

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/376

TITLE: **TJ & RF Fordham Haulage Enterprise Agreement 2005**

I.R.C. NO: IRC5/5724

DATE APPROVED/COMMENCEMENT: 15 December 2005 / 15 December 2005

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**NEW AGREEMENT OR
VARIATION:** New.

GAZETTAL REFERENCE: 6 January 2006

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COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by TJ & RF Fordham Pty Ltd located at 200 Springs Road, Spring Farm NSW 2570, who are engaged as truck drivers, who fall within the coverage of the Transport Industry (State) Award.

PARTIES: TJ & RF Fordham Pty Ltd -&- the Transport Workers' Union of New South Wales

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Before the Honourable **Justice Marks**

TJ & RF FORDHAM HAULAGE ENTERPRISE AGREEMENT

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PART 1

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2. Introduction and Objectives

The purpose of this agreement is to set out the benefits and conditions of work for persons employed by TJ & RF Fordham Pty Ltd (TRN) in Haulage operations.

The object of this agreement is to recognise the work methods that apply at TRN and to establish an enduring, profitable and productive enterprise through the efficient and effective provision of high quality services that will be beneficial to the employees, the company, its clients and the community; therefore the company and its employees, through the consultative process, shall endeavour to collaborate, where possible, on achieving these objectives.

3. Wage Rates & Classifications

3.1 The wage rates in this agreement for the classifications described in subclause (3.2) are the total weekly wage rates of pay, inclusive of the basic wage for adult persons, and apply equally to male and female persons.

3.2 Classifications –

3.2.1 Subject to the provisions of this agreement the weekly wage rate for a permanent employee working 38 hours per week shall be as set out in Table 1 - Wage Rates, of Part B, Monetary Rates.

3.2.2 Transport Operator Grade 1 shall mean an employee who has been appointed to this grade and who is required to perform any of the following functions for which he or she has been trained:

- Extra hand
- Yard person
- Driver of tow motor

Driver of motor vehicle equivalent to a Class 1 licence

3.2.3 Transport Operator Grade 2 shall mean an employee who has been appointed to this grade and who is required to perform any of the following functions for which he or she has been trained:

- Driver of a two-axle rigid vehicle with a gross vehicle mass of up to 4.5 tonnes

- Operator of a forklift with a capacity of up to 4.5 tonnes
- Loader
- Platform hand
- Truck washer, security, driver of an unladen vehicle within the confines of the yard

3.2.4 Transport Operator Grade 3 shall mean an employee who has been appointed to this grade and who is required to perform any of the following functions for which he or she has been trained:

3.2.5 Driver of a two-axle rigid vehicle with a gross vehicle mass of over 4.5 tonnes

- Operator of a forklift with a capacity of over 4.5 tonnes and not exceeding 9 tonnes

- Operator of a straddle truck
- Store person

3.2.6 Transport Operator Grade 4 shall mean an employee who has been appointed to this grade and who is required to perform any of the following functions for which he or she has been trained:

- Operator of a forklift with a capacity of up to 15 tonnes
- Driver of a three-axle rigid vehicle

3.2.7 Transport Operator Grade 5 shall mean an employee who has been appointed to this grade and who is required to perform any of the following functions for which he or she has been trained:

- Driver of a four-axle rigid vehicle
- Driver of an articulated vehicle with a total of three axles
- Driver of a rigid vehicle/trailer combination with a total of three

axles

Operator of a forklift with a capacity of up to 30 tonnes

- 3.2.8 Transport operator Grade 6 shall mean an employee who has been appointed to this grade and who is required to perform any of the following functions for which he or she has been trained:

Driver of an articulated vehicle with a total of four axles

Operator of a forklift with a capacity of up to 60 tonnes

Operator of a front end loader up to 65 bhp

- 3.2.9 Transport Operator Grade 7 shall mean an employee who has been appointed to this grade and who is required to perform any of the following functions for which he or she has been trained:

Driver of an articulated vehicle with a total of five or six axles

Driver of a rigid vehicle/trailer combination with a total of five, six or seven axles

Operator of a forklift with a capacity in excess of 60 tonnes

Operator of a front end loader over 65 bhp

- 3.2.10 Transport Operator Grade 8 shall mean an employee who has been appointed to this grade and who is required to perform any of the following functions for which he or she has been trained:

- 3.2.11 Driver of a double articulated vehicle (i.e., a vehicle known as a "B-Double")

Driver of rigid vehicle/triple trailer combinations (i.e., a vehicle known as a "road train")

- 3.3 An employee may be required to carry out work including duties of a lesser grade than that in which he or she is employed.

4. Hours of Work

- 4.1 The ordinary hours of work for employees shall be as per clause 3.1 the Transport Industry (State) Award.

- 4.2 The ordinary hours of work shall not exceed eight hours per day (exclusive of meal breaks) on any five days, Monday to Friday, between the hours of 4.00am and 6.00pm, except where the employer and the employee have agreed in writing to work up to 12 hours per day (exclusive of meal breaks) to enable the employee to work less than a five-day week.

- 4.3 Where an employee chooses to start work before 4.00am (as distinct from being directed to do so), the chosen starting time shall be deemed to be within the ordinary hours of work.

- 4.4 Commencement times may be staggered by the employer consistent with this agreement.
- 4.5 More flexible starting times and ordinary days of work, including Saturdays and Sundays, may be agreed in writing between the employer, the employee and the authorised union representative, in which case the ordinary hours of work and ordinary rate of pay shall be in accordance with the Award.
- 4.6 The minimum daily engagement (other than for casual employees) shall be 8.0 hours Monday to Friday and 4.0 hours on Saturday and Sunday.

5. Recall

- 5.1 An employee recalled for work shall be guaranteed and shall be paid for at least four hours work for each start at the appropriate rates of pay.

This clause shall also apply to any employee called upon to work before his or her normal starting time, and whose overtime work does not continue up to such starting time.

6. Rostered Days Off

- 6.1 For every ordinary day where 8 hours or more is worked every permanent employee shall accrue 24 minutes towards a paid rostered day off.
- 6.2 During times of business downturn, employees may be directed to take accumulated rostered days off by the employer at the employer's discretion subject to a roster.
- 6.3 Accumulated rostered days off may be paid out at the request of the employee and by agreement with the employer, provided that the employee maintains a balance of five accrued rostered days off. Such payment of accumulated rostered days off shall be at the ordinary hours wage rate.
- 6.4 Employees may elect, subject to sufficient leave entitlement to have up to 12 hours booked for any rostered day off taken.

7. Shift Work

As per the Transport Industry State Award

8. Casual Employees

As per the Transport Industry State Award

9. Public Holidays and Overtime

- 9.1 Permanent employees required to work on New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day, or any other days which may be proclaimed by the Government and which are observed as public holidays for the area covered by this agreement, shall be entitled to be paid, in addition to the normal day's pay, at the rate of time and one half of the ordinary time rate, provided that for Christmas Day or Good Friday payment shall be at the rate of double the ordinary time rate.
- 9.2 All employees may be required to work reasonable overtime. For the purposes of this agreement reasonable overtime shall be the amount of extra hours required to make up 12 hours per day (subject to clause 4.2).
- 9.3 Overtime shall be paid at the rate of one and one half times the ordinary time classification rate for the first two hours and double time thereafter.
- 9.4 Overtime worked on each day shall stand alone.
- 9.5 Overtime worked on a Saturday or Sunday by an employee engaged on a Monday to Friday basis shall be paid a minimum of four hours at the rate of time and one half for the first two hours and double time thereafter on Saturday, and at the rate of double time on Sunday. Provided that an employee (other than an employee working an ordinary shift) who is required to commence work on a Saturday at 12.00 noon or thereafter shall be paid at double time.
- 9.6 Overtime worked on days of an agreed working week pursuant to clauses 4.2 and 4.5, shall be paid at the same rate as described in subclause 9.3 above.

10. Time and Payment of Wages

- 10.1 Wages will be calculated and paid on actual time worked as recorded by either manual or electronic recording systems.
- 10.2 Wages for weekly hire employees will be paid on Wednesday evening of each week by electronic funds transfer (EFT) into up to three accounts at any financial institution. This pay will cover the previous week up to Sunday.

11. Technological Change and Quality Assurance

- 11.1 The parties to this agreement accept the introduction of technological change and quality assurance in the road transport industry as a means of maximising customer satisfaction and reliability of service to those customers.
- 11.2 Parties to this agreement are committed to the acceptance and operation of systems as a result of technological change. Such systems shall include, but not be limited to:
- vehicle monitoring
 - global monitoring systems
 - automated scheduling

data fuel systems
evaluation of new vehicles and equipment
operation of key pads
quality assurance monitoring tools

- 11.3 The parties to this agreement are committed to the acceptance of changes to operational systems which provide quality assurance to the services provided by the employer and the employees. This may involve procedural and documentation changes to better be able to provide a record of the quality of the service provided to customers. It is further recognised by the parties that these systems may have to be modified to the individual circumstances of individual customers.

12. Sick Leave

Each permanent employee shall be entitled to sick leave on the following bases:

- 12.1 In the first year of service - five days.
- 12.2 After the employee's first service year the employee is entitled to a further eight days sick leave.
- 12.3 Sick leave will accumulate.
- 12.4 An employee shall prove by providing a medical certificate or other evidence to the satisfaction of the employer that the employee was unable on account of such illness or injury to attend for duty on the day or days for which sick leave is claimed.

13. Annual Leave

- 13.1 Annual leave shall be as prescribed by the *Annual Holidays Act 1944*.
- 13.2 An annual leave loading of 25 percent will be paid on the completion of each service year and at the time of commencing the annual leave if requested. Alternatively, such leave loading will be paid at the commencement of the Christmas shutdown as has been the procedure in the past.
- 13.3 Annual leave loading is not payable on pro rata annual leave.

14. Long Service Leave

Long service leave will be in accordance with the *Long Service Leave Act 1955*.

15. Parental Leave

Maternity leave, paternity leave or adoption leave shall be granted in accordance with the provisions of Division 1 of Part 4 of Chapter 2 of the Industrial Relations Act 1996.

16. Bereavement Leave

- 16.1 An employee, other than a casual employee, shall be entitled to a maximum of three days bereavement leave without deduction of pay, on each occasion of the death of a person within Australia as prescribed in 16.3.
- 16.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will provide to the satisfaction of the employer proof of death.
- 16.3 Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in 41.1.3.2 provided that, for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- 16.4 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- 16.5 Bereavement leave may be taken in conjunction with other leave available under 39.2, 39.3, 39.4, 39.5 and 39.6. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

17. Jury Service

- 17.1 An employee required to attend for jury service during his/her ordinary hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of his/her attendance for such jury service and the amount of wage he or she would have received in respect of the ordinary time he or she would have worked had the employee not been on jury service.
- 17.2 An employee shall notify the employer as soon as possible of the date upon which he or she is required to attend for jury service. Further, the employee shall give the employer proof of his or her attendance, the duration of such attendance and the amount received in respect of such jury service.
- 17.3 Where the day or days upon which an employee is required to attend for jury service coincide with time rostered for the employee to take off, pursuant to clause 7, Rostered Days Off, such rostered time off shall be deemed to have been taken with the roster.

18. Union Membership

- 18.1 The employer makes acknowledges the right of every individual to join the union.
- 18.2 The company shall extend payroll deduction facilities to all employees who request that their union membership be paid in such manner.

19. Union Delegate(s)

- 19.1 An employee appointed as union delegate to the yard shall, upon notification thereof to the employer by the branch or sub-branch Secretary of the union, be recognised as the accredited representative of the union.
- 19.2 Any matter arising in the yard affecting members of the union may be investigated by the delegate and discussed with the employer or the employer's representative. The delegate shall, at his/her request, be allowed a reasonable opportunity to carry out such duties at a time reasonably convenient to himself or herself and the employer.
- 19.3 If a matter in dispute is not settled, the delegate shall, on request, be allowed access to a telephone for a reasonable opportunity of notifying the union branch or sub-branch concerned.
- 19.4 The union delegate(s) shall at all times be ready to discuss ways in which improvements, including technological changes, can be introduced to improve safety, public convenience, company efficiency and job security.
- 19.5 Delegates will be allowed a combined maximum of two days per annum (based on a calendar year) to attend TWU called meetings. Prior advice to management is required so as to minimise the disruption to the operation. Each day will be paid to a maximum of 8 ordinary hours pay.

20. Notice Board and Meetings

- 20.1 The employer shall supply a notice board of reasonable dimensions, to be erected or to be placed in a prominent position in the yard, depot or garage, upon which accredited representatives of the union shall be permitted to post formal union notices signed by the representative or representatives.

21. Right of Entry

Right of entry of union officials shall be in accordance with the requirements of the *Industrial Relations Act 1996*.

22. Unauthorised Persons Riding on Vehicles

An employee shall not permit any unauthorised person to accompany him or her on his or her vehicle, nor permit any such persons to assist him or her in the delivery of goods, wares, merchandise or material.

23. Limitation of Driving Hours

The only limitation upon driving hours shall be as provided from time to time by the *Motor Traffic Act 1968* and regulations there under.

24. Mixed Functions

Employees directed by the employer to carry out duties of a higher grade shall receive the rate applicable to the work for the actual time so worked and when required to work for more than four hours on such work in any one day shall be paid as for the whole day's work.

25. Work Practices

- 25.1 The parties acknowledge that the company has the right to allocate plant and work without preferential treatment towards any person or group.
- 25.2 The allocation of plant and work is at the discretion of the company to suit the needs of the enterprise.
- 25.3 Any employee may invoke the grievance procedure if not happy with any action affecting him/her directly under this clause.

26. Workplace Health and Safety

- 26.1 The employer and employees shall comply with the requirements of the *Occupational health and Safety Act 2000*, and any amendment thereof, and with Regulations made under the said Act.
- 26.2 Employees shall ensure all work is performed in a safe and responsible manner.
- 26.3 An employee who is supplied with protective equipment or material must wear or use it in such a way as to achieve the purpose for which it is supplied.
- 26.4 Employees may from time to time be required to undertake a health or physical assessment to ensure that the work requirements or the work environment will not adversely affect their wellbeing and to ascertain an employee's capacity for work.

27. Amenities

- 27.1 The following facilities shall be available at all yards and depots where employees are engaged under the provisions of this agreement:
 - 27.1.1 Where employees are required to partake of meals at the employer's yard or depot, a dining room with seating and table accommodation for the partaking of meals, also facilities for boiling water and heating food.
 - 27.1.2 Lavatory facilities.

28. Meals

- 28.1 There shall be an unpaid meal break of 30 continuous minute's duration for all employees during the day. On weekend work and public holidays all meal breaks shall be paid.
- 28.2 Employees shall be entitled to a 15 minute paid crib break.
- 28.3 Meal & Crib breaks shall be taken at times that are appropriate in meeting legal requirements with respect to rest breaks and driving hours.
- 28.4 Wherever possible, such meal breaks are to be taken during stoppages, delays in loading(s) or unloading(s), or extended queues.
- 28.5 Adding time to the end of your day in lieu of taking a meal or crib break is not acceptable. All employees, through their training as professional drivers, acknowledge the importance of rest and meal breaks on the safe performance of their duties.
- 28.6 Employees shall log all meal and other breaks on their time sheet.
- 28.7 Employees working overtime of 2 hours or more on a weekday shall receive a meal allowance as set out in Item 1 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates.

29. Youths

- 29.1 For the purpose of this agreement a youth shall mean a person under the age of 21 years.
- 29.2 A youth may be employed in any classification for which he/she is qualified.
- 29.3 The rates of pay for a youth shall be a percentage of the corresponding adult classification, dependent upon age:
At 18 years of age and under..... 75 per cent
At 19 years of age..... 85 per cent
At 20 years of age 90 per cent
- 29.4 There is no ratio of adults to youths.

30. Disputes and Individual Grievance Procedure

- 30.1 Subject to the *Industrial Relations Act 1996*, any dispute or individual grievance shall be dealt with in the following manner:
 - 30.1.1. In the event of an individual grievance or industrial dispute, the employee and/or the representative of the union on the job and the transport supervisor shall attempt to resolve the matters in issue in the first place.
 - 30.1.2 In the event of failure to resolve the dispute at job level, the matter shall be the subject of discussions between an organiser of the union and the transport manager.

- 30.1.3 Should the dispute still remain unresolved, the Secretary of the union or his or her representative will confer with senior management or their representative.
- 30.1.4 In the event of no agreement being reached at this stage, the dispute will be referred to the Industrial Relations Commission of New South Wales for resolution or settlement.
- 30.1.5 All work shall continue normally while these procedures are taking place and the status quo prevailing immediately prior to the commencement of the dispute shall remain.

31. Uniforms and Safety Apparel

- 31.1 Where uniform(s) and safety apparel are provided by the company, the employees are required to wear such items in accordance with company policy.
- 31.2 Such uniforms and safety apparel shall be issued on an annual basis in and shall remain the property of the company.
- 31.3 It will be the responsibility of the employee to maintain and launder company supplied uniforms. The company uniform is to be considered PPE.

32. Transfers

- 32.1 The company retains the right to transfer employees, either on a temporary or permanent basis, to other work or between depots or work locations, to suit the requirements and needs of the business.
- 32.2 The company will endeavour to canvass fully for volunteers prior to exercising its rights under this clause.
- 32.3 A permanent employee who is required, on a temporary basis, to start work at a place other than his or her usual yard, depot, garage or other agreed starting place, shall be in attendance at such place at the time stipulated by the employer ready to commence work but, for all time reasonably spent in reaching such place in excess of the time normally spent in travelling from, or returning to, his/her home to or from his or her usual yard, depot, garage or other agreed starting place, he or she shall be paid at the ordinary rate (except on Sundays and holidays when the rate shall be time and one half) and he or she shall also be paid any fares reasonably incurred in excess of those normally incurred in travelling between his or her home and the yard, depot, garage or other agreed starting place.
- 32.4 Employees engaged on work which precludes them from reaching their home at night shall be paid an allowance specified in Item 2 of Table 2 of Part B, pertaining to accommodation for the night, including an evening meal, bed and breakfast.

33. Medical Examinations

- 33.1 The company will require any prospective employee to undertake, at company expense, a medical examination by a qualified and practising medical practitioner, nominated by the company, prior to the company offering employment.
- 33.2 Current employees will be required to undertake medical examinations by a qualified and practising medical practitioner at the company's request from time to time.
- 33.3 The employee will grant authorisation for the results of such examinations to be made available to the company.
- 33.4 The results of any medical examination shall be provided by the company to the employee concerned.
- 33.5 Persons considered unfit for work within their classification may be reclassified to other duties, provided alternative duties are available, or terminated or retired.
- 33.6 The results of all medical examinations made available to the company are to be treated with strict confidence by the company.

34. Part Time Employees

- 34.1 Part time employees may be employed at the company's discretion.
- 34.2 The company and the employee concerned will agree upon the ordinary hours of work.
- 34.3 All other provisions of this agreement with respect to annual leave, sick leave, shift work, public holidays and long service leave shall apply to part time employees on a pro rata basis.
- 34.4 All work in excess of the agreed hours of work per week shall be at overtime rates.

35. No Extra Claims

It is a term of this agreement that the union undertakes not to pursue unilaterally any extra claims, award or over award, except when consistent with the principles of State Wage Cases.

36. Allowances

- 36.1 A driver/operator in charge of a vehicle towing a three or four axle dog with a legal gross weight exceeding 48 tonnes shall receive the allowance shown in Item 3 of Table 2 - Other Rates and Allowances, as a flat daily payment.

36.2 A driver/operator in charge of operating a float that is oversize, or over 48 tonnes gross weight, shall receive the allowance shown in Item 3 of Table 2 - Other Rates and Allowances, as a flat daily payment.

37. Definitions

37.1 Bulk Haulage shall mean, but is not limited to, the cartage by road transport of coal, quarried materials, grain or other bulk material.

37.2 Double Time shall mean the employee's ordinary time rate of pay plus 100 percent.

37.3 Driver shall mean any person engaged to drive or control any type of vehicle specified in this agreement, irrespective of his/her other duties. This definition shall not exclude other duties (including delivery of goods) ordinarily performed by a driver.

37.4 Extra Hand shall mean a person who usually accompanies a driver on a vehicle to assist in loading, unloading, deliveries, collecting and safeguarding goods, merchandise and the like transported or to be transported.

37.5 Leading Hand shall mean an employee who, in addition to his/her other duties, is required to direct the work and/or conduct, during working hours, of other employees.

37.6 Loader shall mean an employee usually engaged from time to time in the loading or unloading of any goods, wares, merchandise or materials onto or from any vehicle and work incidental to such loading and unloading, including supervision of the work of other employees.

37.7 Ordinary Rate shall mean the employee's ordinary time rate of pay which he/she is entitled to receive for the work performed in ordinary working hours,

37.8 Other Agreed Starting Place shall mean a place, other than the employer's yard, depot or garage, at which it is agreed between the employer and the employees affected, such employees will be in attendance at the time or times fixed ready to commence work in ordinary working hours. Upon such agreement having been reached between the employer and the employees, as aforesaid, the employer shall forthwith notify the branch or sub-branch Secretary of the union of the location of such other agreed starting place.

37.9 Time and One half shall mean the employee's ordinary time rate of pay plus 50 per cent.

37.10 Union shall mean the Transport Workers' Union of Australia, New South Wales Branch.

37.11 Yardman shall mean an employee engaged in or about yards, depots or garages, and whose duties shall include, if required, the washing and greasing of motor vehicles and other equipment and/or servicing of tyres.

37.12 Year shall mean the employee's service year.

37.13 Wage Increases

Employees covered by this agreement shall be subject to the increase as noted in Table 1 Wage Rates. Any increases granted by the Australian Industrial Relations Commission (AIRC) or the New South Wales Industrial Relations Commission (NSWIRC) are to be fully absorbed.

38. Minimum Term of Engagement and Termination

- 38.1 With the exception of casual employees, employment shall be on a weekly basis.
- 38.2 Subject to provisions elsewhere in this agreement, employment may be terminated by a week's notice on either side, given at any time during the week or by the payment of or forfeiture of, as the case may be, an amount equal to one week's wages.
- 38.3 Notwithstanding any provisions of subclause 38.2 the company shall have the right to dismiss an employee without notice for misconduct, neglect of duty, malingering, inefficiency, pilfering, or being found to be under the influence of alcohol or drugs.
- 38.4 All employees are subject to a three month probationary period and an employee can be terminated or resign during the probationary period with one day's notice.
- 38.5 Where an employee's performance, attendance or attitude to duty is not to the satisfaction of the company, but the company does not elect to proceed under 38.3 above, the employee shall be counselled and if the employer's dissatisfaction continues the employee shall be given three separate written warnings prior to termination.
- 38.6 Where an employee has received three warning notices within a three-year period, the employer will be entitled to terminate the employment of that employee at the time of issuing any further notice.
- 38.7 An employee with more than six month service on resignation or termination shall be given, if requested, a certificate of service stating the length and nature of the service with the company.
- 38.8 The employer may instruct an employee to carry out such duties as are within the limits of the employee's competence, skill and training consistent with the classification structure within this agreement.
- 38.9 Employees shall ensure that at the end of each working day or shift the vehicle is fuelled ready for the next day or shift. All paperwork is to be handed in on a daily basis.
- 38.10 Employees who falsify information on employment forms, or are apprehended for theft, licence disqualification or found to be using drugs, alcohol or other prohibited substances while at work, shall be instantly dismissed.

- 38.11 The company reserves the right to stand down without pay for the day any employee who shows a positive result to a random test for alcohol or prohibited substances.
- 38.12 The company reserves the right to stand down without pay to a maximum of three days, any driver/operator involved in a motor vehicle accident until such time as the company safety officer completes an investigation into the accident, provided that the driver/operator may seek redress through clause 30, Disputes and Individual Grievance Procedure.
- 38.13 Employees who have a history of being stood down due to positive results of tests for alcohol or prohibited substances will be counselled and may be dismissed.
- 38.14 Employees who are in charge of motor vehicles are responsible for ensuring that the vehicle is clean and tidy, that all specified pre-work checks are performed and are to carry out roadside repairs on the vehicle, provided they are competent to carry out such repairs as authorised by the employer.
- 38.15 The company reserves the right to reclassify any employee it deems fit to do so. Provided that where the employee is dissatisfied with the reclassification the employee may seek redress through clause 30, Disputes and Individual Grievance Procedure.
- 38.16 It is the responsibility of the employee to notify the company immediately of any loss of licence points. Failure or repeated failure to do so may lead to dismissal.
- 38.17 Employees are to exercise care in ensuring that loading limits imposed by the employer are not exceeded.
- 38.18 If the company's work declines and there is a need for reductions in staff, redundancies shall first be identified by the canvassing of volunteers. Where insufficient volunteers are forthcoming, redundancies shall be determined by the company, having regard to the relative merits, abilities and length of service of employees in conjunction with the operational requirements of the company.
- 38.19 In recommending persons to the company to undertake training programs, the training committee shall take into account the relative merits, abilities and length of service of employees.
- 38.20 Employees, who consistently fail to co-operate with either the training officer and/or the trainer/driver or disregard any reasonable requests or instructions of either, may be reprimanded, demoted or terminated at the discretion of management.
- 38.21 All employees recognise that they are trained professional drivers and as such are responsible for ensuring that all legal requirements including those relating to driving hours, speed limits and road rules are observed. Breaches of these requirements may result in counselling and an official caution. Three such warnings may result in the termination of employment.

39. State Personal/Carer's Leave Case

39.1 Use of Sick Leave

- 39.1.1. An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph 39.1.3.2.2 who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in clause 12 – Sick Leave, for absence to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.

- 39.1.2 The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.

- 39.1.3 The entitlement to use sick leave in accordance with this subclause is subject to:
 - 39.1.3.1 The employee being responsible for the care of the person concerned; and
 - 39.1.3.2 The person concerned being:
 - 39.1.3.2.1 A spouse of the employee; or
 - 39.1.3.2.2 A de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife or that person on a bona fide domestic basis although not legally married to that person, or
 - 39.1.3.2.3 A child or an adult (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - 39.1.3.2.4 A same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - 39.1.3.2.5 A relative of the employee who is a member of the same household, where for the purpose of this subparagraph:
 - 39.1.3.2.5.1 "relative" means a person related by blood, marriage or affinity;
 - 39.1.3.2.5.2 "affinity" means a relationship that one spouse because of marriage has two blood relatives of the other; and
 - 39.1.3.2.5.3 "household" means a family group living in the same domestic dwelling.

39.1.4 An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

39.2 Unpaid Leave for Family purpose

39.2.1 An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in 39.1.3.2 who is ill.

39.3 Annual Leave

39.3.1 An employee may elect with the consent of the employer, subject to the Annual Holidays Act 1944, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.

39.3.2 Access to annual leave, as prescribed in paragraph 39.3.1 of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this agreement.

39.3.3 An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

39.4 Time Off in Lieu of Payment for Overtime

39.4.1 An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.

39.4.2 Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is, an hour for each hour worked.

39.4.3 If, having elected to take time as leave in accordance with 39.4.1 the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.

39.4.4 Where no election is made in accordance with 39.4.1, the employee shall be paid overtime rates in accordance with the agreement.

39.5 Make-up Time

39.5.1 An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary

hours, and works those hours at a later time, during the spread of ordinary hours provided in the agreement, at the ordinary rate of pay.

- 39.5.2 An employee on shift work may elect, with the consent of the employer, to work “make-up time” (under which the employer takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

39.6 Rostered Days Off

- 39.6.1 An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- 39.6.2 An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
- 39.6.3 An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
- 39.6.4 This subclause is subject to the employer informing each union which is both party to the agreement and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

40. Anti Discrimination

- 40.1 It is the intention of the parties to this agreement to seek to achieve the object in section 3(f) of the Industrial Relations Act 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity and age.
- 40.2 It follows that in fulfilling their obligations under the dispute resolution procedure set out in this agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the agreement which, by its terms or operation, has a direct or indirect discriminatory effect.
- 40.3 Under the Anti-Discrimination Act 1977, 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.

- 40.4 Nothing in this clause is to be taken to affect:
 - 40.4.1 Any conduct or act which is specifically exempted from anti-discrimination legislation;
 - 40.4.2 Offering or providing junior rates of pay to persons under 21 years of age;
 - 40.4.3 Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the Anti-Discrimination Act 1977;
 - 40.4.4 A party to this agreement from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
 - 40.4.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES

Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

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.”

41. Blue Card

The company will ensure that all current employees covered by this agreement will be provided with training to blue card level.

42. Induction Training

The company will ensure that all new starters are fully inducted into the site. This will include a full understanding of workplace issues, site induction, company OH&S policies and other branch specific matters

43. Chain of Responsibility

TRN acknowledges its obligations under the New South Wales Industrial Relations Act with regard to the employment of subcontractors and to that end shall require that all subcontractors declare on a regular basis that all employees who work for the subcontractor comply with all State and Federal laws with regard to employment and tax obligations.

44. Truck Wash

An employee will be paid for truck washing at the normal hourly rate for actual time spent washing and cleaning the truck up to a maximum of 3 hours in any one week.

45. CPI Agreement

45.1 The parties agree that if during the life of this agreement the National CPI figure increases at a rate in excess of the wage movements noted in Part B. Monetary Rates the union reserves the right to raise this matter with management.

46. Superannuation

Each employee will have contributions as per the Superannuation Legislation requirements. Choice of Superannuation Fund will be extended to employees on 1st July 2005.

47. Area, Incidence and Duration

47.1 The parties to this agreement are TJ & RF Fordham Pty Ltd, the Transport Workers Union, and TJ & RF Fordham Pty Ltd employees engaged as truck drivers.

47.2 It shall take effect from the beginning of the first pay period to commence on or after the date on which this agreement is approved, and shall remain in force for a period of three years from that date.

47.3 This agreement shall be read in conjunction with the Transport Industry (State) award and shall prevail to the extent of any inconsistency with the Award.

47.4 TJ & RF Fordham Pty Ltd gives a commitment to the other parties to this agreement that for the life of the agreement the company will honour the terms of the enterprise agreement and the Transport Industry (State) Award to all transport workers.

PART B

MONETARY RATES

Table 1 - Wage Rates

Rates per 38
hour week

Classification	Upon Registering	+ 2% at 6 months	+ 2% at 1 year	+ 2% at 1yr 6 months	+ 2% at 2 years	+ 2% at 2yrs 6 months	+ 2% at 3 years
Transport Operator Grade 1	582.61	594.26	606.15	618.27	630.64	643.25	656.11
Transport Operator Grade 2	600.53	612.54	624.79	637.29	650.03	663.03	676.29
Transport Operator Grade 3	613.01	625.27	637.78	650.53	663.54	676.81	690.35
Transport Operator Grade 4	623.91	636.39	649.12	662.10	675.34	688.85	702.62
Transport Operator Grade 5	651.90	664.94	678.24	691.80	705.64	719.75	734.15
Transport Operator Grade 6	658.92	672.10	685.54	699.25	713.24	727.50	742.05
Transport Operator Grade 7	680.20	693.80	707.68	721.83	736.27	751.00	766.02
Transport Operator Grade 8	723.70	738.17	752.94	768.00	783.36	799.02	815.00

Rates per
hour

Classification	Upon Registering	+ 2% at 6 months	+ 2% at 1 year	+ 2% at 1yr 6 months	+ 2% at 2 years	+ 2% at 2yrs 6 months	+ 2% at 3 years
Transport Operator Grade 1	15.33	15.64	15.95	16.27	16.60	16.93	17.27

Transport Operator Grade 2	15.80	16.12	16.44	16.77	17.11	17.45	17.80
Transport Operator Grade 3	16.13	16.45	16.78	17.12	17.46	17.81	18.17
Transport Operator Grade 4	16.42	16.75	17.08	17.42	17.77	18.13	18.49
Transport Operator Grade 5	17.16	17.50	17.85	18.21	18.57	18.94	19.32
Transport Operator Grade 6	17.34	17.69	18.04	18.40	18.77	19.14	19.53
Transport Operator Grade 7	17.90	18.26	18.62	19.00	19.38	19.76	20.16
Transport Operator Grade 8	19.04	19.43	19.81	20.21	20.61	21.03	21.45

The above rates are inclusive of the industry allowance (IND) previously paid in a flat weekly amount.

Increases in rates will take place in the first full pay period following the anniversary date.

Table 2 - Other Rates & Allowances

Item No.	Brief Description	Basis	Rate
1	Meal Allowance	Daily	10.45
2	Overnight/Living Away From Home	Nightly	37.20
3	Skill Allowance	Daily	11.50