

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/323

TITLE: **Kmart Tyre & Auto Services NSW and The Australian Manufacturing Workers Union, Vehicle Division Agreement**

I.R.C. NO: IRC5/5622

DATE APPROVED/COMMENCEMENT: 14 November 2005 / 1 October 2005

TERM: 36

**NEW AGREEMENT OR
VARIATION:** Replaces EA04/90.

GAZETTAL REFERENCE: 23 December 2005

DATE TERMINATED:

NUMBER OF PAGES: 21

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Kmart Tyre & Auto Services, located at 147-149 Gilba Road, Girraween NSW 2145, who fall within the coverage of the Metal, Engineering and Associated Industries (State) Award.

PARTIES: Kmart Tyre & Auto Service New South Wales -&- the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch.

**AGREEMENT BETWEEN
KMART TYRE & AUTO SERVICE, NSW
AND
THE AUSTRALIAN
MANUFACTURING WORKER'S UNION,
VEHICLE DIVISION
(AFMEPKIU)**

**VARIATION OPERATION FROM Oct 1st 2005
VALID UNTIL Oct 1st 2008 (3YR TERM)**

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1. ARRANGEMENT

Australian Manufacturing Workers Union, Vehicle Division and Kmart Australia Limited.

This Industrial Agreement made on the 14th November 2005 between Kmart Australia Limited trading as "Kmart Tyre and Auto Service NSW) ("the company") and the Australian Manufacturing Workers Union, Vehicle Division, a registered Union of employees hereinafter referred to as the "Union". Whereas the representatives of the parties have met in conference and have agreed that the remuneration and conditions of employment set out hereunder and incorporated herein by reference, shall become and be embodied in an Agreement to be filed in accordance with the provisions of the *Industrial Relations Act 1996*, as amended and shall, in so far as the matters contained therein are concerned regulate the agreement. And where as it is further mutually agreed by and between the parties hereto that terms and conditions of employment set out hereunder and incorporated herein by reference shall be observed and performed by the named Company and by the Union and the members thereof in respect of employment by the named members of the Federation.

Now this Agreement witnesses as follows:

2. TITLE

This Agreement shall be referred to as the Kmart Tyre & Auto Services NSW and the Australian Manufacturing Workers Union, Vehicle Division Agreement.

3. DEFINITIONS

- (i) **Full Time Employment** - Weekly Employee except herein after provided, employment shall be by the week. Any employee not specifically engaged as a casual employee shall be deemed to be employed by the week.
- (ii) **Part Time Employment** - A part time employee is one engaged and paid as such to work as additional labour required to cover extended absenteeism and the added work load during seasonal fluctuations or holiday periods.

Such employee shall for working ordinary time be paid per hour one thirty-eighth of the weekly rate in accordance with his/her skill level as prescribed by the wages agreement between the Union and the Company of the work which the employee performs and in addition shall be entitled on a pro rata basis to penalty rates, annual leave, sick leave, public holidays, bereavement leave, jury service, superannuation on a proportionate basis calculated to work.

No part time employee shall displace the job of a full time employee or apprentice and shall be used in addition to the normal manning levels of a site.

- (iii) **Casual Employee** - (a) A casual employee is one engaged and paid as such for the purpose of additional labour being required to cover absenteeism, annual leave, or additional manpower required to perform the work load during seasonal fluctuations or holiday periods.

(b) A casual employee over 21 years of age shall be employed for not less than 4 hours per day. A casual employee less than 21 years of age shall be employed for not less than 2 hours per day. Casual employees shall be remunerated in accordance with his/her skill by dividing the weekly wage rate by 38 and adding a percentage loading as set out in the following scale.

Percentage Loading

Monday to Friday between 6.00am and 6.00pm	25%
Monday to Friday between 6.00pm and 6.00am	50%
Saturdays at anytime	75%
Sunday at anytime	125%
Holidays at anytime	125%

(c) For overtime worked before or after the contracted hours of work a casual employee shall be paid:

The first 3 hours	plus	75%
Thereafter	plus	125%

- (iv) RDO's is a rostered day off 19/20 day cycle

4. ORDINARY HOURS OF WORK

- 4.1 The ordinary working hours exclusive of meal times shall not exceed five days per week, eight hours per day on an average of 38 hours, such average hours per week

being calculated over an employees four week cycle with the employee having only nineteen starts. Such hours shall be worked between 7.30am and 6.00pm Monday, Tuesday and Wednesday, 7.30am and 9.00pm Thursday and Friday and 8.00am and 5.00pm Saturday.

- 4.2 **Starting and Finishing Times** - Time for starting and finishing for employees once having been fixed shall not be altered without giving seven days notice to the employees.

Should a dispute arise about a proposed change to hours of work it shall be resolved through the Grievance Procedure and the status quo shall remain until resolved.

5. ROSTERED DAYS OFF

- 5.1 Full time employees shall only be rostered to work a maximum of 19 days in any 4 week cycle. The Company may in consultation and with agreement of the employee request an employee to work on their RDO. The employee may choose whether to:

- (i) defer the RDO and reschedule it at a mutually convenient time within four (4) weeks of the RDO's original date:
- (ii) or be paid out for the day.

Payment rates for the day are at Time and a Half for all hours worked.

- 5.2 Where a manager requests an employee to work on the deferred RDO, and the employee agrees, the RDO is to be paid out. Payment rates for the day are at Time and a Half for all hours worked. A deferred RDO can not be deferred more than once.
- 5.3 If an employee resigns or is terminated for any reason prior to taking his/her deferred RDO, this will be paid out at normal rates of pay.
- 5.4 RDOs shall not be 'banked' for taking at a later time. The company will not recognise any claim to such days, as all deferred days will now be taken within 4 weeks of their original date, or be paid out as per 5.1.

6. WAGES

The Weekly wage for employees covered by this Agreement, shall be as set out as contained in Annexure 1 of this agreement.

7. WAGE VARIATIONS

Wage increases are set out as contained in Annexure 1 of this agreement.

8. PAYMENT OF WAGES

- 8.1 All employees shall be paid during working hours on a day not later than Thursday of each week.

- 8.2 If an employee's rostered day off falls on a pay day, then the employee shall be paid on the working day immediately following pay day.
- 8.3 Payment by cash or Electronic Funds Transfer: where the employer and employee agree, the employee may be paid his/her wages by cash or direct transfer into the employee's bank (or other recognised financial institution) account. Notwithstanding this provision, if the employer and the majority of employees agree, all employees may be paid their wages by direct transfer.

9. OVERTIME

- 9.1 Overtime shall mean all time worked before the fixed starting time or after the fixed finishing time, Monday to Saturday, inclusive, i.e. all work performed outside the normal 8 hour day or 38 hour week.
- 9.2 Employees who have been notified of the intention to work overtime on a Saturday shall be paid for a minimum of four hours work.
- 9.3 An employee required to work overtime for at least one and a half hours after ordinary working hours is to be allowed a paid meal break of 20 minutes at ordinary rates before starting overtime.
- A further paid meal break of 20 minutes at overtime rates is to be allowed after each four hours of overtime, if the employee continues to work after the crib time.
- 9.4 An employee required to work during a recognised meal break is to be paid overtime rates for that time until a meal break is allowed.
- 9.5 As the Company requires stores to trade six (6) days per week to meet customer and industry needs. It will be a requirement that all staff work a reasonable number of overtime shifts.
- 9.6 An employee is required to provide their manager with seven (7) days notice if they have a preference not to work on any given shift that normally occurs within usual trading hours.

10. TIME OFF IN LIEU OF OVERTIME OR OTHER TIME WORKED

- 10.1 By mutual agreement between the employee and Service Centre Manager overtime may be taken as time off in lieu of overtime worked provided that:
- a. Time off shall be calculated at the penalty equivalent.
 - b. By mutual agreement time off shall be given and granted at a time nominated by the employee, but must be taken within four weeks (28 days) at the appropriate penalty rate.

- 10.2 An employee may elect with the consent of the employer to work 'make-up time' under which the employee takes time off ordinary hours, and works those hours at a later time during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
- 10.3 An employee on shift work may elect, with the consent of the employer, to work 'make-up time' (under which the employee takes time off ordinary hours and works those hours at a later time) at the shift work rate which would have been applicable to the hours taken off.

11. MEAL BREAKS

- 11.1 A unpaid meal break of one hour will be provided to all employees, Monday to Friday who work more than 5hrs.
- 11.2 The meal break may be varied to no less than 30 minutes subject to prior discussion and mutual agreement between local site management and employee/s.
- 11.3 No employee can work for more than five hours without a meal break.
- 11.4 Should an employee exceed 5 hours work until such time as a meal break is given and taken overtime rates apply.
- 11.5 Employees rostered to work more than four hours shall be allowed either a ten minute morning or afternoon tea break.
- 11.6 All employees **must** have a Meal Break.

12. MEAL ALLOWANCE

- 12.1 An employee required to work more than 2 hours of overtime after their rostered finishing time where less than 24 hours notice of such overtime has been given, shall be paid a meal allowance of \$9.00.
- 12.2 Where an employee is rostered to work an additional day as overtime and it continues for more than 5 hours, the employee shall be entitled to a meal allowance of \$9.00, except if they have received 24 hours notice of the requirement to work such overtime.

13. PUBLIC HOLIDAYS

- 13.1 The following days are to be observed as holidays: New Years Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Queens Birthday, Labour Day, Anzac Day, Christmas Day and Boxing Day. And all other days proclaimed as Public Holidays for the State.

- 13.2 Subject to NSW Government Gazettal, when Christmas/Boxing Day falls on a Saturday/Sunday, then the following Monday/Tuesday will be observed as days off for those respective days.
- 13.3 In addition to the above holidays, one day is determined by the Industrial Commission each year as being a holiday for weekly employees engaged under the Metal & Engineering Industry (NSW) Interim Award, 1991. This day to be known as Picnic Day which has been designated as the first Monday in August, coinciding with Bank Holiday. By agreement between the Company and employee, the additional holiday may be taken at some other time which is mutually convenient instead of on the day determined by the Commission. It is recommended that the extra day be added to an employees annual leave but without the addition of the loading for that day.
- 13.4 A weekly employee rostered to work on a day gazetted as a public holiday, but is not required to work, must be paid an amount equal to the amount the employee would have earned on that day had it not been a holiday.
- 13.5 All time worked on a public holiday is to be paid for at the rate of double time and half with a minimum payment of three hours' pay.
- 13.6 An employee who is absent without leave or without reasonable cause on the last working day before or the first working day after a public holiday is not entitled to payment for the day of the absence.
- 13.7 Annual leave is extended by one day for each public holiday falling during the leave. However, such Public Holiday does not attract the 17 1/2% Annual Leave loading.

14. SUNDAY WORK

All time worked on a Sunday is to be paid for at the rate of double time, with a minimum of three hours' pay.

15. ANNUAL LEAVE

- 15.1 See *Annual Holidays Act 1944*, as amended.
- 15.2 Employees taking 4 consecutive weeks of annual leave, shall have included one R.D.O. For employees taking annual leave in 2 or more separate periods, shall have 1 R.D.O. absorbed into Annual Leave. Therefore, throughout the year employees will take off no more OR less than 12 R.D.O.'s
- 15.3 An employee may elect with the consent of the employer, subject to the *Annual Holidays Act 1944* to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- 15.4 Access to annual leave, as prescribed in paragraph 3.1 above, shall be exclusive of any shutdown period provided for elsewhere under this award.

- 15.5 An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

16. ANNUAL LEAVE LOADING

- 16.1 The weekly rate of the annual leave loading is the greater of:

17½% of the employees ordinary weekly award rate, or

The amount the employee would have received from loaded rates for ordinary time worked if they had worked instead of taking such leave - applicable at the time such loading is paid.

- 16.2 The loading is payable to an employee prior to taking annual leave. Where the leave is taken in more than one period, the loading is paid in proportion to the amount of annual leave being taken.

- 16.3 An additional day shall be added to Annual Leave in place of a R.D.O. falling on a public holiday, however, such additional day should not attract the 17½% Annual Leave loading.

- 16.4 Where annual leave is taken in advance, no loading is payable until the employee completes the year of employment to which the leave relates. The loading is then the greater of:

17 ½% of the employees ordinary weekly award rate, or

The amount the employee would have received from loaded rates for ordinary time worked if they had worked instead of taking such leave applicable at the time such loading is paid.

- 16.5 The loading is payable to an employee who has accrued, but not taken, his annual leave and his employment is terminated by the employer for a cause other than misconduct. The loading is not payable where the employee is dismissed for misconduct or where the employee resigns.

- 16.6 No loading is payable** on pro-rata annual leave under any circumstances.

17. COMPASSIONATE LEAVE/CARER'S LEAVE /BLOOD DONORS' LEAVE

17.1 Compassionate Leave

- 17.1.1 On the death of an employees' wife, husband, parent, brother, sister, child, foster-child, step-child, parent-in-law, grandparent-in-law, foster parent, step father, step mother, grandparent, grandchild or defacto/spouse, the employee is entitled to a maximum of three days leave without loss of pay in respect of such death.

17.1.2 An employee seeking compassionate leave has the responsibility of producing satisfactory evidence of death to the Manager.

17.1.3 There is no entitlement to compassionate leave if that leaves coincides with any other leave entitlement.

17.1.4 An employee should give to the Manager notice of his intention to take compassionate leave.

17.2 Carers leave

17.2.1 Use Of Sick Leave

1. An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 1.3. (ii) 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 at Clause X of the award, 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.
2. The employee shall, if required, establish either by production of a medical certificate or statutory declaration the illness of the person concerned and that 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.
3. 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. 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 that person; or
 - c. a child or an adult child (including an adopted child, a step child, 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 of de facto 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 paragraph;
 - (i) 'relative' means a person related by blood, marriage or affinity;
 - (ii) 'affinity' means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - (iii) 'household' means a family group living in the same domestic dwelling.
4. 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 person's relationship to the employee, the reasons for 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.

17.2.2 Unpaid Leave for Family Purpose

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 a class of person set out in 1.3. (ii) above who is ill.

17.3 Blood Donors' Leave

All employees will be entitled to Blood Donors' leave as provided for in the Coles Myer Human Resources Policy "Blood Donors' Leave Policy" as amended (May 2004).

18. JURY SERVICE

- 18.1 An employee is entitled to leave of absence to attend for jury service and is required to notify the Manager of that requirement as soon as practicable and produce evidence of the requirement to attend.
- 18.2 During the absence the employee is entitled to be paid the difference between the jury service fees received and the employees ordinary rate of pay.
- 18.3 The employee is required to produce proof of jury service fees received before make-up pay is allowed.

19. SICK LEAVE

- 19.1 A weekly employee for the time being worked under this Agreement who after not less than three months continuous service with the employer, is unable to attend for duty during his ordinary working hours by reason of personal illness or incapacity, including incapacity resulting from injury within the *Workers' Compensation Act*

1987, as amended, not due to his own serious and wilful misconduct, shall be entitled to be paid at ordinary time rates of pay for the time of such non attendance; provided that he shall not be entitled to paid leave of absence for any period in respect of which he is entitled to workers' compensation. Provided however, that once an employee has had three months continuous service with an employer he shall be paid for any absence owing to illness during the first three months. All sick leave taken during this period must be supported with a doctors certificate.

- 19.2 Where possible, by 11.00am on the day of such absence, inform the employer of his inability to attend for duty and, as far as possible, state the nature of injury or illness and the estimated duration of the incapacity.
- 19.3 He shall prove to the satisfaction of the employer that he is or was unable on account of such illness, to attend for duty on the day or days for which payment under this clause is claimed.
- 19.4 He shall not be entitled to sick leave in excess of the following:

In the first year of employment - 38 hours
In the second year and subsequent years - 61 hours
- 19.5 The rights under this clause accumulate from year to year so that any part of any entitlement which has not been allowed in any year, may, subject to the conditions prescribed by this clause, be claimed by the employee and shall be allowed by the employer in a subsequent year of employment.
- 19.6 An employee who is absent without leave on the last working day before or the first working day after their "rostered leisure day" shall be liable to forfeit wages for the day except where the employee produces medical evidence that is satisfactory to the employer, to the extent that his absence was caused through personal illness or injury.
- 19.7 An employee is not entitled to paid sick leave occurring during period when workers' compensation is payable.
- 19.8 Sickness on rostered day off - an employee who is sick on his R.D.O. shall not be entitled to sick pay.
- 19.9 A medical certificate or other satisfactory evidence showing that the employee was unable to attend for duty, shall be produced in the following circumstance:
 - (i) where the sick leave is two consecutive days; or
 - (ii) where the employee has been absent in the current employment year for a total of two days sick leave without a medical certificate or other satisfactory evidence.

20. TRANSFER BETWEEN SITES OF KMART TYRE & AUTO SERVICE

It is recognised by the parties that there is a need for flexibility to operate the Kmart Tyre & Auto Service and a need for proper procedures to enable the transfer of labour between sites in a manner that causes the least disruption to the employee and the operation of the business.

To facilitate transfers between sites it is agreed:-

(a) Temporary Transfers:- Mechanics

In the instances of temporary transfers, that is to fill a position whilst a full time employee is absent on short term leave a temporary transfer can be made subject to:-

1. That the temporary location is not more than 15kl from the employee's home base site.
2. The temporary location is easily accessible to the transferee by use of the transferees normal method of travel or public transport.
3. The employee being given a minimum 24 hours notice of his/her requirement to take up the temporary posting, and the employee being advised of the expected period of the temporary transfer.
4. Once the temporary transferee has completed the temporary posting he/she will return to his/her home base.
5. No employee shall be requested to take up temporary transfers on more than 2 occasions within one year, unless there is agreement by the employee.
6. Employees on temporary transfer shall be paid at the ordinary time rate for any additional time taken travelling to the temporary site, except on Sunday's and holiday's, when it is time and one half.

(b) Permanent Relocation:- Mechanics

The Company shall advertise by notice to all Kmart Tyre & Auto Service employees job vacancies that are to be filled on a permanent basis at all sites and call for expressions of interest from the existing Kmart Tyre & Auto Service employees.

Such notice shall be posted for one (1) working week and applications for relocation shall close at the end of the shift on the fifth day.

The Company notice shall provide the following particulars, for the vacancy:-

- (i) site;
- (ii) skill Level of employee to fill position; and
- (iii) when expected to take up the position.

Following the closing of expressions of interest the Company will examine the applications, conduct interviews if necessary, and advise the successful applicant within two weeks of the closing of expressions of interest. Non successful applicants will also be advised.

Should the successful applicant decide not to accept the position the position may be advertised again internally and/or externally. It is the Company policy that wherever possible promotions from within the Company shall occur.

Failure to attract a suitable employee to take a position on permanent relocation the Company will discuss the transfer with employees who live within the area of the site where the vacancy exists. Failure to attract an employee the Company will select an employee who lives within 20kl of the site.

Employees who are conscripted to fill such a vacancy will be given the first opportunity to transfer to a store of his/her choice, if suitably qualified to fill the position.

21. TRAVELLING EXPENSES

21.1 Training courses

Travelling expenses shall be paid on the basis of Public Transport Fares from the location an employee works in the Sydney Metropolitan Transport District when attending training courses.

Country and Outer Sydney employees shall continue to attend courses by negotiated arrangements.

21.2 Temporary Relocations:-

An employee required to work at a location other than his/her normal place of work, is required to commence at the usual starting time and is entitled to any extra cost of travelling.

22. TERMS OF ENGAGEMENT

22.1 Except as to casual employees employment shall be on a weekly basis.

22.2 Kmart Tyre & Auto may engage fulltime and part-time employees' on a probationary basis for a period not exceeding 3 months.

22.3 Within the first three (3) weeks of such engagement employment may be terminated with 1 day's notice by either party.

22.4 Notwithstanding any provisions of subclause (I), (ii) and (iii) of this clause, the employer shall have the right to dismiss an employee without notice for malingering, inefficiency, neglect of duty or misconduct.

23. GRIEVANCE PROCEDURE

The parties recognise the need to quickly resolve any grievance which may arise from time to time. These grievances shall be settled with the following procedure.

- i In the event of any employee expressing a grievance or request, they shall raise and discuss the matter, firstly with their Service Centre Manager at the store concerned. The manager shall endeavour to resolve the matter as soon as practicable, generally within 48 hours.
- ii If the matter is not resolved with the Service Centre Manager initially the employee will then refer the matter to the Regional Manager, who will generally take necessary action within 48 hours.
- iii Should the dispute still remain unsolved, the Union organiser or his representative will confer with Regional Manager.
- iv. If the matter remains unresolved the employee/Union organiser (if involved) and Regional Manager will refer the matter to the State Manager.
- v If the matter cannot be resolved by this stage, it may be referred to the NSW Industrial Relations Commission for determination.

24. DISCIPLINARY PROCEDURES

Where an employee's performance is unsatisfactory, except in the case of serious misconduct, the following procedures are to be followed:

- i Initial verbal counselling
The employee's immediate manager (or nominee) will counsel the employee with the employee's immediate supervisor present. The employee will be clearly made aware of the areas of performance he or she is required to improve upon and a review date set. Notes will be made of the meeting.
- ii Initial Formal Warning
If the employee's performance has not improved then the employee's immediate manager (or nominee) shall in interview, reiterate the standards required and may set a second review date and shall issue a written warning to employee. In addition to the presence of the employee's immediate supervisor the employee may request a witness from within the business.
- iii Final Written Warning
If the employee has not fulfilled the requirements set out in the previous warning, then the employee's immediate manager (or nominee) will, in the presence of the employee's immediate supervisor and if the employee chooses a witness from within the business, issue a final written warning noting a possible third review date. The written warning which is to be signed by the Manager and employee, both of whom shall retain copies, shall remain on the employee's personnel file.

First & Final Written Warning

There will be occasions where an employees misconduct or actions may be deemed serious enough to warrant a First and Final Written Warning.

iv Termination of Employment

If the employee's performance has failed to meet the Company requirements, the immediate manager (or nominee) shall terminate the employee's employment.

v In the event of an employee's serious misconduct the Company shall have the right to dismiss that employee, the employee must be given a fair hearing in the presence of a witness, from within the business, chosen by the employee.

Examples of serious misconduct include theft, committing a violent act on other person on Company premises, use or sale of illegal drugs on Company premises and consumption of alcohol during working hours leading to unsafe work practices. These examples do not preclude other reasons for summary dismissal.

25. GENERAL CONDITIONS

25.1 A First-Aid Kit shall be provided in each store; at the employers expense as per NSW O H & S Legislation.

25.2 Each employee on termination shall be given a written statement signed by the Employer stating the position held, service and training acquired during his service with the Company.

25.3 Adequate protective clothing shall be supplied to all employees including wet weather gear where appropriate.

25.4 Employees shall be provided with reasonable dining accommodation, locker change rooms, adequate washing and toilet facilities and a plentiful supply of hot water and cold water for drinking.

25.5 Maternity Leave - See Industrial Relations Act, 1996.

25.6 Workers Compensation - See Workers Compensation Act, 1987.

(a) Rostered Days Off (R.D.O.'s) do not accrue whilst on Workers' Compensation.

26. SUPERANNUATION

26.1 The following Superannuation Funds are recognised as the appropriate industry funds into which the company will contribute superannuation in accordance with the Superannuation Guarantee legislation:

- a) Superannuation Trust of Australia
- b) MTAA

26.2 Salary sacrifice

1. An employee may make their own contribution to the superannuation fund by salary sacrificing part of their wage. This shall mean reducing pre tax earnings by a specified amount and contributing the specified amount to the superannuation fund. Once the specified amount is removed then income tax shall be applied to the employee's earnings.
2. This additional contribution must be to the same superannuation fund that the company contributes their superannuation guarantee levy.
3. The company will determine minimum payments and applicable payment multiples as per the fund's requirements and guidelines or Company policy.
4. The company may amend the provision of salary sacrifice in the event of changes to state or federal legislation.

27. NO EXTRA CLAIMS

This Agreement is entered into by the parties on the Condition that:

- (a) The parties accept and honour in full the terms of the Agreement during its currency.
- (b) There will be no claims for alterations to any of the term of this Agreement prior to 30th September 2008.

28. AREA, INCIDENCE AND DURATION

28.1 This Agreement shall be binding upon Kmart Australia Limited, the Australian Manufacturing Workers Union, and all Kmart Australia employees who are engaged in vehicle service and repair workshops trading as "Kmart Tyre & Auto Service" in New South Wales. This Agreement shall not apply to employees in pay-ranged positions.

28.2 Relationship to parent award

1. This Agreement shall be read wholly in conjunction with the Metal, Engineering and Associated Industries (State) Award.
2. Where there is any inconsistency between this Agreement and the Award this Agreement shall take precedent to the event of any inconsistency.

28.3 It shall operate from the beginning of the first pay period to commence on or after 1st October 2005 and shall remain in force until 30th September 2008. The company and the union agree to commence negotiations on the 1st of May 2008, with the intent to have a new agreement in place before the expiration of this Agreement.

29. UNION

29.1 Union membership

The parties recognise that each individual has the right to decide whether or not to be a member of a union. The parties agree that it is unlawful to seek to influence this decision one way or another, and therefore agree that duress in any form is unacceptable.

29.2 Right of Entry

Subject to prior and acceptable arrangements being made with the State Manager, Kmart Tyre & Auto Service, or Regional Manager, Kmart Tyre & Auto Service an authorised AMWU-Vehicle Division representative may enter the Company's premises at all reasonable times to interview and/or meet any employee(s) with respect to investigating and securing compliance with any relevant award, applicable agreement or other matters that pertain to the relations between employers and employees, but not so as to interfere with the Company's business.

G. HINGLE

Secretary

Vehicle Division, AFMEPKIU

D.TREWIN

**GENERAL MANAGER -
Retail Operations**

Kmart Tyre & Auto Service

Annexure ONE

CLASSIFICATIONS & WAGES (EFFECTIVE FROM: W/C Sunday 2nd October 2005)

1. 2nd IN CHARGE ('2IC') OF SERVICE CENTRES

<u>Level</u>	<u>Weekly Base Rate</u>	<u>Classification (defined)</u>
2IC Level 1	\$785.00	Must be able to perform duties to the level of a 2IC level 2. Appointment to a 2IC Level 1 will be determined by the company giving consideration to business needs and the employee's:- <ul style="list-style-type: none">❑ Application of skills to the job❑ Performance and behaviours❑ Compliance to company standards and procedures
2IC Level 2	\$765.00	A 2IC Level 2 is an employee appointed as such who is a fully qualified mechanic, employed to perform administrative , sales and mechanic duties, as well as relieve as a Service Centre Manager when required.
An employee other than a 2IC will receive an allowance of \$4.00 per day (to a maximum of \$20.00 per week) when appointed to be in charge of the Service Centre for a full day.		

2. MECHANICS

<u>level</u>	<u>Weekly Base rate</u>	<u>Classification (defined)</u>
1	\$750.00	Must be MVRIA licensed, and possess RTA authorised inspection certificate
2	\$730.00	Levels are determined by the company giving consideration to business needs and the employee's:- <ul style="list-style-type: none">□ Application of skills to the job□ Performance and behaviours□ Compliance to company standards and procedures
3	\$715.00	
4	\$695.00	Must be MVRIA licensed; and Has completed and demonstrates an understanding of Company Induction

3. TECHNICIANS (Automotive Industry Qualified)

Level	Weekly Base Rate	Classification (defined)
1	\$569.00	Cert II Qualified Technician with more than 6 months adult experience
2	\$538.00	Cert II Qualified Technician with less than 6 months adult experience
19 & 20 yrs	\$503.00	Cert II Qualified Technician who is 19 & 20 yrs of age
18 yrs or less	\$462.00	Cert II Qualified Technician who is 18 yrs of age or less

4. APPRENTICE MECHANICS, TRAINEESHIPS, TYREFITTERS AND TRADES ASSISTANTS

Apprentice, Tyrefitters and Trades assistant rates will be varied in accordance with the Vehicle Industry Retail, Repair & Services Award 2002.

Trainees rates will be varied in accordance with the National Training Wage rates

WAGE VARIATION

(Effective first pay period on or after 1st October 2006)

1. 2ND IN CHARGE OF SERVICE CENTRES

2IC Level 1	-	\$810.00
2IC Level 2	-	\$790.00

2. MECHANICS

MECHANIC LEVEL 1	-	\$770.00
MECHANIC LEVEL 2	-	\$750.00
MECHANIC LEVEL 3	-	\$735.00
MECHANIC LEVEL 4	-	\$715.00

3. TECHNICIANS

TECHNICIAN LEVEL 1	-	\$586.00
TECHNICIAN LEVEL 2	-	\$554.00
TECHNICIAN 19 & 20 YRS-		\$518.00

TECHNICIAN 18YRS OR LESS- \$476.00

(Effective first pay period on or after 1st October 2007)

4. 2ND IN CHARGE OF SERVICE CENTRES

2IC Level 1	-	\$835.00
2IC Level 2	-	\$815.00

5. MECHANICS

MECHANIC LEVEL 1	-	\$790.00
MECHANIC LEVEL 2	-	\$770.00
MECHANIC LEVEL 3	-	\$755.00
MECHANIC LEVEL 4	-	\$735.00

6. TECHNICIANS

TECHNICIAN LEVEL 1	-	\$604.00
TECHNICIAN LEVEL 2	-	\$571.00
TECHNICIAN 19 & 20 YRS-		\$534.00
TECHNICIAN 18YRS OR LESS-		\$490.00