



DECISION

Fair Work

Act 2009

s.185 - Application for approval of a single-enterprise agreement

Coleman Rail Pty Ltd T/A Coleman Rail

(AG2021/7043)

COLEMAN RAIL PTY LTD VICTORIAN RAIL AGREEMENT 2021-2024

Rail industry

COMMISSIONER MCKINNON

MELBOURNE, 15 SEPTEMBER 2021

Application for approval of the Coleman Rail Pty Ltd Victorian Rail Agreement 2021-2024.

[1] Coleman Rail Pty Ltd has applied for approval of a single enterprise agreement known as the *Coleman Rail Pty Ltd Victorian Rail Agreement 2021-2024* (the Agreement).

[2] For reasons related to the COVID-19 pandemic and associated government 'lockdowns', voting on the Agreement was delayed. When the vote was finally able to proceed, it occurred in circumstances where employees only had notice of the revised voting method two days before the vote took place. Ordinarily, approval of an enterprise agreement requires this information to have been given to employees by the start of the access period – that is, the period of seven days immediately before the start of the voting process.

[3] However, numerous steps were taken by Coleman Rail to arrange for, and notify employees about, a vote on the Agreement. This occurred in the context of ever-changing circumstances beyond its control. Coleman Rail made reasonable efforts to ensure the process was transparent, accessible and otherwise consistent with the Act. The result was a high level of participation in the vote. For these reasons, I am satisfied the error was a minor procedural error and one that was unlikely to have disadvantaged employees for the purposes of s.188(2) of the *Fair Work Act 2009* (Cth).

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

[5] The Agreement is approved and will operate from 22 September 2021. The nominal expiry date of the Agreement is 31 August 2024.

[6] The Agreement covers the Australian Rail, Tram and Bus Industry Union.



COMMISSIONER

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COLEMAN RAIL PTY LTD
VICTORIAN RAIL AGREEMENT 2021 – 2024

CONTENTS

1. Title of Agreement.....	4
2. Parties to this Agreement	4
3. Definitions.....	4
4. Union Representatives	5
5. Coverage.....	5
6. Scope of this Agreement	5
7. Objectives.....	6
8. No Extra Claims	7
9. Term of this Agreement	7
10. Conditions of Employment	7
11. Building Code 2016	8
12. Workplace Flexibility.....	8
13. Consultation	9
14. Amenities	11
15. Entitlements.....	12
16. Contract of Employment.....	17
17. Dispute Settlement Procedure	19
18. Grievance Procedure (“Fair Treatment”).....	20
19. Posting of the Agreement	21
20. Disciplinary Process.....	21
21. Classification, Rates of Pay and Allowances	23
22. Start and Finish times.....	24
23. Travelling Time.....	25
24. Living Away From Home Allowance (LAFHA)	25
25. Abandonment of Employment	25
26. Hours of Work.....	25
27. Meal Breaks Meal Allowances	29
28. Inclement Weather	29
29. Company issued clothing and protective equipment	30
30. Payroll Deductions	30
31. Workplace Representation	30
32. OHS Representatives Training Leave	31
33. Supplementary Labour	31
34. Use of Private Car.....	32
Appendix A – Employee Classifications and Competencies.....	33

Appendix B – Significant Construction Works 35
Appendix C – Light Rail/Tram Works 38
Signatures..... 39

THIS SECTION SHALL APPLY TO ALL EMPLOYEES OF COLEMAN RAIL PTY LTD EMPLOYED WITHIN THE CLASSIFICATIONS PROVIDED FOR IN THIS AGREEMENT, EXCEPT WHERE SPECIFICALLY MENTIONED OTHERWISE

1. Title of Agreement

Coleman Rail Pty Ltd Victorian Rail Agreement 2021 – 2024, hereinafter 'The Agreement'.

2. Parties to this Agreement

The Parties to this agreement are:

- a) Coleman Rail Pty Ltd, hereinafter named 'The Company' and
- b) The Australian Rail, Tram and Bus Industry Union (Victorian Branch), hereinafter named 'The Union'.
- c) The employees of the Company to whom this Agreement applies, hereinafter 'The Employees'.

3. Definitions

- (a) **Building Code 2016** means the Code for the Tendering and Performance of Building Work 2016.
- (b) **Common Clauses of this Agreement** means Clauses 1 to 34, and Appendix A.
- (c) **Employee Representative** means any person nominated by an Employee who is to represent the Employee's interests when requested by the Employee to do so.
- (d) **Extended Shift Roster** means one in which the ordinary component of rostered shifts is greater than eight (8) hours. (For example, an employee who works 4 x 10 ordinary hour shifts Sunday to Wednesday. For the avoidance of doubt, this does not include rostered overtime, for example where the roster contains 5 x 8 hour shifts with 0.5 hours of overtime rostered per day resulting in 8.5-hour rostered shifts or similar.
- (e) **Fair Work Act** means the Fair Work Act 2009 (Cth) as amended from time to time.
- (f) **Family Violence** is defined as any violent, abusive or intimidating behavior between family members including current or former partners in an intimate relationship, whenever and wherever the violence occurs. It may include physical, psychological, verbal, sexual, emotional or financial abuse.
- (g) **FWC** means Fair Work Commission.
- (h) **NES** means the National Employment Standards prescribed by the Fair Work Act.
- (i) **OTR** means Ordinary Time (base) Rate
- (j) **OTE** means Ordinary Time Earnings and is the Weekly Rate divided by 36 as stipulated by the relevant clause of the Agreement.
- (k) **Party or Parties** means the means the Employer, the Union and the Employees.
- (l) **Rail or Railway** includes Tram infrastructure.
- (m) **Safety Committee** means a committee established in accordance with the OHS Act, or otherwise applicable WHS legislation.
- (n) **Shift Worker** means an employee who works on Extended Shifts, Rotating Shifts or Permanent Night Work.
- (o) **Occupational Health and Safety Act | OHS Act** means Occupational Health and Safety Act 2004 (Vic).

4. Union Representatives

Subject to this Agreement, the Company and the Union agree that they shall bargain collectively in relation to any matters, arising from this Agreement and in relation to the renewal, extension, variation or renegotiation of this Agreement.

The right of a Union to make representation on behalf of its members is recognized.

5. Coverage

The Agreement applies to all of the Company's Victorian employees (irrespective of the location of work) who are employed in the classifications or occupations set out in this Agreement and the Rail Industry Award 2020 or are eligible for membership of the Union, whether members of the Union or not.

6. Scope of this Agreement

In this agreement, the work carried out by the Company means the provision of all types of rail, demolition, building and civil works within designated or actual tram or train corridor including:

- Maintenance – spot rail track surfacing, geometry corrections, weld rail fault corrections, including aluminothermic welding, distressing, rail replacement, ad hoc and routine tie/transom replacement, drain clearing, vegetation clearing, fire breaks, platform adjustments, signage replacement, painting, access road re-instatement, bituminous surface repairs, fencing repairs, cleaning, lubrication and servicing, points and crossings component replacement and associated infrastructure maintenance.
- Refurbishment – in face track surfacing, dip/peak corrections including rail bending/grinding, aluminothermic welding, distressing, ad hoc and routine tie/transom replacement, general replacement work on a "like for like" basis including but not limited to tie renewal, bridge/structure/platforms, level crossing components / pavement, points and crossings, civil components of rail signalling replacements and/or relocations, re-railing including flashbutt welding and replacement of life expired infrastructure.
- Upgrades – Generally as per Refurbishment but where replacement components are of a technological and/or operational higher standard such as level crossings, signalling equipment signalling CBI in lieu of relays, concrete re-sleepering in lieu of timber, concrete bearers in lieu of timber, dual gauging and associated infrastructure upgrades etc.
- Upgrades – Work which involves the complete removal of technically redundant infrastructure and replacement with new technology with a value not greater than \$2.88m.
- Amplifications – Works which involves the linear "extension" and/or grade separation of existing infrastructure on an existing railway corridor such as passing lanes, track duplication, track re-routing etc with a value not greater than \$2.88m.
- New Construction – Work which involves the construction of new infrastructure on a corridor not previously used for rail such as building sites, by-passes and yards not on railway reserves with a value not greater than \$2.88m.

7. Objectives

7.1 Goals

- (a) The Parties to this Agreement recognise that it represents a unique opportunity to build and maintain upon the Company's market share and profitability by providing products and services of the highest quality and the lowest possible cost, excellent client service and well trained and motivated Employees.
- (b) The specific objectives of this Agreement are to:
 - (i) ensure that the train operations remain paramount to all work undertaken and disruptions to scheduled services are avoided. The Parties recognise that work shifts must be flexible to suit the train running requirements and that designated shutdowns and windows of opportunity to perform work on the rail corridor are realised without exception;
 - (ii) work in the most productive manner with particular emphasis on maintaining site housekeeping, ensuring the care of small plant, equipment and vehicles, and cooperating with fellow Employees;
 - (iii) ensure that Employees take personal responsibility for safety, participating in pre-work briefings/toolbox meetings, and positively contribute to a safe work environment; and
 - (iv) ensure work quality is of a high standard and re-work is kept to an absolute minimum.
- (c) The Parties recognise that an important factor in achieving these objectives is to develop a working environment in which all Employees are consulted, care about their jobs and each other, and understand the critical nature of the Company's business. The need to develop flexibility of jobs and duties with and between work areas, and to suit the Company's and its client's operational timetable is recognised as critical to achieving the objectives of this Agreement. Such flexibility is to be implemented by agreement between the Parties.
- (d) The Parties also agree on the need to:
 - (i) ensure that this Agreement is operating in a manner which will promote, to the fullest extent possible, excellent client service and economy of operation;
 - (ii) constantly seek improvements in safety, quality, efficiency, housekeeping and work environment;
 - (iii) ensure that work rosters match the Company's operational requirement including the requirement to work during shutdowns designated by the Company;
 - (iv) train and develop Employees to broaden their skills, grow their potential and meet the needs of constantly changing Company preferences and technology;
 - (v) develop working relationships on the basis of co-operation, mutual trust and understanding;
 - (vi) establish and maintain open and direct communication with all Employees on matters of mutual interest and concern;

- (vii) support and maintain agreed standards of conduct and attendance necessary to ensure a safe, responsible and efficient operation.
- (e) The Parties accept that, subject to the consultation processes being followed, every Employee will be expected to co-operate willingly to achieve the objectives of this Agreement, so that everyone performs to their full capability and potential and Company driven work programmes are achieved.

7.2 Commitments

The parties agree to ensure that:

- (a) the Company and their Employees work together constructively in the pursuit of an operation where people are flexible, willing to learn and contribute to their fullest;
- (b) Employees perform work as requested, provided it is within their range of skills, competence, classification and authorisation and are provided with rewarding jobs and treated with dignity and respect;
- (c) the disputes settlement procedures provided herein are strictly adhered to.

8. No Extra Claims

- (a) The parties intend and agree that this Agreement prescribes comprehensive terms and conditions of employment that are to apply for the duration of this Agreement.
- (b) The Company, the Unions and all Employees agree that they will not for the duration of this Agreement pursue any extra claims.
- (c) It is also a term of this Agreement that the parties will not take industrial action in support of extra claims, award or over award payment and conditions, for the duration of the Agreement.

9. Term of this Agreement

This Agreement shall come into operation 7 days from the date of its approval by the FWC and shall have a nominal expiry date of 31 August 2024.

10. Conditions of Employment

- (a) This Agreement will incorporate and be read in conjunction with the Building and Construction General On-site Award 2020 (Award) as amended from time to time.
- (b) For the purpose of this clause, industrial instrument means/includes any modern award or enterprise agreement defined or described in the Fair Work Act, or award based transitional instruments or agreement based transitional instruments defined or described in the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth), or any unregistered industrial agreement.
- (c) If this Agreement is inconsistent with or deals with a matter dealt with in the Award, the terms of this Agreement shall prevail to the extent of the inconsistency and/or matter dealt with, and any provisions of the incorporated Award that deals with that matter shall have no effect.
- (d) This Agreement incorporates and is to operate in conjunction with the NES. Subject to the Fair Work Act, where this Agreement is more beneficial in a particular respect to an Employee, then this Agreement shall prevail to the extent of the inconsistency, however where the NES is more

beneficial in a particular respect to an Employee, then the NES shall prevail to the extent of the inconsistency.

- (e) The Parties (both Union and Employer) recognise that due to the nature of the Company's business (i.e. shutdowns and other tendered contract works conducted under programmes set by clients), casuals will be required on an as need basis. To ensure that casual employment is not used to undermine security of full time employment, casual employees who have worked full-time for 3 months will be offered the option of full-time employment, if a forward workload is available.

11. Building Code 2016

It is the intention of the Parties that this Enterprise Agreement complies with and remains compliant with the Building Code 2016, and any subsequent amendments to it. The parties acknowledge that it is in the best interests of the Company and its Employees to continue to tender for Federal Government projects.

12. Workplace Flexibility

- (a) The Company and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:
 - (i) The clauses of this Agreement that are subject to flexibility are about 1 or more of the following matters:
 - Parental Leave;
 - Compassionate Leave;
 - Jury Service; and
 - (ii) The arrangement meets the genuine needs of the Company and the Employee in relation to 1 or more of the matters mentioned in paragraph (i); and
 - (iii) The arrangement is genuinely agreed to by the Company and the Employee.
- (b) The Company will ensure that the terms of the individual flexibility arrangement comply with the Fair Work Act, including that they:
 - (i) Are about permitted matters; and
 - (ii) Are not unlawful terms; and
 - (iii) Result in the Employee being better off overall than the Employee would be if no arrangement was made.
- (c) Where the Company wants to enter into an individual flexibility arrangement with an individual Employee, it must provide a written proposal to the Employee. Where the Employee's understanding in written English is limited, the Company must take measures, including translation into an appropriate language, to ensure the Employee understands the proposal. Where an Employee wants to enter into an individual flexibility arrangement, he or she should notify the relevant Company manager of variation sought.
- (d) The Company must also ensure that the individual flexibility arrangement is:
 - (i) in writing; and

- (ii) includes the name of the Company and the Employee; and
 - (iii) signed by the Company and the Employee, and if the Employee is under 18, by a parent or guardian of the Employee; and
 - (iv) includes details of the terms of this Agreement that will be varied, how the arrangement will vary the effect of the terms, how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement, and the day on which the arrangement commences.
- (e) The Company must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
 - (f) Either the Company or the Employee may terminate the individual flexibility arrangement;
 - (i) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (ii) at any time by both parties agreeing in writing.
 - (g) There is no requirement that any individual flexibility arrangement agreed by the Company and an Employee be approved by or consented to by any other party whether before or after the arrangement has been agreed to.

13. Consultation

13.1 Consultation process

13.1.1 General

- (a) This term applies if the Company:
 - (i) has made a definite decision being made 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
 - (ii) proposes to introduce a change to the regular roster or ordinary hours of work of Employees.

13.1.2 Major change

- (a) For a major change referred to in clause 13.1.1 (a)(i):
 - (i) the Company must notify the relevant Employees and their representatives of the decision to introduce the major change; and
 - (ii) subclauses 13.1.2(b) to (h) apply.
- (b) The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- (c) If:
 - (i) a relevant Employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (ii) the Employee or Employees advise the Company of the identity of the representative, the Company must recognise the representative.

- (d) As soon as practicable after making its decision, the Company must:
- (i) discuss with the relevant Employees and their representatives:
 - the introduction of the change; and
 - the effect the change is likely to have on the Employees; and
 - measures the employer is taking to avert or mitigate the adverse effect of the change on the Employees; and
 - (ii) for the purposes of the discussion 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.
- (e) However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- (f) The Company must give prompt and genuine consideration to matters raised about the major change by the relevant Employees and their representatives.
- (g) 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 13.1.2 (a) (i), 13.1.2 (b) and 13.1.2 (d) are taken not to apply.
- (h) In this term, a major change is likely to have a significant effect on Employees if it results in:
- (i) the termination of the employment of Employees; or
 - (ii) major change to the composition, operation or size of the Company's workforce or to the skills required of Employees; or
 - (iii) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (iv) the alteration of hours of work; or
 - (v) the need to retrain Employees; or
 - (vi) the need to relocate Employees to another workplace; or
 - (vii) the restructuring of jobs.

13.1.3 Change to regular roster or ordinary hours of work

- (a) For a change referred to in clause 13.1.1 (a)(ii):
- (i) the Company must notify the relevant Employees of the proposed change; and
 - (ii) subclauses 13.1.3(b) to (f) apply.
- (b) The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- (c) If:

- (i) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - (ii) the Employee or Employees advise the Company of the identity of the representative, the Company must recognise the representative.
- (d) As soon as practicable after proposing to introduce the change, the Company must:
- (i) discuss with the relevant Employees and their representatives the introduction of the change; and
 - (ii) for the purposes of the discussion provide to the relevant Employees:
 - all relevant information about the change, including the nature of the change; and
 - information about what the Company reasonably believes will be the effects of the change on the Employees; and
 - information about any other matters that the Company reasonably believes are likely to affect the Employees; and
 - (iii) invite the relevant Employees and their representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- (e) However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- (f) The Company must give prompt and genuine consideration to matters raised about the change by the relevant Employees and their representatives.
- (g) In this term "relevant Employees " means the Employees who may be affected by a change referred to in subclause 13.1.1.

14. Amenities

- (a) The Company will provide appropriate amenities including drinking and boiling water, heating and cooling, ventilation, washing and rest room facilities.
- (b) It is recognised that some maintenance railway work moves quickly through geographical locations along the rail corridor and it is not feasible to provide the same standard of facilities as could be expected at a static site.
- (c) It is imperative however that there is reasonable access to toilet facilities by way of travel arrangements. In addition, hand cleaning facilities must be provided on site at all sites.
- (d) Amenities must be in compliance with the Work Health and Safety (Managing the Work Environment and Facilities) Code of Practice 2015.
- (e) Any disagreement about the adequacy of amenities shall be dealt with through the Consultative Process and/or Disputes Settlements Procedures of this Agreement.

15. Entitlements

15.1 Redundancy

- (a) The Company will for the life of the Agreement be a participating employer in the Redundancy Payment Central Fund Ltd (Incolink). All Employees are to be enrolled in the Fund.
- (b) The Company shall accrue contributions on behalf of each Employee into the Incolink No. 2 Fund on a weekly basis and make payments to the fund monthly. The applicable rate will be adjusted annually on the first pay period in March by the change in CPI. For an Employee who works less than 5 shifts in a week, the Company will pay a contribution equal to one fifth of the weekly rate per shift worked.
- (c) An Employee, whose position is determined by the Company as being surplus to requirements, shall be offered an alternative position within the Company when that is a viable option bearing in mind the employee's skills and experience.

15.2 Superannuation

- (a) Subject to the requirements under the Superannuation Guarantee (Administration) Act 1992 (Cth) and the Superannuation Guarantee Charge Act 1992 (Cth), the Company will contribute monthly an amount the equivalent to the prevailing Superannuation Guarantee for each Employee into an eligible choice superannuation fund.
- (b) In the event that an Employee does not exercise their right of fund choice or fails to do so within the prescribed time the Company will make the required contributions into the Construction and Building Unions Superannuation Scheme (Cbus).
- (c) Employees may also make personal contributions to their nominated fund by wage sacrifice from pre-tax earnings.

15.3 Income and Trauma Protection

Income and Trauma Protection will be in accordance with the provisions of workers compensation legislation with the additional benefits of the Incolink Leisure Time Insurance and Income Protection Scheme.

15.4. Long Service Leave

The Company will for the life of the Agreement be a participating employer in the Construction Industry Long Service Leave Fund (Co-Invest). All Employees are to be enrolled in the Fund.

All employees will be covered by the conditions of the Co-Invest Long Service Leave fund in lieu of any other long service leave entitlement.

15.5 Annual Leave

A full time Employee shall be entitled to receive 4 weeks of paid annual leave for each year of continuous service. Part time Employees are entitled to pro-rata annual leave entitlements based on the Standard Hours worked for the previous fortnight.

An Employee's entitlement to annual leave shall accrue progressively during the year and accumulates from year to year.

An Employee, who, upon retirement, resignation or termination of employment, has an outstanding leave accrual, will be paid an amount equal to the unused leave and any annual leave loading applicable.

15.5.1 Annual Leave Loading

Employees when taking annual leave are entitled to loading of 17.5% unless the leave to be taken has accrued from previous years and loading has already been paid against that accrual. Annual leave loading is paid to Employees covered by this Agreement to compensate for the lost opportunity to work overtime during periods of annual leave.

15.5.2 Method of Taking Leave

For the benefit for both the Company and Employees, it is expected that Employees will take annual leave within twelve months of it accruing. If an Employee holds significant amounts of accrued annual leave, the Employee agrees to enter into consultation with the Company about the taking of that annual leave.

When an Employee requests that leave be allowed in one continuous period, such request shall not be unreasonably refused. In the event of lack of agreement between the Company and Employee the matter may be dealt with in accordance with the Fair Treatment procedure.

15.6 Bereavement Leave

An Employee is entitled to up to three days bereavement leave on each occasion of the death of a member of the Employee's immediate family. Each period of bereavement leave stands alone and is not debited against any other type of leave. Claims for bereavement leave must be supported by a copy of the death notice and statutory declaration declaring the relationship between the parties.

15.7 Sick Leave

An Employee shall be entitled to receive ten (10) days Sick Leave per year which will accrue on a monthly basis. Any unused Sick Leave shall accumulate and accrue to the Employee's credit. Sick Leave payment will be made at the rate of the Employee's ordinary time pay.

During employment, or upon termination for any reason, Employees shall not be offered payment for accrued Sick Leave, i.e. the "paying out" of Sick Leave shall not occur.

Paid Sick Leave shall be authorised where the Company is satisfied that the absence of an Employee from duty was due to genuine illness or injury. Applications for leave of absence on the grounds of illness shall be supported by the satisfactory certificate of a registered medical practitioner or other evidence approved by the Company such as a Statutory Declaration.

15.8 Parental Leave

Parental Leave shall be in accordance with the provisions of the NES.

15.9 Carer's Leave

(Personal Leave to care for an immediate family or household member)

An Employee is entitled to use their accrued sick leave to care for members of their immediate family or household who are sick and require care and support, or who require care due to an

unexpected emergency subject to the conditions set out in this clause.

The term immediate family includes:

- spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the Employee. A de facto spouse means a person who lives with the Employee on a bona fide domestic basis; and
- a child or an adult child (including an adopted child, a stepchild or an ex-nuptial child), parent, grandparent, grandchild or sibling of the Employee or spouse of the Employee.

This entitlement is subject to the Employee being responsible for the care and support of the person concerned.

Where an Employee has exhausted all paid leave, they are entitled to take unpaid carer's leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency.

The Company and the Employee shall agree on the period. In the absence of agreement, the Employee is entitled to take up to two days (up to a maximum of 16 hours) of unpaid leave per occasion.

The Employee shall provide a medical certificate confirming they were required to care for the person concerned.

15.10 Compassionate Leave

An Employee is entitled to up to two days compassionate leave for the purpose of spending time with a person in the event of illness or injury that poses a serious threat to life of a member of the Employee's immediate family (refer to Carers Leave for definition) or household.

Each period of compassionate leave stands alone and is not debited against any other type of leave.

Employees are also entitled to take unpaid compassionate leave. The Company and Employee should agree on the length of unpaid leave.

Claims for compassionate leave shall be supported by a statutory declaration by the Employee.

15.11 Community Service and Jury Leave

Community Service and Jury shall be in accordance with the provisions of the NES.

15.12 Public Holidays

15.12.1 Entitlement to Public Holidays

Employees (other than casual Employees) will be entitled to the following public holidays:

- New Year's Day
- Australia Day
- Labour Day
- Good Friday
- Saturday before Easter Sunday
- Easter Sunday

- Easter Monday
- Anzac Day
- Queen's Birthday
- Friday before the AFL Grand Final
- Melbourne Cup
- Christmas Day
- Boxing Day
- Any other day (including the gazetted substitution of public holidays when they coincide with a weekend) declared by or under a law of the State of Victoria to be observed generally within the State as a public holiday.

Where the State of Victoria publishes that a day outlined in this Agreement is no longer a declared public holiday, employees will no longer receive the entitlement or a substitution day.

15.12.2 Public holiday work

- (a) All work performed on any of the public holidays in this Agreement shall be paid for at the rate of double time and a half.
- (b) An Employee required to work on a public holiday shall be afforded at least four hours' work or paid for four hours at the appropriate rate.

15.13 Family Violence

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 staff that experience family violence.

General Measures

- (a) Proof of family violence may be required and can be in the form an agreed document issued by the Police Service, a Court, a Doctor, District Nurse, Maternal Health Care Nurse, a Family Violence Support Service or Lawyer.
- (b) All personal information concerning family violence will be kept confidential. Information will not be kept on an employee's personnel file without their express written permission.
- (c) Understanding the traumatic nature of family violence, the Company will support their Employee if they have difficulties performing their tasks at work. No adverse action will be taken against an Employee if their attendance or performance at work suffers as a result of experiencing family violence.
- (d) The Company will identify a contact in human resources, Employee Representative or go to person who will be trained in family violence and privacy issues, for example, training in family violence risk assessment and risk management. The Company will advertise the name of the contact.
- (e) An Employee experiencing family violence may raise the issue with their immediate supervisor, their Employee Representative or Human Resources.
- (f) Where requested by an Employee, the contact person will liaise with the Employee's

supervisor on the Employee's behalf and will make a recommendation on the most appropriate form of support to provide.

- (g) The Company will develop guidelines to supplement this clause and which details the appropriate action to be taken in the event that an Employee reports family violence.
- (h) An Employee experiencing family violence will have access to 10 days per year (non-cumulative) 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 a fraction of a day and can be taken without prior approval.
- (i) An Employee who supports a person experiencing family violence may take Carer's leave to accompany them to court, to hospital, or to mind children.

Individual Support

- (a) In order to provide support to an employee experiencing family violence and to provide a safe work environment to all employees, the Company will approve any reasonable request from an employee experiencing family violence for:
 - (i) changes to their span of hours or pattern or hours and/or shift patterns;
 - (ii) job redesign or changes to duties;
 - (iii) relocation to suitable employment within the Company;
 - (iv) a change to their telephone number or email address to avoid harassing contact;
 - (v) any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.
- (b) An Employee experiencing family violence will be referred to the appropriate support services/agencies and/or other local resources.
- (c) An Employee that discloses to Human Resources or their supervisor that they are experiencing family violence will be given a resource pack of information of current support and referral services.

15.14 Picnic Day

An additional day (Picnic Day) shall be taken on the first Monday in December each year. All permanent Employees shall, as far as practicable, be given and shall take this day without deduction of pay if the Employee attends Picnic Day and provides evidence that this has occurred.

15.15 Training and Skills Development

The Parties to the Agreement recognise that in order to increase efficiency and the competitiveness of the Company, a continued commitment to training and skill development is necessary. Accordingly, the Parties commit themselves to:

- (a) Develop a highly skilled and flexible workforce.
- (b) Provide Employees with career opportunities through appropriate training to acquire additional skills required.

- (c) Employees will be offered training to enhance their knowledge and skills of existing and new technologies where such training is to the benefit of the Company. Such additional training will be provided in accordance with the overall training program and timeframe.
- (d) An Employee elected as an Occupational Health and Safety representative may be granted 5 days paid leave to undergo introductory or refresher training.
- (e) In order to assist Employee Representatives to meet their obligations and fulfil their role in a manner consistent with the objectives of this Agreement, each Employee Representative shall be entitled to attend an appropriate training course. Before each course the Company and the Employee Representative shall agree on the course. The Company agrees to pay the Employee for the time spent on any such course that has been agreed. The Company shall not unreasonably withhold consent to such training.
- (f) To that end, the Parties in consultation will develop and continue to develop a training skills programme consistent with the current and future skills needs of the Company and the Company's workforce.
- (g) Employees will not lose any wages (excluding non-all-purpose allowances) for attending approved training programs during normal working hours. Out of pocket expenses including excess fares will be reimbursed to the Employee upon the Employee providing to the Company evidence as it requires.

16. Contract of Employment

16.1 Engagement of Employees

Employees may be employed on a permanent basis as a full time or part-time basis; or engaged on a casual basis. Employees may also be engaged for a specified period and/or specified tasks.

16.2 Probationary Period

The first three (3) months of employment of an Employee (not a casual employee) shall be on a probationary basis during which the employment may be terminated upon one (1) weeks' notice or payment of one (1) week's wages in lieu of notice. Regular feedback will be provided to the Employee during the probationary period. A further 3 month extension to the probationary period may be sought subject to Employee performance. Any extension will require a documented plan with clear objectives as agreed between the Employee and the Company.

16.3 Notice of termination- Permanent Employees

- (a) In order to terminate the employment of a permanent Employee the following notice shall be given by either the Company or the Employee (excluding casuals):

Employee's period of continuous service with the Company	Period of notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

- (b) In addition to the notice as set out in sub-clause 16.3(a), Employees over forty five (45) years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice when their employment is terminated by the Company.
- (c) The Company may, at its discretion, make a payment in lieu of part or all of the notice prescribed in paragraphs 16.3(a) and 16.3(b) of this sub-clause.
- (d) In calculating any payment in lieu of notice, the wages an Employee would have received in respect of the ordinary hours the Employee would have worked during the period of notice had employment not been terminated, shall be used. To avoid doubt, this means that the amount payable in lieu of notice shall be equivalent to the applicable Weekly Rate provided for in this Agreement.
- (e) In calculating any payment in lieu of notice, superannuation contributions and redundancy entitlements including Incolink contributions and fares and travelling allowance will be paid in addition to the Weekly Rate.
- (f) The period of notice in 16.3 shall not apply in the case of the termination of employment of an Employee engaged for a specified period and/or specified tasks (on expiry of that specified period and/or completion of the specified tasks).

16.4 Casuals

- (a) A casual loading of 25% of the applicable OTR shall be paid to a casual Employee. The casual loading is paid in lieu of annual leave, personal leave, parental leave, and public holidays as contained in this Agreement. In calculating overtime payments for casuals the following should apply: OTR, site allowance and 25% casual loading then the relevant penalty rate (i.e. OTR x casual loading x penalty rate).
- (b) On each occasion a casual Employee is required to attend work the Employee shall be entitled to payment for a minimum of eight (4) hours work, plus the relevant fares and travel allowance.
- (c) Termination of all casual engagements shall require one (1) hours' notice on either side or the payment or forfeiture of one (1) hours pay, as the case may be.
- (d) A casual Employee who has been engaged by the Company on a regular and systematic basis for a period of 6 weeks is eligible to request conversion to full-time or part-time employment.
- (e) Any request for conversion to part-time or full-time employment made by the casual Employee must be in writing.
- (f) The Company will provide a written response to the casual Employee's request within 14 days, and if that response is a refusal, the reasons for the refusal will be stated.
- (h) If the casual Employee elects to convert to part-time employment and this request is granted, the Employee and Company must try and reach agreement regarding hours of work.
- (i) If a casual Employee chooses not to exercise his or her entitlement to request conversion to full time or part time employment, the employment relationship will proceed on a casual basis and the casual loading will remain at 25%.
- j) A casual employee can request the process in this clause at any stage of their employment after completing 6 weeks service.

- (k) Where there is a dispute regarding the conversion of employment, including the refusal of a request for conversion, the Parties will adhere to the dispute settlement procedure.

16.5 Instant Dismissal

Despite any other provisions in this clause, the Company will have the right to dismiss any Employee without notice, for conduct that justifies instant dismissal (i.e. serious misconduct).

16.6 Abandonment

If an Employee is absent from work without reasonable cause for three (3) consecutive days without the consent of the Company or without notification to the Company, the Employee may be deemed, at the discretion of the Company, to have abandoned his or her employment without notice. The Company will then treat the Employee's employment as having terminated as at the last working day and wages shall be paid up to that day only.

16.7 Termination payments

- (a) An employee upon termination shall be paid the following monies as detailed below:
- Accrued but untaken annual leave;
 - Accrued but untaken rostered day off hours.
- (b) Outstanding superannuation contributions shall be paid to the Employee's nominated superannuation fund.
- (c) Termination payments will be processed by the Company within 7 business days.

16.8 Certificate of Service

A certificate of service will be provided on termination of employment from the Company.

17. Dispute Settlement Procedure

- 17.1 The objective of the Company and the Employees in this procedure is to avoid and settle disputes by direct consultation and negotiation and to avoid interruption to the performance of work and the consequential loss of production and remuneration.
- 17.2 It is the intention of this procedure to resolve by direct consultation and negotiation between the Company and the Employees any grievance, dispute, claim or problem on any industrial matter including the NES and this Agreement.
- 17.3 The following staged procedure shall be adhered to in resolving matters under this clause:
- (a) Discussions shall take place between the Employee/s concerned and at his/her request, the appropriate Employee representative, and the immediate supervisor/s. The immediate supervisor will act promptly and co-operatively.
- (b) Discussions involving the Employee/s, the Employee representative if requested, and senior management.
- (c) Discussions involving the Employee (and any representatives if requested by the Employee) and nominated Company representatives.
- 17.4 The Company and the Employee and/or his/her representative/s if requested by the Employee may, during this process, refer the matter in dispute to an agreed independent person.

- 17.5 If any outcome is to be determined by the agreed independent person, it must not be inconsistent with the Building Code 2016 or be inconsistent with legislative provisions.
- 17.6 The earliest possible advice should be given by one party to the other of any issue or problem that may give rise to a grievance or dispute.
- 17.7 Throughout each of the above stages of the procedures, all relevant facts shall be clearly identified and recorded and reasonable time limits allowed for the completion of the various stages of discussion. At least seven days should be allowed for all stages of the discussions to be finalised.
- 17.8 The Company and the Employees are committed to achieving negotiated settlements without work stoppages. However if the negotiation process is exhausted without the dispute being resolved, the Company and the Employee shall jointly or individually refer the matter to FWC for conciliation and assistance resolving the dispute. In the event that conciliation is not successful, by further written agreement of both the Company and the Employee, FWC maybe requested to arbitrate on the matter and will be binding on the parties. If any outcome is determined by the FWC, it must not be inconsistent with the Building Code 2016 or be inconsistent with legislative provisions.
- 17.9 The Company and the Employees agree that during the life of this Agreement the Company and the Employees are committed take no unlawful industrial action including stoppages of work, lockouts or any other bans or limitations on the performance work.
- 17.10 Where a dispute exists and whilst that dispute remains unresolved and is being addressed through this procedure, the Company and the Employees will return to the situation and arrangements that existed prior to the issue which caused the dispute, such that no party is prejudiced during the process to resolve the matter.

18. Grievance Procedure (“Fair Treatment”)

18.1 Objective of Fair Treatment System

- (a) The objective of this system is to provide Employees with access to a system of review when there is a belief an Employee has been treated unfairly. The Company is firmly committed to ensuring that this system shall provide for an orderly, fair and speedy mechanism to resolve issues.
- (b) Issues dealt with under this system are non-industrial and of a personal nature.

18.2 Procedures for Fair Treatment

The procedure for handling issues of a non-industrial, personal nature is as follows:

- (a) In the first instance an Employee should discuss the issue with their supervisor.
- (b) If the matter remains unresolved, then they can refer the matter to their manager.
- (c) If the matter is still unresolved, or the Employee feels that they are not receiving fair treatment, then they should inform their manager and arrange to talk with the next most Senior Manager, Project Manager or the Victorian Operations Manager.
- (d) If the Employee still feels that they are not receiving fair treatment, or if their Senior Manager has not become involved within fourteen (14) days of when the issue was raised, the matter can be referred by either party for mediation. Both parties will participate in the mediation

process in good faith. The parties will agree on a mediator considered appropriate to mediate the issue.

- (e) At any stage in the process the Employee has the right to appoint another person to act on their behalf in relation to resolving the matter. This person may be a Union or other representative.
- (f) As soon as practical (usually within 24 hours) after the Employee has initiated a step in the process, the Employee will be advised of how and when the issue will be addressed.
- (h) Where a grievance exists and whilst that grievance remains unresolved and is being addressed through this procedure, the parties to the issue which caused the grievance, such that no party is prejudiced during the process to resolve the matter.
- (i) If the matters cannot be resolved under this process, the Employee has recourse to the Dispute Settlement Procedure.

19. Posting of the Agreement

To ensure that the Parties are aware of the terms of the Agreement, and to assist in any resolution of a dispute or the avoidance thereof a copy of this Agreement shall be retained by the Company at all times for ready access by any Employee covered by this Agreement, and the Company shall provide a permanent copy for each Employee Representative/Delegate and Occupational Health and Safety representative on a project site.

20. Disciplinary Process

(a) Poor performance or misconduct

The Company is committed to work with Employees to assist them to achieve satisfactory standards of work performance and conduct. When an Employee does not meet satisfactory standards of conduct in the areas of neglect of duty, approach to work or other misconduct, the process outlined below is to be followed, which shall include the Company providing training where appropriate.

The Employee has the right to have representation or a witness present during this process. If the Company suspends an Employee while undertaking an investigation, the Employee will be suspended and paid as per their current roster.

(b) Verbal Warning/Counselling

When the Company has concern regarding the conduct or work performance of an Employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct/work performance. 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 with a copy placed on the Employee's personnel file. The Employee under counselling shall be made aware of the standards of improvement in conduct of work performance that is to be made.

If after 12 months from the date of verbal warning the Company determines that the Employees conduct/work performance has satisfactorily improved, the written record of the warning will be removed from the Employee's personnel file.

(c) First Written Warning

If the Employee fails to meet the agreed standards of improvement in accordance with clause 20 (b) of this Agreement, or if the Company has a second concern about the conduct/work performance of the Employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct/performance. 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, 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/work performance that is to be made.

If after 12 months from the date of written warning the Company determines that the Employees conduct/work performance has been satisfactory, the written warning will be removed from the Employee's personnel file.

(d) Final Written Warning

If the Employee fails to meet the agreed standards of improvement in accordance with clause 20 (c) of this Agreement, or if the Company has a third concern about the conduct/work performance of the Employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct/work performance. 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, 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/work performance that is to be made.

If after 12 months from the date of written warning the Company determines that the Employees conduct/work performance has been satisfactory, the written warning will be removed from the Employee's personnel file.

(e) Dismissal

If the Employee fails to meet the agreed standards of improvement in accordance with clause 24 (b),(c) and (d) of this Agreement, or if the Company has a further concern about the conduct/work performance of the Employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct/work performance.

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.

While in most cases each step of the procedure will be followed in sequential order, in certain cases of serious breaches of procedures or unacceptable conduct, the Company may move straight to termination of employment. 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.

(f) Summary Dismissal

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 concerned will be afforded due and proper process including right to a representative if they choose and an opportunity to respond/provide an explanation.

The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may summarily dismiss the Employee. Examples of actions by an Employee that may constitute serious misconduct, include but are not limited to serious breaches of safety, fighting, theft, sabotage, embezzlement etc.

21. Classification, Rates of Pay and Allowances

21.1 Classification structure and rates of pay

- (a) All Employees working under this Agreement shall be classified according to the skill based classification structure set out in Appendix A.
- (b) Subject to the provisions of this clause the rates of pay for Employees are set out below:
 - (i) All expense-related allowances will be paid in accordance with this Agreement.
 - (ii) A site allowance maybe paid at the appropriate rate per hour, as prescribed in this Agreement.
 - (iii) At the Company's sole discretion the Ordinary Time Rate may be increased by the Company beyond the Ordinary Time Rate specified for a period of time and then decreased to the minimum applicable Ordinary Time Rate as prescribed by this Agreement. Where this occurs the terms of such increasing and decreasing will be set out in writing to the affected employee by the Company.
 - (iv) For the avoidance of doubt the Ordinary Time Rate will never be lower than prescribed by this Agreement.

(c) Apprentices

Apprentice wages will be calculated as a proportion of the tradesperson's total Weekly Rate prescribed below:

Apprentices Rates

YEAR	Percentage of Tradesperson C10 minimum wage rate
1 st year	55%
2 nd year	65%
3 rd year	80%
4 th year	90%

Adult Apprentices Rates

YEAR	Percentage of Tradesperson C10 minimum wage rate
1 st year	60%
2 nd year	70%
3 rd year	80%
4 th year	95%

Daily Fares and other allowances for apprentices will be calculated at the ordinary adult allowances as prescribed by this Agreement at clause 21.3.

21.2 Wage Increases

The actual wage increases occurring during the life of this Agreement effective from the first full pay period on or after the date are as follows:

HOURLY RATES

GRADE	01-SEP-19	01-NOV-20	01-NOV-21	01-NOV-22	01-NOV-23
RW1 (80%)	\$33.13	\$34.79	\$36.53	\$38.36	\$40.27
RW2 (85%)	\$35.17	\$36.93	\$38.77	\$40.71	\$42.74
RW3 (90%)	\$39.30	\$41.27	\$43.33	\$45.50	\$47.77
RW4 (97.5%)	\$40.34	\$42.36	\$44.48	\$46.70	\$49.04
RW5 (100%)	\$41.38	\$43.45	\$45.62	\$47.90	\$50.30
RW6 (110%)	\$45.50	\$47.78	\$50.16	\$52.67	\$55.30
RW7 (120%)	\$49.63	\$52.12	\$54.72	\$57.46	\$60.33

21.3 Daily Fares and Travelling Allowance

When an employee is required to attend for work other than a depot, yard or their normal place of work, a daily fare and travelling payment shall be made for each day worked at this site. This payment shall in no way limit or be construed as a payment in substitution for any other entitlement to which an Employee is entitled under this Agreement. Payments are set out as follows effective from the first full pay period on or after the date:

01-SEP-19	01-NOV-20	01-NOV-21	01-NOV-22	01-NOV-23
\$38.59	\$40.52	\$42.54	\$44.67	\$46.90

21.4 Leading Hand responsibilities and allowance

- (a) Leading Hand means any Employee who is appointed by the Company, with the specific responsibility of directing and/or supervising the work of other Employees. Leading Hands will be appointed in writing by the Operations Manager.
- (b) A person appointed to be a Leading Hand shall be paid the following allowance effective from the first full pay period on or after the date. This is a flat weekly allowance and does not attract any loadings or penalties.

LEVEL	No. of employees supervised	01-SEP-19	01-NOV-20	01-NOV-21	01-NOV-22	01-NOV-23
1	2-5	\$50.05	\$52.56	\$55.18	\$57.94	\$60.84
2	6-10	\$61.43	\$64.50	\$67.73	\$71.12	\$74.68
3	11+	\$79.64	\$83.63	\$87.81	\$92.20	\$96.81

- (c) The choice to work as a Leading Hand or salaried Supervisor is at the complete discretion of the employee should they be offered the option of a salaried role by the Operations Manager.

22. Start and Finish times

Employees will be required to start and finish at a project site or at the company's base location. Project site locations will vary from time to time based on the availability of project work. For employees travelling interstate for employment purposes, the Company agrees that payment of time will occur 45 minutes prior to the flight's scheduled departure and for 20 minutes post its actual arrival.

23. Travelling Time

Employees will be paid travelling time when required to conduct work on a remote site, which is a site more than 100 kilometres from the employee's primary work location. An employee travelling to a remote worksite directly from the employee's home location will be entitled to travel time in excess of the employee's normal travel time to the Company's base location. Payment for travelling time will be treated as normal time under this Agreement. Travel distance will be measured by the shortest driving distance as shown on google maps. The employee's home location will be the address listed in the company's payroll system at the time of placement on the project.

24. Living Away From Home Allowance (LAFHA)

- (a) For the purpose of this Clause, a "distant project" is one where the location of the "on-site project work" is such that because of its distance from the employee's point of hire or because of the travelling facilities available to and from the location, it is reasonably necessary for an employee to live and sleep at some place other than his/her usual place of residence.
- (b) From 1st September 2021, when an Employee is required to work on a distant project, the Employer will pay the employee a meal allowance per day of \$52.00 (being, \$22.00 for breakfast and lunch, and \$30.00 for dinner). Where the Employer does not provide accommodation for an Employee, it will also pay the Employee \$118.00 for accommodation.
- (c) If a new Employee, when applying for employment on a project nominates that their usual place of residence is reasonably local to the project, this LAFHA provision will not apply.

If an existing Employee self-elects to move their usual place of residence to a location reasonably local to the project to take up a project employment opportunity, then this LAFHA provision will not apply.

25. Abandonment of Employment

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

Provided that if within a period of fourteen days from their last attendance at work or the date of their last absence in respect of which notification has been given or consent has been granted and the Employee has not established to the satisfaction of the Company that they were absent for reasonable cause, the Employee shall be deemed to have abandoned their employment.

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

26. Hours of Work

26.1 Standard ordinary hours

- (a) The work roster for a non-shift worker shall be 36 hours per week, up to 10 hours per day to be worked Monday to Friday between the hours of 6.00am and 6.00pm (or

5.00am to 5.00pm during daylight savings time) or as varied in accordance with Clause 26.1(c) or Clause 26.3.

- (b) The work roster for a shift worker shall be 36 hours per week, up to 10 hours per shift inclusive of meal breaks, worked between 4pm Sunday and 7am Friday. All time on worked on weekends shall incur the applicable penalty rates as set out in Clause 26.4.2(c).
- (c) The standard work roster of work for different work areas, once established, may be varied.
- (d) If the Company wishes to vary the standard work roster other than as set out in clause 26.1(c), they may do so:
 - (i) by agreement between the Company and the majority of the directly affected Employees in the work area and that agreement will not unreasonably withheld. The following principles will apply in determining if agreement can be reached:
 - Outcomes must meet business requirements or operational needs;
 - Impact of change on an employee's remuneration;
 - Reasonableness taking into account the employee's individual circumstances;
 - Fatigue requirements.

or

- (ii) in the absence of agreement, by the Company giving more than 14 days' notice of the change.
- (e) The Company and the Employees will consult on the standard ordinary hours of work and the Company will take into consideration an Employee's family commitments prior to implementing changes.
- (f) All work performed outside standard ordinary hours will attract the relevant penalty rates as set out in this Agreement.

26.2 Not Used

26.3 Staggered Start / Finish Times

It is recognised that operational difficulties may exist with all employees commencing work at the same time. In these situations, staggered start and finish times may be introduced by agreement between the Employer and the majority of employees concerned to assist overcoming these operational difficulties. As a consequence, breaks taken during the course of the day will also be varied.

26.4 Extended Shift Worker

The following provisions shall apply to Extended Shift Worker in long term maintenance works:

- (a) Extended Shift Workers shall be considered "Shift Workers" for the purposes of this agreement.
- (b) Extended Shift Workers who work ordinary time shifts on Saturday or Sunday will be entitled to double time for each ordinary hour worked on those Saturdays or Sundays.

- (c) For Night Shift Workers who are Extended Shift Workers, and who work a Night Shift that begins on a Sunday and finished on a Monday, payment for each hour worked shall be at the rate of double time (calculated on the employee's ordinary base rate of pay).
- (d) Extended Shift Workers shall be entitled to an additional week of annual leave, or a pro-rata additional amount of annual leave for the relevant period of accrual where the employee has not been an Extended Shift Worker for a full 12 months.
- (e) An Extended Shift Worker with a full entitlement to five (5) weeks of annual leave, who takes their full credit of leave in one (1) continuous period, will have five (5) weeks deducted (180 hours). An employee who takes less than their full credit of leave in a single continuous period will have a deduction from their credits of the hours for which they are rostered.
- (f) To avoid doubt, where the provisions of the clause 26.4 are inconsistent with the provisions contained in other parts of the Agreement, these provisions will apply. These provisions will replace any other provisions in this Agreement and will not be paid in addition to other provisions

26.5 Overtime

26.5.1 Reasonable overtime

- (a) Employees will be required to work reasonable weekend and non-weekend overtime, when requested, as determined by the Company to meet the needs of the Company's contractual requirements for completion of work on the relevant project.
- (b) Reasonable overtime will be determined having regard to:
 - (i) Any risk to Employee health and safety;
 - (ii) Any appropriate fatigue management plan put in place for the
 - (iii) project that has been clearly communicated to the workforce;
 - (iv) The Employee's personal circumstances including family responsibilities;
 - (v) The needs of the Company to meet the requirements of rail occupations/possessions;
 - (vi) The notice (if any) given by the Company of the overtime.
- (c) Excessive overtime shall not be worked. It is agreed that every effort shall be made to eliminate excessive overtime. The Company will apply a Fatigue Management Procedure to ensure any overtime is managed safely.

26.5.2 Payment for working overtime

- (a) Subject to the implementation of clause 26.5, all time worked outside or in excess of an Employee's ordinary hours of work (inclusive of time worked for accrual purposes as prescribed herein) shall be deemed overtime.
- (b) Monday to Friday Work – For all work done outside ordinary hours, the rates of pay will be time and a half for the first two hours and double time thereafter.
- (c) Weekend Work – For all work done outside ordinary hours, the rates of pay will be double time.

- (d) An Employee recalled to work overtime after leaving the relevant site (whether notified before or after leaving the relevant site) will be paid for a minimum of four hours work at the appropriate overtime time rate for each time the Employee is so recalled. Except in the case of unforeseen circumstances arising, the Employee will not be required to work the full four hours if the jobs the Employee was recalled to perform are completed within a shorter period.

This subclause 26.5.2(d) will not apply in cases where it is customary for an Employee to return to the relevant site to perform a specific job outside ordinary working hours or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

26.5.3 Cancellation of weekend overtime

- (a) In circumstances, including but not limited to, plant failure, actual or forecast inclement weather, or cancelled material delivery, the Company may cancel planned weekend overtime. The Company will endeavour to notify Employees of weekend overtime cancellation by lunchtime on Friday. However the Company reserve the right, in exceptional circumstances, to notify employees of weekend overtime cancellation by no later than the Employees finishing time on the prior shift.
- (b) Equally, Employees through circumstances may find themselves unable to fulfil their commitment to perform weekend overtime. Such Employees will notify the Company before the planned finishing time on the prior shift, with reasonable consideration given to exceptional circumstances.

26.6 Rostered Days Off (RDO)

- (a) From the commencement of employment, 36 hours ordinary time may be worked with 0.8 hours per day accruing for a paid RDO.
- (b) The treatment of RDO will be as follows:
- 7.2 hours will be deducted from the accrual for each RDO that is taken.
 - Accrued RDO must be used before any annual leave day(s) are approved.
 - RDO may be banked to a total of eight (8) days per annum to be taken at agreed dates when mutually convenient and agreed.
 - A new Employee will be eligible for an RDO after accruing 7.6 hours.
- (c) Employees should apply to take their accrued RDO as they would with accrued annual leave.
- (d) Any untaken/unused hours accumulated towards the taking of RDO will be paid to an employee on termination of employment, at the employee's ordinary base rate of pay.

26.7 Shift work

Overview

Where it is necessary that work be performed in shift, the following conditions shall apply. For the purpose of this clause:

- (a) Afternoon shift means any shift starting at or after 10:00am and finishing at or before 9:00pm.

- (b) Night shift means any shift starting on or after 7:30pm and finishing at or before 6:00am. (Except for daylight saving provision in Clause 26.1a)
- (c) Continuous Shift Work — A worker transferred to afternoon or night shift as part of 24 hour continuous operations that continues for more than 4 successive weeks
- (d) Payment for Shift Work

SHIFT	PENALTY
Afternoon Shift	15%
Night Shift	30%
Continuous Shift Work	30%
Shifts less than 4 weeks other than on shift change	100%
Overtime	Weekend penalty rates and public holiday rates will be paid in lieu of shift allowances

27. Meal Breaks | Meal Allowances

27.1 Meal breaks

A paid morning break of 15 minutes' duration must be taken. Morning break and lunch breaks must be organised so as to ensure continuity of work and taken in a flexible manner at any time during the shift. The emphasis will be on arrangements to keep major equipment operating through the morning break and lunch wherever possible, by the staggering of breaks.

Lunch breaks must be 30 minutes unpaid and may be staggered for individual Employees or work teams. A lunch break should commence within 6 hours of the designated start time of the shift. Lunch break times may be varied outside these times to meet operational requirements with agreement of the Company and an individual or group of directly affected Employees.

27.2 Overtime meal breaks

- (a) An Employee working overtime for a period two (2) hours or more must be allowed a break of ten (10) minutes duration payable at Ordinary Time Rates.
- (b) An Employee working overtime must be allowed a break of twenty (20) minutes without deduction of pay at the applicable rate after each four (4) hours of overtime worked if the Employee continues work after such time.
- (c) The Company and an affected Employee may agree to any variation of these provisions to meet the circumstances of the work in hand provided that the Company shall not be required to make payment in respect of any time allowed in excess of twenty minutes.

28. Inclement Weather

- (a) Inclement weather shall mean the existence of abnormal climatic conditions (whether they be those of hail, snow, extreme 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.
- (b) Where it is necessary an Employee shall work during periods of inclement weather to enable the rail network to remain safe whilst mobile plant works continue or Employees are restoring the rail network to normal operating conditions.

- (c) The Parties accept that works which will be completed without delay following the onset of inclement weather include emergency work, and critical shutdown activities (e.g. rail occupations, rail crossings, beam erections, traffic switches, sealing of earthworks and utility relocations).
- (d) Except as provided in this clause, no Employee shall be required to work exposed to inclement weather conditions.
- (e) The entitlement to payment for time lost due to Inclement Weather is an entitlement limited to ordinary time lost, and does not apply to overtime, weekend work and/or public holiday work. Should overtime, weekend work and/or public holiday work be affected due to Inclement Weather, then the maximum rate of double time for overtime and weekend work will apply. The maximum rate of double time and a half will apply for work in inclement weather on public holidays.
- (f) Under this Agreement, temperature of 35°C or above shall be defined as constituting 'inclement weather' for works in the Greater Melbourne area. This definition will be subject to review in other regions.
- (g) Once the temperature reaches 35°C work will cease, provided that the work does not constitute occupation works, emergency works or works which require the task to be completed once started, or where the workers cannot be redeployed to climate controlled locations for training, safety briefings or other construction type works ie assembly.
- (h) No employee will leave site without authorization of the Superintendent/Supervisor.

29. Company issued clothing and protective equipment

To ensure that a business-like image is maintained, all employees who are issued such clothing are required to wear Company issued clothing whilst at work. It is a requirement to wear all safety clothing and protective equipment provided whilst at work and to ensure its proper care, maintenance and storage. Replacement of work clothing and protection equipment is on the basis of "fair wear and tear." Where cost effective, the Company will endeavour to purchase Australian Made products.

30. Payroll Deductions

An Employee may nominate up to 3 accounts into which payments may be deposited on the Employee's behalf.

31. Workplace Representation

- (a) For the purposes of this Clause, a workplace representative is an Employee who has been appointed as a representative in writing by a union – also known as an Employee 'Rep' or Delegate.
- (b) In exercising their rights, workplace representatives and unions will consider the Company's operational issues, policies and guidelines and the likely effect on the efficient operation of the Company.
- (c) The Company will permit the reasonable use of facilities by a workplace representative to communicate matters affecting Employees that the workplace representative's union is entitled to represent. All use of facilities is subject to the Company's policies.
- (d) Each workplace representative shall be granted up to five (5) days of workplace

representation leave per year, non-cumulative, to attend courses conducted by the Union or a training provider nominated by the Union, that are designed to provide skills and competencies that will assist the workplace representative perform their functions, including contributing to the prompt resolution of disputes and or grievances in the workplace.

- (e) The granting of workplace representation leave referred to in clause 31 (d) may be refused by the Company unless the application:
 - (i) has the approval of the Union;
 - (ii) is in writing and includes the nature, content and duration of the training course to be attended;
 - (iii) is provided to the Company at least 4 weeks prior to the proposed training;
 - (iv) is relevant to the needs of the Company's business and the relevant Project; and
 - (v) does not have any adverse effects on the operational requirements of the Company.
- (f) Eligible workplace representative leave will be paid at the Employees base rate of pay.
- (g) The workplace representative will be required to satisfy the Company of attendance at the course to qualify for payment of workplace representative leave.
- (h) At all other times the Union Delegate/workplace representative will perform productive work as directed. All Parties to this Agreement acknowledge that the role of a workplace representative will not be a full-time role.

32. OHS Representatives Training Leave

- (a) An Employee elected as an Occupational Health and Safety Representative may be granted five days paid leave to undergo introductory or refresher training.
- (b) The training should be undertaken as soon as practicable after appointment, having regard to the availability of course places and work requirements.
- (c) The granting of leave applies only to the first period of election. Further training in health and safety, in such matters as specific hazard courses, safe working practices or to provide necessary emergency services should be undertaken as appropriate and at management's discretion as to timing.
- (d) Payment is not to be made for travelling time in addition to the leave granted.
- (e) Leave to attend courses is not to be debited against any leave.
- (f) Payment is to be as for a normal rostered shift and to include shift allowance, site disability allowance or any all purpose allowance regularly paid, but not for rostered overtime that would otherwise have been worked.
- (g) Where an Employee works Shift Work, attendance should be scheduled where practical to maintain the shift pattern and not exceed the normal number of shifts.

33. Supplementary Labour

- (a) Supplementary labour will be available to cover excessive workloads caused by increases in work or for special programs or where a particular skill is not available. It is recognised that in some instances a rapid response to the workload is required. However, it is the intention of the Company that it will utilise a direct workforce wherever practicable.

- (b) Prior to the engagement of supplementary labour, where practical the training and/or transfer of existing Employees will be considered. Training will be considered when the skill requirement is long term and the work is of sufficient volume to justify the training investment and retention of competence by the Employee in the required skill. Where training is proceeding, supplementary labour hire may be required to address the immediate workload.
- (c) During the engagement of supplementary labour, no Employee of the same occupation who is available to transfer to this work will be declared surplus
- (d) Supplementary labour hire shall be appropriately qualified to undertake the work required.
- (e) The Company will consult with its employees and their representatives (if any) whenever there is a requirement to engage a significant component of labour hire. The Company will inform employees and their representatives (if any) of the need for labour hire, the intended engagement period, and provide an outline of the requirements including numbers, duration and qualifications.
- (f) Nothing in this clause will prohibit the use of labour hire to meet the operational requirements of the Company and does not impose an obligation on the Company to obtain employees or their representatives agreement prior to engaging labour hire

34. Use of Private Car

- (a) Where an Employee is required by the Company to use their own vehicle for business purposes, they shall be reimbursed at the rate indicated in the table below per kilometre. This payment shall be made on the production of satisfactory evidence in the form of log book or other substantive document and would have to be authorised in advance by the Company.
- (b) These rates will be adjusted if the applicable rates from the Australian Tax Office ("ATO") are adjusted upwards. Any adjustment will apply on and from the first full pay period on or after the adjusted rates from the ATO take effect.

Rates per business kilometre travelled by an Employee (in their own vehicle)		
Ordinary Car	Rotary Engine Car	Rate
1601cc – 2600cc (1.691 litre – 2.6 litre)	801cc – 1300cc (0.801 litre – 1.3 litre)	74 cents
Over 2600cc (2.601 litre)	1300cc (1.301 litre)	75 cents

Appendix A – Employee Classifications and Competencies

Maintenance Renewal Worker Worker/Relativity	Indicate tasks	
RW 1 (80%)	Basic labour duties Store person duties Workshop person duties Cleaning and sanitisation tasks Yard duties	General site maintenance Rail safe working Follow safe procedures OH&S Undertaking taking to progress to RW2
RW 2 (85%) RW1 plus 6 months continuous service	Materials handling F/L Licence Drive a commercial light vehicle or bus Scaffold erection (basic) Basic hand tool use Competently use Pan Pullers, Rail Saws and Sleeper, Drills, Manual Rail Jacks, Generators, Compressors Welders assistant – Thermit and Flashbutt Traffic Controller	Perform civil works Understand basic Quality Control/Assurance procedures Able to recognise basic quality deviations and faults Works under routine supervision with intermittent checking either individually or in a team environment Able to competently operation the majority of the following small tools and equipment: power operated Spike Puller, Clip Applicator, Spike Driver and Hand Tampers
RW 3 (95%)	Heavy Vehicle licence Heavy Bus licence Hi Rail Operator Crane Truck Operator (to 10T/M) Plant Operator to 25 Tonne Thermit Welding Classification Thermit/Boutet. Track Protection Coordinator Basic Rigging/Dogging	Able to perform work beyond the skills of an RW2 Employee Takes responsibility for the quality of own work undertaken subject to general supervision Flashbutt Welding Holds Certificate of Competency for Non Slewing Mobile Crane greater than 3 tonnes Qualified as a level 3 Track Protection Coordinator Qualified and able to competently operate a range of railway construction and maintenance equipment including: Forklifts, Front End Loaders, Gemcos, Tie Crane, Scarifiers, Rail Lifting Jack, Rail Threader, Pettibone Crane.
RW 4 (97.5%)	Certificate of Competency for: Dogger/Crane chaser Mobile Crane Rigger Operator Major Plant e.g. Pony Express, Tamper or Regulator	Able to operate a majority of equipment specified in lower levels Routine maintenance and servicing work Holds Certificate of Competency for Slewing Mobile Cranes up to 20 tonnes Able to carry out routine maintenance and servicing to equipment referred to in lower levels

Maintenance Renewal Worker Worker/Relativity	Indicate tasks	
		<p>Qualified and able to competently operate a range of railway construction and maintenance equipment including: Pony Express, Tampers, Regulators Must hold Certificate of Competency for Radio Coverage and Mainline Track Machine under client's operating system</p>
RW 5	<p>Certificate 3 – Tradesperson Operator Major Plant e.g. Pony Express, Tamper or Regulator (more than 6 months experience or equivalent hours on CR equipment)</p>	<p>Trade Qualified Required experience to competently exercise trade skills Possess a thorough knowledge of railway construction and maintenance Competently exercise trade skills to maintain the plant Able to work above and beyond the skills of an employee at RW4 level of skills, competence and training Understands and applies quality control techniques Performs work under limited supervision</p>
RW 6 (110%)	<p>Leading Hand/Trainer Level 1 Supervises a single work crew of up to 10 employees Required to deliver structured on-the-job training</p>	<p>Completed training in supervision and training Experience to supervise the work activities of a work crew of up to 10 employees Possess a thorough knowledge of railway construction and maintenance and possess a significant number of years' experience in the industry</p>
RW 7 (120%)	<p>Leading Hand/Trainer Level 2 Supervises more than one work crew Responsible for delivering training of Leading Hand/Trainer 1 Level 1</p>	<p>Completed training in supervision and training Experience to supervise the work activities of a more than one work crew Possess a comprehensive knowledge of railway construction and maintenance and possess a significant number of years' experience in the industry</p>

Appendix B – Significant Construction Works

1. Scope and Application

This Appendix will apply to all construction work with a project value of greater than 2.88 million dollars. It does not apply to any Maintenance and Upgrade Works or Renewal Works.

This Appendix applies in conjunction with the Common Clauses of this Agreement. Where there is an inconsistency between the terms of this Appendix and any other clause in the Common Clauses of this Agreement, the terms of this Appendix prevail to the extent of the inconsistency.

When Employees are not working within the scope of this Appendix, they revert to the other relevant terms contained within the Common Clauses of this Agreement.

2. Project Allowance Procedure

- (a) Project Allowance will be paid for new construction works only.
- (b) A Project Allowance shall be paid at the appropriate rate per hour flat for hours worked, to compensate for all special factors and/or disabilities on a project.
- (c) Project Allowances are adjusted annually in line with CPI movements. The following rates will apply from the commencement of the agreement.
- (d) The Project Allowance shall be adjusted up or down to the nearest 5 cents, and Work Package value to the nearest \$100,000.

3. Project Allowance

PROJECT VALUE (MILLION)	SITE / PROJECT ALLOWANCE (PER HOUR)
\$2.88 – \$7.71	\$2.40
\$7.71 – \$18.89	\$2.60
\$18.90 – \$38.01	\$2.90
\$38.02 – \$75.91	\$3.40
\$75.92 – \$151.95	\$4.05
\$151.96 – \$227.75	\$4.15
\$227.76 – \$303.67	\$4.35
\$303.68 – \$455.62	\$4.50

4. Wage Rates

The actual wage increases occurring during the life of this Agreement for Significant Construction works effective from the first full pay period on or after the date are as follows, per hour:

GRADE	01-SEP-19	01-NOV-20	01-NOV-21	01-NOV-22	01-NOV-23
RCW1 (80%)	\$43.54	\$45.71	\$48.00	\$50.40	\$52.92
RCW2 (85%)	\$44.92	\$47.16	\$49.52	\$52.00	\$54.60
RCW3 (90%)	\$46.45	\$48.77	\$51.21	\$53.77	\$56.46
RCW4 (97.5%)	\$49.74	\$52.23	\$54.84	\$57.58	\$60.46
RCW5 (100%)	\$51.62	\$54.20	\$56.91	\$59.75	\$62.74
RCW6 (110%)	\$52.91	\$55.55	\$58.33	\$61.25	\$64.31
RCW7 (120%)	\$54.23	\$56.94	\$59.79	\$62.78	\$65.92

5. Hours of Work

5.1 Standard ordinary hours

- (a) The ordinary hours of work shall be 36 hours per week, 8 hours per day to be worked Monday to Friday between the hours of 6.00am and 6.00pm (or 5.00am to 5.00pm during daylight savings time) or as varied in accordance with Appendix B Clause 5.1(c) or Clause 5.2.
- (b) The standard ordinary hours of work for different work areas, once established, may be varied by agreement between the Company and the majority of the directly affected Employees in the work area or, in the absence of agreement, by the giving of 7 days' notice by the Company to the Employees concerned. The Company and the Employees will consult on the standard ordinary hours of work and the Company will take into consideration an Employee's family commitments prior to implementing changes.
- (c) All work performed outside standard ordinary hours will attract the relevant penalty rates as set out in this Agreement.

5.2 Overtime and weekend work

- (a) Employees will be required to work reasonable weekend and non-weekend overtime, when requested, as determined by the Company to meet the needs of the Company's contractual requirements for completion of work on the relevant project.
- (b) All time worked outside or in excess of an Employee's ordinary hours of work (inclusive of time worked for accrual purposes as prescribed herein) shall be deemed overtime. Overtime will be paid at double the Ordinary Time Rate.
- (c) An Employee recalled to work overtime after leaving the relevant project (whether notified before or after leaving the relevant project) will be paid for a minimum of four hours work at the appropriate overtime time rate for each time the Employee is so recalled. Except in the case of unforeseen circumstances arising, the Employee will not be required to work the full four hours if the jobs the Employee was recalled to perform are completed within a shorter period.

This subclause will not apply in cases where it is customary for an Employee to return to the relevant project to perform a specific job outside ordinary working hours or where

the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

- (d) No Employee under the age of eighteen years shall be required to work overtime or shift work unless the Employee so desires.
- (e) No apprentice or trainee shall be required to work overtime or shift work at times which would prevent the Employee's attendance at a training facility, as required by any statute, agreement or regulation.
- (f) An Employee who works overtime between the end of the Employee's ordinary work day or shift, and the commencement of the Employee's ordinary work in the next day or shift, will have at least ten consecutive hours off duty between shifts.

5.3 Shift work

Where it is necessary that work be performed in shifts the following conditions shall apply. For the purpose of this clause:

- (a) Afternoon shift means a shift commencing on or after 10:00am and before 6pm.
- (b) Night shift means any shift starting at or after 6:00pm and before 5.30am. (Except for daylight saving provision in Appendix B Clause 5.1)
- (c) An Employee who works on an afternoon or night shift shall be paid a loading of 100% for all hours worked.

6. Overtime meal allowance

In lieu of the overtime meal allowance referred to in the Common Clause of this Agreement, the allowance for Employees performing new constructions works will be as follows:

01-SEP-19	01-NOV-20	01-NOV-21	01-NOV-22	01-NOV-23
\$30.27	\$31.79	\$33.38	\$35.05	\$36.80

7. Redundancy

In lieu of the Incolink contribution referred to in the Common Clauses of this Agreement, the contribution for Employees performing construction works will be as prescribed by the fund.

Appendix C – Light Rail/Tram Works

1. Scope and Application

This Appendix will apply to all construction works associated with light rail/tram including Maintenance and Upgrade Works or Renewal Works.

This Appendix will apply in conjunction with the Common Clauses of this Agreement and not Appendix B.

Significant new light rail/tram projects will be delivered under the Appendix B – Significant Construction Works.


The wages rates for Appendix C works are provided below and will be delivered in accordance with the Common Clauses of this Agreement. These wages rates will remain fixed for the life of this Agreement until the wages in clause 21.2 of this Agreement overtake these rates. At this point in time the light rail/tram including Maintenance and Upgrade Works or Renewal Works will be delivered in accordance with the Common Clauses in this Agreement and associated wages rates.

RW Grade	CW Classification	
RW1 (80%)	Labourer, Rail Worker - Level 1 (CW1)	\$43.53
RW2 (85%)	Experienced Rail Worker, Rail Worker Level 2 (CW1) Rail Labourer, Welders Assistant, Flagman	\$43.53
RW3 (95%)	Skilled Rail Worker/Mobile Plant Operator, Rail Worker - Level 3 (CW1) Plant Operator, Welder, Track Protection Co-Ordinator	\$43.53
RW4 (97.5%)	Special Class, Rail Worker - Level 4 (CW2)	\$44.92
RW5 (100%)	Tradesperson, Rail Worker - Level 5 (CW3) Carpenter	\$47.79


Signatures

Signatures


Signed for and on behalf of the Company

Date	31/8/2021
Name	Sean Bonham
Address	174 Turner Street, Port Melbourne, VIC 3207
Title	Executive General Manager
I am authorised by the Company to sign this Agreement on its behalf	Signature 

Witness

Date	31/8/2021
Name	Fusun Yalcin
Address	174 Turner Street, Port Melbourne, VIC 3207
Title	Head of People and Capability
	Signature 

Signed for and on behalf of The Australian Rail, Tram and Bus Industry Union (Victorian Branch)

Date	2/9/21
Name	Luba Grigorovitch
Address	Level 2, 365 Queen Street, Melbourne, VIC 3000
Title	Branch Secretary, RTBU, Victorian Branch
I am authorised by the Union to sign this Agreement on its behalf	Signature 

Witness

Date	2/9/21
Name	Bryan Evans
Address	L2 365 Queen St. Melbourne vic
Title	organiser, RTBU vic branch
	Signature 