

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/110

TITLE: **Cargill Australia Ltd (Newcastle) Enterprise Agreement 2004**

I.R.C. NO: IRC4/7266

DATE APPROVED/COMMENCEMENT: 17 December 2004 / 17 December 2004

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VARIATION:** New.

GAZETTAL REFERENCE: 6 May 2005

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COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Cargill Australia Limited, located at 51, Raven Street, Kooragang Island, who fall within the coverage of the Metal, Engineering and Associated Industries (State) Award.

PARTIES: Cargill Australia Limited -&- the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch

CARGILL AUSTRALIA LTD, (NEWCASTLE) ENTERPRISE AGREEMENT

1. Title

This Agreement will be known as the CARGILL AUSTRALIA LTD, (NEWCASTLE) ENTERPRISE AGREEMENT, 2004

2. Arrangement

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3. Application

This Agreement will apply to Cargill Australia Ltd at its Newcastle plant, (51 Raven Street, Kooragang Island), to all employees who are bound by the terms of the Metal Engineering & Associated Industries (State) Award.

4. Parties to the Agreement

The parties to this Agreement are:

- (a) Cargill Australia Limited
- (b) All employees of Cargill Australia Ltd whose terms and conditions of employment are regulated by the Metal Engineering & Associated Industries (State) Award.
- (c) The Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union.

5. Date and Period of Operation

This Agreement will operate from the beginning of the first pay period to commence on or after the date of Certification of this Agreement and will remain in force until the 19th August 2007.

6. Relationship to Parent Award

- 6.1 All employees covered by this Agreement will be employed in accordance with the terms of this Agreement, and the Metal Engineering & Associated Industries (State) Award. Where there is any inconsistency between this Agreement and the Award, this Agreement will take precedence to the extent of the inconsistency.
- 6.2 An employee covered by 4b above, commencing his or her employment with the employer after the date on which this Agreement comes into operation will be employed in accordance with the terms of this Agreement.

7. Intention

This Agreement aims to provide for a productive workplace encompassing continuous improvement to achieve a world competitive operation, and to recognise employee contribution with appropriate terms and conditions of employment. The Parties commit to the continuous review of technology and the implementation of new technology as necessary to ensure the maintenance of leading international performance.

8. Basis of Employment

8.1 Hours of Work

All new employees shall be informed of the basis for employment, which shall be either:

Permanent Full-time, or Permanent Part-time or Casual.

The ordinary hours of work for non-shift employees shall be an average of thirty-eight per week to be worked on one of the following basis:

- (a) Thirty-eight hours within a work cycle not exceeding seven (7) consecutive days; or
- (b) Seventy-six hours within a work cycle not exceeding fourteen (14) consecutive days; or
- (c) One hundred and fourteen hours within a work cycle not exceeding twenty-one (21) consecutive days; or
- (d) One hundred and fifty two hours within a work cycle not exceeding twenty-eight (28) consecutive days.

- (e) On hundred and ninety hours within a work cycle not exceeding thirty-five (35) consecutive days.

The ordinary hours of work prescribed herein may be working in five days of eight hours per day Monday to Friday between the hours of 6am and 6pm.

8.2 Flexible Part Time Employment

The Company may engage permanent part-time employees. Ordinary hours for such part-time employees will total less than 38 hours per week. A part-time employee will be paid per hour one thirty-eighth of the weekly rates of the appropriate shift rostered rate.

Overtime rates will be payable to part-time employees for time worked in excess of the number of operating hours for their shift.

Part time employees may be engaged to work on a flexible basis within maximum and minimum hourly limits over a four-week work cycle.

Leave and other entitlements will accrue on a pro-rata basis.

Any work done over the maximum four-week cycle hourly limit will be paid at the applicable overtime rate.

The hours of work will consist of a minimum of 37.5 hours per four-week cycle and a maximum of 150 hours per four-week cycle. These hours may be arranged in any way within these parameters.

Flexible Part Time employees will work no less than four hours on any day which they work.

Flexible Part Time employees will work on a four weekly roster basis. The roster will be maintained centrally and published on a week-by-week basis at least four weeks in advance. The roster may be varied by the Company, giving at least one week's notice, or less if by mutual agreement with the employee(s) concerned.

Within the limited of this Agreement, the number of hours worked by any individual flexible part-time employee will be solely at the discretion of the Company.

8.3 Casual and part time employment

8.3.1 Casual employment

- (a) A casual employee is to be one engaged and paid as such. A casual employee, for working ordinary time shall be paid an hourly rate calculated on the basis of one thirty-eighth of the weekly award wage as applicable at the Newcastle plant for an equivalent full time position, for the work being performed plus a casual loading of 25 per cent. The loading constitutes part of the casual employee's all-purpose rate.
- (b) A casual employee, other than an irregular casual employee as defined at subclause (n), who has been engaged by the Company for a sequence of periods of employment under the terms of the Metal, Engineering and Associated Industries Award, Part 1 during a period of 6 months shall thereafter have the right to elect to have his or her contract of employment converted to full-time employment or part-time employment if the employment is to continue beyond the conversion process.
- (c) The Company shall give such employee notice in writing of the provisions of this clause within four (4) weeks of the employee having attained such period of six (6) months. The employee shall retain the right of election under this clause if the company fails to comply with this paragraph.

- (d) Any such casual employee who does not, within four (4) weeks of receiving written notice to elect to convert his or her ongoing employment will be deemed to have elected against such conversion.
- (e) Any casual employee who has the right to elect under subclause (b), upon receiving notice under subclause (c) or after the expiry of the time for giving such notice, may give four (4) weeks notice in writing to the Company that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment and, within four (4) weeks of receiving such notice, the Company shall consent to or refuse the election but shall not unreasonably so refuse. Any dispute about a refusal of an election to convert to an ongoing contract of employment shall be dealt with, as far as is practicable, through the dispute settling procedure.
- (f) Once a casual employee has elected to become and has been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the Company.
- (g) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with clause (e), the Company and employee in accordance with this sub-paragraph, and subject to subclause (e), shall discuss and agree upon:
 - (i) Which form of employment the employee will convert to, that is full-time or part-time; and
 - (ii) If it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in clause (8.2).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed upon between the Company and the employee.

Following such agreement being reached, the employee shall convert to full-time or part-time employment.

Where, in accordance with subclause (e), the Company refuses an election to convert, the reasons for doing so shall be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.

Any dispute about the arrangements to apply to an employee converting from casual employment to full or part-time employment shall be dealt with, as far as is practicable, with expedition through the dispute settling procedure.

- (h) By agreement between the Company and the majority of employees in Newcastle, or section of it, or with the casual employee concerned, the Company may apply subclause (a) as if the reference to six (6) months is a reference to twelve (12) months, but only in respect of a currently engaged individual employee or group of employees. Any such agreement shall be recorded in the time and wages records. Any such agreement reached with an individual employee may only be reached within the two months prior to the period of six (6) months referred to in subclause (a).
- (i) The Company shall give to a casual employee who has been engaged for one or more periods of employment extending over three or more weeks in any calendar month and whose employment is or is likely to be ongoing, a note in writing signed by or on behalf of the Company stating:

- (i) The name and address of the company;
 - (ii) If the employee has been engaged by the Company to perform work on hire to another person or company or is regularly engaged to perform work on hire to other persons or companies, a statement to that effect;
 - (iii) The job to be performed and the classification level on which the employee has been or is likely to be engaged;
 - (iv) As far as is practicable, the terms of the current engagement, including the likely number and pattern of hours required to be worked, the casual rate or other loading applied and the base rate of pay on which the loading is applied;
 - (v) The contingency on which the engagement expires, or the notice, if any, that will be given to terminate any ongoing employment.
- (j) It shall be sufficient compliance with clause (i) if the Company gives such a note in writing upon or following the first occasion on which the casual employee has been so engaged for a period or periods extending over three or more weeks in any calendar month.
 - (k) On each occasion a casual employee is required to attend work, the employee is entitled to payment for a minimum of four hours work.
 - (l) In order to meet his or her personal circumstances, a casual employee may request, and the Company may agree to an engagement for less than the minimum of four hours. Any dispute about a refusal to such a request is to be dealt with as far as is practicable with expedition through the dispute settling procedure.
 - (m) An employee must not be engaged and re-engaged to avoid any obligation under this Enterprise Agreement.
 - (n) An "irregular casual employee" is one who has been engaged to perform work on an occasional or non-systematic or irregular basis.

The provisions of subclause (g) above do not apply to irregular casual employees.

8.4 Probationary Period

A probationary period of three months will apply to all new employees. During this period their performance will be monitored and they will be regularly advised as to their performance assessment outcomes. The continuation of their employment will be dependant on obtaining a satisfactory standard, which will be determined by the company.

9. Relationship to Other Agreements

The Agreement will embrace the Cargill Australia Ltd (Newcastle) Enterprise Agreement, 1996, provided that where there is any inconsistency between this Agreement and the previous Agreement, this Agreement will take precedence to the extent of the inconsistency.

Australian Workplace Agreements

The employer will not employ persons covered by this Agreement under the terms of an Australian Workplace Agreement or any other form of state registered agreement before the expiry of this Agreement on the 19th August 2007.

Continuous Improvement

Management and its employees covered by this Agreement are committed to searching for areas where improvements can be made and implementing such improvements as part of this Agreement.

Renegotiation Of Agreement

The parties to this Agreement will commence negotiations for a replacement agreement no later than three months prior to the nominated expiry date of this Agreement.

10. Enterprise Specific Clauses

10.1 Use As A Precedent

This Agreement will not be used in any manner whatsoever by the parties to obtain similar arrangements or benefits in any other enterprise or agreement.

11. Flexible Operations

11.1 Contractors on site

It is agreed that the company may employ suitably qualified and experienced contractors on site to complete work as directed. The conditions of employment for contractor's staff shall be determined between these staff and their own employer, irrespective of the conditions of this Agreement, provided that a contract (Labour Hire) employee who carries out a function normally undertaken by a permanent employee covered by this Agreement shall be paid the minimum rate provided for within this Agreement.

It is agreed that the performance of this plant is enhanced by flexible work practices and that the contractors employed are necessary in the operations of the plant to assist and supplement the current workforce.

11.2 Multi-Skilling

All staff and employees may be required to work as directed to the extent of their skills, qualifications and experience in the operation of the plant.

It is the intention of this clause to maintain continuity of production and relieve demarcation within the company's operations, not to threaten the job security of the wages workforces. Specifically, while contract (Labour Hire) employees and/or salaried staff may, in emergencies, be used to operate the plant, it is not the company intention to displace permanent wages employees.

It is, however, the intention of this clause to allow training of new employees, both salaried and wages, in all operational aspects of the plant. This may require these employees to work under supervision or alone in any area of the organisation for the required training period.

12. Termination of Employment

12.1 Notice

In order to terminate the employment of an employee the company shall give to the employee the following notice:

Employee's Continuous Service	Notice Period
Not more than 1 year	1 week
Between 1 and 3 years	2 weeks
Between 3 and 5 years	3 weeks
More than 5 years	4 weeks

12.2 Additional Notice

In addition to the notice in sub-clause 12.1 hereof, employees over 45 years of age at the time of giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.

12.3 Pay In Lieu

Payment in lieu of the notice prescribed in sub-clauses 12.1 and/or 12.2 hereof shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof. In calculating any payment in lieu of notice, the wages an employee would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated, shall be used.

12.4 Abandonment of Employment

Any employee who having given or been given notice as aforesaid and who without reasonable cause (proof of which shall lie on him/her) absents themselves from work during such period, shall be deemed to have abandoned their employment and shall not be entitled to payment for work done by them within the period.

12.5 When Not to Apply

The period of notice in this clause shall not apply in the case of dismissal for conduct that justifies instant dismissal, neglect of duty, or other misconduct or in the case of casual employees, or employees engaged for a specific period of time or for a specific task or tasks.

12.6 Continuity of Service

For the purposes of this clause, continuity of service shall be calculated in the manner prescribed for the calculation of Long Service Leave.

12.7 Notice of Termination by Employees

The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned.

If an employee fails to give notice the company shall have the right to withhold moneys due to the employee with a maximum amount equal to the ordinary time rate of pay for the period of notice.

The requirements of this sub-clause may only be avoided with the written consent of both the employee and the Company.

12.8 Time Off During Notice Period

Where an employer has given notice of termination to an employee, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the company after consultation with the employee.

12.9 Statement of Employment

The Company shall provide to the employee a written statement specifying the period of their employment and the classification of or the type of work performed by the employee.

12.10 Summary Dismissal

Notwithstanding the provision of sub-clause 12.1 hereof the company shall have the right to dismiss any employee without notice for conduct that justifies instant dismissal, and in such cases the wages shall be paid up to the time of dismissal only.

If an employee's service is to be terminated during the course of a week he/she shall be paid all money due to them at the time of termination for their services or such money shall be forwarded to them by post within twenty-four hours thereafter. Provided that any such notice given to an employee solely for the purpose of avoiding payment for prescribed holidays shall not deprive such employee of payment of holidays occurring between such notice and re-engagement, if any.

12.11 Unfair Dismissals

Termination of employment by an employer shall not be harsh, unjust or unreasonable.

For the purpose of this clause, termination of employment shall include terminations with or without notice.

Without limiting the above, except where a distinction, exclusion or preference is based on the inherent requirements of a particular position, termination on the grounds of race, responsibilities, pregnancy, religion, political opinion, national extraction and social origin shall constitute a harsh, unjust or unreasonable termination or employment.

13. Wages

- (a) Wages will be increased as per attached Schedule A for the employees subject to this Agreement.
- (b) The wage increases specified in sub-clause (a) of this Clause will be payable in addition to the current agreed enterprise rates of pay and will constitute part of the all purpose rate of pay in respect of employees subject to this Agreement.
- (c) The wage increases referred to in sub-clause (a) of this Clause will not be absorbed into any over award payment.
- (d) There will be no further wage increases for the life of the Agreement.

14. Allowances

The wage rates provided for in this Agreement are inclusive of all disability allowances excluding meal allowances, which are paid in accordance with relevant award provisions.

15. Superannuation

15.1 Legislative Framework

The subject of Superannuation is dealt with extensively by federal legislation and includes the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry Supervision Act 1993* and the *Superannuation Resolution of Complaints Act 1993*. This legislation as varied from time to time, governs the minimum superannuation entitlement and obligations of the parties.

15.2 Cargill Company Superannuation

This fund has been established by the Company, Cargill Processing Limited ACN 008 456 399 to provide benefits for its employees and their dependants in the following circumstances:

On retirement or resignation

In the event of death of an employee

In the even of permanent disablement of an employee

The Fund is governed by a legal document, the "Trust Deed and Rules". This document sets out the employee's rights to receive benefits from the Fund and the rights and obligations of the Company and

Trustee. A Superannuation Booklet will be given to each employee and the Trust Deed and rules may be obtained for examination on request.

The Company shall contribute to the fund in respect of each employee, an amount no less than the legislative requirement pursuant to sub-clause 15.1 above.

16. Stand Down Clause

The Company shall have the right to deduct payment for any day the employee cannot be usefully employed because of any strike, or natural disaster or through any breakdown in machinery, interrupted supply, or any stoppage of work by any cause for which the company cannot reasonably be held responsible.

17. Higher Or Lower Rates for Duties

17.1 Higher Rate

Where a weekly employee is put to work temporarily at a classification higher than that under which he/she was engaged or deemed to be working, he/she shall be paid as follows:

- (a) Where more than two hours of the day is spent working at a higher classification, the rate prescribed for such classification for the whole of that day.

17.2 Lower Rate

A weekly employee shall not suffer any deduction in wages during any week by reason of his/her having been put to work a part of such week at a classification lower than that under which he/she was engaged or deemed to be working.

18. Payment of Wages

- (a) Wages shall be paid each fortnight by Electronic Funds Transfer into a banking account (EFT compatible) nominated by the employee.
- (b) Except if otherwise provided for in this Agreement, wages will not be paid in advance to meet personal needs.

19. General Shift Rostering

19.1 The company intends to operate a 7 day-24 hour continuous shift roster, supplemented by shift employees working continuous day shift, subject to product supply and demand. Where product supply or demand is interrupted the company is to retain the flexibility to adopt alternate rosters with one month's notice to employees. Rosters may also be varied at any time by agreement of the parties. Where possible Rosters shall be posted 7 days or more in advance and employees should have at least 48 hours notice of their roster requirement.

19.2 12 Hour Shift Roster

It was agreed that in designing the new 12 hour roster, that there be no additional cost to the Company resulting from these new working arrangements.

To this end, the following issues have been specifically clarified.

- (i) Sick leave accrued and leave taken to be recorded as hours not days.
- (ii) Annual leave accrued and leave taken to be recorded as hours not days.
- (iii) Public holidays shall be interpreted as 8 working hours for the purpose of paying penalty rates on leave, or the hours attended and worked, whichever is greater.

- (iv) All other leave entitlements not specifically mentioned will be converted to hours.
- (v) Management and the employees through the Joint Consultative Committee will develop a roster to ensure that at all times relief is available in the event an employee is unable to report to work.

There will be no standby payment for those participating in the coverage roster;

At times an employee may wish to 'swap' a shift (i.e. 12 hours) with another employee. This can only be done with the consent of the employee's immediate supervisor. The change is to be organised by the employee requesting the changes, and is to be done so that no additional cost to the company is incurred.

- (vi) The new working day will commence at 7.00 a.m with the evening shift change at 7.00pm. Each shift stands alone for penalties. A penalty for a shift that starts on Saturday, Sunday or Public Holiday will not change within a shift; a shift that starts without a penalty continues without a penalty for the whole of the shift.

20. Rostered Days Off

Normal rostered days off are to be identified in the shift roster and may only be changed in a replacement employee is available and, with prior agreement with the company.

21. Meal/Crib Breaks

During a normal roster period each employee not working shifts shall take a ten-minute crib break and a 30-minute meal break at a time to meet the circumstances of the work at hand. The company will endeavour to ensure that no employee is required to work more than 5 hours without a meal break. If the circumstances of meal and crib breaks are in dispute, the details are to be referred to the Joint Consultative Committee for consideration.

22. Training/Meetings

The company is to roster employees for attendance during working hours at designated Company training sessions and meetings that shall cover First Aid training, Fire Extinguisher training, Emergency Drills Training, Confined Space Entry Training, health Assessments and the Safety Committee 4 day training course.

Except for Saturdays, Sundays and Public Holidays, all time spent attending designated Company training sessions and meetings shall be paid at ordinary time rates. A minimum of 4 hours shall be paid for any training outside of normal ordinary hours of work.

If an employee is required to attend training that is held off site, and that training results in the employee having to travel a greater distance than he/she would normally travel to his/her normal place of work, the employee shall be paid the extra distance at the rate applicable under the Metal Engineering & Associated Industries (State) Award.

23. Shift Work

23.1 Definition

"Afternoon shift" means any shift finishing after 6.00 pm and at or before midnight.

"Day shift" means any shift finishing after 8 am and at or before 6.00 pm.

"Night shift" means any shift finishing subsequent to midnight and at or before 8.00 am.

"Rostered shift" means a shift of which the employee concerned has had at least forty-eight hours notice.

"Continuous shift" means work carried on with consecutive shifts of employees throughout the twenty-four hours of at least six consecutive days without interruption except during breakdowns meal break or due to unavoidable causes beyond the control of the company.

"Roster cycle" means the period taken for complete rotation of the shift roster as agreed between the company and the majority of employees concerned and/or their accredited union representative.

23.2 Shift Hours

This sub-clause shall apply to all shift workers herein before defined.

The ordinary hours of such shift workers shall average thirty-eight hours per week as provided in Sub-Clause 8.1 of this Agreement and shall not exceed:

- (a) Eight in any (1) one day;
- (b) Forty-eight in any (7) seven consecutive days; or
- (c) Eighty-eight in (14) fourteen consecutive days; or
- (d) One hundred and sixty in (28) twenty-eight consecutive days; or
- (e) One hundred and ninety in (35) thirty-five consecutive days.

23.3 Minimum Shift Hour Requirements

Subject to the following conditions such shift workers shall work at such times as the company may require:-

- (a) A shift shall normally consist of eight hours
- (b) Except at the regular changeover of shifts and employee shall not normally be required to work more than one shift in each twenty-four hours.
- (c) Twenty minutes shall be allowed to shift workers each shift for crib time, a period that shall be counted as time worked.

23.4 Hours - Other than Continuous Shift

This sub-clause shall apply to shift workers not upon continuous shift as herein before defined.

The ordinary hours of such shifts shall average forty per week Monday to Friday in accordance with sub-clause 23.2. Such ordinary hours shall be worked continuously except for meal breaks at the discretion of the company.

23.5 Shift Start/Finish Time

Shift rosters shall specify the commencing and finishing times of ordinary working hours of the respective shifts.

23.6 Variation of Shifts by Agreement

The time of commencing and finishing shifts, once having been determined, may be varied by agreement between the company, the majority of employees concerned and/or their accredited union representative to suit the circumstances of establishment or, in the absence of agreement, by one month's notice of alteration given by the company to the employees.

23.7 Afternoon Shift

Shift workers on afternoon shift shall be paid for such shifts 17-1/2 per cent more than ordinary rate.

23.8 Night Shift

Shift workers on night shift shall be paid for such shifts 17-1/2 per cent more than ordinary rate.

23.9 Shift Overtime

Shift workers for all time worked in excess of or outside working hours prescribed shall be paid at the rate of time and a half for the first two hours and double time thereafter; excepting between the start of day shift Saturday and the end of night shift Sunday when all overtime work will be paid at double time.

23.10 Saturday Shift Work

The minimum rate to be paid to any shift worker for work performed between the start of day shift on Saturday and the end of night shift on Saturday shall be time and a half. Such extra rate shall be in substitution for and not cumulative upon the shift premiums prescribed in sub-clauses 23.7 and 23.8 hereof.

23.11 Sundays and Holidays On Shift

- (a) The minimum rate to be paid to any shift worker for work performed between the start of day shift Sunday and the end of night shift Sunday shall be at double time. Such extra rate shall be in substitution for and not cumulative upon the premiums prescribed in sub-clauses 23.7 and 23.8 hereof.
- (b) The minimum rate to be paid to any shift worker for work performed between the start of day shift on the holiday and the end of night shift on the holiday shall be at double time and a half. Such extra rate shall be in substitution for and not cumulative upon the shift premiums prescribed in sub-clauses 23.7, 23.8 and 24, Public Holidays of this Agreement.

23.12 Requirement to Work Overtime

An employer may require any employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirement.

24. Overtime

For all work done outside ordinary hours, except as provided in clauses 25 and 26 of this Agreement, the rates of pay shall be time and a half for the first two hours and double time thereafter, such double time to continue until the employee has been released from overtime duty. In the compilation of overtime, each day shall stand alone.

24.1 Rest Period after Overtime

- (a) When overtime is necessary it shall, whenever reasonably practical, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days.
- (b) An employee who works so much overtime between the termination of his/her ordinary work, on one day and the commencement of his/her ordinary work on the next day that he/she has not had at least 10 consecutive hours off duty between those times, shall subject to this sub-clause, be released after completion of such overtime until he/she has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (c) If, on the instructions of the Company, such an employee resumes or continues work without having had such 10 consecutive hours off duty, he/she shall be paid at double rates until he/she is released from duty for such period and he/she shall then be entitled to be absent until he/she has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

24.2 Call Back

- (a) An employee recalled to work overtime after leaving the Plant site (whether notified before or after leaving the premises) shall be paid for a minimum of four hours work at the appropriate rate for each time he/she is so recalled; provided that, except in the case of unforeseen circumstances arising, the employee shall not be required to work the full four hours, if the job he/she was recalled to perform is completed and the Plant is returned to an acceptable operational status within a shorter period.
- (b) This sub-clause shall not apply in cases where it is customary for an employee to return to work to perform a specific job outside ordinary working hours or where the overtime is continuous with the completion or commencement of ordinary working time.
- (c) Provided further that in the event of cancellation or postponement of such recall when an employee reports to his/her place of duty he/she shall be paid at the above minimum of four hours for each time he/she is so recalled even if he/she is not required to work.
- (d) This sub-clause shall not apply in cases where it is customary for an employee to return to the Plant site to perform a specific job outside his/her ordinary working hours, or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

24.3 Standing By

If it has been determined by the company that a specific task will need to be performed within a designated span of hours an employee may be required to stand-by pending notification to attend for work.

An employee on call and standing by is required to hold himself in readiness and available to work after ordinary hours as and when requested. The employee shall, during the period of stand-by and until released from call, be paid standing-by time at 20% of ordinary rates for all times he/she is to hold himself in readiness..

25. Saturday/Sunday and Holiday Work (Not Shiftwork)

25.1 Saturday

All time worked on Saturdays, other than by shift workers, shall stand-alone and shall be paid for at the rate of double time with a minimum of four hours

25.2 Sunday

All time worked on Sundays other than by shift workers shall stand-alone and shall be paid for at the rate of double time with a minimum of four hours at the appropriate rate.

25.3 Public Holiday

All time worked on public holidays other than by shift workers shall stand alone and shall be paid for at the rate of double time and one half, with a minimum of four hours at the appropriate rate of pay. Such payment shall be in substitution for and not cumulative upon provisions of clause 26 Public Holidays of this Agreement.

26. Public Holiday

The following days shall be holidays, namely:

- (a) New Year's Day, Australia Day, Good Friday, Easter Sunday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day, and any other days which are

proclaimed as Public Holidays and observed as such in the State of New South Wales. Payment for Easter Saturday as a Public Holiday only applies when the employee worked on the said day.

- (b) In addition to the public holidays prescribed in the paragraph (a) of this clause one additional public holiday shall apply to an employee on weekly hire at a date agreed between the company, union and employees.
- (c) No deduction shall be made from the wages of employees for such holidays provided, however, that an employee absent day before or the day after a holiday without reasonable excuse or without the employer's consent shall not be entitled to payment for such holiday.

27. Personal Leave

27.1 Bereavement Leave

A weekly employee shall, on the death of a husband, wife, father, mother, child, brother, sister, stepchild, mother-in-law or father-in-law and grandparents of the employee, be entitled to leave up to and including the day of the funeral of such relation. Such leave for a period not exceeding two rostered shifts in respect of any such death shall be without loss or any ordinary pay, which the employee would have received if he/she had not been on such leave.

The Company may grant an additional paid rostered shift off:-

- (a) where an employee is the sole provider for his/her direct family, and is required to organise funeral arrangements, or
- (b) Where an employee has to travel for 4 hours or more (one way) to attend a funeral.

The right to such paid leave shall be dependent upon compliance with the following conditions:-

- (a) The employee shall give the Company notice of his/her intention to take such leave as soon as reasonably practicable after the death of such relation.
- (b) The employee shall furnish satisfactory evidence of such death to the Company if required.

For the purpose of this Clause the words "husband or wife" shall include a person who was living with the employee as a de facto husband or wife immediately prior to the death of the person.

For the purpose of this clause, children of de facto relationships shall be included.

For the purpose of this clause the words "father" and "mother" shall include foster father or mother and stepfather or mother.

Extra leave may be taken from Sick Leave or Annual Leave entitlements with the approval of the Company.

27.2 Sick Leave

Entitlement

An employee on weekly hiring who is absent from his/'her work on account of personal illness or incapacity shall be entitled to leave of absence without deduction of pay subject to the following conditions and limitations;

- (a) He/she shall not be entitled to paid leave of absence for any period in respect of which he/she is entitled to workers compensation.

- (b) He/she shall, at least one (1) hour before the commencement of such absence, inform the company of his/her inability to attend for duty and, as far as practicable, state the nature of the injury or illness and the estimated duration of the absence.
- (c) He/she shall prove that he/she was unable on account of such illness or injury to attend for duty on the day or days for which sick leave is claimed.
- (d) He/she shall not be entitled in respect of the first year of service with the company to leave in excess of 40 hours of working time and 64 hours in the second and subsequent years of service. Provided that sick leave shall accumulate from year to year so that any balance of the period specified herein which has in any year not been allowed to an employee by an employer as paid sick leave may be claimed by the employee and subject to the conditions herein before prescribed shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year. Provided further that sick leave which accumulates pursuant to this sub-clause shall be available to the employee for a period of ten years but for no longer from the end of the year in which it accrues.
- (e) Effective from the certification of this Agreement, the maximum number of paid sick leave hours for any employee (in his/her second year of employment) under this Agreement shall increase from 64 to 72 and, from the 19th August 2005, this total shall increase by a further 8 hours to a total of 80 hours in any one year.

27.3 Certificate Required

An employee is not entitled to sick leave for more than three non-consecutive single day absences in any one year of service without the production (if requested by the Company) of a certificate from a qualified medical practitioner, complying with the requirements of sub-clause (c) hereof with respect to the fourth and subsequent single day absences.

27.4 Payment of unused sick leave

All accrued sick leave that is outstanding at the time of an employee leaving the Cargill Australia Newcastle processing plant is to be paid out provided that the employee is leaving on the grounds of redundancy, ill health or by mutual agreement. No such accruals shall be paid to an employee whose employment is terminated on any other grounds including summary dismissal. The application of this clause shall be governed by the conditions imposed under Clause 27.2 (d).

27.4 Family Care Leave

Entitlement

- (a) An employee with responsibilities in relation to either members of their immediate family or members of their household who need their care and support shall be entitled to use, in accordance with this sub-clause, any sick leave entitlement which accrues after the date of this order for absences to provide care and support for such persons when they are ill.
- (b) The employee shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned.
- (c) The entitlement to use sick leave in accordance with this sub-clause is subject to:
 - (i) The employee being responsible for the care of the person concerned; and
 - (ii) The person concerned being either; A member of the employee's immediate family; or member of the employee's household.

The term "immediate family" includes:

A spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse, in relation to a person means a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; and

- (d) The employee shall, wherever practicable, give the company notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for the practicable for the employee to give prior notice of absence, the employee shall notify the company by telephone of such absence at the first opportunity on the day of absence.

Unpaid leave for family purpose

An employee may elect, with the consent of the company, to take unpaid leave for the purpose of providing care to a family member who is ill.

Annual Leave

- (a) Notwithstanding the provision of this clause, an employee may elect, with the consent of the company, to take annual leave in single day periods not exceeding five days in any calendar year at a time or times agreed between them.
- (b) Access to annual leave, as prescribed in paragraph (a) above, shall be exclusive of any shutdown period provided for elsewhere under this Agreement.
- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least 5 consecutive annual leave days are taken.

Time Off in Lieu of Payment of Overtime

- (a) An employee may elect, with the consent of the company, to take time off in lieu of payment of overtime at a time or times agreed with the company.
- (b) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate that is an hour for each hour worked.
- (c) An employer shall, if requested by an employee, provide payment, at the rate provided for the payment of overtime in this Agreement, for any overtime worked under paragraph (a) of this sub-clause where such time has not been taken within four weeks of accrual.
- (d) On each occasion that the employee elects to use this provision the resulting agreement shall be recorded in the time and wages records at the time when this agreement is made.

Make-up Time

- (a) An employee may elect, with the consent of the company, to work "make-up time", under which the employee takes time, during the spread of ordinary hours provided in this Agreement.
- (b) On each occasion that the employee uses this provision the resulting agreement shall be recorded in the time and wages records at the time when this Agreement is made.

Grievance Process

In the event of any dispute arising in connection with any part of this clause, such a dispute shall be processed in accordance with clause 38, the Dispute Settling Procedure provisions of this Agreement.

28. Annual Leave

28.1 Entitlement

Except as hereinafter provided, annual leave entitlements will be in accordance with the *Annual Holidays Act 1944 NSW*.

28.2 Provisions Applying to Shift workers

In addition to the leave herein before prescribed seven-day shift workers, that is employees working rostered shifts necessitating regular rostered Sunday and holiday work as part of their ordinary hours, after each twelve month's continuous service shall be given an extra week's leave; provided that where an employee is engaged for part only of the twelve-monthly period as a seven-day shift worker the extra leave to which he/she shall be entitled shall be in the same proportion of a week as the proportion which the time he/she spent as a seven day shift worker during the period bears to a year.

28.3 Continuity of Employment

For the purpose of this clause, service shall be deemed to be continuous notwithstanding:

- (a) Any interruption or determination of the employment by company if such interruption or determination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;
- (b) Any absence from work on account of personal sickness or accident or on account of leave lawfully granted by the company; or
- (c) Any absence with reasonable cause proof whereof shall be upon the employee.

In calculating the period of twelve months continuous service any such absence as aforesaid shall not, except to the extent of not more than 160 working hours in a twelve-monthly period.

In the case of sickness or accident, be taken into account in calculating the period of twelve months continuous service.

28.4 Rate of Pay

Before going on annual leave, an employee shall be paid at the rate at which he/she was ordinarily employed prior to the commencement of his/her leave.

Provided that for all shift workers annual leave payments shall be the amount which the employee concerned would have received had he/she worked his/her actual roster but excluding overtime and penalty payments which the employee would have received had he/she not proceeded on leave, provided further that pro rata payments made on termination will be at ordinary-time rates.

28.5 Annual Holiday Loading

- (a) In addition to the entitlement occurring under Clause 28.1 during a period of annual Leave an employee shall receive a loading calculated on the rate of wage prescribed by Schedule "A" of this Agreement.
- (b) The Loading shall be calculated as follows:
 - (i) Day Workers - an employee who would have worked on day work only had he/she not been on leave - a loading of 17.5%
 - (ii) Shift Workers - an employee who would have worked on shift work had he/she not been on leave - a loading of 17.5%
- (c) Provided where the employee would have received shift loadings, Saturday penalties and/or Sunday penalties, as prescribed by this Agreement had he/she not been on leave during the

relevant period, and such loadings would have entitled him to a greater amount than the loading of 17.5% then the shift loadings shall be added to the rate prescribed by attachment, Schedule "A" of this Agreement, in lieu of the 17.5% loading.

- (d) Provided further, that if the shift loadings would have entitled him to a lesser amount than the loading of 17.5%, then such loading of 17.5% shall be added to the rate of wages prescribed in Schedule "A", of this Agreement, in lieu of the shift loading.
- (e) When the employment of an employee is terminated by the Company for a cause other than misconduct and at the time of the termination the employee has not been given and has not taken the whole of an Annual Holiday to which he/she shall be paid a loading calculated in accordance with sub-clause (b) above.
- (f) Provided that pro rate payments in lieu of leave on termination of employment shall be paid for only at the employees' ordinary-time rate of pay as above.

28.6 Taking Leave

Annual leave shall be granted within six months of its becoming due.

28.7 Notice of Leave

Employees shall be given at least two weeks' notice of the commencement of annual leave or a lesser period of notice by agreement by the company and employee.

28.8 Broken Leave

Annual leave shall be given and taken in a continuous period, or if the employee and the company so agree, in two separate periods and not otherwise.

28.9 Annual Leave in Advance

- (a) The Company may grant to an employee his/her annual leave, or a part thereof, before the right to the leave has fully accrued due, but where the leave or part thereof is so taken a further period of annual leave shall not commence to accrue until after the expiration of the twelve months in respect of which the leave or part leave was granted in advance.
- (b) Where the annual leave or part thereof has been granted to an employee pursuant to this sub-clause before the right to the leave has accrued due and:
 - (i) the employee subsequently leaves or is discharged before completing the twelve months continuous service in respect of which the leave or part leave was granted; and
 - (ii) the sum paid by the Company to the employee for the leave or part leave taken in advance exceeds the sum, which the Company is required to pay the employee under sub-clause 28.4 of this clause; the company shall not be liable to make any payment to the employee and shall be entitled to deduct the amount of such excess, but excluding any sums paid for any of the holidays prescribed by clause 26 of this Agreement, from any remuneration payable to the employee upon termination of the employment.

28.10 Not Paid In Lieu

Except as provided in sub-clause 28.4 hereof, payment shall not in any circumstances be made in lieu of annual leave.

28.11 Holidays During Leave

Subject to this sub-clause the annual leave prescribed by this clause shall be exclusive of any holidays prescribed by clause 26 of this Agreement and if any such holiday falls within an employee's period of

annual leave and is observed on a day which in the case of that employee would have been an ordinary working day there shall be added to the period of annual leave time equivalent to the ordinary time which the employee would have worked if such a day had not been a holiday.

28.12 Holiday Not Paid

Where a holiday falls as aforesaid and the employee fails without reasonable cause to attend for work at his/her ordinary starting time on the working day immediately following the last day of the period of his/her annual leave he/she shall not be entitled to be paid for any such holiday.

28.13 Annual Leave Flexibility

Annual leave will be taken at times consistent with the needs of the Plant and in conjunction with the Metal, Engineering and Associated Industries (State) Award. Cargill will not be unreasonable in considering applications by employees for annual leave.

It is recognised that Cargill needs to manage the annual leave and long service leave entitlements for our employees. Cargill will introduce a plan to manage the accumulation and taking of leave. It is also recognised that there is an obligation to grant, and an obligation to take leave.

Cargill will aim to manage annual leave entitlements to a maximum of 30 days. In aiming for a target for annual leave of 30 days it is recognised that Cargill is setting a reasonable limit of 6 weeks leave, or 18 months worth of entitlement, to be accrued at any one time.

Annual leave may be broken into more than one period, provided that at least one period is of at least 14 consecutive days including weekends and public holidays. An employee's request for a single unbroken period will be taken into account in granting leave. Employees with very excessive leave, (i.e. More than 40 days accumulate), may give, and be given, no less than two weeks notice to take their leave, or less notice by mutual agreement.

In all other circumstances on week's notice for annual leave will be given, or less notice from either party by mutual agreement.

29. Jury Service

29.1 Entitlement

An employee on weekly hiring required to attend for jury service during his/her ordinary working hours shall be reimbursed by the Company an amount equal to the difference between the amount paid in respect of his/her attendance for such jury service and the amount of wage he/she would have received in respect of the ordinary time he/she would have worked had he/she not been on jury service.

29.1 Notification

An employee shall notify the Company as soon as possible of the date upon which he/she is required to attend for jury service. Further the employee shall give the Company proof of his/her attendance, the duration of such attendance and the amount received in respect of such jury service.

30. Long Service Leave

30.1 Long Service leave entitlements are in accordance with the *Long Service Leave Act 1955*.

30.2 Long Service Leave Flexibility

It is recognised that long service leave is not designed to be held and taken as a cash amount on termination of employment. It is designed to give people a significant break from work after servicing a long period with one employer. It is agreed that measures need to be taken to appropriately manage long service leave balances.

Employees who have not taken their Long Service Leave within 18 months of it falling due may be required to take at least four weeks each six months until their balance is managed down to an entitlement of 71 days. Once 71 days is reached an employee may be required to take the balance of their entitlement on six months notice. From the effective date of this Agreement employees who become entitled to Long Service Leave balance may be required to take the whole of their long service leave on four weeks notice once it has fallen due.

31. Parental Leave

Parental Leave entitlements are in accordance with Part 4 of the *Industrial Relations Act 1996*.

32. Employee Policy Manual

Employees are to refer to the employee policy manual for details of the application on site of Company Policy.

33. Joint Consultative Committee

33.1 Consultative Mechanism

The parties to this Agreement are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the company and to enhance the career opportunities and job security of employees.

33.2 Joint Consultative Committee

The Joint Consultative Committee shall comprise of seven members and will be represented as follows:-

- (a) Three representatives from employees/union; and
- (b) Three representatives from management; and
- (c) One representative from staff employees.

The appointment of management representatives will be determined by management and the election/appointment of employee representatives will be determined by the employees/union.

In determination of employee representatives on the committee, consideration shall be given to:-

- (a) The number of distinct operations at the workplace; and
- (b) Shift arrangements; and
- (c) Location of each person

The committee, once established, may invite persons to attend specific meetings.

There will be not formal voting procedures. Issues raised, shall be discussed and resolved by the committee within the spirit of mutual respect and negotiated resolution.

The following matters, but not limited to, shall form the basis for the work of the committee and will seek to reach agreement on the matters and make recommendations to the company who will take account of the views and the deliberations of the committee:

- (a) To implement this Agreement in the workplace; and
- (b) Review the implications and/or impact of the provisions of this Agreement on the company/employees; and
- (c) Consider the introduction of new or revised work methods or work arrangements; and

- (d) Give consideration to the impact of technological change and other significant changes in the organisation or workplace, with regard to:
- (e) Number of employees, job specifications and skill base; and
 - (i) Acquisition of new skills and additional training requirements.
 - (ii) Assess proposed changes in production and/or production for possible impacts on work methods or work arrangements, employment and skill requirements.
- (f) Consider other matters raised by the Joint Consultative Committee members which impact on the company or employees, or which contribute to the improved operation and efficiency of the enterprise.

The committee shall meet every four to six weeks unless the committee determines that it shall meet on a more frequent basis.

A reasonable time limit shall be placed on the length of meetings with enough time being provided to adequately deal with identified agenda items.

The minutes of the meeting shall be circulated to each member of the committee within one week of the meeting, and verified by committee members prior to the next scheduled meeting. The minutes shall be placed on notice boards throughout the plant following verification.

34. Safety

Cargill Australia Limited is committed to providing a safe workplace. All employees are expected to develop and maintain a safe working environment.

35. Quality

Cargill Australia Limited is a "Quality" company. All employees are expected to participate in and contribute to the company's quality programs.

36. Multi Skilling

The parties to this Agreement commit to the development of a multi-skilled workforce. Work will be organised to maximise the flexibility of the workforce and to enable employees to work to the limits of their skills and capacities. There will not be artificial barriers preventing employees from attaining additional skills or from performing tasks in which they have the necessary skills, competence, training and qualifications. The Company is to develop and adapt appropriate training to enable the achievement of this commitment.

37. Peripheral Duties

The duties of a classification shall include peripheral duties consistent with the need for workforce flexibility. The company may accordingly, direct an employee to perform any task in addition to the normal duties of the classification, provided that the employee has the skills required to perform the tasks, and the appropriate safety and quality factors have been applied.

38. Dispute Settlement Procedure

38.1 Avoidance of Disputes Procedure

To ensure the orderly conduct of and speedy resolution of disagreements or disputes, the following Resolution Procedure shall apply.

The object of the procedure is to promote the resolution of issues and disagreements through consultation, co-operation and discussion between employees (or employee representative) and their respective supervisors.

This procedure is based upon the recognition and development of the relationship between supervisors and their employees.

The procedure is designed to resolve any disagreement or dispute in a fair manner and is based upon the following principles:

- (a) Commitment by the parties to observe procedures. This should be facilitated by the earliest possible advice by one party to the other of any issue or concern, which may give rise to a disagreement or dispute.
- (b) Throughout all stages of this procedure, all relevant facts shall be clearly identified and recorded where necessary.
- (c) Realistic time limits shall allow for the completion of the various stages of the discussions.
- (d) Emphasis shall be placed on an in-house settlement of issues brought about through consultation. However, if in-house consultation and negotiation is exhausted without resolution of the disagreement or dispute the parties shall
- (e) Jointly or individually refer the matter to the Industrial Relations Commission of NSW for assistance in resolving the dispute.
- (f) Parties to this Agreement, in recognising the principles under which this Agreement has been reached, agree that no industrial action will be taken or withdrawal of labour for any reason outside the direct control of the management and employees of the company, except for National or State stoppages.

38.2 Resolution Procedures

(a) Stage One

- (i) The employee with the issue or concern will discuss the matter with the employee's immediate supervisor.
- (ii) The supervisor will set aside time to hear the issue or concern in a private discussion with the employee, and after considerations (3 working days maximum) provide a comprehensive answer to the employee. The issue or concern and the answer provided by the supervisor may be recorded.

(b) Stage Two

In the event of the employee not being satisfied with the answer provided, the employee will take his/her concern to the relevant union delegate who will arrange a meeting with the Supervisor and the employee concerned. The same procedure as set out in stage one will apply. All relevant facts shall be clearly recorded.

(c) Stage Three

In the event that the matter is still being resolved it will be referred to the Plant Manager or his/her representative who will convene a meeting with all the people previously involved in the matter to reconsider the issue or concern and the answers given thus far. The same procedure as set out in stage one and stage two will be adopted. All relevant facts shall be clearly recorded.

(d) Stage Four

If the matter is still unresolved it shall be referred to the Plant Manager or his/her representative and the union organiser, for resolution.

(e) Final Stage

If no negotiated settlement can be achieved the Director Human Resources or his/her representative and the Union Secretary shall seek final resolution. If the matter remains unresolved it shall be referred to the Industrial Relations Commission of NSW for assistance in resolving the dispute. At any meeting convened by the Commission, the parties will use their best endeavours to resolve the matter by conciliation.

39. Disciplinary Procedures

39.1 General Discipline

Whilst this Agreement provides the right of the Company to dismiss an employee without notice for misconduct, in many circumstances, dismissal is too severe a penalty for some breaches of conduct. A breach of discipline not necessarily warranting immediate dismissal includes absenteeism, poor work performance and failure to properly carry out legitimate instructions. Accordingly, the parties agree that disciplinary action by way of a warning can be imposed where misconduct did not warrant dismissal. In these circumstances it is agreed that the following procedures in this clause, will apply.

(a) First Warning

The Company representative, in the presence of the employee concerned will discuss the breach and if substantiated a "first warning" will be recorded on the employee's personnel record. A Union delegate from the appropriate section, will be present during the discussions. The employee will be advised of the possible consequences of any type of further breach. A copy of the warning will be given to the employee concerned.

(b) Second Warning

The Company representative in the presence of the employee concerned will discuss the breach and if substantiated a "second warning" will be recorded on the employee's personnel record. A Union delegate from the appropriate section, will be present during the discussions. The employee will be advised of the possible consequences of any type of further breach. A copy of the warning will be given to the employee concerned.

(c) Final Warning/Dismissal

- (i) The employee shall be given the opportunity to explain his/her behaviour in the presence of a Union delegate from the appropriate section. Any explanation offered shall be taken into account before deciding if dismissal is appropriate action to take.
- (ii) The Company accepts the explanation and decides that dismissal is not warranted a final warning may be given to the employee. A copy of the warning will be given to the employee and will be recorded on his/her personnel record.
- (iii) If the Company considers that dismissal is warranted and the Disciplinary procedure has been previously exhausted, then the employee concerned and the Union delegate will be advised immediately of the decision.

39.2 Duration of Warnings

All warnings shall be reviewed after six months. The period of time prior to a cancellation of the warning is dependent upon the seriousness of the breach.

39.3 Personnel Records

Employees shall be entitled to view their personnel records by request to the Company at a pre-arranged time. Personnel records cannot be removed from the office and shall be treated as confidential by the Company. Photocopies of personnel records for an employee shall be available to that employee upon request.

39.4 Dismissal - Misconduct

Notwithstanding other provisions of this clause, the Company has the right to dismiss any employee without notice for misconduct following a three day suspension period with pay to allow for a full investigation into the incident, and where it has been clearly demonstrated that the employee's behaviour amounts to conduct that justifies instant dismissal.

To protect the interests of all employees and the company, employment may be terminated without notice if, after reasonable investigation, an employee is found guilty of an act of gross misconduct that justifies instant dismissal.

40. Introduction of Change

40.1 Duty to Notify

- (a) Where the company has made a definite decision in accordance with this Agreement to introduce major changes in production, program, organisation, structure of technology that are likely to have significant effects on employees, the company shall notify the employees who may be affected by the proposed changes and the union.
- (b) "Significant effects" includes termination of employment, major changes in the composition operation of size of the employers workforce or in the skills required, the elimination of diminution of job opportunities, promotion opportunities or job tenure, the alteration of the number of hours to be worked, the need for retaining for transfer of employees to other work for locations and the restructuring of jobs.

40.2 Duty to Discuss Change

- (a) The company shall discuss with the employees affected and the union to which they belong, inter-alia, the introduction of changes referred to in sub-clause 40.1(a) above, the effects the changes are likely to have on employees and measure to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.
- (b) The discussion shall commence as early as practicable after a definite decision has been made by the company to make the changes referred to in sub-clause 40.1(a) of this clause.
- (c) For the purpose of such discussion, the Company shall provide to the employees concerned and the union to which they belong all relevant information about the changes, including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that the company shall not be required to disclose confidential information the disclosure of which would adversely affect the company.

41. Redundancy

41.1 Discussion before Termination

- (a) Where the company has made a definite decision that the company no longer wished the job the employee has been doing done by anyone pursuant to Clause 40, "Introduction to Change", and that decision may lead to the termination of employment, the company shall hold discussions with the employees directly affected and with the union to which they belong.
- (b) The discussions shall take place as soon as is practicable after the Company has made a definite decision which will invoke the provision of paragraph (a) of this sub-clause and shall cover,

inter-alia, any reason for the proposed terminations, any measure to avoid or minimise the terminations and, measures to mitigate any adverse effects of any termination of the employees concerned.

- (c) For the purpose of the discussion, the company shall, as soon as is practicable, provide to the employees concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which their terminations are likely to be carried out, provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the company.

41.2 Termination of Employment

Notice of changes in Production, Program, Organisation or Structure.

This sub-clause sets out the notice provisions to be applied to terminations by the company for reasons arising for "production", "program", "organisation" or "structure", in accordance with Clause 40.0 of this Agreement.

- (a) The notice of termination is in accordance with sub-clause 12.1 of this Agreement.

41.3 Notice for Technological Change

This sub-clause sets out the notice provisions to be applied to termination by the company for reasons arising from "technology" in accordance with Clause 40.0 of this Agreement.

- (a) In order to terminate the employment of an employee, the company shall give to the employee 3 months notice of termination.
- (b) Payment in lieu of the notice above shall be made if the appropriate notice period is not given, provided that employment may be terminated by a part of the period of notice specified and part payment in lieu thereof.
- (c) The period of notice required by this sub-clause to be given shall be deemed to be service with the company for the purposes of the *Long Service Leave Act 1995*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.

41.4 Time Off during the notice Period

- (a) During the period of notice of termination given by the company, an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purposes of seeking other employment.
- (b) If the employee has been allow paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the company, be required to produce proof of attendance at an interview, or the employee shall not receive payment for the time absent.

41.5 Employee Leave During the Notice Period

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause had the employee remained with the company until the expiry of such notice, provided that in such circumstances the employee shall not be entitled to pay in lieu of notice.

41.6 Statement of Employment

The Company shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

41.7 Notice to Commonwealth Employment Service

Where a decision has been made to terminate employees, the company shall notify the Commonwealth Employment Service thereof as soon as possible, giving relevant information including the number and categories of the employees likely to be affected and period over which the terminations are intended to be carried out.

41.8 Department of Social Security Employment Separation Certificate

The company shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by the Department of Social Security.

41.9 Transfer to Lower Paid Duties

Where an employee is transferred to lower paid duties in a redundancy situation, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the company may, at the company's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rates for the number of weeks of notice still owing.

41.10 Severance Pay

Where an employee is to be terminated pursuant to Clause 6 of this Agreement, subject to further order of the Industrial Relations Commission of NSW, the company shall pay the following severance in respect of a continuous period of service:

- (a) Four weeks pay for the first year after six months continuous employment plus four weeks per year for second and subsequent years accrued.
- (b) Part years of service will be paid on a pro rata basis.

41.11 Alternative Employment

Subject to an application by the company and further order of the Industrial Relations Commission of NSW, an employer may pay a lesser amount (or not amount) of severance pay than that contained in Clause 41.10 if the company obtains acceptable alternative employment for an employee.

42. Protective Clothing

Where deemed necessary, personal safety equipment/clothing must be worn.

Appropriate and sufficient overalls, gloves, footwear, wet-weather clothing and safety equipment (PPE), shall be supplied to employees.

43. No Extra Claims

It is a term of this Agreement that the Union and each of the employees bound by this Agreement will not pursue any extra claims, award or over award, for the duration of this Agreement.

44. Union Relations

- 44.1 Cargill acknowledges the positive role of the employees and their union representatives in producing this Agreement, and maintaining a safe, fare and efficient workplace for everyone. It is the intention of the parties to continue this approach in the futures.
- 44.2 Supervisors will introduce new employees during their induction and orientation to Cargill to their union delegates and officials to assist them in understanding their industrial rights and obligations. Designated union delegates will be provided with reasonable time to attend to Cargill specific issues as part of their role.
- 44.3 Up to two designated union delegates will be allowed up to five days per year to attend approved industrial training.
- 44.4 Cargill will make deductions from remuneration on authorisation by an employee for any purpose requested by the employee, including union subscriptions, providing there are at least five employees with the request, and the employee has no more than five deductions from his/her pay. The policy on payroll deductions may change from time to time, and the treatment of union deductions will be consistent with any other payroll deduction. Deductions will be forwarded in a timely manner as directed by the employee.
- 44.5 Where any arrangements are proposed pursuant to the facilitative provisions of Clause 2.2 of the award, an employee may notify his/her union representative for advice, and the union reserves the right to advise the employee not to voluntarily enter into such arrangements.

45. Leave Reserve Matter

During the life if this Agreement the AMWU reserves the right to enter into discussions with Cargill Australia Limited, (Newcastle) prior to the introduction of any major technology or any other significant changes to work practices

46. Signatories

Signed for and behalf of:

(SIGNATURE) _____

TITLE: _____

DATE: _____

CARGILL AUSTRALIA LIMITED

(SIGNATURE) _____ DATE _____

AUTOMOTIVE, FOOD, METALS, ENGINEERING, PRINTING AND KINDRED INDUSTRIES UNION
(AMWU)

(SIGNATURE) _____ DATE _____

MARK BUSCOME
AMWU DELEGATE

(SIGNATURE) _____ DATE _____

TIM GOWDY
AMWU DELEGATE

(SIGNATURE) _____ DATE _____

RUSSELL WARD
AFMEP&KIU DELEGATE

SCHEDULE A

Skill Level	Agreement Rate	Agreement Increase	New Agreement Rate	New Agreement Rate \$/hr	Operative Date
Level 1	809.21				20 Aug 2003
	809.21	32.37	841.58	22.1468	20 Aug 2004
	841.58	33.66	875.24	23.0326	20 Aug 2005
	875.24	35.01	910.25	23.9539	20 Aug 2006
Level 2	849.68				20 Aug 2003
	849.68	33.99	883.67	23.2545	20 Aug 2004
	883.67	35.35	919.02	24.1847	20 Aug 2005
	919.02	36.76	955.78	25.1521	20 Aug 2006
Level 3	891.52				20 Aug 2003
	891.52	35.66	927.18	24.3995	20 Aug 2004
	927.18	37.09	964.27	25.3755	20 Aug 2005
	964.27	38.57	1002.84	26.3905	20 Aug 2006
Level 4	936.10				20 Aug 2003
	936.10	37.44	973.54	25.6195	20 Aug 2004
	973.54	38.94	1012.48	26.6442	20 Aug 2005
	1012.48	40.50	1052.98	27.7100	20 Aug 2006