



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**S&DH Enterprises Pty Ltd T/A S&DH Enterprises Pty Ltd**  
(AG2024/1877)

## **S&DH ENTERPRISES PTY LTD, COLLIE BATTERY ENERGY STORAGE SYSTEM – PROJECT GREENFIELDS AGREEMENT**

Building, metal and civil construction industries

DEPUTY PRESIDENT BEAUMONT

PERTH, 18 JUNE 2024

*Application for approval of the S&DH Enterprises Pty Ltd, Collie Battery Energy Storage System – Project Greenfields Agreement*

[1] An application has been made for approval of a greenfields agreement known as the *S&DH Enterprises Pty Ltd, Collie Battery Energy Storage System – Project Greenfields Agreement* (the **Agreement**). The application was made by S&DH Enterprises Pty Ltd T/A S&DH Enterprises Pty Ltd pursuant to s 185 of the *Fair Work Act 2009* (the **Act**).

[2] This is a greenfields agreement that meets the requirements of s 172(2)(b) of the Act. I am satisfied that each of the requirements of ss 186 and 187 of the Act as are relevant to this application for approval have been met. In accordance with s 187(5)(a) of the Act, I am satisfied that the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU), the Construction, Forestry and Maritime Employees Union (CFMEU) and the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) are entitled to represent the industrial interests of a majority of employees who will be covered by the Agreement in relation to work that is to be performed under it. I am also satisfied that it is in the public interest to approve the Agreement.

[3] Pursuant to s 53(2)(b) of the Act I note the Agreement was made with the AMWU, CFMEU and the CEPU and that the Agreement covers these organisations.

[4] The Applicant has opted to rely on the National Employment Standards (NES) precedence clause at clause 5.3 of the Agreement to address the following issues:

- (a) clause 47(e) of the Agreement provides that an employee must notify their manager at least one hour prior, and clause 50(6) provides that an employee must notify their manager at least two hours prior, to the commencement of their rostered start time for that day, of their inability to attend for duty. This appears to be inconsistent with

s 107(2)(a) of the Act which provides that notice must be given to the employer as soon as practicable (which may be a time after the leave has started).

- (b) clause 49(2) of the Agreement provides that the employer and the majority of employees may agree to substitute a nominated public holiday to another day. This appears to be inconsistent with s 115(3) of the Act which provides that such substitution may only occur by agreement between the employer and an employee.
- (c) clause 20(1) of the Agreement provides that nothing in the Agreement shall affect the company's right to dismiss an employee for misconduct without notice and in such a case the employee shall be paid wages only up until the time of dismissal. However, this appears to go further than the conduct contemplated by s 123 of the Act, which provides that the period of notice does not apply to employees dismissed for serious misconduct.
- (d) clause 17(3) of the Agreement excludes casual employees from receiving paid entitlements (excluding long service leave), rather, casual employees will instead receive leave without pay in such circumstances. This is inconsistent with s 106A of the Act which provides 10 days paid domestic violence leave each 12-month period to all employees (i.e., full-time, part-time and casuals).

### **Variation of the Agreement**

[5] In recent decisions of the Commission,<sup>1</sup> it has been noted that s 218A of the Act is akin to the slip rule found in s 602 of the Act which allows the Commission to correct or amend an obvious error, defect or irregularity (whether in substance or form) in relation to a decision of the Commission. The purpose of the section is to remove the complexity associated with varying enterprise agreements which contain an obvious error, defect, or irregularity by creating a simpler process for corrections to be made.

[6] Before an amendment under s 218A can be made, the Commission must first be satisfied that an obvious error, default, or irregularity (whether in substance or form) exists. If it is found that such an error, default or irregularity exists, the Commission may (not must) vary the agreement.

[7] There are several typographical and other issues with the Agreement including the following:

- a) when the application was filed, it was accompanied with a copy of the Agreement that omitted page 28 of the Agreement. This page included the consultation provision of the Agreement at clause 56 in addition, to part of clause 55 Site Security. The Commission has no reason to question that the Agreement as made included page 28 and its omission from the Agreement on filing was an inadvertent error;
- b) the table of contents of the Agreement contains a typographical error, with clause two mistakenly listed as clause one, clause three as clause two, and this pattern continues for the entirety of the document;

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<sup>1</sup> *Application by Buller Ski Lifts Pty Ltd* [2023] FWCA 844, [10] and *Application by BHP Coal Pty Ltd* [2023] FWCA 115, [4].

- c) clause 58 is mistakenly listed in the table of contents of the Agreement instead of clause 57, such that clause 58 does not exist and is actually intended to refer to clause 57; and
- d) clause 30 (Meal Break – Day Work) is absent from the contents page of the Agreement.

[8] I sought the views of the Applicant and bargaining representatives on varying the Agreement to correct the typographical errors and the omission of page 28 of the Agreement. Neither the bargaining representatives nor the Applicant objected to the proposed variations.

[9] For the reasons set out above, I am satisfied that the errors as listed at paragraph [7] of the decision, are errors within the meaning of s 218A(1) of the Act.

[10] Further, I am satisfied that this Commission of its own initiative may vary the Agreement such that:

1. omitted page 28 of the Agreement will be included; and
2. an amended table of contents page of the Agreement will be included such that the clauses will be correctly listed and aligned with the body of the Agreement.

[11] The variation will operate from the date the Agreement commences operation, 25 June 2024.

### **Approval**

[12] The Agreement is approved and, in accordance with s 54 of the Act, will operate from 25 June 2024. The nominal expiry date of the Agreement is 18 June 2027.



DEPUTY PRESIDENT

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S&DH ENTERPRISES PTY LTD,  
COLLIE BATTERY ENERGY  
STORAGE SYSTEM  
PROJECT GREENFIELDS  
AGREEMENT 2024

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## SECTION 1: INTRODUCTION

### 1. TITLE

This Agreement shall be called the S&DH Enterprises Pty Ltd, Collie Battery Energy Storage System – Project Greenfields Agreement (“the Agreement”).

### 2. PARTIES BOUND

This Agreement shall be binding upon:

- S&DH Enterprises Pty Ltd ABN: 12138560871 (“the Company”); and
- Employees of the Company employed in a classification set out in Clause 8 of this Agreement, engaged to perform work within the application of this Agreement; and
- The Communication, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union, hereinafter referred to as the “CEPU”
- The Automotive, Food, Metals, Engineering, Printing, and Kindred Industries Union, hereinafter referred to as the “AMWU”.
- The Construction, Forestry and Maritime, Employees Union (CFMEU), hereinafter referred to as the “CFMEU”.

### 3. PERIOD OF OPERATION

- (1) This Agreement shall commence operation seven days after approval by the Fair Work Commission (“the FWC”).
- (2) The nominal expiry date of this Agreement shall be three years from the date of its approval by the FWC. However, this Agreement shall continue to operate beyond the nominal expiry date until it is replaced or terminated in accordance with the *Fair Work Act 2009* (“FW Act”).

### 4. APPLICATION OF AGREEMENT

- (1) This Agreement shall apply to the on-site construction work for the Collie Battery Energy Storage System (CBESS) (“the Project”).
- (2) Provided that the Agreement shall not apply to:
  - (a) Deliveries of materials and equipment to and from the Project;
  - (b) The construction, alteration, upgrade and/or operation of accommodation facilities;

### 5. RELATIONSHIP TO AWARDS, LEGISLATION AND OTHER INSTRUMENTS

- (1) This Agreement operates to the exclusion of any Award, agreement or industrial instrument.
- (2) Where any legislation, award, policy, procedure or other document is referred to in this Agreement it is not incorporated into and does not form part of this Agreement.
- (3) This Agreement will be read and interpreted in conjunction with the National Employment Standards (“the NES”). No term of this Agreement shall be less favourable to Employees than the corresponding terms in the NES. Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
- (4) The provisions of the *Construction Industry Portable Paid Long Service Leave Act 1985* (WA), the *Work Health and Safety Act 2020* (WA) and other relevant Safety legislation (“the Acts”) as amended from time to time, shall have full effect and nothing in this Agreement shall operate to affect, vary or exclude the operation of the Acts insofar as they apply to work covered by this Agreement.

## 6. NO EXTRA CLAIMS

- (1) This Agreement is made in full and final settlement of all claims in relation to work covered by this Agreement and the parties and persons bound shall not make any further claims for the period of operation of this Agreement.
- (2) It is a term of this Agreement that the parties and employees bound by this Agreement will not engage in any industrial action in support of or for the purpose of advancing any other or extra claims against the Employer for so long as this Agreement remains within its nominal term.

## 7. DEFINITIONS

Term	Means
All-Purpose Allowance	Any all-purpose allowance should be added to the Employee's relevant hourly rate of pay to establish the all-purpose hourly rate. This is then the basis for calculating overtime, shift loadings and casual rates, as well as being the rate to be used for all approved paid leave, i.e. allowances are included for "all purposes".
Company Close Down	A period during which the Company decides to suspend work on the Project Site for all or a majority of the workforce and for which the Company grants annual leave where sufficient leave is available.
Continuous Service	Service with the Company as one continuous or non-interrupted basis. Industrial action, unauthorised absences and authorised unpaid leave (except where specified otherwise) do not break the period of continuous service, but do not count as service when calculating that part which is continuous.
Continuous Shift Worker	An Employee engaged to work in a system of consecutive shifts throughout the 24 hours of each day that operates for at least six consecutive days without interruption (except during a breakdown, meal breaks or due to unavoidable causes beyond the control of the Company) and who is regularly rostered to work those shifts.
Distant Worker – Weekend Return Home	An Employee who is engaged by the Company to proceed from their Usual Place of Residence within Western Australia to construction work on the Project and the Employee has opted to be a Distant Worker – Weekend Return Home Employee and that work is at such a distance that the Employee cannot return to their Usual Place of Residence each night.
Flat Allowance	Flat allowances may be expressed as hourly, daily or weekly amounts. They are a set flat amount and are not included for calculating overtime, shift premiums or any other entitlement. Flat allowances do not apply for all-purposes.
Local Worker	An Employee who is not a Distant Worker as defined, which includes a Distant Worker – Weekend Return Home.



Mobilisation	A Distant Worker's Initial forward journey when proceeding to construction work at the Project after engagement.
Ordinary Hours	An average of 36 ordinary hours per week, worked between the hours of 6.00am and 6.00pm, Monday to Friday, or such other times outside of these hours in the case of shift workers. Ordinary Hours plus RDO accrual hours are worked by Employees each day prior to qualifying for payment of overtime penalties.
Ordinary Rate of Pay	The minimum hourly wage rates payable to Employees for working Ordinary Hours plus any All-purpose Allowances.
Point of Hire	The closest capital city to the Employee's Usual Place of Residence as stipulated in the Registration of Interest form.
RDO	Rostered Day Off
Shift Work	Any arrangement of Project Working Hours where the majority of the Ordinary Hours are worked outside of the spread of Ordinary Hours.
Usual Place of Residence	The Employee's place of residence at which they would usually reside and to which they cannot return to each night because they have proceeded to work on the Project at the direction of the Company.
Union Delegate Rights	A Union Delegate is a person appointed or elected, in accordance with the rules of an employee organisation, to be a delegate or representative (however described) for members of the organisation who work with the Company.

## SECTION 2: INCOME

### 8. WAGES AND CLASSIFICATION STRUCTURE

- (1) The classification structure in this Agreement is set out below.

Employees must be prepared to perform all tasks as required of their classification level or any lower level for which they have the required skills and competence provided that the intention of this provision is not to promote the de-skilling of classifications, but to recognise and make use of the full range of skills and competence held by the workforce.

Employees covered by this Agreement shall be classified at a level as specified by this clause and based on their skills, qualifications, experience, competency and training provided that the Company has the need for such skill and competence. Each Employee's classification level will be specified in their letter of appointment. Employees may be required to carry out work either individually or as part of a work group. Employees are responsible for carrying out work in a safe manner and for the quality of their work. Employees at all levels shall carry out all duties which are:

- (a) Incidental, peripheral or ancillary to their main tasks or functions;
- (b) within their skill, competence, and training; and/or
- (c) routine functions.

An Employee engaged in writing, for more than two hours, during one day or shift on duties carrying a

higher rate than the Employee's ordinary classification, shall be paid the higher rate for the whole day or shift. Otherwise, the Employee shall be paid the higher rate for the time so worked.

The following are the minimum hourly wage rates payable to Employees for working Ordinary Hours under the classifications described. Classifications are described in Appendix 1 – Classification Structure of this Agreement.

#### CLASSIFICATION STRUCTURE AND WAGES

GRADE	CLASSIFICATION	Current Rates
Grade 1	<ul style="list-style-type: none"> <li>• Labourer</li> <li>• Surveyors Assistant</li> <li>• Concrete Workers</li> <li>• Basic plant operator ie hand-controlled roller</li> </ul>	\$41.44
Grade 2	<ul style="list-style-type: none"> <li>• Operates machinery and equipment requiring the exercise of skill and knowledge beyond that of an employee at Grade 1</li> <li>• Trades Assistant</li> <li>• Non-Destructive Testing Technical Assistant</li> <li>• Onsite vehicle operator – concrete agitator truck</li> <li>• On site concrete batching plant operator</li> <li>• Concrete finisher</li> <li>• Storeperson</li> <li>• On site vehicle operator - Articulated truck</li> <li>• Bobcat operator</li> <li>• Backhoe operator</li> <li>• Roller Operator .8 tonnes</li> <li>• Water cart operator</li> <li>• 6 wheeled tipper operator</li> <li>• Dump truck operator &lt;15 tonnes</li> <li>• Trenching machine (small ditch witch type)</li> </ul>	\$44.06
Grade 3	<ul style="list-style-type: none"> <li>• Operates machinery and equipment requiring the exercise of skill and</li> </ul>	\$45.63

	<p>knowledge beyond that of an employee at Grade 2 Rigger (Basic)</p> <ul style="list-style-type: none"> <li>• Dogperson</li> <li>• Steel Fixer</li> <li>• Sheetmetal Worker - Second Class</li> <li>• Non Destructive Testing Technician Level 1</li> <li>• On-Site Vehicle Operator - Flat Tray</li> <li>• Concrete finisher (powered)</li> <li>• Wheel loader &lt;15 tonnes</li> <li>• Dozer operator &lt;15 tonnes</li> <li>• Excavator operator &lt;10 tonnes</li> <li>• Scraper Operator &lt;10m3 Capacity</li> <li>• Trenching Machine Capable of 2.4m depth 0.45m width</li> </ul>	
Grade 4	<ul style="list-style-type: none"> <li>• Operates machinery and equipment requiring the exercise of skill and knowledge beyond that of an employee at Grade 3.</li> <li>• Rigger (Intermediate or Advanced)</li> <li>• Operates mobile cranes with lifting capacity of up to and including 20 tonnes</li> <li>• Operates Articulated On-Site Vehicles</li> <li>• Dozer Operator</li> <li>• Scraper operator</li> <li>• Wheel Loader Operator</li> <li>• Excavator Operator</li> </ul>	\$47.38
Grade 5	<ul style="list-style-type: none"> <li>• Operates machinery and equipment requiring the exercise of skill and</li> </ul>	\$49.73

	knowledge beyond that of an employee at Grade 4 <ul style="list-style-type: none"> <li>• Mechanical Tradesperson</li> <li>• Carpenter</li> <li>• Security Alarm Technician</li> <li>• Communications Technician</li> <li>• Operates a mobile crane with lifting / capacity in excess of 20 tonnes and up to and including 80 tonnes</li> <li>• Non Destructive Testing Technician Level2</li> <li>• Transmission Linesperson</li> <li>• Dozer Operator Final Trim</li> <li>• Construction Grader Operator</li> <li>• Scraper Operator Final Trim</li> <li>• Wheel loader Final Trim</li> <li>• Excavator Final Trim</li> </ul>	
Grade 6	<ul style="list-style-type: none"> <li>• Electrical Tradesperson</li> <li>• Final Trim Grader Operator</li> <li>•</li> </ul>	\$51.80

The Ordinary Rates above will be reviewed on an annual basis for the duration of the Agreement, with the first review to be based on the CPI for the June quarter 2025. Rate reviews will take into consideration contract performance, client satisfaction and adjustments in market conditions. Rate reviews will provide for an annual safety-net rate increase that is no less than the annual percentage change in the National Consumer Price Index (CPI) for the June quarter each year as published by the Australian Bureau of Statistics. The annual safety-net rate increase will be applied to the minimum hourly wage rates in Clause 8.

#### 9. PROVISION OF TOOLS AND TOOL ALLOWANCE

- (1) Where a tradesperson or apprentice is required by the Company to provide their own tools, they shall be paid a flat weekly tool Allowance of \$18.76.
- (2) A tradesperson or apprentice shall have their tools replaced by the Company if there is a loss/damage of tools by fire or breaking and entering whilst securely stored at the Company's direction in a room or building on the Company's premises, or if the tools are lost or stolen through no negligence of the Employee whilst being transported by the Employee at the Company's direction.
- (3) For the purposes of this clause:
  - (a) only tools used by the Employee in the course of their employment will be covered by this clause;

- (b) the Employee will, if requested to do so, furnish the Company with a list of tools so used;
- (c) reimbursement will be at the current replacement value of new tools of the same or comparable quality; and
- (d) the Employee will report any theft to the police prior to making a claim to the Company for replacement of stolen tools.

#### 10. APPRENTICES

- (1) All Parties covered by the Agreement encourage the engagement of apprentices on the Project.
- (2) The Company will, if practical, provide work opportunities to apprentices employed by it or through a group training organisation.
- (3) For the Project, each job site shall allow a ratio of 1 apprentice for every 10 tradespersons.

#### 11. APPRENTICES WAGE RATES

- (1) Apprentices shall be paid the applicable percentage of the wage rate of the relevant trade classification, as set out below:

Four Year Term	% of trade classification wage rate
First Year	55% of trade classification
Second Year	65% of trade classification
Third Year	75% of trade classification
Fourth Year	90% of trade classification

- (2) Adult apprentices (over 21 years of age) shall be paid a wage not less than the ordinary wage rate prescribed for an Employee classified as Grade 2 where an Employee was employed by the Company immediately prior to becoming an adult apprentice with that Company, the Employee will not suffer a reduction in the ordinary hourly rate of pay by virtue of entering into the contract of training.

#### 12. PROJECT PAYMENT

- (1) Subject to the conditions set out in this Clause, an Employee may qualify for the payment of a Project Payment ("PP") of \$100.00 per week (pro-rated)
- (2) To qualify for the PP, an Employee must be ready, willing and available to work as directed for those hours that they are normally required to work by the Company, including regular reasonable rostered overtime.
- (3) PP accrues weekly during any week an Employee is:
  - (a) carrying out their normal work;
  - (b) on paid leave;
  - (c) on authorised, unpaid leave; or
  - (d) on workers' compensation, up to a maximum of two weeks.
- (4) PP does not accrue during any period of:

- (a) unauthorised leave; or
  - (b) other unauthorised absence.
- (5) An Employee forfeits any PP that may accrue in any week in which the Employee engages in any form of industrial action.
- (6) PP is payable only when an Employee ceases employment on the Project at the direction of the Company. PP is not paid if an Employee resigns, or the Employee's employment is terminated for misconduct.

### 13. WORK RELATED ALLOWANCES

The allowances set out in this clause are paid in full compensation for all disabilities incurred by Employees whose employment is covered by this Agreement. These allowances are in full satisfaction of any payments that would apply but for this Agreement. No other allowances shall be claimed or paid.

(1) SITE ALLOWANCE

A Flat site Allowance of \$4.00 flat per hour shall be paid to each Employee on the Project for each hour worked in recognition of all disabilities associated with work to be performed on construction activities, including, but not limited to, heat, cold, high winds, height, dust, dirty work, confined spaces and extreme of terrain.

(2) ELECTRICAL LICENCE ALLOWANCE

Employees engaged and working as an electrical tradesperson and who hold an appropriate electrician's licence shall be paid All-purpose Allowance of \$0.82 per hour.

(3) TRADESPERSON ALLOWANCE

Employees engaged at tradesperson level or higher, holding a current tradesperson certificate or tradesperson's rights recognition and who is required to perform the full range of duties of a tradesperson shall be paid All-purpose Allowance of \$0.82 per hour.

(4) LEADING HAND ALLOWANCE

In addition to the minimum hourly rate as prescribed by this Agreement, a leading hand appointed in writing as such by the Company, shall be paid an All-purpose Allowances of \$2.50 per hour.

(5) FIRST AID ALLOWANCE

An Employee who is appointed by the Company to perform first aid duties and holds a Senior First Aid Certificate (or equivalent) or Industrial First Aid Certificate (or equivalent) from St John Ambulance, the Australian Red Cross Society or similar body, will be paid a Flat Allowance of \$3.00 per day.

(6) MEAL ALLOWANCE

Where an Employee is required to work additional overtime for more than one and a half hours beyond the usual rostered ceasing time (including rostered overtime) of that day or shift, without being notified on the previous day or earlier that he/she will be so required to work that additional overtime, the Employee shall be supplied with a meal by the Company or be paid a meal allowance of \$17.57 for such meal and for a second or subsequent meal if so required.

(7) TRAVELLING TIME ALLOWANCE

- Local Employees, as defined in clause 7 of this Agreement, will be paid a flat allowance of \$40.00 per day.
- Distant Employees, as defined in clause 7, will be paid a flat allowance of \$8.00 per day.



#### 14. SUPERANNUATION

- (1) The Company will make superannuation contributions as prescribed by the *Superannuation Guarantee (Administration) Act 1992* (Cth) on behalf of each of its Employees.
- (2) Where a complying fund is not nominated by an Employee and the Employee does not have a stapled superannuation fund, the Company will make contributions to their nominated default funds, C+Bus or Australian Super, or any other default fund as determined by the Company from time to time.

#### 15. INCOME PROTECTION INSURANCE

- a) The Company will contribute up to a maximum of 1.8% (exclusive of GST and Stamp Duty) of the Employees' gross earnings to an income protection plan with either Wage Guard or Protect. In the event the claims experience requires a review of the insurance plan, the adjustment will be to the plan and not the Company's insurance premium.
  - b) The Income Protection Policy implemented by the Company shall seek to provide the following, subject to premium cost:
    - Cover for 100% of an Employee's average earnings up to a maximum of \$2,000.00 (whichever is less) for 104 weeks applying to personal injury or sickness (other than illnesses or injuries not normally covered by the Company's policy);
    - An excess (waiting) period of 14 days applying to personal injury or sickness, or 28 days in the case of sporting injuries;
    - Cover for casual Employees with greater than one week's continuous employment under the Agreement;
    - A requirement that claimant Employees undertake reasonable rehabilitation programmes as directed by the Company and/or the insurer;
  - c) All Employees making a claim for a period of absence will be reviewed immediately and thereafter on a regular basis as requested by the Company's nominated medical examiner;
  - d) In the event that the claims experience necessitates, in the view of the Company, a review of the insurance policy under this enhanced benefit, discussions will be held with parties to this Agreement, any adjustments that are determined necessary by the Company shall be made to the policy entitlements and not the maximum premium set out above;
  - e) the general insurance code of practice shall apply including operation of a claims review by the Australian Financial Complaints Authority (AFCA)); and
  - f) An Employee may request, and be provided, a copy of the relevant policy within seven days.
- (1) Where an Employee is in receipt of income protection insurance payments, they shall not be entitled to any other payments under this Agreement.
  - (2) The Company will ensure Employees who are covered under:
    - (a) Electrical and Plumbing classifications, Income Protection will be taken out through Protect; and
    - (b) For all other classifications, Income Projection will be taken out through WageGuard.

### SECTION 3: CONTRACT OF SERVICE

#### 16. WEEKLY EMPLOYMENT

- (1) Employees shall be engaged on a full time, part time or casual basis. An employee not specifically engaged as a casual shall be deemed to be employed by the week.
- (2) All weekly hired employees will be required to serve an initial probationary period of three months.

- (3) Part time employees will receive the benefits to which they are entitled to under this Agreement on a pro-rata basis, including paid leave and severance payments. Further provisions for part time employees include:
- (a) On engagement, the Company and the Employee shall agree on the number of hours to be worked per week and the days to be worked. The terms of this agreement may be varied from time to time by consent between the Company and the employee.
  - (b) A part time Employee who is required by the company to work in excess of the hours agreed will be paid overtime in accordance with Clause 34.

## 17. CASUAL EMPLOYMENT

- (1) A casual Employee is one engaged and paid as such.
- (2) A casual Employee shall be paid the ordinary hourly rate prescribed in clause 8 – ‘Wages and Classification Structure’, of this Agreement for the work performed, plus an all-purpose casual loading of 25%.
- (3) The casual loading compensates a casual Employee for the non-payment of public holidays, entitlements to paid leave (excluding long service leave), notice of termination and redundancy pay.
- (4) Casual employees are entitled to payment for a minimum of four hours’ work per engagement.

A casual Employee will be entitled to convert to permanent employment in accordance with the NES.

## 18. STAND DOWNS

- (1) The Company is entitled to deduct payment for any day or part of a day an Employee cannot be usefully employed because of any strike or any breakdown in machinery or any other reason for which the company cannot be reasonably held responsible, as long as the Company has no useful alternative work available.

## 19. NOTICE OF TERMINATION

- (1) The Company will provide the following notice of termination:

Employee's period of continuous service at the end of the day the notice is given	Period
Casual employee	1 day
During the first 12 months service	1 week
1 year and up to the completion of 3 years	2 weeks
3 years and up to the completion of 5 years	3 weeks
5 years and over	4 weeks

*The period of notice is increased by one week if the Employee is over 45 years of age and has completed at least two years of continuous service with the company.*

- (2) The Company may either require the Employee to work out the notice period or may make payment in lieu of notice.
- (3) Payment shall be at least the amount the Company would have been liable to pay the Employee at the full rate of pay for the hours the Employee would have worked had employment continued until the end of the minimum period of notice.
- (4) A weekly hired Employee may terminate their employment by giving one weeks’ notice of termination.



If an Employee who is at least 18 years old does not provide the period of notice required, the Company may deduct an amount not exceeding one week's worth of wages from the employee.

- (5) A casual Employee will be provided with eight Ordinary Hours' notice. Should the required period of notice not be provided by the Company, the Employees shall be entitled to receive payment for the equivalent period. Conversely, should the required period of notice not be given by the employee, an amount equivalent to eight Ordinary Hours shall be paid by the Employee to the Company.

## **20. GENERAL CONDITIONS**

- (1) Nothing in this Agreement shall affect the Company's right to dismiss an Employee for misconduct without notice and in such a case the Employee shall be paid wages only up until the time of dismissal.
- (2) With the exception of authorised paid absences, the Company shall not pay for any day not worked by an employee.
- (3) Employees shall have no right to be paid for any time that they are not ready, willing and able to follow all lawful directions of the Company or to carry out all duties that they are capable of performing.
- (4) Employees shall comply with all lawful directions given by the Company and comply with all site policies and procedures applicable to the project work.
- (5) The Company may direct an Employee and the Employee shall carry out such duties and use such tools and equipment as may be required, provided that the Employee is competent to use such tools and equipment and provided that any such direction is consistent with the Company's responsibility to provide a safe and healthy working environment.

## **21. ABANDONMENT OF EMPLOYMENT**

- (1) If an Employee has three consecutive days of unauthorised absence from work without explanation, the Company will make reasonable efforts to contact the employee. If the Company is unable to make contact with the employee, then the Company may consider that the Employee has abandoned their employment. In such circumstance, the Employee may be subject to disciplinary action, up to and including termination of employment.
- (2) Employees will at no time receive less than their minimum entitlement to notice of termination provided by the NES.

## **22. SEVERANCE PAY**

- (1) The following redundancy/severance pay clause is an industry specific redundancy scheme and, as such, the NES does not apply to the Company and employees covered by this Agreement. Clause 41 of the *Building and Construction General On-site Award 2020* is incorporated by reference.
- (2) The amounts listed are in substitution for (and not in addition to) the amounts listed in subclause 41.3 of the Award.
- (3) An Employee who ceases employment on the Project for any reason other than termination due to misconduct shall be paid a severance payment of \$80 per week (pro-rated) for each Completed Week of Service under this Agreement.
- (4) Any period of service as a casual shall not entitle the Employee to accrue severance pay under this clause.
- (5) A Completed Week of Service means any week where the Employee attends work for all Project Working Hours in that week.
- (6) For the purpose of this clause, a Completed Week of Service shall include time not worked due to annual leave, paid personal leave (including sick leave and carer's leave), compassionate leave, jury service, R&R leave days, public holidays, RDO's, workers compensation to a maximum of two weeks, and approved unpaid leave taken in conjunction with the R&R leave.

- (7) The Company will pay the employee's severance pay entitlement to either Protect (ETU) or Reddifund (CFMEU and AMWU) as long as this redundancy pay scheme is an Approved Worker Entitlement Fund under the *Fringe Benefits Tax Assessment Act 1986*.

## **23. PAYMENT OF WAGES**

- (1) Payment of wages shall be by electronic funds transfer to each Employee's nominated Australian financial institution account.
- (2) Wages shall be paid weekly in arrears.
- (3) In any week on which a holiday falls on the normal pay day, wages shall be paid on the following day.

### **PAYMENT ON TERMINATION**

- (4) When an Employee is terminated, all entitlements owed to the Employee will be paid no later than two working days after the date of termination.

### **RECORD OF ACCRUALS**

- (5) In addition to the record keeping requirements prescribed by law, the Company shall regularly provide employees with a written update of their accrued annual leave, RDO accrued hours and severance and project payment accruals.

## **24. DISPUTE RESOLUTION PROCEDURE**

- (1) If a dispute relates to:
  - (a) a matter arising under this Agreement; or
  - (b) the NES,this clause sets out procedures to settle the dispute.
- (2) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Employee or Employees concerned and relevant supervisors and/or management.
- (3) Discussions should commence with a level of supervision or management appropriate to the particular dispute. If the dispute is not resolved at that level, discussions should involve the Company's staff member responsible for industrial relations at the Site and, if the issue remains unresolved, the Company's senior Site manager.
- (4) If discussions at the workplace level do not resolve the dispute a party to the dispute may refer the matter to the Commission.
- (5) If the Commission is satisfied clauses 24(2) and 24(3) have been complied with and genuine attempts have been made to resolve the dispute at the workplace level, the Commission must attempt to resolve the dispute by mediation or conciliation.
- (6) If the parties to the dispute agrees, the Commission may attempt to resolve the dispute by making a recommendation.
- (7) If a dispute is not resolved, any party may refer the matter to the FWC and the FWC may arbitrate the matter or matters in dispute.
- (8) Any party to the dispute may, at any stage, appoint a representative of their choice for the purposes of the procedures in this clause.
- (9) At all times whilst a question or dispute is being resolved work will continue.

## **25. PROTECTIVE CLOTHING AND EQUIPMENT**

- (1) The Company will issue to each Employee, upon commencement on the Project, the following protective clothing, equipment and footwear:
  - (a) One pair of approved safety footwear;
  - (b) Four pairs of standard-issue long pants and four standard-issue long sleeve shirts
  - (c) One jacket tailored the specific geographical conditions and requirements of its Intended use, will be provided to any person employed on site between 1 April and 30 September and for longer than four weeks in any year;
  - (d) One safety helmet;
  - (e) Approved safety glasses;
  - (f) The Company will also make available:
    - sunscreen (SPF 50+) for personnel engaged in outside work;
    - hearing protection; and
    - gloves.
- (2) Consistent with the instructions provided during the Site orientation and induction process, protective clothing and equipment must be worn correctly at all times and helmets must not be painted, drilled or modified in any way.
- (3) Re-issue of the specified clothing shall be on the basis of fair wear and tear provided the worn-out item is produced for replacement.

## **26. DISTANT WORKER ACCOMMODATION**

Where an Employee is a Distant Worker, the Company shall provide suitable board and lodging.

## **27. CHRISTMAS AND/OR EASTER BREAK**

- (1) Employees who qualify for the provisions of Clause 28 R&R Leave may return to their home at Christmas if the Company agrees –
  - (a) by delaying the taking of the entitlement to R&R that falls immediately before the Christmas break; or
  - (b) by taking R&R in advance but, if by service subsequent to the taking of R&R an entitlement to that R&R does not accrue, any payment of ordinary pay for that period of R&R and the cost of airfares shall be refunded to the Company unless the services of the Employee are terminated by the Company through no fault of that Employee. For the purposes of this provision, the Company may deduct any amount to be refunded from any monies otherwise due to the under their contract of employment.
- (2) If the Company elects to close down operations on the project at Christmas, subject to Clause 29(1) above, the Company shall provide employees with 1 month written notice in advance and shall return Employees to their Point of Hire.

## **SECTION 4: HOURS OF WORK**

### **28. HOURS OF WORK**

- (1) Ordinary hours for an Employee comprise 36 hours per week averaged over a defined work cycle and, except in the case of shift workers, are to be worked Monday to Friday between 6.00am and 6.00pm as

required by the Company.

- (2) The Company will determine the actual method of working Ordinary Hours that best suits the operational requirements.
- (3) Subject to subclause 1 above, start and finish times may be varied in accordance with the seasons and the available daylight hours. An employee's working hours shall commence and conclude at the work front.
- (4) Where the Company wishes to vary the pattern of working the ordinary hours of work inside the spread of ordinary hours as defined in subclause 1 above, it shall seek the agreement of the employees involved. Failing agreement, the Company shall give those employees one week's notice of the change.
- (5) Employees will be required to work overtime in accordance with project requirements. All hours worked in excess of the ordinary hours will be paid in accordance with Clause 34 – Overtime.

## **29. ROSTERS**

### **(1) Local Work Roster**

Local employees shall work a standard project roster of 5 consecutive days on duty period being Monday to Friday, followed by an off-duty period of 2 consecutive days off with working hours averaging (52.5) hours per week. Employees have the option of working either a full or half day Saturday if they choose to do so.

### **(2) Non-Local Work Roster (DIDO)**

Non-local employees shall work a standard project roster of 10 consecutive days on duty period, followed by an off-duty period of 4 consecutive days off (R&R) with working hours averaging (105) hours per work cycle.

Local employees have the option to adopt a Non-Local (DIDO) roster, this may be changed once every 6 months with the Employee making the request in writing to the Company to change their roster.

## **30. MEAL BREAK – DAY WORK**

- (1) The ordinary hours of work shall be consecutive except for an unpaid meal break, which shall not be less than 30 minutes.
- (2) Unless agreed otherwise between the Company and majority of affected employees, the meal break shall be scheduled to be taken no later than five hours after commencement of ordinary hours of work; if not taken overtime rates shall apply.
- (3) When an Employee is required for duty during the meal break and the meal break is thereby postponed for more than half an hour, the Employee shall be paid at overtime rates until the meal break is taken.
- (4) The Company may stagger the time of taking meal and rest breaks to meet operational requirements.

## **31. REST PERIOD – DAY WORK**

- (1) The Company shall structure the working hours to include one 30-minute rest break to be taken without deduction of pay by employees working the project working hours on any day, Monday to Friday.

## **32. ROSTERED DAYS OFF**

- (1) Subject to the roster, working hours will be arranged on a system which provides for an Employee to accrue RDO's. This will be done by the Employee working 8 hours each day Monday to Friday, being paid 7.2 ordinary hours pay and accruing 0.8 of an hour towards an RDO.
- (2) RDO's for non-local work employees shall be taken during an Employee's Rest & Recreation Leave where applicable. RDO's for local work employees can be taken at a mutually agreeable time during the rostered period and in line with project operational requirements.

- (3) When approving requests for RDO's local work employees, project operational requirements will be considered, however requests will not be unreasonably denied.
- (4) At the time of termination, all untaken RDO accrual hours shall be paid to the Employee at their ordinary wage rate.

### **33. WITHDRAWAL OF OVERTIME**

- (1) The Company may withdraw overtime without notice on any day where the employee(s) concerned have been stood down because they cannot be usefully employed because of any strike or any breakdown in machinery or any stoppage of work by any cause for which the Company cannot be reasonably held responsible.
- (2) In addition, the Company may withdraw overtime without notice in the case of any industrial action which affects the work being undertaken by the Company. Industrial action shall include strikes, bans, limitations, or any other form of industrial restriction.
- (3) The Company may withdraw overtime if it has good reason for wanting to withdraw the overtime and will provide Employees with a minimum of four hours' notice if withdrawing overtime on any day.

### **34. OVERTIME PAYMENTS**

- (1) Subject to the provisions of this subclause, all work performed outside of the ordinary hours and time worked to accrue an RDO on any day, Monday to Friday, inclusive, shall be paid for at the rate of time and one half for the first two hours and double time thereafter.
- (2) Overtime work performed on Saturdays prior to 12.00 noon shall be paid for at the rate of time and one half for the first two hours and double time thereafter.
- (3) Overtime work performed on Saturdays after 12.00 noon or on Sundays shall be paid for at the rate of double time.
- (4) Overtime work performed on any day prescribed as a public holiday under this Agreement shall be paid for at the rate of double time and a half except when another day is substituted in accordance with Clause 42 – Public Holidays of this Agreement.
- (5) An Employee who works on a Saturday, Sunday or public holiday shall be paid for at least two hours at the appropriate overtime rate except as provided in subclause (6) of this clause.
- (6) In computing overtime, each day shall standalone but when an Employee works overtime which continues beyond midnight on any day, the time worked after midnight shall be deemed to be part of the previous day's work for the purpose of this subclause.
- (7) Except for Shift Loading, the provisions of this clause do not operate so as to require payment of more than double time rates, or double time and a half on a public holiday prescribed under this Agreement for any work.

### **35. OVERTIME CRIB BREAKS**

- (8) During the period of additional Overtime which is defined as any Overtime worked after the usual project working hours, the Employee shall be entitled to a crib break of 20 minutes duration after each four hours of continuous work. The crib break(s) shall be without deduction of pay.
- (9) The Company may vary the provisions of subclause (8) of this clause to suit the circumstances of the work in hand by paying each Employee concerned an additional 20 minutes at Ordinary Time Wages in lieu of the crib break.

### **36. OVERTIME BREAKS – SATURDAY, SUNDAY AND PUBLIC HOLIDAYS**

- (10) An Employee who works six hours on a Saturday, Sunday or Public Holiday shall be entitled to a rest break of 30 minutes to be taken without deduction of pay.



- (11) If the overtime on a Saturday, Sunday or Public Holiday continues beyond six hours and up to 10 hours an Employee shall be entitled to a 30 minute crib break which shall be paid for at Ordinary Time Wages.
- (12) The rest break prescribed at subclause (10) and the crib break prescribed at subclause (11) of this clause shall be taken at a time agreed between the Company and the Employee concerned.

### **37. RECALLS**

- (1) When an Employee is recalled to perform work after leaving the job:
  - (a) The Employee shall be paid for at least three hours at overtime rates;
  - (b) Time reasonably spent in getting to and from work shall be counted as time worked; and
  - (c) The Company may require the recalled Employee to carry out additional duties beyond the initial reason for the recall.

### **38. STANDBY**

When an Employee is instructed by the Company to hold in readiness at the employee's Usual Place of Residence or other agreed place of residence for a call to work after completing the project working hours, the Employee shall be paid at ordinary time wages for the time so held in readiness.

### **39. TEN HOUR BREAK**

- (1) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that an Employee has at least 10 consecutive hours off duty between the work of successive days.
- (2) An Employee who works so much Overtime between the completion of the Project Working Hours worked on one day and the commencement of the Project Working Hours on the next day that the Employee has not had at least 10 consecutive hours off duty between those times shall, subject to this subclause, be released after completion of such overtime until the Employee has had 10 consecutive hours off duty without loss of pay for working hours occurring during such absence.
- (3) If, on the instructions of the Company, an Employee resumes or continues work without having had 10 consecutive hours off duty, the Employee shall be paid at double time rates until the Employee is released from duty for such period and the Employee shall then be entitled to be absent until the Employee has had 10 consecutive hours off duty without loss of pay for working hours occurring during such absence.
- (4) Where an Employee is called into work on a Sunday or holiday prescribed under this Agreement preceding an ordinary working day, the Employee shall, wherever reasonably practicable, be given 10 consecutive hours off duty before the usual starting time on the next day. If this is not practicable, then the provisions of subclauses (2) and (3) of this clause shall apply.
- (5) The provisions of this clause shall apply in the case of shift Employees as if eight hours were substituted for 10 hours when overtime is worked:
  - (a) For the purpose of changing shift rosters; or
  - (b) Where a shift Employee does not report for duty; or
  - (c) Where a shift is worked by arrangement between the Employees themselves.
- (6) Overtime worked as a result of a recall shall not be regarded as overtime for the purpose of this clause when the actual time worked is less than three hours on such recall or on subsequent recalls.

### **40. INCLEMENT WEATHER**

- (1) In any situation where weather conditions do or are likely to affect safe work, affected employees and

the Company shall consult on and seek the best method for completing work safely or shall seek alternate safe work if available. For the purposes of this clause, an Employee operating machinery fitted with a functional weatherproof cab or otherwise protected from the inclement weather (e.g. work inside buildings or other areas protected from the inclement weather) shall not be deemed to be exposed to inclement weather.

- (2) Inclement weather shall mean climatic conditions as follows: Rain, Hail, High Winds and/or Fog.
- (3) The intent of the inclement weather procedure herein is that where or when applicable, individuals, groups, sections or areas of the workforce on the project or if possible, all project employees will work in dry areas. If it is not possible for all employees to work, it is accepted that employees may continue working whilst others are not able to do so.
- (4) It is not the intent or requirement for employees to work in inclement weather. However, in emergencies work may continue, or as agreed between the Company and effected Employee/s, or in circumstances where it is agreed that to not move or protect equipment or goods substantial loss may occur. If the Employee is required by the Company to work in the rain such as in the above circumstance, they shall be paid single time in addition to the rate of pay applicable at the time.
- (5) Where it is necessary and safe for a spotter to work during a period of inclement weather thereby enabling mobile plant to continue operating, such spotter shall be entitled to payment in accordance with the provisions of subclause 38(4).

#### **41. SHIFT WORK**

- (1) Except as varied by this Clause, all other aspects of Section 4 of the Agreement shall apply to the working of shift work.
- (2) The Company has the right to direct employees to work shift work as required and the employees shall work the shift work as directed. Shift work will be worked and paid for in accordance with this subclause.
- (3) Shift work is deemed to be any arrangement of working hours where the majority of the ordinary hours are worked outside of the spread of ordinary hours, as defined in clause 31– Hours of Work, of this Agreement and when employees are working as such.
- (4) Ordinary hours for shift employees will comprise 36 hours per week averaged over a defined work cycle and will not commence before 5.00pm on Sunday night. Such ordinary hours are the specified hours under each shift employee's terms of employment by reference to which annual leave and personal/carer's leave accrue.
- (5) Prior to the commencement of shift work, the Company shall seek the agreement of the employees involved. Failing agreement, the Company will provide to the employees concerned, one week's notice of the commencement of shift work and the starting and finishing times of ordinary hours of the shifts.
- (6) Where less than five consecutive shifts are worked, employees shall be paid at overtime rates in lieu of the shift loading prescribed at subclause (7) of this clause. The consecutive nature of shifts will not be deemed to be broken if work is not carried out on a Saturday, Sunday, RDO or on any public holiday.
- (7) A shift Employee shall receive a flat loading of 25 percent of their ordinary hourly rate for all hours worked.

#### **42. MEAL BREAK – SHIFT WORK**

- (1) Employees working night shift shall be entitled to stop work for 30 minutes without deduction of pay for the purpose of taking a meal break.
- (2) The Company may stagger the times for employees to take meal breaks to meet operational requirements.

**43. REST PERIODS – SHIFT WORK**

- (1) The Company shall structure the working hours for employees working night shift, to include a 30 minute rest break to be taken without deduction of pay.

**SECTION 5: LEAVE PROVISIONS**

**44. ANNUAL LEAVE**

- (1) An Employee (other than a Continuous Shift Worker) is entitled to four weeks of paid annual leave for each completed year of service. An employee's entitlement to paid annual leave accrues progressively during a year of continuous service in accordance with the employee's ordinary hours of work.
- (2) A Continuous Shift Worker as defined is entitled to five weeks of paid annual leave for each year of service for the purposes of the NES. An Employee engaged on Continuous Shift Work for part of any year shall accrue the additional 36 hours annual leave on a pro rata basis
- (3) For the purpose of this clause, Continuous Service shall include, time not worked due to annual leave, paid personal leave (including sick leave and carer's leave), compassionate leave, community service leave, public holidays, RDO's, workers compensation to a maximum of two weeks, and approved unpaid leave taken in conjunction with the R&R.
- (4) Before going on leave the Employee will be paid:
  - (i) The ordinary wages they would have received under Clause 8 – Wages and Classification Structure, of this Agreement for the ordinary hours (up to 36) ordinary hours per week they would have worked but for proceeding on annual leave;
  - (ii) Any all-purpose allowances which the Employee is normally paid for their ordinary hours each week; and
  - (iii) A loading of 17.5% calculated at the rate of wage prescribed in subclause (1)(b)(i) of this clause;in respect of the period of leave.
- (5) Paid annual leave may be taken for a period agreed between the Company and the Employee and will be paid in accordance with (1)(b) of this clause. The Company must not unreasonably refuse to agree to a request by the Employee to take paid annual leave.
- (6) If a public holiday is observed on an ordinary working day during the annual leave, the annual leave is increased by one day for each public holiday.

**45. COMPANY CLOSE DOWN**

- (a) The Company may close the site or part of the site or reduce the number of employees at the site so that all or most employees take their annual leave at the same time.
  - (b) The Company must give one months notice to each Employee of the arrangement in clause (4) (a) above.
  - (c) When the site is closed employees must take the annual leave to which they are entitled or take unpaid leave.
  - (d) If an Employee has insufficient service to have accrued leave that is equal to the leave given to other employees, the Employee shall not be entitled to work or pay whilst other employees are on leave in accordance with this subclause.
- (2) An Employee who leaves their employment or whose employment is terminated by the Company shall be paid accrued but untaken annual leave at the rate of wage prescribed in subclause (1)(b)(i), (1)(b)(ii)



and (1)(b)(iii) of this clause.

#### CASUALS EXCLUDED

The provisions of this clause shall not apply to casual employees.

### 46. PERSONAL LEAVE

#### 1. GENERAL CONDITIONS

- (a) An Employee is entitled to 10 paid days of personal leave for each year of Continuous Service. An employee's entitlement to paid personal leave accrues progressively during a year of Continuous Service in accordance with the employee's ordinary hours of work.
- (b) Personal leave includes sick leave and carer's leave.
- (c) Paid personal leave is to be paid for the ordinary hours that the Employee would reasonably have expected to have worked (the ordinary hourly rate).
- (d) Personal leave that is accrued but not taken shall accumulate.
- (e) On lawful termination of their employment under this Agreement, an Employee (except an Employee dismissed for serious misconduct) with personal leave accrued under the terms of this Agreement, which has not been taken, shall be paid the amount of outstanding personal leave hours at their Ordinary Hourly Rate prescribed at Clause 8 – Wages and Classification Structure of this Agreement.
- (f) An Employee dismissed for serious misconduct is not entitled to any payment for untaken accrued personal leave upon termination.
- (g) Employees absent on authorised and paid personal leave shall continue to accrue RDO Accrual Hours at their ordinary rate of accrual.

#### CASUALS EXCLUDED

The provisions of this clause do not apply to casual Employees

### 47. SICK LEAVE

- (a) An Employee who is unable to attend or remain at the place of employment during Ordinary Hours of work by reason of personal illness or injury shall be entitled to take accrued personal leave during such absence in accordance with the provisions of this clause.
- (b) An Employee shall be entitled to pay at their Ordinary Rate of Pay for those Ordinary Hours not worked by them on any day due to personal illness or injury.
- (c) An Employee shall not be entitled to claim payment for personal illness or injury, nor will the Employee's personal leave entitlement be reduced, if such illness or injury occurs on the day the Employee is not scheduled to be at work.
- (d) If at any time an Employee is absent on the ground of personal illness or injury for a period longer than their entitlement to paid personal leave, the Employee is not entitled to payment in respect of such absence.
- (e) To be entitled to payment in accordance with this clause the Employee shall meet the following criteria:
  - As soon as reasonably practicable advise the Company of their inability to attend for work and the estimated duration of the absence; provided that such advice, other than in extraordinary circumstances shall be given to the Company within one hour of the commencement of absence.

- If absent for more than two days or absent for more than two single days in any 12-month period of employment, the Employee must produce a medical certificate, or if not reasonably practicable for the Employee to give the Company a medical certificate, a statutory declaration, to the Company in respect of all future absences in that year and the Company shall advise the Employee in writing of this requirement.
  - Following the Employee's return to work, the Employee must submit an application to the Company indicating the reason for the absence. For such a reason to be accepted by the Company, it must involve the Employee's personal illness or injury.
- (f) Non-Compliance With Notification
- If the Employee does not satisfy the criteria set out in subclause (7) of this clause, the Employee's personal leave application will not be approved, and the leave will be unauthorised and unpaid.
  - An Employee whose application for personal leave is not approved will be subject to the Company's disciplinary procedures for any such absence.
- (g) The provisions of this clause with respect to payment do not apply to Employees who are entitled to payment under the *Workers' Compensation and Injury Management Act 1981* (WA).

#### 48. CARER'S LEAVE

- (a) Carer's leave is paid or unpaid leave taken to provide care and support to a member of immediate family or household because of:
- personal illness or injury of the member; or
  - an unexpected emergency affecting the member.
- (b) Paid carer's leave is deducted from employees accrued personal leave.
- (c) Employees (including casual employees) are entitled to a period of up to two days' unpaid carer's leave per occasion. The unpaid leave of up to two days is to be taken as a single unbroken period, unless otherwise agreed between the Employee and the Company. Weekly hired employees are not entitled to take unpaid carer's leave if they are able to take paid carer's leave.
- (d) To be entitled to carer's leave (either paid or unpaid) employees must advise the Company as soon as reasonably practical of their inability to attend work in order to provide care and support. Whenever possible, employees should advise the Company at least two hours prior to the commencement of their shift and indicate the expected duration of their absence.
2. For all absences, employees must provide the following:
- (a) in the case of illness or injury of a member of their immediate family or household the Employee must provide:
- a medical certificate indicating that a member of their immediate family or household has; had or will have a personal illness or injury during a period of the leave: or
  - a statutory declaration which includes a statement that the Employee requires/required leave to provide care or support to a member of their immediate family or household because of personal illness or injury.
- (b) in the case of an unexpected emergency a statutory declaration which includes a statement that the Employee requires/required leave to provide care or support to a member of their immediate family or household because of an unexpected emergency affecting that person.
3. The Company may require employees to provide proof to satisfy a reasonable person of the relationship between them and the person they are taking carer's leave to provide care and support to.

#### CASUALS EXCLUDED

Except for unpaid carer's leave, this clause does not apply to casual employees. When taking unpaid carer's leave, casual employees must comply with the notice and evidence requirements specified above.

#### 49. PUBLIC HOLIDAYS

- (1) An Employee shall be entitled to the holidays prescribed below, without deduction of pay of the ordinary time earnings, provided that, when any of the public holidays prescribed in this clause fall on a Saturday or Sunday, the holiday shall be observed on the next succeeding Monday and when Boxing Day falls on a Sunday or on a Monday the holiday shall be observed on the next succeeding Tuesday. In each case the substituted day shall be a holiday without deduction of ordinary pay and the day for which it is substituted shall not be a holiday.

1 January (New Years Day), 26 January (Australia Day), Good Friday, Easter Sunday, Easter Monday, 25 April (Anzac Day), Labour Day, Western Australia Day, Sovereign's Birthday, 25 December (Xmas Day), 26 December (Boxing Day).

Given the significance of ANZAC Day for many employees, the Company will make appropriate arrangements to facilitate ANZAC Day Dawn Services to be able to be observed by Employees followed by transport to site. For the avoidance of doubt the hours worked on site will be paid at public holiday rates.

Notwithstanding the above subclause, if an Employee elects not to work ANZAC DAY, the Company will not deny an application by an employee to observe ANZAC Day as a holiday in part or for the whole day provided that at least 48 hours prior notice is provided. For the avoidance of doubt, the day not worked will continue to be paid at Ordinary Time earnings.

- (2) SUBSTITUTION BY AGREEMENT

By agreement between the Company and the majority of employees, other days may be substituted for any of the days set out in this subsection.

- (3) RDO ACCRUALS

Employees absent on authorised and paid leave due to a Public Holiday shall continue to accrue RDO accrual hours at their normal rate.

#### CASUALS EXCLUDED

The provisions of this clause shall not apply to casual employees.

#### 50. COMPASSIONATE LEAVE

- (1) An Employee is entitled to two days of compassionate leave for each occasion (a permissible occasion) when:

- (a) a member of the employee's immediate family, or a member of the employee's household:
- contracts or develops a personal illness that poses a serious threat to his or her life; or
  - sustains a personal injury that poses a serious threat to his or her life; or
  - dies,
- (b) a child is stillborn, where the child would have been a member of the employee's immediate family, or a member of the employee's household, if the child had been born alive; or
- (c) the employee, or the employee's spouse or de facto partner, has a miscarriage.

- (2) For the purpose of this subclause “employee’s immediate family” means any of the following:
- (a) a spouse or defacto spouse, child, parent, grandparent, grandchild or sibling of the employee; or
  - (b) a child, parent, grandparent, grandchild or sibling of a spouse or defacto spouse of the Employee.
- (3) An Employee may take compassionate leave for a particular permissible occasion if the leave is taken:
- (a) to spend time with the member of the employee’s immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in subclause (1) of this clause or
  - (b) after the death of the member of the employee’s immediate family or household referred to in subclause (1) of this clause.
- (4) An Employee may take compassionate leave for a particular permissible occasion as:
- (a) a single continuous 2 day period; or
  - (b) Two separate periods of 1 day each; or
  - (c) any separate periods to which the Employee and his or her Company agree.
- (5) In order to be entitled to compassionate leave the Employee must provide the Company with evidence to satisfy a reasonable person of the illness, injury or death. The Company may require the Employee to provide proof to satisfy a reasonable person of the relationship between them and the person they are taking compassionate leave for.
- (6) The Employee must also advise the Company as soon as reasonably practical of their intention to take compassionate leave. Whenever possible, the Employee should advise the Company at least two hours prior to the commencement of their shift and indicate the expected duration of their absence.
- (7) Where employees (other than casual employees) are entitled to compassionate leave they will be paid the ordinary wages they would have received under Clause 8 – Wages and Classification Structure of this Agreement for the ordinary hours they would have worked during that period.
- (8) Payment in respect of compassionate leave is to be made only where the Employee otherwise would have been on duty and shall not be granted in any case where the Employee concerned would have been off duty in accordance with any shift roster or on long service leave, annual leave, R&R, authorised absence, workers' compensation, leave without pay or on a public holiday.
- (9) **RDO ACCRUALS**
- Employees absent on authorised and paid compassionate leave shall continue to accrue RDO accrual hours at their ordinary hourly rate.
- (10) **ACCESSING OTHER FORMS OF PAID LEAVE**
- By agreement with the Company (which shall not be unreasonably withheld), an Employee may take an agreed amount of accrued annual leave, personal leave, RDO accrual hours or authorised unpaid leave in conjunction with a period of compassionate leave.
- (11) **CASUAL EMPLOYEES**
- For casual employees, compassionate leave is unpaid leave.

## **51. COMMUNITY SERVICE LEAVE**

- (1) An Employee (including a casual Employee) is entitled to community service leave, in accordance with the National Employment Standard and relevant State Legislation, to attend:
- (a) jury service; or
  - (b) a voluntary emergency management activity with a recognised body to deal with an emergency

or natural disaster.

- (2) A recognised emergency management body is:
- (a) a body, or part of a body, which has a role or function under a plan that:
    - is for coping with emergencies and/or disasters; and
    - is prepared by the Commonwealth, a State or a Territory; or
  - (b) a fire-fighting, civil defence or rescue body, or part of such a body; or
  - (c) any other body, or part of a body, a substantial purpose of which involves:
    - securing the safety of persons or animals in an emergency or natural disaster; or
    - protecting property in an emergency or natural disaster; or
    - otherwise responding to an emergency or natural disaster; or
  - (d) a body, or part of a body, prescribed by the regulations.
- (3) The Company may require the Employee to give the Company evidence that would satisfy a reasonable person:
- (a) that the Employee has taken all necessary steps to obtain any amount of jury service pay to which the Employee is entitled; and
  - (b) of the total amount (even if it is a nil amount) of jury service pay that has been paid, or is payable, to the Employee for the period.
- (4) If, in accordance with subclause (5) of this clause, the Company requires the Employee to give the Company the evidence referred to in that subclause, the Employee is not entitled to payment unless the Employee provides the evidence.
- (5) An Employee who wants an absence from his or her employment for community service leave must give the Company as soon as possible notice of the absence advising the Company of the period or expected period of the absence.
- (6) An Employee who attends jury service will be required to provide the Company proof of attendance, in addition to notice and evidence requirements stipulated in subclause (5) of this clause.
- (7) RDO ACCRUALS
- Employees on community service leave shall continue to accrue RDO accrual hours at their ordinary hourly rate.

## **52. FAMILY AND DOMESTIC VIOLENCE LEAVE**

- (1) This clause applies to all employees, including casuals.
- (2) In this clause:
- (a) family and domestic violence means violent, threatening or other abusive behaviour by a family member of an Employee that seeks to coerce or control the Employee and that causes them harm or to be fearful.
  - (b) family member means:
    - (i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
    - (ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or
    - (iii) a person related to the Employee according to Aboriginal or Torres Strait Islander kinship rules.



- (3) An Employee is entitled to ten days' paid leave to deal with family and domestic violence, as follows:
  - (a) the leave is available in full at the start of each 12-month period of the employee's employment; and
  - (b) the leave does not accumulate from year to year; and
  - (c) is available in full to part time and casual Employees.
- (4) An Employee may take leave to deal with family and domestic violence if the employee:
  - (a) is experiencing family and domestic violence; and
  - (b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside their ordinary hours of work.
- (5) An Employee must give their Company notice of the taking of leave. The notice:
  - (a) must be given to the Company as soon as practicable (which may be a time after the leave has started); and
  - (b) must advise the Company of the period, or expected period, of the leave.
- (6) An Employee who has given their Company notice of the taking of leave must, if required by the Company, give the Company evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in this clause.

### **53. PARENTAL LEAVE**

- (1) In accordance with the provisions of the NES, an Employee including a long-term casual employee, who has completed at least 12 months of continuous service with the Company is entitled to 12 months of unpaid parental leave.
- (2) Paid leave does not accrue, superannuation is not contributed, and no allowances or payments shall be made during periods of unpaid parental leave.

## **SECTION 6: ADMINISTRATION MATTERS**

### **54. UNION DELEGATE RIGHTS**

- (1) The parties to this Agreement will adopt and apply the relevant Model Delegates Rights Term on and from 1 July 2024.
- (2) Notwithstanding that there is no applicable delegates' rights term at the time of making or approving this agreement, the Parties agree that the delegates' rights term as designed and inserted into the Building and Construction General On-site Award 2020 by the FWC, as may be amended from time to time, will be incorporated into this agreement from the time the clause is inserted into that award.

### **55. SITE SECURITY**

- (1) The Company will determine a system of entry to and exit from the site. The system will include a method of personal identification for each employee. The system may include computerised personnel access facilities activated by electronic or magnetic cards.
- (2) An Employee must display or produce on request the form of personal identification issued for the purpose of working on the project when seeking entry to the site, or at any time whilst on the site.
- (3) Where an Employee on attempting to enter the site is unable to produce the personal identification issued for entry to the site, the Company's nominated representative can vouch for the identity of the individual employee. On the second and subsequent occasions this occurs, the Employee shall be required to return home to retrieve their identification in their own time, dependent on the employee's past compliance with site security arrangements.

- (4) In addition, the Employee shall be counselled in accordance with the Company's disciplinary procedures, on the basis of the employees past compliance with security arrangements and such compliance will be a subject for review in the Employee evaluation procedure.
- (5) Any Employee who allows or is involved in the unauthorised use of personal identification may be subject to dismissal for misconduct.
- (6) Any Employee who loses their personal identification card may be required to pay for the replacement of the card.
- (7) Employees may be subject to baggage and vehicle searches on entering or leaving any work area or the site. Employees who refuse to permit baggage or vehicle searches may be subject to disciplinary measures including dismissal.

#### **56. CONSULTATION REGARDING MAJOR WORKPLACE CHANGE**

- (1) This clause applies if a major workplace change is likely to have a significant effect or there is a change to the regular roster or ordinary hours of work on employees (the relevant employees).
- (2) The Company must notify and provide information to the relevant employees of:
  - (a) a major workplace change that is likely to have a significant effect on the employees; or
  - (b) a change to their regular roster or ordinary hours of work.
- (3) The Company must consult and invite the relevant employees to give their views about:
  - (a) the timing and introduction of the change;
  - (b) the impact the change is likely to have on the employees (including any impact in relation to their family or caring responsibilities); and
  - (c) measures the Company is taking to avert or mitigate the adverse effect of the change on the Employees.
- (4) The Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- (5) The Company must consider matters raised about the major change or changes to their regular roster or ordinary hours of work by the relevant employees.
- (6) Where the Company proposes to introduce a change to the regular roster or ordinary hours of work of Employees on a particular site, the Company will:
  - (a) Provide information to the employees about the change;
  - (b) Invite employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and
  - (c) Consider any views given by the employees about the impact of the change.
- (7) The Company will discuss with the affected employees the introduction of the change, all relevant information about the change, including the nature of the change, information about what the Company reasonably believes will be the effects of the change on the employees and information about any other matters the Company reasonably believes are likely to affect the employees.
- (8) However, the Company is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (9) The discussions will commence as soon as practicable after proposing to introduce the change and Employees will be invited to give their views about the impact of the change.
- (10) The Company will give prompt and genuine consideration to matters raised about the change by the affected employees.
- (11) At any stage during the processes in this clause, an Employee may appoint a representative of their

choice in writing. The Company's obligation to consult or provide information to the representative only occurs after written notice is provided to the Company.

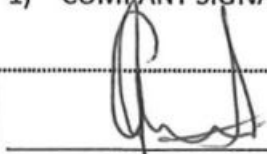
## **57. INDIVIDUAL FLEXIBILITY ARRANGEMENTS**

- (1) The Company and an Employee covered by this Agreement may agree to make an Individual Flexibility Arrangement ("IFA") to vary the effect of terms of this Agreement (in relation to the Company and the Employee), in order to meet the genuine needs of the Company and the employee.
- (2) The IFA must be genuinely agreed to by the Company and the employee.
- (3) The terms of this Agreement the effect of which may be varied by an IFA are the following:
  - (a) hours of work;
  - (b) leave loading.
- (4) The Company must ensure the IFA:
  - (a) is in writing;
  - (b) is about matters that would be permitted matters under section 172 of the FW Act;
  - (c) does not include a term that would be an unlawful term under section 194 of the FW Act;
  - (d) results in the Employee being better off overall than the Employee would be if no IFA was made;
  - (e) is signed in all cases by the Company and the Employee (and if the Employee is under 18 years of age by a parent or guardian of the Employee);
  - (f) and a copy of the IFA is given to the Employee within 14 days after it is agreed.
- (5) The Company or the Employee may terminate the IFA:
  - (a) by either the Company or the Employee giving 28 days' written notice; or
  - (b) if the Company and Employee agree in writing — at any time.



## SECTION 7: SIGNATURES

### 1) COMPANY SIGNATURE



Signature of authorised person



Name of authorised person



Position of authorised person

Level 15/225 St Georges Terrace, Perth WA 6000

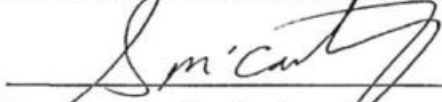
Address

Date: 15 May 2024

*Note: the above person is authorised by the Company to sign the Agreement on its behalf.*

### 2) UNION SIGNATURES

**Automotive, Food, Metals, Engineering, Printing, and Kindred Industries Union (AMWU)**



Signature of authorised person

Steven McCartney

Name of authorised person

State Secretary AMWU WA

Position of authorised person

Address

121 Royal Street, East Perth WA 6004

Date: 14 May 2024

*Note: the above person is authorised by the Union to sign the Agreement on its behalf.*

Construction, Forestry and Maritime, Employees Union (CFMEU)



Signature of authorised person

Michael (Mick) Buchan

Name of authorised person

State Secretary, Western Australia

Position of authorised person

Trades Hall 80 Beaufort St

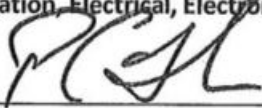
Address

Perth WA 6000

Date: 15 May 2024

*Note: the above person is authorised by the Union to sign the Agreement on its behalf.*

Communication, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union (CEPU)



Signature of authorised person

PETER CARTER

Name of authorised person

BRANCH SECRETARY

Position of authorised person

3 FOCAL WAY

Address

BAYSWATER WA 6053

Date: 13/05/2024

*Note: the above person is authorised by the Union to sign the Agreement on its behalf.*