

ENTERPRISE AGREEMENT

NO: E.A. 47 /1996

DATE REGISTERED: 6-2-96

PRICE: \$ 58-00

ENTERPRISE AGREEMENT

THIS ENTERPRISE AGREEMENT IS MADE BETWEEN BORAL BRICKS (NSW) PTY LIMITED (THE COMPANY) AND THE FEDERATED BRICK TILE AND POTTERY UNION OF AUSTRALIA, NEW SOUTH WALES BRANCH (THE UNION), REPRESENTING EMPLOYEES OF THE SAID COMPANY, IN ACCORDANCE WITH THE REQUIREMENTS AND PROVISIONS OF THE NEW SOUTH WALES INDUSTRIAL RELATIONS ACT 1991.

This Agreement shall be known as "*Boral Bricks Prospect Site Employees Enterprise Agreement 1995*."

The Agreement is subject to certification by the Commissioner for Enterprise Agreements and registration by the Registrar of the industrial Relations Commission of New South Wales.

1. APPLICATION

This Agreement is binding on the Company, its employees as defined by the definitions of skill levels in Clause 3 and the Union, in respect to employment conditions and rates of pay at the Company's Plant located at Prospect, NSW

It shall prevail over and operate to the exclusion of any other former award that may have application to the employees bound by this Agreement in accordance with S.119 of the Industrial Relations Act 1991.

This Agreement has not been made under duress by any of the parties.

2. PERIOD OF OPERATION

This Agreement will take effect from the date of registration and will operate from the first pay period after registration by the Industrial Relations Commission of NSW, viz.....1995, and will continue in force for a period of 12 months, subject to the provisions of the Industrial Relations Act 1991.

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3. SKILL LEVELS AND RATES OF PAY

a) The rates of pay in this Agreement incorporate increases for productivity and efficiency improvements resulting from changed working conditions and work practices.

Rates will be increased in accordance with any State Wage decisions of the NSW Industrial Relations Commission which become effective during the currency of this Agreement.

Rates are as set out below:

<u>PREVIOUS CLASSN</u>	<u>38HOUR</u>	<u>SKILL LEVEL</u>	<u>WEEKLY RATE</u>
A		1	396.50
B		2	417.20
C		3	429.45
D		4	436.50
E		5	448.05
F		6	457.80
G (Email)		7	463.15
H		8	476.20
Fitter		9	536.55
Fitter Special Class		10	574.20
Fitter Special Class Leading Hand		11	594.65
Fitter Special Class Foreman		12	641.65

b)

<u>Level</u>	<u>Definition</u>	<u>Wage Rate</u>
1	This is the entry level for employees who do not have the appropriate skills needed for classification at higher levels. Employees at this level perform duties and simple mechanical or manual tasks of satisfactory quality and work under close supervision.	\$396.50

Without limiting the definition, examples of tasks at this level include, but are not necessarily restricted to, those currently performed by:

Trainee Palletiser
Trainee Setter

- 2 Able to perform tasks at Level 1 if and when required 417.20
with a minimum of 3 months employment.
Covers tasks requiring the setting up operating and routine
maintenance of simple fixed and mobile machinery,
including quality control and keeping of records.
It also covers manual tasks requiring responsibility for the
quality of the finished work.
Works under general supervision.

Without limiting the definition, examples of tasks at this
level include, but are not limited to, those currently
performed by:

General operator (One Area)
Palletiser
Setter

- 3 Able to perform tasks at levels 1 and 2 if and when 429.45
required.
Covers tasks requiring the setting up, operating, routine
maintenance and quality control of one machine in at least
one area of the plant, or perform tasks that currently require
one of the following extra skills viz, greasing.
Works under limited supervision.

Without limiting the definition, examples of tasks at this
level include, but are not necessarily restricted to, those
currently performed by:

Operator
Greaser

- 4 Able to perform tasks at levels 1,2, and 3 if and 436.50
when required, OR employees classified at level 3 who have
limited supervision responsibilities.
Covers tasks requiring the setting up, operating, routine
maintenance and quality control of all machines in one area
of the Plant OR able to perform tasks at level 3 and be able
to perform one of the following extra skills viz, fork
lift/front end loader driving, laboratory/quality control.
Works under limited supervision.

Without limiting the definition, examples of tasks at this
level include, but are not necessarily restricted to, those
currently performed by:

Senior operator

5 Able to perform tasks at levels 1,2,3 and 4 if and when required. 448.05

Covers tasks requiring the setting up , operating, routine maintenance and quality control of all fixed and mobile machinery in one area of the plant and be able to perform all of the following extra skills viz, kiln car repairs and fork lift driving and greasing or be able to perform tasks at level 1, 2,3, and 4, if and when required.
Works under limited supervision.

Without limiting the definition, examples of tasks at this level include, but are not necessarily restricted to, those currently performed by:

Senior skilled operator

6 Able to perform tasks at levels 1,2,3, 4 and 5 if and when required and undertake higher supervision responsibilities than those at level 5. 457.80

Covers tasks requiring the setting up, operating, routine maintenance and quality control of all fixed and all mobile machinery in one area of the Plant.
Works under limited supervision.

Without limiting the definition, examples of tasks at this level include, but are not necessarily restricted to, those currently performed by:

Machine Operator

7 Able to perform tasks at levels 1,2,3,4, 5 and 6, if and when required. 463.15

Employees at this level are able to perform any tasks required for the operation of any two work areas of the Plant. The current work areas are those of brick making, clay preparation, setting, packing and distribution.
Must have completed a recognised maintenance course, i.e. Email.

Without limiting the definition, examples of tasks at this level include, but are not necessarily restricted to, those currently performed by:

Senior Machine Operator

- 8 Able to perform tasks at levels 1, 2, 3, 4, 5, 6 and 7 if and when required. 476.20
Employees at this level are able to perform extra skills required for level 7 as well as supervise and accept responsibility for the operation to specified standards of any work area of the Plant.

Without limiting the definition examples of tasks at this level include but are not necessarily restricted to, those currently performed by:
Leading Hand
- 9 This level is equivalent to the tradespersons level. 536.55
Employees classified at this level require a full trade certificate or have formal qualifications as required by the Company, from a recognised provider.
Tasks at this level cover installation, maintenance, correct functioning and the operation of all mechanical and other equipment used in the plant and associated areas, OR tasks performed by a technician in one or more areas of the plant. Works under minimum supervision.

Without limiting the definition, examples of tasks at this level include, but are not necessarily restricted to, those currently performed by:
Technician
- 10 Able to perform tasks at level 9 if and when required. 574.20
This level is equivalent to the previous award classification of tradesperson special class.
Employees classified at this level require a full trades certificate as well as additional knowledge necessary to work on complex or intricate machinery or circuitry.
Tasks at this level cover installation, maintenance, correct functioning, operation of, testing, modification, commissioning, and fault finding of complex or intricate mechanical and associated equipment used in the plant. Works under limited supervision.

Without limiting the definition, examples of tasks at this level include, but are not necessarily restricted to those currently performed by:
Mechanical Tradesperson Special Class

11 Employees at this level require qualifications and experience equivalent to those of Level 10. 594.65
In addition, employees at this level are able to supervise and accept responsibility for mechanical maintenance.
Works under limited supervision.

Without limiting the definition, examples of tasks at this level include, but are not necessarily restricted to those currently performed by:

Mechanical Leading Hand

12 This level requires employees to supervise and accept responsibility for all levels of mechanical maintenance. 641.65

Without limiting the definition, examples of tasks at this level include, but are not necessarily restricted to those currently performed by:

Senior Mechanical Foreperson)

(c) In addition to the above rates the Company will pay as occupational superannuation an amount equal to 6% of each employee's ordinary time wage rate (or such other percentage or amount as required by applicable statute or Industrial Relations Commission of NSW judgement from time to time) on monthly basis, into the appropriate section of the Boral Employee's Provident Fund.

(d) The Company shall provide all necessary power tools, special purpose tools and precision measuring instruments.

(e) Junior employees will not be employed at less than 16 years of age. They shall be paid the following percentages of the rate for Skill Level 1.

At 16 years - 70%

At 17 years - 80%

NOTE: The Company shall have the right to employ junior labour in any class of work unless it is unreasonable, on the grounds that the said work is injurious to the junior or upon some other good grounds. Should a junior be required to undertake a task involving a specific amount of work usually performed by an adult in the industry, the junior shall be paid the appropriate adult rate of pay whilst so engaged.

4. HOURS OF DUTY (DAY WORKERS)

- (a) The ordinary working hours, for day work employees and shift workers shall be 38 per week and shall not exceed 8 ordinary hours per day unless by mutual consent, Monday to Friday inclusive, and worked between the hours 6.00 am and 6.00 pm. A Starting time earlier than 6.00 am or a finishing time later than 6.00 pm for an individual employee or with a group of employees, by consent.
- (b) If agreed between the Company and the employees a daily spread of ordinary hours Monday to Sunday, may be worked, however employees will not be required to work in excess of 12 ordinary hours per day.
- (c) A roster system will be implemented to allow for the 6 hour working Friday to be floated through the week: (38 hour week results in 2 hours off on Fridays. This will now be rostered throughout the week).

5. HOURS OF DUTY (SHIFT WORKERS)

Continuous Shift means work carried on with consecutive shifts throughout 24 hours each day for at least six consecutive shifts.

Seven Day Shift means shift work, other than continuous shift work, rotating across all seven days of the week.

- (a) The ordinary hours of shift workers will be 38 per pay period and each shift shall not exceed 8 ordinary hours per shift inclusive of a paid meal break.

If agreed by the Company and employees a greater spread of ordinary hours may be worked. However, employees will not be required to work in excess of 12 ordinary hours per shift.

- (b) Shift workers shall be regulated by a roster providing for weekly rotation and equity. An employee's place on a roster shall not be changed except by 48 hours notice of such change or payment of penalty rates.
- (c) No employee who is employed during ordinary working hours as defined in Clause 4 (a) shall be employed on the second or night shift except at overtime rates or vice versa.
- (d) A roster system will be implemented to allow for the 6 hour working Friday to be floated through the week.

- (e) Except where the Company and an employee have agreed to work a greater spread of ordinary hours per shift over a lesser working week, an employee who is employed on shift work for less than five shifts in any working week shall be paid overtime rates for the time worked as a shift worker in accordance with sub clause (b) of Clause 10 (Overtime and Public Holidays) of this Agreement.

However, where the employee has been employed on continuous shift work for more than one working week and the shift work terminates during a subsequent week, the Company shall be required only to pay such employee the appropriate rate for the shift work actually worked. In any event, where less than a full week's shift work is worked owing to the action of the employees, ordinary shift rates only shall be paid for the actual time worked.

- (f) The starting and finishing time for employees shall be set by the Company to best service the effective operation of the Plant.

6. TRAINING

- (a) The Company acknowledges its commitment to provide for its employees career paths and access to more varied, fulfilling and better paid jobs through training.

- (b) Training will be provided for progression to higher levels of skill to meet the manning requirements of the Company.

- (c) The Company will provide training to as many employees as possible who are interested in progressing to higher levels (to meet its requirements), whilst ensuring that production requirements are maintained.

- (d) Once an employee has been trained to a higher level, and is using those skills, then the employee will fill that vacancy and be paid at the higher level. This in no way detracts from the employee's ability to undertake tasks at a lower level of skill when required. In accordance with the needs of the Enterprise, training will be provided to enable employees to qualify for classification to and to make a contribution at higher levels of skill.

- (e) Internal Training: The existing program of training internally will continue, eg. machine operation, forklift and front end loader, crane training, fire fighting training, quality control, etc. as a means of providing the necessary personnel to operate the factory.

- (f) External Training: The existing program of training externally will continue, eg. TQM, Health and Safety, Brickmaking Skills, First Aid, Supervisory courses etc., as a means of providing the necessary personnel to operate the factory.

Travel allowance applicable to the kilometres travelled in excess of normal daily travel will be paid while attending outside training.

7. EFFICIENCY AND PRODUCTIVITY IMPROVEMENT

Gains in efficiency and productivity are to be attained by the following;

- (a) Regular consultative meetings, involving representatives of employees and the Company, working towards further improving productivity and efficiency.
- (b) Where accredited training has been undertaken all demarcation will be removed.
- (c) A roster system will be implemented to allow for the 6 hour working Friday to be floated through the week. (38 hour week results in 2 hours off on Fridays. This will now be rostered throughout the week).
- (d) Employees will undertake courses and training to improve production and qualify in areas such as:-
 - i) Basic mechanical skills
 - ii) Electrical Disconnect/Reconnect
 - iii) TQM
 - iv) Front end loader driving
 - v) Forklift truck driving
- (e) Participate in Total Quality Management to improve productivity and efficiency.
- (f) Participate in the operation of Quality Assurance
- (g) Employees agree to accept 48 hours notice for change of shift.
- (h) Maintenance employees agree to have roster days paid in lieu by mutual agreement.
- (j) Work with the Magna Carta principles and continuous improvement process.
- (k) Other past practices and procedures are to continue.

8. TOTAL QUALITY MANAGEMENT, QUALITY ASSURANCE AND CONSULTATION

- (a) Employee participation is considered necessary in Total Quality Management meetings as established for the purpose of providing participation in improved productivity and efficiency for the Plant.

It is an opportunity for employees to influence their work conditions, and through training, identify problems and suggest solutions to overcome these problems.

(b) A positive contribution towards Quality Assurance is vital to ensure that the Plant is certified to the correct level to maintain ongoing quality control and monitoring systems. Payment will be made at the employee's skill classification rate for attendance at these meetings.

(c) During the life of the Agreement regular meetings will continue, involving employees of the Company covered by this Agreement. These are for the purpose of advising on Company performance etc, consulting on plant efficiency and productivity.

9. TERMS OF ENGAGEMENT AND TERMINATION

(a) To allow a new employee to undertake basic training and to give the Company the opportunity to assess the employee's capabilities, the first three months service will be probationary. After the first two weeks of the probationary period employment shall be by the week and be terminated by a week's notice on either side or by payment or forfeiture of one week's wages in lieu of notice.

(b) Employment for the first two weeks of service shall be from day to day at a proportion of the weekly rate fixed. However, any employee who once has served in the industry for a continuous period of three or more months with the Company, if re-employed within twelve months by the Company shall be engaged and paid by the week.

An employee dismissed through slackness of work shall, as far as practicable, be given first preference when employees are being re-engaged.

(c) The Company shall not be required to pay for any time an employee cannot be employed usefully because of any strike or through any breakdown in machinery or stoppage of work or through any cause for which the Company reasonably cannot be held responsible. Before standing down an employee in accordance with this sub-clause, the Company shall notify the secretary of the union or the deputy, of the intention to do so and at the same time state the reasons for standing down the employee or employees, (as the case may be) who are members of the union.

(d) Employees shall report each working day at the works at the usual time unless notified to the contrary. If it is decided that no work shall be done during the day, the employees who report at starting time and who are stood down in accordance with sub-clause (c) shall be paid two hours pay. The decision as to whether work shall be done shall be made by the Company within one hour of the usual starting time. If an employee is kept waiting beyond such period of one hour that employee shall be paid for the extra waiting time at ordinary rates in addition to two hours pay.

(e) It shall be the responsibility of the employees concerned to notify the Company immediately of any loss of time to which sub-clause (d) applies.

(f) The Company may dismiss any employee without notice for serious misconduct, and in such cases wages shall be paid up to the time of dismissal only.

(g) The following conditions will apply to the termination of **maintenance employees** in lieu of sub-clause (a):

(i) Employment of maintenance employees may be terminated by either the Company or the employee at any time during the week by the giving of the following notice or payment in lieu of notice (except as provided in sub-clause (f):

<u>Period of Continuous Service</u>	<u>Period of Notice</u>
1 year or less	1 week
Over 1 year and up to the completion of 3 years	3 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years	4 weeks

Plus 1 extra week for employees over 45 years of age with not less than 2 years continuous service (except in the case of an employee giving notice).

(ii) An employee who fails to give the appropriate notice may have moneys forfeited to the equivalent of the notice period required.

(iii) An employee who has been given notice will be allowed up to one day's time off without any loss of pay (at a time convenient to the Company) for the purpose of seeking another job.

(iv) Following a request from the terminated employee, the Company will provide a written statement of the period of employment and type of work performed.

(v) The absence of an employee from work for a continuous period exceeding three working days without the consent of the Company, and without notification to the Company, shall be prima facie evidence that the employee has abandoned employment and unless the absence is established to the satisfaction of the Company within a period of fourteen days as having been due to a reasonable cause, termination shall operate as from the last day of attendance at work or authorised absence

(h) PART TIME EMPLOYMENT

(i) An employee may be engaged by the week to work on a part-time basis for a constant number of hours being less than 38 per week. An employee so engaged shall be paid per hour one thirty eighth of the weekly rate prescribed by this Agreement for the work performed. The spread of ordinary hours of work, exclusive of meal times, shall be the same as those prescribed by Clause 4, but shall not in any case be less than 19 hours per week.

(ii) An employee engaged on a part-time basis shall be entitled to payments in respect of annual leave, annual holidays loading, public holidays, sick leave and bereavement leave arising under this Agreement on a proportionate basis calculated as follows:

(1) Annual Leave:

Subject to the provisions of Clause 12 (Annual Leave), of this Agreement:

Where the employee has completed twelve months' service the employee shall be entitled to four weeks annual leave at the number of fixed hours normally worked each week. Where the employee is entitled to pro rata leave on termination of services or on close-down, the employee shall receive, for each completed week of service since last becoming entitled to a period of annual leave, or since the commencement of service if the period be their first year of service, an entitlement calculated in accordance with the following formula:

No. of fixed hours each week

12

(2) Annual Holidays Loading:

Subject to the provisions of Clause 13 (Annual Holidays Loading) of this Agreement, where the employee becomes entitled to an annual holidays loading, it shall be calculated at the rate of 17.5% of the appropriate weekly time rate of pay prescribed by this Agreement for the number of fixed hours each week normally worked by the employee.

(3) Public Holidays:

Where the normal paid hours fall on a public holiday and work is not performed by the employee, the employee shall not lose pay for the day save for provisions of sub-clause (a) and (b) of Clause 14 (Public Holidays).

(4) Sick Leave:

The employee shall be entitled to sick leave in accordance with Clause 11 (Sick Leave) of this Agreement except that during the first year of any period of service with the Company, the employee shall not be entitled to leave in excess of the first number of hours worked by the employee each week. During the second and subsequent years of any period of service with the Company the employee shall not be entitled to leave in excess of an amount calculated as follows:

No. of fixed hours worked each week x 8

5

(5) Bereavement Leave:

The employee shall be entitled to bereavement leave in accordance with Clause 23 (Bereavement leave) of this Agreement except that for each separate period the employee shall not be entitled to leave in excess of twice the fixed number of hours worked by the employee each day.

(6) Overtime:

A part-time employee who works in excess of the hours fixed under the employee's weekly contract of employment shall be paid overtime in accordance with Clause 10 (Overtime and Public Holiday Payments) of this Agreement.

(i) Abandonment of Employment

(i) The absence of an employee from work for a continuous period exceeding three working days without the consent of the Company and without notification to the Company shall be prima facie evidence that the employee has abandoned the employment.

(ii) If within a period of fourteen days from last attendance at work or the day of the last absence in respect of which notification has been given or consent has been granted, an employee has not established to the satisfaction of the Company that the employee was absent for reasonable cause, such employee shall be deemed to have abandoned the employment.

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

10. OVERTIME AND PUBLIC HOLIDAY PAYMENTS

(a) Employees other than seven day shift workers:

(i) All time worked outside the limitations of ordinary time as prescribed in Clause 4 (a) (Hours of Work) , or in excess of the daily or weekly hours of labour specified therein or before the usual commencing time or after the usual finishing time shall be paid at the rate of time and one half for the first two hours and double time thereafter.

(ii) All time worked on a Sunday shall be paid for at the rate of double time.

(iii) All time worked on any of the holidays as specified in Clause 14 (Public Holidays) of this Agreement, shall be paid at the rate of double time and a half.

(b) Continuous and Seven Day Shift Workers

The following rates shall be payable to a continuous or seven day shift worker working on any day which normally would be the worker's rostered day off or in excess of an ordinary rostered shift:

(i) Monday to Friday - time and one half for the first two hours and double time thereafter.

(ii) Saturday or Sunday - Double time.

(iii) Any of the holidays specified in Clause 14 (Public Holidays) - Double time and one half.

(c) An employee who is required to work overtime in excess of two hours after the employee's usual ceasing time on any day shall, if not notified on or before the previous day of the requirement to work, be paid \$4.85 for a meal and \$4.20 for each subsequent meal unless suitable meals are provided by the Company.

(Note: If an employee pursuant to notice has provided a meal or meals and is not required to work overtime or is required to work less than the amount advised, the employee shall be paid as above prescribed for meals which the employee has provided but which are surplus).

Such employee shall be allowed a crib time of twenty minutes which shall be counted as time worked.

Should the overtime extend beyond five hours, each employee shall be allowed, at the end of five hours, a further crib time of twenty minutes to be counted as time worked, and a further crib time of twenty minutes to be counted as time worked at the end of each additional four hour period.

(d) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least ten consecutive hours off duty between the work of successive days.

(e) An employee who works so much overtime between the termination of ordinary work on one day and the time for commencement of ordinary work on the next day that the employee would not have had at least ten consecutive hours off duty shall, subject to this sub-clause, be released after completion of such overtime without loss of pay for ordinary working time occurring during such absence until the employee has had ten consecutive hours off duty.

(f) If, on the instructions of the Company, such an employee continues or resumes work without having had such ten consecutive hours off duty, the employee shall be paid at double time until released from duty and then shall be entitled to be absent, without loss of pay for ordinary working time occurring during such absence, until the employee has ten consecutive hours off duty.

(g) The provisions of this clause shall apply as if eight hours were substituted for ten hours when overtime is worked:

- (i) for the purpose of changing shift rosters; or
- (ii) where a relieving shift worker does not report for duty and has not given the Company reasonable notice of intended absence; or
- (iii) where a shift is worked by arrangement between the employees themselves.

(h) An employee recalled to work overtime after leaving the Company's premises (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 the employee 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 the employee was recalled to perform is completed within a shorter period. This sub-clause shall not apply in cases where it is customary for an employee to return to the Company's premises to perform a specific job outside ordinary working hours, or where overtime is continuous, subject to a reasonable meal break with the completion or commencement of ordinary time.

(i) Where any employee works overtime on a Saturday, Sunday or Public Holiday, that employee shall be paid for a minimum of four hours work.

11. SICK LEAVE

(a) An employee who is absent from work by reason of personal illness or injury (not being illness or injury arising from the employee's misconduct or default or from any injury arising out of or in the course of employment) shall be entitled to leave of absence, without deduction of pay, subject to the following conditions and limitations:

(i) The employee shall not be entitled in the first sick leave year with the Company to leave in excess of one week of ordinary working time.

(ii) The employee shall not be entitled during the second and subsequent sick leave years with the Company to leave in excess of eight days of ordinary working time each year.

(b) The employee shall, before the commencement of such absence, inform the employer of inability to attend for duty and, as far as practicable, state the nature of the illness or injury and the estimated duration of the absence.

(c) The employee shall furnish to the Company such reasonable evidence as the Company may desire, that the employee was unable by reason of such illness or injury to attend for duty on the day or days for which such sick leave is claimed. Provided that for the first three single days of leave in each sick leave year the employee shall not be required to produce a medical certificate, but shall if required, furnish a statutory declaration as to the nature of the illness or injury.

(d) The employee shall not be entitled to sick leave for rostered time off due to the 38 hour week.

(f) The rights under this clause shall accumulate from year to year so long as the employment continues with the Company so that any part of sick leave entitlement which has not been allowed in any year may be claimed by the employee and shall be allowed by the Company, subject to the conditions prescribed by this clause, in a subsequent year of such continued employment.

(g) For the purposes of this clause, continuous service shall be deemed not to have been broken by:

(i) any absence from work on leave granted by the Company; or

(ii) any absence from work by reason of personal illness, injury or other reasonable cause (proof whereof shall in each case be upon the employee). Provided that any time so lost shall not be taken into account in computing the qualifying period of three months specified in sub-clause (i) of this clause.

(h) For the purpose of this Clause the term "sick leave year" shall read, in the case of an employee whose service with the Company commenced on or before 27 July 1983, the period from 1 January to 31 December next following. In the case of an employee who commenced service with the Company after 27 July 1983, the "sick leave year" shall commence on the anniversary of the date on which the employee commenced service with the Company.

(i) The payment for any absence on sick leave in accordance with this clause during the first three months of continuous service in the industry may be withheld by the Company until the employee completed such three months, at which time payment shall be made.

12. ANNUAL LEAVE

- (a) Annual leave shall be allowed to all employees as provided by the Annual Holidays Act 1944, as amended, except as provided for in sub-clause (b).
- (b) In addition to the benefits provided for by Section 3 of the Annual Holidays Act 1944, as amended, an employee who during the year of employment with the Company with respect to which the employee becomes entitled to the said annual holiday, gives service to the Company as a continuous or seven day shift worker under this Agreement, shall be entitled to the additional leave as below specified:
- (i) If during the year of employment the employee has served the Company continuously as such continuous or seven day shift worker, the additional leave with respect to that year shall be one week.
- (ii) If during the year of employment the employee has served for only portion of it as such continuous or seven day shift worker, the additional leave shall be one day for every thirty six ordinary shifts worked as such a shift worker and pro rata if less than five ordinary time shifts worked per week.
- (iii) One day added to annual leave period in respect of any holidays prescribed by this Agreement, which fall within the period of annual leave to which the employee is entitled. Any days added shall be the working day or days immediately following the period of annual holidays to which the employee is entitled and shall be paid for at ordinary shift rate of pay to which the employee is entitled.
- (c) Where it is agreed between the Company and an employee, the additional leave accrued for working as a continuous or seven day shift worker, may be paid as wages in lieu of it being taken as annual leave.
- (d) Where the employment of a worker has been terminated and the worker thereby becomes entitled under Section 4 of the Annual Holidays Act 1944, as amended, to payment in lieu of an annual holiday with respect to a period of employment, the worker shall also be entitled to an additional payment of three and one sixth hours of such ordinary time rate of wages with respect to each twenty one shifts of service as such continuous or seven day shift worker which the worker has rendered during such period of employment.
- (e) Notwithstanding anything elsewhere contained in this clause, regular burners or kiln operators on continuous or seven day shift work who have been transferred to other classes of employment during the qualifying period owing to no kiln being available for burning shall be entitled to the additional leave of one week.
- (f) Annual Leave Rates for Shift Workers:

A shift worker proceeding on annual leave shall be paid for the period of such leave that worker's ordinary rate of pay plus shift allowances and week-end penalties relating to ordinary time the shift worker would have worked if not on annual leave. Provided that the shift allowances and weekend

penalties shall not apply to public holidays which occur during the period of annual leave or for days which have been added to the annual leave in accordance with the provisions of sub-clause (d) of Clause 14 (Public Holidays).

13. ANNUAL HOLIDAYS LOADING

(a) Before an employee is given and takes annual holidays, or where, by agreement between the Company and employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods the Company shall pay the employee a loading determined in accordance with this clause.

(Note: The obligation to pay in advance does not apply where an employee takes an annual holiday wholly or partly in advance).

(b) The loading is payable in addition to the pay for the period of the holiday given and taken and due to the employee.

(c) The loading is to be calculated in relation to any period of annual holiday to which the employee has become entitled (but excluding days added to compensate for public or special holidays worked or public or special holidays falling on an employee's rostered day off not worked), or, where such holiday is given and taken in separate periods, then in relation to each such separate period.

(d) The loading is the amount payable for the period or the separate period, as the case may be, at the rate of 17.5% of the appropriate ordinary weekly time rate of pay prescribed by this Agreement for the classification level in which the employee was employed before commencing annual holiday, but shall not include any allowances, penalty rates, shift allowances, overtime rates or any other payments prescribed by this Agreement.

(e) No loading is payable to any employee who takes an annual holiday wholly or partly in advance. Provided that.

if the employment of such an employee continues until the day when the employee would have become entitled to an annual holiday, the loading then becomes payable in respect of the period of such holiday and is to be calculated in accordance with sub-clause (d) applying the Agreement rates of wages payable on that day.

(f) Where, in accordance with the Annual Holidays Act, the Company's establishment, or part of it, is temporarily closed down for the purpose of giving an annual holiday or leave without pay to the employees concerned:

(i) an employee who is entitled to an annual holiday and who is given and takes such a holiday shall be paid the loading calculated in accordance with sub-clause (d);

(ii) an employee who is not entitled to an annual holiday and who is given and takes leave without pay, shall be paid, in addition to the amount payable under the Annual Holidays Act, such proportion of the loading that would have been payable under this clause if the

employee had become entitled to an annual holiday prior to the close down as that employee's qualifying period of employment in completed weeks bears to 52.

- (g) When the employment of an employee is terminated by the Company for a cause other than serious misconduct, and at the time of termination the employee has not been given and has not taken the whole of an annual holiday to which the employee has become entitled, the employee shall be paid a loading calculated in accordance with sub-clause (d) for the period not taken.

Except as provided in this sub-clause, no loading is payable on the termination of an employee's employment.

- (h) This clause extends to an employee who is given and takes an annual holiday and who would have worked as a shift worker if not on holiday. Provided that, if the amount to which the employee would have been entitled by way of shift work allowances and weekend penalty rates for the ordinary time (not including time on a public or special holiday) which the employee would have worked during the period of the holiday exceeds the loading calculated in accordance with this clause, then that amount shall be paid to the employee in lieu of the loading.

14. PUBLIC HOLIDAYS

- (a) (i) The days on which the undermentioned holidays are observed, viz New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, together with all proclaimed or gazetted public holidays throughout the State.

(ii) Subject to the provisions of clause 16 (Penalty Rates) of this Agreement and sub-clauses (c) and (d), all employees covered by this Agreement shall be entitled to the abovementioned holidays and shall receive payment for the said holidays at their ordinary rates of pay. Provided that any such holiday falls on an ordinary working day or shift within the meaning of Clause 4 or 5 (Hours of duty).

(iii) In addition to the above one extra day in lieu of financial members day (falling due on the second Monday in November each year) shall be added to annual leave and taken by agreement between the Company and employees.

(b) Payment shall be made for the said holidays subject to the condition that employees shall have presented themselves for work on the working days immediately preceding and succeeding the holidays specified herein and shall have worked during normal working hours as required by the Company. Provided that any absence from duty on either or both of the days preceding and succeeding the holiday owing to illness or injury covered by a certificate of a medical practitioner or by consent of the company shall not render an employee ineligible for payment for the holiday. Where a group of holidays as defined in sub-clause (d) occurs and an employee is found to be not eligible for payment for same because of non-compliance with any or all of the conditions set forth in the above paragraph, that employee shall forfeit payment for only one day of such group holidays.

(c) Notwithstanding anything elsewhere contained in this clause, employees engaged as other than five day shift workers on rostered shift work and who are rostered off duty on any of the holidays specified herein, shall be entitled, in respect of such holidays, to payment of an additional day's pay for the period in which such holiday occurs, or by mutual agreement, an additional day's leave may be added to that employee's period of annual leave.

(d) Notwithstanding anything elsewhere contained in this clause, where, within a period of seven days prior to any holiday or the commencement of any group of holidays, the Company terminates, for reasons other than wilful misconduct, the employment of an employee who has been employed for a period of at least one month prior to the termination of employment, or where such employee is stood off, the employee shall be paid for that holiday or group of holidays, as the case may be.

Where two or more holidays occur within one working week, such holidays shall, for the purpose of this Agreement, be deemed to be a group of holidays.

15. MEAL AND REST BREAKS

(a) Employees shall not be required to work continuously for more than 5 hours without an interval of not less than 30 minutes nor more than 45 minutes for a meal.

(b) If an employee is required to work during the usual meal interval due to an emergency or to maintain production, that employee shall be allowed to take the meal interval when the other employees have resumed work and relief is available.

(c) A Rest break of ten minutes, counted as time worked, shall be allowed each day without deduction of pay. Where an employee is engaged on ordinary hours for more than 8 in any day, that employee shall be allowed a second rest break on similar terms.

16. PENALTY RATES

(a) Shift Workers (other than Five day Shift Workers)

(i) Rostered six day, seven day or continuous shift workers working an ordinary shift terminating on a Saturday or Sunday, shall be paid at the rate of time and one half and double time respectively.

(ii) Rostered six day, seven day or continuous shift workers on ordinary shift terminating on any day of the holidays specified in Clause 14 shall be paid at the rate of double time and one half.

(b) Five Day Shift Workers

(i) Shift workers working on a five day shift system, Monday to Friday inclusive, working an ordinary shift of eight hours terminating on any of the holidays specified in Clause 14, shall be paid at the rate of double time and one half.

17. SHIFT ALLOWANCES

- (a) (i) Shift production workers on a rotating day-afternoon, day-night or day-afternoon shift system, shall be paid in addition to their wages, an allowance at the rate of \$5.83 per shift.
 - (ii) Shift production workers on a rotating afternoon-night shift system or on permanent afternoon shift shall be paid, in addition to their wages, an allowance at the rate of \$8.68 per shift.
 - (iii) Shift production workers on a permanent night shift shall be paid, in addition to their wages, an allowance at the rate of \$17.24 per shift.
 - (iv) Afternoon shift maintenance shall receive an additional 15% to their wages.
- (b) The excess payments over ordinary rates prescribed by Clause 10 (Overtime and Public Holiday Payments) and Clause 16 (Penalty Rates) of this Agreement, shall be payable in lieu of the shift allowances prescribed by this Clause.
- (c) An afternoon shift means any shift finishing after 6.00 pm and at or before midnight.

18. PAYMENT OF WAGES

- (a) All wages and earnings shall be paid weekly by electronic funds transfer.
- (b) A day worker or shift worker whose wages have not been paid into the nominated bank account by 4.30 pm on Thursday shall be entitled to an additional four hours at the ordinary time rate of pay, provided it is proven to be the fault of the Company.
- (c) Should an employee be discharged from employment or be stood down on any day during the week, that employee shall be paid:
 - (i) if discharged, all moneys due up to and at the time of dismissal; or
 - (ii) if stood down only, all wages due for the current pay period at the time of being stood down.
- (d) In the event of pay day falling on a public holiday, as defined in Clause 14, all wages and earnings shall be made available by electronic funds transfer not later than the usual finishing time on the day immediately preceding pay day.

19. PROTECTIVE CLOTHING

Where an employee is required to work in any place where clothes or boots are liable to become wet, a suitable coat, hat, trousers and/or footwear shall be made available by the Company.

20. MANGANESE DIOXIDE

Employees handling manganese dioxide shall be paid, in addition to their ordinary rate of pay the sum of 41 cents per hour whilst so engaged.

21. TERMINATION OF EMPLOYMENT CAUSED BY MECHANISATION AND/OR TECHNOLOGICAL CHANGE

(a) Where, on account of the introduction or proposed introduction by the Company of mechanisation or technological changes, the Company terminates the employment of an employee who has been employed by the Company for the preceding twelve months, the Company shall give the employee three months' notice of the termination of employment. Provided that if the Company fails to give such notice in full.

(i) the Company shall pay the employee at the ordinary rate of pay applicable under this Agreement for a period equal to the difference between three months and the period of notice given, and

(ii) the period of notice required by this clause shall be deemed to be service with the Company for the purpose of the Long Service leave Act, 1955, the Annual Holidays Act, 1944, or any Act amending or replacing either of these Acts;

and providing further that the right of the Company to summarily dismiss an employee for malingering, inefficiency, neglect of duty or misconduct shall not be prejudiced by the fact that the employee has been given notice pursuant to this clause of the termination of employment.

22. FIRST AID ALLOWANCE

Where an employee is appointed by the Company to perform first aid duty, then such employee shall be paid \$1.49 per day in addition to the ordinary rate of pay.

23. BEREAVEMENT LEAVE

(a) The employee shall, on the death within Australia, of the wife, husband, father, mother, father-in-law, mother-in-law, brother, sister, child or step-child of the employee, be entitled to leave up to and including the day of the funeral of such relation. Such leave shall, for a period not exceeding sixteen working hours be without loss of any ordinary pay which the employee would have earned if not on such leave.

The provisions of this clause shall also apply in the case of the death outside Australia of any such relative where the employee travels overseas to attend the funeral.

(b) The right to such leave shall be dependent on compliance with the following conditions:

(i) the employee shall give the Company notice of intention to take such leave as soon as reasonably practicable after the death of such relation;

(ii) the employee shall furnish proof of such death to the satisfaction of the Company; and

(iii) the employee shall not be entitled to leave under this clause during any period in respect of which any other leave has been granted.

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

24. JURY SERVICE

(a) An employee required to attend for jury service during ordinary working hours shall be reimbursed by the Company an amount equal to the difference between the amount paid in respect of attendance for jury service and the amount of wages the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on jury service.

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

25. REDUNDANCY

(i) **Conditions**

(a) A company may shut a plant for a period of up to 3 months, without terminating any employee or paying any redundancy payments.

(b) Employees stood down in accordance with (a) will continue to accrue holiday and long service leave for the period they are stood down.

(c) If the plant re-opens during and up to 3 months after the shut down, no redundancy payments will be made.

(d) If a decision is made not to re-open the plant during the 3 month shut down period, then employees terminated shall be paid in accordance with sub-clause (ii).

(e) An employee who has been stood down due to a temporary or permanent reduction in output, whilst the plant continues to operate and who is terminated during the stand down period shall be paid redundancy payments in accordance with sub-clause (ii).

(f) Redundancy payments become applicable under the following conditions, subject (a), (b), (c) and (d) above.

1. Cessation of brickmaking activities
2. Temporary or permanent reduction in output
3. Reduction of staff due to technological change

(ii) **Severance Pay**

(a) Payments will be made in accordance with the following scale-

<u>Years of Service</u>	<u>Entitlement in weeks</u>	
	(a)	(b)
	<u>Under 45 yrs</u>	<u>Over 45 yrs</u>
Less than 1 year	Nil	Nil
1 year and less than 2 years	4	5
2 years and less than 3 years	7	8.75
3 years and less than 4 years	10	12.5
4 years and less than 5 years	12	15
5 years and less than 6 years	14	17.5
6 years and over	16	20

(b) An employee with more than 7 years service will receive, in addition to payments contained in (a) or (b) above week's pay for each year of service over 7 years.

(c) Where the company is part of a group of companies with sections other than brickmaking, employees may be offered work in any of those sections situated in the metropolitan area. An employee accepting such a position shall complete 3 months as a trial period to ascertain whether the work is suitable. If the position is not suitable and the employee leaves or is terminated during the trial period the employee shall be entitled to the payments as set out above. This section will not apply where employees are transferred to other work or shifts due to company altering its production program.

Where a company offers to transfer an employee to a like position at another of its brickmaking plants in the metropolitan area and the employee declines the transfer then the employee shall not be entitled to any of the payments set out in this clause.

(d) "Week's Pay" means the all-purpose rate of pay for the employee concerned at the date of termination and shall include, in addition to the ordinary rate of pay and over-award payments, shift penalties and allowances, paid in accordance with Clause 7, Penalty Rates, and Clause 9, Shift Allowances.

(iii) **Incapacity to Pay**

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in this clause.

The Industrial Relations Commission shall have regard to such financial and other resources of the employer concerned as the Industrial Relations Commission thinks relevant and the probable effect paying the amount of severance pay will have on the employer.

26. DISCIPLINARY PROCEDURE

(a) Warnings may be issued by the Supervisor of the employee concerned when, in the Supervisor's opinion, the employee's behaviour is deemed unacceptable. A written warning should only be issued after the employee has been warned verbally on previous occasions, unless the offence is of a particularly serious nature.

(b) The establishment of a warning system will not preclude the right of the Company to dismiss an employee without the issue of a written warning, in accordance with Clause 9 (f) of this Agreement. In particular, any use of physical aggression on the job constitutes serious misconduct, and any employee involved in such aggression will be subject to summary dismissal.

(c) The basis of the three warning system is as follows:

(i) An employee whose conduct is deemed unsatisfactory by the Supervisor may be given a first written warning:

(ii) Should no improvement be forthcoming, then a second warning may be issued.

(iii) A third, or final warning can be issued if there has been no improvement. If no improvement occurs after the issuing of a final warning then the employee is liable to dismissal.

(iv) Each warning will remain in force, individually, for twelve months. An employee issued with a second or final warning will revert back to a first or second warning respectively after the expiration of twelve months. This allows an employee to improve behaviour.

(v) All written warnings are to be given in the presence of the employee's nominated representative, if the employee so desires.

(vi) At all times the employee has the right of appeal by reference to the Grievance Procedure (Clause 28) of this Agreement.

27. DISPUTES PROCEDURES (THE COMPANY AND EMPLOYEES)

(a) The following procedure will be followed in dealing with any question, dispute or difficulty concerning the interpretation, application or operation of this Agreement:

- (i) The employees concerned will discuss the matter with the immediate supervisor or, in the absence of the supervisor, the next available manager.
- (ii) If the matter is not resolved within a reasonable time limit it will be brought to the attention of the Plant Manager (if absent the next senior manager and further discussions will take place. In such discussions the employees may be represented by an industrial organisation of employees. The parties will make every endeavour to settle the dispute in a spirit of harmony and in the interest of good employee relations.
- (iii) If the matter remains unresolved it will be referred to the New South Wales Industrial Relations Commission for decision.
- (iv) While the above procedures are being followed all work will continue normally. If there is a bona fide risk to the safety of employees they will be moved to another part of the Plant where there is no risk.
- (v) All employees and parties to this Agreement are to be made familiar with this disputes procedure and are to give an undertaking to observe it.

28. GRIEVANCE PROCEDURE (THE COMPANY AND INDIVIDUALS)

- (a) The following procedure will be followed in dealing with any Company action that allegedly disadvantages any employee and that relates to a question, dispute or difficulty concerning the interpretation, application or operation of this Agreement or to alleged discrimination in employment within the meaning of the Anti- Discrimination Act 1977:
 - (i) The employee will notify the immediate supervisor, in writing, the substance of the grievance, request a meeting, and state the remedy sought.
 - (ii) The supervisor (or the next available manager) will discuss the grievance with the employee in an effort to resolve it. The employee may be represented by an industrial organisation of employees.
 - (iii) If the matter is not resolved within a reasonable time limit it will be brought to the attention of the Plant Manager (if absent the next senior manager) and further discussions will take place. The employee may continue to be represented by an industrial organisation of employees.
 - (iv) The Manager will provide a response to the employee's grievance within a reasonable time limit. If the matter is not resolved the response will include reasons for not including any proposed remedy.
 - (v) The employee may seek leave to have the matter referred to the Industrial Relations Commission.
 - (vi) While the above procedures are being followed all work will continue normally. If there is a bona fide risk to the safety of employees they will be moved to another part of the Plant where is not risk.

(vii) All employees and parties to this Agreement are to be made familiar with this grievance procedure and are to give an undertaking to observe it.

29. REPATRIATION ATTENDANCE

- (a) Employees, being ex-service personnel shall be allowed as time worked, lost time incurred whilst attending repatriation centres for medical examination and/or treatment.
- (b) The employee must produce satisfactory evidence that attendance is required and did take place.
- (c) Lost time must not exceed four hours on each occasion and is limited to a maximum of four attendances in each year of service with the Company.
- (d) Payment for lost time shall be limited to the difference between ordinary time wages lost and any payment received from the Department of Veterans' Affairs as a result of each visit.

30. UNION REPRESENTATIVE

- (a) If there are employees in the Plant who are members of the Union, an employee appointed as a Union delegate shall be recognised by the Company as an accredited representative, on receiving notification of such appointment by an accredited official of the Union.
- (b) Any matter affecting members of the Union may be investigated by the delegate and discussed with a representative of the Company.
- (c) If a matter in dispute is not settled the delegate shall, on request, be allowed access to a telephone for the purpose of notifying the Union.
- (d) The Company shall provide a notice board for the purpose of notifying members of the business and meetings of the Union, and any such notice shall be authorised by the Secretary of the Union.
- (e) Where required, the delegate shall undergo training in Industrial Relations and Award Interpretation, for maximum of two days paid leave per year.

31 SIGNATORIES

In recognition of their acceptance of the terms and conditions of the Agreement the parties have placed their signatures below as indicated:

Accepted on behalf of Boral Bricks (NSW) Pty Ltd



Signature..... *[Signature]* Date *24-10-95*
P J MAHONY *[Signature]*

Signature..... *[Signature]* Date *24.10.95*
Witnessed *[Signature]*
D E C COLLEY

Accepted by the Federated Brick Tile and Pottery Industrial Union of Australia, NSW Branch on behalf of employees

Signature..... *[Signature]* Date *24-10-95*
A SAWTSCHUK

Witnessed *[Signature]* Date *24-10-95*

Signature..... Date.....