

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/270

TITLE: **Dairy Farmers TWU Enterprise Agreement 2005**

I.R.C. NO: IRC5/4802

DATE APPROVED/COMMENCEMENT: 26 September 2005 / 26 September 2005

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**NEW AGREEMENT OR
VARIATION:** New.

GAZETTAL REFERENCE: 21 October 2005

DATE TERMINATED:

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COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Australian Co-operative Foods Ltd t/a Dairy Farmers (excluding Rural Trading employees and employees engaged in Country Stores), and in addition applies to employees engaged in the classifications set out in Appendix A of this agreement, who fall within the coverage of the Milk Treatment, &c. and Distribution (State) Award; and Transport Industry (State) Superannuation Award (No. 2).

PARTIES: Australian Co-operative Foods Limited -&- the Transport Workers' Union of New South Wales

DAIRY FARMERS TWU ENTERPRISE AGREEMENT 2005

1. Title

This Agreement shall be known as the Dairy Farmers TWU Enterprise Agreement 2005 (the "Agreement").

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3. Parties, Area and Incidence

This Agreement is made between Australian Co-operative Foods Limited (trading in New South Wales as and herein called Dairy Farmers) and the Transport Workers' Union of New South Wales and shall apply to employees engaged under the Milk Treatment etc., and Distribution (State) Agreement in New South Wales (excluding Rural Trading employees and employees engaged in Country Stores), and in addition, it shall apply to employees engaged in the classifications set out in Appendix A to this Agreement.

4. Supersession of Previous Agreements/Agreements

Except as provided by clause 5, this Agreement supersedes all agreements and awards which would otherwise apply to employees bound by this Agreement.

5. Rates of Pay and Relationship to Agreement

- (i) Dairy Farmers will increase the current ordinary time rates as follows:
 - (a) 5% from the first pay period on or after 27th June 2006.
 - (b) 5% from the first pay period on or after 27th June 2007.
 - (c) 5% from the first pay period on or after 27th June 2008.
- (ii) The agreement will regulate the rates of pay and conditions of employment of employees covered by this Agreement except to the extent that such rates and/or conditions of employment are inconsistent with the award in which case the provisions of this Agreement shall apply. There shall be no further pay increases during the currency of this Agreement except where consistent with the provisions of a NSW State Wage Case decision. It is further agreed that any such increase shall be processed by way of a formal variation of this Agreement.
- (iii) The wage increases contained in this Agreement satisfy the Union's claim in respect of protection of employee entitlements.

6. Allowances

Dairy Farmers will increase allowances under the Milk Treatment etc., and Distribution (State) Agreement as detailed in Table 2.

7. Objectives

The objectives on every site covered by this Agreement are:

Continuous improvement in quality of products and customer service.

Satisfying consumers with value for money products.

A work environment where people can contribute to the progress of each site.

Harmonious work environment based on team structure.

Continuous employee training and development.

Clear and well-understood individual performance goals developed in consultation with employees.

Full support for marketing, sales and new product programs.

Maintenance of high quality standards in product composition, presentation and distribution.

Behaviour of every employee which reflects Dairy Farmers values.

Strict compliance with the Settlement of Disputes Clause of the Agreement to ensure continuity of operations in all circumstances.

Meeting these objectives is vital to the future of Dairy Farmers and the job opportunities of employees on each site.

The parties recognise the need to find new and better ways to compete in order to ensure a viable business which achieves these objectives now and in the future, and are committed to:

Striving for excellence in everything we do;

Increasing levels of performance and productivity and demonstrating a willingness to learn and develop;

Safeguarding employees, plant, equipment and the business;

Participating in business activities including team meetings, quality and safety audits;

Promoting Dairy Farmers image in the community;

Achieving flexible working arrangements;

Improving operating costs, reducing overheads and ensuring delivery performance.

8. Productivity

All employees will support and actively co-operate in all formal and informal improvement programs which safely increase productivity, efficiency and flexibility and reduce costs on each site.

9. Good Manufacturing Practices

All employees on each site are committed to following Good Manufacturing Practices covering safety, quality, hygiene, housekeeping, cleanliness, appearance, procedures, responsibility, identification and maintenance.

10. Multi-Skilling

All employees on each site agree to continue their positive co-operation in becoming multi-skilled in order to maximise the productivity on each site.

A key element of multi-skilling is the upgrading and extension of every employee's skills and knowledge and using those skills acquired within each employee's capacity. This includes training and working within the normal functions applicable to the employee's designated agreement together with training and working across other agreement functions on each site. An employee's designated agreement is determined by those agreement functions for which the employee has principally been engaged and trained.

An employee who for four hours or more on any one day or shift performs work functions continuously which are covered by an agreement classification with a higher rate of pay than the employee's designated agreement classification shall be paid the higher rate for such day or shift. The foregoing mixed functions provision which applies across agreements has no application to the mixed functions provisions which continue to apply within agreements.

Normal functions applicable to employees covered by the agreement listed at Appendix A include performance of minor machine adjustments, simple running repairs to machines, non-trades mechanical and building maintenance and electrical work. It is accepted that other employees on each site not covered by this Agreement will perform limited production and distribution work for maintenance purposes.

Multi-skilling recognises that competency and safety should be the main factors which determine how work is performed. Central to this recognition is that there are no demarcations of any sort on each site provided employees are properly trained and qualified for the work tasks required of them.

It is paramount that multi-skilling should not be used in any way which places at risk the health and safety of any employees. In particular no employee can perform any work which he/she is not legally qualified to perform.

11. Payment by E.F.T.

Every employee on each site shall continue to be paid by electronic funds transfer to their nominated bank, building society or credit union account.

12. Hours of Work for Full-Time Weekly Employees Only

- (i) All employees on each site agree that the following hours of work provisions best meet the operating requirements of each site and that they will continue or be implemented upon making of this Agreement.

A variety of the following working patterns may be implemented in different sections or departments of each site as appropriate. Dairy Farmers shall not alter the roster of any employee's ordinary hours of work without giving at least 7 days notice, provided that an employee and Dairy Farmers may agree to a notice period of not less than 24 hours.

- (ii) The weekly ordinary hours of work shall be 38 hours per week or an average of 38 hours per week being calculated over an employee's work cycle.
- (iii) Systems of working the 38 hour week
 - (a) Rostered Day Off (RDO) System

By employees working an average of 38 hours per week where each day worked consists of 8 ordinary hours of which 0.4 ordinary hours is banked to an RDO bank.

An individual employee may exercise freedom of choice to utilise their RDO bank as follows:

- (1) By an employee electing to take RDO's as leisure days. An RDO taken as a leisure day uses 7.6 hours from the employee's RDO bank.
- (2) By an employee electing not to take RDO's as leisure days and instead receiving payment of their full RDO bank accrual at 30th June each year.
- (3) By an employee electing not to take RDO's as leisure days and instead receiving payment for their full RDO bank each pay week.
- (4) An employee's election for option (1) (2) or (3) above must be made within two weeks of commencing employment. An election once having been made shall not be changed other than at 1st July each year except through unforeseen circumstances. An employee is entitled to consult with their Union Delegate both prior to making their initial election and when considering any subsequent change of election.
- (5) An employee who elects to receive payments instead of taking RDO's as leisure days shall not have these payments included for the purposes of calculation of annual and long service leave entitlements, i.e. RDO payments do not form part of the ordinary pay of the employee.
- (6) An employee who elects to utilise their RDO bank as described in (1) or (2) above may request that the full RDO bank be paid to him or her at any time during the year.
- (7) An employee who elects to utilise their RDO bank as described in (1) above will be paid for the value of any banked RDO hours in excess of 6 days (45.6 hours) at 30th June each year.

- (8) RDO's will be rostered in advance to meet the operating requirements on each site and will be taken on Mondays to Fridays. RDO's will not necessarily be rostered to coincide with public holidays or an employee's weekly days off. When rostering the RDO's of employees whose ordinary working hours include a Saturday or Sunday, Dairy Farmers will, as far as operating requirements permit, accommodate an employee's request to take their RDO on a particular working day including a Saturday or Sunday. The needs of Dairy Farmers will be a primary consideration in the granting of RDO's on Saturday and Sunday, however the Company will not unreasonably withhold permission in regard to the above provision. Dairy Farmers shall not alter the roster of an employee's RDO's without giving at least 7 days notice, provided that an employee and Dairy Farmers may agree to alter an RDO with a notice period of not less than 24 hours.

Within the RDO system, overtime is payable after the conclusion of 8 ordinary hours on each rostered day.

(b) Fixed Hours System

By employees actually working up to 10 ordinary hours each day in one of the following work cycles:

38 ordinary hours within a work cycle not exceeding 7 consecutive calendar days; or

76 ordinary hours within a work cycle not exceeding 14 consecutive calendar days; or

114 ordinary hours within a work cycle not exceeding 21 consecutive calendar days; or

152 ordinary hours within a work cycle not exceeding 28 consecutive calendar days.

e.g. 5 x 7.6 hours in a 7 day cycle

or 4 x 8 hours and 1 x 6 hours in a 7 day cycle

or 4 x 9.5 hours in a 7 day cycle

or 3 x 10 hours and 1 x 8 hours in a 7 day cycle

or a combination of days and hours over a 14, 21 or 28 calendar day cycle to achieve an average of 38 ordinary hours per week.

Within the fixed hours system, overtime is payable after the conclusion of the ordinary hours rostered for that day.

The working of a Fixed Hours System is subject to the agreement of Dairy Farmers, the TWU and the majority of employees in the section or sections or department concerned.

13. Implementation of New Shift Rosters

Due to the changing needs of the business, Dairy Farmers will require the ability to implement a variety of new shift rosters that involve 12 hours and or 6 and or 7 day coverage. These rosters will be implemented during the life of this Agreement.

It is Dairy Farmers intention to work with our employees in order to develop new rosters and shift patterns.

Dairy Farmers also recognises the importance of work life balance and stability of shifts for employees and to that end proposes the following process:

The proposed shift roster will be forward to the Union and site delegates. The proposed roster must:

Not compromise OH&S

Satisfy Dairy Farmers business needs and employee's needs

Identify appropriate pay and or penalties

Address issues of how RDO accrual is to apply

Upon mutual agreement being reached by all parties the roster is implemented on a trial basis in the nominated work area.

14. Starting and Finishing Times

Starting and finishing times on each site may be staggered to meet operational requirements. All employees are required to be at their workstation ready to commence work at shift starting time. Employees unable to commence work at their normal starting time will notify their Supervisor or Manager with as much notice as possible prior to the commencement of the shift.

15. Meal/Crib Breaks

The time of taking meal/crib breaks may be staggered to meet operational requirements. During meal/crib breaks employees will be required to relieve other employees in any role they are capable of performing. Any breaks other than meal/crib breaks must be authorised by the employee's Supervisor.

16. Reasonable Overtime Hours

- (i) Dairy Farmers will utilise its full-time and casual employees and employees of labour hire firms to work ordinary hours and overtime hours as required to meet the operating requirements of the business.
- (ii) When offering overtime, Dairy Farmers will consider relevant factors including an individual employee's skill and ability levels and the amount of overtime recently worked by individual employees. Subject to all the provisions of this clause, available overtime will first be offered to Dairy Farmers full-time employees before casual and labour hire employees.
- (iii) Dairy Farmers may require an employee to work reasonable overtime at overtime rates, taking account of any risk to employee health and safety, the employee's personal circumstances including any family responsibilities and the operational requirements of the business.
- (iv) An employee on rehabilitation or suitable duties may only work overtime if overtime is required to complete the work covered by the approved rehabilitation plan or suitable duties.
- (v) An employee authorised to work overtime shall not work for a total continuous period in excess of fourteen hours, exclusive of unpaid meal breaks, from the time of commencing work (e.g. 8 hours ordinary time plus 6 hours overtime, or 10 hours ordinary time plus 4 hours overtime etc). In exceptional circumstances only, the Senior Manager on each site may authorise a continuous working period in excess of fourteen hours to meet site operating requirements.
- (vi) If an employee is absent without the authority of the employee's Supervisor or due to personal illness or injury on the first shift following a shift on which overtime was worked, the employee will not be eligible to work overtime on the next shift overtime is available.
- (vii) If an employee is absent without the authority of the employee's Supervisor or due to personal illness or injury on the day prior to scheduled overtime, the employee will not be eligible to work that scheduled overtime.

17. Advertising

Dairy Farmers undertakes to advertise vacant positions covered by this Agreement on notice boards at the sites where the vacancy occurs.

18. Probationary Period

New weekly employees will be engaged for a probationary period of up to three months during which their performance will be evaluated against appropriate criteria including required skills, capacity to learn, attendance, punctuality and attitude. Should an employee be found to be unsatisfactory during the probationary period, his or her employment will be terminated. In the case of casuals who are offered weekly employment, the probationary period will be reduced by the amount of their casual employment.

19. Abandonment of Employment

An employee who is absent from work for five consecutive working days or more without the consent of Dairy Farmers and who has not made contact with his or her Supervisor or Manager shall be deemed to have abandoned his or her employment and shall be paid entitlements up to and including the last day worked.

20. Casual Employment

The use of casual labour will be at Dairy Farmers discretion as necessary to meet operating requirements. This provision will not be used by Dairy Farmers to casualise full-time weekly positions.

21. Recognition of the Role of the Union and Delegates

For the duration of this agreement Dairy Farmers recognises the TWU as the sole union that represent the employees of Dairy Farmers. Furthermore Dairy Farmers recognises the role the union has in the further development and improvement of our employee relations.

In accordance with induction procedures all new employees shall be introduced to the local site delegate. Delegates will be provided with 30 minutes to outline the value of union membership, the functions of the delegate and provide an opportunity for new employees to obtain union membership.

Dairy Farmers recognises delegates have a role to play within the workplace and as such shall not unnecessarily hinder accredited union delegates in the reasonable and responsible performance of their duties. The need for Union delegates to have appropriate time to follow up and complete union tasks is recognised and it is acknowledged that active participation requires time to consult and discuss issues with members. The company will provide appropriate relief and or shift arrangements where necessary to enable delegates to attend to union matters and organised meetings. The needs of the business will need to be considered prior to releasing delegates. The Company will not unreasonably withhold permission in regard to the above provisions

The company will meet reasonable requests for the provision of and access to information relating to the names, addresses, classifications and time and wages records of employees who are members of the Union.

Dairy Farmers shall erect a notice-board in a suitable position on the site for the purpose of posting any notice in connection with meetings or other business of the Union which it may required to have posted. Delegates will be able to access to a telephone, photocopier, internet and email facilities for the purpose of carrying out their duties.

Dairy Farmers undertakes, upon authorisation by the employee, to deduct union membership fees, as prescribed by the TWU, from the pay of employees who are members of the TWU. Such monies collected will be forwarded to the appropriate union in monthly instalments, together with the name and postal address of the employees having such deductions made to enable the reconciliation and crediting of subscriptions to members accounts.

During the term of this Agreement no employee covered by this Agreement shall be offered an Australian Workplace Agreement.

22. Sick Leave

- (i) An employee who cannot attend work because of personal illness or injury shall contact his or her Supervisor or Manager with as much notice as possible prior to the commencement of shift, or if that is not possible then at the earliest time thereafter.

- (ii) An employee shall furnish to Dairy Farmers such evidence as Dairy Farmers reasonably requires that he or she was unable, by reason of illness or injury, to attend for duty on the day or days for which paid sick leave is claimed.
 - (iii) An employee shall furnish to Dairy Farmers a certificate of a duly qualified medical practitioner in order to be entitled to payment for sick leave claimed in the following circumstances:
 - (a) Where the absence is three or more consecutive working days, or
 - (b) Where there is an absence on a rostered working day either side of a public holiday or either side of a rostered day off (RDO) or rostered days off (RDO's).
- Nothing in this subclause limits Dairy Farmers rights under subclause (ii).
- (iv) An employee will not be entitled to single days of paid sick leave on more than three occasions in any year unless he or she produces to Dairy Farmers a doctor's certificate for each occasion stating that he or she was unable to attend work on account of personal illness or injury.
 - (v) An employee who has exhausted his or her entitlement to paid sick leave and who is then unable to attend for duty because of personal illness or injury shall furnish to Dairy Farmers a certificate of a duly qualified medical practitioner in respect of all such unpaid absences.
 - (vi) Sick leave will be available and accrue according to each employee's year of service in lieu of the common anniversary date prescribed by the Milk Treatment etc., and Distribution (State) Agreement.

23. Absence

On return to work from any absence including annual leave, long service leave, sick leave and workers compensation, every employee must report to their Supervisor before commencing work.

24. No Smoking

Smoking is not permitted on any Dairy Farmers site except in designated areas. Non-smoking signs and regulations must be observed at all times, including times when production is not taking place. Smoking is only permitted during meal/crib breaks and official rest breaks.

25. Alcohol and Drugs

The consumption of alcohol or other drugs (excepting medication prescribed for an employee by a registered medical practitioner) during working time (including during meal and other breaks) is an unacceptable safety risk and is not permitted.

26. Workplace Video Surveillance

Video cameras may be installed on sites to ensure the security of employees, protection of Dairy Farmers investment and surveillance of external perimeters in accordance with the Workplace Video Surveillance Act 1998 (NSW). Dairy Farmers will consult with the Union Delegate and employees in the section or sections concerned prior to the installation of overt video surveillance.

27. Access to Training

Promotion and access to training shall be offered on the basis of an assessment of ability by Dairy Farmers, provided that in the case of equal ability, as determined by Dairy Farmers, seniority shall apply.

28. Training and Education

The parties shall continue to develop and implement a training and education program for employees. This training and education program shall include training and education dealing with the following issues:

occupational health and safety;
safer work practices;
agreement and other industrial entitlements;
enterprise bargaining;
industry developments;
responsibility of union delegates;
legislative developments; and
productivity enhancement;

The parties shall separately enter into an agreement for the delivery of training and education services pursuant to this program.

29. Classification

During the life of this Agreement, Dairy Farmers and its employees agree to the development and implementation of a new classification structure.

Basic Principles of the Classification Structure are:

The classification structure will be aligned to the Food Processing Certificate.
Will comprise 6 levels
Roles and responsibilities have been identified and will be refined as part of the project
Will incorporate Team Based Maintenance
Will comprise of two new levels - Food Technician and Food Trade
Level 4 and above is by appointment
Assessments will be conducted by qualified workplace assessors
No employee will be financially disadvantaged by implementation of the new classification structure

Implementation:

A Working Party will be identified to develop and implement the new classification structure
The 10 step implementation process will be utilised
An external Government representative will be used for clarification of training related issues
Entry to the classification structure can be at any level
The entry level is determined by the employees current classification level
Employees will undertake a skills assessment against the new classification structure
Gap training in any or all of the three foundations - people, process or team based maintenance may be required

Employees will not unreasonably refuse to gap train, however consideration will be given to individual circumstances

A formal appeals process will be agreed upon as part of the implementation process

Any grievances or dispute that may arise should follow the dispute settling procedure.

30. Job Skills Training

- (i) Employees who are classified as Leading Hands on each shift shall conduct job skills training in their areas of competence for Operators. Payment for conducting this training is contained within their Leading Hand allowance.
- (ii) Non-Leading Hand operators authorised in writing by a Supervisor or Manager to conduct training will be paid during the time taken to conduct such training an amount equal to the allowance in Appendix C of this Agreement for a Leading Hand in charge of more than 2 but less than ten employees, with the allowance proportioned to the number of hours the operator conducts the training.

31. KPI's

During the term of this Agreement, the parties will continue to review and monitor agreed key performance indicators (KPI's) on operational performance at each site consistent with best practice principles. The parties are committed to the process of continuous improvement and service excellence and will use the agreed KPI's as a means of measuring what has been achieved and setting targets for further improvements.

32. Bag and Vehicle Inspection

As a condition of employment employees authorise Dairy Farmers to inspect the employee's bag and motor vehicle whilst on or leaving Dairy Farmers premises, in accordance with the Dairy Farmers protocol detailed at Appendix B. Any issue or matter arising from the inspection procedures will be processed in accordance with the Settlement of Disputes clause.

33. Blood Donors

At the request of employees at each site, Dairy Farmers will arrange a visit of the mobile blood bank at a time and frequency which meets site operating requirements.

34. Superannuation

Dairy Farmers agrees to meet its obligations flowing from the Superannuation Guarantee Legislation by making contributions on behalf of its employees as follows:

- (a) Weekly Full-time Employees

The employee has the choice between the Dairy Farmers Superannuation Plan and the TWU Superannuation Fund.

- (b) Casual Employees

All contributions will be paid to the TWU Superannuation Fund.

In respect of Superannuation, this clause supersedes all previous agreements, enterprise agreements and former industrial agreements.

35. Superannuation Salary Sacrifice

- 1. From the date nominated by Dairy Farmers as the date of commencement and subject to any relevant taxation and superannuation legislation, regulations and/or rules, Dairy Farmers may, if so requested by a weekly full-time or weekly part-time employee ("employee"), agree to allow an employee to sacrifice

part of their gross weekly ordinary time base rate of pay (excluding overtime, shift/weekend/public holiday penalties and any allowances which are not paid for all purposes) ("weekly pay") as superannuation contributions ("Salary Sacrifice contributions") in accordance with the following provisions:

- (a) The Salary Sacrifice contributions may only be made to the superannuation fund to which Dairy Farmers makes the employee's superannuation contributions under this Agreement and only if such fund is permitted to accept the Salary Sacrifice contributions ("nominated plan").
 - (b) An employee must request and authorise Dairy Farmers in writing to make Salary Sacrifice contributions to the nominated plan and complete and sign any documentation required by Dairy Farmers or the fund manager or trustee (as the case may be) of the nominated plan.
 - (c) Salary Sacrifice contributions made for an employee are in addition to the contributions Dairy Farmers is required to make for the employee under the superannuation guarantee legislation ("Dairy Farmers superannuation contributions").
 - (d) The amount of Salary Sacrifice contributions are to be nominated by the employee and must be expressed as an amount of money and not as a percentage of their weekly pay and such amount is not to exceed the employee's age-based deduction limit (as determined from time to time under the relevant superannuation legislation).
 - (e) The amount of any Salary Sacrifice contribution is deducted from the employee's weekly pay. However, the amount of the employee's weekly pay without any deduction for Salary Sacrifice contributions will be used for the purposes of calculating the Dairy Farmers superannuation contributions, annual leave loading, overtime, penalty rates, payment of accrued leave on termination and, if applicable, payment in lieu of notice and severance payments.
 - (f) Dairy Farmers will remit Salary Sacrifice contributions to the nominated plan at the same time that Dairy Farmers superannuation contributions are made.
 - (g) After having nominated the amount of Salary Sacrifice contributions to be made, the employee (except in cases of demonstrated hardship) may not change the amount more than once in any twelve (12) month period.
 - (h) Unless there is written agreement between Dairy Farmers and the employee to the contrary, all Salary Sacrifice contributions shall cease during any period when the employee is receiving workers compensation payments and during any period of leave without pay including, without limitation, periods of unpaid sick leave.
 - (i) Dairy Farmers may at any time in its absolute discretion cease to make Salary Sacrifice contributions on behalf of the employee and will advise the employee in writing accordingly.
 - (j) The employee may at any time advise Dairy Farmers in writing to cease making the Salary Sacrifice contributions on behalf of the employee.
2. Dairy Farmers recommends that an employee obtain independent legal and/or financial advice before they elect to make Salary Sacrifice contributions.

36. Labour Hire

Employees of Labour Hire companies working at Dairy Farmers sites who are performing work described by the classifications in this Agreement will be paid the appropriate rates of pay prescribed by this Agreement.

37. Transport Contractors

- (i) Dairy Farmers undertakes to investigate any complaint made in writing by the State Secretary or Assistant State Secretary of the TWU in respect of an alleged serious breach or breaches of traffic and industrial legislation committed by a Transport Contractor in the course of undertaking a Dairy Farmers

contract. The complaint will provide detail of the allegations, copies of the evidence of the alleged breach or breaches which the TWU has in its possession and will describe the action the TWU is taking in its own right in respect of the allegations.

Subject to Dairy Farmers complying with its legal obligations regarding confidentiality or privacy, Dairy Farmers will advise the TWU in writing of the outcome of an investigation of such breach or breaches.

- (ii) It is agreed in principle that it is Dairy Farmers intention, in its absolute discretion, to bring the contractual agreement with a Transport Contractor to an end in the case of persistent proven serious breaches of traffic and industrial legislation by that Transport Contractor. Such termination would be subject to Dairy Farmers at all times complying with the termination provisions of the contract with that Transport Contractor.

38. Commitment to Agreement

1. In the event that legislative change enacted after the making of this Agreement (including legislative changes enacted by the Commonwealth parliament) renders inoperative or invalid any or all of the provisions of this registered enterprise Agreement, the parties agree to treat the Agreement and all of its provisions as subsisting independent of any legislative framework.
2. In the event that legislative change enacted after making of this agreement (including legislative change enacted by the Commonwealth parliament) affects the operation or validity of state agreement/contract determination provisions, with the result of eliminating or reducing agreement entitlements of employees covered by this Agreement the parties agree that such state agreement provisions will be deemed to be part of this Agreement (and incorporated as provisions of this Agreement) from the moment they cease to be operative or valid, except where they are inconsistent with an express provision of this Agreement.
3. In the event that legislative change (including legislative change enacted by the Commonwealth parliament) affects the capacity of the Union to exercise the rights it possesses under section 296, 297 or 298 of the Industrial Relations Act NSW 1996, the parties agree that those provisions will be deemed to be part of this Agreement from the moment they cease to be operative or valid.
4. .In the event that legislative change (including legislative change enacted by the commonwealth parliament) affects the capacity of an employee or the Union to exercise the rights it possesses under Part 6 of Chapter 2 of the Industrial Relations Act NSW 1996, the parties agree that the following provision will be deemed to be part of this agreement (and incorporated as provisions of this agreement) from the moment that capacity is affected:
 - A. Termination of an employee's employment shall not be harsh, unreasonable or unjust.
 - B. The parties commit to using the dispute settlement procedure to resolve any disputes over termination of employment, including disputes where it is alleged by a former employee that termination was harsh, unreasonable or unjust.

39. Nominal Term

This agreement takes effect from the date of approval and has a nominal term of 3 years.

40. No Extra Claims

The parties to this Agreement will not pursue any extra claims during the term of the Agreement relating to wages, allowances or changes to conditions of employment or any other matters related to the employment of the employees, whether dealt with in the Agreement or not.

41. Settlement of Disputes

To promote good industrial relations between employees on each site and Dairy Farmers, the following procedure will be observed:

- (i) Where any problem, complaint, query, misunderstanding, or grievance arises, the matter shall first be raised with the Supervisor of the work area. The Supervisor will make every effort to respond within 24 hours.
- (ii) In the event that the matter remains unresolved, the Union Delegate will attempt to resolve the matter with the Manager of the work area. The Manager will make every effort to respond within 24 hours.
- (iii) In the event of failure to resolve the matter at job level, discussion will take place between a Union Organiser and a Senior Manager on each site.
- (iv) If the matter is still unresolved, the TWU Secretary or his/her representative will confer with Senior Management of Dairy Farmers.
- (v) In the event of no agreement still being reached, the dispute will be referred to the Industrial Relations Commission of New South Wales for resolution.
- (vi) Normal work must continue under this Agreement and the agreement listed at Appendix A and no bans or industrial action of any kind shall take place whilst this procedure is being followed.

42. Anti-Discrimination

- (i) It is the intention of the parties bound by this agreement to seek to achieve the object of in section 3(f) of the *Industrial Relations Act 1996* (NSW), to prevent and eliminate discrimination in the workplace on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) Accordingly, in fulfilling their obligations under the dispute resolution procedure, the parties must take all reasonable steps to ensure that neither the award provisions nor their operation are directly or indirectly discriminatory in their effects.
- (iii) Under the *Anti-Discrimination Act 1977* (NSW), it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (iv) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*(NSW);
 - (d) a party to this award from pursuing matters of unlawful discrimination in any state or federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon by the parties by the legislation referred to in this clause.

NOTES

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

TABLE 1
Ordinary Time Rates

Classification	Current Rate	Column 1 27.06.06	Column 2 27.06.07	Column 3 27.06.08
(i) Division A: Production Section				
1. Production Assistant	640.00	672.00	705.60	740.88
2. Plant Operator Grade 1	654.90	687.65	722.03	758.13
3. Plant Operator Grade 2	675.20	708.96	744.41	781.63
4. Plant Operator Grade 3	705.00	740.25	777.26	816.13
Division B: Transport Section				
5. Milk Carter on Rounds	699.50	734.48	771.20	809.76
6. Relief Milk Carter	703.30	738.47	775.39	814.16
7. Relief Motor Wagon Driver	714.50	750.23	787.74	827.12
8. Fork Lift Driver	699.40	734.37	771.09	809.64
9. Tanker Driver - 15,911 litres capacity or more	743.20	780.36	819.38	860.35
10. Tanker Driver Grader:	724.70			
(a) Under 15,911 capacity	747.80	760.94	798.98	838.93
(b) From 15,911 capacity		785.19	824.45	865.67
11. Drivers of Motor Wagons having a manufacturer's gross vehicle mass in tonnes:				
(a) Up to 13,948	714.10	749.81	787.30	826.66
(b) Over 13,948 & up to 15,468	716.90	752.75	790.38	829.90
(c) Over 15,468 & up to 16,919	718.50	754.43	792.15	831.75
(d) Over 16,919 & up to 18,371	720.10	756.11	793.91	833.61
(e) Over 18,371 & up to 19,371	722.50	758.63	796.56	836.38
(f) Over 19,371 & up to 21,092	723.80	759.99	797.99	837.89
(g) Over 21,092	726.90	763.25	801.41	841.48
(ii) Junior Labour				
(a) The minimum rate of wages for Milk Carter's Assistants and Boys on Carts shall be as follows:				
Under 18 years of age	404.10	424.31	445.52	467.80
At 18 & under 19 years of age	480.30	504.32	529.53	556.01
At 19 & under 20 years of age	524.90	551.15	578.70	607.64
At 20 & under 21 years of age	549.00	576.45	605.27	635.54
(b) The minimum rates of wages for an employee washing and filling bottles and all work in connection therewith and a Junior Laboratory Employee shall be as follows:				
Under 18 years of age	416.85	437.69	459.58	482.56
At 18 & under 19 years of age	469.60	493.08	517.73	543.62
At 19 & under 20 years of age	529.10	555.56	583.33	612.50
At 20 & under 21 years of age	584.10	613.31	643.97	676.17

TABLE 2
Allowances

	Current	27.06.06	27.06.07	27.06.08
(i) Leading Hand				
In charge of more than 2 but less than 10 employees	22.08	23.18	24.34	25.56
In charge of more than 10 employees	28.29	29.70	31.19	32.75
(ii) Charge Hand per day	6.07	6.37	6.69	7.03
(iii) First Aid	14.06	14.76	15.50	16.28
(iv) Forklift Drivers loading &/or unloading trailers per week	7.57	7.95	8.35	8.76
(v) Vendor Vehicles per day	3.03	3.18	3.34	3.51
(vi) TAFE Diploma/Advanced Certificate	18.75	19.69	20.67	21.71
(vii) Cargon Depots Cold Temperatures per hour	0.53	0.56	0.58	0.61
(viii) Entire shift fully enclosed Refrigerated	0.53	0.56	0.58	0.61
Warehouse/Distribution Depot per hour				
(ix) Artclulated Vehicles				
Where the semi-trailer has a single axle	35.99	37.79	39.68	41.66
Where the semi-trailer has 2 axles	44.45	46.67	49.01	51.46
Where the semi-trailer has more than 2 axles	51.88	54.47	57.20	60.06
(x) Meal allowance	10.99	11.54	12.12	12.72
(xi) Laundry allowance per week	6.95	7.30	7.66	8.05
(xii) Shift allowances				
Morning Shift per shift	9.88	10.37	10.89	11.44
Afternoon Shift per shift	12.96	13.61	14.29	15.00
Night Shift per shift	16.33	17.15	18.00	18.90
Permanent Afternoon/Night Shift per shift extra	3.44	3.61	3.79	3.98
(xiii) Turret Truck per week	13.36	14.03	14.73	15.47
(xiv) High Reach Forklift Allowance per week	7.67	8.05	8.45	8.87

APPENDIX A

Plant Operator, Grade 1 (g)

DAF Operator

Plant Operator, Grade 2 (h)

DAF Operator with a TAFE Trade Waste Certificate

Plant Operator, Grade 3 (g)

Senior Operator responsible for advanced packaging, processing, intake and cleaning functions as determined by Dairy Farmers

Plant Operator, Grade 3 (h)

DAF Operator (certified) with 3 months experience after obtaining a TAFE Trade Waste Certificate

(ii) Charge Hands

An employee who, for 2 hours or more on any day, is required to take charge of a depot or is made responsible by Dairy Farmers for the overall output of a production or transport shift or section or multi-disciplinary work team shall be paid the Charge Hand allowance set out in (ii) of Table 2.

(iii) Turret Truck

An employee employed in the UHT Warehouse at Wetherill Park who has a current licence to operate a Turret Truck will be paid the Turret Truck allowance contained herein. Employees who normally work

in other sections of the plant who hold the appropriate licence will be paid the allowance only for the days when they actually operate the Turret Truck.

- (iv) High Reach Forklift.
 - (a) An employee operating a High Reach Forklift on a permanent basis or, at least, for a predominant part of time work shall be paid the application amount specified in Table 2 per week.
 - (b) An employee operating a High Reach Forklift on a basis other than that specified in (a) above, shall be paid 1/5 of the applicable amount specified in Table 2 for each day or part thereof on which they operate a High Reach Forklift.

APPENDIX B

Site operating requirements

Walking time - Wetherill Park

The TWU and Dairy Farmers will negotiate regarding the removal of walking time for meal/crib/rest breaks if a new meal room is provided in the production area.

APPENDIX C

BAG AND VEHICLE INSPECTIONS PROTOCOL

When will Inspections Take Place?

Bag and vehicle inspections will be randomly conducted. As the proposed enterprise agreement clause states, inspections may take place when a person is on or leaving Dairy Farmers' premises. While in the normal course some inspections will coincide with end of shifts, inspections will also be conducted at other unprogrammed times to ensure their random nature.

Who is to be Subject to Inspections?

All persons on or leaving a site will be subject to the random inspections - meaning all employees (including supervisors and managers), contractors, visitors and any other persons entering sites.

Who is to Conduct Inspections?

Security contractors, whose employees are trained in inspection procedures, will conduct the inspections at arms length from Dairy Farmers. To maintain the random nature of the inspections, Dairy Farmers will only give broad instructions to the contractors as to when the inspections are to occur. Dairy Farmers management will not be advised in advance of when an inspection will be conducted.

This does not affect the right that Dairy Farmers otherwise has to investigate instances of alleged theft.

Privacy

Security contractors are to be instructed that the sole purpose of the inspection is to establish whether Dairy Farmers' product or equipment is being removed from a site without authorisation. With the exceptions following, any personal belongings of the person subject to the inspection will be ignored. The exceptions are whether the person has in their possession items or articles that, prima facie, there is no legal reason for the person to have in their possession on a Dairy Farmers site. These include firearms or other weapons and illegal drugs. If a person is found to have such items in their possession, they will be reported to Dairy Farmers for appropriate follow-up investigation.

Any person who has product purchased at the site or is requested to take product or property off the site should have the receipt or other written authorisation for the product or property with them each time and present it when requested at the inspection.

Those who do not want their bag or vehicle to be inspected have the choice not to bring them on to a Dairy Farmers site.

Where on Site will Inspections Take Place?

This is a matter appropriately dealt with at each site.

What is the Frequency of Inspections?

Within the broad instructions Dairy Farmers will provide to security contractors that the inspections are to be unprogrammed and random, the searches may take place daily on each shift.

The enterprise agreement clause notes that any person who has an issue with the inspection procedures, such as that they are subjective, may process that issue through the settlement of disputes procedure.

Record of Inspections

No record of inspections will be kept other than when the inspection took place, where the inspection took place, the approximate number of people subject to the inspection and any matter that the security contractor reported to Dairy Farmers.

Payment for Time Taken for Inspection

As the expected time taken for an inspection will be very short, no additional payment will be made for the time involved, provided that an employee who is kept waiting for a period greater than eight minutes from the time they arrive at the inspection point will be paid for that time at ordinary time rates. As employees and others become more familiar with the inspections, they will know to have their bag open with an unobstructed view of the contents available to the security guard, and also to have their vehicles in similar readiness so as to avoid delay. A sufficient number of guards will be conducting the inspections so that queues do not form and delay is avoided.

SIGNATORIES

The parties to this Agreement sign hereunder:

SIGNED BY

DAIRY FARMERS } _____

BEFORE ME } _____

Dated: 9 September 2005.

SIGNED BY

TRANSPORT WORKERS' } _____
UNION OF NEW SOUTH WALES } _____

BEFORE ME } _____
Acting Secretary
Wayne Forno.

BEFORE ME :

Dated : 13 September 2005.