

**PB TOWAGE (AUSTRALIA) PTY LTD BUNBURY ENTERPRISE AGREEMENT 2010**

**PB Towage (Australia) Pty Ltd**

**A.B.N. 37099760380**

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## **2. TITLE, INCIDENCE & APPLICATION**

2.1 This Agreement will be known as the PB Towage (Australia) Pty Ltd Bunbury Enterprise Agreement 2010.

2.2 This Agreement is binding upon:

2.2.1 Employees of the Company who are engaged by the Company in its pilot boat operation in Bunbury who would otherwise be covered by the Ports, Harbours and Enclosed Water Vessels Award 2010;

2.2.2 PB Towage (Australia) Pty Ltd; and

2.2.3 the Maritime Union of Australia.

The Agreement applies in Bunbury in respect of work performed by Employees on pilot boats operating in or about Bunbury.

2.4 This Agreement operates to the exclusion of and replaces all previous agreements.

2.5 The parties agree that up to the nominal expiry date of this Agreement the Employees, the Union or the Company will not pursue any extra claims relating to wages or changes in conditions of employment or any other matters related to the employment of Employees, whether dealt with in this Agreement or not.

## **3. RELATIONSHIP WITH THE AWARD AND AGREEMENT**

3.1 Subject to clause 3.2, this Agreement incorporates the terms of the Ports, Harbours and Enclosed Vessels Award 2010 (the Award) [as it exists from time to time]

3.2 Where there is any inconsistency between this Agreement and the Award, the Agreement shall apply to the extent of the inconsistency.

3.3 Any terms of the Award which include unlawful terms, as defined in the Act at the date this Agreement is made, are not incorporated into this Agreement.

3.4 In the event of any inconsistency between any terms of the Award (as incorporated into this Agreement) and an express provision set out in this Agreement, the express provision in this Agreement shall prevail to the extent of any such inconsistency.

## **4. TERM OF AGREEMENT**

This Agreement will come into force from the date of approval by Fair Work Australia and remain in force until the 30 June 2011.

## **5. DEFINITIONS**

5.1 Act *means* the Fair Work Act 2009 (Cth).

- 5.2 Award *means* the Ports, Harbours and Enclosed Water Vessels Award 2010 as amended or replaced.
- 5.3 Agreement *means* the PB Towage (Australia) Pty Ltd Bunbury Enterprise Agreement 2010.
- 5.4 Company *means* PB Towage (Australia) Pty Ltd.
- 5.5 Day *means* 24 hours from the time of engagement.
- 5.6 Employee *means* an employee employed by the Company in its pilot boat operation in or about Bunbury who would otherwise be covered by the Award.
- 5.7 FWA *means* Fair Work Australia.
- 5.8 One Day's Pay *means* 1/365th of the appropriate annual salary.
- 5.9 Parties *means* either Employee's whose employment is covered by the Agreement, or the Company or the Union.
- 5.10 PCC *means* Port Consultative Committee.
- 5.11 Union *means* the Maritime Union of Australia.
- 5.12 WPC *means* Work Place Council.

## **6. PURPOSE OF AGREEMENT**

- 6.1 This agreement establishes a positive direction for the future.
- 6.2 The objectives of this Agreement are to contribute to the long-term improvement in the Company's performance and Employee security in terms of:
- financial viability in relation to Employee controllable matters;
  - safety and quality;
  - the highest standards of customer service;
  - process improvement;
  - employment conditions;
  - provide an environment that better meets the needs of Employees including continuity of employment and enhanced career prospects; and
  - establishing an environment where there will be better understanding between the Parties.

## **7. FLEXIBILITY**

- 7.1 The Company and an Employee may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if the Agreement deals with arrangements about when work is performed;
- 7.1.1 the arrangement meets the genuine needs of the Company and the Employee in relation to the abovementioned matter; and

7.1.2 the arrangement is genuinely agreed to by the Company and the Employee.

7.2 The Company must ensure that the terms of the individual flexibility arrangement:

7.2.1 are about permitted matters under s.172 of the Fair Work Act 2009; and

7.2.2 are not unlawful terms under s.194 of the Fair Work Act 2009; and

7.2.3 result in the Employee being better off overall than the Employee would be if no arrangement was made.

7.3 The Company must ensure that the individual flexibility arrangement:

7.3.1 is in writing; and

7.3.2 includes the name of the Company and the Employee; and

7.3.3 is signed by the Company and the Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and

7.3.4 includes details of:

7.3.4.1 the terms of the Agreement that will be varied by the arrangement; and

7.3.4.2 how the arrangement will vary the effect of the terms; and

7.3.4.3 how the Employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and

7.3.4.4 states the day on which the arrangement commences.

7.4 The Company must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

7.5 The Company or the Employee may terminate the individual flexibility arrangement:

7.5.1 by giving no more than 28 days written notice to the other party to the arrangement; or

7.5.2 if the Company and Employee agree in writing at any time.

## **8. CONSULTATION & COMMUNICATION**

8.1 The Company will consult with Employees about major workplace changes that are likely to have significant effects on Employee. Employees may be represented for the purposes of this consultation.

- 8.2 The Parties agree that effective communication and consultation is essential in promoting a successful organisation. Consultation provides Employees with an opportunity to have input into the decision making process on actions affecting them.
- 8.3 Information sharing will be achieved through formal and informal means, such as presentations, newsletters and other appropriate media.
- 8.4 It is agreed between the Parties that consultation will occur between management and Employees principally at a port level. The Port Consultative Committee is a direct link between Employees and management and facilitates dialogue between the Employees and management about port specific operational matters.

It is the intention of the Parties to use this forum to monitor the implementation of this Agreement and to assist in the implementation of changes to operational practices as required to meet the needs of the operation. The PCC will also assist in the development of productivity and safety improvements.

- 8.5 A Work Place Council has also been established which creates an additional link between Employees and management. The WPC is not a forum for discussion of industrial issues, or individual grievances/matters, but rather provides a forum for the exchange of views between representatives of the employees and senior management, where, in addition to local consultative process and through sharing information about industry matters and Company prospects, greater trust and respect can be established.

The Company will ensure that appropriate members of management attend the meeting to enable detailed and open discussion of the issues.

- 8.6 One Port based WPC representative is to be elected by the Employees covered by the Agreement in each Port where the Company operates. These representatives will meet on a national basis with representatives of management. The WPC will meet at least once each year during the term of this Agreement.
- 8.7 The approved cost of travel, meals and accommodation required to facilitate attendance at the WPC meeting will be met by the Company.

## **9. DISPUTE RESOLUTION**

- 9.1 The Company and the Employees are committed to a prompt and fair resolution of all grievances, problems or issues. This disputes resolution clause applies to all disputes about matters arising under the Agreement and the National Employment Standards. The parties acknowledge the importance of providing an uninterrupted service to customers, shareholders and clients and agree that any dispute should be able to be resolved without recourse to industrial action and within an informal framework.

Accordingly the parties agree that should any question, dispute or difficulty arise out of the operation of this Agreement, work shall continue as normal while the matter is being resolved and be handled in strict accordance with the following procedure.

9.2 This following provisions shall apply to all disputes about matters arising under the Agreement and in the workplace.

9.2.1 Initially, the Employee should raise a dispute with their supervisor or other relevant manager and the parties should attempt to resolve the issue(s) in dispute.

9.2.2 if the dispute is not resolved to the satisfaction of the parties by (a) above, either party can raise the matter with the relevant line manager and the parties will again meet to attempt to resolve the dispute.

9.2.3 If the dispute is not resolved by 9.1.1 or 9.1.2 above, either party may refer the matter(s) to FWA for mediation/conciliation and if unsuccessful and at least one party request, arbitration by FWA on the question in dispute.

9.2.4 Employees may be represented by a representative of their choice, including from the Union, for the purposes of this Procedure.

## **10. TYPES OF EMPLOYMENT**

10.1 An Employee engaged under this Agreement may be engaged as a Permanent Full Time, Permanent Part Time, Fixed Term/Specific Task or Casual Employee as follows;

10.1.1 a Permanent Full Time Employee is an Employee who is engaged to work on a full time basis in accordance with the operating roster in the port in which the Employee is engaged;

10.1.2 a Casual Employee is an Employee who is not regularly rostered to work, but is engaged in single periods which will not be less than the periods set out in the Port Work Practices of this Agreement.

10.1.3 an Employee engaged for a Fixed Term or a Specific task is an Employee who works on either a full time or part time basis, but is engaged for a fixed Term or to perform a Specific Task; and

10.1.4 a Permanent Part time Employee is an Employee who is engaged for a proportion of full time employment and is paid to work at least the agreed proportion of full time hours.

10.2 Permanent Part Time employment may facilitate job sharing arrangements where there has been consultation between the Employees concerned, the Company and the Union.

10.3 At the time of engagement an Employee will be advised whether he or she is to be engaged as a Permanent Full Time, Permanent Part Time or Casual Employee and where appropriate, the duration of the Fixed term or Specific Task.

## **11. OCCUPATIONAL HEALTH & SAFETY**

11.1 This Agreement will in no way conflict with relevant statutory Occupation Health and Safety requirements that confer a duty of care on the Parties.

- 11.2 The Company has an obligation under Occupation Health and Safety requirements to provide a safe working environment by taking reasonable measures to minimise the risks associated with identified hazards and by being rigorous in investigating all hazardous occurrences and incidents. Employees will comply with all reasonable requirements of the Company in these respects.
- 11.3 The Company will provide expert injury management services in order to expedite the full recovery and the earliest possible return to work of an injured Employee.
- 11.4 Employees must exercise a duty of care to both themselves and others in the workplace. If an injury occurs Employees will cooperate in injury management and rehabilitation programs in order to achieve full recovery and an early return to work. Employees will cooperate fully in all safety initiatives implemented by the Company.
- 11.5 The parties agree to:
- 11.5.1 ensure all Employees shall complete the Company safety induction program;
  - 11.5.2 comply with the Company safety systems/procedures;
  - 11.5.3 continue to participate in the relevant State OH&S safety committee;
  - 11.5.4 regularly internally publish safety performance figures;
  - 11.5.5 implement regular safety audits with internally published results; and
  - 11.5.6 endeavour to maintain the highest standards of safety.
- 11.6 All attempts will be made to hold safety committee meetings when the Safety Representatives from each work group are rostered on for duty. If Safety Representatives are required to come in off rostered leave or reliefs are required they will be paid in accordance with the Agreement.
- 11.7 The following protective and industrial clothing and footwear, which may have a Company logo, will be supplied by the Company free of cost:

Initial issue – Permanent Employees

Item	No.	Item	No.
Safety shoes	1	Winter jacket	1
Shorts	2	Wet weather (coat, trousers)	1
Long pants	2	Socks	2
Overalls	1	Polar Fleece Jumper	1
Shirts (logo)	3		

11.8 Initial Issue – Casual Employees

Item	No.	Item	No.
Shorts	1		
Shirts (logo)	2		

- 11.10 Each Employee shall solely be responsible for the safe keeping on board the pilot boat of each article supplied for his/her own use.

- 11.11 The Company shall provide safety sunglasses suitable for maritime use in lieu of an annual allowance, however there shall be reimbursement of equivalent monies to that of supply cost of safety sunglasses for Employees who wear prescription safety sunglasses.
- 11.12 All Employees when at work are required to wear safety/protective/industrial clothing, footwear and equipment as provided by the Company including long sleeved shirts and trousers.
- 11.13 The Company will replace any of the above items if:
- 11.13.1 the Employee satisfies the Company that the article concerned has been destroyed or rendered unusable without the fault and or neglect of the Employee in the course of carrying out their duties; or
- 11.13.2 that the item concerned was damaged and or stolen without he fault and neglect of the Employee whilst on board the pilot boat or that the Employee has out grown the article concerned and that it is unsuitable for proper use for him/her.

## **12. PERSONAL/CARER'S LEAVE AND COMPASSIONATE LEAVE**

### **12.1 Personal / Carers Leave**

- 12.1.1 For each year of service with the Company an Employee (except a casual Employee) is entitled to 10 days personal /carer's leave without loss of pay.
- 12.1.2 An Employee's entitlement to paid personal/carers leave accrues progressively during a year of service according to the Employee's ordinary hours of work, and accumulates from year to year. Employees will accrue 0.3846 days per fortnight.
- 12.1.3 A Permanent Part-time Employee shall be entitled to personal/carers leave as set out in 12.1.1 above on a pro-rata basis of the number of days worked per annum compared to the annual number of days worked by a Permanent Full-time Employee providing that the maximum entitlement does not exceed 10 days per annum.
- 12.1.4 An Employee may take paid personal/carers leave if the leave is taken:
- (i) because the Employee is not fit for work because of a personal illness, or personal injury, affecting the Employee; or
- (ii) to provide care or support to a member of the Employee's immediate family, or a member of the Employee's household, who requires care or support because of:
- a personal illness, or personal injury, affecting the member; or
  - an unexpected emergency affecting the member.
- 12.1.5 An Employee shall not be entitled to be paid leave of absence under this clause for any period in respect of which the Employee is entitled to workers compensation.

## 12.2 Compassionate leave

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

- (i) contracts or develops a personal illness that poses a serious threat to his or her life; or
- (ii) sustains a personal injury that poses a serious threat to his or her life; or
- (ii) dies.

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

- (i) to spend time with the member of the Employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury (as set out in 12.2.1 above); or
- (ii) after the death of the member of the Employee's immediate family or household (as set out in 12.2.1 above).

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

- (i) a single continuous 2 day period; or
- (ii) 2 separate periods of 1 day each; or
- (iii) any separate periods to which the Employee and his or her employer agree.

## 12.3 Notice and evidence

12.3.1 An Employee must give the Company notice as soon as practicable (which may be after the leave has started) but wherever possible should be prior to the commencement of shift and must advise the Company of the period, or expected period of leave and so far as possible state the nature of the reason for the absence and the estimated duration of the absence.

12.3.2 An Employee who takes personal /carer's leave or compassionate leave must provide evidence that would satisfy a reasonable person that:

- (i) if it is paid personal/carer's leave—the leave is taken for a reason specified in clause 12.1.4; or
- (ii) if it is unpaid carer's leave—the leave is taken for a permissible occasion in circumstances specified in clause 12.1.4; or

- (ii) if it is compassionate leave—the leave is taken for a permissible occasion in circumstances specified in clause 12.2.

12.3.3 In addition the Employee shall furnish to the Company such evidence whether by way of medical certificate or otherwise as the Company reasonably requires that the Employee was unable, on account of such illness or incapacity or caring responsibilities, to attend for duty during the periods for which sick leave is claimed. Provided that an Employee shall not be required to produce a medical certificate in respect of a single day's absence, unless it is reasonable for the Company to request such a certificate given the circumstances of the absence.

12.4 For the purposes of this clause immediate family means:

12.4.1 a spouse, defacto partner, child, parent, grandparent, grandchild or sibling of the Employee; or

12.4.2 a child, parent, grandparent, grandchild or sibling of a spouse or defacto partner of the Employee.

12.5 A Casual Employee shall not be entitled to paid personal/carers and compassionate leave.

### **13. PARENTAL LEAVE**

13.1 Permanent Employees and Casual Employees will be entitled to up to 12 months unpaid leave to care of a newborn child or newly adopted child in accordance with the Act. This entitlement will not apply during any period of leave.

13.2 A Permanent Employee who is the primary care giver and who has at least 40 weeks continuous service with the Company will be entitled to be absent from work for the purposes of parental leave without loss of pay (pro-rata calculation for part-time Employees )for six (6) weeks from the time of the birth or adoption of the child/children at:

13.2.1 the appropriate weekly rate (appropriate salary rate set out in this Agreement divided by 52) in the case of a Permanent Employee; or

13.2.2 the average of the weekly rate for the previous 12 months of employment (the earnings for the previous 12 months, excluding allowances and superannuation, divided by 52) in the case of a Part-time Employee.

13.3 A Permanent and Part-time Employee who is not the primary care giver and who has at least forty weeks continuous service with the Company will be entitled to one (1) weeks parental leave without loss of pay, at the time of the birth or adoption of a child/children at the appropriate weekly rate or average weekly rate respectively as set out in 13.2.1 and 13.2.2 above.

13.4 This entitlement will not apply during any period of leave and while parental leave may be taken in conjunction with other leave, as approved by the Company, the total period of parental leave and other leave must not exceed 52 weeks unless otherwise permitted by the Act.

#### **14. LONG SERVICE LEAVE**

- 14.1 The provisions of the relevant State long service leave act shall apply in respect of the long service leave entitlements for Employees.
- 14.2 Long service leave will be give and taken in blocks of rostered week/s that conform with applicable roster patterns, so that the period of leave is measured in calendar weeks.

#### **15. STUDY LEAVE, REVALIDATION & TRAINING**

##### **15.1 Study Leave**

15.1.1 An Employee may apply to enrol in study that is relevant to their job. The Company will consider each application and approve applications for study at its discretion giving consideration to the relevance of the study to the Employee's job or future job and the Company's operational needs.

15.1.2 An Employee who is approved to undertake study leave in accordance with 15.1.1 above will be entitled to:

15.1.2.1 payment for the time taken for study and in lieu of their normal payments;

(i) in the case of a Permanent Employee, 75% of the appropriate daily rate for each day of study (75% of the appropriate salary set out in this agreement divided by 365);

15.1.2.2 the cost of the course will reimbursed to the Employee by the Company upon successful completion of the course.

15.1.3 Employee's who accept the benefits outlined above will be required to enter into a written undertaking that they will remain in employment for a period of at least 1 year after they have completed the study and that they will reimburse the Company for the course costs if they choose to leave employment with the Company within that 12 months.

##### **15.2 Revalidation**

15.2.1 where the Company has stipulated as part of the terms of employment that a certain level of qualification is required of them the Company will only be required to maintain the Employee's qualification to the level stipulated in the terms of employment. This clause in particular applies to the Certificate of Competency revalidation requirements of STCW95. Courses will be undertaken in an Employee's leave.

15.2.2 Employee's who accept the benefits outlined above will be required to enter into a written undertaking that they will remain in employment for a period of at least 1 year after they have completed the study and that they will reimburse the Company for the course costs if they choose to leave employment with the Company within that 12 months.

## 15.2 Training

15.3.1 The Company may direct an Employee to participate in “on board operational” training. While participating in such training:

15.3.1.1 a Permanent Employee will receive no loss of pay or if the Employee participates in such training in their Rostered Week On or 2 days pay (salary /182) if they participate in such training in their rostered week off.

15.3.1.2 A Casual Employee will receive the hourly rate for each hour of training as set out in clause 16.2 if they are not supernumerary to the crew requirements (2 crew) and 50% of the hourly rate for each hour of training as set out in clause 16.2 if they are supernumerary to the crew requirements (2 crew).

15.3.2 For Permanent Employees engaged in training for promotion the Employee will receive:

15.3.2.1 no loss of pay if they participate in training in their Rostered Week On providing they are not supernumerary to operational requirements, in which case they will receive 1 days pay (sal/365);

15.3.2.2 one days pay if they participate in such training in their Rostered Week Off;

15.3.2.3 A Casual Employee will receive the hourly rate for each hour of training as set out in clause 16.2 if they are not supernumerary to the crew requirements (2 crew) and 50% of the hourly rate for each hour of training as set out in clause 16.2 if they are supernumerary to the crew requirements (2 crew).

## 16. REMUNERATION

16.1 Permanent Full-time Employees covered by this Agreement will be paid

Category	FFPP on or after approval	FFPP on or after 1/10/10
Senior Cutter Master	\$89,688	\$94,172
Cutter Master	\$82,032	\$86,133
Deckhand	\$68,571	\$72,000

16.2 A Casual Employee will receive an hourly rate of pay in the table below which incorporates the casual employees’ entitlements to annual leave, annual leave loading and any other rates and allowances contained in this agreement or Award.

Category	FFPP on or after approval	FFPP on or after 1/10/10
Cutter Master	\$56.34	\$59.15
Deckhand	\$47.09	\$49.45

- 16.3 The rates set out above for both permanent and casual Employees are:
- 16.3.1 in the case of a permanent or permanent part-time Employee, is an 'all-inclusive' salary and includes payment for any applicable leave loadings, public holiday rates, meal money, payments for irregular hours of work, shift premiums and allowances etc. There will be no additional payments except as otherwise set out in this Agreement;
  - 16.3.2 in the case of a casual Employee, is an 'all-inclusive' rate of pay and includes payment for any applicable casual loading, leave loadings, public holiday rates, meal money, payments for irregular hours of work, shift premiums allowances etc. There will be no additional payments except as otherwise set out in this Agreement;
- 16.4 Permanent Part-time Employees will be paid, pro-rata.
- 16.5 The amounts payable to any Employee pursuant to this clause shall constitute the whole of an Employee's remuneration, and take account of all aspects and conditions of employment unless otherwise expressly provided for in this Agreement.
- 16.6 The salary will be increased subject to the satisfactory implementation of the terms and requirements of this Agreement. Should any party consider that the terms and requirements of this Agreement are not being fully implemented then they may exercise their rights under the provisions of this Agreement and the FWA Act 2009.
- 16.8 Salaries agreed in this Agreement will take account of any wage or salary increase that might otherwise be available as a result of any National Wage Case decision or any general wage adjustments applying as a result of a decision of Fair Work Australia.
- 16.9 An Employee shall be paid by means of a direct deposit transfer into an account nominated by the Employee each fortnight in arrears.

## **17. SUPERANNUATION & SALARY SACRIFICE**

### 17.1 Superannuation

- 17.1.1 For existing permanent and part-time Employees, that is employed at the time of the commencement of this Agreement, the Company shall make an Employer Superannuation Contribution, to Maritime Super or to a superannuation fund of the Employee's choice, of 9.45% which includes an amount for the purposes of insurance.
- 17.1.2 For all other Employees the Company shall make an Employer Superannuation Contribution, to the Maritime Super or to a superannuation fund of the Employee's choice, of 9%.
- 17.1.2 An Employee can only elect to change a superannuation fund once each 12 months. Such election must be made by 1 May to take effect by 1 July.

### 17.2 Salary Sacrifice

- 17.2.1 An Employee may elect, by advice in writing to the Company, to make an Employee Superannuation Contribution by way of salary sacrifice of 5%.
  - 17.2.2 In addition, Employees may salary sacrifice a proportion of their earnings subject to the age based deduction limits for superannuation contributions by employers and eligible persons as set out in the relevant Taxation Determination from time to time.
  - 17.2.3 If an Employee elects to make salary sacrifice contributions, the pre-salary sacrifice salary will continue to be used for calculation of all pay, leave and similar entitlements. The pre-sacrifice salary will be the salary for all superannuation calculations.
  - 17.2.4 Any election by an Employee to salary sacrifice under this clause must be made by 1 May to take effect by 1 July. An Employee may cancel salary sacrifice arrangements at any time.
- 17.3 The Employer Contribution and the Employee Contribution shall be made no later than 28 days after the month the payment was made.

## **18. ACCIDENT MAKEUP PAY**

- 18.1 The Company will pay and Employees will be entitled to receive accident pay in accordance with this clause.
- 18.2 "Accident Makeup" means a weekly payment of an amount being the difference between:
- 18.2.1 in the case of a permanent Employee the weekly amount of compensation paid to an Employee and the weekly salary to which such Employee is entitled in the classification under which employed at the date of injury or where the incapacity is for a lesser period than one week, the difference between the amount of compensation and the said agreement rate for that period;
  - 18.2.2 In the case of part-time Employee the weekly amount of compensation paid to an Employee and the average earnings per week (excluding allowances, overtime and superannuation) of the part-time Employee in the 12 months prior to the injury occurring;
- 18.3 The Company will pay the Employee accident pay where the Employee receives an injury for which compensation is payable by or on behalf of the Company pursuant to the provisions of the relevant workers compensation.
- 18.4 The Company will pay accident pay during the incapacity of the Employee within the meaning of the Act until such incapacity ceases or until the expiration of the period of fifty two weeks from the date of injury, whichever event shall occur first.
- 18.6 An Employee will not be entitled to any payment under this clause in respect of any period of paid annual leave or long service leave or for any paid public holiday.

18.7 In the event that an Employee received a lump sum in redemption of weekly payment under the relevant workers legislation, the liability of the Company to pay accident pay as provided in this clause will cease from the date of such redemption.

18.8 Where the Employee recovers damages from the Company or from a third party in respect of the injury independently of the Act, the Employee will be liable to repay the Company the amount of accident pay which the Company has paid under this clause and the Employee will not be entitled to any further accident pay thereafter.

18.9 A casual Employee is not entitled to accident make up pay.

## 19. COMPENSATION FOR PERSONAL EFFECTS LOST

19.1 If an Employee sustains damage or loss of personal effects or equipment throughout the course of their work, the Company will compensate the Employee for such damage or loss, by a cash payment equivalent to the value of the loss up to a maximum of \$2000.

19.2 The maximum compensation payable for any single article is limited to \$750.

## 20. VICTUALLING AND ACCOMODATION ALLOWANCE IN OUT PORTS

20.1 An Employee required by the Company to take meals ashore or to sleep ashore whilst in a port other than the port which he/she is normally employed will be entitled to be paid the following:

Item	Rate
Breakfast	\$23.00
Lunch	\$28.75
Dinner	\$40.25
Accommodation (per day)	\$138.00
<b>Total Daily Allowance for victualling and accommodation</b>	<b>\$230.00</b>

20.2 These rates will remain in force for the life of the Agreement.

20.3 No allowance will be paid if the Company provides acceptable accommodation allowance if:

20.3.1 the place at which the Employee sleeps is not their usual place of residence; and

20.3.2 the Employee produces evidence to the reasonable satisfaction of the Company that the Employee has properly incurred the expenditure for accommodation for the night or nights in question.

20.4 Notwithstanding the provisions for payment of Victualling and Accommodation allowances as set out in this clause, alternative arrangements may be agreed with the Company.

## 21. TRAVELLING

21.1 Each day of travel, at the Company's direction, shall be paid at the rate of one day's pay if an Employee travels in their week off and no loss of pay if they travel in their week on.

- 21.2 Employees will be entitled to free passage by such appropriate means of transit as the Company may select and to reimburse the Employees reasonable travelling expenses in the following cases:
- 21.2.1 in the case of travelling for purpose of the Company;
  - 21.2.2 in the case of travelling to and from the pilot boat's home port incidental to the taking of leave of absence; or
  - 21.2.3 in the case of a service beginning and ending elsewhere than at the home port excepting where an Employee is dismissed for misconduct or chooses to terminate employment elsewhere, in cases where the tug is trading to the Employee's home port or where an Employee having given such notice seeks and is refused permission to extend such notice until the vessel's arrival at the Employee's home port.
- 21.3 The free passage if by rail in Australia shall be by first class and shall include a sleeping berth when the train includes sleeping berth accommodation.
- 21.4 Air travel will be economy class except where long distance flights to Europe or North America are required.

## **22. TELEPHONE**

- 22.1 Employees will maintain a telephone at their residence at their expense. Employees will also maintain a mobile telephone.
- 22.2 Where an Employee relocates his/her residence, the Company shall reimburse full installation costs for a new service or transfer fees of a telephone service from one residence to another, but in any case not more than two transfers during the period of the Employee's service with the Company.
- 22.3 Whilst engaged in Stand-by pilot boat duties, the Employee is to ensure they are contactable on their mobile phone at all times.

## **23. WORKING IN OTHER PORTS**

- 23.1 While working in other ports is voluntary, the parties agree that Employees will endeavour to meet the Company's needs .
- 23.2 While working in other ports the Employee shall receive the entitlements provided in this agreement or the entitlements for the category in the port transferred to, whichever is the higher.

## **24. RELOCATION**

- 24.1 The Company shall reimburse an Employee for out of pocket expenses where that Employee is permanently transferred from one operational location to another as provided for in this Clause.

- 24.2 In circumstances where an Employee who is made redundant in one Port and is transferred to another Port to fill a vacancy;
- 24.2.1 the Company shall pay to the Employee in respect of any reasonable time spent travelling between the two Ports (for the purpose of the relocation) a travelling allowance of \$32.58 per day for the Employee and a further \$27.15 per day for each dependent of the Employee including the Employee's spouse;
- 24.2.2 the Company shall pay to each Employee by way of a resettlement allowance the amount of \$8,883 if the Employee has a spouse or dependent children, or the amount of \$2,831 if the Employee is single and without dependents.
- 24.3 The amounts contained in 24.2.1 and 24.2.2 above shall be adjusted each twelve months at the beginning of the calendar year or as soon as figures become available in accordance with movements in the Consumer Price Index (CPI) for the preceding calendar year. These amounts shall be included on the Employee's group certificate for taxation purposes.
- 24.4 The resettlement allowance contained in 24.2.2 above will include but not be limited to costs incurred in respect of:
- 24.4.1 agents commission on sale of house, legal fees on sale of house, any advertising or auction fee/expense associated with the sale of the property and disposal of perishables i.e. food, pot plants etc;
- 24.4.2 any reasonable and previously agreed expenses incurred on a "preliminary" visit to the new port by an Employee and/or family including airfares and accommodation;
- 24.4.3 any reasonable and previously agreed storage costs associated with personal effects being stored in the destination port or port of origin;
- 24.4.4 any reasonable and previously agreed costs associated with the transfer of goods from storage in the destination port or origin port/s to the new residence;
- 24.4.5 any reasonable and previously agreed accommodation charges on arrival in the destination port pending more suitable longer term accommodation being obtained; and
- 24.4.6 any reasonable and previously agreed costs with the purchase of a new home in the destination port.

## **25. REMOVAL EXPENSES**

- 25.1 Employees shall be entitled to reimbursement of reasonable and previously agreed removal expenses subject to the following:
- 25.2.1 reimbursement of removal expenses; shall include all personal effects including one motor vehicle only and no boats, caravans and trailers;

25.2.2 storage charges or the cost of transfer of personal effects to or from the storage shall be deemed to form part of the resettlement allowance and shall not be reimbursed as a removal expense; and

25.2.3 Employees shall obtain two quotes from reputable removalists and submit them to the Company.

## **26. AUTHORISED MEETINGS**

26.1 Meetings of Employees may be held without loss of pay at two monthly intervals provided that meetings will not be of more than four hours duration and will be arranged as to avoid, as far as possible to avoid interference to traffic at the port applicable.

## **27. RIGHTS AND RESPONSIBILITIES OF DELEGATES**

27.1 The parties to this Agreement believe that good workplace relations are essential for the well being of Employees and as a pre-requisite for a safe and productive enterprise.

27.2 Part of this includes acknowledgement of the role of workplace delegates and in enhancing efficiency the following principles are agreed, the delegate has the right to:

27.2.1 fair treatment and to perform their role without discrimination in their employment;

27.2.2 formal recognition by the Company and its representatives;

27.2.3 consult with workplace staff and management and will be given reasonable access around the workplace to facilitate this;

27.2.4 reasonable paid time off to participate in approved forums with the Company;

27.2.5 relevant training as agreed;

27.2.6 reasonable access to workplace equipment such as facsimile, photocopying, e-mail, internet etc. provided that this does not interfere with the normal operations of other staff;

27.2.7 place necessary union information on noticeboards;

27.2.8 take reasonable leave without pay to work with the Union at a time agreed with the Company.

27.3 It is acknowledged by the parties that in carrying out their role workplace delegates also have a number of responsibilities. These include:

27.3.1 acting in a courteous and professional manner in their role;

27.3.2 the responsibility to raise workplace issues in a timely fashion and work cooperatively with the Company to resolve issues;

- 27.3.3 workplace delegates must deal in a professional manner with all Employees regardless of union membership status;
- 27.3.4 adhere to The Company's policies and procedures whilst carrying out their role. This includes using equipment made available in a manner consistent with The Company's policies on acceptable use of e-mail and internet, harassment and discrimination.

## **28. REDUCTION, CESSATION OR GROWTH IN BUSINESS**

- 28.1 The parties have entered into this Agreement in the expectation that the terms of this Agreement will apply for the life of the Agreement.
- 28.2 However, if circumstances affecting the business, either across the board or in a particular port lead to a reduction, cessation or growth of port business, or have the potential to lead to such changes, the Company and the Union will confer in an attempt to resolve any issues arising from the change in circumstances. The parties will attempt to resolve such issues in accordance with the dispute resolution procedure, Clause 7 of this Agreement, including by reference to Fair Work Australia to have Fair Work Australia determine the reasonableness of any proposals to address the changed circumstances.
- 28.3 In the event of substantial changes in work arrangements or the level of work or other relevant circumstances, the Parties agree to review, and where necessary, adjust the salaries referred to in clause 16 of this Agreement.
- 28.4 If, as a result of the review referred to above, it is necessary to alter salary levels, the parties agree to take such steps as are required to vary this Agreement and to obtain the approval of Fair Work Australia to do so.

## **29. REDUNDANCY**

- 29.1 Where a position(s) is to be made redundant the Company will consult with the Employees within that port and the relevant unions.
- 29.2 Where a position(s) is made redundant the provisions of the NES will apply so long as the Company does not make or obtain an offer of suitable alternative employment for the Employee(s) affected. In such cases, where the Company does make or obtain an offer of suitable alternative employment, there will be no entitlement to redundancy pay.

## **30. TRANSMISSION OF BUSINESS**

- 30.1 In the clause , "business" includes trade, process, business or occupation and includes part of any such business.
- 30.2 Where a business or part of a business of the Company (the transmitter) is transmitted from the Company to another employer (the transmittee) and the Employee who at the time of such transmission was an Employee of the Company, elects to become an Employee of the transmittee, the Company will ensure that the terms and conditions of employment paid and applied by the transmittee are no less favourable than those applied to the employment at the Company.

- 30.3 In the event of a potential transmission of business the Company shall:
- 30.3.1 Notify the Employees affected and the union that represents them of the proposed changes.
  - 30.3.2 Discuss with the Employees affected and the union that represents them the effect of the transmission of business. (The discussion will commence as soon as practicable after a definite decision has been made by the Company to transmission of business or part of business)
- 30.4 For the purpose of discussion, the Company shall provide in writing the name of the organisation that is acquiring the business or part of the business provided the Company shall not be required to disclose confidential information the disclosure of which would be inimical to the interests of the Company.
- 30.5 The Company shall include as part of tender specifications and, within the contractual arrangements with the transmittee, the obligation for the transmittee to apply terms and conditions of employment, including the employer contributions to superannuation, that are no less favourable than those which applied to each transmitted Employee by the Company immediately prior to transmission of business occurring.
- 30.6 Where the Company declares any positions redundant as a consequence of a transmission of business, the following shall apply to affected Employees:
- 30.6.1 Where no suitable offer of employment at the same salary level was available to the Employee and/or no voluntary redeployment occurred, the Employee will be eligible for a separation package in accordance with Clause 29 of this agreement and shall include all accumulated leave entitlements.
  - 30.6.2 The period of employment which the Employee has had with the transmitter or any prior transmitter shall be deemed to be service of the Employee with the transmittee.
  - 30.6.3 The provisions of this clause shall apply in addition to the requirements of the Workplace Relations Act 1996 as amended.

### **31. MEDICAL EXAMINATIONS & FITNESS FOR DUTY**

- 31.1 Employees shall attend for medical examinations at the direction of the Company.
- 31.2 Any medical examinations required by the Company, including AMSA medical examinations shall be paid for by the Company.
- 31.3 It is a requirement that Employees remain fit for duty.

### **32. RENEGOTIATION OF THIS AGREEMENT**

- 32.1 The Parties will commence discussions for a further agreement not later than six months prior to the expiry date of this Agreement.

## BUNBURY PORT WORK PRACTICES

### 1. Hours of Work & Duties

1.1 The Pilot boat will be manned by a Coxswain and a Deckhand to transfer Pilots from ship to shore or vice versa. The Duty Crew will be responsible for maintenance as required to keep the boats and equipment/facilities in good working order and meet the maintenance requirements of Port Authority ie, wash down, refuelling, oil changes and greasing.

1.2 Hours of work shall be as follows:

1.2.1 Port operations are based on 7 days per week / 365 days per year to meet the service requirements.

1.2.2 The nominal ordinary hours are 0800 to 1600, Monday to Sunday. Attendance will be managed to limit fatigue when shipping occurs outside ordinary hours providing that this is balanced with meeting the minimum maintenance requirements.

1.2.3 The pilot boat crew rostered on will work as directed subject to the fatigue management sub-clauses 1.2.8, 1.2.9 and 1.2.10 below. In general, and subject to operational requirements and fatigue, an Employee rostered on duty will be required to attend to carry out planned maintenance between the nominal ordinary hours on each day of the Duty Week Monday to Sunday including public holidays.

1.2.4 The EBA allows for 182 days predictable leave and 182 days of duty, including the requirement to work on public holidays and weekends that fall within the duty week (7 days)

At the commencement of the Agreement the Roster is 1 week on, 1 week off with no annual leave. Employees are not entitled to any additional leave. The parties agree to discuss changes and implement required changes to meet operational needs if this roster is not suitable to the business requirements in the future. Providing reasonable notice is provided before such a change is implemented and that any new roster is based on a concept of 182 days of predictable leave.

1.2.5 To operate this roster, the Company will for the duration of the Certified Agreement engage 2 permanent Coxswains and 2 permanent deckhands and will engage casuals to fill in at short notice where required.

1.2.6 It is the intention of the Parties that the pilot boat crews shall not be required to be continuously on duty for more than 16 hours, however, this intent shall not take precedence over the commitment by all crews to finish any pilot boat operation started within the 16 hours of continuous duty. Emergency callouts, after the 16 hours are to be worked.

1.2.7 Continuous duty is defined as time worked from arrival onboard the pilot boat, until crew has departed the pilot boat.

1.2.8 A rest break of less than 6 hrs will not break the continuity of a period of duty

1.2.9 Continuous duty exceeding 16 hours will be followed by an 8 hour uninterrupted break from duty.

1.2.10 SMS Messages will not disrupt a break should they be received during the last 2 hours of a 6 hour break.

1.2.11 The intent of the Fatigue management provisions is to ensure the needs of the business are met while providing adequate rest for crew. Fatigue management may be reviewed by the parties and changes subject to the agreement between the parties.

1.2.12 All crew rostered on duty will be available for multiple starts in any one day subject to the taking of breaks as outlined in this agreement. All phone calls /sms to be taken while on duty subject to the fatigue management clauses 1.2.8, 1.2.9 and 1.2.10.

1.2.13 Meal breaks are from 1200 to 1300 hrs but shall be taken in a manner suitable to operational requirements. Meal breaks shall be re-scheduled to ensure that there are no delays to pilotage and/or performance of maintenance. Should pilotage and/or maintenance result in Employees being unable to take a meal break, and then there shall be no additional payment but time will be taken at a convenient time during non-operational duty.

1.2.14 The Bunbury Port Authority shall be notified when the pilot boat is taken out-of-service or the crews are proceeding on a break so as to avoid exhaustion/fatigue.

## **2. Leave and Relief**

2.1 Crew members can swap leave to facilitate personal requirements. All leave alterations shall be recorded. Where a swap is agreed to between two crew members there shall be no additional payments.

2.2 Because of the remoteness of the Port, the crews on leave, if available, will endeavour to fill in for pilot boat crews that require fatigue break or relief due to sickness, accident or workers compensation or operational reasons. If the Employee seeking relief is unsuccessful in finding a relief they will immediately inform the appropriate manager.

2.3 Employees working on their off week will be paid as follows;

2.3.1 If the relief is for one job a minimum engagement of 2 hrs at 1.5 times the hourly rate applicable for each hour and single time for each subsequent hour providing the work is for the same job. This applies for up to 2 days in a row. The hourly rates for the purposes of this clause are set out below:

Position	FFPP on or after approval	FFPP on or after 1/10/10
Senior cutter master	\$49.28	\$51.74
Cutter master	\$45.07	\$47.32
Deckhand	\$37.68	\$39.56

2.3.2 If there is more than one job in a day or the relief required is longer than 2 days, the relief will be engaged on a daily basis at (Salary/182).

2.3.3 Casual Employees will be engaged on an hourly rate as set out in clause 16.2. A minimum engagement of 2 hrs will apply to casual Employees.

### **3. Notification**

3.1 Notification of movements will be issued as soon as possible and generally:

3.1.1 before 1700 for overnight services;

3.1.2 before 0900 for daylight services; &

3.1.3 weekend movements will be notified before 1700 on Friday.

These times are a general guide only and notification may be made at other times and Employees are required to meet all calls.

3.2 The Company may vary or cancel the Pilot Boat Service. There will be no additional payment for Cancellation/amendments to the commencement time of a pilot boat requirement

3.3 The duty crew will regularly check their phones for updated SMS messages on shipping requirements.

### **4. Use of a Private Motor Vehicle for Work Purposes**

4.1 Employees who use their own vehicle for work purposes eg. Obtaining stores, spare parts etc will be reimbursed at the per km rate as published by ATO

### **5. Review of Procedures**

5.1 The Enterprise Agreement provides for ongoing review of port procedures, which ensures flexibility, reflects changes and provides an acceptable work environment.

**Signatories**

**For the Maritime Union of Australia**

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Position/address:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Witness:**

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Position/address:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**For PB Towage (Australia) Pty Ltd**

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Position/address:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Witness:**

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Position/address:** \_\_\_\_\_

**Date:** \_\_\_\_\_