

(203)

SERIAL C0609

TRANSPORT INDUSTRY - COURIER AND TAXI TRUCK CONTRACT DETERMINATION

Schedule of Contract Determination published on 9.11.2001 and subsequent Variations incorporated

Clause	Award/ Variation Serial No.	Date of Publication	Date of Taking Effect	Industrial Gazette	
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Award	C0609	9.11.01	Various	329	248
Schedule VI – Fuel Levy	C1325	9.8.02	9.5.02	335	885
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Schedules I, II, III	C5291	9.3.2007	On and from 1.3.2007	362	185
1, 8, Schedule V	C6881	15.5.2009	On and from 28.3.2006	367	1881
Schedule VI	C7024	15.5.2009	On and from 4.11.2008	367	1883
Correction to C5694	C7620	27.5.2011		371	551

DETERMINATION

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1. Definitions

In this Contract Determination, unless otherwise required by the context:

"**Act**" means the *Industrial Relations Act 1996*.

"**Additional Call**" means for the purposes Schedule III, in relation to a contract of carriage, a pick-up or delivery in addition to the pick-up at the point of commencement and the delivery at the point of completion.

"**Approved Driver**" means the contract carrier where the contract carrier is a natural person otherwise the person nominated by the contract carrier, provided that this definition shall not include a substitute driver as referred to in sub-clause (5) and (6) of clause (5) hereof.

"**Association**" means any association of principal contractors or contract carriers registered pursuant to the Act which is a party to this Determination and which represents the courier and taxi truck industry.

"**Award**" means the Transport Industry (State) Award, as varied from time to time.

"**Bank Run**" means the performance of a routine and regular contract of carriage which relates to the pick up and/or delivery for banks and/or financial institutions.

"**Class of Contract of Carriage**" is a method of description and classification of contracts of carriage and terms of the minimum carrying capacity and type of vehicles adequate to transport goods the subject of individual contracts of carriage.

"**Class of Vehicle**" means the mechanically propelled and registered vehicle of a particular carrying capacity intended to be used on roads wholly and partly in or in connection with the courier and taxi truck industry.

"**City of Sydney**" means, for the purposes Schedule III, the area of the City of Sydney bounded by: the southern shoreline of Port Jackson, Lincoln Crescent, Sir John Young Crescent, Phillip Park, Cook Park, William Street, College Street, Liverpool Street, Commonwealth Street, Wentworth Avenue, Elizabeth Street, Chalmers Street, Cleveland Street, Regent Street, Harris Street, Mary Ann Street, and the Darling Harbour Railway Line terminating at Pier No. 7, Pyrmont.

"**Contract Carrier**" means the carrier as defined in the Act.

"**Contract Distance**", means for the purposes Schedule III, the distance in kilometres between the point of commencement of a contract of carriage and the point of completion of that contract of carriage (or such other route as may be agreed between a principal contractor and a contract carrier) and shall be, prima facie, the distance as published by Transit Distribution Systems (or as may be amended from time to time by that organisation) or, where such published distance may be shown to be incorrect in any instance, the actual proven distance in kilometres between those points.

"**Contract of Carriage**" has the meaning given to that expression by the Act.

"**Contract Time**" means, in relation to a contract of carriage, the time during which a contract carrier has necessarily been engaged performing the contract of carriage between the point of commencement and the point of completion, such time not to include time lost because of breakdowns, accidents, meal breaks or any other interruption, or time spent in performing other contracts of carriage.

"Courier or Taxi Truck Vehicle" means any mechanically propelled vehicle not exceeding 4.5 tonnes carry capacity used by a contract carrier in the course of performing courier or taxi truck work under a contract of carriage pursuant to this Determination.

"Courier Work" means the transportation by means of a courier or taxi truck vehicle of goods of up to a maximum of 250 kilograms of weight from one place to another by a contract carrier for reward at the behest of a principal contractor pursuant to a contract of carriage and where it is intended by the parties that the time to be taken is either:

- (a) within a standard time requested of the contract carrier by the principal contractor and advertised as such (to be known for the purposes of this determination "standard service"), or
- (b) within a time required of the contract carrier by the principal contractor which is the shortest possible time or within a time which is less than the standard time as in (a) above and advertised as such (to be known for the purposes of this determination as "Express/Priority/V.I.P. Service) and where it is intended that in any event completion is to be effected on the same day as commencement or by the earliest reasonable time on the following normal working day.

[NOTE: For the purposes Schedule III, where there is a dispute concerning whether a contract of carriage is "standard service" or "Express/Priority/VIP Service", the dispute shall be determined in accordance with Clause 9. Disputes Procedure.]

"Excess Time" means for the purposes Schedule III, in relation to a contract of carriage, any time, during which a contract carrier has been engaged performing a pick-up or delivery, in excess of the time allowed, according to the class of contract of carriage, for pick-ups and deliveries for the purposes of determining a rate of remuneration for such classes of contracts of carriage.

"Exclusive Hire" means contracts of carriage which on any day are performed by a contract carrier only on bank runs (as defined) or for only one client of a principal contractor which preclude performance of any contracts of carriage by that contract carrier for other clients of the principal contractor on that day. For this purpose a client of the principal contractor shall not include another principal contractor or a related company or enterprise of the principal contractor.

"Express Road/Air Freight Work" means the transportation of goods from places within, to places outside, the county of Cumberland, and vice versa, generally, but not exclusively, on an overnight basis and using a transportation system commonly known in the transport industry as "Freight Consolidation" and by means of interstate and/or intrastate road and air freight services.

"Flagfall" means for the purposes Schedule III, in relation to a class of contract of carriage, the fee payable to a contract carrier for pick-up, delivery and weight for a contract of carriage within that class.

"Goods" means materials and substances of all descriptions that includes documents, packages and parcels, multiple parcels, and movable property of any kind or description whatsoever being the subject of any contract of carriage performed pursuant to this contract determination.

"GST" means the Goods and Services Tax introduced by the commencement of *A New Tax System (Goods & Services) Act 1999*.

"Motor Vehicle or Bicycle" has the meaning given to that expression by the Act.

"Normal Working Day" means any day upon which a principal contractor normally or habitually enters into any contract of carriage.

"Paper Work" means documents required to be in the possession of the contract carrier to enable performance of contracts of carriage.

"Parcel Work" means the transportation of individual items or goods by a contract carrier participating in a system of distribution of goods from one place to another for reward at the behest of a principal contractor pursuant to a contract or contracts of carriage by means of a motor vehicle which system of distribution usually involves:

- (a) transportation to a depot;
- (b) unloading and sorting into groups, each group comprising items to be delivered to places within a logical geographical zone;
- (c) reloading onto vehicles; and
- (d) transportation to such other place(s) either on the same day or on the following normal working day.

"Permanent Runs" means, for the purposes Schedule III, work done on a regular basis involving multiple pick-ups and/or deliveries.

"Point of Commencement of a Contract of Carriage" means, for the purposes of Schedule III, the point at which a contract carrier picks up goods which are to be carried pursuant to a contract of carriage or any paperwork relating thereto, whichever first occurs.

"Point of Completion of a Contract of Carriage" means, for the purposes of Schedule III, the point at which a contract carrier delivers goods which have been carried pursuant to a contract of carriage, or any paperwork relating thereto, whichever last occurs.

"Principal Contractor" has the meaning given to that expression by the Act, and also includes a person who enters into a contract of carriage with a contract carrier.

"Superannuation Determination" means the Transport Industry - Courier and Taxi Truck (Superannuation) Contract Determination published 20 April 2000 (315 I.G. 1), as varied from time to time, or any determination rescinding, replacing or succeeding that determination.

"Taxi Truck Work" means the transportation by means of a courier or taxi truck vehicle of goods of above 250 kilograms and up to a maximum of 4500 kilograms of weight from one place to another by contract carrier for reward at the behest of a principal contractor pursuant to a contract of carriage and where it is intended by the parties that the time to be taken is of the shortest possible time or within the time requested by the principal contractor and it is further intended that in any event completion is to be effected on the same day as commencement or by the earliest reasonable possible time on the following working day.

"Union" means the Transport Workers' Union of Australia, New South Wales Branch (registered under the Act as an Association of contract carriers).

"Work" means the performance of a contract of carriage by a contract carrier pursuant to this determination.

Words importing the singular numbers shall include the plural number and vice versa.

Words importing the masculine gender shall include the female gender and words importing persons shall include corporations.

2. Class Of Contract Of Carriage, Locality, Area, Incidence And Duration

- 2.1 Subject to subclause (2) of this clause, this Contract Determination shall operate in respect of all contracts of carriage performed in relation to couriers and taxi truck work by the use of a bicycle or any type of motor vehicle up to 4.5 tonnes carrying capacity:
- (a) from one place to another within the County of Cumberland; or
 - (b) from one place to another, both of which are within the state of New South Wales excluding the County of Yancowinna and are within the area of a circle of radius 50 kilometres, the centre of which is the point of commencement of a contract of carriage being performed by a contract carrier.
- 2.2 This contract determination shall not operate in relation to:
- (a) contracts of carriage to which the Transport Industry - General Carriers Contract Determination published 19 December 1984 (235I.G.1611) as varied, applies; PROVIDED THAT where a principal contractor enters into contracts of carriage in the course of operating what may be called a taxi truck service and with the vehicle used by the contract carrier to execute such contracts of carriage does not exceed 4.5 tonnes carrying capacity, the principal contractor shall apply the said Transport Industry - General Carriers Contract Determination to the exclusion of this Determination only if such contracts of carriage are, by their nature, principally general carrier and "not" courier work or "taxi truck work" as defined in clause 1, Definitions, of this Determination;
 - (b) contracts of carriage to which any other transport industry contract determination or any determination replacing those determinations, apply;
 - (c) contracts of carriage which are registered pursuant to an agreement made between the union and a principal contractor or an association of principal contractors in accordance with Section 322 of the *Industrial Relations Act* 1996, while such agreement, or any agreement made and registered in substitution thereof, is in force;
 - (d) contracts of carriage performed by the contract carriers involved principally in express road/air freight work as defined in clause 1, Definitions, hereof; or
 - (e) contracts of carriage performed by contract carriers involved principally in parcel work as defined in clause 1, Definitions, hereof.
- 2.3 Subject to subclause 2 of this clause, this Determination shall apply to all contracts of carriage of the class and locality referred to in subclause 1 of this clause and shall bind all principal contractors and contract carriers engaged in or in connection with such work.
- 2.4 This contract determination rescinds and replaces the Transport Industry - Courier and Taxi Truck Contract Determination published 23 April 1999 (309 IG 81), as varied.
- 2.5
- (a) Subject to sub-clauses (b), (c) and (d) this contract determination shall operate on and from 1 November 2000 and have a nominal term of three years.
 - (b) Schedule VI shall operate on and from 1 January 2001 and its nominal term will expire on 9 April 2001.
 - (c) Clauses 5.10 and 16 shall operate on and from 10 April 2001.
 - (d) Clauses 5.24 and 6.11 shall operate on and from 4 June 2001.

3. Availability Of Contract Carriers To Undertake Contracts Of Carriage

- 3.1 (a) A contract carrier shall be entitled to negotiate with the principal contractor in respect of periods of time during which the contract carrier shall not be available to undertake contracts of carriage.
- (b) A principal contractor may not require a contract carrier to be available for the performance of contract of carriage for more than 222 days in any year. In this context, a "year" begins when a contract carrier commences to perform contracts of carriage with a principal contractor (whether the contract carrier commenced to perform such contracts before or after the making of this determination).
- 3.2 At such times as a contract carrier and a principal contractor agree (the latter not unreasonably to withhold consent), a contract carrier shall be entitled to suspend the performance of contracts of carriage for any reasonable period for the purpose of obtaining sustenance except during such times as the principal contractor reasonably requires the performance of contracts of carriage to continue. (In this context a break of a minimum of 30 minutes after a maximum of five hours continual engagement shall be considered reasonable).

4. Uniforms

- 4.1 If the contract carrier is requested by a principal contractor to wear a special uniform when undertaking work with that principal contractor, the uniform shall be supplied by the principal contractor at no cost to the contractor carrier.
- 4.2 Any such uniform shall remain the property of the principal contractor and any item forming part of the uniform shall be replaced by the principal contractor when required by fair wear and tear upon presentation of the item to be replaced, provided that, should loss and damage to an item forming part of a uniform occur due to gross negligence on the part of the contract carrier, the item shall be repaired or replaced by the contract carrier at the contract carriers cost.
- 4.3 Where a uniform is so supplied to a contract carrier, the contract carrier shall wear it in accordance with the instructions of the principal contractor whilst undertaking work with the principal contractor and only at such other times as agreed to by the principal contractor.
- 4.4 Where a uniform is so supplied to a contractor carrier, the contract carrier shall maintain and launder it at the contract carrier's expense.

5. Responsibilities Of The Contract Carrier

- 5.1 The contract carrier shall undertake to observe all applicable obligations contained in this Determination and specifically:
- (a) Subject to agreement between a principal contractor and the contract carrier where it is the normal practice of contract carriers performing work with the principal contractor, to undertake work as directed by the principal contractor and to carry such goods as the principal contractor shall from time to time specify and between such places as the principal contractor may reasonably require; or
 - (b) Otherwise to be available at all reasonable times to perform contracts of carriage on behalf of, or at the request of, the principal contractor, to observe all reasonable and lawful requests made by the principal contractor, and to be of neat and clean appearance.
- 5.2 To pay all statutory costs and fees payable in respect of the vehicle used by the contract carrier in the performance of contracts of carriage, and to keep the vehicle in a mechanically sound, road-worthy and clean condition.
- 5.3 To keep the said vehicle adequately equipped for the safe conduct of contracts of carriage of the kind normally undertaken by the contract carrier on behalf of the principal contractor.
- 5.4 To be at all times the holder of a current driver's licence appropriately endorsed or issued in respect of the vehicle used by the contract carrier in the performance of contracts of carriage, to produce the licence for inspection by the principal contractor upon request and to notify the principal contractor immediately if the licence is suspended or cancelled.
- 5.5 (a) Not to engage or use the services of a driver for his vehicle, other than the approved driver, without the approval of the principal contractor. Such approval may be withdrawn by the principal contractor if the driver commits misconduct or fails to comply with a provision of this determination appropriate to be complied with by a driver of the vehicle of the contract carrier.
- (b) Not to engage or allow any person to drive his vehicle other than the approved driver when he is working with the principal contractor. PROVIDED THAT, in circumstances where the approved driver is unable to work for a reason other than agreed periods in accordance with paragraph (a) of subclause (1) of clause 3 of this Determination, and where the contract carrier elects not to cease work with the principal contractor, it will be the responsibility of the contract carrier to arrange wherever reasonably practical for the services of a substitute driver to operate his vehicle for a period not to exceed 3 months from the date of the approved driver becoming unable to work. Beyond such 3 months' period, the principal contractor may terminate any agreement with the contract carrier for the performance of any contract(s) of carriage.
- 5.6 In relation to any substitute driver:
- (a) to comply fully with the award;
 - (b) to ensure, to the extent it is reasonably practical, such substitute driver complies with appropriate provisions of this Determination, is of neat and clean appearance, and does not commit misconduct; and
 - (c) to advise such substitute driver of all things necessary to facilitate the performance of all contracts of carriage previously agreed by the contract carrier to be undertaken.
- 5.7 To advise the principal contractor of his inability to perform any contract of carriage previously agreed to be performed by him, as early as possible and in any event at least one hour before his scheduled time of commencement of the contract of carriage; in circumstances where the contract carrier anticipates he will not be available to undertake any contracts of carriage on a normal working day, he shall advise the principal contractor thereof at the earliest reasonably possible opportunity.

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- 5.8 Not to cease performing contract(s) of carriage on any day without first notifying the principal contractor, or his radio operator, of his intention so to do, and to co-operate with the principal contractor in arranging for the completion of any contract(s) of carriage already commenced by the contract carrier, but not completed, or the reallocation of any contract(s) of carriage, previously agreed by the contract carrier to be undertaken but not yet commenced.
- 5.9 Whilst undertaking or being available to undertake contracts of carriage, to maintain contact with the principal contractor by radio, which is installed in the vehicle, to keep it in the listening position (unless transmitting) while the base station is open and to inform the principal contractor as soon as possible when a radio unit installed in the vehicle requires servicing or repair.
- 5.10 Within a reasonable period (not exceeding 3 working days from the completion of any contract of carriage), to have delivered to the principal contractor all paperwork, freight notes and worksheets and any other document reasonably requested by the principal contractor, all correctly completed pertaining to all work performed by the contract carrier for the principal contractor. Unless excused by the principal contractor, every endeavour shall be made to obtain any required signature on the relevant documentation when goods are picked up and/or delivered, any damage or shortages to be noted. Contract carriers who fail, other than because of circumstances beyond their control, to comply with these undertakings shall not be entitled to any remuneration, including for safety net purposes, until such documentation is provided to the principal contractor.
- 5.10.1 Where a client requests proof of delivery paperwork from a principal contractor, the contract carrier shall be required to provide that paperwork to the principal contractor within a reasonable time specified by the principal contractor. Failure to comply with this requirement shall not affect any entitlement of the contract carrier in relation to safety net or other remuneration.
- 5.10.2 Continued failure to comply with this subclause may constitute grounds for termination of the engagement of the contract carrier by the principal contractor.
- 5.11 As soon as possible to report to the principal contractor any serious accident, or any accident which affects the performance by the contract carrier or any contract of carriage then being performed, or which the contract carrier has previously agreed to perform.
- 5.12 To advise the principal contractor of his intention to make any alterations to the equipment contained in or on his vehicle and not to make alterations to the equipment of the principal contractor without the prior consent of the principal contractor.
- 5.13 To carry out any reasonable and lawful requests of the principal contractor made in order to observe the requirements of customers as to the order in which contracts of carriage are performed.
- 5.14 To inform the principal contractor immediately, or at the earliest possible opportunity, if he is unable to effect pick-up or delivery of goods to be carried pursuant to a contract of carriage agreed to be performed by him.
- 5.15 To exercise all reasonable care and diligence in the carriage and safe keeping of goods in his charge. A contract carrier shall not have any lien over the goods carried by him and shall take every precaution to avoid any lien over such goods being exercised by a third party.
- 5.16 To observe the necessity for civility to customers.
- 5.17 Upon ceasing to perform contracts of carriage with a principal contractor, promptly to return to the principal contractor all uniforms and removable equipment and signs supplied by the principal contractor.

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- 5.18 Where it is apparent to the contract carrier that goods to be carried pursuant to a contract of carriage are of a dangerous or hazardous nature, to notify the principal contractor of the nature of such goods and to comply with all relevant requirements of the Transport of Dangerous Goods Act and its related codes of practice.
- 5.19 Where it is apparent to the contract carrier that goods to be carried pursuant to a contract of carriage are not packed or wrapped in a proper and secure manner for carriage and/or are in a damaged or unsafe condition, to notify the principal contractor of the nature of such goods in all circumstances prior to continuation of the contract of carriage.
- 5.20 To comply with all Acts, Ordinances, Regulations and By-laws relating to the registration, third party insurance and general operation of the vehicle within New South Wales.
- 5.21 To account for any cheques or monies received on behalf of the principal contractor by the close of the next working day or as agreed between the contract carrier and the principal contractor. The contract carrier shall not be held responsible for fraudulent cheques collected by the contract carrier in good faith on behalf of the principal contractor.
- 5.22 To invoice and/or collect cash from customers and receive payment for the carriage of goods, unless the principal contractor has previously agreed to extend credit in respect thereof and has accordingly notified the contract carrier. In the event of any payment being refused, the contract carrier shall obtain further instructions from the principal contractor prior to effecting the pick-up(s) and/or delivery(s) of any goods for which payment is refused. The contract carrier's entitlement to any remuneration pursuant to this Determination for any work in respect of which he has failed to comply with this subclause shall be deferred until the matter has been resolved pursuant to clause 9 of this Determination.
- 5.23 To maintain proper accounts and records. A principal contractor may at all reasonable times inspect such accounts and records as relate directly to work performed by the contract carrier for the principal contractor.
- 5.24 Bicycle couriers shall, at all times that they are available to perform contracts of carriage, affix the identification numbers provided by the principal contractor in accordance with 6.11 on their back an chest and on the frame of their bicycle in a manner that such numbers are clearly visible. Photographic identification provided by the principal contractor in accordance with 6.11 shall be worn or carried at all times by the bicycle courier.

Note: Any bag which covers in part or in whole any of the above mentioned numbers will have affixed to it an identification number.

6. Responsibilities Of The Principal Contractor

The principal contractor shall undertake to observe all applicable obligations contained in this Determination and specifically:

- 6.1 If requested by the contract carrier, arrange, whenever practicable, for a representative of the principal contractor to attend accidents involving injury to person or property.
- 6.2 Advise contract carriers, prior to engagement for a contract of carriage, of urgent or special delivery instructions arranged for such contract of carriage, or as early as possible, if such instructions were not known at time of engagement.
- 6.3 Where goods of a dangerous or hazardous nature are to be carried, notify the contract carrier of the nature of such goods and both comply with and provide all reasonable assistance to the contract carrier to enable him to comply with, all relevant requirements of the *Transport of Dangerous Goods Act* and its related codes of practice.
- 6.4 At his option, supply and fit to the vehicle of a contract carrier a mobile radio at the principal contractor's expense, in which case:
 - (a) maintenance and repairs to the radio shall be the responsibility of the principal contractor, except where repairs arise as the result of attributable negligence of the contract carrier, or caused by water leaking into the vehicle, in which event the reasonable cost of repair shall be paid by the contract carrier to the principal contractor;
 - (b) where the contract carrier changes his vehicle prior to the completion of twelve months regular undertaking of work with the principal contractor and using that vehicle, the cost of transferring the radio shall be paid by the contract carrier to the principal contractor; and
 - (c) nothing herein shall prevent a contract carrier from installing his own mobile radio in his vehicle, in which event the cost of installation and all maintenance and repairs thereof shall be the sole responsibility of the contract carrier and mobile radio crystals (or equivalent device) supplied by the principal contractor shall remain the property of the principal contractor.
- 6.5 At his option, and subject to agreement between the principal contractor and the contract carrier, paint and/or signwrite the contract carrier's vehicle in the principal contractor's colours at the principal contractor's expense.
- 6.6 Subject to subclause (5) above, at his option affix signs to and/or repaint the contract carrier's vehicle at the principal contractor's expense; the work shall be carried out by the principal contractor's workshop, or by, other personnel nominated by the principal contractor or agreed between the principal contractor and the contract carrier.
- 6.7 Subject to subclause (22) of clause 5 and subclause (3) of clause 12 hereof, pay the contract carrier during normal business hours the remuneration due to him not later than sixteen business days (that is, Monday to Friday, excluding public holidays) after the beginning of the accounting period observed by the principal contractor, which period shall not exceed two weeks in duration. The contract carrier shall be issued a statement of payments made that sets out the details prescribed in Clause 10 - Remuneration Records. Further, at the completion of each relevant 'top up' or probationary period, the principal contractor shall pay within fourteen (14) days any 'top up' payments as part of the complying with the safety net requirements, pursuant to subclause 12.2. (b).
- 6.8 Bear the cost of removing all equipment and signs supplied by the principal contractor (as contemplated by subclauses (5) and (6) above), and make good the affected areas of the vehicle in the case of a contract carrier ceasing to undertake contracts of carriage with the principal contractor, provided the contract carrier has first returned to the principal contractor all other equipment supplied by the principal contractor and makes his vehicle available for such changes within three working days (or such other agreed period) of ceasing to undertake contracts of carriage with the principal contractor, and provided further this clause shall not apply where the contract carrier

has ceased to undertake contracts of carriage with the principal contractor either by reason of misconduct or at his own volition before completing a period of two consecutive years during which he has undertaken the performance of contracts of carriage with the principal contractor.

- 6.9 Advise the contract carrier, prior to engagement for any contract of carriage where credit has not been extended, that the contract carrier is to be responsible to collect cash payment, and shall specify the amount(s) to be collected on pick-up(s) and/or delivery(s).
- 6.10 Maintain proper accounts and records in accordance with Clause 10 - Remuneration Records.
- 6.11 In relation to bicycle couriers:
- Keep a legible register of all couriers engaged. The register shall contain the name, address, contact phone number and date of birth of each bicycle courier together with a courier identification number.
 - Provide each bicycle courier with a minimum of four copies of their identification number. Two copies of the identification number shall be in a form capable of being affixed/secured to the chest and back of their outer garment. One copy shall be in a form capable of being affixed to the frame of a bicycle. The remaining copy shall be in the form of a photo ID which will be worn/carried at all times and which shall contain all of the information relating to the courier kept by the principal contractor in its register of bicycle couriers engaged, together with a recent photograph of the bicycle courier to whom the information relates. All identification numbers shall be made of durable weatherproof material, shall be clearly visible, and shall show the trading name of the principal contractor. The identification numbers to be worn on the courier's apparel and bicycle will be a minimum of fifteen (15) centimetres in both height and width.
 - Failure to comply with 5.24 and/or 6.11 may constitute grounds for termination of the engagement of the bicycle courier by the principal contractor.

7. Insurances

- 7.1 The contract carrier shall, either by himself/herself, or, where agreed in writing, in co-operation with the principal contractor, obtain and maintain a policy of insurance acceptable to the principal contractor (whose consent shall not be unreasonably withheld) against:
- (a) all legal liability in respect of loss and/or damage arising through the act, neglect or default of the contract carrier, or his/her servants or agents, and shall otherwise indemnify the principal contractor against all such liability incurred by the principal contractor where the principal contractor is acting as agent for the contract carrier; and
 - (b) any such liability incurred by the principal contractor in the event of goods in charge of the contract carrier (or any substitute driver or other persons engaged by him/her for whose actions he is responsible) being lost or damaged.

Where any of the above insurance policy(s) have been obtained and maintained by the contract carrier, such insurance policy(s) must, where required, include on annual renewal an attached schedule listing the full name and address of each and every contract carrier. Each contract carrier shall be given satisfactory proof that he/she has been insured for the required policies at the cost of the deductions made.

- 7.2 The contract carrier shall, either by himself/herself or, where agreed, in co-operation with the principal contractor, obtain and maintain:
- (a) a Public Liability Insurance Policy in the sum of \$5,000,000;
 - (b) a Motor Vehicle Comprehensive Insurance Policy including Third Party Property Damage Cover in the sum of \$5,000,000;
 - (c) a Workers' Compensation Insurance Policy to cover any persons who may from time to time be employed by the contract carrier.
- 7.3 Where the contract carrier is not, or is not deemed to be, for the purposes of the *Workers' Compensation Act* (NSW) a worker, the contract carrier shall, either by himself or (where agreed in writing signed by both the principal contractor and contract carrier) in co-operation with the principal contractor, obtain and maintain a Personal Accident and Sickness, or Earnings Protection, Insurance Policy. Such policy shall as a minimum be for the value of the labour component.
- 7.4 In respect of insurances of the kind referred to in subclause 7.1, 7.2, and 7.3 hereof obtained other than in co-operation with the principal contractor, the contract carrier shall ensure each such policy includes an indemnity of the principal contractor for any action of the contract carrier to which the policy applies and the appropriate extensions in respect of the carriage of dangerous goods.
- 7.5 Where the contract carrier is, or is deemed to be, for the purpose of the *Workers' Compensation Act* (N.S.W.), a worker, the principal contractor shall take out and maintain a Workers' Compensation Insurance Policy in respect of the contract carrier.
- 7.6 Each of the principal contractor and the contract carrier shall have an obligation to produce for inspection by the other, upon reasonable request, a copy of all insurance policies required hereby or otherwise agreed, to be effected and receipts for premiums in respect of the insurance period(s) then current.

8. Inspections, Breaches And Enforcement

- 8.1 In the event of any suspected breach of this contract determination, any person holding an Authority relating to the class of work covered by this contract determination issued by the NSW Industrial Registry pursuant to the *Industrial Relations Act 1996*, as amended, may from time to time inspect any and all of the records required to be maintained by the principal contractor under Clause 6 and Clause 10 of this determination. Such inspection shall only take place within ordinary business hours.
- 8.2 Notwithstanding anything contained in this contract determination, no person shall be able to sight, inspect or copy any of the principal contractor's invoices and/or statements to clients.
- 8.3 Where a principal contractor does not keep remuneration records that comply with the requirements of Clause 10, Remuneration Records, then for the purpose of subclause 12.2 the safety net calculation for each contract carrier for whom remuneration records do not comply shall be based upon the contract carrier having been engaged for a minimum of ten (10) hours engagement for each day worked during the period for which the remuneration records do not comply. Nothing in this subclause shall limit the legal rights of the contract carrier to seek recovery for any hours performed in excess of ten (10) hours on any day.

9. Disputes Procedure

In the event of a question, dispute or difficulty arising between a contract carrier and a principal contractor:

- 9.1 The contract carrier or his Union Delegate or a representative of an Association of Contract Carriers acting with his authority, shall negotiate with the principal contractor or his nominated representative.
- 9.2 If the question, dispute or difficulty is not resolved, either party may refer the matter to an Organiser, or other Official, of the Union, or an Executive Officer for the time being of an Association referred to in the Definitions set out in clause 1 of this Determination, who may, either personally or by his nominated representative, endeavour to negotiate a settlement on the question, dispute or difficulty.
- 9.3 If negotiations contemplated in subclauses 9.1 and 9.2 above are unsuccessful, the parties may notify the dispute in accordance with the Act, or take the matter to such other person or body as may be agreed by the parties concerned to act as arbitrator.
- 9.4 At all times, whilst the steps referred to in subclauses 9.1 9.2 or 9.3 hereof are being pursued in good faith each of the principal contractor and the contract carrier concerned shall continue to abide by the terms of this Determination, and every endeavour shall be made by each to facilitate the undertaking of contracts of carriage in the normal manner.

10. Remuneration Records

10.1 A principal contractor shall maintain, in the form of either Table (i) or Table (ii) set out at Clause A in Schedule V of this determination, remuneration records for each day of engagement within the pay period with respect to each contract carrier engaged by the principal contractor that as applicable will include the following records in columns within the table:

- (a) the date of each engagement;
- (b) the name and fleet number of the contract carrier;
- (c) the vehicle details (type, model, carrying capacity, registration number) used by the contract carrier;
- (d) the records required to calculate the daily safety net hours in accordance with sub-clause 12.2 or exclusive hire hours in accordance with clause 15.
- (e) the job number or code allocated to the contract carrier by the principal contractor for each contract of carriage undertaken by the contract carrier;
- (f) the type of service undertaken by the contract carrier for each contract of carriage (eg. standard, VIP, express etc.);
- (g) where applicable, the suburbs of pick up and delivery and the kilometres of separation between each pick up point and point of delivery. Unless varied in accordance with subclause 12.1 such kilometres shall be as published by Transit Distribution System;
- (h) all additional details pertaining to the contract of carriage which are necessary to calculate the remuneration owing to the contract carrier for each contract of carriage performed pursuant to subclause 12.1 (eg. where applied by a principal contractor flag fall, additional call, follow on, percentage, excess time, waiting time, weight, the number of items carried, hourly hire, zone rate, pallet rate, futile call, after hours rate, weekend rate etc.);
- (i) the fee due to the contract carrier in relation to the performance of each contract of carriage.

10.2 For each pay period records shall be kept by the principal contractor, in the form of the table set out at Clause B in Schedule V of this determination, which show:

- (a) details of any deductions including tax;
- (b) gross remuneration for the pay period; and
- (c) cumulative earnings (including exclusive hire) and safety net hours up to the end of that pay period for the relevant safety net or probationary period pursuant to clause 12.2.

10.3 At the conclusion of each pay period the contract carrier shall be issued with a pay record, in the form of the tables set out at Clauses A and B of Schedule V of this determination, specifying those components of pay records in 10.1 and 10.2 which are applicable.

10.4 For each Safety Net/Probationary Period in accordance with clause 12.2 the principal contractor shall maintain all records used to calculate Safety Net Hours, including records generated by the contract carrier pursuant to subclause 5.10. The principal contractor shall provide the contract carrier with a copy of a summary sheet no later than 14 days after the completion of each Safety Net/Probationary Period that will set out:

-
- (a) The Period Covered;
 - (b) Daily Safety Net Hours (including the total time between allocation of the first contract of carriage and the completion of the last contract of carriage on each day, less any break);
 - (c) Total Time on exclusive hire;
 - (d) Total safety net/probationary hours;
 - (e) Gross remuneration paid;
 - (f) Calculated Minimum Safety Net (Total Safety Net Hours Multiplied by specified Schedule I rate); and
 - (g) Total Top-Up Payment Owing.

10.5 A contract carrier may at all reasonable times inspect those records that relate directly to

- work performed by the carrier; or
- payments due or made to the carrier.

10.6 The principal contractor shall maintain (and a contract carrier may inspect) a copy of all service codes (eg. standard, VIP, express, hourly hire, etc.) utilised by the principal contractor, which relate to the full range of contracts of carriage performed by the contract carrier, together with a written explanation of these codes.

11. Seniority, Industrial Representative And No Guarantees

- 11.1 An engagement between a Principal Contractor and a Contract Carrier in relation to the performance of a contract of carriage, does not commit either the Principal Contractor or the Contract Carrier to enter into further contracts of carriage or guarantee any minimum remuneration other than provided for in Clause 12 - Remuneration.
- 11.2 Principal contractors shall, in the offering of runs to contract carriers, take into account:
- (a) the principles of seniority;
 - (b) vehicle type and capacity;
 - (c) where relevant, reliability and physical ability;
 - (d) compatibility with existing runs; and
 - (e) any agreed local rules, instructions and conditions.
- 11.3 The application of the principle of seniority (known in the transport industry as "last on-first off") shall apply when or where economic conditions or reduction in available contract work (for specific vehicle type or capacity), dictate.
- 11.4 Where a number of contract carriers with the same principal contractor are members of the Union, those contract carriers may elect one of them as a Union Delegate who shall, upon notification thereof to the principal contractor by an Official of the Union be recognised as the accredited on site representative of the aforesaid contract carriers who are Union members.
- 11.5 Where a number of contract carriers with the same principal contractor are members of an Association of contract carriers those contract carriers may elect one of them as their Nominated Representative who shall, upon notification thereof to the principal contractor and the Association be recognised as the Nominated Representative for the aforesaid contract carriers who are Association members.
- 11.6 Where a principal contractor intends to engage non-regular contract carriers to undertake contracts of carriage, he/she may do so after advising the Union Delegate and/or the Association Nominated Representative, as applicable, having due regard as to the likely effect of such engagements on the remuneration of the regular contract carriers with the principal contractor.

12. Remuneration

NOTE:

- All persons, partnerships, and companies engaged under this determination as contract carriers are independent contractors.
- This remuneration clause is structured to provide incentives to the contract carrier together with access to a range of income earning opportunities. It also provides the Principal Contractor with flexibility to meet customer needs and the ability to enhance efficiency within the industry as a whole.
- Rates of remuneration payable to carriers pursuant to clauses 12. Remuneration and 15. Exclusive Hire of Part A of this determination together with the rates prescribed in schedules I, II and III of Part B shall be exclusive of GST. A separate amount equal to 10% of the value of the remuneration payable shall be paid by the principal contractor to the carrier if GST applies to the contracts of carriage ['the GST amount']. The GST amount shall not be construed as an increase in the rates of remuneration. The total fee payable to the contract carrier by the principal contractor pursuant to contracts of carriage shall be the sum of the remuneration payable and the GST Amount.

12.1 Incentive Systems

The principal contractor may on any assignment engage contract carriers under incentive systems of remuneration as follows:

12.1.1 by an incentive scheme specified by the principal contractor and advised to the contract carrier at the time of engagement. Incentive schemes determined under this sub-clause shall:

- 12.1.1.1 clearly state the specific payment for the types of transport services required of the contract carrier, including pickup and delivery time standards where such times affect payment;
- 12.1.1.2 where multiple hiring occurs, namely any partial or complete coincidental performance of two or more contracts of carriage, precise payment terms must be separately specified if these services are paid differently to the payment for a single service;
- 12.1.1.3 details of the incentive schemes utilised under this sub-clause must be included in the pay records of any contract carrier remunerated in this manner.

12.1.2 The minimum rates of remuneration set out in Schedule III may be specified by the principal contractor as the incentive scheme and if specified to be the incentive scheme must be paid for each and every contract of carriage in accordance with the following:

- 12.1.2.1 A higher than minimum rate of remuneration paid for any contract of carriage shall not be used as a set-off to allow a lower than minimum rate of remuneration to be paid on any other contract of carriage; the practice known in the courier and taxi-truck industry as "overs and unders" is hereby expressly prohibited.
- 12.1.2.2 A principal contractor who elects to pay remuneration pursuant to Schedule III shall pay to the contract carrier for each contract of carriage for courier and taxi truck work the minimum rate of remuneration calculated by multiplying the unit rate shown in Schedule III by the number of units in Schedule III applicable to the class of contract of carriage for each of the factors, as and where applicable.
- 12.1.2.3 Nothing in this clause shall be taken as providing that it is mandatory that a principal contractor shall adopt Schedule III or detract from the rights of a principal contractor to adopts an incentive scheme pursuant to subclause 12.1.1 of this clause.

12.1.3 The incentive scheme specified by a principal contractor shall be:

- 12.1.3.1 Provided in writing to affected contract carriers; and
- 12.1.3.2 Clearly state the specific payment for the types of contracts of carriage to be performed by the contract carrier. Further, details of the incentive schemes utilised under this clause must be included in the pay records of any contract carrier remunerated in this manner.

12.1.4 A principal contractor may only vary the specified incentive scheme method of payment by further written notice of 7 days.

12.1.5 Any payment to contract carriers in accordance with subclause 12.1.1 or 12.1.2 shall be subject to the Safety Net provided for in sub-clause 12.2.

12.2 Safety Net

12.2.1 The minimum payment due to a contract carrier over the period of 2 months as specified in subclause 12.2.8 shall be calculated by adding the Daily Safety Net entitlement as determined in accordance with 12.2.1.1 together with the minimum remuneration earned pursuant to Clause 15, Exclusive Hire (for all hours engaged on such work) over that two month period.

12.2.1.1 Calculation of Daily Safety Net Hours

12.2.1.1.1 Subject to sub-clause 12.2.1.1.2 the relevant hourly rate set out in Schedule I for each hour or part thereof as determined by the period of time on any working day after the first job has been allocated and the contract carrier commences to travel in order to pick-up the first job of the day until the time of delivery of the final completed contract of carriage on that same day.

12.2.1.1.2 Should a working day commence with a contract carrier completing a delivery held over night by the contract carrier, the calculation of the safety net hours on that working day shall commence from the earlier of either:

- the time the contract carrier commences to travel in order to effect the delivery held over night; or
- the time the contract carrier commences to travel to effect that working day's first contract of carriage (being a contract of carriage allocated prior to the contract carrier commencing to travel to effect the delivery held over night).

12.2.2 Any disputes in relation to the time of allocation of the first contract of carriage, the completion of the last contract of carriage, the completion of the last contract of carriage or any breaks taken by a contract carrier on any working day shall be determined in accordance with clause 9 - Dispute Procedure.

In the event of such dispute particular regard shall be had to the contract carriers daily run sheet (or other such records within the carriers possession) and information that may be ascertained from the establishment of first pickup or last delivery.

Provided that the deliberate falsification of the records that a contract carrier is required to make and provide to the principal contractor pursuant to subclause 5.10 shall be grounds for immediate termination of the contract carrier.

12.2.3 The Safety Net shall exclude periods of mechanical breakdown and/or any other period when the contract carrier is not available to perform contracts of carriage on any day including any meal or sustenance break taken by the contract carrier or any other reason at the initiation of the contract carrier.

12.2.4 On any day where a contract carrier is paid only under Clause 15 - Exclusive Hire the safety net calculation provided for in 12.2.1.1 shall have no application.

12.2.5 When a contract carrier is first engaged with a principal contractor the safety net payable in accordance with this Clause shall, during the first 6 weeks of service with that principal contractor, be limited to a maximum of 7 hours on any day at the probationary rates set out in Schedule II. This sub-clause does not preclude a new contract carrier working more than 7 hours on any day. Provided that this probationary provision shall have no application to a contract carrier providing a vehicle of greater than 3 tonnes carrying capacity.

12.2.6 Subject to sub-clause 12.2.5, the Safety Net shall only be paid where, over the relevant two month period, the total earnings of the contract carrier are less than the payment arising under the Safety Net.

12.2.7 Where, during a relevant 2 month period or a probationary period a contract carrier is consistently failing to generate remuneration at the level of Safety Net the principal contractor may counsel the contract carrier in relation to the contract carrier's performance.

12.2.8 In each year the two month periods shall be:

- (A) from 1 January up to but not including 1 March;
- (B) from 1 March up to but not including 1 May;
- (C) from 1 May up to but not including 1 July;
- (D) from 1 July up to but not including 1 September;
- (E) from 1 September up to but not including 1 November;
- (F) from 1 November up to but not including 1 January.

Provided that a principal contractor may determine the two months period to commence at beginning of first accounting period observed by the principal contractor that commences on or after the beginning of each two month period referred to in this sub-clause and conclude at the end of the last accounting period to commence prior to the end of each two month period referred to in this sub-clause.

12.2.9 For the purpose of determining safety net entitlements of a contract carrier a principal contractor shall include all associated courier and taxi truck businesses or companies of the principal contractor.

12.3 The principal contractor shall be entitled to deduct and retain from any remuneration the contract carrier is entitled to receive:

12.3.1 any amounts payable to the principal contractor by the contract carrier pursuant to this contract determination, provided that the contract carrier has first given written authority to the principal contractor specifying the nature and the amounts which may be so deducted; and/or

12.3.2 a maximum of the sum of five hundred dollars in the event of the contract carrier ceasing to perform further contracts of carriage with the principal contractor. Such sum may be withheld for the minimum period reasonably necessary to enable a final adjustment of the amount to which the contract carrier is then entitled, pursuant to this contract determination, and in any event for a maximum of six (6) weeks from the date of completion of the last contract of carriage performed by the contract carrier.

12.4 The following deductions are not permitted, whether by agreement or otherwise:

- Radio or radio accessory fees or charges.
- Fees or charges for on-board computers or display screens or mobile data units or similar equipment, or for computer consumables.
- Administration fees.
- Contributions towards bonus schemes.

13. General

- 13.1 Before replacing any vehicle normally used by him in undertaking contracts of carriage with a principal contractor, a contract carrier shall, not less than 1 month prior to such intended replacement, notify the principal contractor of his intention to so replace the vehicle, and discuss with the principal contractor the type of replacement vehicle proposed to be obtained.
- 13.2 If at any time a principal contractor reasonably considers the vehicle normally used by a contract carrier in the performance of contracts of carriage with the principal contractor is unsuitable for such work, the principal contractor may so advise the contract carrier, and may request the contract carrier to obtain a replacement vehicle within such time as is agreed between the contract carrier and the principal contractor or, in default of agreement, within such period as the principal contractor reasonably requires, being not less than 6 weeks hence. In the event of the contract carrier believing himself to be unreasonably disadvantaged by such request, the matter shall be dealt with in accordance with clause 9 - Disputes Procedure, hereof.
- 13.3 All contracts of carriage performed by a contract carrier with a principal contractor shall be treated as individual contracts of carriage, irrespective of whether they are performed concurrently or consecutively. The contract carrier shall be entitled to remuneration for each contract of carriage performed.
- 13.4 Notwithstanding anything contained in this contract determination the relationship between a contract carrier and a principal contractor shall be that of independent contractors and not master and servant.
- 13.5 No contract carrier shall be engaged to perform work who does not supply a vehicle approved by the principal contractor or who, personally, is not approved by the principal contractor.
- 13.6 When a contract carrier is not a natural person, then for the purposes of this Determination, any act, default or misconduct by any person performing work on behalf of the contract carrier under a contract of carriage to which the contract carrier is a party, shall be deemed to be the act, default or misconduct of the contract carrier.

14. Additional Provisions

The following subclauses (1) to (11) inclusive, shall apply as conditions to be observed by contract carriers and principal contractors where the alternative set out in paragraph (a) of subclause (1) of clause 5 hereof is adopted:

- 14.1 The principal contractor in conjunction with the Union Delegate may investigate an excessive claims record of a contract carrier in respect of loss of or, damage to goods. A contract carrier whose claims record is excessive may be terminated by the principal contractor subject to prior discussion having taken place between the principal contractor and the union.
- 14.2 Where a contract carrier commits misconduct, the principal contractor may elect to discontinue immediately to offer further contracts of carriage to the contract carrier. An inquiry, if requested, will be held thereafter within one normal working day by the principal contractor, union delegate and, if available, a representative of the union.
- 14.3 Unless otherwise agreed between the principal contractor and the contract carrier, the contract carrier shall provide the principal contractor with seven days' notice of his intention to discontinue contracts of carriage with the principal contractor. During this period the principal contractor shall have the right to travel a learner (who shall be an employee of, or a contract carrier with, the principal contractor) with the contract carrier for the purposes of familiarisation.
- 14.4 Subject to the provisions contained in subclauses (6) to (11) inclusive hereof, the principal contractor has the right to specify the class of vehicle which he requires to be used by the contract carrier in undertaking work for the principal contractor.
- 14.5 Provided that the contract carrier has not without the approval of the principal contractor replaced the vehicle which he has been using to undertake work for the principal contractor during a period of two years prior to this Determination coming into operation or during such lesser period for which the contract carrier has been undertaking work for the principal contractor, then the vehicle being used by the contract carrier in undertaking work for the principal contractor at the date when this Determination comes into operation shall be deemed to be of the class specified by the principal contractor. In the event that the contract carrier has during the period specified in this subclause changed the vehicle without the approval of the principal contractor, the principal contractor has the right to specify the class of the vehicle, which he requires.
- 14.6 The contract carrier shall not replace the vehicle he is using to undertake work for the principal contractor without obtaining the prior consent of the principal contractor. Where it is agreed between the principal contractor and the contract carrier that a vehicle in use by the contract carrier needs to be replaced then the principal contractor shall have the right to specify the class of the vehicle he requires to be used by the contract carrier in undertaking work for the principal contractor.
- 14.7 In the case of contracts of carriage entered into for the first time subsequent to this Determination coming into operation the principal contractor shall have the right to specify the class of the vehicle, which he requires to be used by the contract carrier in undertaking work for the principal contractor.
- 14.8 The principal contractor has the right to specify more than one class of vehicle to be used in undertaking work for the principal contractor by different contract carriers engaged in the same yard. Where several contract carriers undertake work for the principal contractor, and such work is identical in nature the principal contractor shall specify one class for the vehicles of the contract carriers undertaking work for the principal contractor.
- 14.9 If the principal contractor at any time considers that the vehicle of the contract carrier being used to undertake work for the principal contractor is not acceptable for undertaking further work he may give to the contract carrier six weeks' notice that the vehicle is to be replaced.
- 14.10 A principal contractor shall not be obliged to enter into contracts of carriage with a contract carrier who proposes to use a vehicle, which is not in accordance with the specification of the principal contractor as to class of vehicle.

14.11 Where there arises any question, dispute or difficulty between the principal contractor and the contract carrier with regard to the provisions contained in this clause, the provisions of clause 9 - Disputes Procedure, shall apply.

15. Exclusive Hire

- 15.1 Where the contract carrier is performing work on exclusive hire, the contract carrier shall be paid as a minimum the hourly rate provided for in Schedule I, for the relevant class of vehicle. Subject to subclauses 15.2 and 15.3 the relevant rate shall be paid as a minimum for all time between the commencement of work on exclusive hire until the completion of such work, whether or not during that period the contract carrier is actually carrying goods on the vehicle (i.e. "continuous hire"). For the purposes of this clause, time shall be calculated to the next quarter of an hour.
- 15.2 Wherever a contract carrier is performing work under exclusive hire, the contract carrier shall be paid for at least one hour's work, irrespective of whether this time was actually worked.
- 15.3 The application of the safety net to contract carriers engaged on exclusive hire is subject to clause 12.2.4.

16. Induction Training

16.1 Prior to, or at any stage up to 14 days after the date that the contract carrier first performs work for the principal contractor within clause 2 of this determination, the principal contractor shall train the contract carrier in:

16.1.1 occupational health and safety;

16.1.2 vocational skills;

16.1.3 other professional training; and

16.1.4 industrial rights.

Provided that a contract carrier who has previously undertaken an approved course pursuant to subclause 16.2 or 16.3 shall not be required to undertake a further induction course.

16.2 Subject to subclause 16.3 such course shall be the Certificate I in Transport and Distribution (Road Transport) and shall be conducted by DECA or other equivalent training provider. The training in industrial rights shall include, but not be limited to viewing the training video, which is entitled "Industrial Rights of NSW Couriers and Principal Contractors". The principal contractor shall pay for the expense of the course with respect to sub-clauses 16.1.1 to 16.1.3, provided that the contract carrier is responsible for paying the training provider for any additional expense with respect to their training in industrial rights pursuant to sub-clause 16.1.4, up to a maximum amount of \$30.00.

16.3 A principal contractor may elect to use an enterprise specific induction training course and in such case shall be exempted from all the provisions in Clause 16 provided that:

16.3.1 the course covers all matters contained in subclause 16.1. Further, the conditions of the proposed induction course shall, in all aspects, be no less than the induction-training course provided for in subclause 16.2;

16.3.2 the principal contractor shall forward by certified mail a copy of the proposed induction course to the union; and

16.3.3 the principal contractor shall be exempted from clause 16.2 twenty one (21) days after complying with clause 16.3.1;

16.3.4 within the 21 day period referred to in clause 16.3.3 the union may notify the principal contractor of any aspect of the training course that it considers does not meet the requirements of clause 16.1. Where such notification is given, the union and the principal contractor shall confer in an effort to resolve their different views.

16.4 Disagreements about the operation of this clause may be referred to the Transport Industry - Courier and Taxi Truck Industrial Committee or progressed in accordance with Clause 9 - Disputes Procedure of this Determination.

16.5 For the purposes of this clause the following definitions apply, in addition to Clause 1:

"**DECA**" means the Driver Education Centre of Australia.

"**The training video**" refers to the multi-media production entitled "Industrial Rights of NSW Couriers and Principal Contractors" (as varied from time to time) the intellectual property rights of which are owned by the Union and developed by Summerhill Media on behalf of the Union.

17. Leave Reserved

17.1 Leave is reserved to any party to apply in relation to a costing model and a formula to vary the rates of remuneration.

17.2 Leave is reserved to the Transport Workers Union to make application in relation to the following assumptions pertaining to the rates of remuneration:

- The application of a 38 hour week divisor to the safety net;
- Hours worked and kilometres travelled each day;
- The minimum rates of remuneration for exclusive hire and the method for adjustment of those rates;
- Administrative Overhead Costs borne by the contract carrier.

17.3 Leave is reserved to Principal Contractors to make application in relation to:

- private usage of motor vehicles;
- fleet discounting.

18. Savings Clause

Nothing in this Determination shall be construed so as to require the reduction, or alteration, of more advantageous rates or methods of remuneration, or conditions of engagement, to which a contract carrier may be entitled under an existing agreement with a principal contractor. Nothing in this clause, of itself, shall continue in operation any previous rates of methods of remuneration, or conditions of engagement.

PART B

Notes

1. In this part:
 - "Rate A", where it appears refers to the rate of pay payable effective from the beginning of the first accounting period observed by the principal contractor to commence on or 1 November 2000;
 - "Rate B", where it appears refers to the rate of pay payable effective from the beginning of the first accounting period observed by the principal contractor to commence on or after 1 September 2001; and
 - "Rate C", where it appears refers to the rate of pay payable effective from the beginning of the first accounting period observed by the principal contractor to commence on or after 1 November 2002.
2. Rates of remuneration payable to carriers pursuant to clauses 12. Remuneration and 15. Exclusive Hire of Part A of this determination together with the rates prescribed in schedules I, II and III of Part B shall be exclusive of GST. A separate amount equal to 10% of the value of the remuneration payable shall be paid by the principal contractor to the carrier if GST applies to the contracts of carriage [the GST amount]. The GST amount shall not be construed as an increase in the rates of remuneration. The total fee payable to the contract carrier by the principal contractor pursuant to contracts of carriage shall be the sum of the remuneration payable and the GST Amount.

Schedule I

Contract Carriers - Courier and Taxi Truck Vehicles Safety Net for Carriers - Clause 12

Class of Vehicle	Minimum Safety Net Payment (\$ per hour)	Exclusive Hire (\$/hr)
Bicycles	18.71	18.83
MOTOR CYCLES	23.26	23.40
Passenger Motor Vehicles		
Up to 750 kg	26.06	26.23
Up to 1500 kg	26.73	26.91
Motor cars, vans, utilities, trucks and other rigid vehicles at GVM of:		
Up to 1500kg	26.73	26.91
Over 1500kg and up to 3 tonne	28.07	28.25
Over 3 tonne and up to 4.5 tonne	32.08	32.29

Schedule II

Probationary Contract Carriers - Safety Net - Clause 12(2)(b)(v)

Class of Vehicle	Rate (\$/hr)
Bicycles	17.78
Motor Cycles	22.09
All other vehicles up to and including 3 tonnes carrying capacity	24.99

Schedule III

Optional Unit Rates as per Clause 12.1.2

A. Unit Rates

Class of Contract of Carriage	Flag Fall	Per Additional Call	Excess Time (per 5 min)	Distance Rate (per km)
Unit Rate = \$0.27	Number of Units			
1. Standard Service			After 10 min	Min 2km
(a) Documents up to 2kg carried by				
Bicycle	13	13	5	1
Motorcycle		14	7	2
City of Sydney	14			
Other Suburbs	12			
(b) Other documents & small parcels		14	7	2
Up to 25kgs -				
City of Sydney	16			
Other Suburbs	14	14	7	2
Above 25kgs				
26 - 50kgs	20			
51 - 75kgs	24			
76 - 100kgs	28			
101 - 125kgs	32			
126 - 250kgs	36			
(c) Taxi Trucks (1)		14	7	2
251 - 500kgs	65			
501 - 1000kgs	70			
1001 - 1500kgs	80			
1501 - 2000kgs	90			
(d) Taxi Trucks (2)		14	7	3
2001 - 4000kgs	140			
4001 - 4500kgs	190			
2. Express / Priority / VIP			after 10 min	Min 2 km = 8 units
(a) Documents up to 2kg carried by				
bicycle	26	13	5	2
Motorcycle		14	7	4
Other suburbs	24			

(b) Other documents & small parcels				
Up to 25kgs				
City of Sydney	32	14	7	4
Other suburbs	28	14	7	4
Above 25kgs				
26-50kgs	34			
51-75kgs	38			
76-100kgs	42			
101-125kgs	46			
126-250kgs	50			

B. Dollar conversion of Schedule III

Optional Unit rates as per Clause 12.1.2

Class of Contract of Carriage	Flag Fall	Per Additional Call	Excess Time (per 5 min)	Distance Rate (per km)
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Dollar Conversion

1. Standard Service			After 10 min	Min 2km
(a) Documents up to 2kg carried by				
Bicycle	\$ 3.47	\$ 3.47	\$ 1.34	\$ 0.27
Motorcycle	-	\$ 3.74	\$ 1.87	\$ 0.53
City of Sydney	\$ 3.74	-	-	-
Other Suburbs	\$ 3.21	-	-	-
(b) Other documents & small parcels		\$ 3.74	\$ 1.87	\$ 0.53
Up to 25kgs -				
City of Sydney	\$ 4.28	-	-	-
Other Suburbs	\$ 3.74	\$ 3.74	\$ 1.87	\$ 0.53
Above 25kgs				
26 - 50kgs	\$ 5.35	-	-	-
51 - 75kgs	\$ 6.42	-	-	-
76 - 100kgs	\$ 7.48	-	-	-
101 - 125kgs	\$ 8.55	-	-	-
126 - 250kgs	\$ 9.62	-	-	-
(c) Taxi Trucks (1)	-	\$ 3.74	\$ 1.87	\$ 0.53
251 - 500kgs	\$ 17.37	-	-	-
501 - 1000kgs	\$ 18.71	-	-	-
1001 - 1500kgs	\$ 21.38	-	-	-
1501 - 2000kgs	\$ 24.06	-	-	-
(d) Taxi Trucks (2)	-	\$ 3.74	\$ 1.87	\$ 0.80
2001 - 4000kgs	\$37.42	-	-	-
4001 - 4500kgs	\$ 50.79	-	-	-

2. Express / Priority / VIP			after 10min	Min 2km = 8 units
(a) Documents up to 2kg carried by				
Bicycle	\$ 6.95	\$ 3.47	\$ 1.34	\$ 0.53
Motorcycle	-	\$ 3.74	\$ 1.87	\$ 1.07
Other suburbs	\$6.42	-	-	-
(b) Other documents & small parcels				
Up to 25kgs	-	-	-	-
City of Sydney	\$ 8.55	\$ 3.74	\$ 1.87	\$ 1.07
Other suburbs	\$ 7.48	\$ 3.74	\$ 1.87	\$ 1.07
Above 25kgs				
26-50kgs	\$ 9.09	-	-	-
51-75kgs	\$ 10.16	-	-	-
76-100kgs	\$ 11.23	-	-	-
101-125kgs	\$ 12.30	-	-	-
126-250kgs	\$ 13.37	-	-	-

C. HOURLY AND/OR RUN HIRE

1. Subject to subclause 4. hereunder where the contract carrier is performing work while on hourly hire or performing run work, the contract carrier shall be paid an hourly rate equal to the rate provided for in Schedule I for the equivalent class of vehicle. This rate shall be paid for all time between the commencement of work on hourly hire or whilst performing run work until the completion of such work, whether or not during that period the contract carrier is actually carrying goods on the vehicle (i.e. "continuous hire"). For the purposes of this clause, time shall be calculated to the next quarter of an hour.
2. Whenever a contract carrier is performing work pursuant to subclause (a) of this clause, he/she shall be paid for at least one (1) hour's work, irrespective of whether this time was actually worked.
3. Whenever a contract carrier performs work pursuant to subclause (i) of this clause any additional "ad hoc" work shall be paid at full Schedule II rates.
4. Where a contract carrier is performing work on an exclusive hire basis, the carrier shall be paid in accordance with clause 15 of this determination.

Schedule IV

Procedure and Time for Adjustment of Rates and Amounts

[Note: Leave is reserved to insert a Procedure and time for Adjustment of Rates and Amounts]

Schedule V

Contract Carrier Details and Daily Records

The principal contractor shall maintain the records required by clause 10 in the following forms:

A. Contract Carrier Details and Daily Records

Table (i)

Date:	Personal Name : Business Name :	Fleet No.:
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Vehicle Type :	Model :	Registration No. :	Carrying Capacity :
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Job No. or Code	Service Code	From	To	Km	Additional Contract Details (clause 10.1 (h))	Fee \$

Safety Net/Probationary Hours

Safety Net Hours Start Time =	Safety Net Hours Finish Time =	Total Safety Net Hours =
Starting time of break =	Finishing time of break =	Total Time Spent on Breaks =

Exclusive Hire Hours

Start Time =	Finish time =	Total time between engagements =	Total Exclusive Hire Hours =
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Schedule VI

Fuel Levy

1. In addition to all other remuneration received by the Contract Carrier the Principal Contractor shall pay the Contract Carrier an additional amount as a fuel levy. The fuel levy amount shall be equal to 4% of the Contract Carrier's gross remuneration for each pay period observed by the Principal Contractor.
2. Cost Recovery for variations in the price of fuel:
 - (1) The parties to this determination recognise that, due to the changed nature of the pricing of fuel, including recent significant fluctuations in the price of fuel, it is necessary that variations to rates of remuneration to take into account changes in the price of fuel occur in a timely and efficient manner.
 - (2) Notwithstanding any other provisions of this determination, the parties to this determination agree that any party to this determination may make an application to the Industrial Relations Commission of New South Wales to vary the fuel levy to account for changes in the price of fuel on the following basis:
 - (a) an application to vary the fuel levy for changes in the price of fuel only may be made at any time, provided that the date upon which any adjustment is sought to become operative is at least one calendar month after the last occasion upon which an adjustment to the fuel levy became operative;
 - (b) subject to paragraphs (c) and (d) below, the fuel levy shall vary using the table attached in this schedule;
 - (c) it is not a requirement of any such application that the adjustment to the fuel levy sought be one which is either below or above any minimum threshold amount; and
 - (d) the agreed benchmark for the price of fuel shall be the Australian Institute of Petroleum Sydney metropolitan weekly average for the retail price of unleaded petrol fuel for the week ending immediately prior to the date of filing the application, excluding GST. Should the agreed benchmark become unavailable the parties shall determine an alternative appropriate benchmark.
 - (3) The parties to this determination shall take all necessary steps to enable an application made pursuant to subclause (2) hereof to be heard and determined at the earliest possible time, including but not limited to, consenting to have the Industrial Relations Commission of NSW hear and determine any such application within 48 hours from the initial listing of the application.
3. The Principal Contractor shall not offset the fuel levy amount against any remuneration payable to the Contract Carrier or use the fuel levy amount in the calculation of the Contract Carrier's safety net entitlements.
4. The fuel levy amount shall be paid to the Contract Carrier at the same time that the Principal Contractor pays the Contract Carrier remuneration for the pay period observed by the Principal Contractor. The Principal Contractor shall specify the fuel levy amount paid to the Contract Carrier on the pay record issued to the Contract Carrier pursuant to Clause B of Schedule V of this determination.

5. The percentage amount of the fuel levy shall be determined in accordance with the following table:

AIP Sydney Metropolitan weekly average for unleaded petrol (excluding GST)	Percentage Fuel Levy Applicable (%)
Up to 81.9 cents	No Surcharge
82 - 100 cents	2
100 - 114.9 cents	3
115-128.9 cents	4
129 - 143 cents	5

If the AIP national average for unleaded petrol (excluding GST) exceeds 143 cents per litre, the Courier and Taxi Truck Industrial Committee shall make a contract determination for a fuel levy of an amount in excess of 5%.