

## **REGISTER OF CONTRACT AGREEMENTS**

**CONTRACT AGREEMENT NO:** CA06/4

**TITLE: Toll Priority - Newcastle Contract Agreement 2005**

**I.R.C. NO:** IRC5/6820

**DATE APPROVED/COMMENCEMENT:** 24 January 2006 / 24 January 2006

**TERM:** 24

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 17 February 2006

**DATE TERMINATED:**

**NUMBER OF PAGES:** 18

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all Sub-Contractors of Toll Priority Newcastle, who fall within the coverage of clause 2 of the Transport Industry - General Carrier Contract Determination.

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

# **Toll Priority - Newcastle Contract Agreement 2005**

## **1.0 TITLE**

This Agreement shall be known as the **Toll Priority - Newcastle Contract Agreement 2005**.

## **2.0 ARRANGEMENT**

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### **3.0 DEFINITIONS**

In this agreement, the following terms apply: -

"Agreement" shall mean the Toll Priority - Newcastle Contract Agreement 2005.

"Award" shall mean the Transport Industry (State) Award, as varied from time to time.

"Business" shall mean the Company's operation, based out of Newcastle.

"Commission" shall mean Industrial Relations Commission of New South Wales.

"Company" shall mean Toll Transport Pty Ltd trading as Toll Priority (Newcastle)

"Determination" shall mean the Transport Industry - General Carriers Contract Determination, as varied from time to time.

"Heads of Agreement" means the Toll Transport Heads of Agreement 2005-2007.

"Principal Contractor" shall mean Toll Priority, a division of Toll Transport Limited.

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

"Sub-Contractor" shall mean Contract Carrier as defined in the Industrial Relations Act.

### **4.0 PARTIES BOUND**

This Agreement shall be binding on -

(i) The Company and all Subcontractors of Toll Priority Newcastle.

(ii) The Union, Newcastle Branch

### **5.0 COVERAGE OF AGREEMENT**

This Agreement applies to all Company Sub-Contractors within the Business who fall within clause 2 of the Determination.

### **6.0 PERIOD OF OPERATION**

This Agreement shall come into effect on and from the date it is approved by the Commission and shall remain in force for 12 months.

### **7.0 RELATIONSHIP TO DETERMINATION**

**7.1** This Agreement shall be read in conjunction with the Determination and the Heads of Agreement, provided that where there is any inconsistency this Agreement will take precedence to the extent of the inconsistency.

**7.2** This Agreement shall constitute the entire Agreement between the parties, subject to anything expressly contained in this Agreement. For the avoidance of doubt, this Agreement supersedes all provisions, covenants, agreements, warranties, representations, negotiations and understandings with respect to the Sub-Contractors engagement.

### **8.0 NO EXTRA CLAIMS**

The Union and the Sub- Contractors undertake that there shall be no further monetary increases or any additional claims for the life of this Agreement other than covered in the Heads of Agreement.

## **9.0 PURPOSE OF AGREEMENT**

### **9.1 Intent**

This Agreement has been designed to provide opportunities for Management and staff to develop specific improvements or initiatives in a facility and within its services. The Company, in conjunction with its Sub-Contractors, intends to achieve a stable and workable Sub-Contractor environment at the facility to provide flexibility, a competitive edge, improved efficiency and quality services. To this end the parties agree to work co-operatively and in consultation to facilitate:

- (i) More efficient working arrangements than exist at present;
- (ii) Improvement of the facilities needs/servicing requirements;
- (iii) Opportunities for Sub-Contractors to participate in new initiatives; and
- (iv) Initiatives, which improve Business plans/budgets/work culture and operations.

### **9.2 Continuous Improvement Initiatives**

- (i) The parties to this Agreement 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. A Consultative Committee shall be established within the business to monitor progress being made towards the attainment of efficiency and productivity measures.
- (ii) Specific measures to be considered, as part of a broad agenda shall include matters such as improved service delivery and a safer working environment.

## **10.0 RESPONSIBILITIES**

- (i) All Sub-contractors are required to provide coverage for the following:  
Superannuation , Workers Compensation , Public Liability , Full Comprehensive Insurance for Motor Vehicle and Registration. The Sub-Contractors must comply with the Workers Compensation requirement of providing a Certificate of Currency as a Proprietary Limited (Pty Ltd) company.
- (ii) It is the responsibility of the Sub-Contractor to be available for work on all days, not declared as public holidays, between Monday and Friday inclusive or at other time that the Company may reasonably require them.
- (iii) It is the responsibility of the Sub-Contractor to notify the duty supervisor or leading hand of his/her inability to report to work at least 30 minutes before his/her designated start time. The Sub-Contractor must make all reasonable efforts to notify the Company of inability to attend work.
- (iv) The Sub-Contractor shall observe the commencement times appropriate to the work he/she is assigned. The Company may vary the start times with prior consultation with the affected Sub-Contractor and his/her representative.
- (v) Sub-Contractor(s) will carry out duties such as the delivery and pick up of freight, loading and unloading of their own PUD (pick up and delivery) vehicles, raising connotes and other business related paperwork, scanning, check weighing and cubing as required. All Sub-Contractor(s) will work as directed except where there is a *bona fide* safety issue or possible breach of the Determination and /or this Agreement. Such issues must be raised immediately with the Sub-Contractor's representative and the manager.
- (vi) During the course of a delivery and/or pick up run, the Sub-Contractor will ensure that the vehicle is kept in a secure/locked condition at all times.

- (vii) Upon returning to the depot, the Sub-Contractor shall unload his/her vehicle and place the freight in the appropriate location. All freight must display the appropriate identifications with the required consigning details completed.
- (viii) The Sub-Contractor shall not perform duties other than the Company's business during working hours or carry any goods/freight other than goods/freight lodged for consignment with the Company.
- (ix) All freight identified as valuable goods or security freight shall be treated in a secure manner and must be brought to the attention of the supervisor/leading hand.
- (x) The Sub-Contractor shall not carry any animals or unauthorised passengers in the vehicle during company business hours/ time without the consent of the manager.
- (xi) The Sub-Contractor must ensure his/her vehicle is carrying the appropriate equipment for the run including but not limited to Personal Palm-top Terminal (PPT), Priority connotes, B-stickers, trolley, and current street directory relevant stationery/equipment, necessary to adhere to policy issued by the Company from time to time.
- (xii) The Sub-Contractor will ensure that all paperwork is handed in on completion of work on a daily basis and all paperwork is fully completed as per the employer's requirements prior to the commencement of the next shift.
- (xiii) The Sub-Contractor shall at all times maintain standard of conduct that supports superior customer service.
- (xiv) The Sub-Contractor shall ensure that his/her permanent pick up run sheet is current. The Company will provide the run sheet format and amend the run sheet upon request.
- (xv) The Sub-Contractor must comply with all reasonable special delivery instructions. If for any reason he/she is unable to do so then he/she must bring this to the immediate attention of the supervisor/leading hand.
- (xvi) Sub-Contractors will be made familiar with all Company policies/procedures and must comply with such policies, as amended from time to time.
- (xvii) Should a Sub-Contractor miss a pick up or thinks a pick up maybe in jeopardy they are to contact the Radio Operator immediately.
- (xviii) The Sub-contractor will be responsible for all deliveries and pick ups with in his/her designated run area, although should it be necessary, the Company reserves the right to redirect drivers into other areas to satisfy service demands. This may be required to maintain service levels. If a pickup or delivery is outside the designated boundary of that run area, the Sub-Contractor will be paid a kilometre rate of \$0.30 cents per kilometre to effect the pickup or delivery. The Sub-Contractor and radio operator concerned, must advise the depot prior to any out of area pick up or delivery so that authorisation for payment can be provided by management. The designated areas for deliveries and pickups will be assigned to each Sub-Contractor and their area and may be varied at management discretion with consultation with affected parties , i.e.; Sub-Contractors.
- (xix) Should a Sub-Contractor request the use of a relief driver not otherwise engaged by the Company the suitability and engagement of the relief driver will be discussed between the Company and the Sub-Contractor concerned. The Company will make the final decision on the suitability of that relief driver however, permission to use a relief driver will not be unreasonably withheld.

## **11.0 INSURANCE**

### **11.1 Maintained by the Sub-Contractor**

The Sub-Contractor agrees that current insurance coverage including, but not limited to:

- Comprehensive motor vehicle insurance;
- Third party and property damage insurance;
- Workers Compensation Insurance; and
- Public liability.

is held by the Sub-Contractor at the time of entering into this Agreement and will be maintained by the Sub-Contractor through the currency of this Agreement and until such time that this Agreement is superseded or replaced or the Sub-Contractor is no longer engaged by the Company.

### **11.2 Sub-Contractor to produce policies**

The Sub-Contractor will produce a current "certificate of currency" or other evidence of compliance with clause 11.1 upon request by the Company.

### **11.3 Failure to Comply**

If a Sub-Contractor fails to comply with the terms of this clause, the Company will cease to provide contracts of carriage to the Sub-Contractor.

## **12.0 SENIORITY GUIDE**

When determining the allocating of runs where all Sub-Contractors are equal then seniority will apply.

## **13.0 MEETINGS**

The Union has the right to hold meetings within the yard, provided that adequate notice has been given to the Company.

## **14.0 PAYMENT OF INVOICES**

The payment of invoices shall occur on Wednesday of each week.

## **15.0 DOCUMENTATION (PROOF OF DELIVERY)**

- (i) The Sub-Contractor will advise each customer that they are required to complete all POD (Proof of Delivery) requirements, i.e. signature printed name, date and time of delivery. Where a customer refuses to complete the POD totally, the Sub-Contractor will advise the Company before completing delivery and obtain direction as to next course of action. On return to the depot management will then discuss the matter with the customer concerned and explain Toll's Policy for POD requirements.
- (ii) A permanent ATL (Authority to leave without signature) replaces the signature only on a POD. When a permanent ATL is in place, the POD will consist of date, time and the letters ATL written in the printed name section of the POD. A permanent ATL will only be in a format acceptable to the Company.
- (iii) The Sub-Contractor must not leave freight without obtaining a 100% POD unless there is an accepted permanent ATL or otherwise authorised to do so by the employer. Deliveries covered by a permanent ATL must only be left in the designated area as indicated on the

permanent ATL. A permanent ATL will not override special sender instructions such as "Signature required" or where the goods have been identified as valuable or security freight.

- (iv) When a POD is not possible (nobody home or available) and there is no ATL, then a calling card must be completed in full and left in a secure place, preferably the letterbox. The green slip (Returned/query freight sticker) must be attached to the freight, highlighting the reason of query. Eg Card Left. The returned/query advice must contain the date of action and the estimated re-delivery window in the field marked other. Eg between 8am and 12pm or 12pm and 4pm. The freight is then to be placed in the security cage.
- (v) The Sub-Contractor will advise each sending customer that they be required to complete all Con Note requirements, i.e. Correct Sender and Receiver details, Account details, Quantities, Weights and Cubing. Where a customer refuses to complete the Con Note correctly, the Sub-contractor will advise the Principle Contractor on return to the depot who will then discuss the matter with the customer concerned.

It is also the responsibility of all Sub-Contractor(s) to ensure that their run number appears on all delivery and pick up Con Notes.

## **16.0 SCANNING**

All Sub-Contractor(s) will scan deliveries and pick ups in line with the Company requirements, paying particular attention to problems such as shortages, freight without consignment notes, consignment notes without freight, misdirects, check address, damages, card left freight, refused to accept freight & designated delivery dates.

Minimum requirements will be (subject to Equipment Availability, Equipment Failures and or by Management Approval):

- (i) 100% Load vehicle scan of all scannable freight
- (ii) All scanners to be up loaded prior to leaving the depot
- (iii) 100% delivery Scanning
- (iv) 100% pick up scanning
- (v) Linking of multiple items at pick up with the use of "B" Stickers
- (vi) Complete End Of Day Process on completion of daily run

## **17.0 RUNS**

The Company shall be responsible for the allocation of runs and work on the runs. Prior consultation will occur with the affected Sub-Contractor and his/her representative.

- (i) The Company may take such steps, as it deems necessary to change pick up or delivery runs or re-allocate work to ensure that operational and customer requirements and contractual obligations are met.
- (ii) Should a run become available then the run will be advertised for a period of one week. The most suitable applicant will be placed in the run, should there be applicants of equal suitability a decision will be based on sub clause (12) Seniority Guide. Before utilising the Seniority Guide, the applicant's suitability will be assessed on work place performance history.
- (iii) It is a fundamental term of the Sub-Contractors contract and this Agreement, that the sale of the Sub-Contractors' vehicles with "Goodwill" is expressly prohibited. It is further recognised that "Goodwill" shall at all times remain the exclusive property of the Company and cannot be assigned, transferred or transmitted by the Sub-Contractor to a third party. If the Sub-Contractor breaches this fundamental term of their contract, the Sub-Contractor shall have their contract of carriage terminated.

- (iv) Where the Sub-Contractor makes a decision to sell their vehicle, the Sub-Contractor **MUST** inform any potential purchaser that it is not a requirement that goodwill be paid in order to work for the Company and obtain, in writing, an acknowledgment from the purchaser to that effect.
- (v) Further, if the Sub-Contractor sells their vehicle with "Goodwill" to a third party, the Sub-Contractor shall fully indemnify the Company, its servants and agents against any and all claims, suits, actions which the third party may bring against the Company, its servants and agents.

## **18.0 COMMUNICATION SYSTEM**

Communication systems such as two-way radios as supplied by the Company must be switched on at all times and at the appropriate volume and channel to ensure optimum performance. Equipment such as AM/FM radios, CD and tape players must not interfere with the optimum performance of the communication systems.

- (ii) Faults with the communication systems must be immediately reported to the Company so those urgent repairs can be arranged.
- (iii) Should the Sub-Contractor be away from his/her vehicle for extended periods of time, he/she must contact the depot via the communication system upon arrival back at the vehicle.
- (iv) At the completion of the delivery run Sub-contractors drivers are to comply with the following
  - (a) Call in
  - (b) Must advise the radio operator of all non delivered freight
  - (c) Notify they are to begin their lunch break
  - (d) Advise an approximate return to airtime
- (v) At the completion of the lunch break Sub-Contractors are to call in and make themselves available for customer service enquires.

All sub-contractors will be required at the completion of their pick up run prior to returning to the depot

- (a) Call in
- (b) State their location
- (c) Await further instructions

## **19.0 UNIFORMS**

- (i) The Company shall supply uniform/s to the Sub-Contractor as and when required. Uniform items will be replaced on a fair wear and tear basis and remain the property of the Company. Items will be replaced using a swap (one for one) system. Uniforms must be returned to the Company upon termination. [See Appendix 2 for additional information].
- (ii) The Sub-Contractor is required to be neat and presentable at all times and to wear the uniform provided by the Company at all times during hours of duty. The uniform may include such items as an identification card, safety vest or cap, which if supplied by the Company must also, be worn as part of the uniform.



## 20.0 VEHICLE SELECTION, CHECKS & ACCIDENTS

- (i) The fleet manager and or the branch manager can only approve vehicle purchases. At the time of the engagement of a Sub-Contractor or at the time vehicle replacement is due, the Company reserves the right to prescribe the vehicle(s) colours, mechanical and carrying specifications, and body type. The Company will endeavour to pass on any national fleet discount available to the Company to the Sub-Contractor when purchasing a new vehicle.
- (ii) The Company reserves the right to alter the composition of the Sub-Contractor fleet or part thereof as related to the changing trends and market conditions dictate.
- (iii) Sub-Contractor vehicles must not exceed five (5) years of age, subject to condition, and the complete discretion of the Company.

### (iv) Notice Provisions (The Company)

The Company, by giving six (6) months written notice to a Sub-Contractor (s) and or by mutual agreement, (on a case by case basis) can require any of the following to occur: -

- (a) The Sub-Contractor(s) to upgrade or down grade their vehicle(s) capacity in accordance with this clause.
- (b) The Sub-Contractors(s) to replace their vehicle(s) with an applicable vehicle(s), which compliments customer, business and or market, needs.
- (c) Update the Sub-Contractors(s) vehicle(s) where it is deemed such vehicle(s) are unsuitable for the work to be undertaken.

### (v) Notice Provisions (Sub-Contractor(s))

The Sub-Contractor(s) who elect to change, replace or update their vehicle(s) as part of providing a contract of carriage with the Company shall discuss and obtain prior approval, in writing, from the Company on the type of replacement vehicle and carrying capacity, make and model proposed to be purchased.

- (vi) Vehicle cabins are to be cleared of all rubbish daily.
- (vii) Vehicle(s) exterior is to be kept in a clean and presentable condition on a daily basis.
- (vi) All accidents, regardless of how small, must be reported to a Supervisor/Leading Hand as soon as possible or on return to depot.

### (vii) All delivery and Pick up vehicles must meet the following criteria.

- (a) An enclosed lockable Van
- (b) A minimum of one (1) tonne capacity
- (c) A minimum of one (1) side door
- (d) Rear door access (Barn door or Tailgate)
- (e) Long wheelbase
- (f) White in colour

### (viii) Bulk Vehicle Requirements

- (a) 5 to 6 Tonne capacity
- (b) 10 Pallet tray
- (c) Curtain sided taut liner (both sides)
- (d) Rear barn doors
- (e) White in colour

## **21.0 WORK PLACE HEALTH & SAFETY**

- (i) The Company and Sub-Contractor(s) shall ensure they act in accordance with their responsibilities as contained in the NSW Occupational Health and Safety Act or any other road safety legislation.
- (ii) Sub-Contractor(s) shall be required to work in a safe manner and take reasonable care of their own and other's safety while at work. Sub-Contractor(s) will co-operate with the Company's initiatives to improve safety and follow all required health and safety policies and procedures.
- (iii) The Company will provide safe systems of work, ensure there are no unsafe conditions and provide necessary training and information for Sub-Contractor(s).
- (iv) The workplace must have an operating DWG (Designated Work Group) as required under the NSW Occupational Health and Safety Act, which will be representative of all areas and personnel in the workplace.
- (v) As safety is in all parties interests, hazardous incidents or occurrences, near misses or safety improvements must be reported in the appropriate manner as agreed by the workplace and can be reported by any Sub-Contractor. Such reports may be actioned immediately by the Company as deemed necessary. All reports will be reviewed by the DWG.
- (vi) The Sub-Contractor must comply with their responsibilities in regard to Dangerous Goods in accordance with the Company's policy. The Company will provide the appropriate Dangerous Goods Awareness training.

## **22.0 LEAVE AND CHRISTMAS LEAVE (Period Of Non Engagement)**

- (i) Sub-Contractors will be entitled to take periods of non-engagement, of at least four (4) weeks in every year subject to consultation and agreement with the Company.
- (ii) Periods of non-engagement attract no remuneration
- (iii) The Company agrees to engage each Sub-Contract carrier for at least forty eight (48) weeks in every year and reserves the right to require each Sub-Contract carrier to disengage for, four (4) weeks each year.
- (iv) A minimum of four (4) weeks notice is to be given by the Sub-Contractors to the Company for periods of non-engagement, unless otherwise agreed with the Company.
- (v) There will be no leave allowed in the two weeks prior to Christmas Eve unless by special arrangement with the Branch Manager.
- (vi) All applications for leave during the Christmas period must be nominated prior to the **1<sup>ST</sup> October** of each year and they will be processed by order of receipt.
- (vii) Should there be a need to reduce or increase the numbers of non-engagements during the Christmas period the Company will advise the Sub-Contractor(s) by the 15<sup>th</sup> October.

## **23.0 PUBLIC HOLIDAYS**

Sub-Contractor will not be entitled to public holiday payments.

## **24.0 SICK LEAVE**

Sub-Contractors will not be entitled to sick leave payments.

## **25.0 EXCESSIVE ABSENTEEISM**

Should a Sub-Contractor be deemed to have excessive unexplained (no covering doctor's certificates) absences (i.e. approximately 13 days over a twelve-month period) not related to an on going illness then that Sub-Contractor shall be subject to disciplinary action in accordance with section 30 counselling procedure.

## **26.0 INTRODUCTION OF NEW TECHNOLOGY**

Sub-Contractors and Management will use the Consultative Committee Framework to evaluate new technologies aimed at improving the effectiveness, safety and productivity of the Toll Priority Newcastle operation.

## **27.0 SUPPORTING FLEXIBILITIES**

- (i) Starting times can be staggered and/or varied to suit Business and/or service requirements provided seven (7) days notice is provided to Sub-Contractor(s) as per the Award. Shorter notice may apply by agreement and prior consultation with the effected Sub-Contractor and his/her representative.
- (ii) A Sub-Contractor other than a casual contract carrier shall be subject to a three (3) month probationary period, during which time the Company or the Sub-Contractor can terminate the contract of carriage on one day's notice.

## **28.0 TRAINING INITIATIVES**

Should a Sub-Contractor engage in training they would be entitled to payment of the labour component only in line with the Award.

Where possible, the Company will attempt to provide career advancement for Sub-Contractors who undertake training as part of coordinating a team and demonstrate commitment to self development and leading other employees in work improvements.

## **29.0 CODE OF CONDUCT**

It is agreed that all Sub-Contractors will be made aware of the attached Code of Conduct (see Appendix 1) and will adhere to the Code of Conduct.

## **30.0 COUNSELLING PROCEDURE**

Where a performance or behavioural issue is identified, the following procedures will apply;

- (i) On the first occasion a Sub-Contractor will be counselled in the presence of his/her representative.  
The date of the counselling must be recorded in the manager's diary.
- (ii) Should the Sub-Contractor continue to fail to respond, he/she shall be given a verbal warning in the presence of his/her representative. A copy of the verbal warning shall be placed on the Sub-Contractors personal file.
- (iii) Should the Sub-Contractor still fail to respond, he/she shall be given a written warning in the presence of his/her representative.
- (iv) Should the Sub-Contractor still fail to respond, he/she shall be given a written notice of termination of their contract of carriage in the presence of his/her representative.
- (v) The Sub-Contractor will be required to sign such written warnings to confirm he/she understands their content.

- (vi) If the Sub-Contractor(s) representative does not agree that the warning given was warranted, the matter will be dealt with in accordance with the Dispute Resolution Procedure, outlined in clause 32 of this Agreement.
- (vii) Disputes concerning termination of the Sub-Contractors contract of carriage shall be dealt with in accordance with the provisions of the *Industrial Relations Act 1996 (NSW)* by the Industrial Relations Commission of NSW.

### **31.0 UNION RECOGNITION AND UNION MEMBERSHIP**

- (i) The Company recognises the Transport Workers Union of Australia, New South Wales Branch as being the union that represents Sub-Contractors who require such representation and are covered by this Agreement.
- (ii) New Sub-Contractors will be introduced to the Union delegate as part of the induction process.

### **32.0 DISPUTE RESOLUTION PROCEDURE**

Any dispute or grievance that arises must be dealt with in the following manner;

- (i) The aggrieved Sub-Contractor with his/her immediate supervisor/leading hand must first discuss the matter.
- (ii) If not settled, the Sub-Contractor may request a representative to be present and the matter must be discussed with the manager.
- (iii) If the matter remains unsolved, it must then be referred to an official of the Union who shall discuss it with the state manager.
- (iv) If the matter is not resolved, it must be submitted to the Commission for conciliation or an agreed mediator for mediation.
- (v) If the matter is not resolved, the parties may agree to submit the dispute to arbitration and, if so agreed, the parties subject to any appeal available must accept the decision.
- (vi) Reasonable time limits will be allowed for discussion at each level of authority.
- (vii) Until the matter is determined, the existing work practice will continue normally without disruption except for a *bona fide* safety issue. No party is to be prejudiced as to the final settlement by the continuance of work in accordance with this procedure.
- (viii) The parties must co-operate to ensure that these procedures are carried out expeditiously. The parties undertake to resolve such concern in a timely manner in accordance with the Dispute Resolution Procedure.

### **33.0 REDUNDANCY**

*See Appendix 4*

### **34.0 COMMITMENT TO DISPUTE RESOLUTION PROCEDURE**

All parties commit to deal with any dispute strictly in accordance with the Dispute Resolution Procedure.

### **35.0 CARTAGE RATES**

Sub-Contractors cartage rates will be in accordance with the entitlements set out in Appendix 3 to this Agreement.

### **36.0 DURESS**

This Agreement was not entered into under duress by any of the parties bound by it.

### **37.0 REVIEW OF AGREEMENT**

The parties commit to commence re-negotiation discussions three months prior to the expiry of this Agreement with the aim of finalising a new agreement prior to the expiry date.

### **38.0 BLUE CARD**

Prior to being engaged by the Company, all new Sub-Contractors must have completed an accredited "Fatigue Management" course and be in the possession of a "Blue card"

### **39.0 GST**

#### **39.1 Taxable Supply**

Where a party to this Agreement ("**Supplier**") makes a Taxable Supply under or in connection with this Agreement or in connection with any matter or thing occurring under this Agreement to another party to this Agreement ("**Recipient**") and the consideration otherwise payable for the Taxable supply does not include GST, the Supplier will be entitled, in addition to any other consideration recoverable in respect of the Taxable Supply, to recover from the Recipient the amount of any GST on the Taxable Supply.

#### **39.2.1 39.2 Recovery of Costs**

Where a party to this Agreement is entitled, under or in connection with this Agreement or in connection with any matter or thing occurring under this Agreement, to recover all or a proportion of its costs or is entitled to be compensated for all or a proportion of its costs, the amount of the recovery or compensation shall be reduced by the amount of (or the same proportion of the amount of) any Input Tax Credits available in respect of those costs.

#### **39.3 Tax Invoice**

The Supplier will issue a valid tax invoice (being an invoice that complies with the GST Legislation) to the Recipient.

#### **39.4 Meaning**

In this clause:

"**GST**" means the tax payable on a Taxable Supply under the GST Legislation;

"**GST Legislation**" means a New Tax System (Goods and Services Tax Act 1999 and any related Act imposing such tax or legislation that is, enacted to validate, recapture or recoup such tax;

"**Input Tax Credit**" has the same meaning given to that term in the GST Legislation;

"**Taxable Supply**" has the meaning given to that term in the GST Legislation.

### **40.0 STATUTORY LICENCES**

#### **40.1 Licences to be maintained**

The Sub-Contractor will be required to ensure that it and any relevant driver obtains and maintains all transport licences, permits and authorisations necessary to perform the Sub-Contractor's duties under this Agreement. These licences include, but are not limited to, licences to drive road vehicles and forklifts.

#### **40.2 Sub-Contractor to produce**

The Sub-Contractor will be required to produce, and shall ensure that all of its drivers produce, relevant licences, permits and authorisations as noted in clause 11.1 of this Agreement upon request by the Company.

### **41.0 CONTINUITY OF SERVICE**

Sub-Contractors continuous service with Mayne (which includes, service with any entity which has been purchased or acquired by Mayne, where applicable, and where the service is currently recognised by Mayne) will be regarded as continuous service with the Company.

Commencement dates as listed in Appendix 5.

### **42.0 ANTI-DISCRIMINATION**

1. It is the intention of the parties to this Agreement to seek to achieve the object in s 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.
2. It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by 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 the Agreement which, by its terms or operation, has a direct or indirect discriminatory effect.
3. Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
4. 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 s 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.
5. 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.

#### **NOTES**

(a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

(b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

“Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.”

Signed for and on behalf of

**Toll Transport Pty Ltd**

Signatories

.....  
General Manager

Signed for and on behalf of

**The Transport Workers Union of Australia, NSW Branch**

Signatories

.....  
State Manager

**Transport Workers Union of Australia - New South Wales Branch  
Newcastle Sub- Branch**

*Appendix I*

**CODE OF CONDUCT**

The following Code of Conduct has been designed to ensure that all parties understand their obligations/responsibilities with regard to general discipline.

All parties are required to;

- (i) Treat customers, colleagues and employees of the Company with honesty, courtesy and respect.
- (ii) Work in a safe and healthy manner.
- (iii) Effectively perform their duties in line with business objectives, company policies, awards/agreements, rules and procedures.
- (iv) Attend work when required and report absences in line with this agreement.
- (v) Carry out all lawful and reasonable requests and directives given by a supervisor, leading hand or manager.

The following represents a guide for Sub-Contractor(s) to ensure they understand that misconduct can lead to disciplinary action including termination:

- (i) Driving any vehicle in a yard or workplace at a speed exceeding the yard or workplace speed limit or driving any vehicle on a public road at a speed exceeding the public road speed limit.
- (ii) Failing to operate vehicles or machinery/equipment in accordance with manufacturer recommendations or driving vehicles in a manner which has the potential to cause short and/or long term damage to the engine, gearbox or vehicle body & panels.
- (iii) Mishandling of freight, including throwing, standing on, kicking or dropping from any height which results or has the potential to result in damage.
- (iv) Not approaching or treating customers, colleagues, employees of the Company or the general public in a reasonable, civil, courteous and respectful manner or the use of abusive or offensive language or behaviour.
- (v) Failing to notify the employer of inability to attend work on time or at all.
- (vi) Unacceptable attendance, continual lateness or patterned absences.
- (vii) Failure to wear company uniform (where full compliment has been issued) while representing the Company in providing transport services.
- (viii) Failure to effectively perform duties or refusing to work as directed.
- (ix) Failure to be free from the influence of alcohol or any prohibited drug when reporting to work.
- (x) Driving or operating any vehicle or machinery/equipment whilst under the influence of a prescribed drug that may cause drowsiness or diminished alertness.
- (xi) Smoking in a Company vehicle or in areas other than an approved designated smoking area whilst at the workplace.
- (xii) Failure to work in a safe and healthy manner.
- (xiii) Acts of theft or pilferage (stealing)
- (xiv) Falsifying of documents so as to achieve a benefit one is not entitled to.
- (xv) Misappropriation of cash or equipment belonging to the Company.
- (xvi) Any form of malicious violence towards the Company's property and/or equipment, customers or their property and/or equipment, any member of the public or their property and/or equipment, fellow colleagues and/or employees of the Company.
- (xvii) Consumption of alcohol or any prohibited drug during work hours.
- (xviii) The use of, or being affected by, or in possession of illegal drugs and/or substances in company time or Company's property or vehicles.

The above list is not exhaustive and Sub-Contractor's should take care to avoid placing themselves in any situation of misconduct.



## *Appendix 2*

### **UNIFORM POLICY**

Sub-contractors will be issued with the following compliment of uniform items.

- (i) Five (5) Shirts - Combination of Polo Shirts or Long or Short sleeve shirts may be chosen.
- (ii) A Combination of five (5) trousers or shorts.
- (iii) One (1) Bomber Jacket.

Once uniform items have been issued to a Sub-Contractor, uniforms must be worn at all times whilst working for the Principle Contractor.

- (i) Uniforms will be replaced on a fair wear and tear basis.
- (ii) Uniforms supplied are to be kept clean and pressed by the Sub-Contractor.

## *Appendix 3*

### **DRIVER PAY RATES FOR NEWCASTLE DEPOT**

**All Rates of Pay as stated below are exclusive of GST**

#### **Pick up or Delivery**

**Con Note Rates** \$1.43 per con including first 10 kgs of consignment and includes the first 20 connotes per stop. Any number of connotes over the first 20 connotes per stop will be paid at the rate of \$0.10 cents per connote.

**Kilogram Rate (0.03)** \$0.04 cents per kilogram over 10 kilograms per consignment

**Cubic Rate (0.03)** \$0.04 cents per kilogram over 10 kilograms per consignment

**Pallet Rate** \$15.00 per pallet/skid/drum 205 litre . ( Pallets / Skids up to 1000kg ). Any additional weight over 1000kg per skid / pallet a 2<sup>nd</sup> pallet rate paid eg; if pallet / skid weighed 1200 kg driver paid \$30.

**Eftpos installations** Paid at hourly rate (1 tonne hourly), minimum half-hour

**DX Mail Exchanges** Paid at hourly rate (1 tonne hourly), minimum increments of .25 of an hour

#### **Weekly Minimum**

\$1429.00 (\$1377 ) Minimum (Including the first 750 con notes) includes the sorting of freight in the AM and PM.

**Pallets and kilograms will be paid in addition to the weekly minimum**

**Bank Drivers** Paid at Hourly Rate of \$26.42 per hour plus \$1.43 per connote for additional carton or satchel work if required. This work to be performed after the normal Bank duties have been completed.

#### **State Mail/DX Drivers**

There will be a combination of State Mail and DX mail deliveries that will be adjusted to meet the schedules and deadlines set by the company for the service of the customer in all of the surrounding delivery areas.

The rate of pay will be in accordance with the current agreement that is in place for all SMS drivers and will remain in place until the duration of that agreement. ( Toll Priority Acquisition of State Mail Service – CM Solutions ).

Toll Priority PUD subcontractors who deliver SMS satchels or cartons to designated customer delivery points will be paid in accordance with the current EBA , which includes the 750 connote minimum. The DX Mail if delivered to a designated delivery point by a PUD subcontractor will be paid in line with the 750 connote minimum. However if there is a requirement for delivering mail to a DX or SMS exchange the delivery will be paid in 15minute increments as per the current hourly rate of \$26.42 per hr. i.e.; \$6.61. If the time to deliver the said amount of mail is longer than that 15 minute period the next increment will be paid.

NB: A log will need to be kept on the drivers' paperwork to show the entry and exit times from the exchanges.

### **Relief Driver**

\$1429.00 per week minimum

When utilised as run relief the driver will be entitled to payments in line with such run.

Should the relief driver be required for out of area work then an additional kilometre rate shall apply.

Kilometre Rate \$0.30 per kilometre

Such minimums will not be payable for periods of non-engagements, such as but not limited to: Public holidays (ie. Easter break, Christmas etc), special events, leave or where the Sub-Contractor does not provide transport services.

**Note 1: There will be no payment of piece rate for any pick up or delivery made during an engagement of hourly hire. (Hourly hire substitutes piece rates.)**

**Note 2: The labour component of the above rates of pay is calculated using, as a benchmark the general rate of pay for a transport worker grade three.**

## *Appendix 4*

### **REDUNDANCY OF SUB-CONTRACTORS**

#### **Introduction**

The termination of a permanent Sub-Contractor's contract of carriage with a business activity shall only take effect according to the individual provisions of his/her contract. The terms of that contract will provide for the rights of each party in this regard.

#### **Voluntary and Involuntary Retrenchment**

If the contract has been terminated on the basis of redundancy, ie. when the business activity, during the life of the contract with the owner-driver is unable to offer the owner-driver any further business. The business activity will observe the following procedure.

##### **(i) Notice Period**

1 to 3 years service – 2 weeks notice

More than 3 years service – 3 weeks notice

During the notice period the owner - driver shall be paid as normal. Volunteers shall not receive any period of notice or payment in lieu.

##### **(ii) Payment in lieu of notice**

Where payment is to be made in lieu of notice, the payment should include labour and fixed costs

**(iii) Service Payments**

An ex-gratis service payment of three weeks payment for each contract year or pro – rata will be paid based on the labour component of the average gross earnings for the previous twelve months.

**For example**

Up to 12 months service	3 wks	Labour Component Only
After 2 yrs 3 months service	6.75 wks	Labour Component Only
After 5 yrs service	15wks	Labour Component Only
After 7 yrs 8 months service	23 wks	Labour Component Only
After 10 yrs service	30 wks	Labour Component Only
After 15 yrs service	45 wks	Labour Component Only
After 18 yrs service	52 wks	Labour Component Only

**(i) Maximum payment**

The maximum amount payable under this policy shall be one year’s normal earnings of the fixed and labour component of \$50,000, which ever is the lesser.

- (i) All payments exclude GST
- (ii) Should a Sub-Contractor be made redundant and his/her vehicle is within the five (5) year life term the Company may purchase the vehicle at the market price. The Sub-Contractor is not obliged to take up this offer although should they wish to, they will be required to produce three (3) market appraisals for the said vehicle, the Company reserves the right to obtain additional market appraisals if deemed necessary.