

**REGISTER OF
ENTERPRISE AGREEMENTS**

ENTERPRISE AGREEMENT NO: EA03/238

TITLE: **Ondeo Nalco Australia Pty Ltd Enterprise Agreement**

I.R.C. NO: IRC3/5841

DATE APPROVED/COMMENCEMENT: 24 October 2003

TERM: 17

**NEW AGREEMENT OR
VARIATION:** New

GAZETTAL REFERENCE: 5 December 2003

DATE TERMINATED:

NUMBER OF PAGES: 12

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to employees of Ondeo Nalco Australia Pty Ltd located at 2 Anderson St, Botany, who are engaged in the classifications of Chemical Delivery Specialist and who fall within the coverage of the Transport Industry (State) Award.

PARTIES: Ondeo Nalco Australia Pty Limited -&- the Transport Workers' Union of New South Wales

ONDEO NALCO AUSTRALIA PTY LTD

ENTERPRISE AGREEMENT

1. Parties & Scope of Award

This Agreement is between Ondeo Nalco Australia Pty Ltd., 2 Anderson Street, Botany and individual employees engaged as Chemical Delivery Specialist ("CDS") under the various classifications outlined in the Transport Industry (State) Award and the Transport Workers' Union of NSW.

2. Arrangement of Clauses

This agreement is arranged as follows:

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Appendix 1 Performance Measurement

3. Relationship to State Award

This Agreement is to be read in conjunction with the terms any conditions of the Transport Industry (State) Award except where and inconsistency occurs between this Agreement and the aforementioned award, the terms and conditions of this Agreement to the extent of the inconsistency shall prevail.

4. Performance Measures

Satisfactory levels of performance will be measured for each CDS against indicators listed in Appendix 1.

5. Duration of Award

The Agreement will remain in force from the date of approval by the Industrial Relations Commissions of NSW until 30 June 2005.

6. Hours of Work & Rostered Day Off (Rdo)

Hours of Work

- (i) The ordinary hours of work shall be thirty eight (38) hours per week exclusive of meal breaks, within a work cycle not exceeding seven (7) consecutive days.
- (ii) The ordinary hours of work shall not exceed eight (8) hours per day (exclusive of meal breaks) on any day Monday to Friday between the hours of 6:00am and 5:00pm for four (4) days and one day (6) hours. On the day on which 6 hours is worked, those hours may be worked continuously without a meal break.

Provided, however, in the cases of emergency over which the employer has no control the hours of shifts and hours of work for any CDS may be altered without notice.

- (iii) The normal starting point shall be at the Botany site unless otherwise agreed to by the parties. Each CDS shall be ready to commence work in ordinary working hours and work shall be deemed to have commenced, for each CDS in attendance of the time and place so fixed. Working in ordinary working hours shall be deemed to have finished, for those CDS's in attendance, when a period of eight (8) hours, exclusive of break for a meal, calculated from the fixed starting time, has elapsed.
- (iv) A CDS who is not in attendance in accordance with Clause 6 (iii) at the fixed starting time, or who fails to complete eight (8) hours work from that time, shall only be paid for the actual hours worked.

Rostered Day Off (RDO)

An RDO system shall operate at this site, which will allow employees, covered by this Agreement the equivalent to one day off per month, subject to the following provisions.

- (i) The RDO shall be subject to agreement of the parties in advance.
- (ii) RDO's may be accumulated up to a maximum of 12 days.
- (iii) While every attempt will be made to accommodate the wishes in regard to preferred days off the overriding determinant shall be:
 - (a) no more than one driver off at any one time; and
 - (b) the needs of the company shall prevail over individual requests.

- (iv) Where possible RDO's shall coincide with the servicing of the trucks. To achieve this supervisors shall allocate truck service dates as far in advance as possible.
- (v) A minimum of seven days notice shall be given to either party to take RDO's unless agreement can be achieved otherwise.
- (vi) Any accumulated RDO's may be taken at the time of taking annual leave.

7. Overtime

- (i) Overtime at the rate of time and one-half for the first two (2) hours and double time thereafter shall be paid to all CDS's including casuals, as follows:
 - (a) For all time worked between the earliest and latest times mentioned in Clause 6, of this Agreement in excess of forty (40) hours in any week or in excess of the ordinary hours of work in any holiday week.
 - (b) For all time worked between such earliest and latest times in excess of the daily limitations prescribed in the said Clause 6, or before the usual commencing time or after the usual finishing time.
 - (c) For all time worked before the said earliest time and for all time worked after the said latest time.
 - (d) For the purpose of the computation of overtime each day shall stand-alone; provided that where work continues beyond midnight, double time shall be paid until the completion of such overtime.
- (ii) In the calculation of overtime, portions of hours shall be taken to the nearest one-tenth of an hour.

8. Limitation of Overtime

- (i) Subject to the provision of subclause (iii) of this clause, and clause 13, of this Agreement a CDS may be required to work for a continuous period amounting to fifteen (15) hours, excluding meal breaks, from the time of commencing work.
- (ii) Except in the case of accident or circumstances over which the employer has no control a CDS shall not work and an employer shall not require a CDS to work more that a total of twenty (20) hours overtime in any week exclusive of unpaid intervals allowed for meals.
- (iii) A CDS, who is required to work for a continuous period amounting to twelve (12) hours or more from the time of commencing work, shall be entitled to absent himself from work until he has had ten (10) consecutive hours off duty. Should the said ten (10) hours or any part thereof coincide with the CDS's ordinary hours of work he shall be paid at ordinary rates for the time, which falls within his ordinary hours of work.

9. Saturday & Sunday Work

- (i)
 - (a) A CDS, required to work on Saturday shall be paid at the rate of time and one-half for the first two (2) hours and double time thereafter for all time worked, with a minimum payment of four (4) hours at the appropriate rate of pay, whether he works for that period of time or not.
 - (b) A CDS, who is required to commence work on a Saturday at 12 noon or thereafter, shall be paid at double time.

- (ii) A CDS, required to work on a Sunday shall be paid at the rate of double time for all time worked, with a minimum payment of four (4) hours at the appropriate rate of pay, whether he works for that period of time or not.

10. Recall

A CDS recalled for work shall be guaranteed and shall be paid for at least four (4) hours' work for each start at the appropriate rate of pay.

This clause shall also apply to any CDS called upon to work before his normal starting time, and whose overtime work does not continue up to such starting time.

In cases of out of ordinary hours delivery, that require immediate deliver, the commencing time shall be deemed to be the time of the first contact from the employer to the CDS who makes the delivery.

11. Public Holidays

- (i)
 - (a)
 - (1) The days on which New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day are observed together with such other days which may be proclaimed by the Government and which are observed as public holidays shall be recognised as public holidays.
 - (2) A CDS shall entitled to the public holidays specified in subparagraph (1), of this paragraph, without loss of pay.
 - (b) A CDS, required to work on -
 - (1) Christmas Day or Good Friday shall be paid at the rate of double time for the actual time worked in addition to the day's pay to which he is entitled for those days in accordance with subparagraph (2), of paragraph (a), of this subclause.
 - (2) Any of the other days prescribed in paragraph (a), of this subclause, shall be paid at the rate of time and one-half for the actual time worked in addition to the day's pay to which he is entitled for those days in accordance with subparagraph (2) of the said paragraph.
 - (c) Should any of the prescribed public holidays fall on a Saturday or Sunday and another day in lieu thereof is not proclaimed by the Government for the observance of such public holidays, a CDS required to work on such public holiday shall be paid for all work performed on:
 - (1) Christmas Day, double time for the actual time worked and in addition, ordinary time for the actual time worked up to a maximum of eight (8) hours' pay at ordinary time.
 - (2) Any of the other days prescribed in paragraph (a), of this subclause, time and one-half for the actual time worked and, in addition, ordinary time for the actual time worked up to a maximum of eight (8) hours' pay ordinary time.
 - (d) A CDS, required to work on any of the public holidays prescribed in subparagraph (1), of paragraph (a), of this subclause, shall be guaranteed four (4) hours' work or shall be paid for four (4) hours at the appropriate rate.
- (ii) A CDS, who without permission of his employer or without reasonable cause, absents himself from duty on the working day immediately preceding or the working day immediately succeeding any public

holiday, or series of holidays, shall not be entitled to payment for such public holiday, or series of public holidays, provided that if a CDS absents himself as a foresaid on one only of the working days preceding or succeeding a series of public holidays he shall lose the holiday pay only for the holiday closest to the day of his absence.

12. Payment of Wages

Wages shall be paid weekly into a bank account nominated by the CDS. Such payment will be made on the Wednesday following the pay week ending the previous Monday. Special arrangements will be made should public holidays fall on any Wednesday. Wage rates and allowances are specified at Appendix 2 to this Enterprise Agreement.

13. Meals

- (i) On the days Monday to Friday, inclusive, there shall be one unpaid break of 30 minutes for lunch between the hours of 11:00am and 2:00pm.
- (ii)
 - (a) A CDS, who is required to work overtime on any week day for a period of two hours or more after his normal finishing time shall be allowed a paid crib break of 20 minutes not later than 5 hours after the end of his lunch break.
 - (b) A CDS, who, on any weekday, is recalled to work after having finished work for the day or who is called upon to work before his normal starting time and where such work does not continue up to his normal starting time shall be allowed a paid crib of 20 minutes for each 5 hours worked calculated from the time of commencement of work or from the end of the previous crib break, whichever applies.
- (iii)
 - (a) A CDS, required to work on a Saturday, Sunday or Public Holiday shall be allowed a paid crib break of twenty (20) minutes for each five (5) hours worked; the said five (5) hours to be calculated from the time of commencement of work or from the end of the previous crib break, whichever applies.
 - (b) A CDS, required to work for a period of eight (8) hours between the hours of 7:00am and 5:30pm on Saturdays, Sunday or public holiday may be allowed the usual weekday lunch break.

14. Sick Leave

Paid sick leave entitlements are to be 10 days per year. CDS's taking more than a single day absence at any one time are to provide the employer with a certificate from duly qualified medical practitioner stating the reason for the absence.

Where an employee suffers a severe illness not covered by workers' compensation which in one continuous period of absence exhausts all his credit and he is still absent due to that severe illness the company will grant further paid sick leave as follows:

- (a) After one years service up to six weeks pay at ordinary rates in any one-year.
- (b) After five years service up to twelve weeks pay at ordinary rates in anyone year.

Severe illness is defined as an illness of at least two weeks duration requiring hospitalisation or strict medical supervision, which would prevent attendance at work. Such illness must be supported by necessary documentation.

15. Personal/Carer's Leave

- (1) Use of sick leave -
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c) of this subclause, who needs the employee's care and support shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement provided for in clause 14, Sick Leave, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.
 - (b) The employee shall, if required, establish either by production of a medical certificate or statutory declaration the illness of the person concerned and the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.
 - (c) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (i) the employee being responsible for the care of the person concerned; and
 - (ii) the person concerned being:
 - (a) spouse of the employee; or
 - (b) a de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to the person; or
 - (c) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - (e) a relative of the employee who is a member of the same household where, for the purpose of this subparagraph:
 - (1) 'relative' means a person relate by blood, marriage or affinity;
 - (2) 'affinity' means a relationship that one spouse, because of marriage, has to a blood relatives of the other; and
 - (3) 'household' means a family group living in the same domestic dwelling.
 - (d) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that persons relationship to the employee, the reasons fro taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
- (2) Unpaid Leave for Family Purpose-

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of class of person set out in subparagraph (ii) or paragraph (c) or subclause (1) who is ill.

16. Parental Leave

See *Industrial Relations Act 1996*

17. Breavement Leave

- (a) Entitlement

An employee shall on the death within Australia of a wife, husband, partner, father, mother, step-father, step-mother, foster father, foster mother, brother, sister, father-in-law, mother-in-law, child or step child, or significant other person to the employee, be entitled to two days paid leave.

The words "wife" and "husband" shall not include a wife or husband from whom the employee is legally separated but shall include a person who lives with the employee in a de facto relationship.

- (b) Proof

The employee shall furnish proof of such death to the satisfaction of the company if so requested.

- (c) Coincidence with other Leave

This clause shall have no operation if it coincides with any other period of leave.

18. Jury Service

Employees shall be entitled to leave without loss of pay (after taking into account jury pay) for time spent on jury service.

19. Annual Leave & Loading

- (i) See *Annual Holiday Act, 1944*.
- (ii) A CDS is entitled to four weeks paid annual leave with a loading of 20% on the total rate of pay, payable when proceeding on annual leave.

20. Long Service Leave

- (i) See Long Service Act, 1955.

21. Safety Clothing & Equipment

Ondeo Nalco Australia Pty Ltd will provide all necessary safety clothing equipment, including replacement due to fair wear and tear, and appropriate training in all aspects of safety.

Drivers are required to use clothing and equipment supplied and maintains such clothing and equipment in operable conditions.

Training courses will generally be held in normal work hours fully subsidised by Ondeo Nalco Australia Pty Ltd.

22. Unauthorised Persons Friday on Vehicles

A CDS, shall not permit any unauthorised person to accompany him on his vehicle, nor permit any such person to assist him in the delivery of goods, wares, merchandise or material unless such persons has been engaged as an employee or is the owner of such goods, wares, merchandise or material or is the agent or representative of such owner.

23. Limitation of Driving Hours

See the Motor Traffic Act and Regulations.

24. Terms of Employment

- (i) Each CDS shall be deemed to be employed by the week, with the exception of anyone employed expressly as a casual employee who will be employed on a hourly basis.
- (ii) A period of 3 months shall be observed as an initial probationary period of on the job training for each employee. During that period regular assessments will be made in conjunction with the employee, his/her immediate supervisor and the employee representative.

A new CDS will commence at a rate in accordance with Appendix 2 consistent with their skill level. If commencing on Level 1 a review will be undertaken after 12 months satisfactory service.

- (iii) Ondo Nalco Australia Pty Ltd may direct a CDS to carry out such duties as are within the limits of his skill, competence and training.
- (iv) Ondo Nalco Australia Pty Ltd may direct a CDS to carry out such duties and use such tools and equipment as may be required, provided that he has been trained in the use of such tools and equipment.
- (v) Except in cases of redundancy and gross misconduct the period of notice required to terminate the employment contract will be that specified in the parent award.

25. Casual Employment

- (i) A casual employee is one engaged and paid as such. A casual employee working ordinary time shall paid per hour one thirty-eight of the weekly rate prescribed in Appendix 2 by this agreement for the work performed plus 20% loading. The level will be determined according to their skill level.
- (ii) Hourly overtime rates for casual employees are to be paid at the rate applying to permanent employees.

26. Duties of Customer Delivery Specialist (Cds)

Where required by the employer, CDS's duties shall include minor repairs such as changing taillights and each driver shall be ready, willing and able to change tyres and perform similar non-specialist vehicle maintenance tasks.

27. Superannuation

It is a condition of employment that an employee joins the Nalco Australia Pty. Ltd. Superannuation Fund or successor Fund (the "Nalco Fund").

Should such an employee wish to make contributions to the Nalco fund, those contributions may be arranged as salary sacrifice contributions to be made on the behalf of the employee. Where an employee chooses such an arrangement with the employer in accordance with terms of this clause, the Wage Rate payable in respect of that employee and referred to in Appendix 2 shall include a component being the abovementioned salary sacrifice contribution to the Nalco Fund; ie part of the Wage Rate quoted in Appendix 2 representing the salary sacrifice contribution chosen by the employee shall be paid as a contribution by the employer direct to the Nalco Fund.

As a consequence, the employee's taxable salary shall equal the relevant Wage Rate set out in Appendix 2 less the salary sacrifice contribution (if any).

28. No Extra Claims

The parties agree that there shall be no extra claims for increased wages or conditions during the life of this Agreement.

29. Quality

CDS's covered by this Agreement support the Quality initiative undertaken by the Company and will continue to participate in the Quality improvement process through Corrective Action Teams and Training.

30. Safety & Environment

Employees recognise that they are accountable to work at all times in a safe manner in accordance with the Company Safety and Environmental policies.

The parties to this Agreement are committed to the safe operation of plant and equipment, to the observance of safe working practices, the correct and proper use of all personal protective equipment and to the safety and good health of all employees. The Company recognises its responsibilities to provide a health and safe workplace and accordingly will focus on:

- (i) All current Codes of Practices, Regulation, Work Safe Australia documentation and approved and recognised industry standards.
- (ii) Employees familiarising themselves with proper workplace procedures when handling hazardous substances.
- (iii) Employees attending an approved safety induction program.

31. Redundancy

Definitions:

- (i)
 - (1) 'Redundancy' is defined as termination of employment where the whole or main reason for termination is that the employer's need for the CDS to do work of a particular kind has diminished or ceased, but it shall not include or apply to termination of employment in the following instances:
 - (a) termination of account of malingering, inefficiency, neglect of duty or misconduct.
 - (b) any case where the employee has refused an offer of alternative employment with the company at any of its local establishment provided that such employment is in respect of the same classification.
 - (2) 'Technological change' is defined as any change in material, equipment, methods, organisation or product which alters the quantity or quality of labour required other than that which is occasioned by changes brought about by recession in trade or change in production or maintenance arrangements made necessary by factors arising from changes in the market.
- (ii) Notice of Termination

The redundant CDS shall be given notice of termination as follows:

Redundancy due to technological change - 3 months

Redundancy due to all other reasons - 1 week minimum and in accordance with the Notice Provisions of the Federal *Workplace Relations Act*.

If the employer fails to give such notice in full he shall pay the employee at the ordinary rate of pay for a period equal to the difference between the period stipulated in this clause and the period of the notice given. Subject to the right of the company to retain sufficient employees to maintain operations and services, any redundant employee who has an opportunity of obtaining suitable alternative employment outside the service of the company after he has been given appropriate minimum notice of termination may be entitled to accept such employment without loss of severance payments. Employees who at the discretion of the company are required to remain on the job until the closure of plant or section will be kept in employment for further four weeks after closure or paid at ordinary rates in lieu of their services are no longer required.

(iii) Alternative Employment Within the Company

Where it is possible to effect a transfer the parties will ascertain by interviewing each redundant employee whether or not he wishes to be transferred to another location within the company. Where an employee accepts a transfer the definition of 'redundancy' set out in sub-paragraph (i) (1) (c) does not apply.

(iv) Retraining

In any retraining program employees associated with such alternative employment shall be paid their ordinary rates of pay for the previously held positions while undergoing training for new positions.

(v) Wherever it is possible to effect a transfer the parties will ascertain by interviewing each redundant employee whether or not he/she wishes to be transferred to another location within the company. Where an employee is transferred to an alternative position, no liability for redundancy payment arises.

(vi) Six weeks pay in lieu of notice which will be an up-front payment made at point of termination, regardless of whether the time notice has in fact been given.

(vii) Severance Payment

The redundancy formula is 4 weeks pay per year of service for all employees who have completed a minimum of one year's service. That scale covers up to and including 7 years of service. For years 8, 9, and 10 of service the severance scale of payment is 3.5 weeks per year and for service of 11 years or more the scale is 3 weeks per year and for service of 11 years or more the scale is 3 weeks per year.

(viii) Pro Rata

Pro rata would be applied for each completed 3 months of service.

(ix) Paid Time Off to Find Alternative Employment

It is agreed that a redundant employee who is under notice of termination due to redundancy shall be entitled to reasonable opportunities for paid time off to attend prearranged interviews to secure alternative employment if there is prior local agreement with his supervisor.

(x) The Company is committed to giving equal employment opportunity to all job applicants. However, if within 52 weeks of redundancies occurring at a site the Company needs to recruit externally, then:

(a) suitable qualified ex-employees previously made redundant will be advised of the vacancy by certified mail. Once a notification is ignored, (14 days), then there will be no further requirements to notify that person.

(b) the experience of the ex-employee will be a major factor in determining the successful applicant(s).

- (c) the company will supply the relevant site union representative with a list of those contacted.

32. Termination By Dismissal

Following a thorough investigation and a counselling interview, any employee found guilty of theft of company or personal property, or of wilful damage to property will be subject to immediate dismissal.

33. Disputes & Industrial Grievance Procedures

The principle of conciliation by direct negotiation shall be adopted for the purpose of the prevention and settlement of any industrial dispute that may arise between the employees and the employer. Any dispute or claim shall be dealt with in the following manner:

- (a) The matter shall be submitted by the accredited representative of the employees or the Transport Workers' Union of NSW to the Industrial Officer or other appropriate representative of the employer.
- (b) If agreement has not been reached the matter may be discussed between the Chief Executive Officer or his/her representative and representative of employees or the Transport Workers' Union of NSW.
- (c) In the event of discussion failing to prevent or settle the dispute the Industrial Registrar shall be advised and requested to arrange for conference appointed under the terms sect. 132 of the *Industrial Relations Act 1996 (NSW)* to consider the matter. If the grievance is unable to be conciliated, the issue is to be resolved pursuant to section 135 of the *Industrial Relations Act 1996 (NSW)*.
- (d) Work is to continue while the discussions (a) to (c) are in progress.
- (e) This procedure shall not limit either parties rights to commence legal proceedings at any time in relation to a grievance.

This agreement is made at Sydney on this the - Day of - 2000

For and on behalf of:

ONDEO NALCO AUSTRALIA PTY LTD

In the presence of

SIGNATURE OF TRANSPORT WORKERS' UNION OF NSW

APPENDIX 1

PERFORMANCE MEASUREMENT

This document is an Appendix to the Enterprise Agreement for Chemical Delivery Specialist operating out of the Botany site.

Measurement of performance will be carried out for: -

- 1. Number of absences.
- 2. Ability to operate equipment, including pumps.

3. Maintain appropriate driver classification.
4. Ability to safely supervise loading and unloading of vehicle under his control.
5. Basic maintenance of truck and its cleanliness.
6. Ondeo Nalco Australia Pty Ltd delivery certification.

Providing the elements of this agreement are adhered to by all parties a wage increase of 4% will become effective from the first pay period after April 1, 2004.

Any dispute in this regard will be settled according to Clause 33 of this agreement.

The parties to this agreement understand that negotiations for the next agreement will take place so as to enable the agreement to become effective as near as possible to April 1, 2005.

APPENDIX 2

WAGES RATES & ALLOWANCES

The following rates and allowances shall apply during the life of this agreement and includes all allowances for the purpose of the award.

Where salary sacrifice contributions are to be made on behalf of an employee to the Nalco Fund, the Wage Rate quoted in the table below shall (in respect of such an employee) include a component being the salary sacrifice contribution; ie. Part of the Wage Rate representing the salary sacrifices contribution chosen by the employee shall be paid as a contribution by the employer direct to the Nalco Fund. As a consequence, the employee's taxable salary shall equal the relevant Wage Rate less the salary sacrifice contribution (if any).

Casual = \$768.25

Chemical Delivery Specialist - Level 1 = \$776.79 from April 1, 2003

Chemical Delivery Specialist - Level 2 = \$848.13 from April 1, 2003

Allowance

Meal Allowance = \$9.76

There shall be no extra payments made to employees covered by this agreement as are specified by the parent award. This includes for example, shift allowance, long distance rates, garaging of vehicles etc.