return to the depot. Both the delivery and pick up sheets must be handed in prior to the contractor leaving the depot premises at the end of the workday. The company and the union will discuss and agree on a method for the implementation of a computerised freight management system (FMS).
- 16.4 It is the responsibility of the contract driver to ensure the security and protection of goods in the vehicle at all times. Whilst engaged in deliveries and pick-ups the vehicle shall be locked. For this purpose the company shall provide locks at no cost to the contractor.
- 16.5 On returning to the depot the contractor shall unload the vehicle and assist by the checking of the freight against the freight notes and place his freight on the conveyor system. In the event of a breakdown of the conveyor system the contractor is to assist in carrying and wheeling freight to or from the relevant interstate/intrastate vehicles. Each contractor shall 'check weigh' and 'check cube', as a minimum, an average of three consignments per day over the course of a week.
- 16.6 The contractor shall undertake all contracts of carriage directed by the company with diligence and despatch. The contractor shall behave with civility towards clients of the company. The contractor shall not unnecessarily delay either the delivery of goods, nor the return to depot for unloading. Any occasions of delay beyond the control of the contractor shall be reported to the company. The contractor shall advise the company immediately if a pick-up or delivery cannot be effected for any reason.
- 16.7 The contractor shall observe any proper directions given to them by the company. Prior to leaving the delivery area, the contractor shall notify the radio controller of the company.
- 16.8 The contractors will attend to cubing and check weighing of freight as much as is reasonably practical and in accordance with the company programmes introduced or in force from time to time.
- 16.9 The company has the right to search any contractor's vehicles leaving the yard. The contractor has the right to ask for the presence of a union delegate or, in the absence of a delegate, an independent member of the union to be present during the search.
- 16.10 Should a contractor be unable to effect a pick up or delivery they shall advise the vehicle controller immediately thus allowing sufficient time for another vehicle to effect the pick up or delivery or for alternative arrangements to be made.
- 16.11 Contractors shall not cease work without notifying the vehicle controller. If unavailable for work, contractors shall advise the fleet controller or a supervisor prior to the start time, as specified in Annex A, on the day or days of being so unavailable.

- 16.12 If a contractor's vehicle is taken out of service due to accident or mechanical repair, then the contractor driver will be required to supply a suitable replacement vehicle (hire if required) to perform the regular daily duties at the contractor's own cost, until the vehicle is returned to service.
- 16.13 Contractors are to ensure that all procedures are followed as detailed in the pick-up and delivery (PUD) drivers manual. This manual provides an outline of the procedures in picking up and delivering freight together with supporting information on dangerous goods, and accident and breakdown procedures. The company will provide the PUD driver's manual to all contractors.

## 17. SETTLEMENT OF DISPUTES

- 17.1 It is agreed that in the event or need for interpretation or definition of a particular clause in this Agreement or alternatively in the event of a dispute arising relative to the general operation of this Agreement, then the following procedure will be adopted:-
- 17.1.1 The matter should first be discussed at the workplace level between the contractor and relevant management and where requested, a delegate.
- 17.1.2 If the matter is not settled, discussions shall occur between the appropriate union official, a delegate and management.
- 17.1.3 If the matter is still not settled, it shall be discussed between the Branch Secretary (or nominee) of the union and the company. At each discussion, other company and union representatives may be in attendance as required.
- 17.1.4 If the matter is still not settled, it shall be submitted to the Industrial Relations Commission of NSW for conciliation and then if necessary, where there is no likelihood that within a reasonable period further conciliation will result in agreement, arbitrate the matter.
- 17.1.5 The Industrial Relations Commission of NSW may make a determination, which subject to the rights of appeal, is to be binding on the parties. During the period of dispute, work is to continue as directed by the company subject to an employee's rights regarding health and safety issues according to the industrial relations act.

## 18. ANNUAL LEAVE AND PUBLIC HOLIDAYS

- 18.1 Contractors shall be entitled to annual leave, as provided in Annex A and may be required by the company to take such leave, on a roster determined by the company, having regard where possible to the preferences of the contractors. Contractors shall be entitled to payment of public holidays at the rates contained in Annex A. Eight sick days and one Union Picnic Day are included in the rates contained in Annex A.
- 18.2 Any other leave taken by the contractor shall be taken with the approval of the company and shall be unpaid leave.



**19. KILOMETRE RATES**

- 19.1 Contractors who normally travel more than 100 km per day from depot to depot whilst engaged on company work are to provide start and finish odometer readings on bundy cards for payment as specified in clause 18 of Annex A. Audit checks of such readings may occur.

**20. PAINTING OF VEHICLES**

- 20.1 The company may require the contractor to paint his vehicle, to repair damaged or inadequate paint work, or to maintain the suitable presentation of the contractor's vehicle.
- 20.2 In any other instance, including to restore the paint work after removal of signs affixed by the company, the company may direct the contractor to make his vehicle available, and shall paint only the areas affected by the Riteway decals and Riteway paint work at the expense of the company. This will be done so as not to prejudice the resale price of the vehicle. The company will not repaint the entire vehicle as new.

**21. REDUNDANCY**

- 21.1 In the event that the company seeks to make redundant all or any number of contractor position(s) the following will apply.
- 21.1.1 Contractors may volunteer to accept redundancy; however in the event that the number of volunteers exceeds the positions to be made redundant, preference will be given by order of seniority. In the event that there are no or insufficient volunteers, redundancy will be determined by last on first off principle.
- 21.1.2 Redundancy payments to Contractors will be in accordance with TNT Australia Pty Limited redundancy arrangements applicable at the time of the Contractor's redundancy occurring.

**22. INSURANCE AND LICENCES**

- 22.1 The contractor must have the following insurance policies:-
- 22.1.1 Comprehensive vehicle insurance
  - 22.1.2 Sickness and Accident
  - 22.1.3 Public liability. (Cover \$5,000,000.)
  - 22.1.4 Dangerous goods insurance. (\$2,500,000 per event/per spill)
  - 22.1.5 Current drivers licence for relevant Class of vehicle.
- 22.2 Contractors will be asked to show documentation and provide copies of all current policies and licence to be kept on company file.

23. GST

- 23.1 From 1 July 2000, only contractors with an Australian Business Number (ABN) will be eligible for engagement by the company.
- 23.2 Contractors also agree to a system of 'Recipient Created Invoices' where the company will issue each driver with a tax compliant Invoice each week.

THIS AGREEMENT IS BINDING UPON RITEWAY TRANSPORT PTY LIMITED (THE PRINCIPAL CONTRACTOR), ALL CONTRACT CARRIERS ENGAGED BY THE PRINCIPAL CONTRACTOR AND THE TRANSPORT WORKERS' UNION OF NEW SOUTH WALES.

Signed for and on behalf of

Riteway Transport Pty Limited : \_\_\_\_\_

In the presence of: \_\_\_\_\_

Signed for and on behalf of

the Transport Workers' Union

of Australia (New South Wales): \_\_\_\_\_

In the presence of: \_\_\_\_\_

ANNEX A

1. TWU  
NEW SOUTH WALES

2. EFFECTIVE DATE  
From March 2002

3. RATES - Clause 1  
Effective 1 March 2002

<u>Class</u>	<u>Per 5 Day Working Week</u>
A	\$1553.58
C	\$1686.87
CT	\$1713.77
D	\$1823.28
DT	\$1849.83

4. SALARY FORMULA

A contractor's salary will consist of a labour component and a component for the fixed and running costs of their vehicle.

(i) Labour: The labour component will be calculated as follows:

- |                            |   |
|----------------------------|---|
| (a) Annual Leave           | 160 hours @ ordinary time plus 25% loading  |
| (b) 10 public holidays     | 80 hours @ ordinary time  |
| (c) Union Picnic Day       | 8 hours @ ordinary time   |
| (d) Long Service Leave     | 13/15 x 40 x ordinary time rate   |
| (e) 8 days Sick Leave      | 64 hours @ ordinary time  |
| (f) 44.4 weeks - 11 hours@ | <ul style="list-style-type: none"><li>• 222 x 8 x ordinary rate</li><li>• 222 x 2 x time and one half</li><li>• 222 x double time</li></ul> |

The ordinary time rate is \$14.986. Current Labour component for all classes is \$49,086.71 that represents the following percentages of contract driver's total earnings:

A	60.76
C	55.96
CT	55.08
D	51.77
DT	51.03



~~(i) Fixed Vehicle Component~~

The non-labour portion of the contract carriers earnings will be varied according to the movement in a basket of costs with different weighting's and will be reviewed on the 1 April each year. The basket of costs will be based on those for a Class C vehicle and the resultant percentage movements applied to the other classes.

COST TYPE	EXPLANATION	2002 B/MARK	WEIGHTING (% of total variable & fixed costs)
<b>VARIABLE RUNNING COSTS</b>			
Fuel	23000 km per year travelled @ 4.5km/litre = 5111 litres/year. The cost per litre is the ave. of the Caltex price over the previous 12 months.	88.03c/litre Based on a 12 mth average (\$4,489)	11.68%
Oil	60 litres per year. Source: FleetServe Valvoline Diesel Extra.	\$4.02 per litre (\$241)	0.62%
Tyres	Tyre life 23,000km, therefore 6 tyres per year.  Source: Bridgestone 11R22.5 16 R285	\$328.20 per tyre (\$1969)	5.11%
Repairs & Maintenance	Percentage movement measured by movement in cost of part at attached schedule.	\$7,391	19.19%
<b>FIXED COSTS</b>			
Registration & third party insurance	Source: An average of three Class C Contract drivers	\$1,499	3.89%
Comprehensive Insurance	Source: 3% of value of the truck. Movements to be taken from an average of three Contract drivers.	\$3,300	8.57%
Accident & Sickness Insurance	Source: TCIS 3.5/\$100/week	\$1,615	4.19%
Public liability and DG's insurance	Source: TCIS 5mil public liability & 2.5mil DG's	\$376	0.97%
Administration	Adjustment will be made in line with movements in the CPI	\$4,065	10.55%
Leasing costs and return	Source: City Hino - Ranger 6 Long Homealloy for body (Total price \$68,587) Interest rate: prime rate MESI, March 2002 -- 8%. Five years with 30% residual.	\$13,548	35.18%
<b>TOTAL</b>			

5. HOURS - Clause 3

3. (A), (B), (C), (D) 11 hours  
 3. (E) 1/2 hour

6. STARTING TIME - Clause 5

- (ii) Starting time 7.00 am unless otherwise agreed.

7. VEHICLE TYPE

As contract drivers replace their truck, they will be required to purchase a vehicle with the following characteristics:

Characteristic	Paneltec	Standard
Carrying Capacity	5 to 6 tonne	5 to 6 tonne
Box Dimension	2.40w x 2.30h x 5.5l meters	2.4w x 2.35h x 6.1l meters
Rear Doors	Double Barn	Double Barn
Side Doors	Double Barn (a pallet width each)	N/A
Floor	Steel Checkerplate, min 3mm	Steel Checkerplate, min 3 mm
Colour	White cabin and box	White cabin and grey curtains
Other	-	Wire Mesh Gates

8. WORKERS COMPENSATION ALLOWANCE

The maximum allowance for any class of incorporated contract driver is \$3926.00. Contract drivers will be reimbursed upon the production of an invoice. Any increase in premiums as a result of a claim for an injury sustained whilst not engaged in work for Riteway Transport, will not be passed on.

9. SALE OF VEHICLE WITH WORK - Clause 14

- (i) The value of the vehicle determined by the average of three quotes from reputable motor vehicle dealers, provided that if the variation between the lowest and highest quote is more than 15%, or if the company believes the quotes to be unreasonable, then the company may obtain alternative quotes directly from other dealers.

- (ii) A premium fixed at TWENTY THOUSAND DOLLARS (\$20,000)

- (iii) Sydney Contractors able to sell their vehicle with work (in descending order of seniority):

1. ~~Clarrie Gibbs~~
2. ~~Dave Mayhew~~
3. ~~Sid Mercer~~
4. ~~Geoff Scott~~
5. Clark Abdul

- ~~6. Eddie Lester~~
- ~~7. Norm Freeman~~
- ~~8. Steve Petrovski~~
- ~~9. Terry Cook~~

(iv) Sydney Contractors able to sell their vehicle with work (in descending order of seniority) - Continued

- ~~10. Tony Camilleri~~
- ~~11. Doug Knight~~
- ~~12. Robert Edwards~~
- ~~13. John Galin~~
- 14. Jim Zanetti
- ~~15. Ian Devan~~
- ~~16. Andrew Bayles~~
- 17. Paul Durrant
- ~~18. Mohamed D'Bouk~~
- 19. Hosam Itani
- 20. Phu Luc Nguyen
- 21. Khalil Salim
- ~~22. Steve Roseon~~
- ~~23. Mohammad Younes~~
- 24. Ibrahim Nasser
- 25. Hassan D'Bouk
- 26. Andrew Zadourin
- ~~27. Russell Crane~~
- 28. Bradley Ison

(iv) Sydney Contractors NOT able to sell their vehicle with work (in descending order of seniority):

- ~~1. Steve Lester~~
- 2. Sean Ison
- 3. Andrew Ball
- 4. Anthony Karcz

11. ANNUAL LEAVE AND PUBLIC HOLIDAYS - Clause 17

<u>Class</u>	<u>Daily Rates</u>
A	\$ 310.71
C	\$ 337.37
CT	\$ 342.75
D	\$ 364.75
DT	\$ 369.96

12. FUEL ALLOWANCE - Clause 18

2.5 litres of fuel for each four and one half kilometres of travel certified over and above 100 kilometres each day. The price of a litre of fuel will be determined by the going monthly rate available through the Company Issued Caltex "Star Card".

CODE OF CONDUCT FOR CONTRACT DRIVERS AND EMPLOYEES

Vehicle Cleanliness

(1) Contract Drivers

Contract drivers must present their vehicles in a clean and/or washed condition at the beginning of the working week. A Driver failing to do so may be required, in their own time, to go and clean their vehicle before commencing work.

(2) Company Drivers

Whilst the company will be responsible for washing the vehicle, company drivers must keep the cabins clean and remove all rubbish when they have finished driving a vehicle for the day.

Driver Presentation

- (i) Drivers shall be issued with uniforms, provided by the Company at no cost to the driver.
- (ii) Subject to fair wear and tear, the Company as required shall replace such uniform items.
- (iii) Drivers must wear such uniforms whilst undertaking work for the Company. Uniforms must be maintained in a clean and pressed condition, and minor repairs shall be affected by the driver.
- (iv) The company may require drivers to return unworthy items to the Company at the time of replacement; the Company, at its discretion, may use these returned items to replace damaged items or uniforms during the currency of any issue for short engagement period.
- (v) Singlets, tracksuit pants, football shorts, or any other variations of the company uniform are not to be worn whilst engaging in deliveries and pick-ups.
- (vi) Non company issued accessories, such as gloves, hats and scarfs, should be unbranded (no logos) and neutral in colour, but preferably in Riteway corporate colours (black, grey, red or white). Accessories deemed inappropriate by the company will be asked to be removed.

### **Leave Policy**

Planned annual leave and RDO's will not be permitted from 1 November to 26 December each year. Only under special circumstances and at the approval of the General Manager will this be allowed (ie weddings, honeymoons).

Contract drivers and employees should not accrue annual leave in order to plan holidays longer than four weeks in duration. Only in special circumstances and with the approval of the General Manager will a contract driver or employee be able to take more than four weeks consecutive annual leave.

Contract drivers are able to take single annual leave days off for pre planned engagements ie visit to an accountant or specialist appointment, using annual leave provided that:

1. It is at a time suitable to the company and,
2. a minimum of seven days prior notice is given.

Sick days will not be paid as annual leave.

Only under special circumstances, and at the approval of the General Manager, will these conditions be varied ie a driver who misses more than eight consecutive work days through illness.

### **Smoking Policy**

Contract drivers and employees are not permitted to smoke in any building inclusive of the raised dock area, lunchrooms and toilets. Smoking is prohibited in company vehicles and on forklifts. Drivers must also remember to observe customer's smoking policies when picking up or delivering freight.

### **Suspension of Driving Licence**

Any contract driver or employee who has their driving licence suspended or cancelled, is to inform the fleet controller immediately.

### **Rubbish Policy**

Contract drivers and employees are requested to place rubbish in the receptacles provided and not leave rubbish around the yard. This includes leaving discarded paperwork in the lunchroom and sweeping vehicles out on to the dock.

### **Speed Limit**

The maximum speed limit in the depot is 10 km/hr. All vehicles entering the depot are required to stop at the gate house (regardless of whether there is a security guard in attendance) before proceeding into the yard.



### **Forklift Ramp**

Pedestrian use of the fork lift ramp on the North-Eastern side of the depot is forbidden.

### **Truck Wash**

The truck wash is not to be used to wash out the residue from any liquid spills.

### **Safety Vests**

Safety vests are required to be worn by any contract driver or employee in the yard or on the dock to the North of the freight office other than on the designated walkways.

### **Disciplinary Policy**

On proven issues of a serious discipline nature the company reserves the right to take disciplinary action and/or terminate engagement with or without notice. Serious discipline issues are considered to be, but not limited to:

- (i) Wilful misconduct, overstating times or evidence or falsification of documents to the Company.
- (ii) Disclosure of confidential information (ACCC breaches).
- (iii) Consuming illegal drugs or intoxicating liquor between bundying on and bundying off.
- (v) Failure to properly secure the vehicle and to keep locked all vehicle doors giving access to goods therein.
- (vi) Verbal and physical acts of aggression, harassment or discrimination to Riteway personnel, or that of its clients
- (vii) Theft of Riteway or its customers' property, equipment or freight.
- (viii) Wilful damage of freight.
- (ix) Wilful damage of Riteway, or its employee's property and/or equipment, including defacing by graffiti.
- (x) Failure to carry out a reasonable management direction.

Verbal and written warnings may be used to counsel contract drivers and employees displaying poor performance or disregard of the yard rules or any other policy as periodically issued. Failure to respond to such warnings may lead to the termination of the driver or employee from the company.

**APPENDIX 1 TO SALARY DETERMINATION**

**VEHICLE PARTS SCHEDULE**

Parts schedule was based on the prices provided by *Fleet Serve Pty Ltd* 62 Hume Highway, Chullora, March 2002

Part Description			Part/Model/Number	Unit Cost	Fitting time
Motor	engine	full rebuild	jOBC		
	hose	Top	9001-5474	48.53	.5
	hose	Bottom	9001-54877	93.74	.5
	Fan belt	Set	9001-49290	39.65	.5
	Starter Motor		28100-2327	820.00	1
	Alternator		27040-1952	810.00	1
	Water Pump		16100-3465	608.48	3
	Flasher Can		81980-1690	101.32	.5
	Muffler (main)		17501-5470	550.00	1
Front Axle	(bearing set)	Front axle	9884-50103(2)	55.36	2
		Rear axle	9884-35120(2)	31.23	2
	Seal		9828-01137(2)	8.11	2
Brake linings	One side	Front axle	47441-7790(2)	98.00	2
	One side	Front axle	47443-2480(4)	98.00	3
Brake drums	One side	Front	43512-3331	350.14	3
	One side	Rear	43512-4190	253.76	3
clutch	Plate		31250-5340	691.00	5
	Pressure plate		31210-2621	Complete	7
	Thrust bearing		31242-1210		7
Gear box		New	CS-33050-1870	8750.00	
	Differential	new	41120-1980	4780.00	
<b>Services</b>					
Air cleaner		1pa	17801-2280M	64.05	
outer					
Air cleaner		1pa	17801-2840M	27.82	3
inner					
Fuel filter-tank		3pa	23401-1440	54.84	
Fuel filter		3pa	23401-1510	21.84	
pump					
Oil filter		3pa	15607-2050	60.27	
labour				52.00/hr	

Cost of Parts	\$18,416	(33%)
Labour	\$37,390	(67%)
<b>Total Cost</b>	<b>\$55,806</b>	<b>(100%)</b>

Note: The ratio of 33% parts and 67% labour will be used to calculate movements in R & M.

Annexure B

6 August 2003

Mr Mark Crosdale  
Newcastle & Northern Sub Branch  
Secretary  
Transport Workers' Union of Australia  
New South Wales Branch  
96 Tudor Street  
Hamilton NSW 2303

Dear Mark

I refer to our discussions in the past few days regarding induction of outside hire and agency labour at TNT Express, Enfield.

Following local discussions between management and delegates, a process has been agreed whereby the delegates are given access to the outside hire and agency personnel at the time of induction.

For agency labour, predominantly PM dockhands, the delegates are given 10 -15 minutes at the conclusion of the supervisor's site induction. For outside hire, predominantly drivers, the delegates are provided with a daily list of outside hire and are given access to these drivers.

In agreeing to these arrangements it should be noted by the delegates and the TWU that TNT must comply with applicable laws relating to an individual's freedom of association.

I trust that this letter now clarifies the situation.

Yours sincerely

Vicky Leeds  
Corporate Contract Carrier Relations Manager  
TNT Australia Pty Limited

Annexure C

9 December 2004

Mr Mark Crosdale  
Newcastle & Northern Sub Branch Secretary  
Transport Workers' Union  
31 Cowper Street  
Parramatta NSW 2150

Dear Mark

The word "agreed" in line one of Clause 9(i) in the TNT Australia – TWU New South Wales (Contract Carriers) Heads of Agreement 2005 will only be invoked by TNT where it is impractical to make the requested deduction on an electronic basis.

As an example there are currently a range of Health Funds to which TNT facilitates electronic deductions. If a Contract Carrier joined some obscure fund for which no electronic deductions were being made then TNT would not further extend the electronic deduction to the requested Health Fund.

Yours sincerely

Curtis Berry  
Director Operations

## Annexure D

This Annexure applies only to Contract Carriers, as listed in the Schedule contained in Part B of this Annexure, who were formerly engaged by McPhee Transport Pty Ltd (ABN 65 001 856 113) at the Homebush Depot.

### **PART A: CONDITIONS OF ENGAGEMENT APPLYING AT THE DATE OF MAKING OF THIS AGREEMENT**

#### **1. Rates for the Provision of Services**

The weekly rate for the provision of services comprises the following factors:

- (a) Labour Component
- (b) Fuel Allowance
- (c) Sick Leave Allowance
- (d) Truck Allowance

##### **(a) Labour Component**

The Labour Component is based on 57 hours per week, based on:

- 38 hours per week at the ordinary hourly rate of pay\*; plus
- 10 hours per week at time and half of the ordinary hourly rate of pay\*; plus
- 2 hours at double the ordinary hourly rate of pay\*

##### **(b) Fuel Allowance**

The fuel allowance is based on the monthly cost price (variable) for disillate at 140 litres per week.

##### **(c) Sick Leave Allowance**

The Sick Leave Allowance is paid as a daily allowance based on 8 days sick leave per annum at 7.6 hours at the ordinary hourly rate of pay\* then divided by 231<sup>^</sup> working days per annum and calculated as follows:

- 8 days at 7.6 hours per day = 60.80 hours
- 60.80 hours at the ordinary hourly rate of pay\* divided by 231 days

##### **(d) Truck Allowance**

The Truck Allowance is reviewed annually by applying the Consumer Price Index "Percentage Change (from previous financial year)" for Sydney. Increases to the Truck Allowance are effective from 1 January of each year and paid as a daily allowance.

#### **2. Sick Leave Pay**

Sick Leave payments are based on the Sick Leave Allowance shown in 1(c) plus the Truck Allowance shown in 1(d) and paid as a daily amount when a Contract Carrier is not able to provide services due to ill health.

**3. Additional Hours**

A Contract Carrier providing services in excess of 10.5 hours per day is paid double the ordinary hourly rate of pay\* plus the hourly component of the Truck Allowance shown in 1(d) for such hours in excess of 10.5 per day.

**4. Rostered Day Off**

A Contract Carrier provides services for 10.5 hours per day of which 30 minutes per day is accrued for a monthly Rostered Day Off.

**5. Public Holidays**

Public Holidays are calculated at 7.6 hours at the ordinary hourly rate of pay\*.

**6. Union Picnic Day**

Union Picnic Day is calculated at 7.6 hours at the ordinary hourly rate of pay\* and paid in accordance with the provisions of the Transport Industry (State) Award.

**7. Annual Leave**

A Contract Carrier accrues 20 days Annual Leave per annum at 7.6 hours of the ordinary hourly rate of pay\* plus a loading of 25%.

**8. Carers and Bereavement Leave**

Carers and Bereavement Leave is available to Contract Carriers in accordance with the provisions of the Transport Industry (State) Award.

Carers and Bereavement Leave payments are based on the Sick Leave Allowance shown in 1(c) plus the Truck Allowance shown in 1(d) and paid as a daily amount when a Contract Carrier is not able to provide services due to carer's responsibilities or bereavement.

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\*The "ordinary hourly rate of pay" is the hourly wage rate of a Driver Grade 3 under the Transport Industry (State) Award, as varied from time to time.

^ 231 working days is calculated as follows: 365 days per annum minus 104 weekends minus 20 days annual leave minus 10 days public holiday

**9. Payment for Provision of Services**

Contract Carriers are paid weekly into nominated account(s).

**10. Superannuation**

Contributions to the TWU Superannuation Fund are made in accordance with the SGL rate and are based on the ordinary hourly rate of pay\*. Superannuation contributions are made only for days on which the Contract Carrier supplies services or takes paid leave.

**11. Removal of Company Equipment and Signage from Contract Carrier's Vehicle**

Upon the termination of a Contract Carrier, the Company will remove its equipment and any signage, decals etc and paint the vehicle white (or its original colour). In painting out the Contract Carrier's vehicle, the Company will ensure that it neither enhances nor detracts from the fair market value of the vehicle having regard to the vehicle's age, condition etc.

**12. Payments Extinguishing Contract Carrier's Claim For Sale of Vehicle With Work And Goodwill**

- (i) From 3 June 1993, the Contract Carriers listed below which currently continue to provide services to TNT Australia Pty Limited accepted the monetary amount (also listed) in exchange for their agreement to extinguish any claim, then current or future against J McPhee & Son Pty Ltd or any associated companies including TNT Australia Pty Limited, associated with the practice of selling trucks with work:

<del>Lou APRILE</del>	\$15,000.00
<del>Kevin ARMSTRONG</del>	\$21,000.00
<del>William BROPHY</del>	\$17,000.00
<del>Terry CARLILE</del>	\$15,000.00
Garry GIBBONS	\$15,000.00
<del>Ian HALL</del>	\$16,000.00
<del>Lance KING</del>	\$15,000.00
<del>Paul MCCAHON</del>	\$15,000.00
<del>Ren MARTIN</del>	\$16,000.00
Phillip MORRISON	\$17,000.00

- (ii) The details of the arrangement outlined in (i) above are contained in Attachment 1 of this Annexure.

**PART B: CONTRACT CARRIERS TO WHOM PART A OF THIS ANNEXURE APPLIES**

- (i) The conditions of engagement specified in Part A of this Annexure apply only to the Contract Carriers listed in the Schedule below.
- (ii) The Company shall not be required to apply the conditions of engagement specified in Part A of this Annexure to Contract Carriers who may be engaged subsequent to the making of this Agreement.

**Schedule**

<b>Contract Carrier</b>	<b>Company Name</b>
<del>APRILE Lou</del>	<del>Aprile L &amp; C</del>
<del>ARMSTRONG Kevin</del>	<del>Armstrong Kevin</del>
<del>BROPHY William</del>	<del>Brophy William</del>
<del>CARLILE Terry</del>	<del>Carlile Transport T &amp; M</del>
<del>GIBBONS Garry</del>	<del>Gibbons Garry</del>
<del>HALL Ian</del>	<del>Ian Hall</del>
<del>KING Lance</del>	<del>Berenscourt Pty Ltd</del>
<del>MCCAHON Paul</del>	<del>McCaHon Paul</del>
<del>MARTIN Ren</del>	<del>Martin RE &amp; Co</del>
<del>MORRISON Phillip</del>	<del>Morrison Phillip</del>



Attachment 1 of Annexure D

# MCPHEE TRANSPORT

INCORPORATING J. MCPHEE & SON PTY. LTD.  
J. MCPHEE TRANSPORT CO. PTY. LTD.  
DULGIN BROS. PTY. LTD.

HEAD OFFICE: LOT 2 & 3, BENNELONG ROAD, HOMEBUSH BAY, 2140  
TELEX: 26537 TELEPHONE: 647 1600

ALP AT: 17-21 HAGLAN STREET, PRESTON, VIC. 3072 - TELEX 34241 PHONE: 480 2666  
90-96 MUSGRAVE RD., COOPERS PLAINS, QLD. 4108 - TELEX 42284 PHONE: 277 6788  
957 HARVEENA RD., REGENCY PARK, S.A. 5010 - TELEX 82270 PHONE: 46 7246

13th August, 1979.

## NOTICE TO ALL SUB-CONTRACTORS

Subject: Sale of Vehicle with Work by Sub-Contractor.


The Company agrees that the Sub-Contractor has a right to sell the vehicle with work at the current market value of his vehicle plus a \$500.00 good will allowance if the agreed time commitment with the Company has been met by the Sub-Contractor.

The Company also agrees that if a Sub-Contractor purchases a vehicle with work and has paid the market value of the vehicle and \$500.00 good will allowance and finds that he is not suited to our industry, then he can again sell the vehicle with work and recover the \$500.00 good will figure even if he has not met the required time period with our Company.

The Company clearly states that no Sub-Contractor who purchases a vehicle with work has any recourse against J. McPhee Transport Co. Pty. Limited regarding any sale that he has participated in.

This Company states that it does not benefit in any way in the sale of a vehicle with work.

The Company is not responsible to police any negotiations between the seller and the buyer and its only responsibility is to advise them of our conditions. Any other monies that exchange hands regarding the selling or purchasing of a vehicle with work is done so at the seller and purchaser's own risk.

  
W. W. MOLONEY,  
GENERAL MANAGER.

### SYDNEY BASED SUBCONTRACTORS

McPhee Transport has recognised a relationship between a select group of subcontractors and the company which was in place prior to January 1973 and documented on the 13th of August, 1979 signed by W. Moloney.

At all times the company has communicated an attitude that the basis for determining the selling of a subsubcontractor's vehicle with work should be driven by the length of service that the individual subcontractor has been with McPhee Transport.

In early 1991 the company suspended any subcontractors disposing of their vehicles with work on the basis of any transaction being driven by free market value.

The cessation of any transactions did not in the company's view diminish our early understandings with this select group of subcontractors. We then engaged in discussions to resolve the matter equitably to both parties. The decisions were concluded on 3.6.93 in the presence of the NSW Branch of the TWU, the subcontractors committee and the company.

The basis of the agreement is attached. It sets out the name of the subcontractor, their length of service and the agreed amount to be paid to that person.

The company is committed to complete the payment program within 27 months. The subcontractors must agree by signing a communication that this is a position to conclude any claim against the company or any associated companies and that the practice of selling trucks with work will cease. The company agreed with the subcontractors of that select group not to alter in principal the terms and conditions of their subcontracting relationship with the company.

The company agreed that when the subcontractor decided to retire or leave the company the option was there for the company to purchase their vehicle by fair valuation if this was the company's desire and the subcontractor's desire. It was also agreed that should the subcontractor wish to retain their vehicle the company would undertake to paint out any signage and remove all of it's equipment at the company's cost.

The company agreed that the sequence of payment will be agreed to by the subcontractor's committee and the company and would take into account hardship on a needs basis and that the company to meet its obligation should ensure a minimum of \$20,000 per month is paid.

The company in two instances during the two year period from 1991 to 1993 removed two subcontractors and a special payment arrangement outside of this agreement was paid with the full knowledge and understanding of the subcontractor's committee.

Attachment 1 of Annexure D - Continued

Brian Woods	30,000	T. Daar	17,000
Bob Dexter	30,000	Bill Brophy	17,000
Lex Brewer	28,000	Ian Greentree	17,000
Ralph Gaffney	25,000	Phil Morrison	17,000
Kevin Armstrong	21,000	Alan Spillane	17,000
Gordon Gordon	25,000	Chris Tasker	17,000
Tony Nupier	25,000	(6)	102,000
Merv Peterson	21,000		
Gordon Smith	21,000		
John Stanley	18,000		
Maurie Wilson	18,000		
John Chapman	20,000		
(12)	282,000		
Lea April	15,000	Ron Martin	16,000
Terry Carlite	15,000	Terry Chapple	16,000
Gary Gibbons	15,000	Ian Hall	16,000
Lance King	15,000	(3)	48,000
Simon Lee	15,000		
Ross Deboer	15,000		
Paul McCahon	15,000		
(7)	\$105,000	(28)	\$537,000

Annexure E

**Superannuation Arrangements for Contract Carriers**

- (a) The Company shall remain a participating employer of the TWU Superannuation Fund ("Fund") during the operation of this Agreement and shall make superannuation contributions on behalf of each Contract Carrier to the Fund.
- (b) The Company shall make contributions to the Fund on behalf of each Contract Carrier at the rate of 9% (or such other greater rate as is required to reduce the employer's superannuation guarantee liability to nil of 'ordinary time earnings').
- (c) For the purposes of clause (b) 'ordinary time earnings' has the same meaning as that phrase has in the *Superannuation Guarantee (Administration) Act 1992* as it is varied from time to time, and as that phrase is interpreted by rulings of the Australian Taxation Office from time to time.
- (d) A Contract Carrier may make a written agreement with the Company ("Salary Sacrifice Agreement") to sacrifice a portion of his/her pre-tax ordinary pay to make additional superannuation contributions ("Salary Sacrifice Contribution") to the Fund. Such agreement shall not be unreasonably withheld.
- (e) Where clause (d) applies:
  - (i) The Salary Sacrifice Contribution shall be paid by the Company to the Fund within 28 days of the end of the month in which the services are provided by the Contract Carrier to which the Salary Sacrifice Contribution relates.
  - (ii) The Company shall continue to calculate the contributions required by clause (b) before the Salary Sacrifice Contribution is deducted.
  - (iii) The Salary Sacrifice Contribution shall be agreed between the Company and the Contract Carrier and shall include fringe benefits tax where applicable.
  - (iv) Except as otherwise agreed, the Contract Carrier may request in writing to change the Salary Sacrifice Contribution once per year and the Company shall not unreasonably refuse the request.
  - (v) The Company or the Contract Carrier has the right to terminate the Salary Sacrifice Agreement with four weeks notice.

Annexure F

Contract Carriers – Botany

Contract Carrier	Company Name
ARONEY Sean	ARONEY'S TRANSPORT.PTY.LTD
ARONIS Sam	SOSAM. ENTERPRISE.PTY.LTD
AUBEELAUS Alain	AUBEELAUS.ALAIN
BACH Allan	LIBBAGE.PTY.LTD
BACH Kevin	N.N.N.18.PTY.LTD
BASTONE Mariano	THE.BASTONE.GROUP.PTY.LTD
BEREVESKOS Peter	PCR.DISTRIBUTORS.PTY.LTD
BOYLE Graham	KICKING.&SCREAMING.TRANS
CHAMOUN Hamid	JRK.TRANSPORT.PTY.LTD
CHANDRA Mukesh	M.CHANDRA.PTY.LTD
COLLINS Jeff	C.&J.COLLINS
DAVIS Peter John	GLENDANE.PTY.LTD
DJURIC Aleksandar	ALEX.SPEEDY.TRANSPORT.PTY LTD
EVANS Michael John	MJE.PARTNERS
FARO Raphael	FARO. ENTERPRISES.PTY.LTD
FELLAS Anthony	AMCGF.NOMINEES.PTY.LTD
FITZROY Heath	THANKLESS.TASK.PTY.LTD
FITZROY Peter	FITZROY.PETER
FLACK John	JSF.COURIERS
FREEMAN Gavin	GAV888.PTY.LTD
GARTNER Greg	GARTNER.GREGORY
GEYER Alan	GEYER.ALAN.BRUGE
GLANVILLE John	GLANVILLE.JOHN.RAYMOND
GOUSSIS Angelo	LUX.TRANSPORT.PTY.LTD
HANKINSON Phillip	HANKINSON.PHILLIP. A
HATTON Steve	SF.&CG.HATTON
INGS Russell	RUSSELL.&SUZANNE.INGS
KALAVRITINOS Chris	KALA'S.TRANSPORT.PTY.LTD
KINGSHOTT Grant	KINGSHOTT.TRANSPORT.PTY.LTD
KOUDOUNIS Con	DING.DONG.EXPRESS.PTY.LTD
KREBS Bruce	KREBS.BRUGE.LAMBERT
KUSAF Izzy	ABEYAN.PTY.LTD
LEVETT Chris	PALACE.TRANSPORT.PTY.LTD
LO Mark	J.&M.CO.TRADING.PTY.LTD
LOBOS Jorge	LOBOS.JORGE.RODRIGO
LORENS Lindsay	LORENS.LINDSAY
LUXFORD Kathleen	KJL.TRANSPORT.PTY.LTD
MANILAL James	MANILAL.JAMES
MANION Daryl	DP.&SL.MANION
MAVRIDIS Bill	BJM.CORPORATION.PTY.LTD
McGAUGHRAN Keith	MCGAUGHRAN.KEITH
McKECHNIE Ian	IAN.MCKECHNIE.PTY.LTD
MGLENNAN Neville	MGLENNAN.NEVILLE
MESSINA Sam	S.&R.MESSINA.PTY.LTD
MILNER Craig	ENNAUD.PTY.LTD
MIRARCHI Jason	NOVAUST. ENTERPRISES.PTY.LTD

Annexure F

Contract Carriers – Botany (cont)

MONTAGUE Victor	VG.&CM.MONTAGUE
MORRISON Bill	WJ.&LM.MORRISON
MOTAIS Christopher Jason	CJM.LOGISTICS.PTY.LTD
MOTAIS Gerard	MOTAIS.COURIERS.PTY.LTD
NAOUMENKO Andrew	NAOUMENKO.PTY.LTD
NAPOLITANO Gabriel	GABE.PTY.LTD
NAPOLITANO RIVIEZZO Franco	RIVICOUR.PTY.LTD
NOBLE Mark	MD.&JE.NOBLE
O'BRIEN Bede	EXCEL.EXPRESS
PATTINSON John	J.D.PATTINSON.PTY.LTD
PISULA George	G.&LM.PISULA
PONZA Alex	MEHTAPALEX.PTY.LTD
PORRECA Vince	PORRECA.VINCENZO
RUNGO Stephen	INTATRUCK.PTY.LTD
SANDS Glenn	SANDS.GLENN
SARMIENTO Jose	SKEBY.PTY.LTD
SCHEMBRI Charlie	SCHEMBRI.CHARLES
SCHOFIELD Ray	SCHOFIELD.RAY
SEIDEL Leonhard	SEIDEL.LEONHARD
SHARMA Navin	N.N.J.SHARMA.PTY.LTD
SULLIVAN Edward	EP.&CM.SULLIVAN
TANOSKI Stefce	TANOSKI.TRANSPORT.PTY.LTD
TAYLOR William	TAYLOR.WILLIAM
TEIR Allan	TIER.ALLAN.E
THOMPSON Gregory	THOMPSON.GREGORY.WAYNE
THOMPSON Steve	STEVEN.&LISA.THOMPSON
TRAN Kim Hien	CONNATH.PTY.LTD
TSOUGRANAS Nick	F.N.T.PTY.LTD
WADLEY Greg	G.D.A.W.INDUSTRIES.PTY.LTD
WALSH Geoff	KASANA.PTY.LTD
WILLIAMS Michael	MJ.&JM.WILLIAMS.PTY.LTD

## Annexure G

### Conditions for Contract Carriers at Wollongong and Newcastle

This Annexure G applies to the following Contract Carriers:

- Carl Webster
- Zoron Momiroski
- James Acev
- Glenn McGann
- David O'Connor

The following conditions apply to these Contract Carriers:

- **Minimum Shift Guarantee** - Contract Carrier is guaranteed 8 hours per shift
- **Pay rate** - 8 hours per day/40 hours per week at the ordinary hourly rate of pay. Additional hours outside of 8 hours per day will be at time and a half of the ordinary hourly rate of pay for the first 2 hours and double the ordinary hourly rate of pay thereafter. The ordinary hourly rate of pay referred to in this clause is inclusive of labour and vehicle component.
- **Paid Annual Leave** - four (4) weeks' paid leave per annum (based on 40 hours labour component per week) plus a 25% loading
- **Paid Personal Leave** - up to 8 days of paid personal leave (based on 8 hours labour component per day)
- **Paid Bereavement Leave** - up to 2 days paid bereavement leave (3 days total where international travel is required) (based on 8 hours labour component per day)
- **Public Holidays** – where a Contract Carrier is normally rostered and does not work on a day that is a gazetted public holiday, the Contract Carrier will be paid for the day based on 8 hours labour component

## **Annexure H**

### **List of former Kwikasair Contract Carriers & former Comet Contract Carriers**

#### **Contractor Name**

- Anthony MATTHEWS
- Victor CUSHERI
- Philip Rodney SIMS
- Andrew YEE
- Bob ILIEVSKI
- Roberto SERAFINI