

**REGISTER OF  
ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA04/247

**TITLE: Westgate Logistics (NSW) Enterprise Agreement 2004**

**I.R.C. NO:** IRC4/4806

**DATE APPROVED/COMMENCEMENT:** 20 August 2004/1 June 2004

**TERM:** 28 months

**NEW AGREEMENT OR  
VARIATION:** New

**GAZETTAL REFERENCE:** 24 September 2004

**DATE TERMINATED:**

**NUMBER OF PAGES:** 11

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees of Westgate Logistics Pty Ltd, 488-500 Great Western, Port Melbourne Vic. 3207, who are employed within any greenfields logistics operation in NSW established after 1 June 2004, but excluding any sites in operation at that time, who are engaged in performing duties within the transport and logistics functions and who fall within the coverage of the Transport Industry (State) Award

**PARTIES:** Westgate Logistics Pty Ltd -&- the Transport Workers' Union of New South Wales

# **WESTGATE LOGISTICS PTY LTD (NSW) ENTERPRISE AGREEMENT 2004**

This agreement shall be known as the Westgate Logistics (NSW) Enterprise Agreement 2004. It will supersede all previous agreements.

## **Arrangement**

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### **3. Length of Agreement**

This Agreement shall commence on 1 June 2004 and expire on 30 September 2006. Negotiations for a new agreement will commence by 1 August 2006.

### **4. Parties Bound**

This agreement shall apply to and be binding upon the Transport Workers' Union, NSW Branch (TWU), Westgate Logistics Pty Ltd (Westgate) and its employees employed within any greenfields logistics operation in NSW established after 1 June 2004, but excluding any sites in operation at that time.

This agreement shall apply to all employees performing duties within the transport and logistics functions and employed within the classifications contained herein.

Westgate will ensure that the wages contained in Clause 5 of this Agreement shall be paid to all persons working at any site, including workers provided by any labour hire company. Such company must have an industrial agreement with the TWU.

## **5. Wages**

### **A Wage Increases**

Classifications are as detailed in the Transport Industry (State) Award NSW.

This agreement shall provide the increases from the first pay period on or after the dates detailed in the following table

Classification	1 June 2004	1 November 04 2% increase	1 May 05 2.5% increase	1 November 05i 3.5% increase	1 June 06 2% increase
Grade One	15.8588	16.1759	16.5803	17.1606	17.5038
Grade Two	16.4094	16.7375	17.1560	17.7564	18.1115
Grade Three	16.7926	17.1284	17.5566	18.1710	18.5344
Grade Four	17.1266	17.4691	17.9058	18.5325	18.9031
Grade Five	17.9889	18.3486	18.8073	19.4655	19.8548
Grade Six	18.2053	18.5694	19.0336	19.6997	20.0936
Grade Seven	18.8620	19.2392	19.7202	20.4104	20.8186
Grade Eight	20.2002	20.6042	21.1193	21.8584	22.2955

These rates are inclusive of any increases awarded under any National or State Wage cases.

### **B- Income Protection**

It is agreed that income protection insurance will be apply as part of this agreement.

Although Westgate will remit the premium to the insurer, the actual cost will be met by each individual.

This cost will be deducted from the gross amount stated in clause 5.

## **6. Collective Negotiation**

It is agreed that all negotiations at either company or site level shall be conducted with the TWU in a collective manner. The company shall encourage its employees to become and remain members of the TWU.

## **7. Relationship to Transport Industry State Award**

The basic terms and conditions of employment as detailed in the Transport Industry State Award shall continue to apply unless amended by this agreement. Should there be any inconsistency this agreement shall prevail.

## **8. Training & Education**

Westgate is committed to enhancing both the personal and work-related skills of its employees. Where training is requested by the company and will provide a direct and measurable benefit to the company then it will occur in ordinary time. Some training may not occur in paid time.

All new employees will be given appropriate induction training to ensure all work tasks can be earned out in an efficient and safe manner.

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

- Occupational health & safety
- Safer work practices
- Award and other industrial entitlements

Enterprise bargaining  
Industry developments  
Responsibility of union delegates  
Legislative developments  
Productivity enhancement

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

#### **9. Sick Leave**

Both Westgate and its employees restate the belief that sick leave is an entitlement not to be abused.

An annual bonus of \$750.00 shall be paid to each employee who has not used any sick leave in the calendar year ending on 31 October. A bonus of \$400.00 shall be paid to any employee who has not used more than 3 days of sick leave. The bonus shall be paid in the first week of December in each year.

This entitlement is in accordance with section 19 of the NSW TWU Award October 2001.

Sick Leave will not be paid out on termination.

#### **10. Employment**

A-Company Employment

Subject to mutual agreement, employees may be transferred within and between sites.

B-Probationary Employment

Any new permanent employee shall be employed on a probationary basis for 3 months. Upon satisfactory completion of the probationary period the employee concerned will become permanent.

#### **11. Redundancy**

Westgate's redundancy policy is attached to this agreement at Schedule 1. Should it become necessary to reduce staff, Westgate will attempt to find alternative employment for any affected employees. If that is unsuccessful, then retrenchment shall occur on a "last on first off" (LOFO) basis by classification and location. Under no circumstances can an employee receive a retrenchment payment and a job either with Westgate or another company where continuity of employment is maintained.

#### **12. Settlement of Disputes**

Any dispute arising under this agreement shall be resolved at yard/site level wherever possible. If this does not occur then the process detailed below must be followed at all times and in good faith:

1. The individual employee aggrieved and local supervisor shall attempt to resolve the outstanding matter(s). The union delegate may become involved.
2. If unsuccessful, then the organiser and local supervisor/manager shall discuss the matter (s).
3. If still unsuccessful, then senior management shall discuss the issue with TWU industrial staff.
4. If a grievance or dispute still cannot be resolved it shall be referred to the NSW IRC for resolution.
5. Work shall continue as normal whilst this process is followed.

### **13. Superannuation**

It is agreed that the TWU Superannuation Fund is the appropriate fund for all superannuation contributions to be made on behalf of employees.

### **14. Hours of Work**

The notional hours of work will be 40 per week (8 per day). 2 hours per week will accrue towards a Rostered Day Off (RDO).

RDOs may be taken at the request of the employee and approval of management. However, no RDOs will be available in the months of November and December and within 3 weeks prior to the Easter break.

RDOs may be accrued but only to a maximum of 12 days and can only be paid out in any combination of full single days.

Employees may be requested to work 4 X 10 hour days with mutual agreement.

This may be implemented for only a part of each shift working at each workplace.

Overtime will be paid on all hours worked beyond the notional amount set for each particular day.

### **15. No Extra Claims**

It is agreed that no extra claims will be made by either party for the term of this agreement.

#### **a. Anti-Discrimination**

It is the intention of the parties bound by this award 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.

It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award 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 award which, by its terms or operation, has a direct or indirect discriminatory effect.

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.

Nothing in this clause is to be taken to effect :

- (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*; or
- (d) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

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.

## 16. Execution

Signed for Westgate Logistics Pty Ltd:

Witness:

Signed for the Transport Workers' Union of New South Wales:.

Witness:

Dated: 29 day of July 2004.

### Schedule 1

#### Westgate Logistics - Redundancy Policy

##### Preamble

Westgate is committed to providing continuing employment for all of its staff. However, there may occur circumstances where this is not possible. Should Westgate lose a contract or otherwise need to reduce staff, its first course of action will be to attempt to locate continued employment for those affected employees, either within Westgate or at another transport company where continuity of employment is maintained.

If appropriate employment cannot be found then, and only then, will the Redundancy Payment apply.

##### Redundancy Payment

In any bona fide redundancy situation the following formula shall apply :

1. One (1) weeks notice or payment in lieu thereof.
2. Four (4) weeks severance pay for each completed year of service up to maximum of 52 weeks payment. A minimum payment of 4 weeks shall apply.
3. Payment shall only be made at ordinary time rates. No penalties nor allowances will be included.

##### Other matters

Should any redundancies occur then selection for a redundancy will be on the basis of 'last on first off' (LOFO). This shall apply in all circumstances.

As a matter of course, any other entitlements e.g. accrued annual leave, long service leave and accrued R,DOs will be paid out in addition to any redundancy payment.

A statement of service and separation of employment certificate shall be provided.

Any redundancy or associated payments shall be treated in accordance with the existing tax laws.

## **Schedule 2.**

### **Training, Induction and Workplace Representatives**

#### Training

All TWU delegates and co-delegates will be appropriately trained in Workplace Training and Assessing within 12 (twelve) months of the commencement of any distribution facility under this agreement.

#### Induction

During the induction phase of employment all new employees covered by this agreement will be introduced to the relevant shift delegate.

#### Workplace Representatives

The company acknowledges the position and responsibility of employees who are elected to be TWU delegates and Co-delegates. The rights and responsibilities of delegates are detailed below:

#### Rights

The right to be treated fairly and to perform their role as Union Delegate or Workplace representative without any discrimination in their employment.

The right to formal recognition by the employer that endorsed Union Representatives speak on behalf of Union Members in the workplace.

The right to bargain collectively on behalf of those they represent.

The right to consultation and access to information about the workplace and the business.

The right to paid time to represent the interests of members to the employer and to industrial tribunals.

The right to paid time during normal working hours to consult with Union members where necessary.

The right to paid time off to participate in the operation of the union~ This is only to occur after consultation and agreement with the company

The right to paid time off to attend accredited Union education and training

The right to address new employees about the benefits of Union membership at the time that they enter the induction phase of employment

The right to discuss Union and workplace matters with all employees at the workplace. Any meetings to be held after consultation and agreement with management including time, place and location of such meetings.

The right to access telephone, facsimile, photocopying, internet, email and office supplies for the purpose of carrying out duties as a delegate and consulting with workplace colleagues and the Union.

The right to place Union information on a notice board in a permanent location in the workplace.

The right to take leave to work with the Union after consultation and agreement with the company.

## Responsibilities

TWU workplace representatives shall have the following responsibilities:

To ensure that the disputes procedure is followed in all respects

To provide awareness and understanding of the Union's aims and achievements whenever possible.

To know the profile of Union members in the workplace. To recruit and involve employees in the Union and its activities.

To be approachable and helpful to Union members in the workplace.

To seek out and encourage other Union members to take on roles and responsibilities.

To provide timely and relevant Union information to Union members in the workplace.

To regularly undergo Union education and training.

To represent the views of the members in a fair-minded and open manner.

To represent Union members fairly and accurately in any negotiations, specifically on individual grievances.

To keep in regular contact with the union organiser and other Union Representatives in the workplace.

To behave in a fair and reasonable manner and comply with accepted standards of behaviour

### **Schedule 3. Chain of Responsibility**

The employer may, under certain circumstances set out below, sub-contract work by this agreement to:

- (a) Another employer, whose employees will carry out all of the work so given;
- (b) Another employer, whose employees will not carry out any or all of the work so given;
- (c) Another entity that does not engage employees which will not carry out any or all of the work so given;
- (d) Another person or other persons, who alone will personally carry out all of the work so given;
- (e) Another person or persons who will not personally carry out any or all of the work so given.
  - (ii) The employer must not give out work covered by this agreement to that other employer, entity or person(s) { as provided in sub-clauses (i) (a) to (i)(e) } unless the employer giving out the work makes a record in writing of the following details:
    - (a) The name of the other employer (or other entity or person(s)) to whom the work is given and the Australian Business Number and/or Australian Company Number of the other employer (or other entity or person(s)) to whom the work is given.
    - (b) The address of the other employer (or the other entity or person(s)) to whom the work is given.



- (c) The date of giving out the work and the date for completion or cessation of the contract or arrangement under which the work is performed.
  - (d) A description of the nature of the work to be performed. If the work is to be performed involves the transportation of goods the description shall include the location from which the goods are to be transported and the destination to which the goods are to be transported.
  - (e) Where an employer gives out work to more than one employer, 'entity or person(s), the employer must keep an up-to-date consolidated list of those employees, entities or persons which contains all of the information required to be kept by this sub-clause.
- (iii) Where the work is given out to an employer whose employees will not carry out any or all of the work (as provided in sub clause (i) (b)) a copy of any record kept in accordance with sub-clause (ii) shall be, given to each person who performs part or all of the work given out, unless; the person who performs part or all of the work given out is an employee of the employer or person who has been given the work as provided in sub-clause (i) (b).
  - (iv) Where the work is given out to another entity or person(s) who will not carry out all of the work (as provided in sub-clauses (i)(c) and (i)(e)) a copy of any record kept in accordance with sub-clause (ii) shall be given to each person who performs part or all of the work given out.
  - (v) Where the work given out to another person or other persons who alone will personally carry out the work (as provided in clause (i)(d)) a copy of any record kept, in accordance with sub clause (ii) shall be given to that person or those persons doing the work.
  - (vi) Where work has been given out to another employer, entity or person(s) (as provided in sub-clause (i)) any record kept in accordance with subclause (ii), including the consolidated list, shall be available for inspection by a person duly authorised as if it was a record permitted to be inspected and copied under Part 7 of Chapter 5 of the *New South Wales Industrial Relations Act 1996*.
  - (vii) An employer must not enter into a contract or arrangement with another employer, entity or person(s) unless;
    - (a) The conditions provided by the employer for work performed in accordance with that contract or arrangement are the same as those prescribed by this agreement
    - (b) The rate of payment paid by the employer for work performed in accordance with that contract or arrangement are rates of payment no less favourable than those prescribed by this agreement and
    - (c) This contract or arrangement requires the employer, entity or person(s) to whom the work is contracted to implement and/or maintain a Safe Driving Plan system in respect of any of the contracted work, For each and every ~eight delivery task a Safe Driving Plan to be completed. Each Safe Driving Plan must be multiple copy (at least triplicate) and self-carbonating. A Safe Driving Plan must be in form annexed to the agreement and clearly record the following information :

Drivers details and operating licence number;

Name and contact details of Owner of vehicle including operating license plus principal contractor details where the task has been further contracted;

Name and contract details of customer including industry operating license; Insurance details;

Speedometer reading on truck prior to departure and upon arrival;

Details of trip, specifying departure point and time, destination, route to be used and time for journey (expressed as range of a minimum number of hours with allowances for variations;

Details (total and time periods) of time driver spent if more than 24 hours immediately prior to departure driving (including local deliveries), other work activities such as loading, and significant rest breaks (if six hours or more);

Details sufficient to identify the most recent Safe Driving Plan relating to the driver prior to the current trip;

The rate to be paid to the driver for the job and details of when the payment will be made;

Any applicable demurrage rate to apply;

An undertaking by the operator that the truck has no defects/maintenance problems and the load has been properly restrained;

An undertaking by both the operator and the client that the truck has not been overloaded;

Whether or not hazardous/dangerous freight is being carried and where k is being carried, details of that freight.

When a driver collects a load the driver and the consignor/freight forwarder/client will complete the relevant details on the Safe Driving Plan. A copy of the completed form will stay with the consignor/freight forwarder/client. Two copies of the form will go with the driver together with one copy of the Safe Driving Plan for the trip completed by that driver immediately prior to the current trip. At arrival at the delivery point the driver and the recipient will complete the details relating to the speedometer reading at the time of arrival, the actual arrival time, the total time taken for rest breaks and any other trips or side trips. The Safe Driving Plan is then to be signed by the recipient who is to retain a copy.

Note: For the purposes of this sub-clause a "contract or arrangement" means a contract or arrangement for the performance of work as provided in sub clauses (i)(b), (i)(c), (i)(e). An employer must not enter into a contract or arrangement with another employer, entity or person(s) (hereafter called "the second person") as provided in sub-clauses (i)(b), (i)(c), (i)(e) unless;

- (a) The contract or arrangement contains a term which provides that any work performed by a person other than the second person is carried out pursuant to a written agreement between the second person and the person who will actually perform the work; and
- (b) The written agreement specifies each of the matters set out in clauses (ii)(a) to (ii)(d); and
- (c) The written agreement provides for conditions that are the same as those prescribed by this agreement and rates of payment no less favourable than those prescribed by this agreement. In the ease era contract carrier the conditions of engagement are to be the same as under the applicable contract determination and the rates of payment are to be no less favourable than those prescribed under the applicable contract determination; and
- (d) The written agreement requires the implementation and/or maintenance of a Safe Driving Plan system described in (vii)(c) of this clause above.

Note: For the purposes of this clause a "contract or arrangement" means a contract or arrangement for the performance of work as provided in clauses (i)(b), (i)(c), (i)(e).

#### **Schedule 4**

##### **Occupational Health & Safety**

Upon entering this agreement the company agrees to:

comply with all current Codes of Practices, Regulations, Worksafe Australia documentation and approved recognised industry standards as a minimum requirement, so as to meet and comply with the company's obligations under the *NSW Occupational Health and Safety Act (2000)*;

authorise all transport workers elected to OH &S Committees to attend a committee training course (as per section 19 (e) *NSW OHS Act, 2000*) as soon as practicable within 3 months of being elected to such a position.

provide TWU delegates and co-delegates with two weeks per annum paid training leave

implement the following with regard to "Blue Card" training:

Training for all existing employees will be conducted within 12 months of file commencement of distribution facility under this agreement.

New Employees will be "Blue Card" trained during the initial induction program or as soon as practicable.

Outside contractors (local courier/taxi truck/linehaul) will be informed about the introduction of "Blue Card" training "Blue Card" training of outside contractors will commence as soon as practicable

#### **Schedule 5**

##### **Share Contribution**

The parties to this agreement recognise that:

- (a) The interests of the employees in the negotiation of this agreement have been solely represented by the TWU;
- (b) This agreement provides rates for remuneration and other benefits which are significantly more advantageous for employees than those under the applicable award.
- (c) The TWU will/have a continuing role, as the representative of the employees, in the implementation and enforcement of this agreement and in the resolution of any disputes which may arise with respect to this agreement; and
- (d) The TWU has expended and will continue to expend significant resources in representing the interests of employees/contract earners covered by this agreement,
  - (i) In consideration for the above services provided by the TWU to the benefit of all transport workers covered by this agreement, it is agreed that all such transport workers shall, while this agreement remain in force, make a "fair share" contribution to the cost of those services.
  - (ii) The "fair share" contribution to be paid by each transport worker to the TWU, inclusive of GST, shall be as follows for each week in which the agreement applies:

2004 \$6.56 per week

2005 \$7.73 per week (from 1 January)

2006 \$8.92 per week (from 1 January)

- (iii) The "fair share contribution" shall be paid to the TWU in weekly instalments, by payroll deduction. The employer shall establish a payroll deduction facility for any employee who wishes to pay his or her "fair share" contribution by payroll deductions.
- (iv) Financial members of the TWU who already contribute to the cost of TWU services by any way of their union membership fees shall be permitted to set-off the union membership fees paid by them in any calendar year against their "fair share" contribution for that year.
- (v) The company shall, on a regular basis, advise each transport worker in writing of his or her obligations under this clause and advise them that a person who is found by an industrial court to have breached an industrial instrument may be ordered to pay a civil penalty of up to \$10,000.00. Such advice shall also be provided to each new transport worker upon the commencement of their engagement.