

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA06/186

TITLE: **Sandgate Cemetery Trust Enterprise Agreement 2006**

I.R.C. NO: IRC6/1826

DATE APPROVED/COMMENCEMENT: 24 March 2006 / 1 October 2005

TERM: 24

**NEW AGREEMENT OR
VARIATION:** Replaces EA03/32.

GAZETTAL REFERENCE: 2 June 2006

DATE TERMINATED:

NUMBER OF PAGES: 25

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Sandgate Cemetery Trust, located at 116 Maitland Road, Sandgate NSW 2304, who are engaged at the Company's cemetery site, who fall within the coverage of the Cemetery and Crematoria Employees (State) Award.

PARTIES: Sandgate Cemetery Trust -&- The Funeral and Allied Industries Union of New South Wales Branch

SANDGATE CEMETERY TRUST ENTERPRISE AGREEMENT 2006

1. ARRANGEMENT

The provisions of the Enterprise Agreement are arranged in the following order:

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2. DEFINITIONS

For the purpose of this Agreement the following definitions shall apply:

"Agreement" shall mean the Sandgate Cemetery Trust Enterprise Agreement, 2006.

"Employee" or "Employees" shall mean a person or persons employed by the Sandgate Cemetery Trust, who would otherwise be covered by the Cemetery and Crematoria Employees (State) Award.

"Employer" shall mean the Sandgate Cemetery Trust.

“Full-time Employee” shall mean an Employee engaged and paid as such and who works an average of 38 ordinary hours per week.

"Parent Award" shall mean the Cemetery and Crematoria Employees (State) Award.

“Union” shall mean the Funeral and Allied Industries Union of New South Wales

"The Act" shall mean the New South Wales Industrial Relations Act, 1996.

3. SCOPE OF THE AGREEMENT

This Agreement shall apply to all Employees of the Employer who work out on the cemetery site of the Employer.

4. OBJECT OF THE AGREEMENT

The object of this Agreement is to formalise existing conditions including over award payments and to establish defined guidelines for the effective operation of the cemetery and to bring about gradual change to maintain its continued efficiency and effectiveness within the community whilst meeting public standards and scrutiny.

It is expected that all lawful and reasonable directions by the Employer will be followed by the Employees.

5. DATE AND PERIOD OF OPERATION

This Agreement shall operate from 1 October 2005 and shall remain in force for a period of 24 months thereafter. Any further renewal of this Agreement will be considered in light of the progress that has been made toward improved work practices.

6. RELATIONSHIP TO THE PARENT AWARD

This Agreement shall be read to the exclusion of the Parent Award and operate as a stand alone Agreement.

7. DURESS

This Agreement was not entered into under duress by any party to it.

8. ANTI-DISCRIMINATION

8.1 It is the intention of the parties bound by this Agreement to seek to achieve the object in Section 3f of the Industrial Relations Act 1996 (NSW) to prevent and eliminate discrimination in the workplace on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age, and responsibilities as a carer.

8.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to

make application to vary any provision of the Agreement which, by its terms or operation, has a direct or indirect discriminatory effect.

- 8.3 Under the Anti-Discrimination Act, 1977 (NSW) it is unlawful to victimise an Employee because the Employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 8.4 Nothing in this clause is to be taken to affect:
- 8.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation.
 - 8.4.2 offering or providing junior rates of pay to persons under 21 years of ages.
 - 8.4.3 any act or practice of a body established to propagate religion which is exempted under Section 56(d) of the Anti-Discrimination Act 1977 (NSW).
 - 8.4.4 a party to this Agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- 8.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
- 8.5.1 Employers and Employees may also be subject to Commonwealth anti-discrimination legislation.
 - 8.5.2 Section 56(d) of the Anti-Discrimination Act 1977 provides:

“Nothing in the Act affects...any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion”.
- 8.6 Full details of the Employer’s expectation regarding Anti-discrimination and Harassment prevention in the workplace are contained in the Employer’s Anti-Discrimination and Harassment Prevention Policies.

9. HOURS OF WORK

- 9.1 Subject to subclause 9.3, ordinary working hours shall be worked as a 20 day, four week cycle of eight hours each, Monday to Friday, inclusive, between the hours of 6.00 am and 5.00 pm, with 0.4 (2/5ths) of one hour each day worked accruing as an entitlement to take one weekday off during the four week cycle as a rostered day off, paid for as though worked.
- 9.2 Subject to subclause 9.9, the rostered day off shall be taken within the four week cycle, between Monday to Friday, on a day allocated by the Employer.
- 9.3 Without limiting the right of the Employer to stagger commencing and finishing times in accordance with subclause 9.1, the Employer may enter into Agreement with its Employees, on an individual or collective basis, to provide for the alteration of commencing time earlier than 6.00 am provided that the ordinary hours shall not exceed eight per day. It is expected however, that the eight hour day will generally be worked between the hours of 7.00am - 5.00pm.

- 9.4 The commencing and finishing times of work shall be alterable by giving at least 1day's notice to the Employee(s) concerned or by mutual agreement between the Employer and such Employees.
- 9.5 Except as provided for in subclauses 9.6, 9.7 or 9.8 of this clause, in cases where an Employee, in accordance with subclause 9.1 hereof, is entitled to a day off during his/her work cycle such Employee shall be advised by the Employer at least 4 weeks in advance of the weekday he/she is to take off.
- 9.6 The Employer may substitute the day an Employee is to take off for another day in the case of a breakdown in machinery or a failure or shortage of electric power or some other emergency situation.
- 9.7 An individual Employee, with the agreement of his/her Employer, may substitute the day he/she is to take off for another day.
- 9.8 The Employer may hold up to a maximum of 5 days accrued in accordance with subclause (1). The accrued days are to be taken at a time mutually agreed between the Employer and the Employee, but within twelve months of the date the first rostered day off accrued under this subclause.
- 9.9 In the absence of agreement being reached between the Employer and its Employees on any of the above mentioned matters, the Disputes Procedure of this Agreement shall be used to resolve the issue. Failing this, the parties shall refer the matter to the Industrial Relations Commission of New South Wales for resolution.

10. MEAL BREAK

- 10.1 Employees shall be allowed a meal break of not less than thirty minutes nor more than one hour between the hours of 11.00 a.m. and 2.00 p.m. Provided that no Employee shall be required to work for more than 5 hours without a break for a meal.

11. OVERTIME

- 11.1 Overtime shall be paid for all work performed outside the commencing and ceasing times of the ordinary hours of labour or in excess of the ordinary daily hours of labour prescribed by Clause 9 - Hours of work.
- 11.2 Overtime shall be paid at the rate of time and a half for the first two hours and double time thereafter for the actual time worked. Provided that double time shall be paid for all burial/cremation work performed on a Saturday.
- 11.3 When required by the Employer, Employees will perform reasonable overtime including work on Saturdays where necessary.
- 11.4 When burials/cremations are scheduled on a Saturday the starting time for Employees will be no earlier than 2 hours before the scheduled time of the burial/cremation. But in any event an Employee shall not commence work later than 10.00 am.
- 11.5 There shall be a four hour minimum engagement for work performed on a Saturday, Sunday or Public Holiday.

- 11.6 In computing overtime, each day's work shall stand alone.
- 11.7 All time worked on a Sunday shall be paid at double time.
- 11.8 All time worked on a public holiday shall be paid at double time and a half. Such double time and a half is inclusive of any payment required under Clause 12 - Public Holidays, of this Agreement.

12. PUBLIC HOLIDAYS

- 12.1 The following days shall be Holidays for the purposes of this Agreement: New Years Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queens Birthday, Eight Hour Day, Christmas Day and Boxing Day. Permanent Employees shall be allowed these days off without loss of pay.
- 12.2 Burials/cremations will not be conducted on New Years Day, Good Friday, Anzac Day, Christmas Day and Boxing Day.

13. ANNUAL LEAVE

See *Annual Holidays Act*, 1944.

14. ANNUAL LEAVE LOADING

- 14.1 In this clause the *Annual Holidays Act*, 1944, is referred to as "the Act".
- 14.2 Before an Employee is given and takes his/her annual holiday, or, where by agreement between the Employer and the Employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods, the Employer shall pay his 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 - see subclause 14.6 of this clause).
- 14.3 The loading is payable in addition to the pay for the period of holiday given and taken and due to the Employee under the Act and this Agreement.
- 14.4 The loading is to be calculated in relation to any period of annual holiday to which the Employee becomes entitled under the Act and this Agreement, or, where such a holiday is given and taken in separate periods, then in relation to each separate period. (NOTE: See subclause 14.6 of this clause as to holidays taken wholly or partly in advance).
- 14.5 The loading is the amount payable for the period or separate period, as the case may be, stated in subclause 14.4 of this clause at the rate of 17½ per cent of the appropriate ordinary weekly time rate of pay prescribed by this Agreement for the classification in which the Employee was employed immediately before commencing his/her annual holiday, but shall not include any other allowances, penalty rates, shift allowances, overtime or any other payments prescribed by the parent award or this Agreement.
- 14.6 No loading is payable to an 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 he/she would have become entitled under the Act 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 subclause 14.5 of this clause applying the Agreement rates of wages payable on that day. This subclause applies where an annual holiday has been taken wholly or partly in advance.

- 14.7 (a) Where the employment of an Employee is terminated by his/her Employer, for a cause other than misconduct, and at the time of the termination the Employee has not been given and has not taken the whole of an annual holiday to which he/she became entitled, he/she shall be paid a loading calculated in accordance with subclause 14.4 of this clause for the period not taken.
- (b) Except as provided by paragraph (a) of this subclause, no loading is payable on the termination of an Employee's employment.
- 14.8 This clause extends to an Employee who is given and takes an annual holiday and who would have worked as a shift worker if he/she had not been 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.

15. LONG SERVICE LEAVE

See *Long Service Leave Act, 1955*.

16. SICK LEAVE

- 16.1 A weekly Employee who, after not less than two months' continuous service with the Employer, is unable to attend for duty during his/her ordinary working hours by reason of personal illness or incapacity not due to his/her own serious and wilful misconduct, shall be entitled to be paid at ordinary times rates of pay for the time of such non-attendance up to a maximum of fourteen days' pay in any year of service with the same Employer, provided that he/she shall not be entitled to paid leave of absence for any period in respect of which he/she is entitled to workers' compensation.
- 16.2 The Employee shall, as soon as reasonably practicable, and in any case within twenty-four hours of commencement of such absence, inform the Employer of his/her inability to attend for duty, and, as far as possible, state the nature of the injury or illness and the estimated duration of the incapacity.
- 16.3 The Employee shall furnish to the Employer such evidence, as the Employer may desire, that he/she was unable by reason of such illness or injury, to attend for duty on the day or days for which sick leave is claimed; provided that a doctor's certificate shall not be required for the first single day's absence in each sick leave year.

Notwithstanding the above, an Employee may be required to produce a doctor's certificate for any absence occurring the working day before or the working day after a rostered day off.

Where an Employee is absent from employment on the working day or part of the working day immediately preceding or immediately following:

- (a) a holiday as defined by Clause 12 of this Agreement; or
(b) before or after a period of annual leave during which a holiday or holidays occur as

defined without reasonable excuse, the Employer's consent, or such other evidence as the Employer may require, the Employee shall not be entitled to payment for such holiday or holidays.

- 16.4 If the full period of sick leave is not taken in any year, the whole or any untaken portion shall be cumulative from year to year provided that the Employer shall not be bound to credit an Employee for sick leave which accrued more than eight years before the end of the last completed year of service.
- 16.5 For the purpose of subclause 16.1 of this clause, service before the date of coming into force of this Agreement shall be counted as service.

17. BEREAVEMENT LEAVE

- 17.1 An Employee, other than a casual Employee, shall be entitled to a maximum of three days bereavement leave without deduction of pay on each occasion of the death of a person in Australia as prescribed in subclause 17.3 of this clause for the purpose of making arrangements for and/or attending a funeral.
- 17.2 The Employee must notify the Employer as soon as practicable of the intention to take bereavement leave and will provide, to the satisfaction of the Employer proof of death.
- 17.3 Bereavement leave shall be available to the Employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph (ii) of paragraph (c) of subclause (1) of Clause 18 - State Personal/Carer's Leave Case - August 1996, provided that, for the purpose of bereavement leave, the Employee need not have been responsible for the care of the person concerned.
- 17.4 An Employee shall not be entitled to bereavement leave under this clause during any period in respect of which the Employee has been granted other leave.
- 17.5 Bereavement leave may be taken in conjunction with other leave available under subclauses (2), (3), (4), (5) and (6) of the said subclause 18. In determining such a request, the Employer will give consideration to the circumstances of the Employee and the reasonable operational requirements of the business.
- 17.6 Bereavement Leave for casual Employees
- (a) Subject to the evidentiary and notice requirements in 17.2 casual Employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 18.1 (c) (ii) of Clause 18 - Personal/Carer's Leave
 - (b) The Employer and the Employee shall agree on the period for which the Employee will be entitled to not be available to attend work. In the absence of agreement, the Employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual Employee is not entitled to any payment for the period of non-attendance
 - (c) The Employer must not fail to re-engage a casual Employee because the Employee accessed the entitlements provided for in this clause. The rights of the Employer to engage or not engage a casual Employee are otherwise not affected.

18. PERSONAL/CARER'S LEAVE

18.1 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), 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 16 - Sick Leave, for absences to provide care and support, for such persons when they are ill or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- (b) The Employee shall, if required,
 - (i) 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.
 - (ii) establish by production of documentation acceptable to the Employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the Employee.

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) 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 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 purposes of this subparagraph:
 - 1. "relative" means a person related by blood, marriage or affinity;
 - 2. "affinity" means a relationship that one spouse because of marriage has to 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 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.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the Employer and Employee shall discuss appropriate arrangements which, as far as practicable, take account of the Employer's and Employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at Clause 24 should be followed.

18.2 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 a class of person set out in subparagraph (ii) of paragraph (c) of subclause (1) who is ill or who requires care due to an unexpected emergency.

18.3 Annual Leave

- (a) An Employee may elect with the consent of the Employer, to take annual leave not exceeding ten days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this Agreement.
- (c) An Employee and Employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (d) An Employee may elect with the Employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

18.4 Time Off in Lieu of Payment for Overtime

- (a) For the purpose only of providing care and support for a person in accordance with subclause (1) of this clause, and despite the provisions of 10 - Time Off in Lieu of Overtime, from the parent award, the following provisions shall apply.
- (b) An Employee may elect, with the consent of the Employer, to take time off in lieu of payment for overtime at a time or times agreed with the Employer within 12 months of the said election.
- (c) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.

- (d) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.
- (e) Where no election is made in accordance with the said paragraph (a), the Employee shall be paid overtime rates in accordance with the Agreement.

18.5 Make-Up Time

- (a) 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 Agreement, at the ordinary rate of pay.
- (b) 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.

18.6 Rostered Days Off

- (a) An Employee may elect, with the consent of the Employer, to take a rostered day off at any time.
- (b) An Employee may elect, with the consent of the Employer, to take rostered days off in part day amounts.
- (c) An Employee may elect, with the consent of the Employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the Employer and Employee, or subject to reasonable notice by the Employee or the Employer.
- (d) This subclause is subject to the Employer informing each union which is both party to the Agreement and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

18.7 Personal Carers Entitlement for casual Employees

- (a) Subject to the evidentiary and notice requirements in Clause 18.1(b) and Clause 18.1(d) casual Employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 1.1.3(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) The Employer and the Employee shall agree on the period for which the Employee will be entitled to not be available to attend work. In the absence of agreement, the Employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual Employee is not entitled to any payment for the period of non-attendance.
- (c) The Employer must not fail to re-engage a casual Employee because the Employee accessed the entitlements provided for in this clause. The rights of the Employer to engage or not to engage a casual Employee are otherwise not affected.

19. PARENTAL LEAVE

- (1) Refer to the *Industrial Relations Act 1996 (NSW)*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996 (NSW)*.
- (2) The Employer must not fail to re-engage a regular casual Employee (see section 53(2) of the Act) because:
 - (a) the Employee or Employee's spouse is pregnant; or
 - (b) the Employee is or has been immediately absent on parental leave.

The rights of the Employer in relation to engagement and re-engagement of casual Employees are not affected, other than in accordance with this clause.

- (3) Right to request
 - (a) An Employee entitled to parental leave may request the Employer to allow the Employee:
 - (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the Employee in reconciling work and parental responsibilities.

(b) The Employer shall consider the request having regard to the Employee's circumstances and, provided the request is genuinely based on the Employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the Employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(c) Employee's request and the Employer's decision to be in writing

The Employee's request and the Employer's decision made under 3(a)(ii) and 3(a)(iii) must be recorded in writing.

(d) Request to return to work part-time

Where an Employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the Employee is due to return to work from parental leave.

(4) Communication during parental leave

- (a) Where an Employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Employer shall take reasonable steps to:
 - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave; and
 - (ii) provide an opportunity for the Employee to discuss any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave.
- (b) The Employee shall take reasonable steps to inform the Employer about any significant matter that will affect the Employee's decision regarding the duration of parental leave to be taken, whether the Employee intends to return to work and whether the Employee intends to request to return to work on a part-time basis.
- (c) The Employee shall also notify the Employer of changes of address or other contact details which might affect the Employer's capacity to comply with paragraph (a).

20. JURY SERVICE

- (i) When an Employee is required to attend for jury service he/she shall notify the Employer as soon as possible prior to the date upon which he/she is required to attend for jury service. Furthermore, the Employee shall give to the Employer proof of his/her attendance, the duration of such attendance and the amount received in respect of such jury service including any amount received in respect of fares.
- (ii) An Employee required to attend for jury service during his/her ordinary working hours, Monday to Friday, shall be reimbursed by the Employer an amount equal to the difference between the amount paid in respect of his/her attendance for such jury service and the amount of wages he/she would have received in respect of his/her ordinary time as for eight hours per day he would have worked had he/she not been on jury service, together with the difference between the amount received and the actual expenditure for fares and travelling to and from the court.
- (iii) When an Employee who has been called to attend for jury service is discharged he/she shall return to his/her place of employment during working hours to complete the shift for the day. If the Employee is able to return to work during his/her ordinary working hours but fails to so return then the Employer will not be liable to make up the difference in wages and fares as provided for in subclause (ii) of this clause.

21. TERMINATION OF EMPLOYMENT

21.1 Subject to subclause 21.4 and Clause 30 – Probation of this Agreement, the Employer may terminate the employment of an Employee by giving the following notice:

- | | |
|---|----------------|
| - up to one (1) year of service | 1 week notice |
| - between one (1) and three (3) years of service | 2 weeks notice |
| - between three (3) and five (5) years of service | 3 weeks notice |

- over five (5) years of service 4 weeks notice

The above period of notice is increased by one (1) week if the Employee is over forty-five (45) years of age and has completed at least two (2) years continuous service.

An Employee is required to give one (1) week's notice when terminating their employment.

- 21.2 By mutual agreement between the parties the notice requirements referred to above may be waived.
- 21.3 Where the notice stipulated above is not given, payment in lieu of notice or forfeiture of pay in lieu of notice shall occur.
- 21.4 Where an Employee is guilty of serious and wilful misconduct, nothing shall affect the right of the Employer to dismiss the Employee without notice.

22. REDUNDANCY

22.1 Application

- (a) This clause shall apply in respect of full-time and part-time Employees.
- (b) This clause shall only apply to the Employer if it employs 15 or more Employees immediately prior to the termination of employment of Employees.
- (c) Notwithstanding anything contained elsewhere in this clause, this clause shall not apply to Employees with less than one year's continuous service and the general obligation on the Employer shall be no more than to give such Employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the Employees of suitable alternative employment.
- (d) Notwithstanding anything contained elsewhere in this clause, this clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual Employees, apprentices or Employees engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

22.2 Introduction of Change

- (a) Employer's duty to notify
 - (1) Where the Employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on Employees, the Employer shall notify the Employees who may be affected by the proposed changes and the union to which they belong.
 - (2) 'Significant effects' include termination of employment, major changes in the composition, operation or size of the Employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of Employees to other work or locations and the

restructuring of jobs.

Provided that where the agreement makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

(b) Employer's duty to discuss change

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

22.3 Redundancy

(a) Discussions before terminations

- (1) Where the Employer has made a definite decision that the Employer no longer wishes the job the Employee has been doing done by anyone pursuant to subparagraph (1) of paragraph (a) of subclause (ii) above, and that decision may lead to the termination of employment, the Employer shall hold discussions with the Employees directly affected and with the union to which they belong.
- (2) The discussions shall take place as soon as is practicable after the Employer has made a definite decision which will invoke the provision of subparagraph (1) of this subclause and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the Employees concerned.
- (3) For the purposes of the discussion the Employer shall, as soon as practicable, provide to the Employees concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of Employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that any Employer shall not be required to disclose confidential information the disclosure of which would adversely affect the Employer.

22.4 Termination of Employment

(a) Notice for changes in production, programme, organisation or structure

This subclause sets out the notice provisions to be applied to terminations by the Employer for reasons arising from "production", "programme", "organisation" or "structure" in accordance with subclause (ii) (a)(1) above.

- (1) In order to terminate the employment of an Employee the Employer shall give to the Employee the following notice:

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

- (2) In addition to the notice above, Employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.

- (3) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(b) Notice for technological change

This subclause sets out the notice provisions to be applied to terminations by the Employer for reasons arising from "technology" in accordance with subclause (ii)(a)(1) above:

- (1) In order to terminate the employment of an Employee the Employer shall give to the Employee 3 months notice of termination.

- (2) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- (3) The period of notice required by this subclause to be given shall be deemed to be service with the Employer for the purposes of the *Long Service Leave Act, 1955*, the *Annual Holidays Act, 1944*, or any Act amending or replacing either of these Acts.

(c) Time off during the notice period

- (1) During the period of notice of termination given by the Employer, an Employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purposes of seeking other employment.

- (2) If the Employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the Employee shall, at the request of the Employer, be required to produce proof

of attendance at an interview or the Employee shall not receive payment for the time absent.

(d) Employee leaving during the notice period

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

(e) Statement of employment

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

(f) Notice to Centrelink

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

(g) Department of Social Security Employment Separation Certificate

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

(h) Transfer to lower paid duties

Where an Employee is transferred to lower paid duties for reasons set out in paragraph (a) of subclause (ii) above, the Employee shall be entitled to the same period of notice of transfer as the Employee would have been entitled to if the Employee's employment had been terminated, and the Employer may at the Employer's option make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rates for the number of weeks of notice still owing.

22.5 Severance Pay

- (a) Where an Employee is to be terminated pursuant to subclause (iv) above, subject to further order of the Industrial Relations Commission, the Employer shall pay the following severance pay in respect of a continuous period of service:

- (1) If an Employee is under 45 years of age, the Employer shall pay in accordance with the following scale:

Under 45 Years of Age	Years of Service Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

- (2) Where an Employee is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of Service	45 Years of Age and Over Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

- (3) 'Weeks 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, over agreement payments, shift penalties and allowances provided for in this Agreement.

(b) Incapacity to pay

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

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 in subclause (i) above will have on the Employer.

(c) Alternative employment

Subject to an application by the Employer and further order of the Industrial Relations Commission, the Employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph (a) above if the Employer obtains acceptable alternative employment for an Employee.

22.6 Savings Clause

Nothing in this Agreement shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an Employee may be entitled to under any existing redundancy arrangement, taken as a whole, between the union and any Employer bound by this Agreement.

23. NO EXTRA CLAIMS

The parties to this Agreement agree that, for the life of the Agreement, there shall be no further claims made.

24. DISPUTES PROCEDURE

The procedure for the resolution of Industrial Disputation will be as follows.

24.1 Procedures relating to grievances of individual Employees:

24.1.1 The Employee is required to notify (in writing or otherwise) the Employer as to the substance of the grievance, request a meeting with the Employer for bilateral discussions and state the remedy sought.

24.1.2 A grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.

24.1.3 Reasonable time limits must be allowed for discussion at each level of authority .

24.1.4 At the conclusion of the discussion, the Employer must provide a response to the Employee's grievance, if the matter has not been resolved including reasons for not implementing any proposal remedy.

24.1.5 While a procedure is being followed, normal work must continue.

24.1.6 The Employee may be represented by an Industrial Organisation of Employees.

24.1.7 If the matter remains unresolved it shall be referred to the Industrial Relations Commission of NSW.

24.2 Procedure for a dispute between the Employer and Employees:

24.2.1 A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.

24.2.2 Reasonable time limits must be allowed for discussions at each level of authority.

24.2.3 While a procedure is being followed, normal work must continue.

24.2.4 The Employer may be represented by an Industrial Organisation of employers and the Employees may be represented by an Industrial Organisation of Employees for the purposes of each procedure.

24.2.5 If the matter remains unresolved it shall be referred to the Industrial Relations Commission of NSW.

25. WAGES

25.1 The minimum weekly rate of pay for full-time Employees under this Agreement shall be:

Employee Classification	From the first full pay period commencing on or after 1 October 2005 \$	From the first full pay period commencing on or after 1 October 2006 \$
Level 5 – Site Supervisor	791.74	831.74
Level 4 – Relief Supervisor	772.35	801.35
Level 3 – Multi-Skilled Employee	692.35	721.35
Level 2 – After Successful Probation	640.00	660.00
Level 1 – New Employee	610.00	630.00

Notation: *The classification structure of the Sandgate Cemetery Trust Enterprise Agreement, 2002 has been amended in this Agreement due to the restructure and the necessity to have Employees multi-skilled at Sandgate Cemetery and Crematorium.*

Refer to the translation table in 'Annexure C' for a comparative schedule of old classifications and new classifications in this Agreement.

25.2 Any existing Employees currently in receipt of the Service Allowance shall continue to receive payment for the allowance. No other Employees are entitled to receive this allowance.

25.2.1 Employees entitled to receive this allowance under this Agreement shall receive, the following in addition to the rates set out in subclause 25.1 after 5 years continuous service with the Employer:

	Per Centum %
5 years and under 10 years of service	2.5
10 years and under 15 years of service	5
15 years' service or more	7.5

25.2.2 Payments due under this subclause shall be made on the usual pay day, when other payments under this Agreement are made.

25.2.3 Continuous service with the same employer prior to the commencement of this Agreement shall be taken into consideration for the purposes of this sub-clause.

25.3 Where an exhumation is to be carried out, the requirements are in Annexure A.

25.4 An Employee required to do any work in connection with a vault transfer shall receive an allowance of \$65.00 per Employee per body transferred in addition to his/her ordinary wage.

25.5 Bonus

At the discretion of the Employer, where consideration will be given to the disciplinary record of each Employee, an Employee may receive a bonus payment in the first pay period of December for the duration of this Agreement. The bonus will be as follows:

Date	Bonus Amount \$
First Pay period in December, 2005	250

Any further bonus payments will be at the discretion of the Employer.

25.6 The wage rates and allowances set out in subclauses 25.1, 25.2 and 25.3 are all-inclusive amounts. No other allowances will apply.

25.7 Payment of Wages

25.7.1 All Employees shall be paid weekly on a day nominated by the Employer.

25.7.2 All wages shall be paid by Electronic Funds Transfer into an account of a Financial Institution nominated by the Employee.

26. SUPERANNUATION

26.1 Superannuation Legislation

The subject of superannuation is dealt with extensively by federal legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation (Resolution of Complaints) Act 1993* and s124 of the *Industrial Relations Act 1996 (NSW)*. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

26.2 Subject to the requirements of this legislation, superannuation contributions may be made to:

- (1) ARF (Australia Retirement Fund);
- (2) ASSET (Australian Superannuation Savings Employment Trust); or
- (3) Such other funds that comply with the requirements of this legislation.

27. INOCULATIONS

Employees shall be notified by the Employer about the availability of appropriate inoculations necessary for health and safety at work including, but not limited to, Anti-Tetanus and Hepatitis, which shall be provided at the Employer's expense.

28. UNION MEETINGS

28.1 Employees shall be entitled to be paid for two meetings for the purpose of discussing matters affecting the Agreement each calendar year, subject to the following:

- (i) The meeting shall be called by the Secretary of the Union, who shall notify at least 14 days in advance of such meeting the Cemeteries and Crematoria Association of New South Wales and Employers First™.
- (ii) Such meetings shall not be held on a Monday or Friday or adjacent to a public holiday.

If a meeting is called in the same week as a paid meeting of Employees employed under the terms of the Funeral Industry (State) Award, then such meeting shall be held on the same day as the Funeral Industry, but shall commence not later than 9.00 a.m. If a meeting is not held on the same day as the Funeral Industry, then it will not be held within 2 weeks of a Funeral Industry meeting and will commence not earlier than 1.00 p.m.

- (iii) The maximum time allowed away from work for each meeting shall be of not more than 4 hours including travelling time. Employees shall attend for duty for any part of the rostered day occurring before or after the meeting.
- (iv) Employees shall produce satisfactory proof that they attended the meeting.

29. TRAINING AND MULTI-SKILLING

Employees party to this Agreement acknowledge the need to receive additional job skills to become multi-skilled. Therefore subject to the Employer's requirements, Employees will give an undertaking to attend training courses. Only fixed costs (i.e. registration, course material and meals) during the training will be paid by the Employer.

30. PROBATION

After the initial appointment of a full-time Employee, a probationary period of three (3) months will be required. During this period the Employer or the Employee may terminate the appointment by giving one day's notice.

31. SIGNATORIES

For and on behalf of:

Sandgate Cemetery Trust

.....
 Peter Owens
 Chairman – Sandgate Cemetery Trust

.....
 Date

.....
 Witness

.....
 Date

ANNEXURE “B”

LEVEL 1 – New Appointment

Reports to: Site Supervisor, Sandgate Cemetery

Employee works under supervision most of the time during the Probation period and is trained in the duties of Level 3.

LEVEL 2 – After Probation Period

Reports to: Site Supervisor, Sandgate Cemetery

Employee has completed probationary period but is not quite fully multi-skilled to work without supervision in all the duties of Level 3.

LEVEL 3 – Multi-skilled Employee

Reports to: Site Supervisor, Sandgate Cemetery

No. of reports: None

Position Summary

- Provide excellent customer service to both internal and external customers of Sandgate Cemetery.
- Build positive relationships with Employees, Funeral Directors, Stone Masons and other contractors.
- Commitment to OHS policies and procedures.
- Prepare graves and maintain cemetery grounds.
- Operate the cremator.
- Able to work without supervision.

All actions are to be consistent with all the objectives, policies and directions established by Sandgate Cemetery Trust, and in compliance with all relevant statutory requirements and best practice standards.

Primary Accountabilities - Consist of but are not limited to:

- Graves and Crypts
 - locate facilities according to portion, section and lot numbers.
 - dig graves to specified depth.
 - prepare site for burial services.
 - open and close crypts.
 - report broken or damaged monuments to the Site Supervisor.
 - participate in exhumations.
 - honour church traditions, contemporary spiritual expression and all other beliefs by being aware of customs of all religions and the different ethnic funeral processes.
- Grounds
 - mow grass
 - prune shrubs
 - trim trees
 - plant flowers and shrubs.

- maintain gardens.
 - clean grounds and remove litter.
 - maintain tools and equipment.
 - repair fences, gates, walls, walkways and roads.
 - paint fences and external furniture.
 - spray lawn, shrubs and trees with fertiliser, herbicides and insecticides.
- Crematorium
 - operate the cremator.
 - prepare ashes for families.
 - inter ashes.

LEVEL 4 – Relief Site Supervisor

Reports to: Business Manager, Sandgate Cemetery
No. of reports: Four (4) Ground Keepers

Position Summary

- Responsible for the day to day operation and maintenance of Sandgate Cemetery.
- Supervisor of all external site personnel.
- Provide excellent customer service to both internal and external customers of Sandgate Cemetery.
- Build positive relationships with Employees, Funeral Directors, Stone Masons and contractors.
- Solid commitment to OHS policies and procedures.

All actions are to be consistent with all the objectives, policies and directions established by Sandgate Cemetery Trust, and in compliance with all relevant statutory requirements and best practice standards.

Primary Accountabilities - Consist of but are not limited to:

- Committed to OHS and Sandgate Cemetery Trust's policies and procedures.
- Responsible for the health and welfare of 4 Employees by ensuring safe working methods.
- Responsible for grave allocations and audits.
- Responsible for day to day funeral arrangements.
- Responsible for the maintenance of the cemetery.
- Responsible for vehicle maintenance and repairs.
- Responsible for plant equipment and repairs.

LEVEL 5 - Site Supervisor

Reports to: Business Manager, Sandgate Cemetery
No. of reports: Five (5) Ground Keepers

Position Summary

- Responsible for the day to day operation and maintenance of Sandgate Cemetery.
- Supervisor of all external site personnel.
- Provide excellent customer service to both internal and external customers of Sandgate Cemetery.

- Build positive relationships with Employees, Funeral Directors, Stone Masons and contractors.
- Solid commitment to OHS policies and procedures.

All actions are to be consistent with all the objectives, policies and directions established by Sandgate Cemetery Trust, and in compliance with all relevant statutory requirements and best practice standards.

Primary Accountabilities - Consist of but are not limited to:

- Committed to OHS and Sandgate Cemetery Trust’s policies and procedures.
- Responsible for the health and welfare of 5 Employees by ensuring safe working methods.
- Responsible for maintaining the operational budget.
- Responsible for recommendations or suggestions to reduce costs.
- Responsible for annual maintenance plan.
- Responsible for grave allocations and audits.
- Responsible for the maintenance of the cemetery.
- Responsible for vehicle maintenance and repairs.
- Responsible for plant equipment and repairs.
- Responsible for staff training and performance appraisals.
- Responsible for quality control and continuous improvements.
- Assists Business Manager as required.

ANNEXURE “C”

Transition Arrangements

Old Agreement Classification (2002)	Agreement Classification
Grave Digger Leading Hand	Level 5 – Site Supervisor
	Level 4 – Relief Supervisor
Grave Digger, Transformer Hand, Gardener and General Hand, Head Gardener ¹	Level 3 – Multi-skilled Employee
Grave Digger, Transformer Hand, Gardener and General Hand, at the completion of their probationary period	Level 2 – After successful probation
New Employee on probation	Level 1 – New Employee

¹ Under this Agreement, there is no longer a position of Head Gardener. However, the previous incumbent (currently classified as a Level 3 under this Agreement) will remain on his current rate until such time as the Agreement rate for a Level 3 reaches or surpasses his wage. For clarity, any increases, including those identified in Clause 25 – Wages of this Agreement will be absorbed by the said employee’s current wage.