



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Border Express Pty Ltd
(AG2024/1293)

BORDER EXPRESS PTY LTD TRANSPORT EMPLOYEES AND TWU SYDNEY, NEWCASTLE AND CENTRAL COAST SITE AGREEMENT 2024

Road transport industry

COMMISSIONER MCKINNON

SYDNEY, 9 MAY 2024

*Application for approval of the Border Express Pty Ltd Transport Employees and TWU
Sydney, Newcastle and Central Coast Site Agreement 2024*

[1] Border Express Pty Ltd has applied for approval of a single enterprise agreement known as the *Border Express Pty Ltd Transport Employees and TWU Sydney, Newcastle and Central Coast Site Agreement 2024* (the Agreement).

[2] Written undertakings have been given in accordance with section 190 of the *Fair Work Act 2009* (Act) and are attached at Annexure A. I am satisfied that the undertakings are not likely to cause financial detriment to any employee covered by the Agreement or result in substantial changes to the Agreement. The undertakings are taken to be terms of the Agreement.

[3] With the undertakings now given, and having regard to the Statement of Principles¹, I am satisfied that each of the requirements of sections 186, 187, 188 and 190 of the Act, as are relevant to this application for approval, have been met.

[4] The Agreement is approved and will operate from 16 May 2024. The nominal expiry date of the Agreement is 4 December 2026.

[5] The Agreement covers the Transport Workers' Union of Australia.

¹ *Fair Work (Statement of Principles on Genuine Agreement) Instrument 2023.*



COMMISSIONER

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Annexure A



IN THE FAIR WORK COMMISSION

FWC Matter No: AC2024/1293

Applicant: Border Express Pty Ltd

Section 185 - Application for approval of a single enterprise agreement

Undertaking – Section 190

I, David Leak, NSW General Manager, have the authority given to me by Border Express Pty Ltd to give the following undertakings with respect to the Border Express Pty Ltd Transport Employees and TWU Sydney, Newcastle and Central Coast Site Agreement 2024 ("the Agreement"):

1. In regard to clause 19.1.3 of the Agreement ordinary hours of shiftwork performed on a Sunday will be paid at 200% of the employee's ordinary hourly rate consistent with the requirement of clause 22.8(a) of the Road Transport and Distribution Award 2020 save and except that the ordinary hourly rate will be that specified in clause 11.1 of the Agreement.
2. In regard to clause 23.4.2 of the Agreement a casual employee who performs work on a public holiday will be paid for all time worked on the public holiday at a rate of 250% of the ordinary hourly rate (or 300% of the ordinary hourly rate on Good Friday and Christmas Day) in addition to the casual loading at clause 9.10 of the Agreement.



Signature



Date



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ADELAIDE | ALBURY | BARRAMETHA - LOGE PAFF | BRISBANE | CAMBORA | CARRAVILLE | GOLD COAST | MELBOURNE | NEWCASTLE | PERTH | SYDNEY

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.



**Border Express Pty Ltd Transport Employees and TWU
Sydney, Newcastle and Central Coast Site Agreement 2024**

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1. **Agreement Title**

- 1.1 This agreement shall be known as the Border Express Pty Ltd Transport Employees and TWU Sydney, Newcastle and Central Coast Site Agreement 2024 ("Agreement").

2. **Application, Scope and Parties Bound**

- 2.1 This Agreement applies to and is binding upon:

2.1.1 Border Express Pty Ltd, ACN 000 533 880 ("the Employer"); and

2.1.2 the Transport Workers Union of Australia NSW Branch ("TWU") its officers and members; and

2.1.3 the Employees of the Employer who:

2.1.3.1 are employed at the Employer's Site situated at:

- (a) 27-33 Frank Street, Wetherill Park, New South Wales, 2164; or
- (b) 26 Frank Street, Wetherill Park, New South Wales, 2164; or
- (c) 20 Wurth Street, Chullora, New South Wales, 2190; or
- (d) 27 Yilen Close, Beresfield, New South Wales 2322; or
- (e) 27-29 Reliance Drive, Tuggerah, New South Wales 2259; and

2.1.3.2 work within the Inbound Shift, Outbound Shift and the PUD Fleet; and

2.1.3.3 are engaged within the classifications as outlined under this Agreement.

2.1.4 Should the Employer relocate its existing (or new) business to a new premises the Agreement shall apply to any premises replacing the Wetherill Park or Chullora or Beresfield or Tuggerah sites.

2.1.5 For the avoidance of doubt, this Agreement does not apply to employees of the Employer engaged in a managerial or supervisor capacity, regardless of whether such managers or supervisors work within the Inbound Shift, Outbound Shift or the PUD Fleet.

- 2.2 The Road Transport and Distribution Award 2020 ("Award") as varied from time to time is incorporated into this Agreement. In the event of any inconsistency between the terms of this Agreement and the Award, this Agreement shall prevail to the extent of the inconsistency.

- 2.3 This Agreement will be read and interpreted in conjunction with the National Employment Standards ("NES"). Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

3. **Definitions**

- 3.1 In this Agreement, unless the context otherwise requires:

3.1.1 "Act" means the *Fair Work Act 2009* (Cth).

3.1.2 "Agreement" means this Border Express Pty Ltd Transport Employees and TWU Sydney, Newcastle and Central Coast Site Agreement 2024.

3.1.3 "Award" means the Road Transport and Distribution Award 2020.

3.1.4 "Employee" means any employee whose employment falls within the scope of Clause 2.1.3.

3.1.5 "Employer" means Border Express Pty Ltd, ACN 000 533 880.

3.1.6 "FWC" means the Fair Work Commission.

- 3.1.7 "Inbound Shift" means any full-time Employee permanently engaged (as specified in their contract of employment or other written agreement) on the early morning shift as a 'Yard Hand', 'Freight Handler' or 'Forklift Operator'.
- 3.1.8 "NES" means the National Employment Standards.
- 3.1.9 "Outbound Shift" means any full-time Employee permanently engaged (as specified in their contract of employment or other written agreement) on the afternoon shift as a 'Yard Hand', 'Freight Handler' or 'Forklift Operator'.
- 3.1.10 "Ordinary Hourly Rate" means the ordinary hourly rates for an Employee's classification in clause 11.1.
- 3.1.11 "Parties" means the Employer and the Employees.
- 3.1.12 "PUD Fleet" means any Employee engaged as a 'Driver'.
- 3.1.13 "Site" means (subject to clause 2.1.3.1) the Employer's Sydney Site situated at 27-33 Frank Street, Wetherill Park, New South Wales, 2164, and at 26 Frank Street, Wetherill Park, New South Wales, 2164, and at 20 Wurth Street, Chullora, New South Wales 2190 or the Employer's Newcastle Site situated at 27 Yilen Close, Beresfield, New South Wales, 2286 or at the Employer's Central Coast Site situated at 27-29 Reliance Drive, Tuggerah, New South Wales 2259.
- 3.1.14 "TWU" means the Transport Workers' Union of Australia NSW Branch.
- 3.1.15 "Union" means the Transport Workers' Union of Australia NSW Branch.

4. Period of Operation

- 4.1 This Agreement will commence operating seven days after it is approved by the FWC.
- 4.2 The nominal expiry date of this Agreement will be 4 December 2026.
- 4.3 This Agreement will continue to operate after its nominal expiry date until it is replaced or terminated by the FWC.

5. Dispute Settlement Procedure

- 5.1 If a dispute relates to:
 - a) a matter arising under the Agreement; or
 - b) the NES;
 this term sets out procedures to settle the dispute.
- 5.2 An Employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
- 5.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level by discussions between the Employee or Employees and relevant supervisors and/or management.
- 5.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the FWC.
- 5.5 The FWC may deal with the dispute in 2 stages:
 - 5.5.1 the FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - 5.5.2 if the FWC is unable to resolve the dispute at the first stage, the FWC may then:

- a) arbitrate the dispute; and
- b) make a determination that is binding on the parties.

Note: If FWC arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that FWC makes when arbitrating a dispute is a decision for the purpose of Div. 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

- 5.6 While the parties are trying to resolve the dispute using the procedures in this term:
- 5.6.1 an Employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
 - 5.6.2 an Employee must comply with a direction given by the Employer to perform other available work at the same workplace, or at another workplace, unless:
 - a) the work is not safe; or
 - b) applicable occupational health and safety legislation would not permit the work to be performed; or
 - c) the work is not appropriate for the Employee to perform; or
 - d) there are other reasonable grounds for the Employee to refuse to comply with the direction.

5.7 The parties to the dispute agree to be bound by a decision made by FWC in accordance with this term.

6. Consultation Term

- 6.1 This term applies if the Employer:
- 6.1.1 has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the Employees; or
 - 6.1.2 proposes to introduce a change to the regular roster or ordinary hours of work of Employees.

Major change

- 6.2 For a major change referred to in paragraph 6.1.1:
- 6.2.1 the Employer must notify the relevant Employees and their representatives, including the TWU, of the decision to introduce the major change; and
 - 6.2.2 subclauses 6.3 to 6.9 apply.
- 6.3 The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 6.4 If:
- 6.4.1 a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - 6.4.2 the Employee or Employees advise the Employer of the identity of the representative, the Employer must recognise the representative.
- 6.5 As soon as practicable after making its decision, the Employer must:
- 6.5.1 discuss with the relevant Employees:
 - a) the introduction of the change; and
 - b) the effect the change is likely to have on the Employees; and

- c) measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and
- 6.5.2 for the purposes of the discussion - provide, in writing, to the relevant Employees:
 - a) all relevant information about the change including the nature of the change proposed; and
 - b) information about the expected effects of the change on the Employees; and
 - c) any other matters likely to affect the Employees.
- 6.6 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 6.7 The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- 6.8 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in paragraph 6.2.1 and subclauses 6.3 and 6.5 are taken not to apply.
- 6.9 In this term, a major change is likely to have a significant effect on Employees if it results in:
 - 6.9.1 the termination of the employment of Employees; or
 - 6.9.2 major change to the composition, operation or size of the Employer's workforce or to the skills required of Employees; or
 - 6.9.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - 6.9.4 the alteration of hours of work; or
 - 6.9.5 the need to retrain Employees; or
 - 6.9.6 the need to relocate Employees to another workplace; or
 - 6.9.7 the restructuring of jobs

Change to regular roster or ordinary hours of work

- 6.10 For a change referred to in paragraph 6.1.2:
 - 6.10.1 the Employer must notify the relevant Employees and their representatives, including the TWU, of the proposed change; and
 - 6.10.2 subclauses 6.11 to 6.15 apply
- 6.11 The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 6.12 If:
 - 6.12.1 a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - 6.12.2 the Employee or Employees advise the Employer of the identity of the representative; the Employer must recognise the representative.
- 6.13 As soon as practicable after proposing to introduce the change, the Employer must:
 - 6.13.1 discuss with the relevant Employees the introduction of the change; and
 - 6.13.2 for the purposes of the discussion-provide to the relevant Employees:

- a) all relevant information about the change, including the nature of the change; and
 - b) information about what the Employer reasonably believes will be the effects of the change on the Employees; and
 - c) information about any other matters that the Employer reasonably believes are likely to affect the Employees; and
- 6.13.3 invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 6.14 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 6.15 The Employer must give prompt and genuine consideration to matters raised about the change by the relevant Employees.
- 6.16 In this term "relevant Employees" means the Employees who may be affected by a change referred to in subclause 6.1.
- 7. Flexibility Term**
- 7.1 An Employer and Employee covered by this enterprise agreement may agree to make an Individual flexibility arrangement to vary the effect of terms of the agreement if:
 - 7.1.1 the agreement deals with one or more of the following matters:
 - a) arrangements about when work is performed;
 - b) overtime rates;
 - c) penalty rates;
 - d) allowances;
 - e) leave loading; and
 - 7.1.2 the arrangement meets the genuine needs of the Employer and Employee in relation to one or more of the matters mentioned in paragraph 7.1.1; and
 - 7.1.3 the arrangement is genuinely agreed to by the Employer and Employee
- 7.2 The Employer must ensure that the terms of the individual flexibility arrangement:
 - 7.2.1 are about permitted matters under section 172 of the Act; and
 - 7.2.2 are not unlawful terms under section 194 of the Act; and
 - 7.2.3 result in the Employee being better off overall than the Employee would be if no arrangement were made.
- 7.3 The Employer must ensure that the individual flexibility arrangement:
 - 7.3.1 is in writing; and
 - 7.3.2 includes the name of the Employer and Employee; and
 - 7.3.3 is signed by the Employer and Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
 - 7.3.4 includes details of:
 - a) the terms of the enterprise agreement that will be varied by the arrangement; and

- b) how the arrangement will vary the effect of the terms; and
- c) how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and

7.3.5 states the day on which the arrangement commences.

- 7.4 The Employer must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 7.5 The Employer or Employee may terminate the individual flexibility arrangement:
 - 7.5.1 by giving no more than 28 days' written notice to the other party to the arrangement; and
 - 7.5.2 if the Employer and Employee agree in writing - at any time.

8. No Further Claims

- 8.1 Up to the nominal expiry date of this Agreement, the Employees will not pursue or be entitled to any extra claims or allowances relating to wages or changes to conditions of employment or any matters related to the employment of the Employees, whether dealt with in this Agreement or not.

9. Employment Contract

- 9.1 All Employees enter into a qualifying period of six months upon engagement by the Employer. During this period, either party may terminate the employment at any time by giving either one week's notice of their intention to do so, or payment or forfeiture of one weeks' ordinary wages.
- 9.2 An Employee may be required to change work location from time to time as follows:
 - 9.2.1 temporary change of work location to accommodate genuine business needs. This may include the requirement to work from a customer's premises or another of the Employer's Sites in order to meet a short term business need, and/or;
 - 9.2.2 change of location due to training and or other activity not directly related to the undertaking of the Employee's primary duties in accordance with the classification structure.
- 9.3 An Employee's location cannot be permanently changed to an alternate location without consultation and agreement with the Employee.

Part-time Employees

- 9.4 A part-time Employee's entitlements under this Agreement shall be a pro rata proportion of these entitlements set out in this Agreement for full-time Employees.
- 9.5 Part-time Employees may be employed on a permanent basis to work regular days and regular hours less than 38 hours per week.
- 9.6 A part-time Employee must receive a minimum payment of four hours for each day engaged.
- 9.7 Hours of work for part-time Employees are to be determined and altered by agreement between the Employer and the Employee.
- 9.8 Any hours performed by a part-time Employee outside those already agreed between the Employer and the Employee will be paid at the applicable overtime rates.

Casual Employees

- 9.9 A casual Employee has the meaning given by section 15(A) of the Act and has no guaranteed hours of work or regular pattern of work and, as such, is engaged and paid by the hour.

- 9.10 Casual Employees will be paid for each ordinary hour at the rate specified in clause 11.1 for their appropriate classification and a loading of 25% of the Ordinary Hourly Rate.
- 9.11 The casual 25% loading is not compounded by penalties, overtime, allowances or shift loadings. For the avoidance of doubt, applicable penalties and loadings will be applied to a casual Employee's Ordinary Hourly Rate on a consecutive (non-compounding) basis. The Ordinary Hourly Rate excluding 25% casual loading is used to calculate all penalties, overtime, allowances and shift loadings.
- 9.12 A casual Employee shall be paid for all overtime worked at overtime rates calculated based on the applicable Ordinary Hourly Rate for their classification in clause 11 (excluding 25% casual loading). For each hour of overtime worked, a casual employee must also be paid 10% of the Ordinary Hourly Rate specified for their classification in clause 11. To avoid doubt, a casual employee will not receive the 25% loading referred to in subclause 9.10 whilst working overtime.

For example, if the Ordinary Hourly Rate is \$20 per hour, a casual Employee would be paid \$25 per hour for ordinary hours of work and would be paid according to the following methodology when working overtime:

- *time and a half: a payment of \$30 plus 10% of \$20, as the hourly rate, giving a total payment of \$32;*
- *double time: a payment of \$40 plus 10% of \$20, as the hourly rate, giving a total payment of \$42.*

- 9.13 The ordinary hours of work for casual Employees must not exceed eight hours per day or shift exclusive of meal breaks. Overtime is paid for time worked in excess of eight hours per day.
- 9.14 Irrespective of hours worked, a casual Employee shall be paid a minimum of four hours work for each shift, with the exception being if the Employee requests to leave prior to completing four hours' work.
- 9.15 Conversion from casual employment to full-time or part-time employment will be in accordance with the NES, save and except that the reference to 12 months will be 6 months for the purpose of this Agreement.

10. Classification Structure

Grade	Description	Licence Type Required
Grade 1	General Hand- greaser, cleaner, yard person, vehicle washer and detailer. Loader- other than freight forwarder.	No Licence Required
Grade 2	Loader- freight forwarder. Driver of a rigid vehicle not exceeding 4.5tonnes gross vehicle mass (GVM).	C Class Licence
Grade 3	Driver of a fork-lift up to and including 5 tonnes lifting capacity. Driver of a two-axle rigid vehicle or any other rigid vehicle exceeding 4.5 tonnes, but not exceeding 13.9 tonnes gross vehicle mass (GVM) unless by special permit or registration such vehicle may be up to 15 tonnes gross vehicle mass (GVM). Any towed trailer must not weigh more than 9 tonnes GVM. Distribution Facility Employee – Level 1.	LR Licence (not more than 8 tonnes) LF Licence (forklift) MR Licence (more than 8 tonnes)
Grade 4	Driver of a three-axle rigid vehicle exceeding 13.9 tonnes gross vehicle mass (GVM).	HR Licence LF Licence (forklift)

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	Any towed trailer must not weigh more than 9 tonnes GVM. Radio Operator, Weigh Bridge Attendant. Driver of a fork-lift with a lifting capacity in excess of 5tonnes and up to and including 10 tonnes lifting capacity. Distribution Facility Employee – Level 2.	
Grade 5	Driver of a forklift with a lifting capacity in excess of 10 tonnes and up to 34 tonnes. Driver of a rigid vehicle with four or more axles and a gross vehicle mass (GVM) exceeding 13.9 tonnes. Driver of a rigid vehicle and heavy trailer combination with 3 axles and a gross combination mass (GCM) of 22.4 tonnes or less. Driver of an articulated vehicle with 3 axles and a gross combination mass (GCM) of 22.4 tonnes or less.	HR Licence
Grade 6	Driver of a rigid vehicle and a heavy trailer combination with more than 3 axles and a gross combination mass (GCM) greater than 22.4 tonnes. Driver of an articulated vehicle with more than 3 axles and a gross combination mass (GCM) greater than 22.4 tonnes.	HC Licence
Grade 7	Driver of a double articulated vehicle up to and including 53.4 tonnes gross combination mass (GCM) - including B-Doubles. Distribution Facility Employee - Level 3.	MC Licence
Grade 8	Driver of a rigid vehicle and trailer(s) or double articulated vehicle exceeding 53.4 tonnes gross combination mass (GCM) including B-Doubles	MC Licence

11. Ordinary Hourly Rates of Pay

- 11.1 An Employee will be paid the Ordinary Hourly Rates applicable to their classification, as set out in the below table, from the **first full pay period** commencing on or after the date listed in each column. For clarity, the Award rates of pay column in the table are for reference only and are not paid in addition to the rates set out in the dated columns:

Grade	Award as at 1 July 2023	8 December 2023	6 December 2024	5 December 2025
1	\$23.89	\$26.59	\$27.65	\$28.48
2	\$24.46	\$27.46	\$28.56	\$29.41
3	\$24.74	\$28.05	\$29.17	\$30.04
4	\$25.18	\$28.59	\$29.73	\$30.63
5	\$25.49	\$29.93	\$31.13	\$32.06
6	\$25.78	\$30.26	\$31.47	\$32.41
7	\$26.16	\$31.32	\$32.57	\$33.55
8	\$26.92	\$33.40	\$34.73	\$35.78

Overtime

11.2 Overtime will be paid at the rate of time and one half (150% of the Ordinary Hourly Rate) for the first 2 hours and double time (200% of the Ordinary Hourly Rate) thereafter for all work done outside of ordinary hours.

11.3 In computing overtime, each day's work will stand alone.

12. Allowances

12.1 The allowances listed in this Agreement are the only allowances that apply to Employees.

12.2 An Employee required to work overtime for more than two continuous hours will be paid a meal allowance of \$22.50.

12.3 An Employee appointed by the Employer to perform first aid shall be paid a first aid allowance of \$15.10 per week.

12.4 A full-time Employee appointed by the Employer as a leading hand will be paid a leading hand allowance of \$100 per week. For the avoidance of doubt, this allowance is paid as a flat weekly rate and is not subject to increase by any penalty payment or loading.

12.5 From time to time the Employer may require an Employee to perform a leading hand role for a temporary period, in which case the Employee will be paid a leading hand allowance of \$20 per day. For the avoidance of doubt this allowance is paid as a flat daily rate and is not subject to increase by any penalty payment or loading.

12.6 An Employee driver who is licensed and engaged in the transportation by public road of packaged dangerous goods, which requires placarding, will be paid an allowance in the amount of \$9.40 per day.

12.7 An Employee driver who is engaged with the responsibility for mentoring and completing the new driver checklist will be paid a daily allowance of \$20.50.

13 Employees Duties

13.1 The Employer may direct an Employee to carry out such duties as are within the limits of the Employee's skill, competence and training consistent with the classification structure of this Agreement, provided such duties are not designed to promote de-skilling.

13.2 The Employee must comply with the laws and regulations that govern heavy vehicle operations, including but not limited to laws and regulations concerning Driving Hours, Speed, Mass Limits, Dimension, Load Restraint and Compliance and Enforcement.

14. Packaged Dangerous Goods

14.1 Packaged dangerous goods which require placarding are those goods defined as such in the Australian Code for the Transport of Dangerous Goods by Road and Rail as amended from time to time.

14.2 In order to satisfy the requirements of this Agreement, the Employee's dangerous goods license must remain current. Should a driver at any time be found to have an expired or otherwise non-current license, payment of the daily packaged dangerous goods allowance as defined in this Agreement shall not apply.

15. Mixed Functions

15.1 Where the Employee performs work, for no less than one hour on any given day, at a classification level higher than that at which they are usually employed, the Employee shall be paid the Ordinary Hourly Rate provided under this Agreement that apply to the higher classification level for the whole day.

16. Ordinary Hours of Work

- 16.1 The ordinary hours of work shall not exceed 38 hours per week.
- 16.2 For Employees other than those working a shift under clause 19.1, ordinary hours of work shall be between the hours of 5.00 am and 6.00 pm Monday to Friday.
- 16.3 For Employees other than casual Employees, ordinary hours shall not exceed 7.6 hours per shift, exclusive of meal breaks. Ordinary hours for casual employees are defined in clause 9.13.

17. Starting Time

- 17.1 The scheduling of starting times shall be at the discretion of the Employer and shall be as set out in contracts of employment.
- 17.2 Should the Employer wish to alter the permanent start time of an Employee, the Employer shall provide seven days' notice.
- 17.3 Where the start time is required to be changed for reasons beyond the Employer's control, the Employer shall provide notification before the end of the previous day's work or provide 24 hours' notice where work has not been performed the previous day.
- 17.4 Any time worked by an Employee prior to their scheduled start time or after their scheduled finish time should be approved in advance by the Employer. The Employee will not be paid for any unauthorised time worked prior to their scheduled starting time or after their scheduled finish time unless the Employer is satisfied by the Employee's reason for starting earlier or finishing later.

18. Reasonable Hours to be worked

- 18.1 The Employee will work reasonable hours of work at the rates of pay provided by this Agreement, which are calculated on the basis of an average of 38 ordinary hours per week plus reasonable additional hours and which include the provision for payment of Overtime and Shift Penalties and the Employee shall work these hours. The Employee is not required to work such hours if they are unreasonable in accordance with the factors listed section 62(3) of the Act.
- 18.2 Where the Employer is satisfied that the Employee has reasonable grounds for refusing to work such additional hours on a particular occasion, the Employee shall not be required to work such additional hours on that occasion. If the Employee is regularly unable to work reasonable additional hours as required by the Employer, the Employee may be transferred to another position, if one is available, or their employment may be terminated by the Employer.
- 18.3 The Employer shall ensure that reasonable additional hours, including overtime, are allocated in a fair and consistent manner and in accordance with genuine business requirements. Employees shall recognise that factors such as classification, experience and reliability may be taken into consideration where allocating overtime providing such issues are relevant to the undertaking of such overtime.

19. Shift Work

- 19.1 Subject to the clause below, an Employee who works on an Early Morning, Afternoon or Night Shift will be paid the shift loading for that shift as set out in clause 19.3:
- 19.1.1 Early morning shift shall mean any shift which commences at or after 2.00am, and before 5.00am Monday to Friday;
- 19.1.2 Afternoon shift means a shift finishing after 6.00 pm but not later than 12.30 am Monday to Friday;
- 19.1.3 Night shift means a shift which finished after 12.30am and at or before 8.30am Sunday to Friday.

- 19.2 To avoid doubt, a shift will not be a Night shift where it commences at or after 2.00am and before 5.00am. Such a shift will be an Early Morning shift.
- 19.3 For ordinary hours, Employees performing shiftwork must be paid as follows:

Shift	% of the Ordinary Hourly Rate
Early morning shift	117.5%
Afternoon shift	125%
Night shift	130%

- 19.4 Employees are not entitled to receive payment of shift loadings in respect of any hours (or part hours) of work for which the Employee is entitled to receive any other penalty or loading (including for work on a public holiday, work performed on a Saturday or Sunday, or overtime) in respect of the time worked.
- 19.5 Where the major portion of an Early Morning Shift, Afternoon Shift or Night Shift falls on a public holiday the whole of the shift will be regarded as a public holiday shift.
- 19.6 Inbound Shift Employees and Outbound Shift Employees are guaranteed 9 hours of work per day (with the first 7.6 hours of work being ordinary time and the balance payable as overtime) for Inbound or Outbound Shifts that are actually worked, and where the Employee attends for work at his or her rostered start time ("Guaranteed Hours"). The Inbound Shift comprises 7.6 hours at the Ordinary Hourly Rate plus 17.5% shift loading, 0.5 hours' unpaid meal break and 1.4 hours at the appropriate overtime rate (1.5 times the normal time rate). The Outbound Shift comprises 7.6 hours at the normal time rate plus 25% shift loading, 0.5 hours' unpaid meal break and 1.4 hours at the appropriate overtime rate (150% of the Ordinary Hourly Rate).
- 19.7 The overtime referred to above is only payable for overtime actually worked by an Employee and is not payable in respect of any period of leave or paid absence from work on a public holiday.
- 19.8 If an Employee reports to work after his or her rostered start time, the Employee must complete 7.6 hours of work from his or her actual start time before becoming eligible for any overtime. For the avoidance of doubt, the guarantee of 9 hours' work referred to in this Agreement does not operate to extend the rostered finish time of an Employee's shift, where he or she has attended for work after the rostered start time. This includes if an Employee does not use the time and attendance system (Timeminder) for that shift and as required by the contract of employment.
- 19.9 For the purpose of determining the circumstances in which Inbound Shift Employees and Outbound Shift Employees will be entitled to a meal allowance as outlined in this Agreement, the overtime performed in the Guaranteed Hours is not counted. For the avoidance of doubt, a meal allowance under this clause 19.9 will only be paid when an Inbound Shift Employee or an Outbound Shift Employee works more than 3.4 hours of continuous overtime.

20. Meal Breaks - Yard Employees

- 20.1 Employees will be entitled to an unpaid meal break where they work 5 or more hours in any day or in any shift.
- 20.2 The unpaid meal break will be of a regular duration of not more than 30 minutes.
- 20.3 The unpaid meal break will commence no earlier than three and a half hours and no later than five and a half hours after an Employee's fixed starting time of the ordinary hours of work.

20.4 Employees will be flexible with the taking of their unpaid meal break so as to ensure that work is not unduly delayed.

20.5 Where necessary unpaid meal breaks may be taken early or late in order to avoid delays in loading and unloading activities or be taken whilst waiting for loading and unloading to begin or to be completed.

21. Meal Breaks - PUD Fleet

21.1 Employees will be entitled to an unpaid meal break where they work 5 or more hours in any day or in any shift.

21.2 The unpaid meal break will be of a regular duration of not more than 30 minutes.

21.3 The unpaid meal break will commence no earlier than three and a half hours and no later than five and a half hours after an Employee's fixed starting time of the ordinary hours of work.

21.4 Where reasonable and practical, the unpaid meal break will be taken at a time to coincide with any requirement to take a break under fatigue management rules/regulations, or as otherwise required by the Employer.

21.5 Employees will be flexible with the taking of their unpaid meal break so as to ensure that work is not unduly delayed.

21.6 Where necessary unpaid meal breaks may be taken early or late in order to avoid delays in loading and unloading activities.

21.7 Where possible whilst at the Branch and not whilst performing any tasks relating to the use of the vehicle unpaid meal breaks will be taken whilst waiting for loading or unloading to begin or to be completed.

21.8 All Employees are responsible for ensuring that their unpaid meal breaks under this Agreement are taken in accordance with those which they are obliged to take under fatigue management rules/regulations.

22. Crib/Rest Breaks

22.1 The parties agree that payment for Crib and/or Rest Breaks will not apply to Employees covered by this Agreement.

22.2 Payment for Crib and/or Rest Breaks has been absorbed into the meal allowance payment.

23. Public Holidays

23.1 The Employee is entitled to a day off on public holidays specified below. If the public holiday is a day on which a full time or part time Employee would ordinarily be rostered to work, then those Employees will be paid for the ordinary hours only that the Employee would otherwise have worked at the Employee's Ordinary Hourly Rate. For the avoidance of doubt, an Employee who is entitled to Guaranteed Hours under this Agreement will not receive payment for overtime on a public holiday, where the Employee does not perform work on the public holiday. Casual Employees are not entitled to payment on a public holiday where the Employee does not perform work on that day.

23.2 Employees are entitled to public holidays as specified in the Act. To the extent that this would not include any day prescribed or gazetted as a show holiday, Employees are entitled to show holidays for the locality in which they work.

23.3 Notwithstanding the above clauses, the Employer may request that an Employee work on a public holiday and the Employee shall not unreasonably refuse that request. The Employee is not required to work on a public holiday if such a requirement would be unreasonable in accordance with the factors listed in the Act (currently sections 114(3) & 114(4) of the Act).

- 23.4 If the Employee is required to work on a public holiday, the Employer and Employee (prior to the public holiday) shall agree that the Employee will either:
- 23.4.1 be granted an additional day of annual leave in respect of each holiday on which they work; or
- 23.4.2 be paid for all hours worked on the public holiday at the rate of 250% of their Ordinary Hourly Rate.
- 23.5 In the absence of an agreement, the Employer will at its discretion, determine by which method the Employee will be compensated for working a public holiday.
- 23.6 If an Employee is entitled to receive a loading for any hours (or part hours) of work performed on a public holiday in accordance with the above, the Employee is not entitled to receive any other penalty or loading (including for shift work, work performed on a Saturday or Sunday, or overtime) in respect of the time worked.

24. Termination of Employment

- 24.1 The Employer may terminate the employment of a full-time or part-time Employee, or a full-time or part-time Employee may resign from employment, by giving the period of notice specified in the table below:

Period of continuous service	Period of notice
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

- 24.2 In addition to the notice required, Employees over 45 years of age at the time of notice with not less than two years' continuous service are entitled to receive an additional weeks' notice, however, are not required to give such an additional week's notice.
- 24.3 The Employer may terminate the employment of a casual Employee, or a casual Employee may resign from employment, by giving one week's notice.
- 24.4 The Employer may pay the Employee in lieu of all or part of the required period of notice, instead of giving the Employee that period of notice, and the amount of payment required will be determined in accordance with applicable legislation in place or as varied from time to time.
- 24.5 Provided this clause 24.5 does not operate contrary to clause 34.1(d) of the Award, the Employee will forfeit an amount of wages equal to their ordinary hourly pay for the required period of notice or part thereof, if they fail to give that period of notice when they resign and if all or part of their wages for the notice period has already been paid to the Employee. The Employer may deduct this amount from any money owed to the Employee on termination, to the extent permitted by law.
- 24.6 For the avoidance of doubt, payment in lieu of notice shall not include overtime in the Guaranteed Hours given that the overtime would not be worked.
- 24.7 The Employer may end the employment of the Employee without notice in response to serious misconduct in accordance with regulation 1.07 of the *Fair Work Regulations 2009* (Cth).

25. Abandonment of Employment

- 25.1. The absence of an Employee from work for a continuous period exceeding three working days without the authorisation of the Employer and without notification to their direct supervisor or manager shall be prima facie evidence that the Employee has abandoned their employment.

25.2. If within a period of 14 days from their last attendance at work or the date of their last absence in respect of which notification has been given or consent has been granted an Employee has not established to the satisfaction of the Employer that they were absent for reasonable cause, they shall be deemed to have abandoned their employment.

25.3. Termination of employment by abandonment in accordance with this clause shall operate as from the date of the last attendance at work or the last day's absence in respect of which consent was granted, or the date of the last absence in respect of which notification was given to the Employer, whichever is the later.

26. Redundancy

26.1 This clause applies to full-time and part-time Employees only and does not apply to casual Employees.

26.2 In the event an Employee's employment is terminated at the Employer's initiative because the Employer no longer requires the job done by the Employee to be done by anyone (except where this is due to the ordinary and customary turnover of labour), the following severance pay shall apply;

26.3 If an Employee is under 45 years of age, the Employer shall pay in accordance with the following scale:

Years of Service	Under 45 Years of Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

26.4 If an Employee is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of Service	45 Years of Age and Over Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

In this clause, "week's pay" means all amounts that the Employee would have been entitled to receive had they actually worked the week, being the Ordinary Hourly Rate and not including overtime.

26.5 An Employee given notice of termination in circumstances of redundancy may leave his or her employment during the period of notice. In this circumstance the Employee will be entitled to receive the benefits and payments they would have received under this clause had they remained with the Employer until the expiry of the notice but will not be entitled to payment in lieu of notice and will not be required to forfeit any wages in lieu of the period of notice not worked.

26.6 The provisions of this clause are not applicable where the business, before or after the date of this Agreement, is transmitted from the Employer ("Transmitter") to another employer ("Prospective Employer") in any of the following circumstances:

26.6.1 where the Employee accepts employment with a Prospective Employer which recognises the

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period of continuous service which the Employee had with the Transmitter, and any prior transmitter, to be continuous service of the Employee with the Prospective Employer; or

26.6.2 where the Employee rejects an offer of employment with a Prospective Employer following a transfer of employment or transmission of business:

26.6.2.1 in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the Employee at the time of ceasing employment with the Transmitter; and

26.6.2.2 which recognises the period of continuous service which the Employee had with the Transmitter and any prior transmitter to be continuous service of the Employee with the Prospective Employer.

27. Articles of Clothing/Uniform

27.1 All Employees bound by the Agreement will promote the Employer image to the general community, customers, road users and other transport operators by wearing Employer supplied uniforms and ensuring personal presentation is always neat and clean during work time.

27.2 High visibility clothing/protective footwear must be worn at all times when moving through an area where mobile plant and/or heavy vehicles are operating. All other Employer issued personal protective equipment must be used when and as required or directed.

Return of Property and Uniform

27.3 Upon termination of their employment for any reason the Employee must:

27.3.1 return all Employer property. This includes but is not limited to keys and documentation and phones;

27.3.2 immediately return any information relating to the Employer, including any information that is electronically stored (such as on a computer);

27.3.3 destroy any records of information relating to the Employer which is unable to be returned to the Employer immediately; and

27.3.4 return complete uniform (trousers, shirts etc.) and protective equipment supplied by the Employer.

27.4 Provided that this clause 27.4 will not operate contrary to clause 18.5 of the Award, the Employee's final payment of wages and entitlements may be delayed until the Employee has returned all Employer property, equipment and uniforms in accordance with this agreement. The Employer may deduct (to the extent permitted by law) the replacement cost of any such equipment that is not returned by the Employee from the Employee's final wages and entitlements and will take action to recover the property.

28. Training and Development

28.1 Employees may be provided with opportunities for professional development through training approved by and paid for by the Employer.

28.2 The cost of all training courses or refresher courses that the Employer requires the Employee to undertake shall be paid for by the Employer.

28.3 Where the training which the Employer requires the Employee to undertake is conducted during working hours, the Employee will be paid for their time spent at training. The Employee will also be paid for any portion of their time spent travelling to the training that is longer than the time the Employee would usually spend travelling to work. Payment for time spent at training and any additional travel time will be paid at the Employee's Ordinary Hourly Rate as set out in this Agreement. For the purposes of

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calculating any penalties the following shall apply:

- 28.3.1 An Employee employed in accordance with the Ordinary Hours of Work clause, will either be paid at the appropriate rates (including any penalty rates that they would have received had they instead worked the same period) spent attending training, or at the Employers discretion, be given time off in lieu;
- 28.3.2 An Employee employed to perform shiftwork, will either be paid at the appropriate rates (as though the hours worked were in accordance with the shift work clause, including any penalty rates) spent attending training, or at the Employers discretion, be given time off in lieu.
- 28.4 Where the Employee wishes to undertake training that is not required by the Employer, the Employer may, at its discretion, allow the Employee time off from work and the Employer will decide whether this shall be without pay, or with pay.
- 28.5 Provided that this clause 28.5 will not operate contrary to section 325 of the Act, where pursuant to the above clauses, the Employer pays the costs of training in respect of an Employee and that Employee subsequently leaves the Employer's employment (other than due to termination of their employment by the Employer) within two years of the training, the Employee shall be required to pay back to the Employer:
- 28.5.1 an amount equal to 100% of the cost of training if the Employee leaves the Employer's employment within 6 months of the training; or
- 28.5.2 an amount equal to 50% of the cost of training if the Employee leaves the Employer's employment within 12 months of training.
- 28.6 Any reference to training in this clause excludes training, howsoever described, that is provided by a trade union.
- 29. Annual Leave**
- 29.1 This clause applies to full-time and part-time Employees and does not apply to casual Employees.
- 29.2 Employees are entitled to annual leave in accordance with the Act.
- 29.3 A shiftworker for the purposes of the additional week's leave referred to in section 87(1)(b) of the Act, is a 7 day shiftworker who is regularly rostered to work on Sundays and public holidays.
- 29.4 Annual leave accrues on a pro rata basis each four weeks based on 1/13th of the nominal hours worked during the four weeks.
- 29.5 A full-time Employee working for a full year would accrue 20 days in a year.
- 29.6 In addition, Employees are entitled to be paid an annual leave loading of 26.32% of the Ordinary Hourly Rate for annual leave taken. The annual leave loading is in place of any other loading or allowance to which an Employee may have been entitled under this Agreement had they instead worked the period taken as annual leave. For the avoidance of doubt, if an Employee is entitled to receive annual leave loading for any hours (or part hours) of leave, the Employee is not entitled to receive any other penalty or loading (including for shift work, work performed on a Saturday or Sunday, work performed on a public holiday, or overtime) in respect of that period.
- 29.7 Employees should provide at least 2 weeks' notice of their request for leave. Leave requests will only be approved whilst having regard to the Employer's operational requirements and peak operational times. All annual leave requests must be recorded by Employees and approved by management electronically via the Employee Self-Serve system.

- 29.8 Subject to the following, an Employee may elect to cash out (and thereby forego) an entitlement to take an amount of annual leave credited to him or her:
- 29.8.1 An Employee who wishes to cash out a portion of their annual leave must give to the Employer a written election specifying the amount of annual leave he or she wishes to forego.
- 29.8.2 An Employee may not forego an amount of annual leave during each 12-month period that would result in the Employee's annual leave entitlement being less than 4 weeks at any one time.
- 29.8.3 The Employer may, at its discretion, either authorise or refuse the Employee to forego the amount of annual leave.
- 29.8.4 If the Employer authorises the Employee to forego the amount of annual leave, the Employee will within a reasonable period pay to the Employer an amount in lieu of the amount of annual leave, at a rate that is no less than the rate that, at the time the election is made, is the Employee's basic periodic rate of pay.
- 29.9 Casual Employees are not entitled to paid annual leave.
- 29.10 If an Employee has an excessive leave accrual, then the Employer and the Employee may discuss and seek to reach agreement on how to reduce or eliminate the excessive leave accrual.
- 29.11 If the Employer has genuinely tried to reach agreement with the Employee through consultation and discussions with Employees and also considered any extenuating circumstances with an Employee as to the timing of taking annual leave, the Employer can require the Employee to take annual leave by giving not less than eight weeks' notice of the time when such leave is to be taken if:
- 29.11.1 at the time the direction is given, the Employee has eight weeks or more annual leave accrued; and
- 29.11.2 there has been no scheduled future leave booked prior on the annual leave planner;
- 29.11.3 the direction is reasonable having regard to the Employer's business and operational needs;
- 29.11.4 the direction will take into account, to the extent reasonably practicable, the Employee's personal circumstances and wishes; and
- 29.11.5 the amount of annual leave the Employee is directed to take is no less than 1 week.

30. Personal/Carer's Leave, Compassionate Leave and Family and Domestic Violence Leave

Personal/carers Leave

- 30.1 Employees are entitled to personal/carers leave in accordance with the Act.
- 30.2 Full-time and part-time Employees are entitled to paid personal/carers leave.
- 30.3 For each year of service an Employee is entitled to 10 days of paid personal/carers leave (other than casual Employees).
- 30.4 An Employee's entitlement to paid personal/carers leave accrues progressively during a year of service according to the Employee's ordinary hours of work and accumulates from year to year.
- 30.5 If an Employee takes a period of paid personal/carers leave, the Employee must be paid at the Employee's base rate of pay for the Employee's ordinary hours of work in the period.
- 30.6 An Employee may take personal/carers leave if the leave is taken:
- 30.6.1 because the Employee is not fit for work because of a personal illness, or personal injury, affecting the Employee; or

30.6.2 to provide care or support to a member of the Employee's immediate family, or a member of the Employee's household, who requires care or support because of:

30.6.2.1 a personal illness, or personal injury, affecting the member; or

30.6.2.2 an unexpected emergency affecting the member

30.7 The notice and evidence requirements in this clause must also be complied with.

30.8 All paid personal/carers leave must be applied for via Employee Self-Self and approved by a manager/supervisor.

Unpaid Carer's Leave

30.9 An Employee is entitled to 2 days of unpaid carers leave for each occasion (a permissible occasion) when a member of the Employees' immediate family, or a member of the Employees' household, requires care or support because of:

30.9.1 a personal illness, or personal injury, affecting the member; or

30.9.2 an unexpected emergency affecting the member

30.10 An Employee may take unpaid carers leave for a particular permissible occasion if the leave is taken to provide care or support as referred to in this clause.

30.11 An Employee may take unpaid carers leave for a particular permissible occasion as:

30.11.1 a single continuous period of up to 2 days; or

30.11.2 any separate periods to which the Employee and his or her Employer agree.

30.12 An Employee cannot take unpaid carers leave during a particular period if the Employee could instead take paid personal/carers leave.

30.13 The notice and evidence requirements in this clause must also be complied with.

30.14 All unpaid carer's leave must be applied for via Employee Self-Self and approved by a Manager/supervisor.

Compassionate Leave

30.15 An Employee is entitled to 2 days of compassionate leave for each occasion (a permissible occasion) when a member of the Employees' immediate family, or a member of the Employees' household:

30.15.1 contracts or develops a personal illness that poses a serious threat to his or her life; or

30.15.2 sustains a personal injury that poses a serious threat to his or her life; or

30.15.3 dies.

30.16 For casual Employees, compassionate leave is unpaid leave.

30.17 An Employee may take compassionate leave for a particular permissible occasion if the leave is taken:

30.17.1 to spend time with the member of the Employees' immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in this clause; or

30.17.2 after the death of the member of the Employees' immediate family or household referred to in this clause.

30.18 An Employee may take compassionate leave for a particular permissible occasion as:

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- 30.18.1 a single continuous 2-day period; or
- 30.18.2 2 separate periods of 1 day each; or
- 30.18.3 any separate periods to which the Employee and his or her Employer agree.
- 30.19 If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the Employee may take the compassionate leave for that occasion at any time while the illness or injury persists.
- 30.20 The notice and evidence requirements in this clause must also be complied with.
- 30.21 All compassionate leave must be applied for via Employee Self-Serve and approved by a manager/supervisor.

Notice and Evidence Requirements

- 30.22 An Employee must give notice of the taking of paid and unpaid personal/carer's leave and compassionate leave under this clause.
- 30.23 The notice:
- 30.23.1 must be given to the Employer as soon as practicable; and
- 30.23.2 must advise the Employer of the period, or expected period, of the leave.
- 30.24 An Employee who has given his or her notice of the taking of personal/carers leave must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person:
- 30.24.1 if it is paid personal/carers leave- the leave is taken for a reason specified in this clause; or
- 30.24.2 if it is unpaid carers leave- the leave is taken for a permissible occasion in circumstances specified in this clause; or
- 30.24.3 if it is compassionate leave -the leave is taken for a permissible occasion in circumstances specified in this clause.

Family and Domestic Violence Leave

- 30.25 Employees are entitled to family and domestic violence leave in accordance with the Act, except that the number of paid days prescribed in section 106(A)(1) will be 12 days in each 12 month period under this Agreement.

31. Long Service Leave

- 31.1 Entitlements for long service leave are in accordance with the *Long Service Leave Act 1955* (NSW).
- 31.2 Unless otherwise agreed, the Employer requires two months' notice of any intent to take long service leave.

32. Jury Duty

- 32.1 This clause applies to full-time and part-time Employees only and does not apply to casual Employees.
- 32.2 An Employee required to attend court for the purpose of jury service during their ordinary working hours shall be reimbursed an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the amount of wage he or she would have received in respect of the ordinary time they would have worked had they not been on jury service.
- 32.3 An Employee shall notify their Supervisor/Manager as soon as possible of the date upon which they are required to attend jury service. Further, the Employee shall give proof of their attendance, the duration of such attendance and the amount received in respect of such jury service.

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32.4 Where an Employee who is on approved long service leave or annual leave is required to attend court for the purpose of jury service, he or she shall be placed on leave as per the above paragraph and no deduction shall be made from his or her long service leave or annual leave accruals for the day or days or attendance for jury service.

33. Superannuation

33.1 Superannuation contributions will be made by the Employer on behalf of Employees in accordance with the prescriptions of the *Superannuation Guarantee (Administration) Act 1992* (Cth) or relevant Federal Legislation as varied from time to time.

33.2 Employees have the choice to choose an eligible superannuation fund into which superannuation guarantee charge (SGC) contributions are paid. The Employer will ensure that superannuation contributions pursuant to this clause are made into an eligible fund and that such a fund is a fund that offers a MySuper product.

33.3 Contributions will be made to the Employer's default fund, currently IOOF, or any other fund selected as a replacement default fund by the Employer.

33.4 Salary Sacrifice

33.4.1 An Employee may enter into a salary sacrifice arrangement with the Employer.

33.4.2 The value of the benefit to be salary sacrificed (future earnings only) shall be requested in writing and signed by both Employer and Employee.

33.4.3 Except as otherwise agreed, the Employee may request in writing to change the benefits of the salary sacrificed once per year and the Employer shall not unreasonably refuse the request.

33.4.4 The Employee is responsible for seeking appropriate financial advice when entering into any arrangement under this clause and the Employer shall not be held responsible for the financial consequences associated with the implementation of the finance advice or failure by the Employee to seek such advice.

34. Confidential Information

34.1 During the course of an Employee's employment, he or she will have access and be exposed to confidential information relating to clients and the Employer. It is a condition of employment that this information is kept confidential during the Employee's employment with the Employer.

34.2 Any breach of confidentiality will constitute a serious breach of an Employee's responsibilities to the Employer and may result in termination of employment.

34.3 Nothing in this clause prohibits or restricts an Employee from disclosing any details of this Agreement.

35. Maintenance of Licence Requirements

35.1 Employees agree to individually maintain current and valid licences for the vehicles and equipment they are required to drive or operate in performing the duties of their role. The holding of a valid and current licence for such vehicles and equipment is a condition of employment.

35.2 Drivers will be required to produce proof of licence on request from the Employer and this may be requested at any time at the Employer's discretion.

35.3 Drivers are required to provide at the commencement of employment and annually, or as requested, a Driver History Report detailing offences and demerit points which is available from the relevant authority. The report shall be obtained at the drivers own cost or through the Roads and Maritime Services new Driver Licence Check Validation.

- 35.4 Drivers accessing Australian Ports are required to maintain a current and valid Maritime Security Identification Card.
- 36. Loss of Licence**
- 36.1 It is considered an inherent part of the duties of an Employee engaged by the Employer as a driver to hold a current license applicable to the vehicle(s) he or she is required to operate in the course of their employment.
- 36.2 The Employer shall have the right to 'stand down' without pay any driver who through loss of licence (or other cause) is unable to perform their duty as a driver.
- 36.3 A driver who loses their licence for a period of six months or more may, depending on the circumstances of the Employee's employment and surrounding the loss of their license, have their employment terminated by the Employer.
- 36.4 Provided that the driver is able to take accrued leave entitlements during the time of licence cancellation, and with Employer approval, the role may be held open for the period of the leave. Past this point the Employer at its discretion may employ the driver on other duties pending availability and operational requirements.
- 37. Workplace Health and Safety**
- 37.1 The Employee will take reasonable steps to ensure their safety and the safety of others whilst at work and to ensure that no action or inaction by the Employee at work causes harm to any other person.
- 37.2 The Employee will ensure that all safety procedures are followed at all times.
- 38. Technology**
- 38.1 Employees agree to work with the Employer in introducing new technologies and associated work practices in gaining new efficiencies and improving work practices. The Employer agrees to provide training to Employees in connection with the introduction of any new technology.
- 38.2 Any reference to training in this clause excludes training, howsoever described, that is provided by a trade union.
- 39. Employee Deductions**
- 39.1 The Employer shall provide a means through the Company Employee Self-Serve (ESS) System through which the Employee may make automated deductions from their weekly pay.
- 39.2 The Employer will provide the relevant training and assistance to Employee to manage automated deductions from their weekly pay.
- 39.3 Employees are responsible for ensuring the correct information is entered into the ESS System.
- 40. Negotiation of Next Agreement**
- 40.1 The parties agree to commence negotiation on the next Enterprise Agreement no less than six calendar months prior to the expiry of this Agreement.
- 40.2 Either party may provide a minimum four weeks' notice in writing to the other party should they not be able to commence bargaining due to circumstances beyond their reasonable control. This notice shall include the reasons for the delay and an expected timeframe for bargaining to commence.
- 40.3 It is also agreed that the scheduled meetings for the next Enterprise Agreement should where possible take place on a weekly or fortnightly basis.

41. Traffic Infringements, Fines and Vehicle/Equipment Tampering

- 41.1 Traffic infringements and fines are the responsibility of the Employee who incurs it. Employees must pay all traffic fines that they receive when in charge of an Employer vehicle. Examples include, but are not limited to, parking and speeding fines.
- 41.2 An Employee must report to their supervisor any infringement notices or fines received while driving an Employer vehicle. This must occur as soon as possible after receiving the fine. The Employee must show the Employer proof that the fine has been paid by the due date.
- 41.3 Where the Employee is found to have tampered with the Employer's vehicles or equipment for any reason without authorisation from the Employer, the Employee may be liable for the costs incurred by the Employer in rectifying the situation, including the payment of any fines arising from the tampering.

42. Stand Down

- 42.1 The Employer has the right to stand down an Employee without pay in certain circumstances.
- 42.2 The Employer has the right to deduct payment for any day the Employee cannot be usefully employed because of any strike or through any breakdown in machinery or any stoppage of work by any cause for which the Employer cannot reasonably be held responsible.
- 42.3 The Employer has the right to deduct payment for any day the Employee cannot be usefully employed because of any reduction of work by any cause for which the Employer cannot reasonably be held responsible.

43. Shut Down

- 43.1 The Employer has the right to close down part or all of its operations for the purposes of allowing annual leave to all or the majority of the Employees in the operations provided that:
- 43.1.1 the Employer gives one months' notice of its intention to shut down the operations;
- 43.1.2 an Employee who has sufficient leave accrued to cover the shutdown period is allowed access to accrued paid leave for the shutdown period;
- 43.1.3 in respect of an Employee who does not have sufficient leave accrued to cover the shutdown period, the Employer and Employee may agree, in writing, for the Employee to take leave without pay during the portion of the shutdown period that they do not have sufficient accrued paid leave available; and
- 43.1.4 any leave taken in accordance with this clause shall count as continued service with the Employer.

44. Union Recognition

- 44.1 The Employer recognises the TWU as the union that represents transport workers.
- 44.2 The Employer shall not take any actions or make any statements that will directly or indirectly state or imply opposition by the Employer to transport workers electing to join or remain members of the TWU.
- 44.3 The Employer shall not discriminate against or victimise any transport workers for the reason that the worker joined or is a member of the TWU.
- 44.4 The TWU will notify the Employer of any Employee appointed by the TWU as a delegate. A TWU Union Delegate will be granted reasonable time during working hours to discuss with appropriate managers/supervisors matters affecting Employees whom they represent. The timing of such discussions shall be in consultation with the Employer.
- 44.5 The Employer will respond to matters arising under clause 44.4 in a timely manner.

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45. Union Induction

- 45.1 The Employer recognises the rights of Employees to associate with the TWU.
- 45.2 The TWU shall be given the opportunity to induct into the TWU new Employees as required. The induction will be used to outline the value of TWU membership and will be conducted by a TWU Official.
- 45.3 The Employer's on-boarding program is delivered online. However the Employer will provide access for the TWU to conduct a Union induction to new Employees.
- 45.4 The Employer and the TWU agree that Union induction will occur in February, June and September of each year. The Employer will notify the TWU at the beginning of these months as to whether new Employees have commenced employment and if so, the preferred date for Union induction, having regard to the Employer's operational requirements that month.
- 45.5 The TWU induction shall be no more than 30 minutes in duration.
- 45.6 The Employer shall provide an appropriate room to conduct the TWU induction, such as the training room, or other suitable room should the training room not be available.
- 45.7 The Employer shall facilitate the posting of a TWU generated notice in a prominent position accessible to all Employees advising of the induction and detailing all relevant information.
- 45.8 Employees will receive no less than their usual rate of pay for the duration of the induction.

46. Union Right of Entry

- 46.1 The Employer recognises a TWU Union Official, who holds entry permits to enter premises for purposes related to their representative role under the Act in accordance with and as specified in that legislation.
- 46.2 A TWU Union Official may also access a site covered by this Agreement by mutual agreement with the State Manager or other authorised representative.

47. Union Delegate Rights

- 47.1 The Employer recognises that TWU Union Delegates may speak on behalf of TWU Union Members, and any other Employee who is eligible to be a member of the TWU, in the workplace.
- 47.2 The Employer shall treat TWU Union Delegates fairly and will allow them to perform their role as a TWU Union Delegate in accordance with this Agreement.
- 47.3 TWU Union Delegates have the following rights in accordance with this Agreement:
- 47.3.1 the right to be treated fairly and to perform their role as a TWU Union Delegate without discrimination or victimisation;
- 47.3.2 the right to prepare for and participate in collective bargaining on behalf of those whom they represent;
- 47.3.3 the right to consult on matters within this Agreement which affect members;
- 47.3.4 the right to reasonably request information about the workplace and Company that is not of a confidential or commercially sensitive nature;
- 47.3.5 paid time off during normal working hours to consult with TWU Union members providing this is arranged in consultation with the Employer;
- 47.3.6 the right to address new Employees about the benefits of TWU Union Membership at the time they commence with the Employer. This shall be undertaken in accordance with clause 45 - Union Induction;

- 47.3.7 reasonable access to office facilities in consultation with the Employer;
- 47.3.8 the right to attend TWU business related meetings, information sessions and campaign activity. Attendance at these events shall be unpaid; however, TWU Union Delegates may access their annual leave entitlements for this purpose; and
- 47.3.9 the right to represent the industrial interests of TWU members, and any other Employee eligible to be a TWU member.
- 47.4 The Employer will allow a TWU Union Delegate two consecutive days leave per annum, paid at the Ordinary Hourly Rate for 7.6 hours per day or at the Guaranteed Hours per day (whichever is applicable to the TWU Union Delegate) to attend the annual TWU delegates conference, provided that the Employer is notified of the conference dates at least two weeks' prior to attendance. The Employer may request proof of attendance.
- 47.5 A TWU Union Delegate will be eligible to take dispute resolution training leave in accordance with the provisions of clauses 47.5.1 to 47.5.8, below:
- 47.5.1 A TWU Union Delegate is entitled to, and must be granted, up to 6 days' leave with pay at the Ordinary Hourly Rate and shiftwork loadings (if applicable) each calendar year, non-cumulative, to attend bona fide courses which are specifically directed towards effective resolution of disputes regarding industrial matters under this Agreement and/or industrial issues that arise at the Employer's workplace.
- 47.5.2 A bona fide course referred to in clause 47.5.1 is a dispute resolution training course conducted under auspices of a registered training organisation whose scope of registration includes industrial relations training.
- 47.5.3 A TWU Union Delegate must give the Employer at least four weeks' notice of the intention to attend a dispute resolution training course, or such shorter period of notice as the Employer may agree to accept. The notice to the Employer must include details of the type, content and duration of the course to be attended. The course curriculum must also be provided at the Employer's requests.
- 47.5.4 The table below sets out the leave available according to the scale of each of the Employer's depots:
- | Number of full-time and part-time Employees covered by this Agreement | Maximum number of TWU Union Delegates eligible to attend per year | Maximum number of days permitted per year |
|---|---|---|
| 5-15 | 1 | 6 |
| 16-30 | 2 | 12 |
| 31-50 | 3 | 18 |
| 51-100 | 4 | 24 |
| 101 and over | 5 | 30 |
- 47.5.5 The Employer is not liable for any additional expenses associated with a TWU Union Delegate's attendance at a course, other than the Ordinary Hourly Rate and shiftwork loadings (if applicable) for such an absence.
- 47.5.6 The Employee must provide the Employer with proof of attendance.
- 47.5.7 The granting of leave under clause 47.5 is subject to the Employer being able to make adequate staffing arrangements among current Employees during the period of such leave.
- 47.5.8 A TWU Union Delegate will not be eligible to attend such training courses until six months' continuous service has been served with the Employer.

Signatories

For and on behalf of Border Express Pty LTD, ACN 000 553 880, by its authorised officer:

Name: David Charlesworth

Position: CEO

22 Frank Street Wetherill Park NSW 2164

Signed

Date:

16-04-2024

For and on behalf of the Employees by the Employees' Representative:

Name: Aimie Tsoukalas

Position: Parcel Sorter/Bargaining Representative

4 Moriarty Close Wetherill Park NSW 2164

Signed

Date:

16-4-2024

IN THE FAIR WORK COMMISSION

FWC Matter No: AG2024/1293

Applicant: Border Express Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, David Leak, NSW General Manager, have the authority given to me by Border Express Pty Ltd to give the following undertakings with respect to the Border Express Pty Ltd Transport Employees and TWU Sydney, Newcastle and Central Coast Site Agreement 2024 ("the Agreement"):

1. In regard to clause 19.1.3 of the Agreement ordinary hours of shiftwork performed on a Sunday will be paid at 200% of the employee's ordinary hourly rate consistent with the requirement of clause 22.8(a) of the Road Transport and Distribution Award 2020 save and except that the ordinary hourly rate will be that specified in clause 11.1 of the Agreement.
2. In regard to clause 23.4.2 of the Agreement a casual employee who performs work on a public holiday will be paid for all time worked on the public holiday at a rate of 250% of the ordinary hourly rate (or 300% of the ordinary hourly rate on Good Friday and Christmas Day) in addition to the casual loading at clause 9.10 of the Agreement.


Signature


Date

