

**REGISTER OF
ENTERPRISE AGREEMENTS**

ENTERPRISE AGREEMENT NO: CA22/01

TITLE: Hi-Trans Logistics Pty Ltd NSW Contract Carrier Agreement 2022

CASE NO: 2022/307205

DATE APPROVED/COMMENCED: 20 October 2022 / 20 October 2022

TERM: 36 months

NEW AGREEMENT OR VARIATION: Replaces CA14/2

GAZETTAL REFERENCE: 16 December 2022

NUMBER OF PAGES: 12

COVERAGE/DESCRIPTION OF EMPLOYEES:

The agreement applies only to those contract carriers as defined under the Agreement, who are the owner-drivers of vehicles undertaking contract of carriage for the single principal contractor, Hi-Trans Logistics Pty Ltd., located at 28 Davis Road, Wetherill Park NSW 2164, who fall under the coverage of the Transport Industry - General Carriers Contract Determination 2017.

PARTIES: Hi-Trans Logistics Pty Ltd & the Transport Workers' Union of Australia, New South Wales.

HI-TRANS LOGISTICS PTY LTD
NSW CONTRACT CARRIER
AGREEMENT 2022

Title

This Agreement shall be known as the Hi-Trans Logistics NSW Contract Carrier Agreement 2022.

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1. Parties Bound

This Agreement shall be binding on:

- a. Hi-Trans Logistics Pty Ltd (ABN 34 137 269 446) ("Hi-Trans"), but only to the extent Hi-Trans engages Contract Carriers (the "Carriers"), who are the owner-drivers of vehicles undertaking contracts of carriage for Hi-Trans;

AND

- b. The Transport Workers Union of New South Wales (the "TWU") with respect to owner-driver Carriers engaged by Hi-Trans in NSW who fall within the jurisdiction of the Transport Industry – General Carriers Contract Determination (the "Determination"), but who are not fleet owners.

2. Duration

This Agreement shall operate from the date of approval by the Commission. The Agreement shall remain in force until 31 October 2025.

3. Definitions

In this Agreement:

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

"Agreement" means this agreement.

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

"Company" means Hi-Trans Logistics Pty Ltd (ABN 34 137 269 446) trading as Hi-Trans Logistics and referred to herein as Hi-Trans.

"Contract Agreement" means an agreement made pursuant to Chapter 6-Part 3 of the Industrial Relations Act 1996 or the parts of the relevant predecessor industrial relations acts applying at that time.

"Contract of Carriage" has the meaning given to it by Section 309 of the Act.

"Contract Carrier" means any contractor performing a contract of carriage, as defined by section 309 of the Industrial Relations Act 1996, for or on behalf of Hi-Trans.

"Determination" means the Transport Industry – General Carriers Contract Determination 2017, as amended from time to time and any subsequent contract determination that replaces it.

"Dispute" means any grievance that pertains to the engagement of the Carrier/s including any dispute between the parties to this agreement.

"Fleet Owner" means any operator/owner of a vehicle or vehicles that provides services to the Company that is not a Contract Carrier.

"Parties" means Hi-Trans and the Transport Workers' Union of New South Wales.

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

"Work" means any Contract of Carriage entered into between the parties and pertaining to the engagement of the Carrier/s by Hi-Trans.

In this agreement:

- a. Words importing the singular shall include the plural; and
- b. Words importing the masculine gender shall include the feminine gender.

4. Relationship with Previous Agreements

This Agreement shall be read in conjunction with the Determination and any other local agreements, whether made before or after the commencement of the Agreement and shall prevail to the extent of any inconsistencies with the Determination and/or any local agreement, subject to this Agreement providing the same or better provision for the Carriers covered hereby.

5. Objects

The objects of the Agreement are to:

- a. enhance the productivity and efficiency of the Company's operations; and
- b. provide Carriers with a secure income in a safe and healthy environment.

6. Conduct of the Parties

- a. The Parties agree that mutual respect and good faith is necessary to achieve an efficient and mutually beneficial relationship.
- b. Further to the Parties' aim of achieving an efficient and mutually beneficial relationship, the Parties agree to act in good faith in fulfilling their respective functions and obligations under this Agreement.
- c. For the purposes of this Agreement, "good faith" requires the parties to:
 - (i) deal with one another honestly and genuinely, and in a manner which maintains the integrity of this Agreement;
 - (ii) take an honest and genuine approach to the resolution of any Disputes arising between them;
 - (iii) give genuine consideration to, and respond to, the positions and proposals of other Parties in relation to any Disputes; and
 - (iv) disclose information (other than confidential or commercially sensitive information) which is relevant to any Dispute in a timely manner.

7. No Extra Claims

During the Term hereof neither the TWU nor the Carriers will pursue any further claims in respect of any terms and conditions of engagement, including but not limited to, rates of remuneration and allowances.

8. Site Specific Enterprise Agreements and Local Matters

Notwithstanding this Agreement, further agreements may be negotiated about local matters to improve work practices and inefficiencies. Such agreements must be consistent with the matters dealt with in this Agreement.

9. Alternative Payment Arrangements

The Alternative Remuneration Arrangements referred to in the Determination will apply.

10. Probation Period

- a. All Carriers who are offered Contracts of Carriage by Hi-Trans subsequent to the date this Agreement comes into force will be engaged on a three (3) month probation period. Hi-Trans will decide prior to the expiration of the probation period, whether the Carrier is to be offered further Contracts of Carriage.
- b. During the probation period, Hi-Trans may terminate the engagement of a Carrier by giving two (2) weeks' notice in writing to the Carrier and the Carrier may give notice by giving one (1) weeks' notice in writing to Hi-Trans.
- c. Hi-Trans may elect to pay the Carrier for the notice period or any part thereof in lieu, by way of calculating the Carrier's average earnings.

11. Settlement of Disputes

Where there is disagreement with respect to any matter either relating to the performance of work at the workplace or arising between Hi-Trans and a Carrier or Carriers, work shall continue as normal whilst the dispute is dealt with in accordance with this clause.

The Parties agree that any Dispute be dealt with in the following matter:

- a. The matter must first be discussed by the aggrieved Carrier(s) directly with his or her immediate supervisor.
- b. If the matter remains in dispute, it must next be discussed with the supervisor's immediate superior or another representative of Hi-Trans appointed for the purpose of this procedure. The Union delegate for the worksite has the right to attend at, and participate in, this discussion as the representative of a Carrier, provided that the Union delegate is the representative of the Carrier's choice.
- c. If the matter remains in dispute, it must next be discussed with the relevant manager of Hi-Trans. The Union State Secretary (or his/her nominee) has the right to attend at, and participate in, this discussion as the representative of the Carrier, provided that the Union State Secretary is the representative of the Carrier's choice.
- d. If the matter remains in dispute, it may next be submitted to the Commission for conciliation, to be dealt with accordingly to the procedures of the Commission, including but not limited to:
 - (i) arranging conciliation conferences of the parties or their representatives at which the commission is present; and
 - (ii) arranging for the parties or their representatives to confer among themselves at conferences at which the Commission is not present.
- e. If the matter is not resolved in conciliation conducted by the Commission, the Parties agree that the Commission will proceed to arbitrate the Dispute and/or otherwise determine the rights and/or obligations of the parties to the Dispute. In relation to such an arbitration, the Parties agree that:
 - (i) the Commission may give all such directions and do all such things as are necessary for the just resolution of the Dispute. The Commission may exercise powers of conciliation, arbitration and declaratory relief in relation to the Dispute, including all related procedural powers such as those in relation to hearings, witnesses, evidence and submissions;
 - (ii) the Commission should apply the rules of evidence that would ordinarily apply to a hearing before the Commission under the Act;

- (iii) before making a determination, the Commission will give the parties an opportunity to be heard formally on the matter(s) in dispute; and
 - (iv) in making its determination, the Commission will only have regard to the materials, including witness evidence and submissions put before it at the hearing and will disregard any admissions, concessions, offers or claims made in conciliation.
- f. The decision of the Commission will be binding on the Parties subject to the right of either party to appeal to a Full Bench of the Commission.
 - g. Until the matter is resolved by agreement, conciliation or arbitration, work will continue in accordance with the status quo and without disruption. No Party is to be prejudiced as to the final settlement by the continuance of work in accordance with this procedure.

12. Company Commitment

Hi-Trans commits to:

- a. maintaining a ratio of Carriers to Fleet Owners of no less than approximately 70% to 30%;
- b. ensuring the Carriers are offered Contracts of Carriage wherever available and possible, subject to commercial and operational considerations and the availability of the Carrier, in preference to any other carrier;
- c. requiring, in co-operation with the Union, that Carriers, when engaged by Hi-Trans to perform work on Hi-Trans's behalf, abide by all legal obligations including, but not limited to, compliance with any applicable industrial instrument, compliance with driving hours and compliance with occupational health and safety laws. Hi-Trans will, having regard to section 127 of the Act, implement appropriate contract and invoicing requirements; and
- d. ensuring that, where a Carrier takes leave of absence and, with the prior approval of Hi-Trans, employ a relief driver to undertake the work that the Carrier would otherwise perform, the Carrier will continue to receive the remuneration that the Carrier would otherwise have been paid for performing the work themselves, but no more than that amount.

13. Termination

13.1 Termination by Company

- a. Hi-Trans shall have the right to terminate the engagement of any Carrier on the giving of one month's notice thereof in writing, including by way of the option to pay in lieu of requiring the Carrier to work the notice period or any part thereof.
- b. Provided that termination by Hi-Trans may be effected without notice in the event of the Carrier:
 - (i) Not being able to perform shifts due to loss of licence or other penalty for a period of one (1) month or more and not being able to provide a replacement driver approved by the Company or not otherwise obtaining the consent of the Company.
 - (ii) Not attending for shifts when rostered to do so without adequate advice to Hi-Trans, and not providing a replacement driver approved by the Company or not otherwise obtaining the consent of the Company.

- (iii) Being guilty of any misconduct, including but not limited to, theft of any Hi-Trans property, or any property of a client of Hi-Trans, failing to remit monies received for work performed, abusive or offensive conduct towards a client, harassment of fellow contractors or Hi-Trans employees, wilful mishandling of freight, breach of a provision of the Agreement and so on.
 - (iv) Being unable to attend or being medically unfit to undertake Contracts of Carriage for a continuous period of one (1) month unless on leave authorised by Hi-Trans, and not being able to provide a replacement driver approved by the Company or otherwise not obtaining consent of the Company.
- c. Termination shall take place only after due process has been undergone.
- d. Hi-Trans may elect to pay the notice period in lieu of the Carrier being required to undertake contracts of carriage during the said notice period or for any part thereof.

13.2 Termination by Carrier

A Carrier may terminate his/her providing services under this Agreement on the giving of one month's notice in writing to Hi-Trans. On his/her ceasing to provide services, the Carrier shall make arrangements with Hi-Trans for the removal of any livery or identifying signs from his/her vehicle, to return any Hi-Trans equipment (including technological equipment installed by Hi-Trans), documents or materials of any kind which is the property of Hi-Trans and thereafter to cease identify him/herself as performing Contracts of Carriage for Hi-Trans.

14. Support for Technological Innovation

- a. The Parties recognise that the use of new technologies by Hi-Trans can assist Hi-Trans to:
- (i) enhance Carrier safety and welfare;
 - (ii) enhance the safety and welfare of Hi-Trans employees and members of the public;
 - (iii) comply with its legislative obligations, including occupational health and safety and road transport legislation;
 - (iv) enhance the efficiency and profitability of its business; and
 - (v) establish a point of differentiation with its competitors.
- b. At the same time, the parties accept that new technology can benefit the Carriers by assisting them in identifying locations, reporting incidents and the like.
- c. The Carriers and the Union agree to not unreasonably object to, hinder or obstruct the introduction of new technologies by Hi-Trans. In this respect, equipment installed at the direction of Hi-Trans shall be at the cost of Hi-Trans and shall remain the property of Hi-Trans, with the Carrier to ensure the security and proper use of the equipment and pay any cost for replacement in the event of any loss or damage incurred as a result of any negligence or improper use by the Carrier.
- d. Where the equipment is installed at the request of the Carrier, but provides a benefit to Hi-Trans as well as the Carrier, Hi-Trans and the Carrier shall agree on the sharing of costs associated with the installation.

15. Rates

The Rates of Remuneration referred to in the Determination will apply.

16. Induction, Training and Delegates Meetings

Hi-Trans will promote vocational training, occupational health and safety training, safer work practices, knowledge of the Determination and other industrial entitlements and other services for the benefit of its Carriers.

Hi-Trans and the Carriers recognise their responsibilities to ensure that the workplace is safe for all Carriers and all other persons attending Hi-Trans' work sites. Accordingly, Hi-Trans agrees to train its Carriers covered by this Agreement in accordance with this clause.

16.1 Compulsory Induction Training

- a. A new Carrier commencing work with Hi-Trans shall be trained in:
 - (i) occupational health and safety;
 - (ii) vocational skills;
 - (iii) other professional training, including training in bullying and harassment issues.
- b. In order to meet the requirements of sub-clause (a) each new Carrier shall undertake an induction course.
- c. As part of the induction, the relevant site delegate shall be given an opportunity to address the new Carrier for a maximum of 30 minutes.

16.2 Ongoing Training

Hi-Trans agrees to comply with all Transport Industry Codes of Practice (including the principles of 'Trucksafe'), Regulations, Worksafe Australia documentation and approved and recognised industry standards as a minimum requirement, so as to meet and comply with Hi-Trans' obligations under the Work Health and Safety Act 2011 (NSW) and the Work Health and Safety Act 2011 (Cth).

16.3 Delegates Training

For the purposes of this Clause, Hi-Trans will recognize two Carrier delegates to whom the provisions of this Clause shall apply at any one time. The Union has undertaken to give Hi-Trans reasonable notice, at least 7 days, of impending training requirements. It is agreed that delegate training will be organised in a manner that does not affect site operating efficiency. Attendance at such training will not be unreasonably denied by Hi-Trans. All training is to be approved by Hi-Trans Management up to a maximum of four (4) days each per year. Delegates attending such training pursuant to this sub-clause shall be paid for such time at the labour rate calculated in accordance with Clause 16 (c) hereof.

16.4 Training to be paid for by Hi-Trans

Hi-Trans shall pay the Carrier's remuneration at the labour rate described in the Determination for attending the training courses referred to in this Clause in accordance with custom and practice for the duration period of the said course.

16.5 Delegates Meetings

Hi-Trans and the delegates agree that all delegates meetings will be conducted, as far as practicable, at a time that has the least operational inconvenience. It is further agreed that the delegates attending such meetings should be paid for such attendance at the applicable labour rate provided herein. All meetings are to be approved by Hi-Trans and subject to the provisions of the Determination.

It is further agreed that in respect of meetings generally which are called by the TWU for the specific purpose of discussing issues relating to Hi-Trans, the number of delegates attending at such meetings shall be restricted to no more than two (2) delegates. The Union will undertake to give Hi-Trans no less than fourteen (14) days' notice of its intention to call such meetings.

17. Driving Hours

- a. Hi-Trans recognises the importance of adherence to driving hours and to that extent it will continue to require that all its Carriers comply with the requirements of a Safe Driving Plan ("SDP").
- b. With respect to Carriers engaged by Hi-Trans, the SDP shall only be used where Hi-Trans determines it to be necessary or as otherwise required by law.
- c. Hi-Trans shall determine the appropriate form of the SDP in consultation with the Carriers and the TWU.

18. Union Recognition and Delegates Rights

- a. Hi-Trans recognises the TWU as being the Union representing Carriers covered by this Agreement.
- b. Union delegates shall be allowed such reasonable time during working hours, as may be agreed between Hi-Trans and the delegates, but not so as to be disruptive to Hi-Trans' business requirements, to:
 - (i) discuss with the union members at the workplace, matters relating to working conditions and other relevant matters, with a view to avoiding industrial disputation;
 - (ii) discuss with union officials matters raised above; and
 - (iii) discuss with Hi-Trans matters raised by members affecting their Contracts of Carriage.
- c. In exercising the above, union delegates shall be allowed:
 - (i) to perform their roles as delegates free from discrimination;
 - (ii) to bargain collectively;
 - (iii) to consult and access information about the workplace and the business which Hi-Trans determines not to be sensitive or confidential; and
 - (iv) to have reasonable access of office equipment, such as communication equipment to carry out their delegate's duties.

19. Drug and Alcohol Testing

- a. The Union and the Carriers agree that, to ensure health and safety in the workplace, Hi-Trans may conduct drug and alcohol testing either:

- (i) on a random basis; or
 - (ii) where it suspects a contravention of drug and alcohol policies by specific Carriers, on a targeted basis; or
 - (iii) in the event of an incident, at its absolute discretion, in accordance with the Drug and Alcohol Procedures.
- b. The Carriers acknowledge and agree that the Drug and Alcohol Procedures operate in conjunction with, and not in replacement of, any other drug or alcohol testing procedures that Hi-Trans is now, or may later be, required to implement as a result of governmental, regulatory or customer demands.

20. Workplace Conduct

- a. Carriers must not:
- (i) report for work, or remain at work whilst they are impaired in any way;
 - (ii) operate any Equipment whilst they are impaired in any way;
 - (iii) possess or consume Illegal Drugs at any Work Site, whilst in control of any equipment or otherwise whilst performing their duties for Hi Trans;
 - (iv) consume alcohol whilst at the workplace or driving a vehicle;
 - (v) unless authorised to do so, possess or consume alcohol at any Work Site or in any vehicle whilst performing Contracts of Carriage for Hi-Trans;
 - (vi) possess, consume, sell or supply Drugs or alcohol in any way which might injure Hi-Trans' reputation or damage its relations with the public;
 - (vii) commit any act of discrimination as provided under the Anti-Discrimination Act 1977.
 - (viii) nothing in the previous clause is to be taken to affect:
 - a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - b) a party to this Agreement from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- b. Hi-Trans may direct a Carrier not to perform a Contract of Carriage and to leave any Work Site if the Carrier's supervisor or manager is reasonably of the opinion that the Carrier is impaired in any way. The Carrier shall not be entitled to any remuneration for the period he/she is stood down from performance of work as a result of being stood down PROVIDED THAT a Carrier who has been directed to stand down from work may provide a replacement driver, approved by the Company, to perform work for the duration of the stand down as provided herein AND PROVIDED ALSO THAT the Carrier may seek and obtain a medical certificate within eight (8) hours of being stood down, to the effect that he/she is not impaired as claimed by Hi-Trans, whereupon he/she shall be reinstated to perform the Contracts of Carriage for which the Carrier had been engaged were it not for the stand down.
- c. Any breach of the provisions of the Clause will result in disciplinary action being taken against the Carrier in accordance with the provisions of this Agreement.

21. Transfer to Employee Status

A Carrier who has performed Contracts of Carriage for Hi-Trans for a total period of at least 3 years over the preceding 5 years, may request Hi-Trans to consider that the natural person who has driven the vehicle in the performance of those Contracts of Carriage be engaged as


an employed driver. Hi-Trans must give due consideration to any such request and provide a response to it within 28 days. Hi-Trans may only refuse such a request on reasonable business grounds.

Execution


SIGNED as an agreement

Signed for and behalf of Hi-Trans Logistics Pty Ltd

In the presence of:



Signature of Witness



Signature CEO

NANCY MADISON


Name of Witness in full

12.10.22


Date

Signed for and behalf Transport Workers

Union of New South Wales in the presence of:



Signature of Witness



Signature - Richard Olsen
Secretary

Gavin Webb

Name of Witness in full

10/10/22

Date