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TITLE: Pacific Waste Management NSW Municipal Contract Carriers Agreement

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**NEW AGREEMENT OR
VARIATION:** New

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COVERAGE/DESCRIPTION OF EMPLOYEES: Applies to all Contract Carriers engaged by PWM performing contracts of carriage for the collection, transportation and disposing of Waste, pursuant to the Municipal Contract

PARTIES: Pacific Waste Managment Pty Limited -&- Transport Workers' Union of Australia, New South Wales Branch



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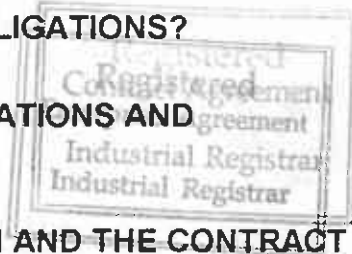
CONTRACT AGREEMENT



**PACIFIC WASTE MANAGEMENT
NSW MUNICIPAL CONTRACT
CARRIERS AGREEMENT**

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Pacific Waste Management NSW Municipal Contract Carriers Agreement

This agreement is between Pacific Waste Management Pty Limited (ACN 002 902 650) of 3 Burroway Road, Homebush Bay, New South Wales 2127 ("PWM") and the group of Contract Carriers engaged by PWM to perform the Services and who are identified in Schedule 6 to this agreement.

1. WHO DOES THE AGREEMENT COVER?

This agreement applies to all Contract Carriers engaged by PWM performing contracts of carriage for the collection, transportation and disposing of Waste, pursuant to the Municipal Contract, who are identified in Schedule 6 to this agreement and their assigns.

2. WHAT IS THE SCOPE OF THIS AGREEMENT?

- 2.1 PWM engages the Contract Carriers to perform the Services and to supply the Vehicles, Drivers and other assistance necessary to effectively and safely carry out the Services five days a week (and on such additional days as may be required to complete the Services in each calendar week) at any time.
- 2.2 This agreement replaces all other written and oral agreements, arrangements and understandings between the Contract Carrier, the Driver and PWM relating to the Service and is the only agreement between the Contract Carrier and PWM.
- 2.3 PWM can alter at any time the route or run used to perform the Services provided that the altered route or run is within the Council local government area or any local government area of which the Council local government area forms part. PWM can vary at any time the Services or the volume of work comprising the Services to accommodate changes in the number of Waste receptacle clearances to be performed on the route or run allocated to the Contract Carriers.
- 2.4 PWM does not recognise any goodwill attaching to the Contract Carriers' Vehicles or this agreement, and the Contract Carriers accept there is no goodwill attaching to the Vehicle or this agreement.
- 2.5 PWM's Equipment will not be used by the Contract Carriers or the Drivers for a function or purpose other than the performance of the Services.

3. HOW LONG DOES THE AGREEMENT OPERATE?

- 3.1 The Agreement shall commence its operation from its date of approval by the Industrial Relations Commission of New South Wales and then remain in force for a period of three (3) years thereafter. The Agreement will not be varied, amended, rescinded or terminated (other than in accordance with its terms) without the consent in writing of the parties and approval of the Industrial Relations Commission of New South Wales.

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- 3.2 The parties hereto agree that the Contract Carriers have an option to renew the Agreement for a further period of one (1) year and six (6) months following its date of expiry provided that such renewal shall be on the identical terms and conditions (including cartage rates) as is contained herein save and accept for this option provision.
- 3.3 The option for a further term of one (1) year and six (6) months must be exercised by the Contract Carriers by notice to PWM in writing at least one (1) month before the expiry of the term of the Agreement whereupon a new agreement for the further term, commencing the day after expiry of the existing term, will be submitted to the Contract Carriers within a reasonable time on the same terms and conditions as this Agreement except as provided in clause 3.2 hereof.

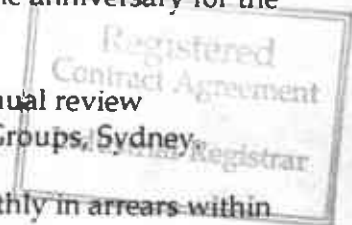
4. WHAT IS THE CONTRACT RATE?

- 4.1 The Contract Carrier performing the Services in relation to Recyclable Material will be paid at the Contract Rate set out in Schedule 1a to this agreement.
- 4.2 The Contract Carrier performing the Services in relation to Garbage will be paid at the Contract Rate set out in Schedule 1b to this agreement.
- 4.3 The Contract Rate will be reviewed annually by PWM within seven (7) days following review of the rates PWM is paid under the Municipal Contract. The Contract Rate will be increased in proportion to any increase in the rates under the Municipal Contract.

The Municipal Contract rates are reviewed on each anniversary of the commencement of that contract in accordance with any increase in the Consumer Price Index, All Groups, Sydney as last published prior to the anniversary for the preceding twelve (12) months.

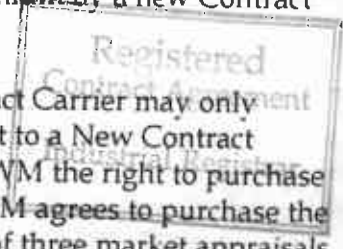
The Contract Rate will not be decreased as a result of an annual review notwithstanding any fall in the Consumer Price Index, All Groups, Sydney.

- 4.4 The Contract Rate shall be paid to the Contract Carrier monthly in arrears within seven days of the Contract Carrier invoicing PWM.
- 4.5 PWM can deduct amounts from the Contract Rate payments:
- (a) for repairs and maintenance work to the Vehicle first approved and then carried out by PWM, and, for fuel and services provided by PWM;
 - (b) subject to court orders against the Contract Carrier or the Driver or other employees employed by the Contract Carrier performing the Services;
 - (c) which the Contract Carrier has authorised PWM to deduct; or



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- (d) which are allowed by this agreement or imposed by law on PWM.
- 4.6 PWM will withhold \$4,000 for a maximum of three months from the date the Contract Carrier's engagement is terminated under clause 15 or the date of expiration of the term, as the case may be. At the conclusion of the three month period, the Contract Carrier will receive an amount reflecting final adjustments (if any) made by PWM.
- 4.7 If the Contract Carrier does not adequately perform the Services or does not perform them at all, PWM will deduct or withhold from the Contract Rate payments for the amount that the Contract Carrier would otherwise have been paid by PWM for the Services, and, any compensation paid, or to be paid, by PWM to the Council under or in relation to the Municipal Contract.
- 4.8 The Contract Rate is based on an assumed number of Waste receptacle clearances each week of 6,600 ("the Assumed Services"). If the number of Waste receptacle clearances included in the Services increases by more than 3.5% of the Assumed Services, (or, having increased by more than 3.5% of the Assumed Services, decreases by more than 3.5% of the Assumed Services) then PWM and the Contract Carrier will negotiate in good faith a review of the Contract Rate so that the Contract Carrier receives a reasonable remuneration for the Services actually performed. Notwithstanding the foregoing provisions of this clause, the Contract Rate will not be reviewed in relation to any decrease in the number of Waste receptacle clearances below the number of Assumed Services.
- 5. HOW CAN THIS AGREEMENT BE ASSIGNED?**
- 5.1 Any purported assignment or offer of assignment by the Contract Carrier which involves any payment of "good will" or an additional premium by a new Contract Carrier shall be deemed void and of no effect.
- 5.2 (a) If the Contract Carrier owns the Vehicle, the Contract Carrier may only assign the rights and interests under this agreement to a New Contract Carrier if the Contract Carrier has first offered to PWM the right to purchase the Vehicle and PWM has rejected that offer. If PWM agrees to purchase the Vehicle, its price will be determined as an average of three market appraisals in accordance with sub-clause 15.6.
- (b) If the Contract Carrier leases the Vehicle from PWM, the Contract Carrier may only assign the rights and interests under this agreement to a New Contract Carrier if the Contract Carrier has first offered to PWM a surrender of the Vehicle Lease in accordance with the provisions of the Vehicle Lease. If PWM agrees to accept a surrender of the Vehicle Lease, the surrender will occur in accordance with the provisions of the Vehicle Lease.



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- 5.3 If PWM does not make an offer to the Contract Carrier in accordance with sub-clause 5.2, then the Contract Carrier can assign the rights and interests under this agreement if:
- (a) PWM and the Council have consented in writing to the assignment and the terms under which it will be made;
 - (b) the Contract Carrier assigns to a company;
 - (c) PWM receives signed and completed Assignment Documents in the form set out in Schedule 4; and
 - (d) The Vehicle Lease (if any) is assigned to the New Contract Carrier in accordance with the provisions of the Vehicle Lease.

The consent of PWM under clause 5.3(a) shall not unreasonably be withheld.

- 5.4 Where the Contract Carrier purports to assign this agreement without following the procedure detailed in clause 5.3 hereof then such purported assignment shall be void and of no effect.
- 5.5 A New Contract Carrier who has had this agreement assigned to it will only be entitled to assign this agreement by following the procedure outlined in this clause.
- 5.6 Any change in the control of the Contract Carrier as a company will be regarded as an assignment for the purposes of this agreement (including, without limitation, clause 5.2) and must not take place unless PWM has consented to it in writing.
- 5.7 A New Contract Carrier assumes all the rights and obligations imposed upon it under this agreement as if the New Contract Carrier was a party to the Agreement.

6. EMPLOYMENT OF EMPLOYEES BY CONTRACT CARRIER

- 6.1
- (a) The Contract Carrier must employ a nominated Driver of the Vehicle who will carry out the obligations under this Agreement. The Contract Carrier may change the nominated Driver by giving one month's written notice to PWM but only after consulting PWM about the suitability of a substitute Driver in accordance with this clause and obtaining PWM's consent in writing.
 - (b) In addition to the Driver, the Contract Carrier must employ or otherwise provide throughout the term of this agreement a suitable assistant for the positioning of receptacles and the efficient performance of the Services.
 - (c) The Contract Carrier will remove from any activity connected with the performance of the Services any personnel who, in the reasonable opinion of

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PWM, should be removed by reason of inefficiency, failure to observe safe work practices or due to an Act of Misconduct. The Contract Carrier will not, without the approval of PWM, re-employ in the performance of the Services any personnel removed pursuant to this clause.

- 6.2 (a) If the nominated Driver is unable to drive the Vehicle, the Contract Carrier may seek PWM's approval to use a substitute Driver for up to one month.
- (b) PWM may allow the Contract Carrier to use the substitute Driver beyond one month in exceptional circumstances.
- (c) If the non-availability of the nominated Driver continues for more than one month (or an extended period agreed under (b) above) the Contract Carrier will be in breach of this agreement and PWM may terminate the engagement of that Contract Carrier pursuant to clause 15 unless PWM agrees to the substitute Driver becoming the Contract Carrier's nominated Driver under sub-clause 6.1.
- 6.3 The Contract Carrier's obligation to perform the Services is a fundamental term of this agreement. However, if the Driver cannot perform the Services on any particular day because of special circumstances such as a sudden illness, and the Contract Carrier cannot supply a substitute Driver in the time available, PWM may provide its driver to perform the Services until the Contract Carrier supplies a substitute Driver. PWM will be entitled to the Contract Rate while it supplies its own Driver but must pay the Contract Carrier for the use of the Vehicle at the Rental Rate, if the Vehicle is used to perform the Services, and, reimburse to the Contract Carrier the wages of any personnel employed by the Contract Carrier who are directly involved in performing the Services.
- 6.4 The Driver must safely drive the Vehicle when performing the Services for PWM. No person other than the Driver and personnel engaged by the Contract Carrier to assist the Driver in performing the Services ("personnel") are to travel in the Vehicle unless PWM's consent is first obtained.
- 6.5 Any default or an Act of Misconduct by the Driver or other personnel under this agreement will be taken to be default or misconduct by the Contract Carrier and may lead to the termination of the Contract Carrier's engagement under this agreement by PWM pursuant to clause 15.
- 6.6 The Contract Carrier must ensure the Driver holds a current driver's license appropriate to the Vehicle. The Contract Carrier will immediately notify PWM if a suspension or cancellation of the license occurs. PWM may inspect the license at any time and, if it is not operational, suspend the Contract Carrier's engagement until the Driver produces to PWM a current license.
- 6.7 The Contract Carrier releases and indemnifies PWM with respect to liability for damage caused by the Driver, personnel or the Vehicle (including the PWM Equipment) to property or the person of a third party.

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7. WHAT ARE THE DRIVER'S RESPONSIBILITIES?

- 7.1 The Driver and personnel must perform the Services safely and efficiently in accordance with this agreement and PWM's Procedures.
- 7.2 The Driver is responsible for the immediate reporting of any accident to PWM and attending to any legal requirements at the scene of the accident.
- 7.3 The Driver and personnel must wear footwear and other safety equipment which is suitable for driving the Vehicle when performing the Services.
- 7.4 Drivers will account to PWM for any money they receive on its behalf.

8. WHAT ARE PWM'S RESPONSIBILITIES AND OBLIGATIONS?

- 8.1 PWM representatives will regularly review with the Contract Carriers how the Services may be more efficiently performed. If more efficient ways to perform the Services are decided upon by PWM, including the introduction of new technology (such as on-board computers), they will be implemented by the Contract Carrier and the Driver. PWM will pay the costs of supplying and installing any equipment associated with the introduction of new technology. PWM will not direct that any new procedures or practices be adopted unless they comply with all legal requirements concerning the safe use of the Vehicle by the Driver when performing the Services.
- 8.2 PWM will obtain at its cost any local or regional authority Waste handling permits or licenses to enable the Contract Carrier to perform the Services.
- 8.3 PWM will pay for any disposal fees associated with performance of the Services or arrange for disposal fees to be paid by the Council.
- 8.4 PWM will install at its cost on the Vehicle the PWM Equipment which will remain the property of PWM. Subject to clause 11.4, PWM will maintain and repair the PWM Equipment.
- 8.5 PWM will provide the Contract Carrier with the following payroll and administrative services:
- (a) Each week, personnel (other than the Driver) will complete a timesheet in a form, and containing information, prescribed by PWM;
 - (b) The timesheet must be submitted to the PWM pay office on or before a day nominated by the pay office;
 - (c) PWM will calculate the taxable gross income of personnel for the week in accordance with rates of pay nominated by the Contract Carrier together with group tax and superannuation contributions in accordance with applicable laws;



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- (d) PWM will electronically transfer to a bank account nominated by the Contract Carrier's personnel the net weekly income of personnel;
- (e) PWM will provide the Contract Carrier with a statement setting out the taxable income, group tax, superannuation and any other deductions or contributions.

The Contract Carriers authorise PWM to deduct the net income of personnel from the Contract Rate payments provided that the foregoing procedure is adhered to. The Contract Carriers acknowledge and agree that the Transport Workers' Union may inspect records maintained by PWM in relation to the administrative services described in this clause.

9. WHAT ARE THE CONTRACT CARRIER'S OBLIGATIONS AND RESPONSIBILITIES?

- 9.1 The Contract Carrier is responsible for performance of the Services by the Driver and personnel and must ensure that the Driver and personnel perform the Services safely and efficiently in accordance with this agreement and PWM's Procedures.
- 9.2 The Contract Carrier acknowledges that the Council may require Drivers and personnel to wear a uniform. The Contract Carrier will ensure the Driver and personnel wear the uniform supplied by PWM when performing the Services and keep the uniform clean and tidy. Uniforms will be replaced by PWM on a fair wear and tear basis, but PWM will not compensate the Contract Carrier, the Driver or personnel for uniform replacement if the loss or damage of the uniform occurs as the result of the misuse or negligence of the Driver or personnel.
- 9.3 PWM will not be responsible for any damage or mechanical repairs to the Vehicle or damage to property/vehicles or person of any third party. This is the Contract Carrier's responsibility which must be covered by insurance and the Contract Carrier will release and indemnify PWM for any damage caused to the property or person of a third party by the Contract Carrier, the Driver, personnel or the Vehicle (including the PWM Equipment).
- 9.4 The Contract Carrier will ensure that the Vehicle is registered under all applicable laws and that necessary insurances such as compulsory third party, property damage, personal accident and motor vehicle insurance are current with respect to the Vehicle.
- 9.5 The Driver and other employees (including personnel) are under the control of the Contract Carriers. The Contract Carrier will retain and discharge all normal responsibilities of an employer over the Driver and other employees (including personnel) including responsibilities relating to remuneration, superannuation, termination of service, hours of service, places of performance, occupational health and safety, provision of employment entitlements under industrial awards or agreements, and, such other responsibilities imposed by law on the Contract Carrier as an employer. The Contract Carrier releases and indemnifies PWM with respect to

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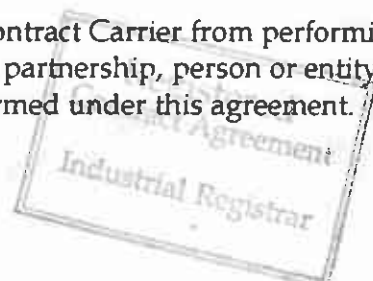
liability for injury or damage suffered by the Driver or personnel in the performance of the Services.

- 9.6 The Contract Carrier will ensure the Driver and personnel are medically fit to perform the Services.
- 9.7 The Contract Carrier will accurately keep and maintain such records as may be required by law or PWM with respect to the Vehicle or the Services.
- 9.8 The Contract Carrier must immediately notify PWM if the Contract Carrier is unable to supply the Vehicle to perform the Services.
- 9.9 In providing the Services to PWM, the Contract Carrier and the Driver and personnel at all times:
- (a) will act with reasonable care and skill in a diligent, efficient and professional manner;
 - (b) will act honestly and in the best interests of PWM;
 - (c) will act in accordance with the highest professional and ethical standards consistent with industry best practice and in accordance with such procedures as may be agreed between the Contract Carrier and PWM;
 - (d) will comply with all relevant laws and regulations in discharging the Services; and
 - (e) will not engage in any activity which is inconsistent with or may conflict with any of its duties and obligations under this agreement or which may be competitive with or contrary to any known aims or objectives of PWM.
- 9.10 The Contract Carrier assumes responsibility for all acts and omissions of the Driver or personnel.

10. WHAT IS THE RELATIONSHIP BETWEEN PWM AND THE CONTRACT CARRIERS?

The relationship between PWM and the Contract Carrier is one of principal and independent contractor and not one of partnership, joint venture or employment and, without limiting the generality of the foregoing, not such as would entitle the Contract Carrier to any benefit under the Long Service Leave Act 1955, the Annual Holidays Act 1944, the Superannuation Guarantee (Administration) Act 1992, the Superannuation Guarantee Charge Act 1992 or any similar legislation or regulation.

Nothing in this agreement shall restrict the Contract Carrier from performing services for any other corporation, firm, trust, partnership, person or entity whether the same or similar to the services to be performed under this agreement.



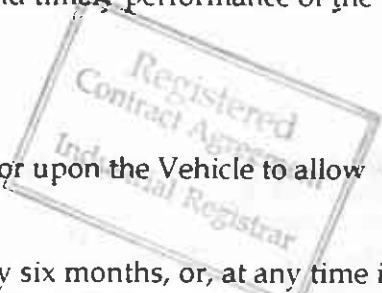
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11. WHO IS RESPONSIBLE FOR PAINTING AND MAINTENANCE?

- 11.1 PWM has the right to paint the Vehicle in PWM livery and will meet the expense outside of initial specifications. Repainting during this agreement is at PWM's expense except when it is required because of the misuse or neglect of the Vehicle or PWM's Equipment by the Contract Carrier or the Driver.
- 11.2 If a replacement Vehicle is required the Contract Carrier shall be responsible for the initial painting of it. PWM will subsequently repaint the replacement Vehicle during this agreement unless repainting is required because of the misuse or neglect by the Contract Carrier or the Driver.
- 11.3 PWM may require certain signage to be placed on the Vehicle. Signwriting will be paid for by PWM. Replacement or alteration of signwriting is PWM's responsibility. If the Contract Carrier's engagement is terminated by PWM, other than under clause 15.1, PWM will remove the signwriting at its expense.
- 11.4 PWM will be responsible at its cost for the routine maintenance and repair of PWM's Equipment installed in or on the Vehicle. Where the PWM Equipment is damaged, deteriorates or becomes unserviceable due to the act, omission, misuse, negligence or Act of Misconduct by the Contract Carrier, the Driver or personnel, the Contract Carrier will pay for the requisite maintenance and repairs to the PWM Equipment.
- 11.5 PWM will be responsible at its cost to repair PWM equipment damaged by tree branches overhanging roads within the Municipal Council local government area provided that the Contract Carrier and the Driver have taken reasonable care to avoid such damage whilst maintaining the efficient and timely performance of the services.

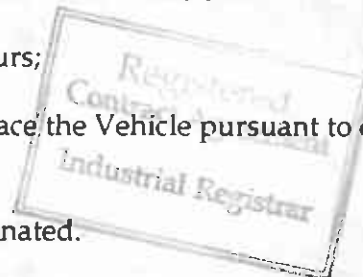
12. VEHICLE

- 12.1 PWM's Equipment will be installed at PWM's cost in or upon the Vehicle to allow the Contract Carrier to perform the Services.
- 12.2 PWM may inspect the registration of the Vehicle every six months, or, at any time it suspects there may be an irregularity with the registration. If the registration is not in order, PWM will suspend the Contract Carrier's engagement until the irregularity is rectified.
- 12.3 The Vehicle will comply with the vehicle specifications set out in Schedule 3 to this agreement concerning carrying capacity, roadworthiness, age and mechanical condition. PWM can inspect the Vehicle at any time to ensure it complies with the requirements of this agreement. The cost of maintaining the Vehicle (excluding the PWM Equipment) to the standard required by this agreement is the Contract Carrier's responsibility and PWM may terminate the Contract Carrier's engagement under this agreement pursuant to clause 15 if the Contract Carrier does not adequately maintain the Vehicle.



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- 12.4 (a) If the Contract Carrier owns the Vehicle, PWM may require the Contract Carrier to purchase a new vehicle, or, to change the Vehicle to new specifications, if the condition of the Vehicle is affecting the efficient performance of the Services.
- (b) If the Contract Carrier leases the Vehicle, PWM may require the Contract Carrier to lease a new vehicle, or, to change the Vehicle to new specifications, if the condition of the Vehicle is affecting the efficient performance of the Services.
- 12.5 All legal charges, taxes, mechanical repairs and maintenance expenses associated with running the Vehicle (excluding the PWM Equipment) are the Contract Carrier's responsibility. All fuel expenses associated with running the Vehicle (including the PWM Equipment) are the Contract Carrier's responsibility.
- 12.6 The Vehicle (excluding the PWM Equipment) must be modern, clean, and roadworthy and the Contract Carrier must ensure it complies with all legal requirements concerning its use. If the Vehicle does not meet these standards, PWM may suspend the operation of this agreement to allow the Contract Carrier fourteen days to comply with them. If the Contract Carrier fails to bring the Vehicle up to the standard required by this agreement within the period of fourteen days PWM may terminate the engagement of the Contract Carrier in accordance with clause 15.
- 12.7 If the Contract Carrier wishes to replace the Vehicle, the Contract Carrier will first obtain PWM's consent. PWM may assist the Contract Carrier to purchase a new Vehicle by negotiating a price with a supplier.
- 12.8 PWM will provide parking space for the Vehicle at its premises at no cost to the Contract Carrier and the Vehicle will be parked there at the Contract Carrier's risk. If the Contract Carrier wants to park the Vehicle at another location the Contract Carrier must first obtain PWM's consent which will not be unreasonably withheld.
- 12.9 PWM will remove the PWM Equipment it has fitted to the Vehicle if:
- (a) severe mechanical or structural failure occurs;
 - (b) PWM requires the Contract Carrier to replace the Vehicle pursuant to clause 12.4;
 - (c) the Contract Carrier's engagement is terminated.
- 12.10 The cost of removing (and, if relevant, refitting or fitting to another vehicle) the PWM Equipment will be paid by the Contract Carrier if:
- (a) the Contract Carrier's engagement is terminated under clause 15.1 or is terminated within twelve months of the date of this agreement; or



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- (b) removal of the PWM Equipment is required as a consequence of the act, omission, misuse, negligence or Act of Misconduct of the Contract Carrier or the Driver or personnel.
- 12.11 If the Vehicle is not available to perform the Services, the Contract Carrier may hire a substitute vehicle from PWM (if available) at the Rental Rate. The responsibilities of the Contract Carrier, the Driver and personnel concerning the Vehicle under this agreement apply to the substitute Vehicle while the Contract Carrier is using it to perform the Services.
- 13. WHO IS RESPONSIBLE FOR TAXES AND INSURANCE?**
- 13.1 The Contract Carrier will comply with all taxation requirements in relation to the Driver and other employees of the Contract Carrier.
- 13.2 The Contract Carrier will take out and maintain workers compensation insurance to cover the Driver and other employees (including its personnel).
- 13.3 The Contract Carrier will obtain and maintain public liability insurance for an amount of \$20 million (or such greater sum as the Council may from time to time nominate) in respect of any liability incurred by the Contract Carrier, the Driver or personnel.
- 13.4 The Vehicle, excluding the PWM Equipment, must be comprehensively insured by the Contract Carrier. The comprehensive policy of insurance will include third party legal liability insurance and supplementary bodily injury insurance for amounts respectively of \$10 million in respect of any liability incurred by the Contract Carrier, the Driver or personnel. Without limiting the generality of any other provision of this agreement (including clauses 6.7, 9.3, 11.4 and 12.10(b)), the Contract Carrier agrees to pay PWM on demand up to the first \$2,000 with respect to any damage to the PWM Equipment caused whilst the PWM Equipment is in the Contract Carrier's possession or control as a consequence of the act, omission, misuse, negligence or Act of Misconduct of the Contract Carrier, the Driver or personnel.
- 13.5 The Contract Carrier will at the commencement of this agreement forward to PWM copies of all insurance policies concerning the Vehicle, the Driver and other employees (including personnel). Annually, throughout the term, the Contract Carrier will provide PWM with copies of renewal acknowledgements issued in relation to these policies. The Contract Carrier shall notify PWM of a change of or cancellation to any policy.
- 14. WHAT INFORMATION MUST THE CONTRACT CARRIER KEEP CONFIDENTIAL?**
- 14.1 This clause is intended to protect PWM's confidential information about the Council and PWM customers, marketing, products, services, rates and technology.

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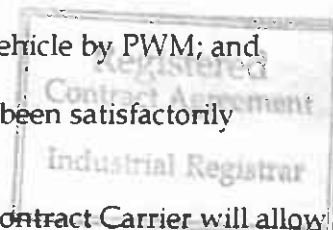
- 14.2 Any confidential information acquired by the Contract Carrier, the Driver or personnel in connection with the provision of the Services must be held in the strictest confidence both during the term of this agreement and after its termination. Release, copying, removal from PWM's premises or any use of that information other than for the performance of the Services requires the prior written approval of PWM.
- 14.3 Confidential information means the content of this agreement (including the Contract Rate) and all confidential information relating to PWM and the Council or their customers, ratepayers or businesses, including any information concerning market rates and technology if:
- (a) that information is identified as confidential or proprietary to PWM or a third party; or
 - (b) the Contract Carrier ought reasonably to have known that the information was proprietary or confidential to PWM or a third party.
- 14.4 The Contract Carrier must take all necessary action to maintain the secrecy of any confidential information provided or obtained by itself, its Driver or personnel through PWM.
- 14.5 The Contract Carrier must ensure that the Driver and other employees (including personnel) do not cause the Contract Carrier to breach any of its obligations of confidentiality. If the Contract Carrier fails to maintain the secrecy of the confidential information PWM may terminate the engagement of that Contract Carrier under this agreement pursuant to clause 15.
- 14.6 The Contract Carrier and the Driver must ensure that any PWM property is returned to PWM without retaining any copies thereof on the termination of this agreement or the termination of the Contract Carrier's engagement or sooner, if PWM so reasonably requests.

15. HOW CAN THE CONTRACT CARRIER'S ENGAGEMENT BE TERMINATED?

- 15.1 PWM may terminate the engagement of a Contract Carrier during the term without notice if:
- (a) the Contract Carrier, the Driver or any other employee (including personnel) breaches any of the obligations under this agreement;
 - (b) in relation to the Contract Carrier as a company, a shareholder or director becomes insolvent, a receiver and manager, administrator or other insolvency manager is appointed and winding up is commenced, the Contract Carrier ceases to carry on business or enters into a compromise or arrangement with its creditors;

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- (c) the Contract Carrier, the Driver or any other employee (including personnel) participate in an Act of Misconduct;
 - (d) the Contract Carrier assigns its right and interests under this agreement without PWM's consent.
- 15.2 PWM may at any time, terminate the engagement of a Contract Carrier on 1 month's notice where PWM's agreement with the Council is terminated for any reason.
- 15.3 Clauses 15.4 and 15.5 do not apply if the Contract Carrier leases the Vehicle from PWM.
- 15.4 (a) If the engagement of a Contract Carrier is terminated for any reason, the Contract Carrier must first give PWM the option to buy the Vehicle at its retail value.
- (b) If PWM does not offer to buy the Vehicle the Contract Carrier may sell it to either a:
- (i) PWM driver for its retail value after obtaining PWM's consent; or
 - (ii) New Contract Carrier in accordance with clause 5 of this agreement.
- 15.5 If PWM and the Contract Carrier cannot agree on the retail value of the Vehicle, its sale price will be determined by PWM averaging three valuations obtained from registered motor dealers. A dealer will be appointed by the Contract Carrier, PWM and an independent third party such as the Motor Traders Association.
- 15.6 If the engagement of a Contract Carrier is terminated then, subject to subclause 4.4, all outstanding rates shall be paid to the Contract Carrier by PWM after:
- (a) final adjustments for deductions under this agreement have been made;
 - (b) the PWM Equipment has been removed from the Vehicle by PWM; and
 - (c) signwriting performed by PWM on the Vehicle has been satisfactorily painted out.
- 15.7 On termination of the Contract Carrier's engagement the Contract Carrier will allow PWM to remove the PWM Equipment at premises nominated by PWM.
16. **HOW ARE DISPUTES TO BE RESOLVED?**
- 16.1 Should any disagreement about this agreement arise during the term, the following procedure shall be implemented:
- (a) the Contract Carrier's representative and the site manager of PWM will meet in an attempt to resolve the matter;



Pacific Waste Management NSW Municipal Contract Carriers Agreement

- (b) If no agreement is reached, the representative will discuss the matter with the State Division manager of PWM;
- (c) If these steps fail to resolve the issue in dispute, an independent arbitrator shall be appointed to be agreed by both PWM and the Contract Carrier,

Provided however that if a dispute arises which touches on or concerns a dispute under the Municipal Contract (a "contract dispute") then the Contract Carrier and PWM agree that if such dispute is to be dealt with as a dispute under the Municipal Contract then the Contract Carrier and PWM shall be bound by any decision or award under the Municipal Contract.

Following settlement or determination of any contract dispute either the Contract Carrier or PWM shall, subject to this clause, have the right to pursue, as a dispute under this agreement, any matters relating to the contract dispute that were not settled or determined under the Municipal Contract. Neither the Contract Carrier nor PWM shall dispute facts and findings made in the contract dispute.

16.2 During this procedure, the Services will be performed without interruption.

17. ARE THERE SPECIAL CONDITIONS?

The Contract Carrier will observe, discharge and perform and ensure that the Driver and personnel observe, discharge and perform the special conditions in Schedule 5 which form part of this agreement.



Pacific Waste Management NSW Municipal Contract Carriers Agreement

Words and Phrases Defined

In this agreement:

"Act of Misconduct" means being in control of the Vehicle or operating PWM Equipment whilst under the influence of alcohol or a drug, falsifying documents, using PWM's Equipment other than to perform the Services, and, any other act or omission which, in the reasonable opinion of PWM, constitutes an act of misconduct which may bring the image and reputation of PWM into disrepute;

"Assignment Documents" means the documents comprised in Schedule 4 to this agreement which must be completed to transfer this agreement to a New Contract Carrier;

"Contract Carrier" means a person, sole trader, company or business who enters into a Contract of Carriage with PWM in relation to the provision of Services.

"Contract of Carriage" has the meaning given to that expression by the *Industrial Relations Act 1996 (NSW)*.

"Contract Rate" means the applicable rate set out in Schedule 1a or 1b respectively of this agreement.

"Council" means Ashfield Municipal Council;

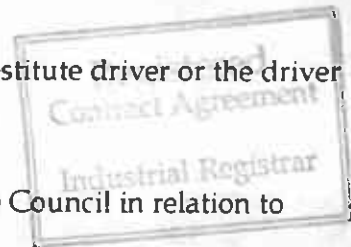
"Driver" means a driver nominated by the Contract Carrier, substitute driver or the driver of a New Contract Carrier;

"Municipal Contract" means the contract between PWM and the Council in relation to which the Services are to be performed;

"New Contract Carrier" means a carrier to whom this agreement is assigned under clause 5;

"PWM Equipment" includes the body, any PWM communication equipment and any other equipment belonging to PWM which is fitted to the Vehicle;

"PWM Procedures" means any procedures prescribed by PWM or the Council for carrying out the Services;



Pacific Waste Management NSW Municipal Contract Carriers Agreement

"Rental Rate" means the rate set out in Schedule 2 to this agreement as varied from time to time by PWM;

"Services" means collecting transporting and disposing of Waste and providing a Vehicle and Driver and personnel (if any) to collect and transport Waste to sites designated by PWM from tenements within the Council local government area, or other areas as directed by PWM.

"termination" includes termination by effluxion of time;

"Waste" means "Garbage" or "Recyclable Material" (as defined in the special conditions) contained in or about authorised receptacles at tenements and other premises entitled to a collection service under the Municipal Contract.

"Vehicle" means the Vehicle supplied by the Contract Carrier, or supplied by PWM at the Rental Rate, including PWM Equipment in accordance with the vehicle specifications set out in Schedule 3 to this agreement and approved by PWM.

"Vehicle Lease" means, where the Contract Carrier does not own the Vehicle supplied by the Contract Carrier, the lease agreement under which PWM leases the Vehicle to the Contract Carrier.

Interpretation

In this agreement, unless the contrary intention appears:

- (a) words and expressions in this agreement have the meaning ascribed to them;
- (b) words importing any gender include all other genders;
- (c) words importing the singular include the plural and vice versa;
- (d) a reference to an annexure, clause or schedule is a reference to an annexure to; clause of, or schedule to this agreement;
- (e) reference to natural persons extend to include their personal representative, successors and permitted assigns;
- (f) reference to companies extends to and includes their successors and permitted assigns.

Registered
Contract Agreement
Industrial Registrar

Schedule of Rates

SCHEDULE 1a

(a) Contract Rate

\$14,583.33 per calendar month irrespective of the number of receptacles from which Waste is required to be collected.

(b) Rates for Additional Loads

\$22.50 per load delivered to the designated Waste disposal site for each load transported on any one day to the site in excess of two (2) full loads.

\$36.50 per hour for each hour during which Services are provided in excess of ten (10) hours on a day upon which more than two (2) full loads are delivered to the designated Waste disposal site.

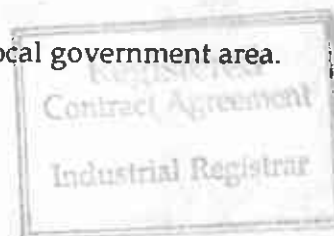
The Contract Rate and the rates for additional loads:

- (a) assume fortnightly collections from the Council local government area; and
- (b) are subject to review in accordance with clause 4.

SCHEDULE 1b

\$14,583.33 per calendar month irrespective of the number of receptacles from which Waste is required to be collected (subject to review in accordance with clause 4).

The Contract Rate assumes weekly collections from the Council local government area.



Rental Rate

SCHEDULE 2

\$150 per calendar day.

Registered
Contract Agreement
Industrial Registrar

Vehicle Specifications

SCHEDULE 3

CLASS/TYPE OF VEHICLE	ACCO F2350/250 6 x 4 Rigid Cab & Chassis (or vehicle of comparable specification, subject to Council approval).
CARRYING CAPACITY	24 tonne GVM
AGE	New 1998
MECHANICAL CONDITION	New and roadworthy condition
COMMUNICATION EQUIPMENT	Hands Free Mobile Phone

Registered
Contract Agreement
Industrial Registrar

Deed of Assignment of Contract Carriers Agreement

SCHEDULE 4

Deed dated 199 between:

- (1) [Insert name] (ACN[Insert number] of [insert address] (the "Existing Contract Carrier");
- (2) [Insert name] (ACN[insert number] of [insert address] (the "New Contract Carrier"); and
- (3) **PACIFIC WASTE MANAGEMENT PTY LIMITED** (ACN 002 902 650) ("PWM") of 3 Burroway Road, Homebush Bay, New South Wales 2140.

BACKGROUND

- A. On the Existing Contract Carrier entered into a contract carriers agreement with PWM. The Existing Contract Carrier no longer wishes to continue as a contract carrier and nominates the New Contract Carrier to be the contract carrier.
- B. PWM accepts the nomination of the New Contract Carrier on the terms and conditions set out in this Deed.

IT IS DECLARED as follows:

1. Contract Carriers Agreement

The contract carriers agreement (a copy of which is annexed) is novated to the New Contract Carrier so that it has effect as an agreement between PWM and the New Contract Carrier.

2. Acknowledgments by New Contract Carrier

The New Contract Carrier acknowledges that no amount has been paid in connection with sale of the Vehicle, or transfer of the Vehicle Lease, as the case may be, in excess of its value on the open market and accepts that:

- (a) PWM does not recognise, require or endorse any payment in the nature of a premium over the market value of the Vehicle or Vehicle Lease, as the case may be, in particular where any such payment is intended to be in the nature of a payment for goodwill;
- (b) the New Contract Carrier has no right to maintain any specific route or run of PWM; and
- (c) the New Contract Carrier has read and obtained legal advice on the effect of this Deed and the contract carriers agreement (including its terms relating to assignment, termination, and confidentiality).

Deed of Assignment of Contract Carriers Agreement

3. PWM/Council Approval

PWM consents to the transfer of the Contract Carriers Agreement to the New Contract Carrier. The Council referred to in the Contract Carriers Agreement and for which the Services are performed under the Contract Carriers Agreement has consented to the transfer of the Contract Carriers Agreement to the New Contract Carrier. The Council's execution of this Deed signifies its consent to the transfer.

4. New Contract Carrier Driver

The details of the New Contract Carrier's nominated driver are set out in this Deed.

5. Interpretation

Definitions in the contract carriers agreement apply in this Deed.

(Details of the New Contract Carrier's Nominated Driver)

Name

Address

Date of Birth

License Expiry Date

License Number

Class of License

EXECUTED by **THE NEW CONTRACT CARRIER** (ACN) under its common seal in the presence of:)
)
)

.....
[Director/Secretary]

.....
(Please print name)



.....
[Director]

.....
(Please print name)

Deed of Assignment of Contract Carriers Agreement

EXECUTED by PWM by its attorney in
the presence of

)
)
)
)

.....
Witness

.....
Attorney

.....
(Please print name)

.....
(Please print name)

EXECUTED by THE EXISTING
CONTRACT CARRIER
(ACN) under its
common seal in the presence of:

)
)
)
)

.....
[Director/Secretary]

.....
[Director]

.....
(Please print name)

.....
(Please print name)

The Common Seal of the
..... has
been hereunto affixed pursuant
to a resolution of the Council
passed in our presence

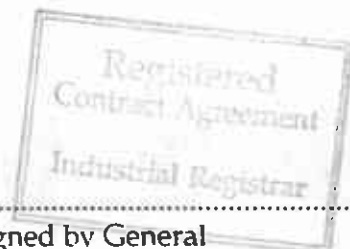
)
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.....
Signed by Mayor/ Alderman

.....
Signed by General
Manager/ Alderman

.....
(Please print name)

.....
(Please print name)



Solicitor's Certificate – New Contract Carrier

I, [], solicitor of [] act on behalf of (*insert name of the Contract Carrier*) ("**the Carrier**") confirm that I am not a member of any partnership or employed by a partnership which is acting for any company in the PWM group.

I certify as follows:

1. On 1999 I explained the contract carrier's agreement (copy attached) to the New Contract Carrier.

In particular, I fully explained the meaning and effect of:

Clause 2 (dealing with the scope of the agreement);

Clause 5 (dealing with assignment);

Clause 7 (dealing with Drivers responsibilities);

Clause 9 (dealing with carriers responsibilities);

Clause 15 (dealing with termination);

2. After I explained the content of the NSW Municipal Contract Carriers Agreement to the New Contract Carrier I explained the consequences of signing it in particular:

'that under the agreement PWM does not recognise goodwill attaching to the Vehicle or Vehicle Lease, as the case may be, and will not be liable to pay the New Contract Carrier any compensation for loss of goodwill on termination or otherwise;

'that the New Contract Carrier assumes all the obligations and responsibilities of the Existing Contract Carrier; and

'PWM will not accept any assignment of the Contract Carriers Agreement unless done in accordance with the Contract Carriers Agreement.

Dated this

day of

.....
Solicitor



Special Conditions

SCHEDULE 5

1. The Contract Carrier will ensure that the Driver and personnel:
 - a) Collect Garbage or Recyclable Material from no more than one authorised receptacle respectively per tenement (unless otherwise approved by PWM) at the curbside on the street entrance to all tenements on the Contract Carrier route or run which have been provided with a Council Garbage or Recyclable Material service (or at other points of collection approved by PWM);
 - b) Empty all Garbage collected from tenements into the Vehicle and carefully replace the completely emptied authorised receptacles in an upright position with the lid closed at the point of collection.
2. For the purposes of this agreement, "Garbage" means such kinds of refuse and rubbish as may be prescribed by the Council but excludes:
 - a) Hot ashes, any liquid matter or any noxious or dangerous material;
 - b) Wastes which are likely to damage the compaction mechanism of the PWM Equipment fitted to the Vehicle;
 - c) Recyclable material placed out for separate collection in accordance with Council requirements.
3. For the purpose of this agreement, "Recyclable Material" means all forms of glass, bottles, jars and containers, PET plastic, HDPE plastic, PUC plastic, paper, cardboard, aluminium, steel cans and liquid paper board and other material agreed upon by PWM and the Council.
4. Authorised receptacles must not be mistreated, damaged or thrown or allowed to fall to the ground and must be returned to the point of collection following clearance.
5. The Contract Carrier must ensure that neither the Driver nor personnel enter any private property to collect Garbage without the prior approval of PWM.
6. All Garbage or Recyclable Material must be disposed of on the day of collection within the normal operating hours of the Garbage or Recyclable Material disposal facility or facilities from time to time nominated by PWM. The Contract Carrier must ensure that the Driver and personnel comply with the Garbage disposal directions of persons managing or in control of the disposal facility or facilities.
7. The Driver and personnel must immediately recover any Garbage or Recyclable Material that is spilled from an authorised receptacle or from the Vehicle and clean any mark caused by, or residue of, the spill. Suitable cleaning equipment is to be carried on the Vehicle for this purpose at all times. The Contract Carrier will not be entitled to any additional payment for the collection of spilled Garbage or Recyclable Material.

The Contract Carrier will ensure that neither the Driver nor personnel spill any Garbage or Recyclable Material from authorised receptacles or from the Vehicle.

Special Conditions

8. It is a requirement of the Council that the Driver and personnel be neat and tidy and conduct themselves in a civil, obliging and inoffensive manner so as to promote a responsible public image at all times while performing the Services. The Contract Carrier will ensure that the Driver and personnel abide by and observe this requirement.
9.
 - a) The Driver and personnel will carry out the Services with as little noise, inconvenience and disturbance as possible. The Driver and personnel shall take all reasonable care to alleviate noise arising from use and operation of the Vehicle and PWM Equipment whilst carrying out the Services. All Services shall be carried out so as to avoid unnecessary noise or disturbance. The Contract Carrier will carry out any alterations or repairs (including noise attenuation measures) to the Vehicle as the Council may from time to time deem necessary and order. The Vehicle and PWM Equipment shall be operated in compliance with the noise emission requirements of the Noise Control Act 1975 and any regulation made thereunder and also in accordance with any directions given by the Council under the Municipal Contract.
 - b) The Contract Carrier will ensure that the Driver does not allow the Vehicle to stand on roads longer than is necessary for the purpose of rendering the Services to adjacent tenements or other premises.
 - c) The requirements of the Roads Act 1993 and the requirements of any other Act or regulation (including loading requirements) must be strictly adhered to in carrying out the Services. The Contract Carrier and the Driver will comply with the lawful requirements of any Council whose local Government area is traversed by the Vehicle in the course of performing the Services.
 - d) The Contract Carrier will cease to employ in the provision of the Services any person who, in the opinion of the Council, is incompetent or is guilty of neglect or who has acted in any insolent or in an improper manner. The Contract Carrier will dismiss any employee involved in the provision of the Services who makes application or demand for liquor or reward of any kind from any resident. The Contract Carriers are responsible for the honesty and sobriety of all the Contract Carrier employees.
10. The Contract Carrier will ensure that the Driver and personnel do not request or demand any fee, payment or gratuity from any person in respect of the Services or any part or aspect of the Services.
11. All insurances to be taken out pursuant to this agreement must be effected with an insurance company approved of by the Council. PWM will seek to procure this consent on the Contract Carrier behalf.

All insurances taken out by the Contract Carrier pursuant to this agreement will note the Council's interest and a copy of all such insurances, and a certificate of currency with respect to the same, will be provided to PWM immediately on request.

Special Conditions

12. The Contract Carrier will ensure that, immediately before disposing of collected Garbage or Recyclable Material, the Driver at the disposal facility has the Vehicle weighed upon a weighbridge for the purposes of determining the weight of Garbage or Recyclable Material carried in it. The Contract Carrier will ensure that the Driver obtains such weighbridge dockets as may be reasonably required by PWM certifying as to the weight of such Garbage or Recyclable Material and the Contract Carrier will give those dockets to PWM on the day of disposal of the Garbage or Recyclable Material. The Contract Carrier will ensure that weighbridge dockets also indicate the collection area within the Council local government area from where the Garbage or Recyclable Material was collected. The Contract Carrier will maintain and provide to PWM such other records as PWM may require as to the collection of Garbage or Recyclable Material.
13. The Contract Carrier will not and will ensure that the Contract Carrier Driver and the Contract Carrier personnel do not do anything as a result of which any insurance effected by PWM or the Council may be rendered void or voidable or which may cause the premium payable under any such insurance to increase.
14. To the extent permitted by law, the Contract Carrier releases the Council and its servants and agents from any claims, demands, liability, loss, damage, expense or injury incurred or sustained by the Contract Carrier, the Driver or any other person (including personnel) under the Contract Carrier control or direction in connection with this agreement and the Services.
15. The Contract Carrier must notify PWM immediately if any damage to any person or property caused by the Contract Carrier, the Contract Carrier Driver or personnel in the performance of the Services and remedy such damage.
16. The Contract Carrier will ensure that the Vehicle is cleansed and disinfected daily and otherwise kept in a state of cleanliness.
17. The Contract Carrier will remedy all complaints with respect to the Services within the time nominated by PWM at the time the Contract Carriers are notified of the complaint.
18. The Contract Carrier will observe, perform and comply with all the provisions of the Municipal Contract between PWM and the Council on the part of PWM to be observed, performed and complied with to the extent that those provisions relate and apply to the Services or any part or aspect of the Services.
19. In the event of an industrial dispute resulting in the cessation or interruption of any of the Services which remains unresolved for a period of more than forty eight (48) hours, the Contract Carrier shall at the direction of PWM immediately notify the dispute to the NSW Industrial Relations Commission and request an immediate compulsory conference between the parties concerned and will take all reasonable steps to endeavour to resolve such dispute.
20. The Contract Carrier will ensure that the Services are only performed within the hours from time to time prescribed by PWM and ensure that the Driver and personnel

Special Conditions

perform the Services in accordance with any programme of works or daily or weekly roster plan or plans from time to time issued to the Contract Carrier by PWM.

21. The Contract Carrier acknowledges that the Council may require the Contract Carrier's directors and/or controlling shareholders to enter into a deed guaranteeing performance of the engagement of the Contract Carrier under this agreement. If the Council submits such a guarantee, the Contract Carrier will cause or procure the execution of the guarantee and delivery of the same to the Council.

22. GST

- 22.1 The Goods and Services Tax (GST) will apply according to the terms of legislation enacted by the Commonwealth Parliament.
- 22.2 Any GST liability arising from cartage performed by the Contract Carrier will be charged by the Carrier to PWM and invoiced accordingly. The Carrier will then have the responsibility to remit the GST recovered from PWM to the Australian Taxation Office.
- 22.3 PWM will bear the liability for any GST charge which may arise from the execution and registration of this Agreement.
- 22.4 The Contract Carrier has the right to generate a "Recipient Created Tax Invoice" covering any deductions made by PWM from the Contract Carriers Invoice.



Contract Carriers

SCHEDULE 6

Caryl Jones Pty Limited

(ACN 079 373 498)
RJ Chalmers & Co Pty Ltd
Level 2
273 Sussex Street
SYDNEY NSW 2000

Venaline Pty Limited

(ACN 074 595 323)
c/- Terry O'Brien
61 Dwyer Road
BRINGALLY NSW 2171

J and J Tuinacau Pty Limited

(ACN 087 880 359)
4 Timber Grove
WERRINGTON DOWNS NSW 2747



EXECUTED by J and J Tuinacau Pty Limited
by its authorised person in the presence of:

Signature of authorised person

Full name of authorised person

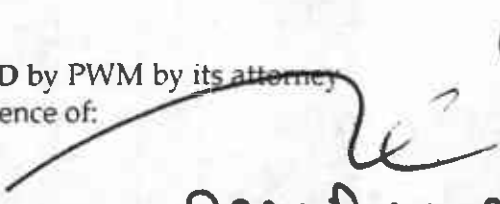
Signature of witness

Full name of witness

Date signed



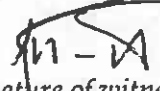
EXECUTED by PWM by its attorney
In the presence of:



Signature of attorney

MARK DIAMOND

Signature of witness



Full name

JOHN (GEARY) HASSETT
Full name of witness

15 MARCH 2001
Date signed

EXECUTED by Caryl Jones Pty Limited by its
authorised person in the presence of:

Signature of authorised person

Signature of witness

Full name of authorised person

Full name of witness

Date signed



EXECUTED by Venaline Pty Limited by its
authorised person in the presence of:

Signature of authorised person

Signature of witness

Full name of authorised person

Full name of witness

Date signed