







**REGISTER OF  
CONTRACT AGREEMENTS**

**CONTRACT AGREEMENT NO: CA99/4**

**TITLE: Tubemakers of Australia Limited t/as George Ward Sheet Coil, and  
Transport Workers Union (NSW Branch) Cartage Agreement**

**I.R.C. NO: 98/6103**

**DATE APPROVED/COMMENCEMENT: Approved 15 December 1998 commenced 23 September  
1998**

**TERM: 36 months**

**NEW AGREEMENT OR  
VARIATION: New and replacing CA11/97**

**GAZETTAL REFERENCE:**

**DATE TERMINATED: 23 September 2001**

**NUMBER OF PAGES: 15**



**COVERAGE/DESCRIPTION OF**

**EMPLOYEES: Applies to employees at Fendell Street, Granville, who enter into contracts for  
the Cartage of Goods**

**PARTIES: Tubemakers of Australia Limited -&- Transport Workers' Union of Australia, New  
South Wales Branch**

**FILED**  
OFFICE OF THE INDUSTRIAL  
REGISTRAR  
1 8 NOV 1988  
SIGNED .....

**Tubemakers of Australia Limited**

**George Ward Sheet & Coil**

**and**

**Transport Workers Union  
(New South Wales Branch)**

**Cartage Agreement**

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**THIS CONTRACT AGREEMENT** is made on Monday 14<sup>th</sup> July 1997 between the following parties:

1. **TUBEMAKERS OF AUSTRALIA LIMITED** in respect of George Ward Sheet & Coil of 13 Ferndell Street, Granville, New South Wales ("the Company"); and
2. **TRANSPORT WORKERS UNION (NEW SOUTH WALES BRANCH)** of 31 Cowper Street, Parramatta, New South Wales ("the TWU").

The agreement will be approved under Section 325 of the Industrial Relations Act 1996 (NSW).

**THE PARTIES AGREE** that in consideration of, among other things, the mutual promises contained in this Agreement:

**1. Definitions**

In this Agreement:

- "Cartage" means carriage of Goods and supervising of the loading and unloading of Goods.
- "Commission" means the Industrial Relations Commission of New South Wales;
- "Company Rules and Policies" means rules or policies issued by the Company to Contract Carriers in writing from time to time.
- "Contract Carrier" has the meaning given to that term in Chapter 6 of the Industrial Relations Act 1996 (NSW).
- "Core Contract Carrier" means any Contract Carrier engaged by the Company as a Core Contract Carrier.
- "Driver" means any person who is allocated by a Contract Carrier to drive a vehicle in the course of performing a Cartage Contract.
- "Goods" means sheet and coil steel products or any other products manufactured, sold or owned by the Company or any Related Body Corporate of the Company;
- "Related Body Corporate" has the meaning given to that term in the Corporations Law.



**2. The Arrangement**

- 2.1 This Contract Agreement will apply to all Contract Carriers engaged by the Company and working out of the Company's site at Ferndell Street, Granville.
- 2.2 From time to time the Company will enter into contracts for the Cartage of Goods ("Cartage Contracts") with Contract Carriers and each such Cartage Contract will import the terms and conditions of this Contract Agreement and any such other conditions as are specified in writing at the time each Cartage Contract is entered into.
- 2.3 The Company in no way guarantees the Contract Carriers any amount or quantity of work or level of earnings.

**3. Term**

- 3.1 This Contract Agreement commences from the date it is approved by the Commission and will continue for a period of 36 months.

**4. Contract Carriers' obligations**

- 4.1 Subject to this Subclause, a Contract Carrier is free to employ any person in connection with the performance of Cartage Contracts. A Contract Carrier must notify the Company in writing of the name of all Drivers used by the Contract Carrier to perform a Cartage Contract at least seven (7) days prior to that Driver being allocated to any Cartage Contract. The Company reserves the right to object to a person being used as a Driver by a Contract Carrier. If the Company does object to the use of a particular person, the Contract Carrier cannot use that person as a Driver in the performance of Cartage Contracts under this Contract Agreement.
- 4.2 Each Contract Carrier will ensure that, in the course of performing a Cartage Contract between that Contract Carrier and the Company, any Driver allocated to a Cartage Contract:
- (a) complies with the terms of this Contract Agreement; and
  - (b) is clearly informed that the Driver has no contractual or other legal relationship with the Company.

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- 4.3 Contract Carriers engaged by the Company to perform Cartage Contracts must, in the course of performing the Cartage Contracts for the Company:
- (a) observe and comply with the provisions of all Acts, Regulations, By-Laws, Ordinances and other instruments controlling, regulating or otherwise affecting the operation of vehicles;
  - (b) obtain, maintain and promptly, upon request by the Company, produce to the Company for inspection:
    - (1) a certificate of registration for any vehicle allocated to a Cartage Contract;
    - (2) a valid current drivers license for any Driver allocated to a Cartage Contract;
    - (3) a certificate of currency for a comprehensive third party property damage policy pursuant to which the Contract Carrier is indemnified in respect of damage to property consequent upon the operation of any vehicle allocated to a Cartage Contract performed by a Contract Carrier;
    - (4) a certificate of currency for a public liability insurance policy with a reputable insurer with a cover of not less than five million dollars for any one claim; and
    - (5) a Certificate of Currency for a workers compensation insurance policy covering all employees and sub contractors of the Contract Carrier involved in carting the Company's Goods;
  - (c) deliver Goods directly and promptly to the address shown on the delivery docket issued by the Company for each Cartage Contract and supervise the unloading of Goods on the delivery site unless the Contract Carrier has other directions endorsed on the delivery docket by the recipient of the Goods or the recipient's agent or unless the recipient of the Goods or the recipient's agent otherwise directs the Contract Carrier or the Driver verbally or in writing at or before the time of delivery;





- (d) if a Contract Carrier is unable to perform any Cartage Contract promptly, telephone the Company and indicate why and for how long the Contract Carrier will be unable to perform the Cartage Contract;
- (e) in the operation of the Contract Carrier's vehicle, observe such traffic rules as may be imposed by the Company in respect of its premises;
- (f) utilise an approved method of tie down of Goods on the vehicle and will take full responsibility and comply with applicable load restraint guidelines and indemnify company of such;
- (g) ensure that the vehicle is loaded with the number of Goods specified in each delivery docket;
- (h) ensure that Goods are handled carefully and safely from the time the Goods are placed on the Contract Carrier's vehicle until placed upon the delivery site;
- (i) ensure that all Drivers conduct themselves in a courteous manner in dealings with customers of the Company;
- (j) immediately report any loss, damage or accident in relation to Goods to the Company;
- (k) comply with the reasonable instructions of the Company regarding any order;
- (l) make all reasonable efforts to ensure that Goods are loaded on time and as quickly as possible;
- (m) ensure that the Driver allocated to perform a Cartage Contract wears the uniform which is issued to the Contract Carrier by the Company from time to time at the Company's expense; and
- (n) ensure that the Driver fully complies with the Personal Protective Equipment Policies of both the Company and its Customers.

4.4 Core Contract Carriers must be available to enter into Cartage Contracts with the Company as required by the Company between the hours of 6am and 10pm, Monday to Friday and 6am and 12pm, on Saturday. The total time required by a driver will be limited by any requirements of law.

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4.5 Core Contract Carriers will agree to be available, at a mutually convenient time on at least 3 occasions per annum for discussions on transport issues.

**5. Indemnity**

5.1 Each Contract Carrier will indemnify the Company:

- (a) in respect of all claims, demands, actions, proceedings, damages and costs arising from the operation of any vehicle allocated to a Cartage Contract performed by that Contract Carrier and from the acts or omissions of the Contract Carrier, or any servant or agent of the Contract Carrier, when performing under a Cartage Contract;
- (b) against all losses arising from damage to the Goods consequent upon negligent carriage of Goods by that Contract Carrier;

**6. Vehicle requirements**

6.1 Subject to clause 6.2, the Contract Carrier will allocate to the performance of each Cartage Contract a vehicle which

- (a) is suitable for the Cartage of Goods;
- (b) is well presented, clean and well maintained in a roadworthy condition.

6.2 All Core Contract Carriers will allow the Company to paint, affix to or display upon any vehicle allocated to any Cartage Contract such paintwork, sign or logo as the Company will require at the Company's expense and will be maintained by Core Contract Carrier and provided that if the engagement of the Contract Carrier is terminated for any reason the Company will at its own expense arrange to remove any such paint, sign or logo from the vehicle and if necessary make good and repaint the affected areas on the Core Contract Carrier's vehicle within seven (7) days of the date of termination.

6.3 Core Contract Carriers will not during the performance of any Cartage Contract display upon its vehicle any sign or logo not being that of the Company.



**7. Cartage Rates**

7.1 The Company will pay the Contract Carriers in respect of each Cartage Contract at the rates set out in the Schedule to this Agreement. The rates payable at the commencement of the Contract Agreement will be the rates payable under the General Carriers Contract Determination (the "Determination") at the commencement of the negotiations for this Contract Agreement plus an allowance for the ongoing costs faced by the Contract Carriers due to incorporation.

7.2 If there is any variation in the amounts payable under the Determination during the terms of this Contract Agreement, the rates payable under this Contract Agreement will be varied to take into account the change. The revised rates will be the rates payable under the Determination plus the incorporation allowance agreed at the commencement of this Contract Agreement.

7.3 Any change in rates under clause 7.2 above will take effect from the date the Company is notified in writing by the Union or a Contract Carrier of a change in the rates under the Determination and of the quantum of that change. There will be no backdating of any variations in rates.

7.4 Core Contract Carriers shall submit to the Company on a daily basis a signed run sheet for the previous days cartage, detailing overall start and finish times, manifest numbers carried, arrival and departure times for each delivery point and details of any delays or incomplete deliveries.

7.5 Contract Carriers are to submit an invoice to the Company at regular intervals being about once each fortnight setting out the amount payable to the Contract Carrier for Cartage Contracts performed during that period. The Company will pay the Contract Carriers in accordance with the rates referred to in clause 7.1 within seven (7) days of the submission of an invoice.

**8. Sale and purchase of vehicles**

8.1 The rights and interests of each of the Contract Carriers to enter into Cartage Contracts with the Company are personal to the Contract Carrier and cannot be sold, assigned, subcontracted or transferred by the Contract Carrier.



- 8.2 If a Core Contract Carrier intends to sell any vehicle which has been used by the Core Contract Carrier in any Cartage Contract, the Contract Carrier may:
- (a) inform the Company of this intention; and
  - (b) recommend to the Company in writing that the Company engage the purchaser of such vehicle as a Core Contract Carrier.
- 8.3 The Company is not bound by any recommendation made by the Core Contract Carrier under clause 8.2 but agrees to:
- (a) consider such recommendation; and
  - (b) inform the Core Contract Carrier within fourteen days of any action which the Company proposes to take in response to such recommendation.
- 8.4 In any dealings, negotiations, contracts or arrangements of any kind with a potential purchaser of any vehicle which has been used by a Contract Carrier in any Cartage Contract, the Contract Carrier must not at any time make any representations:
- (a) concerning the Cartage work provided by the Company to the Contract Carrier including, but not limited to, any representations concerning the nature or quantity of the Cartage work or the remuneration derived therefrom; or
  - (b) that suggest that the Contract Carrier is offering a transaction which involves anything more than the sale of the vehicle at its market value.
- 8.5 Each of the Contract Carriers will indemnify the Company in respect of all claims, demands, actions, proceedings and damages arising from any representations referred to in clause 8.4 made by or on behalf of that Contract Carrier.
- 8.6 If a Contract Carrier has purchased, or has signified its intention to the Company that the Contract Carrier will purchase, a vehicle for the Cartage of Goods from any person who has at any time previously entered into a Cartage Contract with the Company, the Contract Carrier will be deemed to have purchased the vehicle at its market value.
- 8.7 No goodwill will attach to any vehicle utilised for the performance of any Cartage Contract.



8.8 No payment will be made to a Contract Carrier by the Company on termination of that Contract Carrier's engagement by the Company by way of compensation for goodwill or compensation in relation to any premium paid by the Contract Carrier on commencing performing Cartage Contracts for the Company.

**9. Termination**

9.1 The Company may immediately terminate the engagement of a Contract Carrier, by giving written notice to the Contract Carrier if the Contract Carrier :

- (a) has a receiver, manager or official manager appointed over any of its assets;
- (b) has a petition filed against it for its winding up, whether voluntarily or not; or
- (c) makes an assignment in favour of, or a composition or arrangement with, its creditors.

9.2 The Company may immediately terminate the engagement of a Contract Carrier, by giving written notice to the Contract Carrier, if the Contract Carrier seriously or wilfully breaches the terms of this Contract Agreement, any Cartage Contract or any Company Rules or Policies including but not limited:

- (a) refusal to perform any Cartage Contract in accordance with its terms unless the refusal is reasonably justified on the grounds that the load is illegal in terms of length, width or weight;
- (b) wilful or negligent destruction of or damage to Company property.
- (c) obstruction of Company premises;
- (d) misappropriation of Company property;
- (e) denigration of the Company name or products;
- (f) any conviction after the date of this Agreement for an indictable criminal offence.



9.3 The Company may terminate the engagement of a Core Contract Carrier by giving one month's written notice to the Core Contract Carrier, if the Core Contract Carrier fails to perform or observe any of the terms of this Contract Agreement provided that before terminating the engagement of the Core Contract Carrier for breach of the Contract Agreement, any Cartage Contract or any Company Rules or Policies (other than a breach covered by Clause 9.2) the Company will take the following steps:

- (a) a direction to rectify the breach will be given to the Core Contract Carrier and a verbal warning that a failure to rectify the breach or a subsequent breach will lead to more serious disciplinary action and may put the engagement of the Core Contract Carrier in jeopardy;
- (b) if there is any further breach of this Contract Agreement following a verbal warning given in accordance with Clause 9.3(a), a formal letter of warning will be sent to the Core Contract Carrier indicating that a subsequent breach of the Contract Agreement will result in the Company terminating the engagement of the Core Contract Carrier.

9.4 The Company will give a Core Contract Carrier at least **three months'** notice in the event that it becomes necessary for the Company to terminate the engagement of that Core Contract Carrier because the Company:

- (a) no longer requires Contract Carriers to perform Cartage Contracts of the type covered by this Contract Agreement; or
- (b) no longer requires the same number of Contract Carriers to perform Cartage Contracts of the type covered by this Contract Agreement.

9.5 The Company may terminate the engagement of any Contract Carrier who is not a Core Contract Carrier at any time without notice.



**10. Dispute Settlement Procedure**

- 10.1 In the event of a dispute or difficulty arising between any Contract Carrier and the Company, the Contract Carrier shall immediately discuss the matter with the Transport Manager.
- 10.2 If the matter is not resolved, the matter shall be discussed between the Operations Manager, the Contract Carrier and, if the Contract Carrier requests the presence of the TWU, a representative of the TWU.
- 10.3 If the matter is not resolved, it is to be referred to the Commission for conciliation.
- 10.4 All Contract Carriers will continue to perform Cartage Contracts as required by the Company pending completion of this dispute resolution procedure.

**11. Negotiation of further Contract Agreement.**

- 11.1 Two months prior to expiration of this Contract Agreement, the parties will commence meeting with the aim of negotiating a further Contract Agreement within a two month period.
- 11.2 The meetings between the parties will be held fortnightly and will be of 2 hours duration.
- 11.3 The parties will table written agendas for their negotiations at the first scheduled meeting. Neither party will add to the agenda items tabled at the first meeting other than in special circumstances and on reasonable grounds.
- 11.4 The parties agree that the rate to be paid to Contract Carriers during the term of any further Contract Agreement will be the rate payable under the General Carriers Contract Determination at the commencement of the negotiations plus an allowance for the ongoing costs faced by Contract Carriers due to incorporation. The amount of any such allowance will be one of the items for negotiation at the first scheduled meeting.

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- 11.5 The Company will prepare a draft agreement and issue the draft to the TWU at the first meeting as a working document.
- 11.6 The parties will share information relevant to items on the negotiating agenda with the aim of enabling both parties to understand the rationale for any position being put forward during the negotiations. This will include the sharing of information regarding the costs of incorporation faced by the Contract Carriers and, in particular, Contract Carriers will disclose the actual costs faced due to incorporation during the term of this Contract Agreement.
- 11.6 As soon as agreement is reached between the parties, the Company and the TWU will use their best endeavours to ensure that the agreement is signed by all parties and brought before the Commission for approval with all necessary supporting documentation as soon as possible. Any increase in rates under the new agreement will be payable from the date the TWU signs and returns to the Company all documents required to be signed by the TWU in order for the further agreement to be approved under Section 325 of the Industrial Relations Act 1996 (NSW).

## 12. Interpretation

- 12.1 In the interpretation of the Contract Agreement the following shall apply:
- (a) if a clause is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this Agreement;
  - (b) any notice to be given to either party must be personally served or sent by prepaid registered post to the address shown at the commencement of this Agreement or to any other address specified in writing by either party. Service of any notice by way of prepaid registered post will be deemed to have occurred on the second day after posting.





**13. The Company's further obligations**

13.1 The Company shall observe and comply with all Acts, Regulations, By Laws, Ordinances and other laws and instruments controlling, regulating or otherwise affecting the environment, health and safety in relation to the Goods.

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**EXECUTED** by the parties as an agreement:

**SIGNED** for and on behalf  
of **TUBEMAKERS OF AUSTRALIA LIMITED**  
in the presence of:

*Ashley Smith 6/10/98*  
.....  
Witness

*R J Wilton*  
.....

*ASHLEY SMITH*  
.....  
Name (please print)

**SIGNED** for and on behalf of the  
**TRANSPORT WORKERS UNION (NEW  
SOUTH WALES BRANCH)**

*Steve Cain*  
.....  
Witness

*Steve Hutchins*  
.....

*STEVE CAIN*  
.....  
Name (please print)

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**Schedule of Cartage Rates**

	<b>Contract Determination</b>	<b>Trailer Allowance</b>	<b>Premium</b>	<b>Agreement Rate</b>
<b>12 Tonne Vehicle</b>	\$43.04 per hour	-	\$2.04 per hour	\$45.08 per hour
<b>16 Tonne Vehicle</b>	\$47.46 per hour	-	\$2.04 per hour	\$49.50 per hour
<b>Bogie Axle Prime Mover*</b>	\$49.19 per hour	\$34.67 per day	\$2.22 per hour	\$51.41 per hour plus trailer allowance

**\*Bogie Axle Prime Mover**

The preferred method of payment for Bogie Axle Prime Mover is by tonne rate. Such rates will be agreed between the company and the cartage carrier on a load by load basis from time to time provided that the agreed tonne rate equals or exceeds the contract determination. The minimum tonne rate is calculated by the following formula.

$$\text{Minimum Tonne Rate} = \frac{\text{Agreed Average Turnaround Time} \times \text{Agreement Rate}}{\text{Average Load Size}}$$

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