

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA06/21

TITLE: **Swire Cold Storage Minto Enterprise Agreement 2005**

I.R.C. NO: IRC6/27

DATE APPROVED/COMMENCEMENT: 11 January 2006 / 1 August 2005

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**NEW AGREEMENT OR
VARIATION:** New.

GAZETTAL REFERENCE: 20 January 2006

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COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to employees employed by Swire Cold Storage Pty Ltd, located at 401 Pembroke Road, Minto NSW 2566, who are classified in clause 4 of this agreement, who fall within the coverage of the Woodmasons Cold Storage - Minto Enterprise Award 1998.

PARTIES: Swires Cold Storage -&- The Australasian Meat Industry Employees' Union, New South Wales Branch

SWIRE COLD STORAGE MINTO ENTERPRISE AGREEMENT - 2005

1. TITLE

This agreement shall be known as the Swire Cold Storage – Minto Enterprise Agreement 2005.

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3. APPLICATION

This agreement shall apply to the employment of persons classified in clause 4, Definitions, herein by Swire Cold Storage Pty Ltd at 401 Pembroke Road, Minto, NSW 2566 and shall be read in conjunction with the Swire Cold Storage - Minto Enterprise Award 1998 (324 IG 150). To the extent of any inconsistency this agreement shall apply. This agreement rescinds and replaces the Swire Cold Storage Minto Enterprise Agreement–2004 and all variations.

4. DEFINITIONS

4.1 The following definitions shall apply to this agreement:

- [a] "The Union" shall mean the Australasian Meat Industry Employees Union, New South Wales Branch.

4.2 The following employee classifications structure shall apply:

- [a] A Grade 8 employee shall be a Senior Leading Hand who will be appointed to reflect the higher level of responsibility expected of the employee.

[i] Such appointments, and the number of Grade 8 employees required on individual sites, will be at the discretion of the employer.

[ii] A Grade 8 may be the operator to whom a Grade 7 reports.

[iii] Grade 8 employees shall be capable of and may perform any duties of Grades 2-7.

- [b] A Grade 7 employee is one who is appointed as a Leading Hand and is responsible for the routine operation of a warehouse/cold store or a large section of a warehouse/cold store.

[i] Shall possess a highly developed level of interpersonal and communication skills.

[ii] Shall supervise and provide job direction and guidance to other employees, assistance in induction and "on the job" training, and attend to matters of safety and occupational health as well as the disciplining and counselling of employees under their charge.

[iii] May be in charge of any number of employees as designated by the employer.

[iv] Shall implement quality control techniques and procedures.

[v] Shall have appropriate VDU/keyboard skills.

[vi] Shall be competent to perform the following skills:

- liaising with management, suppliers and customers with respect to store operations.
- maintain control registers including inventory control and be responsible for the preparation and reconciliation of regular reports of stock movements, dispatches etc.

[vii] Shall exercise discretion within the scope of this grade.

[viii] Grade 7 employees shall be capable of and may perform any duties of Grades 2-6.

- [c] A Grade 6 employee is one who:

[i] Shall have the knowledge to identify the correct use of cartons in respect of various export markets.

[ii] Shall be able to place correct port markings on export cartons and containers.

- [iii] Shall be able to mark and collate individual weights of cartons of export and local catchweight product.
 - [iv] Shall attend to carcass weight procedures and identification of product as defined by management.
 - [v] Grade 6 employees shall be capable of and may perform any duties of Grades 2-5.
- [d] A Grade 5 employee is an employee who is wholly or principally engaged in checking goods in and out of storage or containers on the employers premises and who may be required by the employer to perform other duties from time to time.
- [i] Shall have appropriate VDU/keyboard skills.
 - [ii] Shall have basic literacy and numeracy skills.
 - [iii] Shall be capable of and may perform any duties of Grades 2-4.
- [e] A Grade 4 employee is an employee who is principally engaged in operating machinery for which a certificate of competency is required [e.g., fork lift operation, fixed track pallet, stacker crane operation etc.] and:
- [i] Shall be responsible for unloading vehicles;
 - [ii] Shall attend to outloading procedures;
 - [iii] Shall attend to pallet consolidation, product tying and shrink wrapping if required;
 - [iv] Shall attend to battery maintenance and recharging procedures;
 - [v] Shall carry out running repairs of a mechanical nature with appropriate training;
 - [vi] Shall be involved in scanning operations;
 - [vii] Shall be capable of and may perform any duties of Grades 2-3.
- NOTE:** Employees operating forklifts shall hold the required certificate of competence pursuant to Section 17 of the Construction and Safety Act (NSW) as amended.
- [f] A Grade 3 employee is an employee who spends not less than two thirds of their working time performing the function of order picking by carton, and :
- [i] Shall possess appropriate VDU/keyboard skills.
 - [ii] Shall be capable of and may perform any duties of Grade 2.
- [g] A Grade 2 employee means an employee handling products or goods received to be refrigerated, including going into loose trucks or containers and who may be required to carry/transport products or goods into or out of refrigerated storage or processing rooms, and:
- [i] Shall be required to operate manual, mechanical or electrical equipment for which no licence is required;
 - [ii] Shall stack or consolidate pallet loads;

- [iii] May attend to battery maintenance and recharging procedures for pallet transporters;
- [iv] May be required to operate an electric scrubber and attend to basic non-trade maintenance;
- [v] Shall attend to store cleaning duties of a general nature.
- [vi] After proper training, shall:-
 - be responsible for the quality of their own work subject to detailed direction;
 - work in a team environment and/or under supervision;
 - undertake duties in a safe and responsible manner;
 - possess basic interpersonal and communication skills.
- [vii] Shall be competent to perform one or more of the following tasks/duties or a combination thereof:-
 - storing and packing of goods and materials in accordance with appropriate procedures and/or regulations;
 - preparation and receipt of appropriate documentation including liaison with suppliers;
 - allocating and retrieving goods from specific store areas;
 - basic VDU/keyboard skills;
 - periodic housekeeping and stock checks.
- [h] A Grade 1 employee shall mean a new employee who will remain a trainee for a period of up to three months, and:
 - [i] Shall perform routine duties associated with the operation of a warehouse/store under direct supervision and requiring minimal judgement;
 - [ii] Shall receive such in-house training as may be required.

5. PART-TIME EMPLOYMENT

Due to the exigencies of this service industry part-time employment is essential for the future growth of this industry.

- 5.1 "Permanent Part-time employee" means a weekly employee who is employed by the week to work regularly a minimum of 20 hours and less than 38 hours per week.
- 5.2 An employee so engaged shall be paid per hour one thirty-eight of the weekly rate prescribed in Clause 8, Wages for the grade in which the employee is engaged.
- 5.3 An employee engaged on a part-time basis shall be entitled to payments in respect to annual leave, sick leave, public holidays and bereavement leave, on a proportionate basis subject to the provisions of the appropriate clauses of the agreement.

- 5.4 Any part-time employee will be given preference for any suitable permanent position in the Company that may become available.

6. CONTRACT OF EMPLOYMENT

- 6.1 Employees shall be employed on a weekly or casual basis. Where an employee is engaged on a weekly basis the employment may be terminated by the employee by one week's notice or forfeiture of a week's wages in lieu of such notice or by the employer by giving notice in accordance with Section 170CM(2) of the Australian Workplace Relations Act 1996, as amended or by the payment thereof in lieu of such notice. The scale for notice is:

Employee's Period of Continuous Service	Period of Notice
Not more than 1 year	At least 1 week
More than 1 year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

The period of notice is increased by 1 week if the employee is over 45 years old and has completed at least 2 years continuous service with the employer.

- 6.2 The employer shall have the right to deduct payment for any day or portion thereof during which the employee is stood down as the result of refusal of duty, malingering, inefficiency, neglect of duty or misconduct on the part of the employee or to deduct payment for any day during which the employee cannot be usefully employed because of any strike or through any breakdown of machinery or due to any cause for which the employer cannot reasonably be held responsible.
- 6.3 The employer shall have the right to dismiss an employee, without notice, for refusal of duty, malingering, inefficiency, neglect of duty, or misconduct, and in such cases the wages shall be payable up to the time of dismissal only.
- 6.4 "Casual employees" shall mean an employee engaged and paid by the hour. Casual employees may be employed for not less than four hours at each start and shall be paid at the hourly rate of one thirty-eighth of the weekly wage for an appropriate Grade plus a loading of 15 per centum. The said loading shall compensate casual employees for sick pay.

NOTE: A casual required to work on a Saturday and/or Sunday will be paid the appropriate loading as set out in Clause 10 of this Agreement prior to application of the 15% loading. Furthermore, the rate prescribed by this clause for casual employment is exclusive of the one-twelfth pro-rata annual holiday entitlement due to casual employees under the terms of the Annual Holiday Act 1944.

- 6.5 A "fixed term employee" shall mean an employee engaged on a weekly basis for a specified period.
- 6.6 All new weekly employees shall serve a probationary period of three (3) months from the date of commencement of employment with the employer. Provided that any employment as a casual employee which runs consecutively with the above weekly employment shall be deemed to be part of the three month period.
- 6.7 In order to promote labour flexibility in the industry the following employee duties shall apply to all employees employed under this agreement after proper training:
- [a] Employees shall perform such work as is reasonable and lawful required of them by the employer including accepting instructions from authorised personnel such as a job superintendent, supervisor or leading hand or from nominated technical personnel;
 - [b] Employees shall comply with all reasonable requests to transfer, or change jobs.

Where the company has made a definite decision to introduce major changes in warehousing and distribution systems, procedures, organisations, structure and or technology that are likely to have significant effects on the employees, the company shall discuss the relevant issues with the union delegates and shall endeavour to notify the AMIEU official/s prior to any changes being introduced with the relevant employees;

- [c] Employees shall accept responsibility for the quality, accuracy and completion of any job or task assigned to the employee within the employee's Grade;
- [d] Employees shall keep in good working order any equipment or materials they are supplied with;
- [e] Employees shall not impose or continue to enforce existing demarcation barriers between the work of employees provided that it is agreed that the work lies within the scope of the skill and competence of the employee concerned;
- [f] Employees shall not impose any limitations or continue to enforce any limitations on supervisors or technical personnel demonstrating the use of new equipment or machinery or in emergency situations;
- [g] Employees shall not impose any restrictions or limitations on the measurement and/or review of work methods or standard work times;
- [h] Employees and the employer shall comply with the relevant Occupational Health and Safety procedures and the relevant Act.

6.8 Technology

New technology and new methods are a regular feature of the modern workplace, and it is necessary for the company to keep abreast of such technologies, in order to remain competitive and to maintain job security for employees.

In the light of this, the parties agree, in the spirit of cooperation and consultation, to explore opportunities for new technologies and methods, and to implement such technologies where productivity gains and cost benefits may be achieved.

6.9 Key Performance Indicators (KPI's) / Measures of Performance

The parties agree that there are a number of aspects/performance indicators of the operation which are imperative to the success and effectiveness of the operation of the business.

In order to highlight these KPI's and to develop them to a higher level of performance, level of understanding, and measurability, the parties agree, in the spirit of cooperation and consultation, at the commencement of this enterprise agreement, and during its term to discuss, develop and agree on KPI's.

6.10 Workplace Safety

[a] The parties to this Agreement are committed to workplace health and safety.

[b] The employees agree that they shall co-operate and participate with any workplace safety and/or assessment/audit initiatives as required by the employer.

6.11 Disciplinary Procedure

(a) Disciplinary action may be taken for unsatisfactory work performance or behaviour. In the event of any such unsatisfactory performance or behaviour, the following procedure shall apply:

Step 1 First Warning (verbal): The Company shall inform the employee of the unsatisfactory nature of their performance or behaviour and allow the employee the right to respond. If the employee so requests, a witness of his/her choosing may be present.

In the case of more serious performance or behaviour related incidents, the Company may proceed directly to Step 2.

Step 2 Second Warning (written): If the performance or behaviour does not improve, the company shall again discuss with the employee, in the presence of a witness if requested, the unsatisfactory nature of their performance or behaviour and shall advise that continuation of such unsatisfactory service may lead to dismissal. This will be committed to writing.

Step 3 Third and Final Warning (written): If after two (2) warnings the Company considers the employee's performance or behaviour to be unsatisfactory, the employee, in the presence of an appropriate employee representative, will be given a final warning and will be advised that continuation of such unsatisfactory service will lead to dismissal. This will be committed to writing.

Step 4 Termination of Employment: Subject to clause 7.4 of this agreement, failure by the employee to respond to the final warning will result in the employee being dismissed in accordance with the provisions of this agreement.

(b) The procedure set out in paragraph (a) of this subclause shall not apply in the event of serious misconduct on the part of an employee.

7. DISPUTES PROCEDURE

7.1 Should a dispute of any nature arise, in the future, at the works of an employer specifically, the following procedure shall apply:

- [a] there shall not be a cessation of work, which includes the holding of a stop work meeting;
- [b] the dispute shall forthwith be submitted to the management by the Union delegate;
- [c] in the first instance, the grievance should be dealt with quickly and effectively between the job delegate/s and the management should there be no resolution, further discussions will be arranged between the President or Secretary of the Union or other official(s) designated by the Union and the company;
- [d] during these discussions, a 'status quo' shall remain and work shall proceed normally and in a manner that existed prior to the dispute;
- [e] if unresolved, the dispute may be referred to the Industrial Relations Commission of New South Wales for determination.

7.2 Should a dispute of any nature arise, in the future, that applies to the industry generally, the following procedure shall apply:

- [a] there shall not be a cessation of work, which includes the holding of a stop work meeting;
- [b] the dispute shall forthwith be submitted to the Senior Management by the Union;
- [c] The Senior Management shall discuss the dispute with the President or Secretary of the Union or other official(s) designated by the Union;
- [d] failing agreement the dispute may be referred to the Industrial Relations Commission of New South Wales for determination.

7.3 In any event, products shall never be exposed to temperature deterioration.

7.4 Disciplinary Leave

- [a] In lieu of dismissal for an action other than wilful misconduct, the employer and employees' representative may agree to direct the employee concerned on disciplinary leave. Such leave shall be without pay and shall be for a period of not less than one (1) working day and not more than 20 working days.
- [b] This option may only be exercised once in any 12 month period for an individual employee.

8. WAGE RATES AND ALLOWANCES

The minimum rates of pay for each classification and work related allowances are set out in APPENDICES 'A' & 'B', attached to this Agreement.

9. PAYMENT OF WAGES

- 9.1 Wages shall be paid by electronic funds transfer, cheque or cash, the method for which is at the employer's discretion.
- 9.2 Wages may be paid weekly, fortnightly or monthly by agreement between the employee and employer.
- 9.3 Casual employees shall be paid weekly.

10. HOURS, SHIFT WORK & MAKE-UP TIME

10.1 Dayworkers

- [a] The ordinary hours of work shall be an average of 38 hours each week, Monday to Sunday, worked on no more than 5 consecutive days as set out in sub-clause 10.3. The spread of hours will not exceed 12 hours, set by agreement between the company and appropriate employee[s] between a range of from 5.00am and 6.00pm.
- [b] Where ordinary time is worked on a Saturday, a pay rate equivalent to time and one half [T1½] of the ordinary pay rate will be paid for all ordinary time worked and for ordinary time worked on a Sunday, a pay rate equivalent to time and three quarters [T¾] of the ordinary pay rate.
- [c] An employee shall not be required to work more than five hours without an unpaid meal break for lunch except six hours may be worked without a break for a meal by agreement between the employer and appropriate employee[s]:
 - [i] Where employees are working in accordance with the provisions of subclause 10.3[b][ii]; or

[ii] Where a casual or part-time employee is engaged to work no more than 6 hours in any one day.

[d] Any overtime worked by a dayworker shall be paid at the rate of double time.

10.2 Shift Workers

[a] Definitions:

[i] "Afternoon shift" means any shift finishing after 7.00 p.m. and on or before midnight, Monday to Sunday.

[ii] "Night shift" means any shift which finishes after midnight and on or before 6.00 a.m. Monday to Sunday.

[b] Shift Allowances:

Afternoon shift:	20%
Night shift:	30%

[c] A paid crib break of 20 minutes shall be allowed during any afternoon or night shift which shall be considered the employee's meal break.

[d] Any overtime worked on an afternoon shift or night shift shall be paid at the rate of double time.

[e] Shift workers rostered on a shift the major portion of which is performed on a Saturday, Sunday or public shall be paid as follows:

[i] Saturday: At the rate of double time.

[ii] Sunday: At the rate of double time.

[iii] Public holiday: At the rate of double time and a half

The penalty rates prescribed by this subclause for work on a Saturday or Sunday shall be payable in lieu of the shift allowances prescribed in subclause 10.2[b] hereof.

10.3 Dayworkers and Shift Workers

[a] The 38 hour week shall be worked on one of the following basis:

[i] Thirty-eight ordinary hours of service shall constitute a week's work.

[ii] The ordinary hours may be worked in any of the following ways by agreement:

- Five equal days per week.
- Nineteen equal days in twenty.
- Four equal days and one short day per week.
- Four equal days per week.
- Three equal days over 5 weeks and four equal days in the sixth week.

- Any other agreed method of implementation which may include an accrual system for a rostered day off to a pattern determined by the employer with up to 5 days of accrual.

- [iii] Such hours shall be worked on consecutive days during each week in shifts of not less than four and not more than twelve consecutive hours, unless agreed between the employer and the employee[s].
- [b] The employer reserves the right to discuss the flexibility of the rostering of hours with employees and furthermore, to withdraw by agreement between the company and such new employee the provision of rostering ordinary hours of work around a regular RDO system for employees commencing employment after the date of registration of this agreement.
- [c] The method or methods of operating not less than 7.6 hours per day may be any of the following to be implemented at the discretion of the employer in consultation with Employee/Union:
- [i] by employees working less than 8.0 ordinary hours each day; or
- [ii] by employees working less than 8.0 ordinary hours on one or more days; or
- [iii] by rostering employees off on various days of the week during a particular work cycle so that each employee has one day off during that cycle, where the employee is rostered to work no more than 8 ordinary hours on each shift of day; or
- [iv] by rostering employees off on various days of the week during a particular work cycle so that each employee is rostered off on one or more days during that cycle.
- [v] Circumstances may arise where different methods of operating the 38 hour week apply to different groups or sections of employees with the business of an employer.
- [d] Where the method of implementation is organised in accordance with paragraph (c)(iii) and (c)(iv) agreement may be reached between an employer and the employees concerned to accrue up to a maximum of eight (8) rostered days off.
- [e] By agreement with the employees/union concerned, payout of RDO's may occur with a minimum payment of 5 days and a maximum of 12 days with payout to be at current rates. An employer may postpone the taking of a rostered day off (where that is the method of implementation) to another day in the case of a breakdown in machinery or a failure or shortage of electric power or to meet the requirements of the business in the event of rush orders or some other emergency situation. The substituted day shall be agreed between the employer and the employees/union concerned.
- [f] Starting and ceasing times may be alterable by no less than 48 hours notice. This can be varied where there is agreement between an employer and the employee(s) concerned.

10.4 Seven Day Continuous 12 Hour Shift Employees

The conditions of work for employees performing seven day 12-hour continuous shifts in respect of hours of work, shiftwork, meal breaks, overtime and public holidays, are detailed in Appendix C of this Agreement.

10.5 Make-Up Time

Notwithstanding the provisions of this clause, an employee may elect, with the agreement of the Company, to work make-up time. Make-up time may apply where the Company allows an employee to take time off without pay, and the employee works an equivalent number of hours, at another time or on another day, at the ordinary rate of pay.

11. OVERTIME

11.1 An employee called upon to work overtime on a Saturday, Sunday or Public Holiday shall be paid a minimum payment of four (4) hours except where overtime is worked in conjunction with ordinary rostered hours of work on such days when normal overtime or public holiday provisions will apply.

11.2 Where overtime is necessary before the commencement of a shift, or immediately following the cessation of a shift, the employer shall make reasonable endeavours to offer the overtime to permanent employees or permanent part time employees, rostered to work the shift, in the first instance and where the permanent employees are unable or unwilling to undertake the overtime the overtime shall be offered to casual employees or labour hire employees.

Where overtime is necessary on a Saturday, Sunday or public holiday the employer shall make reasonable endeavours to offer the overtime to permanent employees or permanent part time employees in the first instance and where the permanent employees are unable or unwilling to undertake the overtime the overtime will be offered to casual employees or labour hire employees.

11.3 The employer reserves the right to work casual employees or labour hire employees simultaneously with permanent employees.

11.4 Where an employee has committed to working overtime on a particular occasion and is subsequently unavailable to work without notice, such employee will at the employer's discretion, not be called upon again to work overtime for a period of three months.

11.5 The employer reserves the right to ensure operations continue efficiently and without interruption.

12. MEALS AND MEAL BREAKS

12.1 Lunch for dayworkers shall not be less than half an hour and not more than one hour between the hours of 11.00 a.m. and 2.00 p.m. Other arrangements as to lunch time may be made between the employer and the employee.

12.2 Unless otherwise agreed to between the employee and the employer, an employee called upon to work more than one and a half hours after his normal ceasing time shall be allowed a meal break of not less than one half hour or more than one hour.

This break will be taken by mutual agreement at the end of his normal ceasing time or at the conclusion of the period of overtime.

12.3 Subject to subclause 12.2 of this clause, if no meal break or less than the prescribed meal break is allowed employees shall be paid double the rates awarded for that day for the difference between the time which they have been allowed off and that which they should have been allowed off.

12.4 An employee required to work overtime for more than one and a half hours after the normal ceasing time shall be paid the amount set out in Appendix B subclause [c][i] and an additional amount as set out in Appendix B subclause [c][ii] of this agreement for each further four hours worked.

- 12.5 An employer may implement measures to enable the employer:
- [a] to require the alteration of a scheduled meal break for one or more employees if the employer considers such alteration is necessary in order to meet a requirement for continuity of operations;
 - [b] to stagger the taking of meal and rest breaks to meet operational requirements.

When at the date of the 38 hour week coming into operation, where smokos and time out are provided as part of the agreed breaks, then smokos shall be deleted for all purposes.

13. DRESSING TIME

On commencing work for the day, a 'freezer hand' employee shall be allowed ten minutes in which to dress for his work and such time shall count as time worked.

14. SUNDAYS AND PUBLIC HOLIDAYS

- 14.1 The following days shall be recognised as holidays in the industry: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, all proclaimed public holidays for the State and the annual picnic day of the Australasian Meat Industry Employees' Union, New South Wales Branch of which day one month's notice shall be given by union to employers.
- 14.2 For all overtime worked on a Sunday, double rates shall be paid with a minimum payment of four hours at such rate.
- 14.3 Time worked on holidays defined in this clause shall be paid for at the rate of triple time with a minimum payment of 4 hours at such rate.
- 14.4 All weekly employees shall be paid for the holidays specified in this clause. Provided that such employees do not absent themselves from work on the working day preceding or the working day succeeding such holiday and have not ceased work without permission before the normal time of ceasing work in either or both of these days.
- 14.5 When such holidays fall on consecutive days an employee who works either the working day preceding or the working day succeeding such holiday, but not on both shall be entitled to payment for such holiday closest to the said day on which they work provided the employee has not ceased work without permission, on such said day.
- 14.6 The employers consider it appropriate that a review of provisions concerning public holidays and the picnic day occur so as to improve efficiency by increasing the flexibility in this area. The following areas should be reviewed by agreement with the employee[s] concerned:
- [i] Substituting of days in lieu of the taking of public holidays [including the picnic day] during peak periods;
 - [ii] Where substitution does occur the day or days may be taken in half day lots by agreement;
 - [iii] No notice required for the working of a public holiday if it is required for reasons of an emergency situation or where it is agreed by the employee concerned;
 - [iv] Minimum payment of 4 hours on public holidays.
- 14.7 Where an employee's work roster does not provide for work on a gazetted public holiday or union picnic day, the employee shall be entitled to payment for the day at the appropriate classification rate.

- 14.8 When a day is gazetted as a public holiday in the State in substitution for any of the days specified in 14.1, such day shall be observed as a public holiday for the purpose of this clause in lieu of the said specified day.

15. SICK LEAVE

An employee who, after not less than three months continuous service in employment is unable to attend for duty during the ordinary working hours by reason of personal illness or personal incapacity (excluding illness or incapacity resulting from injury within the Workers' Compensation Act, 1987, as amended), received in the said employment (not due to personal serious or wilful misconduct) shall be entitled to be paid for such non-attendance the ordinary rate of pay, subject to the following:

- 15.1 Where an employee is absent from duty by reason of incapacity due to an injury arising out of or in the course of employment and is receiving compensation under the Workers Compensation Act, 1987, as amended, the employer shall pay to such employee, if so requested, in addition to such compensation, the difference between the amount of the compensation and the ordinary time rate of pay (exclusive of overtime and other penalty payments) with a minimum payment not exceeding the balance, if any, of entitlement to paid leave of absence under this Clause.
- 15.2 An employee shall where practicable prior to and shall within two (2) hours of the commencement of such absence [where possible] inform the employer of an inability to attend for duty and, as far as possible, state the nature of the illness or incapacity and the estimated duration of absence.
- 15.3 For the purpose of ascertaining whether or not an employee is or has been ill and the particulars thereof (including, where applicable, the estimated duration of the absence) the employer through any person appointed by it to interview employees for the purpose state (such appointment being notified to the Union), shall have the right to interview any employee who is or has been absent from duty. Where a person so appointed is a legally qualified medical practitioner the right to interview an employee shall include the right to examine the employee.
- 15.4 The employee shall prove to the satisfaction of the employer an inability on account of such illness or incapacity, to attend for duty on the day or days for which payment under this Clause is claimed.

Notwithstanding the above, for absences before or after public holidays and rostered days off proof by way of a medical certificate shall be supplied, irrespective of the length of the absence.

- 15.5 An employee shall not be entitled in respect of any year of continuous service to sick pay and pay, supplementary to Workers' Compensation, in accordance with the following:

[a] In the first year of service (all employees):

After 3 months continuous service - 2 days
After 6 months continuous service - further 2 days
After 9 months continuous service - further 2 days
After 1 years continuous service - further 2 days

Total paid days sick leave entitlement - 8 days

[b] In the second and subsequent years of service, sick leave shall be 10 days per year.

[c] Any period of paid sick leave or pay, supplementary to Workers' Compensation, allowed by the employer to an employee, in any such year, shall be deducted from the period of leave which may be allowed or carried forward under this clause in respect of such year.

- [d] To be clear, each day of sick leave taken in accordance with this clause shall be equal to a 12 hour shift when an employee is performing seven day 12-hour continuous shifts in accordance with Appendix C and Appendix D.
- 15.6 An employee shall not be entitled in respect of any year of continued employment to sick pay and pay supplementary to workers' compensation for more than a total amount equivalent to payment for 8 days in the first year of employment and in the second and subsequent years, 10 days. Any period of paid sick leave or pay supplementary to workers' compensation allowed by the employer to an employee, in any such year, shall be deducted from the period of leave which may be allowed or carried forward under this clause in respect of such year. No payment shall be due for illness or incapacity for less than one day.
- 15.7 The rights under this clause shall accumulate from year to year so long as the employment continues with the employer, so that any part of eight days or ten days, as the case may be, which has not been allowed in any year, may be claimed by the employee and shall be allowed by the employer, subject to the conditions prescribed by this clause, in a subsequent year of such continued employment. Any rights which accumulate, pursuant to this subclause, shall be available to the employee whilst the employee remains in the employ of the employer.
- 15.8 An employee, who unreasonably refuses the interview or unreasonably refuses or prevents the examination specified in subclause 15.3 of this clause, shall not be entitled to payment for the period during which there was an absence from duty.
- 15.9 For the purpose of this Clause continuous service shall be deemed not having been broken:
- [a] any absence from work on leave granted by the employer.
- [b] any absence from work by reason of personal illness, injury or other reasonable cause (proof whereof shall in each case be upon the employee); provided that any time so lost shall not be taken into account in computing the qualifying period of three months.
- 15.10 Provided that once an employee has had three months' continuous service with the employer a payment, within the entitlement, shall be made for any absence owing to illness that occurred during the first three months of service.
- 15.11 Service before the date of coming into force of this clause shall be counted as service for the purpose of qualifying thereunder.
- 15.12 This clause does not apply to casual employees.
- 15.13 Accumulated Sick Leave Payout

Notwithstanding the provisions as set out in subclause 15.7 of this clause and effective from the date of registration of this agreement, accumulated sick leave will be paid out on either of the following options:

Option 1 - Apply the agreement conditions up to the time an employee terminates with the Company. On ceasing employment, all untaken sick leave which has accumulated shall be paid out. For the purpose of this clause, termination of employment shall be the cessation of work of an employee, other than dismissal as defined in sub-clause 6.3 of clause 6 'Contract of Employment'.

Option 2 - All accumulated sick leave over 10 days in each year of employment shall be paid out to the employee in the pay period following the employee's anniversary date.

16. PERSONAL CARER'S LEAVE

16.1 Use of Sick Leave

- [a] An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c), who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any sick leave entitlement which accrues after 1 June 1997 for absences to provide care and support, for such persons when they are ill.
- [b] The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned.
- [c] The entitlement to use sick leave in accordance with this subclause is subject to:
 - [i] the employee being responsible for the care of the person concerned; and
 - [ii] the person concerned being:
 - [a] a spouse of the employee; or
 - [b] 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 of that person on a bona fide domestic basis although not legally married to that person; or
 - [c] a child or an adult child (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
 - [d] a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - [e] a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:
 1. "relative" means a person related by blood, marriage or affinity;
 2. "Affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
 3. "household" means a family group living in the same domestic dwelling.
- [d] 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.

16.2 Unpaid Leave for Family Purpose

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 subparagraph (ii) of paragraph (c) of subclause (1) who is ill.

16.3 Annual Leave

- [a] 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.
- [b] Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this agreement.
- [c] 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.

16.4 Time Off in Lieu of Payment for Overtime

- [a] 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.
- [b] 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.
- [c] An employer shall, if requested by an employee, provide payment, at the rate provided for the payment of overtime in the agreement, for any overtime worked under paragraph (a) of this subclause where such time has not been taken within 4 weeks of accrual. Notwithstanding anything contained elsewhere in this subclause, on notice from the employer, an employee must elect within six months of accrual, whether to take overtime worked as an overtime payment or as time off work at the ordinary rate of pay.

16.5 Make-Up Time

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.

16.6 Grievance Process

In the event of any dispute arising in connection with any part of this clause, such a dispute shall be processed in accordance with the dispute settling provisions of this agreement.

17. ANNUAL LEAVE

- 17.1 See Annual Holidays Act, 1944.
- 17.2 See Appendix C in respect of employees performing seven day continuous 12-hour shifts.

18. ANNUAL LEAVE LOADING

- 18.1 In this clause the Annual Holidays Act, 1944, is referred to as "the Act".
- 18.2 Before an employee is given and takes an annual holiday, or, where by agreement between the employer and employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods, the employer shall pay the employee a loading determined in accordance with this clause.

[NOTE: This obligation to pay in advance does not apply where an employee takes annual holiday wholly or partly in advance - see subclause 18.6].

- 18.3 The loading is payable in addition to the pay for the period of holiday given and taken and due to the employee under the Act and this Agreement.
- 18.4 The loading is to be calculated in relation to any period of annual holiday to which the employee becomes or has become under the Act and this Agreement (but excluding days added to compensate for public or special holidays worked or public or special holidays falling on an employee's rostered day off not worked), or, where such a holiday is given and taken in separate period, then in relation to each such separate period.
- 18.5 The loading is the amount payable for the period or the separate period, as the case may be, stated in subclause 18.4 of this Clause, at the rate per week of 33 1/3 per cent of the appropriate ordinary weekly time rate of pay prescribed by this Agreement for the classification in which the employee was employed immediately before commencing his annual holiday but shall not include any other allowances, penalty rates, shift allowance, overtime rates or any other payments prescribed by this Agreement.
- 18.6 No loading is payable to an employee who takes an annual holiday wholly or partly in advance: Provided that, if the employment of such an employee continues until the day when the employee would become entitled under the Act to an annual holiday, the loading then becomes payable in respect of the period of such holiday and is to be calculated in accordance with subclause 18.1 of this clause applying the Agreement rates of wages payable on that day.
- 18.7 Where, in accordance with the Act, the employer's establishment or part of it is temporarily closed down for the purpose of giving an annual holiday or leave without pay to the employees concerned:
- [a] An employee who is entitled under the Act to an annual holiday and who is given and takes such a holiday shall be paid the loading calculated in accordance with subclause 18.5 of this Clause.
 - [b] An employee is not entitled under the Act to an annual holiday and who is given and takes leave without pay shall be paid in addition to the amount payable to him under the Act such proportion of the loading that would have been payable to him under this Clause if he had become entitled to an annual holiday prior to the close down as his qualifying period of employment in completed weeks bears to 52.
- 18.8 [a] When the employment of an employee is terminated by the employer for a cause other than misconduct and at the time of the termination the employee has not been given and has not taken the whole of an annual holiday to which the employee becomes entitled such employee shall be paid a loading calculated in accordance with subclause 18.5 of this clause for the period not taken.
- [b] Except as provided by paragraph (a) of this subclause no loading is payable on the termination of employee's employment.

19. BEREAVEMENT LEAVE

- 19.1 An employee shall, on the death of their wife, husband, father, mother, child or stepchild, brother or sister, mother-in-law or father-in-law of the employee, be entitled to leave up to and including the day of the funeral. Such leave shall be for a period not exceeding 16 working hours without loss of any ordinary which the employee would have earned had they been at work.
- 19.2 The right to such leave shall be dependent on compliance with the following conditions:

- (a) The employee must give the employer notice of intention to take such leave as soon as reasonably after the death of such a relation.
- (b) The employee shall furnish proof of such death to the satisfaction of the employer.
- (c) The employee shall not be entitled to leave under this clause during any period in respect of which he/she had been granted any other leave.

19.3 For the purpose of this clause, the words wife or husband shall not include a wife or husband from whom the employee is separated but shall include a person who lives with the employee as a de facto wife or husband.

19.4 This clause does not apply to casual employees.

20. PARENTAL LEAVE

See Chapter 2, Part 4, Division 1, of the NSW Industrial Relations Act, 1996.

20. LONG SERVICE LEAVE

[a] See Long Service Leave Act, 1955.

[b] Notwithstanding the provisions of the Long Service Leave Act, 'ordinary pay' for employees performing seven day 12-hour continuous shifts in accordance with Appendix C and Appendix D shall be taken to mean the weekly rate set out in Table 3.

22. JURY SERVICE

An employee on weekly hiring required to attend for Jury Service during the ordinary hours of work shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of the attendance for such jury service and the amount of wage the employee would have received in respect of the ordinary time worked had there not been a requirement for jury service.

An employee shall notify the employer as early as possible of the date upon which there is a requirement to attend for jury service, further, the employee shall give to the employer proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

23. LATENESS

Where an employee is late for work, the employer shall have the option of sending the employee home without pay by taking into account such factors as:

[a] reason for lateness;

[b] whether the employer has hired a replacement casual employee.

24. TRAINING

24.1 Workplace

[a] The parties to this agreement recognise that in order to increase the efficiency, productivity and international competitiveness of industry, a greater commitment to training and skill development is required. Accordingly, the parties commit themselves to:

[i] developing a more highly skilled and flexible workforce;

- [ii] providing employees with career opportunities through appropriate training to acquire additional skills; and
 - [iii] removing barriers to the utilisation of skills required.
- [b] Through consultation with the employees or through the establishment of a training committee, the employer shall develop a training program consistent with:
- [i] the current and future skill needs of the enterprise;
 - [ii] the size, structure and nature of the operations of the enterprise; and
 - [iii] the need to develop vocational skills relevant to the enterprise.

24.2 Union

Employees shall be entitled to paid trade union training leave in accordance with the following provisions:

- [a] Leave is to be confined to workplace delegates or persons who have been elected as workplace representatives and who have held such or similar positions for a period of not less than 3 months, which may include broken periods of employment;
- [b] the company is to be consulted before the nature and content of the particular course to be attended is finalised;
- [c] leave is to be confined to 5 days per year for each employee and is not to be cumulative;
- [d] The courses for which leave is granted are those which are conducted by the union [or its agent] and approved by the union and the company as being relevant to the industry;
- [e] the leave shall be paid for in accordance with clause 7 of this agreement, for the relevant skill level;
- [f] applications for leave must be made to the company at least two weeks before the course commences;
- [g] the union may nominate no more than eight persons, or half the number of delegates or representatives whichever is the lesser number, who shall be entitled to leave at the same time;
- [g] leave may only be granted where the courses to be attended are such as to improve the employee's knowledge of industrial relations or related issues.

25. DRUG AND ALCOHOL TESTING OF EMPLOYEES

In keeping with Occupational Health and Safety requirements, it has been agreed to by the parties to this Agreement that they will work towards an acceptable procedure for counselling employees reasonably suspected of drug or alcohol abuse where such abuse may contribute toward workplace safety.

26. RIGHT OF ENTRY

In accordance with Section 297 and 298 of the Industrial Relations Act, 1996, as amended, an officer of the union duly authorised may enter the premises of any employer party to this Agreement. Provided that such officer shall not wilfully hamper or hinder the employees during their working time and may interview employees or converse with them in any lunch-time or non-working time.

In all other respects, Sections 296-302 of the Industrial Relations Act, 1996, as amended, shall apply.

27. SAVINGS PROVISIONS

No employee shall, as a result of the operation of this agreement, suffer any loss of wages or other benefits which the employee enjoyed prior to the operation of commencement of this agreement.

28. MIXED FUNCTIONS

- 28.1 Should any employee engaged at a higher paid class of work be transferred temporarily to a lower paid class of work, he shall continue to receive the higher rate during such transferred temporary employment.
- 28.2 An employee, who is required to do work carrying a higher rate than his ordinary classification for 2 hours or more on any day or shift, shall be paid at the higher rate for the whole of the day or shift.
- 28.3 Subject to subclause (28.2), of this clause, an employee who, on any day or shift, is required to do work of a higher paid classification for at least one hour shall be paid the rate prescribed for such work whilst so engaged.
- 28.4 While employees are under training and supervised, they will retain existing wage rates for a training period as a guide of 152 hours (or 4 weeks) and be paid a freezer allowance if working in freezers, in any one job.
- 28.5 Subject to the provisions of this clause, an employee who is classified as a Grade 6 employee in accordance clause 4 of this Agreement, shall be paid at a rate equivalent to the rate payable for a Grade 7 employee on the occasions when he/she is directed to perform the work of allocating and checking orders.

29. REDUNDANCY

29.1 Definitions

- [a] "Redundancy" is when an actual reduction in the number of permanent employees employed in the work area shall occur as a result of economic downturn or technological change and where alternative employment cannot be found.
- [i] Where an employee initiates a reduction in the number of permanent employees required, redundancy shall apply; or
- [ii] The employer ceases to carry on the business at the current location and does not offer transfer and continuing employment at a new location.
- [b] "Business" includes a part of a business.
- [c] This Agreement shall apply to the permanent weekly workforce of the Company. Casual employment shall not be included for the purpose of this Agreement.
- [d] "Ordinary rate of pay" means that normal weekly payment received by an employee for the ordinary hours of work at the date of redundancy and shall be determined at average rate paid for annual leave. It shall include industry allowances normally paid, such as Leading Hand allowances, First Aid Allowance, but excludes any shift allowance or overtime penalty payments.

29.2 Notice of Redundancy

Where the Company proposes to terminate the employment of an employee on account of redundancy it shall:-

- [a] Advise its employees of the intention to cease operations at least one month in advance and will give individual employees notice of redundancy. Notwithstanding the above, each employee will be given maximum practicable notice of termination of service:
- [b] Any employee who terminates their employment on a date prior to having received the formal notice of redundancy hereof will not be eligible for any redundancy payment.

29.3 Seniority

Employees made redundant shall be retrenched after carefully considering length of service occupational skills and qualifications and satisfactory work record. The selection of employees will be made on the basis of retaining those who best service the commercial needs of a continuing business. The union will be kept fully informed.

Initially, redundancy may commence on a voluntary basis but if not enough employees take up voluntary redundancy then the above criteria will be used to provide sufficient flexibility into this area of selection.

29.4 Consultation

Where an employer has made a definite decision to introduce major changes in production, program, organisation structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected.

The employer shall provide to the employees concerned all relevant information about the changes proposed, and the expected effects of the changes on employees.

29.5 Redundancy Payments

- (a) The following provision only applies to permanent employees employed by Swire Cold Storage on 16th November 2005.

For under 12 months weekly service - Nil.

For each 12 months of weekly service – 4 weeks’ pay for each completed year of service

- (b) The following provision shall apply to permanent employees employed by Swire Cold Storage after 16th November 2005.

For under 12 months weekly service – NIL

For each 12 months of weekly service – 4 weeks pay for each completed year of service to a maximum of 40 weeks pay.

29.6 Redundancy Payments on Termination

- [a] In the event of the Company terminating the employment of an employee on account of redundancy, it shall give the employee a detailed statement of entitlements where practicable, at least two weeks prior to the date of termination, together with a statement of service setting out the employment record and reason for termination of employee. Anyone accepting redundancy shall not be entitled to be re-engaged in less than six months.

- [b] In the event of a redundancy in accordance with the terms of this clause, “weeks’ pay” shall be taken to mean the rate set out in Table 3 for an employee performing

seven day 12-hour continuous shifts in accordance with Appendix C and Appendix D immediately prior to the termination. "Week's pay" for all other employees shall include actual earnings that the employees receives, including all penalties and allowances (excluding overtime payments).

29.7 Notification to Centrelink

Where a decision has been made to terminate the employment of employee, the employer shall notify Centrelink thereof as soon as possible, giving relevant information including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

29.8 Time Off to Seek a Job

The employee on notice of retrenchment shall be entitled to time off as per the following scale without loss of pay, in order to seek other employment, proof of which may be required by the employer.

- [a] Employees up to 3 years, 2 days paid leave to seek other employment.
- [b] Employees up to 5 years, 4 days paid leave to seek other employment.
- [c] All other employees 5 days paid to seek other employment.

29.9 Superannuation

Superannuation shall be paid in accordance with the relevant trust deed.

29.10 Exceptions

Redundancy shall not apply where employment is terminated as a consequence of conduct that justified instant dismissal including malingering, in efficiency, or neglect of duty. Redundancy shall not apply to casual employees, or for persons engaged to complete a specific task or tasks.

Redundancy shall not apply where an employee advised of a pending redundancy, elects to terminate his or her services prior to the date nominated by the employer.

Employees with less than 12 months continuous service at the time of retrenchment are not entitled to a severance payment.

29.11 Legal Entitlements

All legal entitlements will be paid out, such as:-

- [a] Long Service Leave, after 5 years service;
- [b] Annual Leave and Annual Leave loading as legally required in New South Wales.

29.12 Access to Company Facilities

The company shall allow any employee who has been given notice, and subject to the approval of his supervisor, reasonable access to the Company's facilities to contact prospective employers and for arranging interviews.

29.13 Leaving Employment During Period of Notice

The company shall permit the employee who has been given notice to leave employment during that period by giving one week's pay in lieu and still receive the redundancy payment

prescribed by clause 28.5 of this Agreement. In this situation redundancy payments will be calculated up to and including the date of termination of employment.

29.14 Review

Whilst the terms for redundancy as contained in this agreement are applicable during the term of the agreement, there is agreement between the parties that on-going discussions may be held in relation to redundancy principles.

30. SUPERANNUATION

30.1 Superannuation Legislation

The subject of superannuation is dealt with extensively by federal legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation (Resolution of Complaints) Act 1993* and s124 of the *Industrial Relations Act 1996* (NSW). This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

30.2 Subject to the requirements of this legislation, superannuation contributions shall be made to either:

- (1) MIESF (Meat Industry Employees Superannuation Fund); or
- (2) ASSET (Australian Superannuation Savings Employment Trust);

at the employee's election

30.3 For the duration of this Agreement, the Company undertakes to provide superannuation benefits calculated upon the salary contained in Appendix C of this Agreement for employees performing seven day 12-hour continuous shifts.

31. CONSULTATIVE MECHANISM

31.1 Consultation Principles

Each plant, enterprise or depot shall establish an in-house consultative mechanism and procedures appropriate to its size, structure and needs for consultation and negotiation on matters affecting its efficiency and productivity.

31.2 Workplace Delegates

An employee elected as a union delegate shall, upon notification to the company by the union, be recognised as the accredited union representative and shall be allowed necessary time during working hours to interview employees and or relevant company representatives on matters affecting employees of the company.

The union delegate shall, with the agreement of the company, be afforded time to hold union meetings to discuss industrial issues affecting the employees of the company.

31.3 Union Recognition

On commencement, all employees are made aware that the Australian Meat Industry Employees' Union is the site union. All employees shall be provided with an application form to join the union at the point of recruitment.

31.4 Union Membership

The company will, upon appropriate employee authorisation, deduct union membership dues, as levied by the union and in accordance with its rules, from the pay of employee who are members of that union. Such dues collected shall be forwarded to the union at the beginning of each month together with all necessary information to enable the reconciliation of subscriptions to members' accounts.

32. UNDERTAKINGS

The parties to this agreement acknowledge that wage adjustments granted as a result of negotiations leading to the registration of this agreement are based in part on past productivity gains (up to and July 2004) and there is a commitment to continue discussions during the life of this agreement to further improve productivity and efficiency.

Furthermore, that whilst the terms of this Agreement may not form part of the actual conditions of employment at the employees place of work at the time of registration, such conditions as set out within the terms of this Agreement may be introduced into the workplace at any time during its term and provided that reasonable and appropriate notice has been given by management to the affected employees.

33. ANTI-DISCRIMINATION

33.1 It is the intention of the parties bound by 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.

33.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by 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.

33.3 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.

33.4 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 a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- [d] a party to this agreement from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

33.5 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

- [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.”

34. DATE OF REGISTRATION AND DURATION

This Agreement shall be effective from 1 August 2005 and shall remain in force for a nominal period 12 months.

35. SIGNATORIES TO THE AGREEMENT

Signed for and on behalf of Swire Cold Storage Pty Ltd

.....
POSITION: _____ [DATE]

.....
[WITNESS] _____ [DATE]

Signed for and on behalf of the Australasian Meat Industry Employees Union, NSW Branch

.....
[SECRETARY] _____ [DATE]

.....
[WITNESS] _____ [DATE]

APPENDIX A

TABLE 1 - WAGE RATES

The minimum weekly rates of pay for 38 ordinary hours per week for each classification shall be as follows:

Grades	Current Rate	Rate from first full pay period on or after 31.07.05
	\$	\$
Grade 1	637.87	663.38
Grade 2	637.87	663.38
Grade 3	657.25	683.54
Grade 4	673.26	700.19
Grade 5	685.28	712.69
Grade 6	685.28	712.69
Grade 7	725.08	754.08
Grade 8	742.56	772.26

Grades	Rate from first full pay period on or after 31.07.06 \$	Rate from first full pay period on or after 31.07.07 \$
Grade 1	689.92	717.52
Grade 2	689.92	717.52
Grade 3	710.88	739.32
Grade 4	728.20	757.33
Grade 5	741.20	770.85
Grade 6	741.20	770.85
Grade 7	784.25	815.62
Grade 8	803.15	835.28

NOTE: In respect of the periods which the above increases are referable to, should the Consumer Price Index (CPI) exceed the said increases, the company will increase wages to equal the CPI movement.

APPENDIX B

TABLE 2 - ALLOWANCES

Item	Allowance	Allowance from the first full pay period on or after 31.07.05 \$	Allowance from the first full pay period on or after 31.07.05 \$	Allowance from the first full pay period on or after 31.07.05 \$
Item 1	Freezer Allowance			
(a)	- 18°C	1.14 p.h	1.19 p.h	1.23 p.h
(b)	Between -19°C to -25°C	1.21 p.h	1.26 p.h	1.31 p.h
(c)	In excess of -25°C	1.74 p.h	1.81 p.h	1.88 p.h
Item 2	Laundry Allowance	7.32 p.w	7.61 p.w	7.92 p.w
Item 3	Meal Allowance			
(a)	First Meal	10.46	10.88	11.31
(b)	Additional Meal	6.58	6.84	7.12
Item 4	First Aid Allowance	13.18 p.w	13.71 p.w	14.26 p.w

[a] Freezer Allowance - An employee performing work in a freezing chamber shall be paid the appropriate amount set out in Item 1 of Table 2, Allowances for each hour so worked.

[b] Laundry Allowance - The employer will supply and launder the following protective clothing suitable to the nature of each employee's work: overalls, boots, gloves, or if working in a freezer room, blanket suit, gloves, freezer boots, suitable head covering and overalls if requested.

Provided that an employee shall receive a laundry allowance in the amount set out in Item 2 of Table 2, Allowances in lieu of the employer being able to provide laundering for the said protective clothing

Where the employer is providing the above, employees shall owe a duty of care to the employer for all protective clothing and equipment supplied to the employee during the

course of duty and if the employee damages or loses the issue wilfully or negligently, the employee shall reimburse the employer.

[c] Meal Allowance - Refer to sub-clause 12.4 of Clause 12 for the application of the allowances set out in Item 3 of Table 2, Allowances.

[d] First Aid Allowance

Employees holding a current first aid certificate will be paid a weekly allowance in the amount set out in Item 4 of Table 2, Allowances

APPENDIX C

SEVEN DAY CONTINUOUS 12-HOUR SHIFT EMPLOYEES

1. HOURS OF WORK

1.1 The ordinary hours of work shall be 12 hours of work per day/shift and not exceed an average of thirty-eight per week.

1.2 The average hours for day/shift employees will be fixed at the plant level by agreement between the Company, the Union and the majority of affected employees in a work section or sections, and may be determined in accordance with a roster arrangement which provides for the average hours to be calculated over a number of weeks, or over the duration of the roster, as appropriate.

At the time of making of this Agreement, the roster provides that an employee shall actually work an average of 42 hours per week.

1.3 The ordinary hours of work may be worked on any day or all days of the week, Monday to Sunday. Payment for work performed on Monday to Friday will be at the rate of ordinary time; payment for work performed at Saturday will be at the rate of double time, and for work performed on Sunday at the rate of double time, subject to the provisions of Clause 11 – Overtime.

1.4 In accordance with production requirements, seven-day continuous employees may be employed on a six day/shift or a five day/shift week, provided that they shall be employed on an average of 38 hours per week.

2. BREAKS

2.1 Meal Breaks

(a) An employee shall not be required to work for more than four hours without taking a crib time unless as mutually agreed.

(b) Each shift of twelve hours' duration shall include a total paid crib time and rest period of seventy minutes made up of two 20-minute crib breaks and 2 rest period of 15 minutes, which shall be taken and staggered so as not to interfere with the operation of the plant.

2.2 Rest Period

(a) The rest period of ten minutes shall be allowed to all employees in the first half of each day or shift, at a time fixed by the Company, provided that the time of taking the rest period may vary at the option of the Company as agreed between the employees.

(b) Suitable facilities shall be provided by the Company conveniently located in the area

where rest time is to be taken.

3. OVERTIME

3.1 Payment for Overtime

For all work outside an employee's ordinary working hours or in excess of the normal duration of an employee's shift, overtime shall be paid at the rate of double time, except in cases where such overtime is worked by arrangement between the employees themselves. Provided that:

- (a) where an employee is given notice to work on his/her rostered day off and the notice is cancelled within sixteen hours of the time due for the employee to commence, the employee shall be paid four hours ordinary pay;
- (b) There shall be a paid 10 minute break between the end of shift and commencement of overtime.
- (c) where an employee is given notice to work the succeeding shift and the notice is cancelled, and as a consequence of the notice the employee has remained on the premises until the prescribed starting time, the employee shall be paid four hours ordinary pay.
- (d) For every two hours of overtime worked there shall be paid a ten minute paid crib break.

3.2 Reasonable Overtime

- (a) The Company may require any employee to work reasonable overtime at overtime rates.
- (b) Shift employees recognise their obligation to assist the Company to avoid double shifts or other overtime caused by the failure to relieve fellow workers by using every endeavour to notify impending absence from work immediately they are aware that they will be unable to report for duty as rostered.

4. SHIFT WORK

4.1 Definitions

"Day Shift" means any shift commencing not earlier than 6.00am and finishing not later than 6.00 pm.

"Night Shift" means any shift finishing after midnight and not later than 8.00 am.

"Permanent night shift" shall mean a shift which is applicable to an employee who:

- (a) during a period of engagement works night shift only; or
- (b) remains on night shift for a longer period than four consecutive weeks; or
- (c) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift cycle.

"Continuous Work" means work carried on with consecutive shifts throughout the 24 hours of each day of the week (ie 168 hours per week) on a roster arrangement which requires employees to work on any day of the week including Saturdays, Sundays and Public Holidays.

Provided that the commencement and finishing times of the shifts as defined may be varied by mutual agreement between the Company, the Union and the employees.

4.2 Shift Allowances

- (a) An employee engaged on continuous shift work shall be paid 15% of their classification wage rate per shift worked on any shift Monday to Friday.

4.3 Weekend Premiums

- (a) Seven day continuous shift workers for work done on a rostered shift, the major portion of which is performed on a Saturday, shall be paid at the rate of double time. Such extra rate shall be in substitution for and not cumulative upon the shift premium elsewhere prescribed.
- (b) Seven day continuous shift workers for work done on a rostered shift, the major portion of which is performed on a Sunday, shall be paid at the rate of double time. Such extra rate shall be in substitution for and not cumulative upon the shift premium elsewhere prescribed.

4.4 Public Holiday Premiums

- (a) The following days shall be recognised as holidays in the industry: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queens Birthday, Eight Hour Day, Christmas Day, Boxing Day, all proclaimed public holidays for the State and the annual AMIEU picnic day of which one month's notice shall be given by Union to employers.
- (b) Seven day continuous shift workers for work done on a rostered shift, the major portion of which is performed on a public holiday, shall be paid at the rate of triple time. Such extra rate shall be in substitution for and not cumulative upon the shift premium elsewhere prescribed.

An employee who is not normally rostered to work on a Public Holiday shall be entitled to be paid at the rate of twelve hours ordinary pay.

4.5 Summer Time (Daylight Saving)

Notwithstanding anything contained elsewhere in this Agreement in any area where by reason of the legislation of a State, "summer time" is prescribed as being in advance of the standard time of that State the length of any shift:

- (a) commencing before the time prescribed by the relevant legislation for the commencement of a summer time period; and
- (b) commencing on or before the time prescribed by such legislation for the termination of a summer time period, shall be deemed to be the number of hours represented by the difference between the time recorded by the clock in each case to be set to the time fixed pursuant to the relevant State legislation.

In the sub-clause the expressions "standard time" and "summer time" shall bear the same meaning by the relevant State legislation.

4.6 Shift Work Arrangements

Shift work arrangements shall be agreed between the Company, employees and the Union in the section or sections concerned.

The agreements reached will reflect those arrangements best suited to the work of the section or sections concerned and with due regard to the employees' health and safety, including:

- (a) Roster arrangements
- (b) Supervision
- (c) Health counselling and monitoring

4.7 Shift Changes

- (a) An employee may be required to change from one shift to another, provided that:
 - (i) The employee shall be given at least forty-eight hours' notice of such change, or shall be paid at the rate of double time for all ordinary time worked after such change until the expiration of forty-eight hours' notice.
 - (ii) Where such change requires that the employee shall work on a day which otherwise would have been a rostered day off, the employee shall be paid at the rate of double time for all time worked on that day unless the employee has received at least fourteen days' notice of such requirement.
 - (iii) Where notice of a change of shift is cancelled within sixteen hours of the due time of commencement, the employee concerned shall receive four hours' ordinary pay.

4.8 Substitution for Rostered Shifts

An employee may substitute rostered shifts of work with another employee on the following basis:

- there is prior agreement between the employees; and
- the shifts that are substituted attract the same rate of pay; and
- the employees concerned have similar skills; and
- two weeks notice is provided to the employee's supervisor prior to the substitution; and
- the supervisor has approved the substitution;
- where substitution occurs there will be no change to either of the employees' rate of pay.

5. ANNUAL LEAVE

5.1 Annual Leave Entitlement

- (a) After completion of each twelve months' continuous service with the Company (less the period of annual leave), an employee shall be entitled to five weeks annual leave for seven day continuous shift employees during ordinary working hours.
- (b) An employee who has worked for part of the year as a shift worker (other than on continuous shift), and for part of the same year as a continuous shift worker, shall be entitled to a pro-rata number of hours calculated to the nearest one hour.

5.2 Payment for Annual Leave

Unless requested otherwise each employee, prior to going on annual leave, shall be paid their earnings to date, and in addition shall be paid for the period during which annual leave has been allowed.

5.3 Annual Leave Loading

An employee who is proceeding on annual leave shall be entitled to the payment of an annual leave loading of 33.3%, or in the case of a shift worker, the higher of the loading or the average shift earnings on ordinary rostered time.

5.4 Time of Taking Annual Leave

- (a) As detailed in the Roster in Appendix D of this Agreement or such other roster as provided, seven day 12-hour continuous shift employees shall take their leave in three equal parts of 63.3333 hours (or 1.6666 weeks) annually.
- (b) Annual leave shall be given and taken as required by the Company in accordance with the roster, or as agreed between the employee and the Company.

6. CALCULATION OF ANNUAL SALARY

6.1 Continuous seven day shift employees shall be paid their average weekly wages as on an annual basis as per the hours worked in accordance with the Shift Roster - Appendix D of this Agreement.

All entitlements have been converted to ordinary hours of pay. Further the roster pattern of Crew 1 as detailed in the Shift Roster - Appendix D of this Agreement shall be used as the basis of the following calculations.

6.2 a) Total Hours Worked	(51 weeks)	1,920.00
Converted to 52.14 weeks		1962.91
b) Total Ordinary Hours Pay	(Including Penalties Saturday & Sunday) (51 weeks)	2448.00
Converted to 52.14 weeks		2502.72
c) Overtime Number of Hours		
Total Hours Worked		1,962.91
Less Required Hours 47.14 x 38		1,791.32
Overtime Hours		<hr/> 171.59
d) Annual Leave	= 5 weeks @ 38 hours =	190 hours
e) Annual Leave Loading	= 190 hours @ 33.3% =	63.33 hours
f) Shift Allowance		
Monday - Friday	116 shifts (51 weeks)	
	116 shifts x 12 hours =	1,392.00 hours
	Less Overtime	171.59 hours
		<hr/> 1,220.41 hours

15% of 1,220.41 = 183.06 hours

<u>Summary</u>	<u>Annual</u>
Loaded Ordinary Hours (Including Saturday & Sunday Pen.)	2,502.72
Overtime	171.59
Annual Leave	190.00
Annual Leave Loading	63.33
Shift Allowance	183.06
	3,110.70

- 6.3 An employee is to be paid 3,110.70 hours multiplied by the hourly rate as per Appendix A for their classification rate as stated in clause 4 of this Agreement, per annum.
- 6.4 In the event of the implementation of a different shift roster, the Company, the employees and their Union shall hold discussions as to any revised method of the calculations of an employee's annual salary.

7. PAYMENT OF WAGES

- 7.1 Wages shall be paid weekly (unless otherwise agreed) into an account nominated by the employee with a bank or other financial institution recognised by the Company.
- 7.2 On or prior to pay day, the Company shall state to each employee in writing the amount of wages to which the employee is entitled, the amount of deductions made therefrom and the net amount being paid to the employee.
- 7.3 Wages due to an employee upon termination shall be paid on the day of termination, or as soon as practicable thereafter.
- 7.4 Deductions from wages shall be made for an employee's contributions to medical funds, superannuation and union contributions or for any other purpose for which the written consent of the employee concerned has been obtained.

8. OTHER CONDITIONS OF SERVICE

Except as provided in Clauses 1-7 of this Appendix C of this Agreement, all other provisions of the Agreement shall apply to seven day 12-hour continuous shift employees.

TABLE 3 - ANNUAL SALARIES CALCULATED IN ACCORDANCE WITH CLAUSE 6 OF THIS APPENDIX

Grades	Current Rate \$	Rate form the first full pay period on or after 31.07.05 \$
Grade 7	1211.8	1260.27

- (i) The above rates are set out for existing employees performing seven day 12-hour continuous shifts, all of whom are classified as Grade 7 employees in accordance with Clause 4 of this Agreement. Nothing in this Agreement shall be taken to affect the employer's right to engage new employees in a different classification.
- (ii) The above rates have been calculated to include the allowances set out in Items 1(c) and 2 of Table 2, Allowances in Appendix B.

APPENDIX D – EXTRACT FROM THE ROSTER FOR 7 DAY, 12 HOUR CONTINUOUS SHIFTS

(1 AUGUST 2005 – 31 JULY 2006)

APPENDIX E – PUBLIC HOLIDAYS

1. Application

This Appendix shall apply to employees working under the terms of Appendix C of this Agreement.

2. Public Holidays

- (a) This clause shall be read in conjunction with clause 4.4 of Appendix C of this Agreement.

To the extent of any inconsistency, this Appendix shall prevail

- (b)
 - (i) If an employee is rostered to work on any public holiday, other than Boxing Day and New Year's Day, the employee shall attend for work (on such public holiday) unless instructed otherwise.
 - (ii) Payment for such a day shall be in accordance with clause 4.4 of Appendix C of this Agreement, being the rate of double time of the ordinary rate in addition to remuneration otherwise payable on that day.
- (c)
 - (i) If an employee is rostered to work on Boxing Day and/or New Year's Day and the employee works on that day, such employee shall be paid for such a day in accordance with clause 4.4 of Appendix C.
 - (ii) If an employee is rostered to work on Boxing Day and/or New Year's Day, ("the rostered employee") such employee may absent himself/herself from work on such a day, provided a replacement employee has been arranged to work the day ("replacement employee") in accordance with the provisions of this clause.
 - (iii) It shall be the responsibility of the rostered employee to arrange a suitable replacement employee. The rostered employee shall advise the Company:
 - 1. The name of the replacement employee
 - 2. The shift for which a replacement is required.The suitability of the replacement employee shall be determined by the company.
 - (iv) On the occasion that a replacement employee works on Boxing Day and/or New Year's Day in accordance with this subclause, the employee shall be paid double time and one-half in addition to any payment already due under clause 4.4(b) of Appendix C, for each shift so worked.
 - (v) If a rostered employee is unable to arrange a suitable replacement in accordance with this subclause, the rostered employee shall attend for work in accordance with the roster unless instructed otherwise.