



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Skilled Rail Services Pty Ltd
(AG2019/4941)

SKILLED RAIL SERVICES VIC ENTERPRISE AGREEMENT 2019

Rail industry

DEPUTY PRESIDENT MANSINI

MELBOURNE, 24 FEBRUARY 2020

Application for approval of the Skilled Rail Services Vic Enterprise Agreement 2019.

[1] Skilled Rail Services Pty Ltd has applied for approval of a single enterprise agreement known as the *Skilled Rail Services Vic Enterprise Agreement 2019* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (Cth) (the Act).

[2] Since the application was made, the Commission raised concerns about the form of the application, whether: the pre-approval requirements were met, the Agreement contravenes s.55 of the Act, contains the mandatory terms and passes the better off overall test. Further information was provided in relation to these concerns.

[3] The Applicant sought to correct a typographical error in the original application, by filing an amended statutory declaration. In the circumstances, I am satisfied that this amendment should be allowed and that it is appropriate to do so pursuant to s.586 of the Act.

[4] Noting clause 1.4.2 of the Agreement, I am satisfied that the more beneficial entitlements of the National Employment Standards in the Act (NES) will prevail where there is an inconsistency between the Agreement and the NES.

[5] Written undertakings were given in accordance with s.190 of the Act and are attached at Annexure A (Undertakings). The bargaining representative did not oppose the Undertakings. I am satisfied that the Undertakings will not cause financial detriment to any employee covered by the Agreement and that the Undertakings will not result in substantial changes to the Agreement. Pursuant to s.201(3) of the Act, the Undertakings are taken to be terms of the Agreement.

[6] The consultation term prescribed by the *Fair Work Regulations 2009* (Cth) is taken to be a term of the Agreement, pursuant to s.205(2) of the Act.

[7] On the basis of the material contained in the application, amended statutory declaration, further information provided on request of the Commission and the Undertakings,

I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[8] The Australian Rail, Tram and Bus Industry Union, being a bargaining representative for the Agreement, has given notice under s.183 of the Act. In accordance with s.201(2), I note that the Agreement covers this organisation.

[9] The Agreement was approved on 24 February 2020 and, in accordance with s.54, will operate from 2 March 2020. The nominal expiry date of the Agreement is 30 June 2022.



DEPUTY PRESIDENT

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Annexure A



14 February 2020

Level 1, 333 Collins Street
Melbourne Vic 3000

Deputy President Mansini
Fair Work Commission
Via email: Chambers.Mansini.DP@fwc.gov.au

Dear Deputy President Mansini

Re: AG2019/4941 – Skilled Rail Services & RTBU Enterprise Agreement 2019

I refer to the application by Skilled Rail Services Pty Ltd for the approval of the *Skilled Rail Services & RTBU Enterprise Agreement 2019* in matter number AG2019/4941.

Skilled Workforce Solutions (NSW) Pty Ltd provides the following undertakings to the Fair Work Commission. The undertaking is provided by Skilled Rail Services Pty Ltd pursuant to s.190 of the *Fair Work Act 2009* (Cth) as follows:

1. In respect of clause 6 Allowances:
 - a) In circumstances where employees are required to use their personal phones in the performance of their duties the company may elect to provide one of the following:
 - i. Provide Sim Cards to employees for work related communication; or
 - ii. Provide mobile phones to employees for work related communication; or
 - iii. Pay a phone allowance to contribute towards a monthly phone bill to a maximum value of \$80 per month, subject appropriate evidence and invoices.
2. The definition of a Continuous Shift Worker for the purposes of calculating the additional weeks leave, as described at clause 10.3 is amended to read as follows:

"An Employee whose ordinary hours can be worked on a 24/7 continuous basis, e.g. Day Shift, Afternoon Shift and Night Shift, including Weekends and Public Holidays, rotating continuously over 7 days of the week, shall be considered to be a Shift Worker for the purposes of the Agreement and the National Employment Standards (NES)."

Signed for and on behalf of Skilled Rail Services Pty Ltd

Signature

A handwritten signature in blue ink, appearing to read "Julia O'Reilly", enclosed within a blue oval.

Name: Julia O'Reilly

Date: 14/02/2020

zero/harm

A leading provider of staffing, maintenance and facility management services.

Note - this Agreement is to be read together with undertakings given by the employer. The undertakings are taken to be terms of the agreement. A copy of the undertakings can be found at the end of the agreement.

Note - the model consultation term is taken to be a term of this agreement and can be found at the end of the agreement.

Skilled Rail Services Vic Enterprise Agreement 2019

Table of Contents

1.	Agreement Application & Operation.....	4
1.1.	Title of Agreement.....	4
1.2.	Parties Bound	4
1.3.	Period of Operation.....	4
1.4.	Relationship to Awards and Agreements and NES.....	4
1.5.	No Extra Claims	4
1.6.	Scope and Intent of Agreement	4
1.7.	Definitions in this Agreement.....	4
1.8.	Individual Flexibility	6
1.9.	Higher Duties	7
2.	Contract of Employment	7
2.1.	Probation Period	7
2.2.	Skills, Competence & Training	7
2.3.	Medical Assessment	8
2.4.	Status of Employment	8
2.5.	Full time Employees	9
2.6.	Part-Time Employees.....	9
2.7.	Casual Employees	9
2.8.	Casual Employees – Secure Employment.....	9
2.9.	Casual conversion	10
2.10.	Termination of Employment	10
2.11.	Abandonment of Employment	11
2.12.	Drugs and Alcohol	11
2.13.	Employee Obligations.....	12
2.14.	Amenities, Clothing and Personal Protective Equipment	12
3.	Dispute Settlement Procedure	13
3.1.	Procedure	13

4.	Classifications	15
5.	Wage Rates	15
5.1.	Ordinary hourly wage rate	15
5.2.	Payment of Wages.....	15
6.	Allowances.....	15
6.2.	Allowances.....	15
6.3.	On-Call	16
6.4.	Daily Travelling Allowance.....	16
6.5.	Travel & Incidental Expenses.....	17
7.	Superannuation	18
8.	Redundancy – All Permanent Employees	18
8.2.	Definitions	18
8.3.	Severance Pay.....	18
8.4.	Employees exempted	19
8.5.	Incolink Contributions	19
8.6.	Income Protection, Trauma and Journey Insurance	20
8.7.	Accident Make Up Pay.....	20
9.	Induction and Orientation	21
10.	Hours of Work	21
10.1.	Hours of Work – Day Work.....	21
10.2.	Overtime.....	21
10.3.	Shift Work definitions.....	22
11.	Rostering Principles.....	23
11.5.	Rostered Days off (RDOs)	24
12.	Call Back	25
13.	Minimum Break Between Shifts.....	25
14.	Breaks.....	25
14.1.	Meal Breaks.....	25

14.2.	Rest Breaks	26
15.	Leave Entitlement	26
15.1.	Annual Leave (Permanent employees).....	26
15.2.	Entitlement to Annual Leave	26
15.3.	Accrual of Annual Leave	26
15.4.	Intermittent shift (rostered) workers.....	26
15.5.	Rate of Pay for Annual Leave.....	27
15.6.	Calculation of Annual Leave Pay.....	27
15.7.	Notice of Taking Annual Leave	27
15.8.	Personal / Carer's Leave Entitlement (Permanent employees)	27
15.13.	Trauma Counselling and Trauma Leave	28
15.14.	Long Service Leave	29
15.15.	Community Service Leave	29
15.16.	Family Violence	29
16.	Public Holidays	31
17.	Consultation	32
18.	Counselling and Disciplinary Procedures	33
19.	Inclement Weather	35
20.	Employee Representatives.....	35
20.1.	Entitlement to a representative	35
20.2.	Workplace Representative Training Leave	36
	Annexure A – Classifications	38
	Ordinary Hourly Rate	39
	Annexure B - Construction Jump Up	41
	DEFINITIONS (Construction) – Victoria	44
	Table 1 – Construction Rates	45

1. Agreement Application & Operation

1.1. Title of Agreement

Skilled Rail Services Vic Enterprise Agreement 2019 (**the Agreement**).

1.2. Parties Bound

1.2.1. The Agreement covers the following parties (**the Parties**):

- Skilled Rail Services Pty Ltd (the “**Company**” in respect of all Employees of the Company covered by the Agreement; and
- the Australian Rail, Tram and Bus Industry Union (the “**RTBU**”), to the extent that the Fair Work Commission notes in its decision to approve the Agreement and the Agreement cover it; and
- All employees of Skilled Rail Services Pty Ltd whose classification and rates of pay are contained in this Agreement and are principally engaged in Rail maintenance, major periodic maintenance, associated construction, refurbishment and renewals work within Victoria, or Victorian based employees working interstate (“**Employees**”).

1.3. Period of Operation

1.3.1. This Agreement shall take effect 7 days after the Agreement is approved by the Fair Work Commission.

1.3.2. The nominal expiry date of this Agreement is June 30th 2022.

1.3.3. The Parties will review the Agreement 6 months prior to its nominal expiry date.

1.4. Relationship to Awards and Agreements and NES

1.4.1. The Agreement is a comprehensive agreement covering all minimum terms and conditions of employment, which, to the extent permitted by law, operates to the exclusion of any and all Awards and prior agreements.

1.4.2. This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

1.5. No Extra Claims

1.5.1. The Agreement is in full and final settlement of all matters subject to claims by the Parties covered by the Agreement, and for the life of the Agreement no further claims will be made or supported by the Parties covered by the Agreement.

1.6. Scope and Intent of Agreement

1.6.1. Where employees are working on a project site where the rates of pay and monetary conditions are higher than that contained in this agreement, the Company will apply the higher rates of pay and monetary conditions to those employees however any project site within Victoria shall be dealt with in conjunction with the Victorian Construction Jump Up Provisions in Annexure B.

1.7. Definitions in this Agreement

“**Act**” means the *Fair Work Act 2009* (Cth) (as amended or replaced from time to time)

“**Agreement**” means the Skilled Rail Services Vic Enterprise Agreement 2019.

“Associated Construction” means all rail construction works covered under the ARTBIU Union Rules (as amended from time to time)

“ATO Act & Guidelines” means the *Taxation Administration Act 1953* and the *Income Tax Assessment Act 1997* and associated Regulations and Guidelines (as amended from time to time)

“Casual Employee” means a person who is engaged by the Company as a casual employee, who does not have reasonably predictable hours of work and who is paid a casual loading.

“Casual Loading Breakdown” shall mean the combination of the following components:

- In lieu of paid Annual Leave and Leave Loading entitlements;
- In lieu of paid Personal Leave entitlement;
- In lieu of Notice of Termination requirements for full time employees;
- In recognition of the itinerant nature of casual work;
- In lieu of paid Redundancy entitlements.

“Classification Competencies” means the units of competence as defined in the National Transport and Logistics Industry Skills Council for Rail Transport (as amended from time to time), under the Australian Quality framework

“Company” means Skilled Rail Services Pty Ltd (ABN: 49 093 222 443)

“Day” means the length of any rostered shift

“De Facto Partner” in relation to an employee means:

- a) a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
- b) Includes a former de facto partner of the employee.

Employee means a person employed by the Company whose employment is covered by this agreement.

“FWC” means the Fair Work Commission.

“Home Depot” means the depot to which an employee is appointed upon commencement or as otherwise agreed with the employee.

“Immediate family” means:

- a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- b) A child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

“Long Service Leave Act” means the relevant Portable Long Service Leave Acts (construction) in each state the agreement operates.

“Maintenance” means track inspections, spot track surfacing, geometry corrections, weld/rail fault corrections including associated aluminothermic welding; de-stressing; ad-hoc tie/transom replacement; drain clearing; vegetation clearing; fire break creation and/or restoration; platform adjustments; signage replacement; access road re-instatement; mechanical signal maintenance and construction, bituminous surface repairs; fencing repairs; cleaning; defect rectification; lubrication and servicing; points and crossings component replacement and adjustment, off-track and on-track machine operations and all other associated and like works.

“NES” shall mean the National Employment Standard (as amended or replaced from time to time).

“Ordinary hours of work” means a maximum of 38 hours per week for a full-time employee.

“Project Work” means work other than maintenance and refurbishment on existing rail.

“Refurbishment” means in face track surfacing, dip/peak corrections including rail bending/grinding, aluminothermic welding, rail grinding, tie renewal, destressing adjustments following mechanised activities and general replacement work on a “like for like” basis including but not limited to tie renewal, bridge/structure/platforms, level crossing component/pavement, points and crossings, and rail replacements and/or relocations, re-railing including flash butt welding of rail and all other associated and like work.

“Residence” means the employee’s domicile place of residence, consistent with Australian Taxation Legislation and guidelines.

“Roster” means a work schedule containing the ordinary and overtime hours of work required of an employee over a period of time along with the RDOs, public holidays and other days of approved leave falling during that period.

“Rostered Day off (RDO)” means a week day not worked as a result of the operation of a method of working a 38 hour week where sufficient extra ordinary time is worked on a number of days and accrued to allow for the day off.

“Rostered Worker” means an employee that has agreed with the Company to be rostered to work their ordinary time on any day of the week and weekends and at nights.

“Union” means the Australian Rail, Tram and Bus Industry Union who is permitted to cover employees under its Union Rules.

1.8. Individual Flexibility

1.8.1. The Company and an Employee covered by the Agreement may agree to make an Individual Flexibility Arrangement (**IFA**) to vary the effect of terms of the Agreement if the IFA:

- (a) deals with one or more of the following matters:
 - (i) Parental Leave
 - (ii) Compassionate Leave
 - (iii) Jury Service, and
- (b) the arrangement meets the genuine needs of the Company and employee in relation to one or more of the matters mentioned in Clause 1.8.1(a); and
- (c) The arrangement is genuinely agreed to by the Company and employee.

1.8.2. The Company will ensure that the terms of the individual flexibility arrangement:

- (a) Are about permitted matters under section 172 of the Act; and
- (b) Are not unlawful terms under section 194 of the Act; and
- (c) Result in the employee being better off overall than the employee would be if no arrangement was made.

1.8.3. The Company will ensure that the individual flexibility arrangement:

- (a) Is in writing; and
- (b) Includes the name of the Company and employee; and

- (c) Is signed by the Company and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
- (d) Includes details of:
 - (i) The terms of the Agreement that will be varied by the arrangement; and
 - (ii) How the arrangement will vary the effect of the terms; and
 - (iii) How the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
- (e) States the day on which the arrangement commences.

1.8.4. The Company will give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

1.8.5. The Company or employee may terminate the individual flexibility arrangement:

- (a) By giving 28 days written notice to the other party to the arrangement; or
- (b) If the Company and employee agree in writing — at any time.

1.9. Higher Duties

1.9.1. Where an Employee is directed to work for more than 2 hours on any day on a classification of work carrying a higher rate than the employee's usual classification, the employee shall be paid the higher rate for the whole day.

1.9.2. Where an Employee is directed to work for less than 2 hours on any day on a classification of work carrying a higher rate than the employee's usual classification, the employee shall be paid for the actual time worked at the higher classification.

1.9.3. Any Employee who has acted in a higher position for any period or periods which amount to 6 months or greater than 6 months (in any continuous 12 month period) will be given a personal classification at the level of the higher position provided that the higher position does not have a permanent incumbent appointed to it and is a vacant position.

2. Contract of Employment

2.1. Probation Period

2.1.1. New full-time Employees shall be employed on probation for a period of 3 months (Probationary Period), during which time the employee's performance will be monitored.

2.2. Skills, Competence & Training

2.2.1. The Parties acknowledge that the formal skills acquisition is beneficial to the Company and the industry. Therefore, the company is committed to training and development of its employees and providing career opportunities through appropriate training to acquire additional skills required.

2.2.2. All permanent employees must be provided the opportunity to acquire a National TLI Certificate Level 3 notwithstanding that which is applicable for each classification structure contained within the attached annexures.

2.2.3. The Company must allow all Employees undertaking training for the benefit and at the direction of the Company time off without loss of ordinary pay to attend off-the-job training.

2.2.4. Employees may be required to undertake training at the direction of the Company. In order to increase the efficiency and productivity of the Company, a commitment to structured training and skill development is required.

2.2.5. Compliance Training:

- (a) All compliance training must be approved and arranged by the Company.
- (b) Compliance training will be provided to full-time and part-time Employees and the cost of training shall be paid directly by the Company.
- (c) The course cost of any compliance training provided to casual Employees will be the responsibility of the Employee, however, the Company shall reimburse the Employee after a period of 6 months continuous employment.
- (d) Where a casual employee has completed 6 months service with the employer they will be deemed as a fulltime employee for the purposes of this clause.
- (e) Compliance training includes any training that is a requirement to work in the rail corridor and maintain the classification to which an employee was employed.

2.2.6. Upskill and Multiskilling Training:

- (a) All upskill or multiskilling training must be approved and arranged by the Company.
- (b) The course cost of any upskill and multiskilling training provided to fulltime or part-time Employees will be paid directly by the Company.
- (c) The course cost of any upskill and multiskilling training provided to casual Employees will be the responsibility of the Employee, however, the Company shall reimburse the Employee after a period of 3 months continuous employment.
- (d) Upskill and multiskilling training is all other accredited training that is not a minimum requirement to perform the classification under which an Employee is employed.

2.3. Medical Assessment

2.3.1. Where an employee is required to attend a medical assessment for any reason, the Company will pay the cost of the medical assessment, including all required tests ensuing from the assessment.

2.3.2. The Company shall pay the Employee for the time taken by the employee to attend and undertake the medical assessment.

2.3.3. For the avoidance of doubt, this clause applies to all Employees of the Company i.e. full-time, part-time and casual.

2.4. Status of Employment

2.4.1. An Employees covered by this Agreement must be one of the following:

- (a) Full-time; or
- (b) Part-time; or
- (c) Casual.

2.4.2. Employees engaged in each of the above types of employment will be engaged at a base rate as set out in Clause 5.1.1.

- 2.4.3. The Company must notify Employees in writing at the commencement of the terms on which they are engaged including whether they are engaged as a full-time, part-time or casual employee and of any change to their employment.

2.5. Full time Employees

- 2.5.1. Ordinary hours of work for a full-time Employee are an average of 38 hours per week, rostered in accordance with clause 11.

2.6. Part-Time Employees

- 2.6.1. A part-time employee works a regular pattern of hours which is an average of less than 38 ordinary hours per week.
- 2.6.2. For each ordinary hour worked, a part-time employee will be paid no less than the ordinary time hourly rate for the relevant classification and pro rata entitlements for those hours.
- 2.6.3. The Company must inform a part-time employee of the ordinary hours of work and the classification applying to the work to be performed.
- 2.6.4. Before commencing part-time employment, the Company must agree in writing with the employee to all of the following:
- (a) the number of hours of work, and
 - (b) the days of the week on which the hours will be worked and
 - (c) the times at which the Employee will start and finish work each day.
- 2.6.5. An agreement under clause 2.6.4 must state that any variation mutually agreed by the Company and the Employee of any of the matters mentioned in clauses 2.6.4(a) to (c) must be in writing.
- 2.6.6. The Company must keep a copy of the agreement (including any variation to it) under clause 2.6.4 and give another copy to the Employee within 14 days.

2.7. Casual Employees

- 2.7.1. Casual Employees must be engaged for a minimum of 8 hours.
- 2.7.2. The Company must pay a Casual Employee for each ordinary hour worked a loading of 25% on top of the minimum base salary prescribed for the classification of their position.
- 2.7.3. The Company must pay any relevant penalty rates in addition to the casual loading. For the avoidance of doubt, penalty rates must be applied according to the following formula.
(Base rate x Casual loading) x penalty rate.

2.8. Casual Employees – Secure Employment

- 2.8.1. In order to enhance job security, it is an objective of this Agreement to maximise the use of permanent employment.

- 2.8.2. The parties recognise the importance of Secure Employment in the rail industry and particularly for safety critical roles. The Parties acknowledge that secure employment results in increased levels of training, experience and understanding of the hazards of the job and industry.

2.9. Casual conversion

- 2.9.1. This clause applies to casual employees who have worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee in the preceding period of 6 months.
- 2.9.2. The employee must disclose to the Company any other employment relationships and may be required to cease such relationship if it results in any of the following:
- (a) a conflict of interest;
 - (b) unsatisfactory work performance;
 - (c) absenteeism; or
 - (d) insufficient rest intervals or fatigue.
- 2.9.3. The conversion of a casual employee to full-time employment will take effect from the start of the next pay cycle, following a request by the employee to convert, unless otherwise agreed.
- 2.9.4. The Company must not engage and re-engage (which includes a refusal to re-engage) a casual employee, or reduce or vary their hours, in order to avoid any right or obligation under this clause.

2.10. Termination of Employment

- 2.10.1. Termination of Employment by the Company or the Employee shall be by giving the relevant period of notice as set out in the table below:

Where the Employee 's Period of Continuous Service with the Company is:	The Period of Notice is:
All Casual employees	8 hours
All 'Full Time' and 'Part Time' employees other than casuales:	
Up to 1 year	1 week
1 year or more but not more than3 years	2 weeks
3 years or more but not more than5 years	3 weeks
5 years or more	4 weeks

- 2.10.2. With the exception of casual employees, an Employee who is over the age of 45 and has completed at least 2 years of service with the Company at the time of giving of the notice is entitled to one extra weeks' notice in addition to the period set out in the above table.
- 2.10.3. In circumstances where the Employee terminates their employment, the Employee's obligations with respect to notice shall be as per the criteria in the table set out in sub-clause 2.10.1. If the Employee fails to give the required period of notice, the Company has the right to withhold monies owed to the Employee up to a maximum equal to the hourly rate of pay including allowances of the notice period.
- 2.10.4. Alternatively, the Company may pay the Employee in lieu of their notice period, or require the Employee to work for part of the Employee's notice period and pay the Employee in

lieu of the balance of the period. Payment shall only be made for the time an Employee would have ordinarily worked during that period.

2.10.5. An employee may be terminated without notice for serious misconduct.

2.10.6. The employment of a limited term or assignment employee, or an employee employed for a project may be terminated by:

- (a) The completion of the specified time; or
- (b) Completion of the assignment, project, site; or
- (c) The notice provision outlined in Clause 2.10.

2.10.7. Where the employee has abandoned their employment, the terms of clause 2.11 apply.

2.10.8. When an Employee's employment is terminated, the Company shall pay any wages due as soon as practicable, and in any case with the next pay run.

2.11. Abandonment of Employment

2.11.1. The absence of an employee from work for a continuous period exceeding 4 rostered working days shall be preliminary evidence that the employee has abandoned their employment if any of the following apply:

- (a) The employee is absent without consent of the Company; or
- (b) The employee is absent without a reason acceptable to the Company; or
- (c) The employee is absent without notification to the Company.

2.11.2. The Company must make reasonable attempts to contact an employee before declaring that the employee has abandoned their employment. For the avoidance of doubt, reasonable attempts are defined as follows:

- (a) Phone contact to the Employee and their emergency contact; and
- (b) A formal letter sent to the Employee's last known address advising them that their employment will be terminated should the Employee fail to contact their supervisor; and
- (c) Where possible physical contact.

2.11.3. The Company must not terminate an employee's employment unless the Company has given written notice of termination, which will not be before the day of termination.

2.11.4. The amount of notice, or payment instead of notice, must be in accordance with the NES as prescribed in the Act.

2.12. Drugs and Alcohol

2.12.1. The Company expects all employees to attend work in a fit and healthy condition free from the effects of drugs and/or alcohol to ensure that work can be performed safely. Accordingly, it is prohibited for an employee to attend work under the influence of any drug or intoxicant, and the possession of drugs other than those medically prescribed is prohibited on site. If an employee uses or possesses medically prescribed and / or non-prescribed drugs that can potentially affect an employee's ability to be fit for work, then he/she must declare this to their supervisor when arriving at the site. For the avoidance of

doubt, drugs referenced in this clause means; illicit drugs, prescription drugs and over the counter medications.

- 2.12.2. If an Employee found in possession of, using and/or under the influence of intoxicants or non-prescribed drugs, he/she will be subject to disciplinary action, which may include suspension without pay or summary dismissal.
- 2.12.3. The employee(s) bound by this agreement will be required to adhere to the Company's and Client's site alcohol and other drugs procedures that shall be consistent with the respective State's Rail Safety Act Provisions, which includes pre-employment, random and for cause testing on site. Random testing for the purposes of this clause will be done in paid work time.
- 2.12.4. The Company commits, where possible, to inform employees on site prior to the initiation of any random alcohol and other drugs testing under the company's policies and/ or procedures.
- 2.12.5. Employees bound by this Agreement who require assistance and support with alcohol, gambling and/ or drug issues, will have access to the Company Employee Assistance Program.

2.13. Employee Obligations

2.13.1. Each employee covered by this Agreement shall:

- (a) Complete any site induction program prescribed by the Company;
- (b) Agree to abide by the Company's policies and procedures and the provisions of this Agreement;
- (c) Be required to carry out work either individually or as part of a team;
- (d) Be responsible for carrying out work in a safe manner and for the quality of their work;
- (e) Be prepared to carry out such duties as are within the limits of the employees skills, competence and training consistent with the classification structure of the Agreement;
- (f) Be prepared to train employees classified at a lower level than themselves and assist employees classified at a higher level than themselves;
- (g) Undertake work required of them on any worksite in a diligent, flexible and cooperative manner; and
- (h) Present themselves fit for duty and remain on duty for the duration of their shift. Employees shall understand that the Company is under no obligation to pay for any hours, where the employee is absent without authorised leave.

2.14. Amenities, Clothing and Personal Protective Equipment

- 2.14.1. The company will ensure that employees have appropriate access to client provided amenities. These may include drinking and boiling water, heating and cooling, ventilation, washing toiletry and rest room facilities and hand cleaning facilities in accordance with the relevant Workplace Health & Safety legislation and comply with the "Workplace amenities and work environment compliance code", as updated from time to time.
- 2.14.2. The Company will provide each employee with all work and safety clothing and protective equipment.

2.14.3. The work clothing and PPE shall be supplied prior to commencement of employment by the Company, and will be consistent with the relevant Australian New Zealand standards and the following items of safety clothing which must be worn at all times when appropriate: Permanent employees of The Company will be provided with:

- 2 sets of overalls or shirts and pants
- 1 set of wet weather gear comprising of pants and a jacket
- 1 hat
- 1 pair of safety boots (lace up or ankle high)

2.14.4. All clothing and footwear mentioned above will be replaced on a fair wear and tear basis on the condition that old clothing or footwear is presented for inspection if required.

2.14.5. Additional personal protective equipment e.g. hard hat, Hi-Vis vest (AUS/NZ 4602) wet weather gear, gloves and safety glasses, will be supplied by the Company on an individual basis where/when required.

2.14.6. All amenities, clothing and PPE shall be the responsibility of the Company and paid for by the Company.

2.14.7. Should the employee leave within the first 12 weeks of employment via resignation, then they are required to either return or reimburse the Company for the PPE that they have been provided.

3. Dispute Settlement Procedure

3.1. Procedure

3.1.1. A dispute that relates to:

- (a) matter arising under the Agreement; or
- (b) the National Employment Standard; or
- (c) a matter pertaining to the employment relationship

Shall be dealt with in accordance with this clause.

3.1.2. At any stage of this Dispute Settlement Procedure, the Employee may appoint a representative of their choice. The Company must recognise the representative.

3.1.3. The following procedure apply:

Stage 1

In the first instance, a dispute will be raised with the employee's Company contact person.

The Company contact person will provide a response to the employee within 48 hours or such other timeframe as agreed between the employee and the Company contact person.

Where the matter is not resolved, or the response is not received within 48 hours (or agreed timeframe), the employee may progress to stage 2 of the process.

Stage 2

In the event that a matter remains unresolved following Stage 1, the employee may refer the matter to a Senior Manager.

The Manager will respond to the employee within 48 hours or such other timeframe as is agreed between the employee and the Manager.

Where the matter is not resolved by the Manager, or the response is not received within 48 hours (or agreed timeframe), the employee may progress to Stage 3 of this process.

Stage 3

In the event that a matter remains unresolved following Stage 2, the employee may request that the matter be referred to the Manager, Human Resources or Industrial Relations.

The Manager, Human Resources or Industrial Relations shall respond within 3 working days or such other timeframe as is agreed between the employee and the Regional Manager.

Where the employee is dissatisfied with the response from the Executive officer, or the response is not received within 3 working days (or agreed timeframe), the employee may progress to Stage 4 of this process.

Stage 4

In the event that a matter remains unresolved following Stage 3, the employee and / or their representative or the Company may refer the matter to FWC.

The FWC may deal with the dispute in 2 stages:

- (a) The FWC may first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- (b) If the FWC is unable to resolve the dispute at the first stage, the FWC may arbitrate the dispute, and make a determination that is binding on the parties.

- 3.1.4. If the FWC arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision the FWC makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

- 3.1.5. Any decision of the FWC must not be inconsistent with the national code of practice for the construction industry and the implementation guidelines (2009) or be inconsistent with legislative provisions.

- 3.1.6. While the parties are trying to resolve the dispute using the procedure in this clause, the Employee's work must continue in accordance with the usual practice existing prior to the matter that is the subject of the dispute (status quo), pending the resolution of the dispute, unless the employee has a reasonable concern about an imminent risk to health and safety. For the avoidance of doubt, the state of affairs as it existed prior to the matter that is the subject of the dispute will remain in place. For example, if the dispute is about a change to work, the status quo represents the position before the change.

- 3.1.7. Where the dispute involves more than one Employee, the parties may agree to bypass Stages 1-3 in this clause and deal with the dispute in the first instance through Stage 4, by referring the dispute to the FWC.

- 3.1.8. The Parties to the dispute agree to be bound by a decision made by the FWC in accordance with this clause.

4. Classifications

- 4.1. An employee will be assigned to a classification level based on skills, qualifications and experience and in consideration of the substance of the duties to be carried out on the site or workplace. The employee's classification level will be specified in the notice of offer made by the Company to the employee.
- 4.2. Classifications will be determined on skills required for the particular role.
- 4.3. The classification structures are set out in Annexure A, Annexure B.

5. Wage Rates

5.1. Ordinary hourly wage rate

5.1.1. An employee will be paid:

- (a) The rate as prescribed in the attached Annexures for each applicable classification. Employees are also entitled to allowances, overtime and any other entitlements as set out in this Agreement.
- (b) Where an employee travels interstate they will be paid at the rate applicable in their state of residence or the state in which work is being undertaken, whichever is the greater.

5.2. Payment of Wages

5.2.1. Payment of wages shall be by electronic funds transfer on a fortnightly or weekly basis to a single bank account nominated by the employee and available no later than close of business on a Friday. Where a public holiday or weekend falls on the normal pay day, the payment shall be made as is practicable after the normal pay day.

6. Allowances

- 6.1. The Allowances set out in this clause shall be paid in addition to the rate of pay applicable to the employee who becomes eligible for the allowance, for the life of the Agreement.

6.2. Allowances

Allowance	Rates on FWC Approval
First aid allowance – payable when undertaking designated first aid officer duties at the request of the company or client site.	\$16.39 per day
Leading Hand Allowance ('All Purpose') - Payable when performing leading hand duties at the request of the company or client site	

Allowance	Rates on FWC Approval
Leading hand 4 employees or less	\$1.87 per hour
Leading hand more than 4 employees	\$2.36 per hour
Confined space – payable to employees with a confined space ticket when working in confined spaces as directed by the Company or client site.	\$1.05 per hour (flat)

6.3. On-Call

6.3.1. An employee who is required by the Company to be on-call and returns to work from their residence will be paid for the call out at the classification rate for a minimum of 4 hours. For the purposes of the minimum payment the first 2 hours will be paid at time and one half and then at double time, except that:

- Any time worked on a Sunday will be paid at double time;
- Any time worked on a Public Holiday will be paid at double time and one half.

6.3.2. Where an on-call call out extends beyond the minimum 4 hour payment period the employee will be paid for those hours actually worked commencing from the time the employee is called until the employee returns home.

6.3.3. An Employee who is required by the Company to be available outside normal working hours for recall to work will be paid an allowance as set out below:

- Rostered Ordinary Hours Shift Monday – Friday \$25.79 per day.
- Non – rostered workdays Monday – Sunday \$51.58 per day.

6.3.4. An Employee who has been recalled to work shall be entitled to be absent from work until the Employee has had 10 consecutive hours off duty without deduction of pay for ordinary time of duty occurring during such absence.

6.3.5. The provisions in the paragraph above do not apply to an employee who is recalled to work within 2 hours of normal starting time.

6.4. Daily Travelling Allowance

6.4.1. Daily Travel arrangements from the employees principal place of residence to the worksite (as required by the Company) shall receive the following travel allowance provided they are not using the employer's transport or travelling from accommodation arranged by the employer;

- Between 0 and up to 50 kms radial distance from the employee's principle place of residence to the worksite at \$36.38 per day.
- Between 51 kms and up to 100kms radial distance from the employee's principle place of residence to the worksite at \$50.51 per day.
- Over 100 kms radial distance from employee's principle place of residence to the worksite at \$93.48.

- (d) An employee claiming travel allowance shall demonstrate to the satisfaction of the Company their place of residence by for the example of the production of 2 utility bills and a current driver's license.
- (e) The Company may accept another form of satisfactory evidence from the employee demonstrating his/her place of residence.

6.4.2. Provision of Transport

The allowance prescribed within clause 6.4.1 shall not be payable on any day on which the employer provides or offers to provide transport free of charge from the employee's principal place of residence to the place of work and return.

6.4.3. Use of Personal Vehicle During Ordinary Working Hours

- (a) An employee transferred from one site to another during working hours shall be paid for the time occupied in travelling and unless transported by the employer, shall be paid reasonable cost of fares by most convenient public transport between such sites;
- (b) Provided that where the Company requests an employee (and the employee agrees) to use his/her own vehicle, the employee shall be paid an allowance at the rate of \$1.04 per km. This rate shall increase in line with the wage increases contained within this agreement.
- (c) For the avoidance of doubt employees, who are requested and agree to use their own vehicle for work purposes shall qualify for the allowances prescribed in this clause regardless of whether the travel undertaken is between sites, or within the boundary of a single site.

6.4.4. Travelling Time Living Away From Home

Whilst an employee is at the direction of the Company living away from home, all travelling time (travel out and travel back from residence), including intervening journeys, where an employee is working at a temporary location from which they are unable to return home on a daily basis, will be paid at single time rates other than on a Saturday, Sunday and Public Holiday when the rate shall be time and a half.

6.5. Travel & Incidental Expenses

6.5.1. Employees who are required to temporarily work at a location or locations, where they are unable to return to their usual place of residence daily and who incur the expense of overnight accommodation and meals, shall be paid entitlements in accordance with the rates set out in Annexure A.

6.5.2. Entitlements will be calculated as follows;

- (a) Breakfast – depart home before 0700 and return to home after 0800
- (b) Lunch – depart home before 1300 and return to home after 1400
- (c) Dinner – depart home before 1830 and return to home after 1830
- (d) Accommodation – depart home before 0100 and return to home after 0100.

6.5.3. Where an employee incurs reasonable and actual expenses, on a daily basis, supported by receipts, in excess of the rates specified in the abovementioned Annexures, she/he shall be reimbursed by the company for those expenses. Accommodation provided will be (where possible) to a single room, 3 star standard as accredited by the applicable state based motoring organization i.e. NRMA, RACV and RACQ will be considered "reasonable" for the purposes of reimbursement. Employees who seek to claim reimbursed cost due to travel should gain prior approval from the company before any travel is arranged.

- 6.5.4. In circumstances where the company provides reasonable accommodation to its employees, the employees will be paid an amount as per the applicable travel and incidental allowance relevant to the state, provided in Annexure A.

7. Superannuation

- 7.1.1. The Company will comply with all relevant superannuation legislation as amended from time to time.
- 7.1.2. The Company will pay an amount equivalent to the prevailing Superannuation Guarantee Levy into one of the following approved funds (as nominated by the employee):
- (a) C Bus;
 - (b) Vic Super;
 - (c) Australian Super; or
 - (d) A fund of the employee's choice.

8. Redundancy – All Permanent Employees

- 8.1.1. A Redundancy may occur where the Company determines that they no longer require the job to be done by the Employee or by anyone, except where this is due to the ordinary and customary turnover of labour. Where practicable, the process for Redundancies will provide for voluntary Redundancies in the first instance.
- 8.1.2. Where a Redundancy is proposed, the Company will undertake prior consultation with the affected Employee and their nominated representative, regarding the reasons for the Redundancy; options or alternatives that may be available for the affected Employee and; other relevant information, including time of implementation.

8.2. Definitions

- 8.2.1. **Business** includes trade, process, business or occupation and includes part of any such business.
- 8.2.2. **Transfer of Business** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and transmitted has a corresponding meaning.
- 8.2.3. **Week's pay** for the purposes of this clause means the pay rate for the employee concerned as prescribed by the relevant schedule of this Agreement. Provided that such rate shall exclude:
- (a) Overtime
 - (b) Penalty rates;
 - (c) Disability allowances;
 - (d) Shift allowances;
 - (e) Special rates;
 - (f) Fares and travelling time allowances;
 - (g) Bonuses and/or flexible reward scheme payments; and
 - (h) Any other ancillary payments of a like nature.

8.3. Severance Pay

- 8.3.1. An employee whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of Continuous Service	Severance Pay
Less than 1 year	Nil
1 year but less than 2 years	4 weeks' pay
2 years but less than 3 years	6 weeks' pay
3 years but less than 4 years	7 weeks' pay
4 years but less than 5 years	8 weeks' pay
5 years but less than 6 years	10 weeks' pay
6 years but less than 7 years	11 weeks' pay
7 years but less than 8 years	13 weeks' pay
8 years but less than 9 years	14 weeks' pay
9 years or more	16 weeks' pay

8.4. Employees exempted

- 8.4.1. This clause does not apply to:

- (a) Employees terminated as a consequence of serious misconduct, performance or other inability to fulfil the contract of employment; or
- (b) Employees who resign; or
- (c) Employees engaged for a specific period of time or for a specified task or tasks; or
- (d) Casual employees.

8.5. Incolink Contributions

- 8.5.1. The Company is, and will remain during the life of this Agreement, a member of the Redundancy Payment Approved Workers Entitlement Fund 2 ("Incolink Number 2 Fund") of which Redundancy Payment Central Fund Ltd ("Incolink") is trustee, and all the employees of the Company within the scope of this Agreement will be enrolled in the Incolink Number 2 Fund and be entitled to redundancy benefits in accordance with the terms of the Trust Deed.
- 8.5.2. The Company shall pay contributions to the Incolink Number 2 Fund on behalf of each employee (other than apprentices) on a weekly basis in accordance with the Trust Deed. If Incolink nominates any other fund, the Company shall pay contributions to that fund on behalf of each employee on a weekly basis and in accordance with the constituting documents of that other fund.
- 8.5.3. An employee is entitled to access his/her redundancy payments when they cease to be employed by the Company.

- 8.5.4. The liability of the Company to pay redundancy payments to an employee under this clause will be met by the making of the contributions on behalf of each employee required as a member of the Incolink Number 2 Fund, or by another fund nominated by Incolink.
- 8.5.5. In circumstances where an employee is made redundant, if there is a shortfall in the Incolink Fund the company will make up the difference to the amount due under clause 8.3 of the Agreement.
- 8.5.6. References in this clause to “Incolink Number 2 Fund” include a reference to another fund for comparable purposes nominated by Incolink for the purpose of this Agreement as a fund which supersedes the Incolink Number 2 Fund.
- 8.5.7. Employees working less than 38 hours per week shall receive Incolink payments on pro rata basis.

8.6. Income Protection, Trauma and Journey Insurance

- 8.6.1. The Company is, and will remain during the life of this Agreement, a participating employer in the Incolink Number 2 Fund (or other redundancy fund of which Incolink is a trustee) and an employer member of IPT Agency Co Ltd or IPT Agency Co (No. 2) Ltd. IPT Agency Co Ltd and IPT Agency Co (No. 2) Ltd administer the insurance schemes covering income protection, trauma and journey accidents (**Income Protection, Trauma and Journey Accidents Insurance Schemes**).
- 8.6.2. The Company shall pay contributions to IPT Agency Co Ltd or IPT Agency Co (No. 2) Ltd (as relevant) on behalf of each employee of the Company employed within the scope of this Agreement, on a monthly basis, in accordance with the Constitution of IPT Agency Co Ltd or IPT Agency Co (No. 2) Ltd (as relevant).
- 8.6.3. Pursuant to the Income Protection, Trauma and Journey Accidents Insurance Schemes, an employee of the Company employed within the scope of this Agreement will:
 - (a) (**Income Protection**) receive defined weekly payments (the current table of benefits is available from Incolink) in the event of an extended work absence arising from any personal illness or injury that occurs at the time the employee is an employee of the Company.
 - (b) (**Trauma**) receive or have paid on their behalf financial compensation in the event of a major work related accident (i.e. Work Cover) resulting in the death or permanent disablement of the employee and occurring at the time the employee is an employee of the Company (the full and precise conditions of this cover will be in accordance with the terms of the insurance policy and is available from Incolink).
 - (c) (**Journey Accidents**) receive payments in accordance with the terms of the insurance policy for the duration of the employee’s absence (the full and precise conditions of this cover will be in accordance with the terms of the insurance policy and is available from Incolink) if:
 - (i) the absence is because the employee is unable to work due to injuries resulting from any accident incurred during journey between the employee’s residence and the workplace, that occurs at the time the employee is an employee of the Company; and
 - (ii) all such absences are supported by certification of a duly authorised medical practitioner and indicating the causal nexus between the travel to and from work and the employee’s inability to attend for work

8.7. Accident Make Up Pay

- 8.7.1. An employee, who is in receipt of workers compensation payments, shall also receive payment from the Company of an amount equal to the difference between the workers compensation payment and the Employee's ordinary base rate of pay at the time of the injury for a maximum period of 52 weeks.
- 8.7.2. An employee on engagement shall be required to declare all workers compensation claims made by them and in the event of false or inaccurate information being deliberately and knowingly declared the employer may require the employee to forfeit their entitlement to accident pay. Accident pay shall not be paid where any period of other paid leave of absence has been granted.
- 8.7.3. In the case of an employee rostered off on a programmed leisure day/extra day off which falls in a period when they are receiving workers compensation, they are not entitled to an alternative programmed leisure day/extra day off at a later stage. The employer shall not dismiss any employee by reason only of them being in receipt of accident pay.
- 8.7.4. An employee off duty and in receipt of accident pay shall continue to receive payments of any acting in higher allowance being paid at the time of the injury for the full period that they would have continued to so act.
- 8.7.5. An employee who has submitted a claim for workers compensation and is absent from duty for more than a week and where it is apparent there may be a delay in the assessment of their claim, may be paid sick leave (subject to availability of credits) pending determination of the claim. On acceptance of a claim, sick leave used under this clause for the claim will be re-credited. In the event that there is no sick leave available, other leave may be used, subject to the usual approval process.

9. Induction and Orientation

- 9.1.1. All Employees engaged under this Agreement will undergo an induction and orientation program at the commencement of employment, during which they will be familiarised with the Company, their work sites and the requirements of their position. The program will include an induction course aimed at welcoming new Employees and assisting them to work effectively in the company.
- 9.1.2. The Company will notify parties to this Agreement about the dates of proposed face to face inductions.

10. Hours of Work

10.1. Hours of Work – Day Work

- 10.1.1. The maximum ordinary hours that can be worked are:
 - (a) 7.6 hours per day (or 8 hours as per clause 11.5 - RDO) and
 - (b) 38 hours per week Monday to Friday.
- 10.1.2. The span of ordinary hours is from 6:00am to 6:00pm Monday to Friday (except for designated shift/rostered work).
- 10.1.3. The provisions specified in clauses 10.1.1 and 10.1.2 may be varied by mutual agreement by the majority of affected employees.

10.2. Overtime

- 10.2.1. Employees may be required to work reasonable overtime where the Company deems it necessary.
- 10.2.2. All hours worked beyond 7.6 hours per day; or beyond 8 hours per day must be paid at the relevant overtime rate.
- 10.2.3. All overtime worked Monday to Saturday (noon) must be paid at time and a half for the first 2 hours and double time thereafter.
- 10.2.4. Employees engaged to work overtime on Saturday must be paid a minimum of 4 hours.
- 10.2.5. All overtime worked on Saturday (after 12:00pm) and Sunday must be paid at double time.
- 10.2.6. Employees engaged to work overtime on Sunday must be paid a minimum of 4 hours.
- 10.2.7. Employees required to work any Public Holiday (Clause 16 of this Agreement) must be paid double time and a half with a minimum of 8 hours.
- 10.2.8. All overtime for continuous shift workers in accordance with the definition, must be paid at double time.

10.3. Shift Work definitions

- 10.3.1. **Shiftwork** means any ordinary hours of work that occurs outside the normal span of hours as prescribed in clause 10.1.
- 10.3.2. **Continuous Shift Worker** means an Employee whose Ordinary hours can be worked on a 24/7 continuous basis, e.g. Day Shift, Afternoon Shift and Night Shift rotating continuously over 7 days of the week.
- 10.3.3. **Afternoon shift** means a shift of ordinary hours finishing after 1830 hours and at or before 2400 hours.
- 10.3.4. **Night shift** means a shift of ordinary hours finishing after 2400 hours and at or before 0800 hours or commencing before 0400 hours.
- 10.3.5. **Early morning shift** means a shift that commences between 0400 hours and 0600 hours. Payment shall (subject to any agreement in Clause 10.1.3) be paid at the applicable overtime rate for all time worked between those hours.
- 10.3.6. **Permanent night shift** means an employee who remains on nights shift for a period of 4 successive weeks or longer.
- 10.3.7. **Short Shift** means where a full time employee works 4 shifts or less of night shift. Except where the working week has been condensed into 3 or 4 shifts and/or the continuity of shifts is broken by a Public Holiday, any type of leave, RDO or weekend Short Shift does not apply to casual employees.
- 10.3.8. **Saturday Shift** means (subject to clause 11.4b)) rostered ordinary hours shift that commence between 12:00am Saturday and 11:59pm Saturday.
- 10.3.9. **Sunday Shift** means a (subject to clause 11.4b)) rostered ordinary hours shift that commence between 12:00am Sunday and 11:59pm Sunday.
- 10.3.10. Shift Loadings

Type of Shift	Shift Rates
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Afternoon Shift	15% loading
Night Shift	30% loading
Short Shift	100% loading
Saturday Shift	100% loading
Sunday Shift	100% loading
Early morning shift	applicable overtime rate

- a) **Casual employees** working on a Saturday shall be paid at the rate of time and a half for the first 2 hours and double time thereafter.

10.3.11. Recognition/Payment of Shifts

- a) The company will view and pay employees for shifts worked as per the above clauses on the basis of when the shift commences.
- b) For the avoidance of doubt, arrangements as described in a) above will be paid as per the following example; employee(s) starting a night shift on a Sunday evening will be paid for the entire shift at the relevant Sunday penalty rate.

11. Rostering Principles

11.1. Rostering will be based on fatigue management principles which:

- Address the opportunity for quantity and quality of sleep, particularly the 'time of day' effect;
- Ensure the number of consecutive shifts (in particular night shifts), shift lengths and roster periods between shifts are considered in roster compilation; and
- Understands that employees have a need to balance their competing requirements of their job with social, community and/or home life obligations.

11.2. The parties acknowledge the variations in business requirements for rostered work across the Company's business. These variations need to be addressed through consultation with the affected employee(s) which addresses business requirements while ensuring compliance with the rostering principles contained in this Agreement.

11.3. The allocation of annual leave for a rostered employees (excluding casuals) should ensure that a minimum of 2 weeks annual leave can be taken by staff with school age children within a recognised school holiday period and to ensure equity in annual leave rostering.

11.4. The following principles apply to full time employees (available for rostering) only:

- Rosters will be posted 14 days in advance. You will be consulted about any changes to your normal ordinary hour's roster. The maximum number of times your shift can be changed is 2 shifts in a 14 day period.
- Rosters will take account of the following:
 - Ordinary shifts to be worked by an employee will be a maximum length of 10 hours (12 hours including travel time to/from residence)
 - The maximum number of consecutive 10 hour shifts that may be rostered is 8

- (iii) You will not be rostered to work more than 2 weekends in any 28 day period (for the purposes of this clause 'weekend' means either a Saturday, a Sunday or both Saturday and Sunday)
 - (iv) The maximum number of consecutive shifts you may be required to work is 10
 - (v) Weekend rosters will take consideration of available competencies and volunteers
 - (vi) You will not be rostered to work within 10 hours of finishing your last shift
 - (vii) The maximum number of night shifts and afternoon shifts is:
 - 2 weeks of night shifts in a 28 day period; or
 - 2 weeks of afternoon shifts in a 28 day period; or
 - 1 week of both afternoon and night shifts in a 28 day period
- c) The provisions contained in a) and b) above may be varied at any time by mutual consent between both the employer and the majority of affected employees

11.5. Rostered Days off (RDOs)

- 11.5.1. RDOs may be implemented at a site or workplace as approved by the Company, to meet the Company's operational requirements.
- 11.5.2. The following RDO arrangements may be implemented:
- a) 1 RDO per 4 week cycle as specified by the Company, where hours worked per day will accrue on a daily basis at the relevant rate;
 - b) 1 RDO per 4 week cycle accrues at the rate of 0.4 hours per day.
- 11.5.3. An RDO may, by mutual agreement between the Company and the employee, be deferred and taken at an alternative date.
- 11.5.4. Any deferred RDO shall be taken within a period of 6 months from the date of the deferment. If the RDO is not taken within a period of 6 months it shall be paid out, on application by the employee, at the employee's pay rate.
- 11.5.5. Employees who are not accruing an RDO are entitled to overtime payments consistent with the overtime Clause 10.2 for time directed to be worked in excess of 38 hours per week.
- 11.5.6. Employees who are accruing an RDO are entitled to overtime payments consistent with the overtime Clause 10.2 for time worked in excess of 40 hours per week (this may vary by agreement between the employee and the Company).
- 11.5.7. Where an employee terminates employment with the Company with time accrued towards an RDO, such accrued time shall be paid out at the employee's base rate of pay or flat rate of pay (whichever is applicable to the particular employee).
- 11.5.8. An RDO may be cashed out at the requesting employee's base rate of pay (exclusive of any allowances) or flat rate of pay (whichever is applicable to the particular employee) subject to the Company's absolute discretion.
- 11.5.9. Multiple employees can have the same rostered day off provided the company's work schedule allows for multiple employees to be absent on the same day. Where the company's work schedule prevents all employees taking RDO's on the same day, employees must seek approval from management for their requested RDO.

12. Call Back

An employee who is recalled to work overtime after leaving their work assignment premises must be paid for at least 4 hours work at the appropriate rate for each time the employee is recalled.

13. Minimum Break Between Shifts

- 13.1. An employee, where reasonably practicable, must have 10 consecutive hours off duty. An employee, other than a casual, who works so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day who has not had 10 consecutive hours off duty between those will, be able to have 10 consecutive hours off duty without loss of ordinary working time occurring during such absence.
- 13.2. If on the instructions of the Company, an employee resumes or continues work without having had ten (10) consecutive hours off duty, the employee shall be paid double time until they are released from duty and will be entitled to be absent until ten (10) consecutive hours off duty has been taken, without loss of pay for ordinary working time occurring during the absence.
- 13.3. In the case of shift/rostered workers, 8 hours will be substituted for 10 hours overtime worked:
- a) For the purpose of changing shift rosters; or
 - b) Where a shift is worked by arrangement between the employees themselves.

14. Breaks

14.1. Meal Breaks

- 14.1.1. Employees must take an unpaid meal break of no less than 30 minutes, or as otherwise agreed between the Company and majority of employees, provided that an employee must not be required to work more than 5 hours without a meal break.
- 14.1.2. The meal break is unpaid for day workers and paid for shift workers.
- 14.1.3. If the employee is required to work through their meal break then the employee must be paid double time for the period worked between the prescribed time of finishing and the beginning of the time allowed in substitution for the meal breaks.
- 14.1.4. Employee (s) who are required to perform safe working duties where breaks cannot be feasibly accommodated will be paid for a 20 minute break in substitution of clause 14.1.1 and 14.1.3.
- 14.1.5. Where an employee is required to work overtime (Monday to Friday) for more than 2 hours without being notified on the previous day or earlier that he or she will be required to work, shall either be supplied with a meal by the company or be paid a meal Allowance of \$22.00 and if they work beyond a further 2 hours, a further meal allowance shall be paid for a second meal.
- 14.1.6. Overtime meal expenses will be adjusted as per wage percentage increases listed.

14.2. Rest Breaks

- 14.2.1. All employees shall be entitled to one paid rest break of fifteen minutes within the first 3 hours of commencing an ordinary shift.
- 14.2.2. The rest pause will be taken at a mutually agreed time between the Company and the majority of employees affected so as not to interrupt the operations of the Company or Client site or workplace. To meet individual or Company needs, the Company and any individual employee may reach agreement to take rest pauses at a time other than that determined by the majority.

15. Leave Entitlement

15.1. Annual Leave (Permanent employees)

- 15.1.1. Annual leave entitlements are provided for in the NES. This clause supplements those entitlements and provides industry specific detail.

15.2. Entitlement to Annual Leave

- a) An employee is entitled to annual leave, in addition to the amount provided for in the NES, such that the employee's total entitlement to annual leave pursuant to the NES and this Agreement for each year of employment is a cumulative total of 152 ordinary hours (four weeks on the basis of a 38 hour week).
- b) A continuous shift worker, who is regularly rostered to work shifts that are worked continuously over 24 hours for 7 days a week including Sundays and public holidays, is entitled to 190 hours (5 weeks on the basis of 38 hours per week) of annual leave accrued for every 12 month period of continuous service.

15.3. Accrual of Annual Leave

- 15.3.1. Employees, other than casual employees, accrue annual leave at the following rate:

- 152 hours per annum for 4 weeks annual leave
 - 190 hours per annum for 5 weeks annual leave (shift worker)
- a) Annual leave is cumulative from year to year.
- b) Part-time employees accrue annual leave on a pro-rata basis.

15.4. Intermittent shift (rostered) workers.

- 15.4.1. Means when employees work shift work arrangements that would not eventuate into a full shift worker entitlement for the purposes for the additional week annual leave as per the above.
- 15.4.2. The intermittent shift worker entitlement for the purposes of this agreement shall be a pro-rata accumulation per calendar quarter over a calendar year (period).

15.4.3. Accordingly, when employees work a minimum of ten (10) rostered shifts in a calendar quarter of ordinary time that attract either of the following penalties;

- Night shifts
- Afternoon shifts
- Saturday shifts
- Sunday shifts
- Public holiday shifts

Then they will accumulate 1.25 days per calendar quarter in addition to the 152 hour minimum entitlement above.

15.5. Rate of Pay for Annual Leave

15.5.1. Annual leave shall be paid at an employee's pay rate, as applicable immediately prior to the taking of annual leave.

15.6. Calculation of Annual Leave Pay

- a) An employee taking annual leave must be paid the employee's ordinary rate of pay plus a loading of 17.5%;
- b) Employees who are regarded as full time shift workers and would have worked on shift work had they not been on annual leave and where the employee would have received a shift loading as prescribed by Clause 10.3 will be entitled to shift loading or the annual leave loading whichever is the greater.
- c) If the Employee is on annual leave and that annual leave includes a period of other leave included in the NES (other than parental leave), the employee will not be taken to be on annual leave in accordance with section 89(2) of the Act.
- d) If a public holiday falls within a period of annual leave, a day is credited to the employee's entitlement to annual leave.

15.7. Notice of Taking Annual Leave

15.7.1. An employee must give one months' notice of their intention to take annual leave. Annual leave applications are approved or declined by the Company upon consideration of its operational requirements.

15.8. Personal / Carer's Leave Entitlement (Permanent employees)

- a) Casual employees are not entitled to paid Personal/carer's leave.
- b) A full-time employee is entitled to 10 days on the basis of personal/carer's leave (inclusive of the employee's NES entitlement) per year on commencing employment and on each anniversary of commencement. Any personal leave that is not taken by an employee must accumulate without limitation.
- c) An employee is entitled to 5 days per year absence on personal leave without the production of a medical certificate. The employee shall not take more than 2 consecutive days off without a certificate.
- d) Employees must notify the Company of their absence prior to the commencement of their shift. Employees who fail to notify the Company of their absence under this clause will be regarded as absent

without approved leave and if the employee is unable to provide reasonable proof or evidence that they could not contact the Company to advise of their absence then they may be subject to disciplinary action.

- e) Part-time employees accrue personal leave on a pro-rata basis.
- f) Personal/ Carers leave is not paid out on termination.

15.9. Evidence required

- a) The Company may, in any personal leave year of service, grant an aggregate of five (5) days leave of absence on the grounds of illness without the production of a medical certificate. Furthermore, the maximum number of consecutive days that will be granted without the production of a medical certificate shall be 2.
- b) After exhausting the above and if requested by the company, the employee must provide a medical certificate or such other evidence as will prove to the company's reasonable satisfaction that the absence from work was for the reasons set out in the NES.

15.10. Casual Employees

15.10.1. Casual employees will be entitled to 2 days of unpaid carer's leave in accordance with the Act.

15.11. Parental Leave

15.11.1. Employees will be entitled to Parental Leave in accordance with the Act.

15.12. Compassionate Leave

15.12.1. In accordance with and subject to the requirements of the Act a permanent employee is entitled to 2 days of compassionate leave for each occasion when a member of the employee's immediate family or a member of the employee's household;

- a) Contracts or develops a personal illness that poses a serious threat to his/her life; or
- b) Sustains a personal injury that poses a serious threat to his/her life; or
- c) Dies.

15.12.2. An employee is entitled to compassionate leave if the leave is for the purpose of spending time with the employee's immediate family member or member of the household in the circumstances of clause 15.12.1(a) or 15.12.1(b) or 15.12.1(c).

15.12.3. The employee will be required to give the Company any evidence that the Company reasonably requires of the illness, injury or death.

15.12.4. Payment for Compassionate Leave shall be at the amount the permanent employee would reasonably have expected to be paid if the employee had worked for the period of paid leave.

15.12.5. However, casual employees will be entitled to 2 days of unpaid compassionate leave in accordance with the Act.

15.12.6. For employee's who have to attend a funeral interstate or overseas, may combine the leave in this clause with other types of leave such as annual and/ or personal carer's leave.

15.13. Trauma Counselling and Trauma Leave

- 15.13.1. Where an Employee attends or deals directly with the consequences of a serious work related or workplace incident, post-traumatic stress counselling is available. Attendance will be optional, but is recommended.
- 15.13.2. In addition, an Employee who attends or deals directly with the consequence of a serious work related or workplace incident will be provided with up to five (5) days' paid leave (Trauma Leave), provided the Employee has sought trauma counselling through the Company's Employee Assistance Program (EAP) and leave has been approved by the Company.
- 15.13.3. During the Trauma Leave the Employee will be expected, if medically fit, to attend any meetings regarding the accident in hours that are mutually agreeable.
- 15.13.4. During any period of Trauma Leave provided under this clause, the Employee is to be paid what he or she would have received for the normal rostered shift for the first five (5) days not including the day of the incident regardless of whether an employee is deemed full time or casual.

15.14. Long Service Leave

- 15.14.1. Subject to the provisions of this clause, employees shall be entitled to Long Service Leave in accordance with applicable State or Territory Long Service Leave legislation.
- 15.14.2. Long Service Leave payments will be made on the basic hourly rate that applied immediately prior to the taking of Long Service Leave.
- 15.14.3. If an employee is entitled to Long Service leave payments in accordance with an applicable portable Long Service Scheme, then, subject to the law or rules of that scheme, they will either receive their entitlements under that scheme or in accordance with this clause, whichever is more beneficial to the employee (but not both).

15.15. Community Service Leave

- 15.15.1. Employees are entitled to Community Service Leave in accordance with the NES. For the avoidance of doubt this will also cover Defence Reservists leave, Military leave and Jury Duty including that:
- A full time employee required to attend for jury service during his/her ordinary hours of work shall be reimbursed by the company an amount equal to the difference between the amount paid in respect of the attendance for jury service and the amount the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on jury service.
 - A part time employee required to attend for jury service shall be paid in accordance with the above dot point where the attendance coincides with a day/s on which the employee would normally be required to work.
 - Where an employee is required to attend for jury service the employee shall notify the company as soon as possible of the date upon which the employee is required to attend.

15.16. Family Violence

15.16.1. General Principle:

- The company recognises that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, the Company is committed to providing support to employees that experience family violence.

15.16.2. Definition of Family Violence:

- The company accepts the definition of Family Violence as stipulated in the Family Violence Protection Act 2008 (VIC) of which the definition of family violence includes physical, sexual, financial, verbal or emotional abuse by a family member.

15.16.3. General Measures:

- Proof of family violence will be required and can be in the form of an agreed document issued by the Police Service, a Court, a Doctor, a District Nurse, Maternal and Child Health Care Nurse, a Family Violence Support Service or Lawyer.
- All personal information concerning family violence will be kept confidential in line with the Company's policies and relevant legislation. No information will be kept on an employee's personnel file without their express written permission.
- No adverse action will be taken against an employee if their attendance or performance at work suffers as a result of experiencing family violence.
- The Company will identify a contact within Human Resources who will be trained in family violence and privacy issues e.g. trained in family violence risk assessment and risk management. The Company will advertise the name of the contact within the workplace.
- An employee experiencing family violence may raise the issue with their immediate manager or the Human Resources contact. The manager may seek advice from Human Resources if the employee chooses not to see the HR contact.
- Where requested by an employee, the Human Resources contact will liaise with the employee's manager on the employee's behalf, and will make a recommendation on the most appropriate form of support to provide.
- The Company will develop guidelines to supplement this clause and in which details the appropriate action to be taken in the event that an employee reports family violence.

15.16.4. Leave:

- An employee experiencing family violence will have access to a maximum of twenty (20) days per year of paid special leave for medical appointments, legal proceedings and other activities related to family violence. This leave will be in addition to existing leave entitlements and may be taken as consecutive or single days, or as part of a day.
- An employee who supports a person experiencing family violence may take carer's leave to accompany them to hospital, to court or to mind children.

15.16.5. Individual Support:

- In order to provide support to an employee experiencing family violence and to provide a safe work environment to all employees, the Company will consider (where possible) any reasonable request from an employee experiencing family violence for:
 1. Changes to their span of hours and/or shift patterns
 2. Job redesign or changes to duties
 3. Relocation to suitable employment within the Company
 4. A change to their phone number or email address to avoid harassment
 5. Any other appropriate measure including those under existing provisions for family friendly and flexible work arrangements
- An employee experiencing family violence can also be referred to the Employee Assistance Program (EAP) and/or other local resources. The EAP shall include professionals trained specifically in family violence.
- An employee who discloses to their HR or their manager that they are experiencing family violence can also be given a resource pack regarding other support services available.

16. Public Holidays

16.1.1. Entitlement

The public holidays for the purpose of this Agreement shall be:

Christmas Day,
Boxing Day,
New Year's Day,
Australia day,
Good Friday,
Easter Saturday,
Easter Sunday
Easter Monday,
Anzac day,
Grand Final Eve (in Victoria or if gazetted by the relevant State)
Labour Day, as gazetted in the relevant State,
Queen's Birthday, and
Any other day as gazetted in the relevant State.

16.1.2. The Company may request employees work on a public holiday in accordance with the NES and Act.

16.1.3. Holidays in lieu:

- When Christmas Day is a Saturday or a Sunday, a Public holiday in lieu will be observed on 27th December.
- When Boxing Day is a Saturday or a Sunday, a Public Holiday in lieu will be observed on 28th December.
- When New Year's Day or Australia Day is a Saturday or a Sunday, a Public Holiday in lieu will be observed on the next Monday.

16.1.4. All employees, other than casuals, shall be entitled to Public Holidays as prescribed, without loss of pay, except where an Employee has agreed to work on a Public Holiday and is absent without the consent of the Company or absent without reasonable cause.

16.1.5. An employee required to work on a public holiday as prescribed by this clause shall be paid at the rate of double time and a half of their ordinary rate of pay or at the rate of time and a half with a day in lieu to be taken at a time mutually agreed.

16.1.6. Where a permanent employee is rostered off on a public holiday the employee shall be paid for the ordinary hours normally worked on that day had it not been a public holiday.

16.1.7. To meet Employee or Company needs, the Company may substitute one of the prescribed public holidays for another day and the prescriptions of this clause will apply to the substituted day. The Company commits to consult with affected employees prior to substituting any Public Holiday in this clause.

16.1.8. A permanent employee who has been employed continuously for 2 weeks and who is:

- .1.1. Terminated by the Company; or
- .1.2. Stood down during December; and
- .1.3. Is re-employed by the Company at any time before the end of January in the following year; shall be paid for the public holidays of Christmas Day, Boxing Day and New Year's Day when those days occur during the period of the termination or standing down.

17. Consultation

17.1.1. This clause applies if:

- The Company has a proposal to introduce major change to production, program, organisation, structure, or technology in relation to its enterprise; and
- The proposed change is likely to have a significant effect on Employees.

17.1.2. Prior to making a definite decision the Company must notify the relevant employees and their nominated representative of the intended major change. The Company must provide at least twenty-eight (28) days' notice of this change. The relevant employees may appoint a representative of their choice for the purposes of the procedures in this clause. If:

- .1. A relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- .2. The employee or employees advise the Company of the identity of the representative;
- .3. The Company must recognise the representative.

17.1.3. As soon as practicable after making its decision, the Company must discuss with the relevant employees:

- The introduction of the change; and
- The effect the change is likely to have on the employees; and
- Measures the Company is taking to avert or mitigate the adverse effect of the change on the employees; and

17.1.4. For the purposes of the discussion the Company must provide, in writing, to the relevant employees:

- All relevant information about the change including the nature of the change proposed; and
- Information about the expected effects of the change on the employees; and
- Any other matters likely to affect the employees.

17.1.5. However, the Company is not required to disclose confidential or commercially sensitive information to the relevant employees.

17.1.6. The Company must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

17.1.7. If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Company, the requirements set out in subclauses 17.2, 17.3, 17.4 of this clause are taken not to apply.

17.1.8. In this term, a major change is likely to have a significant effect on employees if it results in:

- The termination of the employment of employees; or
- Major change to the composition, operation or size of the Company's workforce or to the skills required of employees; or
- The elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- The alteration of hours of work; or
- The need to work and/or alter shift work/rostering patterns; or

- The need to retrain employees; or
- The need to relocate employees to another workplace; or
- The restructuring of jobs.

17.1.9. In this clause, a relevant employee means the Employee who may be affected by the major change.

18. Counselling and Disciplinary Procedures

18.1.1 Disciplinary inquiries and investigations shall be confidential.

18.1.2 Any internal investigation in relation to a matter or incident by the Company that may lead to disciplinary action being taken against an employee must apply the principles of natural justice and due process, including:

- The employee being made fully aware in writing of the allegations that are the subject of investigation;
- The employee being provided with sufficient information to enable the provision of an informed response;
- The employee being informed of their entitlement to have a representative present at any meetings/interviews, if so requested;
- The employee being given reasonable time (minimum 7 calendar days) to prepare a response to the allegations that are the subject of the investigation.

18.1.3 If the Company suspends an employee while undertaking an investigation, the employee will be suspended and paid as per roster until an outcome is achieved, regardless of whether they are a Full time or Casual Employee

18.1.4 Employees under investigation may be subject to the following action during the investigation:

- Suspension from duty with no reduction of pay; or
- Placed on alternative duties; or
- Re-assessed and returned to normal duties.

Step 1. Written Warning/Counselling

When the Company has concern regarding the conduct of an employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may verbally warn the employee, which shall be documented and signed by the employee in acknowledgement of sighting the warning with a copy placed on the employee's personnel file. The employee under counselling shall be made aware of the standards of improvement in conducts that is to be made. If after nine (9) months from the date of verbal warning the Company determines that the conduct has been satisfactory, the Employee will be advised that the written record of the warning has been removed from the employee's personnel file.

Step 2. Second Written Warning

If the employee fails to meet the agreed standards of improvement in accordance with Step 1, or if the Company has a second concern about the conduct of the employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The employee will be given the

opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination.

Based on its determination, the Company may provide the employee with a written warning, which shall be documented and signed by the employee in acknowledgement of sighting the warning with a copy placed on the employee's personnel file. The employee receiving the written warning shall be made aware of the standards of improvement in conduct that is to be made. If after twelve (12) months from the date of written warning the Company determines that the conduct has been satisfactory; the Employee will be advised that the written warning has been removed from the employee's personnel file.

Step 3. Final Written Warning

If the employee fails to meet the agreed standards of improvement in accordance with Step 2, or if the Company has a third concern about the conduct of the employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may provide the employee with a written warning, which shall be documented and signed by the employee in acknowledgement of sighting the warning with a copy placed on the employee's personnel file. The employee receiving the written warning shall be made aware of the standards of improvement in conduct that is to be made. If after 12 months from the date of written warning the Company determines that the conduct has been satisfactory; the Employee will be advised that the written warning has been removed from the employee's personnel file.

Step 4. Dismissal

If the employee fails to meet the agreed standards of improvement in accordance with Step 3, or if the Company has a further concern about the conduct of the employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may dismiss the employee with a written notice of termination or offer the employee the choice to resign.

18.1.5 Serious breaches in this context refer to breaches that for which it is not reasonable that a second breach would be tolerated and include such breaches that are likely to significantly put at risk other persons or the environment.

18.1.6 The following categories are to be utilized as a basis for counselling/warning procedures.

18.2 Summary Dismissal

- 18.2.1 The company may dismiss an Employee, without notice, for serious misconduct warranting summary dismissal. The Company shall undertake an investigation into the issues pertaining to the serious misconduct. The Employee/s concerned will be afforded due and proper process including the right to representation and opportunity to respond. The Employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination.
- 18.2.2 Based on its determination, the Company may summarily dismiss the Employee. For the purposes of this clause serious misconduct is as defined in the Fair Work Act 2009 (Cth) as varied from time to time.
- 18.2.3 Under normal circumstances, use of the internet that has not been approved by the Company will not constitute serious misconduct.

19. Inclement Weather

19.1 General Principles

- 19.1.1 "Inclement Weather" means rain or abnormal climatic conditions (for example hail, high wind, severe dust storm, extreme temperatures) under which it is either unreasonable or unsafe for employees exposed to these conditions to continue working.
- 19.1.2 This clause is intended to ensure that the parties to this agreement have an agreed understanding about how the general principle of maximising productivity is applied without exposing employees to unsafe inclement weather conditions.

19.2 Inclement Weather Procedure

- 19.2.1 An employee must comply with Company's instructions to:
- (i) Continue work when the area in which the employee is working is not affected by the inclement weather; or
 - (ii) Accept a transfer to work to an area of the site not affected by the inclement weather; or
 - (iii) Accept a transfer (within paid working time) from one site to another site not affected by the Inclement weather; (prior to the morning rest period) as long as it is within a 30km radial distance from the affected site unless agreed by a majority of the employees on the affected site; or
 - (iv) Leave the site without loss of pay. For the avoidance of doubt, employees will only receive ordinary hours due for the shift or for overtime shifts; payments will be consistent with clause 10.2 (minimum hours for Overtime) of this agreement.
- 19.2.2 Where it is necessary for an employee to traverse open ground (not work) the Company will provide the employee with safe transport and/or appropriate wet weather protective clothing. Such clothing will remain the property of the Company and may be returned to the Company on request. Employees shall take reasonable care of the clothing and pay the cost of its replacement if lost or damaged due to an employee's negligence.
- 19.2.3 An employee shall not be affected by inclement weather unless, by virtue of the weather conditions, it is not reasonable and it is not safe for work to continue.
- 19.2.4 Where the Company requires employees consistent with clause 19.2.1 to remain on site, the Company shall ensure that their employees have sufficient Supervisory staff on site as a minimum.

20. Employee Representatives

20.1 Entitlement to a representative

- 20.1.1. Employees may choose to nominate a representative of their choice to assist and represent them in relation to any matter arising under this Agreement.
- 20.1.2. The company must recognise the employee representative duly appointed for the purposes outlined in clause 20.1.1.
- 20.1.3. The Company will recognise employee representatives as persons with rights and obligations in accordance with the *Fair Work Act 2009* (as amended from time to time).

- 20.1.4. The employee representative will be allowed reasonable time during working hours to carry out business associated with his/her role. Provided any business will relate to this Enterprise Agreement and pertain to the employer/employee relationship.
- 20.1.5. **Reasonable time** includes attending meetings with in order to support or represent other employees, meeting with employees and talking to employees but is not intended to result in the employment of a non-working shop steward or job delegate.
- 20.1.6. In accordance with the need of an employee representative at a particular time, the employer will allow reasonable access to a telephone, facsimile, postal, photocopying, e-mail and internet facilities for the purpose of carrying out work as an employee representative as a means for seeking external advice on matters pertaining to this Enterprise Agreement of the employer/employee relationship.
- 20.1.7. The employer provides the facilities referred to in clause 20.1 on the basis that they are reasonable and do not unduly interfere with the employee representative's primary duties as an employee of the Company - unless such interruption is authorised by management on site.
- 20.1.8. Clauses 20.1.6 and 20.1.7 are not intended to result in the establishment or maintenance of an area which is intended to be designated for use of members, officers, delegates or other representatives of a building association in that capacity.
- 20.1.9. Employee representatives may take up to 2 days leave per year from ordinary duties to attend training courses pertaining to the content of this Agreement. Leave is paid at ordinary time earnings, and is allowed when operating constraints permit employees to be released.

20.2. Workplace Representative Training Leave

- 20.2.1. An Employee who is an RTBU delegate and who is nominated to attend training courses will receive paid leave for such attendance.
- 20.2.2. Paid leave totalling no more than five (5) days in any calendar year may be granted, provided that the Employee can be released from their work.
- 20.2.3. The workplace representative shall provide the Company with the course details and descriptions, dates and times on which the course will be presented and the course venue.
- 20.2.4. Payment will only be provided where a loss of Ordinary Earnings.

SIGNATORIES

Signed for and on behalf of the "Company"

Name (Print): KEVIN CAMERON

Address: LEVEL 1 333 COLLINS ST MELBOURNE

Company Position: HEAD OF PEOPLE

Signature: 

Date: 13 DECEMBER 2019

Signed for and on behalf of the RTBU

Name (Print): LUBA GRIGOROVITCH

Address: Level 2, 365 Queen street
Melbourne VIC 3000

Position: Victorian Branch Secretary

Signature: 

Date: 18/12/19

Annexure A – Classifications

Classification Definition

Way Maintainer	A labourer who can competently use non self-propelled track machinery and hand tools including dog pullers, wood borers, dog knockers, demolition saws, rail drills, sledgehammer etc.
Way Gang Protector	An employee who has successfully passed Level 2 Safe working Training and is used as a Flagman on the train network TP- L (Lookout) - Allows the holder to perform lookout duties under supervision of a Track Force Protection Coordinator TP-H (Hand signaler) - Allows the holder to perform Hand signaling and Lookout duties under supervision of a Track Force Protection Coordinator.
Way Gang Protection Co-ordinator / Signaller	TFPC – 1 (Lookout) - Allows the holder to place lookout protection and receive 'Permit to Foul' TFPC – 2 (Track Force Protection) - Allows the holder to place Hand signalers to protect worksite, manage minor Absolute Occupations (APLT-BFT) and receive a 'Permit to Foul' TFPC -3 (Absolute Occupations) - Allows the holder to place Hand signalers, all safe working measures implemented for the protection of work parties and manage major Absolute Occupations; this includes the issue and management of the 'Permit to Foul' system.
Forklift Operator	An employee who is appropriately licensed and can competently operate a forklift up to and including 10 tonne.
TRMO C3	An employee who can competently operate small self-propelled track machinery including extractors, inserters, scarifiers, rail lifters etc.
Truck / Bus Driver	An employee who is appropriately license to drive vehicles up to and including Heavy Combination trucks and heavy buses.
Backhoe/Front End Loader Operators	An employee who is appropriately licensed to operate all types of backhoes and front-end loaders. This classification may also include people who operate forklifts above 10 tonne.
Welders Offsider	An employee who assists a qualified thermit or butane welder. This classification may also include an employee who is responsible for cutting rail with Oxy-Acetylene or grind welds.
TRMO C4	An employee who is appropriately qualified and competent to operate large machinery including Regulators and Tampers.
Permit to Work (PTW)	Allows the holder the Authorisation permitting work to be carried out in the vicinity of, but not in contact with high voltage apparatus which has been isolated, earthed and short circuited. (PTW is a certificate issued by the Authorised Electrical Operator after he has made the wiring safe to approach).
Track Vehicle Operator (TVO)	Allows the holder to operate Hi Rail vehicle inside an Occupation or under Full Track Protection.

Ordinary Hourly Rate

	Rates on FWC approval		Rates from ffppoa 01-07-20		Rates from ffppoa 01-07-21	
Rates of Pay	Base rate	Casual Rate	Base Rate	Casual Rate	Base Rate	Casual Rate
Way Maintainer	\$31.7700	\$39.7125	\$33.0408	\$41.3010	\$34.3624	\$42.9530
Welders Offsider	\$32.4700	\$40.5875	\$33.7688	\$42.2110	\$35.1196	\$43.8995
Forklift Operator	\$32.8700	\$41.0875	\$34.1848	\$42.7310	\$35.5522	\$44.4403
TFP-L	\$33.3600	\$41.7000	\$34.6944	\$43.3680	\$36.0822	\$45.1028
TFP-H	\$33.3600	\$41.7000	\$34.6944	\$43.3680	\$36.0822	\$45.1028
TRMO C3	\$33.4600	\$41.8250	\$34.7984	\$43.4980	\$36.1903	\$45.2379
TRMO C4	\$36.4600	\$45.5750	\$37.9184	\$47.3980	\$39.4351	\$49.2939
Leading Hand	\$33.4700	\$41.8375	\$34.8088	\$43.5110	\$36.2012	\$45.2515
Backhoe/Front End Loader Operator	\$33.8400	\$42.3000	\$35.1936	\$43.9920	\$36.6013	\$45.7516
Train Examiner	\$35.7700	\$44.7125	\$37.2008	\$46.5010	\$38.6888	\$48.3610
Way Gang Driver	\$37.0200	\$46.2750	\$38.5008	\$48.1260	\$40.0408	\$50.0510
Way Gang Bus Driver	\$37.0200	\$46.2750	\$38.5008	\$48.1260	\$40.0408	\$50.0510
Truck Driver 8 tonne	\$37.0200	\$46.2750	\$38.5008	\$48.1260	\$40.0408	\$50.0510
Truck Driver 8 to 16 tonne	\$39.2100	\$49.0125	\$40.7784	\$50.9730	\$42.4095	\$53.0119
Truck Driver over 16 tonne	\$39.7700	\$49.7125	\$41.3608	\$51.7010	\$43.0152	\$53.7690
Thermit Welder (Cert III)	\$36.2900	\$45.3625	\$37.7416	\$47.1770	\$39.2513	\$49.0641
Ganger	\$36.6700	\$45.8375	\$38.1368	\$47.6710	\$39.6623	\$49.5779
Special Ganger	\$39.7000	\$49.6250	\$41.2880	\$51.6100	\$42.9395	\$53.6744
TFPC - 1	\$39.9000	\$49.8750	\$41.4960	\$51.8700	\$43.1558	\$53.9448
TFPC – 2	\$41.0200	\$51.2750	\$42.6608	\$53.3260	\$44.3672	\$55.4590
TFPC – 3	\$43.0800	\$53.8500	\$44.8032	\$56.0040	\$46.5953	\$58.2441
PTF	\$39.9000	\$49.8750	\$41.4960	\$51.8700	\$43.1558	\$53.9448
Hi Rail Operator	\$39.9900	\$49.9875	\$41.5896	\$51.9870	\$43.2532	\$54.0665
TVO – 1	\$43.0800	\$53.8500	\$44.8032	\$56.0040	\$46.5953	\$58.2441
PTW	\$44.1800	\$55.2250	\$45.9472	\$57.4340	\$47.7851	\$59.7314
Terminal Operator	\$45.3500	\$56.6875	\$47.1640	\$58.9550	\$49.0506	\$61.3133
Road Foreman	\$51.4500	\$64.3125	\$53.5080	\$66.8850	\$55.6483	\$69.5604

Travelling and Incidental Expenses

	Rates on FWC Approval	Rates from ffppoa 01-07-20	Rates from ffppoa 01-07-21
Breakfast	\$23.25	\$23.70	\$24.88
Lunch	\$23.25	\$23.70	\$24.88
Dinner	\$34.11	\$34.78	\$36.52
Accommodation	\$116.08	\$118.35	\$124.27
Total	\$196.69	\$200.53	\$210.56

Annexure B - Construction Jump Up

This only applies to employees working on construction sites.

1. CATEGORIES OF EMPLOYMENT

- 1.1 An employee may be engaged in one of the following categories.
- 1.2 An employee shall be specifically engaged as a full time, part time, casual or temporary employee.
- 1.3 Employees not specifically engaged as casuals shall be employed as Full Time employees: i.e. employed by the week.
- 1.4 A casual employee is an employee engaged on an hourly basis. For ordinary working time, a casual employee shall be paid an hourly rate as prescribed in company classification structure for the work performed, plus a loading of 25%. The loading constitutes part of the casual employee's all-purpose rate. A casual employee performing work in Victoria shall be paid for a minimum of 8 hours work on any one day. The termination of employment of a casual employee shall be on an hour's notice given by either party.
- 1.5 An employee may be engaged on a full time or part time basis for a specific period of time or for specific tasks, hereinafter referred to as employment on a temporary basis. The details of the specific period or specific tasks shall be set out in writing with a copy being kept by the company and the employee. An employee engaged in this way will be regarded as a full time or part time employee.
- 1.6 A full time, part time employee or temporary employee shall be engaged for a period of probationary employment for a period of 3 months. Either party giving a weeks' notice may terminate employment during a probationary period. An employee on a period of probation is for all purposes of the agreement a full time, part time employee or temporary employee. A period of probation forms part of an employee's period of continuous service.

2. CONSTRUCTION SITE ALLOWANCE

3.1 Construction Definition

For the purpose of this clause it shall be deemed a construction site when an employee performs.

- (a) Amplifications - Work which involves the linear "extension" of existing infrastructure on an existing corridor such as passing lanes and/or track duplication and associated works.
- (b) New Construction - Work which involves the construction of new infrastructure on a corridor not previously used for Light/Heavy rail such as building sites, by passes and yards not on railway reserves.

3.2 Construction Site Allowances

The undermentioned rates apply to Employees of the Company who from time to time may be required to perform duties on a specific rail project related construction site for the time they are:

- (a) Engaged in activities (construction or maintenance) on the defined site; or
- (b) Engaged in activities (non-maintenance) supporting the work being undertaken on the defined site.

Project Value \$m	Site Allowance \$ Per Hour
2.6 – 6.8	2.4644
6.8 – 16.7	2.8956
16.7 – 33.7	3.3270
33.7 – 67.3	3.7582
67.3 – 134.7	4.1895
134.7 – 201.9	4.6176
201.9 – 269.1	5.0520
269.1 – 403.8	5.5450

- (c) For Projects above \$403.8 million, there shall be an increment of ten (10) cents per additional \$100m or part thereof. The rates shall be reviewed no later than 30 September 2014 and thereafter for each subsequent year of the Agreement taking into account movements in the CPI.

3.3 Construction Site Minimum Wage

The minimum hourly rate of pay for an employee engaged on a construction site (as defined) shall be in accordance with Table 1.

3.4 Additional Construction Conditions

- 3.4.1 Inclement weather shall mean the existence of rain and or abnormal climatic conditions (whether they be those of hail, snow, cold, high wind, severe dust storm, extreme high temperature or the like or any combination thereof) by virtue of which it is either not reasonable or not safe for employees exposed thereto to continue working whilst the same prevail. High temperature for the purposes of this clause shall be deemed to be 35 degrees Celsius or higher. (NB: this clause only applies to employees engaged in recognised construction activities on designated construction sites and will not necessarily have application to other facets of the companies' activities.)
- 3.4.2 During a period of inclement weather employees may be required to complete their assigned work and for such work shall be paid at the rate of single time in addition to their rate at the time of the inclement weather calculated to the next hour, and in the case of wet weather has clearly ended the employees shall resume work at normal rates and the time shall be similarly agreed and noted.
- 3.4.3 Where it is necessary an employee shall work during periods of inclement weather to enable the rail network to remain safe whilst mobile plant or employees of the company or contractors employees are restoring the rail network to normal operating conditions.
- 3.4.4 Except as provided in clause 3.4.3 above, no employee shall be required to work exposed to inclement weather conditions. For the purposes of this clause an employee operating machinery fitted with a functional weatherproof cab shall not be deemed to be exposed to inclement weather.
- 3.4.5 All employees working night shift shall be paid 100% loading for all hours worked.
- 3.4.6 An employee who is in receipt of workers compensation payments as a result of an injury occurring on a construction project, shall also receive payment from the company of an amount equal to the difference between the workers compensation payment and the employee's ordinary base rate of pay at the time of the injury for a maximum period of one hundred and four (104) weeks.

3.5 Long Service Leave (Co-Invest)

- 3.5.1 Long Service Leave benefits will be provided by Co-Invest. Payments must be made quarterly by the Company into the relevant Co-Invest Scheme.

3. INDUSTRY FUND COMPLIANCE

- 4.1.1 The Company shall ensure that all its employees covered by this Agreement are compliant with the industry schemes Incolink, CBus and Co-Invest.
- 4.1.2 It is acknowledged that information confirming compliance (i.e. registration and contribution status) may be provided by the industry scheme/s to the parties on request, provided that any individual whose information is to be made available has consented to such information being provided.

DEFINITIONS (Construction) – Victoria

Way Maintainer	A labourer who can competently use non self-propelled track machinery and hand tools including dog pullers, wood borers, dog knockers, demolition saws, rail drills, sledgehammer etc.
Way Gang Protector	An employee who has successfully passed Level 2 Safe working Training and is used as a Flagman on the train network TP- L (Lookout) - Allows the holder to perform lookout duties under supervision of a Track Force Protection Coordinator TP-H (Hand signaler) - Allows the holder to perform Hand signaling and Lookout duties under supervision of a Track Force Protection Coordinator.
Way Gang Protection Co-ordinator / Signalman	TFPC – 1 (Lookout) - Allows the holder to place lookout protection and receive 'Permit to Foul' TFPC – 2 (Track Force Protection) - Allows the holder to place Hand signalers to protect worksite, manage minor Absolute Occupations (APLT-BFT) and receive a 'Permit to Foul' TFPC -3 (Absolute Occupations) - Allows the holder to place Hand signalers, all safe working measures implemented for the protection of work parties and manage major Absolute Occupations; this includes the issue and management of the 'Permit to Foul' system.
Forklift Operator	An employee who is appropriately licensed and can competently operate a forklift up to and including 10 tonne
TRMO C3	An employee who can competently operate small self-propelled track machinery including extractors, inserters, scarifiers, rail lifters etc.
Truck / Bus Driver	An employee who is appropriately license to drive vehicles up to and including Heavy Combination trucks and heavy buses
Backhoe/Front End Loader Operators	An employee who is appropriately licensed to operate all types of backhoes and front-end loaders. This classification may also include people who operate forklifts above 10 tonne
Welders Offsider	An employee who assists a qualified thermit or butane welder. This classification may also include an employee who is responsible for cutting rail with Oxy-Acetylene or grind welds
TRMO C4	An employee who is appropriately qualified and competent to operate large machinery including Regulators and Tampers
Permit to Work (PTW)	Allows the holder the Authorisation permitting work to be carried out in the vicinity of, but not in contact with high voltage apparatus which has been isolated, earthed and short circuited. (PTW is a certificate issued by the Authorised Electrical Operator after he has made the wiring safe to approach).
Track Vehicle Operator (TVO)	Allows the holder to operate Hi Rail vehicle inside an Occupation or under Full Track Protection

Table 1 – Construction Rates

	Rates on FWC approval		Rates from ffppoa 01-07-20		Rates from ffppoa 01-07-21	
Classification – TABLE 1	Base rate	Casual rate	Base rate	Casual rate	base rate	casual rate
Way Maintainer	\$40.7600	\$50.9500	\$42.3904	\$52.9880	\$44.0860	\$55.1075
Welders Offsider	\$40.4700	\$50.5875	\$42.0888	\$52.6110	\$43.7724	\$54.7155
Forklift Operator	\$42.1600	\$52.7000	\$43.8464	\$54.8080	\$45.6003	\$57.0004
TFP-L	\$40.7600	\$50.9500	\$42.3904	\$52.9880	\$44.0860	\$55.1075
TFP-H	\$40.7600	\$50.9500	\$42.3904	\$52.9880	\$44.0860	\$55.1075
TRMO C3	\$41.8200	\$52.2750	\$43.4928	\$54.3660	\$45.2325	\$56.5406
TRMOC4	\$46.3900	\$57.9875	\$48.2456	\$60.3070	\$50.1754	\$62.7193
Leading Hand	\$41.8300	\$52.2875	\$43.5032	\$54.3790	\$45.2433	\$56.5541
Backhoe/Front End Loader Operator	\$42.1600	\$52.7000	\$43.8464	\$54.8080	\$45.6003	\$57.0004
Way Gang Driver	\$40.4700	\$50.5875	\$42.0888	\$52.6110	\$43.7724	\$54.7155
Way Gang Bus Driver	\$40.4700	\$50.5875	\$42.0888	\$52.6110	\$43.7724	\$54.7155
Truck Driver 8 tonne	\$40.4700	\$50.5875	\$42.0888	\$52.6110	\$43.7724	\$54.7155
Truck Driver 8< to 16 tonne	\$42.1600	\$52.7000	\$43.8464	\$54.8080	\$45.6003	\$57.0004
Truck Driver over 16 tonne	\$43.0700	\$53.8375	\$44.7928	\$55.9910	\$46.5845	\$58.2306
Thermit Welder (Cert III)	\$45.3500	\$56.6875	\$47.1640	\$58.9550	\$49.0506	\$61.3133
Ganger	\$45.8200	\$57.2750	\$47.6528	\$59.5660	\$49.5589	\$61.9486
Special Ganger	\$49.6100	\$62.0125	\$51.5944	\$64.4930	\$53.6582	\$67.0728
TFPC -1	\$44.5200	\$55.6500	\$46.3008	\$57.8760	\$48.1528	\$60.1910
TFPC -2	\$45.6400	\$57.0500	\$47.4656	\$59.3320	\$49.3642	\$61.7053
TFPC- 3	\$48.7700	\$60.9625	\$50.7208	\$63.4010	\$52.7496	\$65.9370
PTF	\$44.5300	\$55.6625	\$46.3112	\$57.8890	\$48.1636	\$60.2045
High Rail Operator	\$49.9500	\$62.4375	\$51.9480	\$64.9350	\$54.0259	\$67.5324
TVO-1	\$48.7700	\$60.9625	\$50.7208	\$63.4010	\$52.7496	\$65.9370
PTW	\$49.6900	\$62.1125	\$51.6776	\$64.5970	\$53.7447	\$67.1809

14 February 2020

Level 1, 333 Collins Street
Melbourne Vic 3000

Deputy President Mansini
Fair Work Commission
Via email: Chambers.Mansini.DP@fwc.gov.au

Dear Deputy President Mansini

Re: AG2019/4941 – Skilled Rail Services & RTBU Enterprise Agreement 2019

I refer to the application by Skilled Rail Services Pty Ltd for the approval of the *Skilled Rail Services & RTBU Enterprise Agreement 2019* in matter number AG2019/4941.

Skilled Workforce Solutions (NSW) Pty Ltd provides the following undertakings to the Fair Work Commission. The undertaking is provided by Skilled Rail Services Pty Ltd pursuant to s.190 of the *Fair Work Act 2009* (Cth) as follows:

1. In respect of clause 6 Allowances:
 - a) In circumstances where employees are required to use their personal phones in the performance of their duties the company may elect to provide one of the following:
 - i. Provide Sim Cards to employees for work related communication; or
 - ii. Provide mobile phones to employees for work related communication; or
 - iii. Pay a phone allowance to contribute towards a monthly phone bill to a maximum value of \$80 per month, subject appropriate evidence and invoices.
2. The definition of a Continuous Shift Worker for the purposes of calculating the additional weeks leave, as described at clause 10.3 is amended to read as follows:

“An Employee whose ordinary hours can be worked on a 24/7 continuous basis, e.g. Day Shift, Afternoon Shift and Night Shift, including Weekends and Public Holidays, rotating continuously over 7 days of the week, shall be considered to be a Shift Worker for the purposes of the Agreement and the National Employment Standards (NES).”

Signed for and on behalf of Skilled Rail Services Pty Ltd

Signature



Name: Julia O'Reilly

Date: 14/02/2020

zero/harm

Schedule 2.3—Model consultation term

(regulation 2.09)

Model consultation term

- (1) This term applies if the employer:
 - (a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
 - (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

- (2) For a major change referred to in paragraph (1)(a):
 - (a) the employer must notify the relevant employees of the decision to introduce the major change; and
 - (b) subclauses (3) to (9) apply.
- (3) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (4) If:
 - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative;the employer must recognise the representative.
- (5) As soon as practicable after making its decision, the employer must:
 - (a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

- (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.
- (6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
- (9) In this term, a major change is ***likely to have a significant effect on employees*** if it results in:
 - (a) the termination of the employment of employees; or
 - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retrain employees; or
 - (f) the need to relocate employees to another workplace; or
 - (g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

- (10) For a change referred to in paragraph (1)(b):
 - (a) the employer must notify the relevant employees of the proposed change; and
 - (b) subclauses (11) to (15) apply.
- (11) The relevant employees may appoint a representative for the purposes of the procedures in this term.

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- (12) If:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative;
- the employer must recognise the representative.
- (13) As soon as practicable after proposing to introduce the change, the employer must:
- (a) discuss with the relevant employees the introduction of the change; and
 - (b) for the purposes of the discussion—provide to the relevant employees:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- (14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- (16) In this term:
- relevant employees*** means the employees who may be affected by a change referred to in subclause (1).