

**REGISTER OF
CONTRACT AGREEMENTS**

CONTRACT AGREEMENT NO: CA20/02

TITLE: Toll Express Parcels (Bungarribee) Contract Agreement 2019

CASE NO: 2020/255166

DATE APPROVED/COMMENCED: 16 August 2019 / 16 August 2019

TERM: 12 months

NEW AGREEMENT OR VARIATION: New

GAZETTAL REFERENCE: 29 January 2021

NUMBER OF PAGES: 22

COVERAGE/DESCRIPTION OF EMPLOYEES:

The agreement applies to contract carriers engaged by Toll Transport Pty Limited, in its Express Parcels business unit, operating from its depot located at 7 William Dean Street, Eastern Creek NSW 2766, who fall within the coverage of the Transport Industry - General Carriers Contract Determination 2017.

PARTIES:

Toll Transport Pty Limited -&- the Transport Workers' Union of New South Wales



Toll Express Parcels (Bungarribee) Contract Agreement 2019

TOLL

Part A – Application and Operation

1. Contract Agreement Title

- 1.1. This contract agreement is called the Toll Express Parcels (Bungarribee) Contract Agreement 2019 (**Contract Agreement**).

2. Parties to the Contract Agreement

- 2.1. The parties to this Contract Agreement are:
- (a) Toll Transport Pty Limited (ACN 006 604 191) (**TOLL**); and
 - (b) Transport Workers Union – New South Wales.

3. Persons bound by this Contract Agreement

- 3.1. This Contract Agreement is binding on:
- (a) Toll; and
 - (b) Transport Workers Union – New South Wales, and its members who fall within the class to which this Contract Agreement relates.

4. Class of members to which this Contract Agreement relates

- 4.1. The class of members to which this Contract Agreement relates are contract carriers, as defined under the *Industrial Relations Act 1996* who are primarily engaged by Toll, in its Express Parcels business unit, operating from its depot located at 7 William Dean Street, Eastern Creek in New South Wales (**Contract Carrier(s)**).
- 4.2. If during the life of this Contract Agreement, TOLL makes a definition decision to relocate the operations from Eastern Creek to a new site, then this Contract Agreement will continue to apply at the new site.
- 4.3. For the avoidance of doubt, this Contract Agreement is not binding on Toll, in respect to any Contract Carrier engaged by Toll to primarily transport goods from any of its other depots, including depots located in Banksmeadow.

5. Term of Contract Agreement

- 5.1. The nominal term of this Contract Agreement is 12 months.
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6. Relationship to General Contract Agreement and Determination

- 6.1. This Contract Agreement is to be read in conjunction with the *Toll Contract Carriers Agreement 2018-2020* or a contract agreement registered in the New South Wales Industrial Relations Commission that replaces it (**General Contract Agreement**). The General Contract Agreement will prevail over this Contract Agreement to the extent of any inconsistency.
- 6.2. The provisions of this Contract Agreement prevails over the provisions of any contract determination, including the *Transport Industry – General Carriers Contract Determination*, of the New South Wales Industrial Relations Commission that deal with the same matters in so far as the provisions of the contract determination apply to a person bound by the agreement.

7. Reference of specific dispute to Industrial Relations Commission

- 7.1. The parties agree that they shall refer to the Industrial Relations Commission of New South Wales, for binding decision (such decision to take effect as a term of this Contract Agreement), the dispute between the parties as at the date of this contract agreement concerning the terms of clauses 16 (Release, Indemnity and Set Off) and 17 (Insurances) of the Terms of Engagement to be entered into between each member and Toll.
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Part B – Terms of Engagement

8. Remuneration

- 8.1. This clause prevails over clause 17 (Rates) of the General Contract Agreement, until **30 June 2020** after which clause 6.1 will apply.
- 8.2. Contract Carriers will be paid the following all-inclusive hourly rates for time spent loading, unloading, driving, delivering and picking up consignments; and participating in training as directed by TOLL:

Type of vehicle	All-inclusive hourly rate
8T	\$60.39
6T	\$55.39
4T	\$54.29
3T	\$53.16
2T	\$46.34
2T SYD-BLUE MOUNTAINS HOURLY	\$49.25
6T SYD-BLUE MOUNTAINS HOURLY	\$59.69

- 8.3. Toll will pay to the Contract Carriers a daily allowance equal to 3.25% of the labour rate, per hour worked Monday to Friday, to a maximum of 8 hours.
- 8.4. The all-inclusive rate compensates Contract Carriers for all expenses incurred, including labour costs, fixed and running vehicle costs, tolls and incidentals.
- 8.5. For the avoidance of any doubt, Contract Carriers are not paid for meal breaks or vehicle breakdowns.

9. Minimum Daily Payment

- 9.1. Subject to clause 9.3, for each day that TOLL engages a Contract Carrier to transport goods, TOLL will pay the Contract Carrier a minimum of 10 hours pay (**Minimum Daily Payment Guarantee**).
- 9.2. The Minimum Daily Payment does not apply to weekend work, training days or trade union training leave.
- 9.3. To be eligible for the Minimum Daily Payment Guarantee, a Contract Carrier must:

- (a) Unless directed otherwise by TOLL, take the fastest possible route or the route that the Contract Carrier is directed by TOLL to take, regardless of whether or not that route incurs tolls;
- (b) Perform all duties in the most efficient manner; and
- (c) Not engage in serious or willful misconduct, or fail to take reasonable care to avoid causing injury or loss to TOLL, a customer or another person.

10. Responsibilities of the Contract Carrier

- 10.1. The Contract Carrier is to be available for engagement on all days not declared as a public holiday between Monday and Friday inclusive, and to be licensed to drive the class of vehicle he or she is required to operate.
 - 10.2. Where customer needs or market demands necessitate weekend work, then subject to consultation with the Contract Carrier, runs will be arranged to service such needs or demands.
 - 10.3. Where customer needs or market demands necessitate weekend work, then subject to consultation with the Contract Carrier, runs will be arranged to service such needs to demands.
 - 10.4. Contract Carriers will be called on periodically to show or to produce copies of a current NSW driver's license in any format or manner required by TOLL, and to wear ID badges on their uniforms when performing a service for and on behalf of Toll. Any loss of license or ID badge is to be communicated in writing to Toll.
 - 10.5. The Contract Carrier is to immediately notify their TOLL Supervisor or Manager of the Contract Carriers inability to perform Contracts of Carriage on any day.
 - 10.6. The Contract Carrier will observe run requirements as set out by Toll.
 - 10.7. During the course of delivery and/or picking up of goods, the Contract Carriers vehicle will be kept in a secure/locked condition at all times and the vehicle will be at all times weather proofed.
 - 10.8. When making deliveries to a consumer delivery location (i.e. home deliveries) and the recipient is not available to take delivery, the Contract Carrier will take the consignment to the nearest Alternate Delivery Point (ADP). This excludes freight types that do not meet the prescribed ADP freight size specifications, or consignments that are specified as 'Signature required'.
 - 10.9. On returning to the depot, the Contract Carrier will unload his or her vehicle and place the freight in the appropriate location as requested by Toll where practicable.
 - 10.10. The Contract Carrier acknowledges that all consignees and consignors served at all times are clients of Toll and accordingly, not undertake any Contract of Carriage with another principal contractor whilst engaged by Toll.
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- 10.11. The Contract Carrier must not knowingly pick up dangerous goods that don't comply with legislation (as amended) and/or is poorly packaged. Consignments identified, as Dangerous Goods must be appropriately documented prior to proceeding with pick-up. For road freight, dangerous goods is defined in the current edition of the Australian Code for the Transport of Dangerous Goods by Road and Rail. For air freight, dangerous goods is defined in the International Air Transport Association Regulations.
 - 10.12. All freight that Toll considers valuable will be treated in a secure manner, i.e. these goods must be brought to the attention of Toll's representative on duty.
 - 10.13. Subject to clause 10.15, under no circumstances will a Contract Carrier take a passenger or transport an animal without written consent from TOLL, when performing services for TOLL.
 - 10.14. Contract Carriers agree to indemnify TOLL in respect to any claim, loss or damage suffered by or against TOLL (including personal illness, injury or death of any person and loss of or damage to property) arising out of or relating to the carrying of passengers their vehicle or otherwise while providing transport services for, to, or on behalf of TOLL, unless directed to so by TOLL.
 - 10.15. TOLL may direct a Contract Carrier to allow a supervisor, manager or trainer to accompany the Contract Carrier on a run.
 - 10.16. The Contract Carrier must carry adequate equipment, for example, MDT etc., Overnight Express and Premium Road stickers, B-stickers, trolley, connote books and a current street directory, relevant stationary/equipment, necessary to adhere to policy issued by Toll from time to time.
 - 10.17. The Contract Carrier is to ensure that all paperwork or the like is handed to the debrief supervisor or relevant TOLL operator, on the completion of work on a daily basis, for example, POD capture sheets or like documents, connotes.
 - 10.18. The Contract Carrier is to ensure that all paper work or the like is completed accurately and has been prepared based on the iTrak or iTrace system, and/or actual connote/item weight, manifest, actual PRS bag numbers (as necessary) and accurate cubic measurement. In the event of a consignment not displaying a bar code or for whatever reason is not able to be barcoded, the Contract Carrier shall attach a B-sticker as applicable.
 - 10.19. The Contract Carrier is required to ensure all consignments are scanned and if required, downloaded before leaving the depot. In the event of a consignment not displaying a bar code or for whatever reason is not able to be barcoded, the Contract Carrier shall attach a B-sticker as applicable.
 - 10.20. The Contract Carrier is to check potential query freight before leaving the depot. If queries arise on the Contract Carrier's run the Carrier must contact their supervisor or TOLL operator and provide details in an effort to find a correct address or answer a query.
 - 10.21. Where freight is returned to the depot the Contract Carrier must follow "Returned Depot" freight procedure as amended from time to time. The card left system must apply to returned freight and the unable to deliver sticker will be applied to the undelivered consignment and full details completed, as required by Toll.
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- 10.22. Non-delivered freight must be reported to the relevant supervisor or TOLL operator at the completion of the Contract Carriers delivery run.
 - 10.23. Known missed pick-ups must be reported immediately to the TOLL operator for appropriate action.
 - 10.24. The Contract Carrier will ensure that the delivery and permanent pick-up data base/sheet is updated regularly. Toll will supply a copy of such sheets to the Contract Carrier and the Contract Carrier will within 48 hours update and return such updated information to Toll.
 - 10.25. Toll, once received, will within 48 hours update such information.
 - 10.26. The onus is on the Contract Carrier to ensure that the delivery and permanent pick-up database/sheet is updated prior to any applies periods/s of non-engagement commencing.
 - 10.27. The Contract Carrier will comply with all special delivery instructions, where practicable. If for any reason the Contract Carrier is unable to do so the Contract Carrier must bring this to the attention of a supervisor or manager before leaving the depot. The onus will be on the Contract Carrier to justify why special delivery instructions cannot be complied with.
 - 10.28. The Contract Carrier will be responsible to complete all deliveries and pick-ups allocated to him or her by Toll and will deliver and or pick up to or from all areas of the customers premises (within a geographical area or designated run), unless otherwise authorized by Toll or Duty Supervisors. The onus is on the Contract Carrier to service the customer.
 - 10.29. The Contract Carrier will at all times observe the departure time from the depot as requested by Toll. A Contract Carrier may be required by Toll to return all freight to the depot to be available for linehaul movements by a set time such as, but not limited to for example 6.45pm.
 - 10.30. Failure to meet depot arrival times may result in Toll reviewing such runs to compliment linehaul departure times.
 - 10.31. The Contract Carrier is to ensure no deliveries or pick-ups allocated to the Contract Carrier by Toll are unloaded or offloaded without regard to the security and well-being of that freight. This includes the practice of leaving freight in a prearranged place for a second Contract Carrier to later collect, unless authorized by Toll or Duty Supervisor.
 - 10.32. Contract Carriers are to be contactable via TOLL's preferred communication system for customer service enquires.
 - 10.33. Subject to consultation with a Contract Carrier representative, Contract Carriers will comply with all new technology requirements associated with any new technology and with any modifications made to such technology, as required from time to time.
 - 10.34. Personal Palm-top Terminals (PPT) will be taken out and used daily and will be returned to their respective depot each day by the Contract Carrier for the purpose of uploading/downloading data.
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- 10.35. Contract Carriers and floaters are required to take out all freight associated with their run, failure to take out freight or leave freight behind will be treated as serious matter. The onus on every driver is to eliminate freight in the depot and service the customer, where practicable.

11. Insurance

- 11.1. The Contract Carrier will insure the Contract Carriers vehicle and keep it insured under a comprehensive policy of insurance and will give a copy of current insurance policy or certificate to Toll on request.
- 11.2. It is strongly recommended that a Contract Carrier will take out and maintain a personal sickness and accident policy.
- 11.3. The Contract Carrier will take out and maintain a public liability policy and will present a copy of current insurance policy or certificate to Toll on request.
- 11.4. The Contract Carrier agrees to indemnify Toll for unauthorised passengers travelling in the Contract Carriers vehicle whilst providing Transport Services.

12. Signatures

- 12.1. The Contract Carrier will gain a signature on any freight as follows:
- (a) Displaying a signature required sticker.
 - (b) Freight marked as such (i.e where instructions are pre-printed)
 - (c) Where advised in writing for special customers
- (ATL's do not apply to the above circumstances)
- 12.2. In addition, the Contract Carrier will also comply with other operational requirements for, signatures, card left, etc., subject to appropriate procedures being in place.
- 12.3. Contract Carrier will gain signatures and attempt printed surname in accordance with operational procedures.
- 12.4. Failure to gain a signature and a printed surname in accordance with operational procedures may be treated a serious matter. Where proven, falsification of documentation/data will be treated as serious matter and may lead to Toll terminating the Contract Carriers Contract of Carriage.

13. Uniforms

- 13.1. Toll will supply to the Contract Carrier uniforms as required. Uniform items will be replaced on a fair wear and tear basis and remain the property of Toll and are to be returned upon termination.
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- 13.2. The Contract Carrier is required to be neat and presentable at all time and to wear the uniform whilst engaged to perform Transport Service on behalf of Toll. The uniform also includes the wearing of an identification card when supplied by Toll. Such identification cards remain the property of Toll.
- 13.3. Toll will provide Contract Carriers with steel cap shoes that must be worn at all times.

14. Runs

- 14.1. Toll reserves the right to restructure or alter runs and re allocate work deemed necessary by Toll between the Contract Carriers or employees of Toll to sort the needs of the business and maintain proper levels of service to Toll's customer base. Any disputes arising from such changes will be discussed between the Contract Carrier, the Transport Workers Union and Toll.
- 14.2. The main requirement for change may be but not limited to the following:
- (a) Deliveries and or pick-ups cannot be completed within the customer driven service parameters.
 - (b) The volume within a designated run area prevents completion in the AM and or PM without offload or multiple delivery or pick up runs (i.e. regular off-loads)
 - (c) Times of significant volume fluctuations such as Christmas/New Year period.
 - (d) Toll is responsible for the allocation of pick-ups and deliveries within a geographical area or designated run. Individual pick-ups or deliveries to or from customers remain the property of Toll.
 - (e) Toll reserves the right to reallocate work so as to enable the Contract Carrier to complete Transport Services within the expected pick-up and delivery times.
 - (f) Toll will review, as applicable, a Contract Carrier's performance after three months and where a carrier is unable to satisfy any run requirements or performance then the Contract Carrier will be removed from the run.
 - (g) Where a Contract Carrier has accepted a vacant run then he or she must remain on that run for a minimum of six months before he or she can apply for any vacant runs that may become available.
 - (h) Toll reserves the right to determinate the number of Contract Carriers to a level that enables Toll to perform all work to Toll's and the client's standard of service and performance.

15. Sale of Vehicle with Run

- 15.1. All work remains the property of Toll and under no circumstances can:
- (a) A run be sold
 - (b) A vehicle can be sold with a right to a run
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15.2. Goodwill remains the property of Toll and is not transferable under any circumstances.

16. GST

16.1. The Transport Industry (GST Protocol) Contract Determination will apply as amended.

17. Vehicle Selection

17.1. The Fleet Manager and/or Branch Manager can only approve vehicle purchase. At the time of engagement of a Contract Carrier or at the time vehicle replacement is due, Toll reserves the right to prescribe the vehicles mechanical and carrying specifications, and body type, the manufactures model being optional. Only vehicles which are less than 20,000 km old and twelve (12) months from the date of purchase as a new vehicle will be purchased unless otherwise agreed by Toll.

17.2. At the time of engagement of a Contract Carrier or at the time vehicle replacement is due, Toll reserves the right to prescribe the vehicles mechanical and carrying specifications, and body type.

17.3. Toll reserves the right to alter the composition of the Contract Carrier fleet or part thereof as related to changing trends and market conditions dictate.

17.4. Notwithstanding clause 17.1, vehicles(s) purchased may remain satisfactory (subject to wear and tear condition) for not less than five (5) years from the date of initial registration after which Toll at its discretion may nominate a replacement with a new vehicle of the same capacity in accordance with clause 17.1 OR nominate a replacement vehicle of a different capacity so as to meet changing customer, business and or market needs.

Notice provisions (Principal Contractor)

17.5. Subject to clause 17.6, Toll, by giving six months written notice to the Contract Carrier, can require any of the following to occur:

- (a) The Contract Carrier to upgrade or downgrade their vehicles capacity in accordance with this clause.
- (b) The Contract Carrier to replace their vehicles with applicable vehicles, which compliments customers, business and or market, needs.
- (c) Update the Contract Carriers vehicles where it is deemed such vehicles are unsuitable for the work to be undertaken.

17.6. If a Contract Carrier is subject to a leased vehicle with a 5 year term or a finance loan in respect to their vehicle, then Toll must give the Contract Carrier reasonable notice.

Notice Provisions (Contract Carriers)

- 17.7. The Contract Carriers who elect to change, replace or update their vehicles as part of performing Contract of Carriages for TOLL will discuss and obtain agreement in writing from TOLL as to the type of replacement vehicle and carrying capacity, make and model proposed to purchased.

Vehicle security

- 17.8. Meet the standards as set by TOLL national security requirements for new or replacement vehicles only, which include but are not restricted to:
- (a) Engine immobilizer
 - (b) Suitable alarm system
 - (c) Measure of concealment such as black window tinting on all cargo area windows.
- 17.9. Vehicle security measures may change according to security risk assessments conducted by TOLL.

18. Breakdowns and Accidents

- 18.1. In an event of a breakdown or accident the Contract Carrier will be given time to arrange repairs to his or her vehicles. If vehicle is off the road for longer than twenty-four hours the Contract Carrier may hire a vehicle in order to perform his or her normal duties. Contract Carriers who have in excess of three vehicles breakdowns in a twelve month period will be required to produce evidence identifying repairs carried out.
- 18.2. The Minimum Payment Guarantee will not apply on days where a breakdown or accident occurs.

19. Additional Contract Carriers

- 19.1. TOLL reserves the right to determine the number of Contract Carriers to a level that enables TOLL to perform all work to TOLL's and the client's standard of service and performance.

20. Vehicle Decaling

- 20.1. If TOLL requires the Contract Carrier's vehicle to be decaled in with TOLL's decals, TOLL agrees to:
- (a) Meet the expense of applying or removing decals to Contract Carriers vehicles.
 - (b) Any alteration to decals etc. are to be paid for by TOLL.
 - (c) In the event of damage to the paint work and or vehicle during the application or removal of the decals, TOLL reserves the right to obtain three quotes for repairs and or repainting to original condition of the Contract Carriers vehicle and will only make cheques payable to the repair company or painting ship on completion of the repair work.
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- (d) Should the vehicle be sold to a person or entity, which will not be performing functions for TOLL, all TOLL signage and decals must be removed from the vehicle prior to the transfer of the vehicle.
- (e) The Contract Carriers agrees to deliver the vehicle ready for decals at a mutually agreeable time. In addition the Contract Carrier must allow repainting or re-decating of the vehicle if TOLL so decides.
- (f) TOLL will make good damage to a Contract Carrier vehicles caused by faulty or negligent workmanship.

21. Code of Conduct

21.1. All contract carriers engaged by TOLL agree to:

- (a) Work in a safe and health manner
- (b) Treat customers, colleagues and TOLL representatives with honesty, courtesy and respect
- (c) Effectively perform their duties in line with this Contract Agreement
- (d) Complete documentation correctly and accurately.

21.2. A detailed code is attached and marked Attachment III).

22. Information Pertaining to Business Activities

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

23. Travel on Contract Carrier Vehicle

23.1. The Contract Carrier will comply with any TOLL requirement to have authorized passengers travel on the vehicle for any of the following reasons:

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

- 23.2. In respect to (c) and (d), the Contract Carrier will be unreasonably withhold consent.
- 23.3. TOLL will indemnify the Contract Carrier against any claim for or from an authorised passenger.

24. Period of Non-Engagement

- 24.1. A Contract Carrier who regularly performs Contracts of Carriage for TOLL will be allowed to take periods of non-engagement, of at least four (4) weeks subject to consultation and agreement with TOLL. Periods of non-engagement attract no remuneration.
- 24.2. TOLL agrees to hire each Contract Carrier for at least forty-eight weeks in every year and reserves the right to require each Contract Carrier to disengage four (4) weeks each year.
- 24.3. A minimum of four (4) weeks' notice to be given for periods of non-engagement unless agreed with TOLL.
- 24.4. For extraordinary circumstances not covered by the above, consideration by TOLL will be given for an extended period of non-engagement and will be reviewed, on an individual basis.
- 24.5. Contract Carriers that wish to have holidays at Christmas must nominate by 30 September, each year.
- 24.6. Preference will be given to designated run Contract Carriers who did not have Christmas non-engagement last year.
- 24.7. This will then be followed by designated run Contract Carriers who did have Christmas non-engagement last year. They will then be determined for non-engagement on the basis of seniority, as applicable where a written application is received as prescribed in (a) above.
- 24.8. Non engagement period will not be allowed for December each year unless by special arrangement, in writing, with TOLL.
- 24.9. Relief drivers will be arranged as appropriate by TOLL to the needs of each site.

25. Excessive Period of Non-Engagement

- 25.1. Each Contract Carrier will be responsible and accountable for addressing excessive periods of non-engagement. Contract Carriers who have an excessive period of non-engagement (i.e., as a guide up to ten (10) days in twelve (12) months, and also, one (1) day off equals two (2) instances which will be monitored for abuse) will be subject to counselling etc., and/or in severe matters possible termination.
 - 25.2. Accordingly, TOLL when reviewing a Contract Carriers circumstances of excessive non-engagement, will exclude (within reason) from such review instances prescribed in clause 18 Breakdowns and Accident of this Contract Agreement.
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- 25.3. TOLL will decide each individual case on its merits. The Contract Carrier will need to provide proof to the satisfaction of TOLL with each instances of non-engagement.
- 25.4. To assist this process, please refer to Attachment II of this Contract Agreement.
- 25.5. Any disputes will be dealt with in accordance with the procedure set out in the General Contract Agreement.

26. Termination of Contract of Carriage

- 26.1. Subject to clause 26.2, TOLL or a Contract Carrier may terminate the contract of carriage by giving two weeks' written notice.
- 26.2. In the event of a serious breach of this Contract Agreement, the General Contract Agreement, any applicable contract determination, a breach of its responsibilities or misconduct, Toll can terminate a Contract Carrier immediately without notice.
- 26.3. Natural justice and procedural fairness will apply to circumstances, in accordance with Chapter 6 of the *Industrial Relations Act 1996*, as amended.

27. Transfer to TOLL vehicles

- 27.1. TOLL may at some future time find it necessary to alter the composition of its fleet or part thereof by purchasing Contract Carriers vehicles as part of any fleet re-organisation.
- 27.2. TOLL will only offer this assistance if:
 - (a) The vehicle has been maintained to a good standard;
 - (b) The vehicle is of the standard type as specified in the appropriate schedule.

28. Communication systems

- 28.1. All communication systems remain the property of TOLL and the Contract Carrier authorizes TOLL to install in his or her vehicle a communication system. Such system must be left turned on at all times during engagement hours and to the appropriate channel as designated by TOLL.
 - 28.2. Installation and maintenance costs will be borne by TOLL. The Contract Carrier is to notify his or her base of any malfunction or defect in the instrument immediately.
 - 28.3. The Contract Carrier when requested present his or her vehicle at a mutually agreed time and place for installation and or repairs.
 - 28.4. TOLL is required to give ample notice of appointments made relative to installations and or repairs.
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- 28.5. Where tested and proven to have better reception, then a centre-mounted aerial will be installed. Such hole to be repairs to the Contract Carriers satisfaction when the vehicle is exchanged. The cost is to be borne by TOLL.
- 28.6. The Contract will observe all laws in force governing the use of such transmitting and receiving equipment, and will pay any penalties imposed on either the Contract Carrier or TOLL as a result of the Contract Carriers misuse of the said equipment.
- 28.7. The Contract Carrier must ensure that any other radio; CD or multi-media device etc., in the vehicle does not interfere with the communication system.
- 28.8. The Contract Carrier will operate a mobile phone at all times whilst providing Transport Services to TOLL. The onus is on the Contract Carrier to keep the mobile phone in good working order at all times.
- 28.9. The Contract Carrier must respond to any message sent by TOLL via TOLL's preferred communication system.
- 28.10. TOLL will from time to time introduce new technology to automate its business. Contract carriers will make themselves available for training in the use of this technology. The use of such technology and any modification requirements to the technology will form part of the provisions of Transport Services.
- 28.11. Subject to TOLL being satisfied that the Contract Carrier has not breached or compromised any terms of this Contract Agreement or the Code of Conduct, a Contract Carrier who is suspended pending the outcome of an investigation will be paid at the hourly rate of pay for 10 hours for each day that the Contract Carrier is suspended.

29. Security

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

30. Meetings and Education

30.1. Meetings

- (a) TOLL may assist the Union in the holding of meetings within the yard, provided that adequate notice of such meetings has been given to TOLL and the meeting does not interfere with the operation of the yard.
- (b) The Union's duly elected Driver representatives shall be reimbursed by TOLL for any loss of earnings incurred while attending to any legitimate and authorised Union business, which must be approved by
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TOLL. Subject to reasonable Driver representative request, approval by TOLL will not be unreasonably withheld.

- (c) TOLL reserves the right to review such reimbursement or meeting circumstances on a case-by-case basis and in any event, the release of Driver representatives will not be inconsistent with any policy which TOLL may implement from time to time.

30.2. Education

- (a) TOLL will provide training before a new Contract Carrier commenced performing Contract of Carriage for TOLL. This may involve a five (5) day training period in which all paperwork and TOLL policy will be detailed and explained.

31. Governing Law and Jurisdiction

- 31.1. This Contract Agreement is governed by and construed in accordance with the laws in force in New South Wales.

32. Interpretation of this Contract Agreement

- 32.1. Any clause of this Contract Agreement which is or becomes illegal, void or unenforceable in any jurisdiction, is severable but will not invalidate the remaining clauses of this Contract Agreement.

33. Legal Relationship

- 33.1. TOLL and the Contract Carrier agree that the legal relationship between TOLL and the Contract Carrier is that of Principal Contractor and Independent Contract Carrier and not that of employer and employee and no term of this Contract Agreement will be construed as creating the relationship of employer and employee between TOLL and the Contract Carrier.

34. Entire Agreement

- 34.1. Subject to clause 35, the terms and conditions contained in this Contract Agreement constitute the entire agreement, and supersede any other contract agreement, arrangements or understandings whether written or verbal between TOLL, the Contract Carriers and the Union.
- 34.2. Both parties acknowledge that changing circumstances may require changes to this Contract Agreement.

35. Customs and Practices

- 35.1. The parties acknowledge that:
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- (a) this Contract Agreement has been agreed to on the basis that it applies for a 12-month period and has mirrored the majority of the provisions contained in the *Contract Carriers Agreement Toll Priority Bankstown and Erskineville 2005 (Priority Contract Agreement)*, but for some agreed amendments;
- (b) the Priority Contract Agreement never applied to the site to which this Contract Agreement applies (**Bungarribee Site**);
- (c) there has never been a Contract Agreement that applies to the Bungarribee Site;
- (d) given the expedited nature of the drafting and negotiation of this Contract Agreement, a number of provisions in this Contract Agreement may not practically apply or be consistent with any customs and practices that apply to the Bungarribee Site; and
- (e) a number of custom and practices that have formed at the Bungarribee Site may not have been formally documented in this Contract Agreement.

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

Review of Contract Agreement

35.3. During the term of this Contract Agreement, the parties will conduct a review of this Contract Agreement and may seek to make amendments to be included in a new contract agreement that:

- (a) removes obsolete provisions; and
- (b) includes any agreed custom and practice.

35.4. Within twelve months of the commencement date of this Contract Agreement, the Union agrees to provide TOLL with a list of custom and practices that it says should be included in this Contract Agreement.

35.5. Toll will ensure that as a result of the review under clause 35.3, no Contract Carrier will lose any entitlements that they may have arising out of any industrial instrument.

Customs and Practices Absorbed

35.6. This Contract Agreement is not intended to alter a custom and practice applicable to Toll and Contract Carriers.

35.7. As part of the review of this Contract Agreement under clause 35.3, the parties will include any custom and practice that is agreed to apply to Toll and the Contract Carriers.

35.8. Once this Contract Agreement has been reviewed under clause 35.3, no unwritten custom and practice will be regarded as existing in respect to Toll or the Contract Carriers.

35.9. Clause 35.3 will not preclude the continuing application of a custom and practice where the parties have unintentionally failed to reflect the custom and practice in any new contract agreement that will apply to the Contract Carriers.

35.10. Toll will ensure that no Contract Carrier is worse off as a result of the review referred to in clause 35.3.

Attachment II

36. Guidelines for Excessive Periods of Non-Engagement

- 36.1. The following steps have been developed to assist with the elimination of excessive periods of non-engagement in the business on a case by case basis.
 - 36.2. If in the first instance Contract Carriers will be spoken to and made aware of their excessive period of non-engagement.
 - 36.3. Where a further instance of excessive non-engagement occurs, then a written warning will be issued and other disciplinary measures will be considered where a previous history has been shown.
 - 36.4. In the event a Contract Carrier has a further instance of non-engagement, then a final warning can be issued and the Contract Carrier will thereafter remain as a non-designated Contract Carrier.
 - 36.5. Should a further instance of non-engagement occur, TOLL will have the discretion to terminate the Contract Carrier.
-

Attachment III – Code of Conduct

36.6. The following Code of Conduct has been designed to ensure all TOLL's officers, including management, and Contract Carriers, its employees, agents and representatives, including the approved driver understand their obligations and responsibilities with regard to general discipline.

36.7. All Contract Carriers are required to ensure that:

- (a) Works in a safe and health manner
- (b) Treats clients and colleagues with honesty, courtesy and respect
- (c) Effectively provides transport services in line with business objectives and this Contract Agreement
- (d) Provides transport services as required under this Contract Agreement
- (e) Reports any inability to provide transport services immediately
- (f) Ensures all documentation is completed correctly and accurately as required
- (g) Makes themselves familiar with TOLL's policies and procedures will ensure compliance with such policies and procedures
- (h) Makes themselves available for training, which is deemed appropriate or necessary to perform transport services for TOLL
- (i) Complies with the applicable motor traffic laws at all times whilst performing transport services for TOLL
- (j) Complies with all safety requirements whilst performing transport services
- (k) Performs all contracts of carriage as required

36.8. In the event of a breach of this Contract Agreement, including the responsibilities that are incidental to performing transport services under this Contract Agreement, by the Contract Carrier, its employees, representatives, or agents, TOLL may terminate a Contract Carrier immediately without notice and without any further obligations or liability to the Contract Carrier.

36.9. For the purpose of this clause, a breach of the Contract Agreement, includes but is not limited to the following actions by the Contract Carrier and or the approved driver:

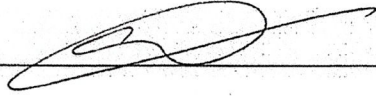
- (a) The consumption of intoxicating liquor on duty, or being under the influence of alcohol or an illegal drug while providing transport services
 - (b) Misrepresenting or falsifying documents submitted to TOLL, misappropriation of cash or equipment belonging to TOLL. All Contract Carriers will complete documentation fully, correctly and accurately as required by TOLL.
-

- (c) Being dishonest, rude, abusive, offensive, aggressive or initiate or provoke arguments with a client or TOLL, while performing transport services for TOLL or in dealing with TOLL or its clients, consignors, consignees or their representatives.
- (d) Acts contrary to the interests and safety of TOLL, other Contract Carriers, employees or clients of TOLL. This includes non-compliance with all safety requirements.
- (e) Refusal to perform a Contract of Carriage.
- (f) Failure to carry out a reasonable demand by TOLL under terms of the contract, immediate.
- (g) Failure to fulfill any fundamental conditions of this Contract Agreement
- (h) Being intimidatory, aggressive, or using physical violence against another Contract Carrier, employee, customer, representative of TOLL or a member of the public.
- (i) The damaging of property (including graffiti) of TOLL, customer or other individual.
- (j) Reckless and or dangerous driving by a Contract Carrier
- (k) Failure to comply with delivery/pick up or operating procedures
- (l) Use of offensive language, actions or behaviors which can be deemed to be discriminatory, harassing, unwelcomed etc., will not be tolerated.
- (m) Contract Carriers will not carry passengers of animals in their vehicles unless written authorization has been obtained by TOLL.
- (n) Theft in any matter any item or property.

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

Part D – Signatories

Signed for and on behalf of Toll Transport Pty
Limited in the presence of



Signature of authorised person

Michael Rugendyke.
General Manager - NSW


Name and position of authorised person in full

26 McPherson Street
Bankswearlow, NSW, 2019

Address

15-8-19

Date of signing



Signature of witness

JULIE-ANNE TELFER
CHANGE MANAGER - GLOBAL EXPRESS

Name of witness in full

26 McPherson Street
Bankswearlow NSW 2019

Address

15-8-19

Date of signing

Signed for and on behalf of Transport Workers Union
of New South Wales in the presence of:



Signature of State Secretary

Richard Olsen

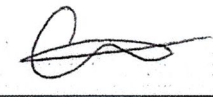
Name of State Secretary in full

22 John Hines Ave
Minchinburg NSW 2770

Address

15 August 2019

Date of signing



Signature of witness

Gavin Webb

Name of witness in full

22 John Hines Ave
Minchinburg NSW 2770

Address

15 August 2019

Date of signing

TOLL

tollgroup.com
