



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Bowmans Rail Pty Ltd
(AG2021/4399)

BOWMANS RAIL TRAIN CREW ENTERPRISE AGREEMENT 2020

Rail industry

COMMISSIONER PLATT

ADELAIDE, 19 APRIL 2021

Application for approval of the Bowmans Rail Train Crew Enterprise Agreement 2020

[1] An application has been made for approval of an enterprise agreement known as the *Bowmans Rail Train Crew Enterprise Agreement 2020* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (the Act) by Bowmans Rail Train Crew Enterprise Agreement 2020 (the Applicant). The agreement is a single enterprise agreement.

[2] The matter was allocated to my Chambers on 7 April 2021.

[3] On 9 April 2021, I conducted a telephone conference with the parties to seek clarification about aspects of the Agreement and invited the Applicant to address these matters including through the provision of an undertaking.

[4] The Applicant has submitted an undertaking in the required form dated 15 April 2021. The undertaking deals with the following topics:

- The employer will not make deductions to payments owed to employees in the circumstance that an employee fails to return company items upon termination of employment. The monetary value of the items not returned will be an amount owed to the employer by the employee.
- In order to be consistent with the National Employment Standards (NES), employees will be required to notify the employer of personal leave absences as soon as practicable, which may be a time after the leave has started, and any evidence provided by an employee to support the taking of personal leave will be evidence that would satisfy a reasonable person in accordance with s.107(3) of the Act.
- If an employee is made redundant and alternative employment is offered, the employer can make an application to the Fair Work Commission to vary the entitlement of redundancy pay in accordance with s.120(2) of the Act.

[5] As the Agreement does not contain a consultation term which meets the requirements of s.205 of the Act, the model consultation term is taken to be a term of the Agreement.

[6] A copy of the undertaking has been provided to the bargaining representatives and I have sought their views in accordance with s.190(4) of the Act. The bargaining representatives did not express any view on the undertaking.

[7] The undertaking appears to meet the requirements of s.190(3) of the Act and I have accepted it. As a result, the undertakings are taken to be a term of the Agreement.

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

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

[10] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 7 days after the date of approval of the Agreement. The nominal expiry date is 30 June 2023.



COMMISSIONER

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<AE511121 PR728727>

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.

Bowmans Rail Train Crew Enterprise Agreement 2020



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

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Table of Contents

1. TITLE	2	
2. PARTIES	2	
3. SCOPE	2	
4. TERM AND APPLICATION OF AGREEMENT	2	
5. PREVIOUS AGREEMENTS RESCINDED AND/OR VARIED	2	
6. INTENT, CHANGE AND CONTINUOUS IMPROVEMENT	2	
7. COMMUNICATION & CONSULTATION	3	
8. DISPUTE RESOLUTION PROCEDURE	5	
9. GENERAL RIGHTS AND OBLIGATIONS	6	
10. EMPLOYEE REPRESENTATION	7	
11. PERFORMANCE REVIEWS	8	
12. TRAINING	8	
13. UNIFORMS AND PROPERTY	9	
14. PAYMENT OF WAGES	9	
15. SUPERANNUATION	10	
16. CATEGORIES OF EMPLOYMENT	10	
17. CLASSIFICATIONS, PAY RATES, EXPENSES & ALLOWANCES	11	
18. HOURS OF WORK	13	
19. ANNUAL LEAVE	16	
20. PERSONAL LEAVE	16	
21. COMPASSIONATE LEAVE	17	
22. LEAVE SUBSEQUENT TO A TRAUMATIC INCIDENT	17	
23. PARENTAL LEAVE	17	
24. LONG SERVICE LEAVE	17	
25. JURY SERVICE	18	
26. PUBLIC HOLIDAYS	18	
27. WORKING AWAY PROVISIONS	19	
28. NOTICE OF TERMINATION	19	
29. MIXED FUNCTIONS	20	
30. FLEXIBILITY TERM	20	
31. TRAFFIC INFRINGEMENT AND FINES	21	
32. TRANSFER OF BUSINESS	21	
SCHEDULE 1 – DEFINITIONS		23
SCHEDULE 2 – CLASSIFICATIONS		25
SCHEDULE 3 - RATES OF PAY		27
SCHEDULE 4 – REDUNDANCY		29

1. TITLE

This Agreement shall be referred to the Bowmans Rail Train Crew Enterprise Agreement 2020 ("this Agreement" or "the Agreement").

2. PARTIES

This Agreement shall be binding on:

- a. Employees employed as Train Crews by the Company in the classifications contained in Schedule 3 of this agreement,
- b. Bowmans Rail Pty Ltd ("the Company");
- c. The Australian Rail Tram and Bus Union (RTBU)

3. SCOPE

This Agreement supersedes and replaces in full the Bowmans Rail Train Crew Enterprise Agreement 2018. No Award will have any effect in relation to the employees covered by this Agreement while the Agreement is in operation.

4. TERM AND APPLICATION OF AGREEMENT

- 4.1 This Agreement shall commence operation seven days after its approval by the Fair Work Commission and shall remain in force until 30 June 2023, subject to any variation in accordance with the Act.
- 4.2 This Agreement shall continue to operate after its nominal expiry date unless it is terminated or replaced in accordance with the Act.

5. PREVIOUS AGREEMENTS RESCINDED AND/OR VARIED

- 5.1 This Agreement and attached Schedules are intended to cover employees whose employment is subject to this Agreement. It is not open to any party to raise additional matters relating to employment and employment conditions during the term of this Agreement unless both parties agree to enter a flexibility arrangement as described in clause 30 of this Agreement.
- 5.2 This Agreement shall replace, subject to the provisions of the Act, any other workplace agreement which has effect in relation to the employees, memorandum of understanding, exchange of correspondence, work practice(s), arrangement(s), written or unwritten which applied prior to the commencement of this Agreement and which regulated or purported to regulate the terms and conditions of employment of employees to whom this Agreement applies. However, nothing in this Agreement prevents the Company and any individual employee from agreeing to terms and conditions that are more beneficial than provided for in this agreement'

6. INTENT, CHANGE AND CONTINUOUS IMPROVEMENT

- 6.1 It is recognised by the Company that job security; career paths; potential earning capacity; communication / employee involvement; non-discrimination; equal

employment opportunity; equitable, transparent and safe employment arrangements and relationships are standards expected by employees and the Company will strive to achieve at all times.

- 6.2 The Employees have rights and responsibilities and nothing within this Agreement shall be taken to diminish these in any manner. It is recognised by the employees that the employees' role is to strive to deliver at all times, the highest possible level of safety productivity and efficiency, flexibility, cost-effectiveness, technology based expertise, cargo / equipment care, stability and reliability.

7. COMMUNICATION & CONSULTATION

- 7.1 The Company shall utilise a range of communication practices to facilitate open discussion, consideration and understanding of Company activities and to enhance employee input into problem solving and decision-making processes, including the involvement of employees in risk assessment and other Health, Safety & Environment (HSE) processes. This will also include consultative mechanisms involving employees, and if they request, their representatives for these purposes.
- 7.2 This term applies if the Company:
- (a) has made a definite decision to introduce a major change to schedule, program, organisation structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
 - (b) proposes to introduce a significant and/or permanent change to work arrangements or ordinary hours of work of employees.
- 7.3 For a major change referred to in paragraph 7.2 (a):
- (a) the Company must notify the relevant employees of the decision to introduce the major change; and
 - (b) subclauses (7.4) to (7.10) apply.
- 7.4 The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 7.5 If:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the Company of the identity of the representative; the Company must recognise the representative.
- 7.6 As soon as practicable after making its decision, the Company must:
- (a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the Company is taking to avert or mitigate the adverse effect of the change on the employees; and

- (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.
- 7.7 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 7.8 The Company must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 7.9 If a term in this Agreement provides for a major change to schedule, program, organisation, structure or technology in relation to the enterprise of the Company, the requirements set out in paragraph 7.2(a) and subclauses 7.4 and 7.6 are taken not to apply.
- 7.10 In this term, a major change is likely to have a significant effect on employees if it results in:
 - (a) the termination of the employment of employees; or
 - (b) major change to the composition, operation or size of the Company's workforce or to the skills required of employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retrain employees; or
 - (f) the need to relocate employees to another workplace; or
 - (g) the restructuring of jobs.

Significant and/or permanent change to regular roster or ordinary hours of work.
- 7.11 For a change referred to in paragraph 7.2(b):
 - (a) the Company must notify the relevant employees of the proposed change; and
 - (b) subclauses 7.12 to 7.17 apply.
- 7.12 The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 7.13 If:
 - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the Company of the identity of the representative; the Company must recognise the representative.
- 7.14 As soon as practicable after proposing to introduce the change, the Company must:
 - (a) discuss with the relevant employees the introduction of the change; and
 - (b) for the purposes of the discussion—provide to the relevant employees:
 - (i) all relevant information about the change, including the nature of the change; and

- (ii) information about what the Company reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the Company reasonably believes are likely to affect the employees; and
 - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 7.15 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 7.16 The Company must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- 7.17 In this term: relevant employees means the employees who may be affected by a change referred to in subclause 7.2(b).

8 DISPUTE RESOLUTION PROCEDURE

- 8.1 If a dispute relates to a matter arising under the Agreement or the National Employment Standards, the dispute will be resolved in accordance with the following dispute resolution process:
- (a) 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 and relevant supervisors and/or management. During such discussions, all parties will be given reasonable notice of the dispute and reasonable time to respond to the dispute.
 - (b) If the dispute is not resolved by discussions at the workplace level, the dispute may be referred to senior management.
 - (c) If senior management and the employee or employees are unable to resolve the dispute, either party may refer the matter to the Fair Work Commission for conciliation, mediation or for the Fair Work Commission to express an opinion or make a recommendation.
 - (d) If the dispute remains unresolved, the Fair Work Commission may:
 - (i) arbitrate the dispute; and
 - (i) make a determination that is binding on the parties.
- 8.2 While the parties are trying to resolve the dispute using the process in this dispute resolution procedure:
- (a) The Company or the employee may appoint and be represented by a representative of their choosing, at any of the steps in the dispute resolution process.
 - (b) Except where there is a genuine health or safety concern, the status quo existing immediately before the matter giving rise to the dispute will remain while the dispute resolution procedure is being conducted.
 - (c) An employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace during the dispute resolution process.

9. GENERAL RIGHTS AND OBLIGATIONS

9.1 GENERAL RIGHTS

- 9.1.1 Company management has rights and responsibilities and nothing in this Agreement shall be taken to diminish these in any manner. The Company may determine which positions, structures, levels of staffing, daily manning, equipment, methods of operation and work practices shall exist at any time and the manner in which employees placed by the Company to those positions and structures carry out their duties.
- 9.1.2 The Company may employ and train any mix of full time, part time and casual employees to the level of its operational requirements as it determines at any time and/or may deploy without restriction and train other sources of labour available to the Company, such as contractors or labour hire company personnel.
- 9.1.3 The Company may select internally or recruit, at its discretion and in accordance with Company policies and procedures, any person to fill a vacancy.
- 9.1.4 Employees shall be paid at the rate of pay in this Agreement, commensurate with the relevant pay scale for the skills and/or qualifications required by the Company for the position to which the employee is appointed or as otherwise agreed.

9.2 STAND DOWN PROVISIONS

- 9.2.1 Where employees cannot be usefully employed because of any strike or industrial stoppage or any other cause for which the Company cannot reasonably be held responsible, the Company may as a last resort stand employees down and deduct payment for any period the employees are so stood down.
- 9.2.2 Before initiating any such stand down, the Company will discuss with the employee(s) any available alternative work or required training or the taking of any leave which may be due to help them.
- 9.2.3 If the Company stands down an employee in accordance with this Agreement, the employee's continuity of employment for leave and service related benefits under this Agreement will not be affected and the employee shall also be free to take other employment during the period of stand down.
- 9.2.4 Where the employee has taken other employment during the stand down period and a period of reasonable notice is required by their other Company, then the employee shall be able to work that notice without prejudice to their employment with the Company.

9.3 HONESTY AND FAIRNESS

- 9.3.1 The Company is committed to treating its employees in a fair and honest manner and will promptly investigate and provide a fair and confidential hearing of any reasonable personal concern of an employee which would not otherwise be dealt with in sub-clause 9.3.3 (Equal Employment Opportunity issues), or as an

Occupational Health and Safety issue, or as an industrial issue in accordance with clause 8 as a matter arising under this Agreement.

- 9.3.2 Employees are required to be familiar with and to observe at all times, the Company's various policies and procedures including the Safety Management System. Employees shall be advised in writing of any intended change to Company policies and procedures prior to such change taking effect. For the avoidance of doubt, although employees are required to observe the Company's policies and procedures, the terms and contents of the Company's policies and procedures are not terms of this Agreement.
- 9.3.3 The Company is an Equal Employment Opportunity (E.E.O) Company and will ensure that it has policies and procedures in place for the prevention of discrimination or harassment in the workplace. The Company will promptly investigate and seek to resolve any alleged instance of discrimination or harassment in accordance with its procedures.
- 9.3.4 Where an employee's duties require him/her to have access to a Maritime Security Zone, the employee will be required to obtain a Maritime Security Identification Card (MSIC) at Company cost and maintain same at all times while ever the employee is required to have access to a Maritime Security Zone. If an employee whose duties require him/her to have access to a Maritime Security Zone is denied an MSIC or has their MSIC withdrawn by the issuing authority, his/her employment may be terminated.
- 9.3.5 Where the Company requires an employee to obtain a licence, trade certificate or other qualification in order to perform their job, the Company shall pay the normal costs of such.
- 9.3.6 Employees will undergo medical assessments by a Company nominated Doctor at regular intervals or otherwise, as required by the Company. The cost of the assessments will be borne by the Company to the point of diagnosis and the results made available to the employee.
- 9.3.7 If an employee fails to retain or maintain any licence, trade certificate, qualification or the physical capability that is necessary to perform the inherent requirements of his/her job, the Company will explore any reasonable options, including redeployment and termination of employment if redeployment is not practicable.

10. EMPLOYEE REPRESENTATION

- 10.1 The Company acknowledges that an employee may choose to be accompanied by another employee or representative in dealing with concerns over workplace matters with the Company. This is subject always to the employee(s) concerned continuing to act in accordance with his/her/their contract of employment and with the Agreement.
- 10.2 Subject to bona fide safety issues, discussions held between an employee and his/her representative or discussions by either or both of them with the Company, shall be

held with the approval of the Company at times that do not interfere with the normal operations of the Company. The number of Employee Representatives from the workplace involved in any such discussions shall normally be one, unless otherwise agreed by the Company.

- 10.3 The Company will allow the Employee representative absence from normal duties without loss of pay to represent the interests of Employees in on-site discussions with the Company or for participation in agreed and approved Trade Union training.

11. PERFORMANCE REVIEWS

- 11.1 Employees shall be subject to ongoing individual, one on one, performance evaluations.
- 11.2 An employee shall be required to participate in performance reviews conducted by the Company. Such reviews will be conducted with a view towards recognition of improved performance and/or to provide constructive and positive support such as additional training where areas for improvement are identified.
- 11.3 Reviews shall be objective, transparent and based on practicable and measured mechanisms to deliver competency, promote productivity and understanding of company polices, job satisfaction and communication within the company.
- 11.4 Employee specific and business related Key Performance Indicators shall be discussed with the employee at the performance review. Employees will use their best endeavours to deliver the objectives and Key Performance Indicators set by the Company.
- 11.5 The employees' training plan will be discussed during the Performance Review. Outcomes of the review shall be documented in the plan if required.

12. TRAINING

- 12.1 All employees shall be available to undertake any training as required by the Company and to train any other person including other employees, casuals and contractors when required by the Company. All training, will take place in accordance with operational requirements as determined by the Company and the Company shall, for all training, have the right to determine who is trained, when, how and to what extent.
- 12.2 The Company will determine in consultation with the employees the manner in which any training is delivered in accordance with Bowmans Rail 5.34 Training & Development Standard.
- 12.3 Where external training providers are engaged, the Company will determine the provider. Where training is performed by Company employees in accordance with Company requirements, the hours spent training shall be treated as working hours for rostering and payment purposes.

- 12.4 Training undertaken by employees as part of their normal work shall be treated as ordinary worked hours for rostering and payment purposes.
- 12.5 Training undertaken will be consistent with relevant duties and the Safety Management System.
- 12.6 All employees shall have a documented training plan. This training plan shall be discussed with the employee at the Performance Review, or regular intervals as defined by The Company. See Section 11 Performance Reviews.

13. UNIFORMS AND PROPERTY

- 13.1 The Company shall supply, and employees shall utilise and/or wear at all times when at work any safety or protective apparel or equipment and Company uniforms.
- 13.2 It is the responsibility of each employee to clean and maintain all Company supplied items and to wear them unaltered and unadorned.
- 13.3 Any employee who presents for work without the correct equipment or apparel (unaltered and unadorned) will not be permitted to commence work until such time as the employee is correctly equipped and attired.
- 13.4 Property issued by the Company or purchased by the employee on behalf of and reimbursed by the Company remains the property of the Company and if terminated the employee must return all items to the Company after completion of their final shift. Employees, who are dismissed without notice, must return any property and uniforms within one (1) week of their termination date.
- 13.5 Other Company property, including, but not limited to site passes, keys, phones and any other Company information must also be returned as described above.

14. PAYMENT OF WAGES

- 14.1 Payment for all employees will be made fortnightly, in arrears into a nominated financial institution. Payment will be made on the same weekday each fortnight as nominated by the Company except in weeks commencing with a Monday public holiday, or where the payment day falls on a public holiday, in which case payment shall be effected one day later than normal. Where practicable, pay advice shall be issued to the employee on the same day that bank transfer of wages takes place. The Company may change the day of the fortnight when payment is normally made provided employees are given thirty days' notice in advance.
- 14.2 Hours of work may be calculated from times logged via manual clock cards, electronic clocking system, swipe cards, time sheets, other auditable means or new technology in the future.

15 SUPERANNUATION

- 15.1 The Company will make contributions to a complying superannuation fund nominated by an employee in accordance with its obligations under the applicable legislation. If an employee does not nominate a complying fund, the Company will direct its contributions to the Company's nominated default fund on their behalf. An Employee may change their nominated fund to another complying fund once only in any 12 month period.

The Company will also offer superannuation salary sacrifice to all Employees.

16 CATEGORIES OF EMPLOYMENT

- 16.1 An employee may be engaged on a full time, part time, permanent, casual or temporary basis.

In addition to the above, an employee may be engaged on a temporary basis in either a full time or part time capacity as described in clauses 16.2 and 16.3 herein. A temporary engagement is for a specified period of time. A temporary Employee will be entitled to the leave benefits in this Agreement on a pro rata basis, based on the length of their engagement.

16.2 Full Time Employees

A full time employee will be engaged for an average of 76 ordinary hours per fortnight (see Clause 18 - Hours of work).

16.3 Part time Employees

- 16.3.1 A part time employee is one engaged to work a fixed number of hours, less than 76 ordinary hours per fortnight.

- 16.3.2 Part time employees can be asked to work additional hours, up to those of a full time employee. If the employee agrees to work the additional hours, all time up to those of a full time employee (i.e. 76 ordinary hours per fortnight) shall be paid at ordinary time rates. All time in excess of those specified in Clause 17.3 will be paid as set out in Schedule 3.

Part time employees shall accrue all types of leave on a pro rata basis according to the actual hours worked.

16.4 Casual Employees

- 16.4.1 A casual employee is one engaged and paid as such. Casual employees may be engaged on any one of the following scenarios:
- (a) On a full time basis for a defined period of time.
 - (b) For a variable number of hours that are not fixed (or regular) from week to week and are not guaranteed.

16.4.2 The minimum period for each engagement for which a casual employee shall be paid is 4 hours.

16.4.3 Casual employees are not entitled to payment for the benefits of clauses 19, 20, 21, 23, 25 or 26 and redundancy (Schedule 4).

16.4.4 76 hour fortnight does not apply to casual employees

16.5 Trainee Train Crew

16.5.1 The Company may, consistent with Clause 9.1.2, offer train crewing traineeships to either new employees or employees already engaged in other parts of its operations on the following terms and conditions. The terms and conditions of such traineeships will recognise the relationship with the prevailing conditions of employment of existing employees such that they will not be disadvantaged by undertaking the traineeship.

16.5.2 Employees on traineeships will be paid in accordance with the rates set out in Schedule 3.

16.5.3 Employees employed as Terminal Operators who are offered train crew traineeships or are conducting train crew duties in line with their skills and qualifications will be paid the train crew rates only while performing train crew duties or participating in specified/accredited train crew training activities.

16.6 Appointment to train crew positions

Permanent appointment to Assistant Driver or Qualified Driver positions will only be made subject to availability of genuine vacancies. There will be no automatic progression to these positions on achievement of qualifications.

17 CLASSIFICATIONS, PAY RATES, EXPENSES & ALLOWANCES

17.1 Employees engaged in accordance with this Agreement will be employed in accordance with the classifications set out in Schedule 2.

17.2 Full time employees will be paid on the basis of an average of 76 ordinary hours per fortnight, on rates appropriate to their classification as prescribed by Schedule 3 of this Agreement. Part time employees will be paid in accordance with Schedule 3 for time actually worked.

17.3 Reasonable expenses incurred by an employee while on the employer's business will be reimbursed on receipt of evidence of the costs incurred. Refer to HRP Reimbursement of Expenses Procedure

Penalty rates and overtime

17.4 Apply when:

- Hours are worked in excess of
 - 12 ordinary hours per shift

- 76 ordinary hours per fortnight
- As per Clause 18.5.1

All conditions will be paid using the overtime rate prescribed by Schedule 3.

17.5 Leave payments will be calculated using the prescribed ordinary hourly rate and as prescribed by Schedule 3. One day of leave is equivalent to 7.6 hours.

17.6 Casual employees will be paid the hourly rates for the classification of work for which they are employed as prescribed by Schedule 3. All time worked in excess of 12 ordinary hours per shift will be paid at the appropriate overtime rate.

17.7 Matters included in determining base rates of pay

The rates of pay prescribed will be inclusive of all payments, inclusive of shift & weekend penalties, annual leave loading, public holiday payments, casual loading where applicable, takes into account all responsibilities for each classification, the workplace conditions and other factors associated with the required duties, the location of the work and related environmental factors. It covers payment for all worked ordinary hours and any allowances which might otherwise be applicable to the work unless additional allowances are set out in the Agreement.

17.8 Meal Allowances

An employee (Other than an employee covered by Clause 27) required to work more than 10 consecutive hours in a single shift will receive a meal allowance set out in the table set out in Clause 17.8.3.

17.8.1 Temporary Transfer Allowance

Whilst on temporary transfer train crew will be entitled to an allowance of \$93.75 per 24 hours they are away from their home depot. Or \$31.25 for every 8 hour period or part thereof.

17.8.2 Barracks working

Rosters for Train Crew that involve a rest period away from the initial sign on location and provides for the next turn of duty to be one that provides for the Employee to return to their initial Home Base or sign-on point, then the employee is entitled to a meal allowances every eight (8) hours or part thereof for this cycle.

17.8.3 Meal Allowance Table

The meal allowance will be adjusted each year in line with adjustments made by the Australian Taxation Office effective from the first pay period in October of that year.

Date of operation	Meal allowance for all purposes
First full pay following ratification of EA (2020) and adjusted annually in accordance with ATO	\$31.25

- 17.9 In emergency circumstances, expenses may be incurred without prior authorisation. The emergency services provision may be withdrawn or expenses refused if it is found that it has not been used for genuine situations.
- 17.10 If any employee is temporarily performing duties at a lower classification than that to which they are appointed they will continue to receive the rate of pay for the classification to which they are appointed.

Permanent Transfer to another Location

- 17.11 The parties recognise that contractual and customer requirements will, from time to time, result in changes to the locations from which the operations of the business are conducted. This might result in the closure of some locations (resulting in redundancies) and opening of others. This in turn might necessitate relocation of employees on a permanent basis to a different location. Transfers resulting from such circumstances will be by mutual agreement and are aimed at redeploying existing employees and to reduce redundancy and recruitment costs.

17.12 Temporary Transfer Expenses

Due to operational requirements, an employee may be requested to transfer to another work location (base) on a temporary basis. In such circumstances, the Company will organise and pay accommodation expenses. In addition, the Company will pay a temporary transfer allowance as prescribed by clause 17.8.1 While at work, meal allowance will be paid as prescribed by clause 17.8 and 17.8.3. The temporary transfer period may extend beyond two weeks where agreed between the Company and the employee. Hours spent travelling to and from a temporary work location are paid at the base rate and are included in fortnightly hours of work during normal working hours. An employee required to use his/her own vehicle to travel to a work location that is different to his/her usual work location shall be reimbursed for the kilometres travelled (shortest route). This payment shall be made in accordance with the rates prescribed by the Australian Taxation Office.

18 HOURS OF WORK

- 18.1 The ordinary hours of work are 76 ordinary hours per fortnight for full-time employees to be worked any day of the week Sunday to Saturday.
- 18.2 All time worked in excess of 76 ordinary hours per fortnight shall be paid at the appropriate overtime rate set out in Schedule 3.
- 18.3 **Shifts**
- 18.3.1 Permanent employees will be engaged for a minimum 6 hours on each shift. When less than 6 hours are completed, due to instructions from the Company, the employee will be paid at the ordinary hourly rate as though 6 hours have been completed. This provision shall also apply to a shift cancelled with less than 12 ordinary hours' notice.

- 18.3.2 Where a train is manned by any combination of two or more operators of any classification, the maximum shift length shall be 12 ordinary hours. This may be extended to 16 ordinary hours in emergency situations (as defined by relevant legislation).
- 18.3.3 The minimum interval between shifts shall be 12 hours between sign off at home Depot to sign on at home Depot.
- 18.3.4 An employee may reasonably be expected to commence up to 2 hours earlier or 4 hours later than rostered and can only be advised once per rostered shift.

Where lift up or lay back is required beyond the limits defined above, the company will pay each hour outside of the limits at the rate of 100% normal time. Payment will not count towards duty cycle hours.

18.4 Rosters

- 18.4.1 Rosters are issued for a fortnight and align with the payroll cycle and the version number of the roster is noted on the roster. The rosters are issued fourteen days prior to the commencement of the fortnight roster.
- 18.4.2 The roster notes the days of the fortnight that each employee is required to work by:
- Duty Free Day (DFD)
 - Train shift allocated (has details of the shift rostered)
 - Available (when the employee is required to make themselves available for work if required, but has not been rostered).
- 18.4.3 The Company may issue amended rosters as a result of changes to customer's schedules, or employees requesting annual leave within the roster. The amended rosters could require an employee to work a different shift. An employee will only be asked to work a different shift to the previous roster after consultation with and agreement by the employee.
- 18.4.4 Save and except for clause 20, all train crew are required to provide notification of any unavailability to work or be for a shift in advance of that unavailability and in advance of the roster being issued.

18.5 Duty free days

- 18.5.1 Employees will receive four (4) duty free days per fortnight. At least two (2) of these will be consecutive. Employees may be requested to work one (1) duty free day and may elect to make him or herself available for more;
- 18.5.2 Where a duty free day stands alone they shall be of the following durations:
- i. A minimum of 35 hours from sign off on one shift to sign on for the next;
 - ii. A minimum of 30 hours in duration where the shift finishes before midnight on one day to commencing at 06:00 the day following the duty free day.
- 18.5.3 Multiple duty free days shall be 35 hours for the first day and 24 hours for subsequent days from the sign off time.

18.5.4 Duty free days will not be infringed upon by the provisions of clauses 18.3.4 unless agreed with the employee concerned.

18.5.5 If the roster is amended and impacts employees designated duty free days, this change will only be made in consultation and agreement with the employee affected.

The employee can choose the following;

- (a) elect to work on their duty free day for standalone overtime rates or
- (b) elect to work on a duty free day at ordinary rate, and elect an alternate duty free day.

18.5.6 If an employee is required to work on an Available day, Bowman's Rail will contact the employee as soon as reasonably able to the Available Day to confirm shift requirements. If the employee has not worked 76 hours in the fortnight, and is requested to work on an Available day, however refuses to work, then the employee is not guaranteed to be paid 76 hours.

18.5.6 If the fortnightly roster has already been issued and an employee submits a request for leave for time off during that roster, this leave will only be approved in consultation with the employee, and there is no guarantee the leave will be approved.

18.6 Breaks

18.6.1 The Company will arrange overtime work or shift work in a manner that ensures the employee(s) is provided with an adequate break between work on successive shifts and conformance with fatigue management principles.

18.6.2 On each shift, an employee will be entitled to a personal needs/meal break of up to thirty (30) minutes (consecutive). Such breaks will be taken at times that do not interfere with the efficient running of trains.

18.6.3 When working with an employee classified at level 3 or below, the driver will confer with a supervisor or train controller in order to take their break. This should be taken between the 3rd and 6th hours.

18.6.4 Where two employees, are undertaking line haul/main line duties, meals will be consumed en-route by rotation of employees.

18.7 Advice Periods

18.7.1 Advice periods to be available (TBA) the day prior.

Advice for a TBA day will occur in the advice periods below or during or at the end of a previous shift worked as follows:.

- a. AM Shift (0001-0600hrs) Notification Period shall be between 0900 and 12:00 hrs the day prior to shift commencing.

- b. PM Shift (0601-2400hrs) Notification Period shall be between 1500 and 18:00 hrs the day prior to shift commencing.
- 18.7.2 The advice periods will also apply when an employee is on any type of leave (including Duty Free Days) the day prior to returning to work
- 18.7.3 If the Company contacts the employee outside of the advice periods for work, the employee may elect to work at standalone overtime rates.

19. ANNUAL LEAVE

- 19.1 All employees covered by this enterprise agreement are entitled to 5 weeks annual leave per annum.
- 19.2 Annual leave, when taken, will be paid at the employee's base rate of pay. One day of annual leave shall be equal to 7.6 hours.
- 19.3 Annual leave loading is not payable. An allowance has been made for this in the hourly rate as prescribed at clause 17.6.
- 19.4 Annual leave shall be approved and taken at mutually agreed times. Failing agreement on the timing of annual leave, it will be taken at a time fixed by the Company within a period not exceeding twelve (12) months from the end of the twelve (12) months in which the annual leave entitlement accrued and after not less than four (4) weeks' notice to the employee. However, to meet emergencies or influences beyond the Company's control, employees may be directed to take annual leave at any time subject to four weeks' notice.
- 19.5 The Company shall post a leave roster each month at each work location showing the planned dates for approved annual leave. Leave rosters will be compiled with consideration of employee requests and the equitable sharing of leave during particular seasons and periods of demand.

20. PERSONAL LEAVE

- 20.1 An employee is entitled to ten (10) days personal leave per annum, to cover absences due to personal illness or injury (sick leave) or caring for an immediate household or family member as defined in the Act, who is sick and requires their care and support (carer's leave).
- 20.2 At the end of the year, that year's unused personal leave is cumulative. Personal leave will not be paid out on termination of employment.
- 20.3 To be eligible for paid personal leave, an employee is required to notify an absence as soon as possible or no later than four (4) hours prior to the commencement of the shift for which the claim is made, and may be required to provide a certificate from an appropriately qualified practitioner or other medical proof to the satisfaction of the Company that a genuine medical condition necessitated the absence for which leave is sought.

20.4 Personal leave, when taken, will be paid at the employee's base rate of pay. One day of personal leave shall be equal to 7.6 hours.

20.5 Where an employee has no entitlement to paid personal leave, they will be entitled to up to two (2) days unpaid carer's leave in any instance where they are required to care for a family member who is sick and requires their care and support and may be required to provide a certificate from an appropriately qualified practitioner or medical proof to the satisfaction of the Company, that a genuine medical condition necessitated the absence for which leave is sought.

21. COMPASSIONATE LEAVE

21.1 An employee will be entitled to compassionate leave, as prescribed in the National Employment Standards, on the death of, or in the event of a life threatening illness or injury to:-

21.1.1 an employee's spouse, de facto partner, child, parent, grandparent, grandchild, or sibling of the employee; or

21.1.2 a child, parent, grandparent, grandchild, or sibling of the spouse or the de fact partner of the employee.

21.2 Compassionate leave will be paid at the base rate of pay and one day is equal to 7.6 hours.

22. LEAVE SUBSEQUENT TO A TRAUMATIC INCIDENT

22.1 Where an employee is involved in a traumatic incident, such as a fatality, they will be:

22.1.1 relieved as soon as practicable;

22.1.2 provided with access to an Employee Assistance Program for counselling;

22.1.3 provided with an appropriate amount of paid leave to receive any mental health care they require. This is a separate entitlement to any other leave.

23. PARENTAL LEAVE

Under this Agreement, parental leave provisions shall apply in accordance with the National Employment Standards and Conditions of Commonwealth Paid Parental Leave Provisions.

24. LONG SERVICE LEAVE

Under this agreement, long service leave entitlements shall be in accordance with relevant state legislation.

25. JURY SERVICE

An employee, other than a casual employee, required for jury service during his or her ordinary working hours shall be permitted to attend jury service without loss of pay. Payments for Court attendance shall be paid directly to the company. An employee shall notify the company as soon as possible of the date upon which his or her attendance, the duration of such attendance and the amount received in respect of jury service.

26. PUBLIC HOLIDAYS

26.1 Due to the nature of the work performed by the Company, being a business that operates twenty-four (24) hours per day, 365 days per year, employees can be required to work on public holidays in accordance with their respective roster.

All employees shall be entitled to the gazetted public holidays of the State of employment as defined by the employer without loss of pay:

26.2 Payment for working on a Public Holiday

Full /Part Time Train Crew		Casual Train Crew
1. If not worked (Duty Free Day)	A payment of 7.6 hours. Hours will count towards duty cycle hours.	Not applicable
2. Rostered to work but not required.	Hours do count towards duty cycle hours.	
3. Is rostered to work and works	Receive their normal pay, plus an additional payment at the rate of 150% of their base rate for all time worked on the Public Holiday	Receive their normal pay, plus an additional payment at the rate of 200% of their base rate for all time worked on the Public Holiday
4. Works a Duty Free Day	Standalone overtime rates apply for the entire shift, plus a standalone payment of 7.6 hours. Hours worked do not count towards the duty cycle.	Not applicable
5. Working into a Public Holiday	Receive their normal pay, plus an additional payment at the rate of 150% of their base rate for all time worked into the Public Holiday Hours worked count towards duty cycle	Receive their normal pay, plus an additional payment at the rate of 200% of their base rate for all time worked into the Public Holiday

26.3 All hours worked on normal hours (not a duty free day) count towards the 76 hour fortnight.

27. WORKING AWAY PROVISIONS

27.1 Rest Duration at Barracks

The minimum rest break between shifts for train crew when working away from home (barracks) shall be eight (8) hours. The rest period will commence and finish at

the Away Accommodation (Barracks resting point). This assumes the crew do not undertake personal travel and use the shortest route to and from the accommodation and the Away Base (Resting point).

27.2 Held away From Home (Barracks) for more than 12 hours

When an employee is held away from home Depot and is unable to sign-on for a period in excess of twelve (12) ordinary hours from sign-off, the employee shall receive payment for such hours at the ordinary hourly rate. This payment does not count toward working hours for the purpose of counting 76 ordinary hours per fortnight.

27.3 Rest Duration When Returning to Home Depot

Train crew returning to home Depot after working away shall have a minimum of twelve (12) hours rest before their next rostered shift.

28. NOTICE OF TERMINATION

28.1 A full time or part time employee employed under this Agreement and the Company both have the reasonable and lawful right to terminate an employee's employment on notice as follows:

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

28.2 An additional period of 1 weeks' notice by the Company shall apply if an employee has over 2 years' service and will be over 45 years of age at the time of termination.

28.3 Where employment is terminated on notice, an employee will continue in employment until the expiry of the notice period or at the Company's discretion will accept payment in lieu of notice. Where an employee resigns and does not work out the required notice period, the Company may withhold payment for the period of notice not worked from any payout of entitlements due to the employee. Any such payment or withholding will be at the employee's normal rate of pay as set out in Schedule 3 of this Agreement. If an employee is absent during the notice period without reasonable cause, they will not be entitled to payment for the period of absence.

28.4 Where the Company has given notice of termination to an employee, the employee shall be allowed a minimum of one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the Company.

- 28.5 Despite the foregoing, the Company may dismiss an employee at any time for conduct justifying summary dismissal and then will be liable only for payment up to the time of dismissal.
- 28.6 On termination of employment, the Company will, at an employee's request, give them a statement signed by the Company stating the period of employment, the class of work engaged in and when the employment was terminated. The Company, upon request will also provide copies of Certificates of Attainment.
- 28.7 On termination of employment, an employee must return to the Company all uniforms, identity cards, work tools, keys and all other items issued by the Company. Where on termination an employee fails to return Company property issued, the Company may deduct the monetary value of such property (with due consideration to normal wear and tear) from any payments to be made to the employee on termination.
- 28.8 A redundancy situation may occur where the Company determines that it no longer requires the position the employee has been employed for and this is not due to the ordinary and customary turnover of the business. Where this occurs, conditions relating to redundancy situations and redundancy payments will be in accordance with Schedule 4.

29.MIXED FUNCTIONS

Any employee may be required to perform any work reasonably required by the Company, including work of a lower classification, for which the employee is trained, or for which training will be provided. An employee directed to perform work of a lower classification will continue to be paid their substantive classification's rate of pay for the time worked.

30.FLEXIBILITY TERM

- 30.1 The Company and an employee may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:
- (a) the arrangement deals with one or more of the following matters:
 - (i) Arrangements about when work is performed;
 - (ii) Overtime Rates;
 - (iii) Penalty Rates; or
 - (iv) Allowances; and
 - (b) the arrangement meets the genuine needs of the Company and employee in relation to one or more of the matters mentioned above; and
 - (c) the arrangement is genuinely agreed to by the Company and employee.
- 30.2 The Company must ensure that the terms of the individual flexibility arrangement;
- (a) are about permitted matters under section 172 of the Act; and
 - (b) are not unlawful terms under section 194 of the Act; and

- (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- 30.3 The Company must ensure that the individual flexibility arrangement:
- (a) is in writing; and
 - (b) includes the name of the Company and employee; and
 - (c) is signed by the Company and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (d) includes details of:
 - (i) the terms of this Agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (iv) states the day on which the arrangement commences.
- 30.4 The Company must give the employee a copy of the individual flexibility arrangement within fourteen (14) days after it is agreed to.
- 30.5 The Company or employee may terminate the individual flexibility arrangement:
- (a) By giving no more than twenty eight (28) days written notice to the other party to the arrangement; or
 - (b) If the Company and employee agree in writing, at any time.

31. TRAFFIC INFRINGEMENT AND FINES

Each employee shall be responsible for paying any fines relating to traffic infringements issued to the Employee due to their negligence whilst driving a Company vehicle.

32. TRANSFER OF BUSINESS

The parties to this agreement acknowledge and will comply with the requirements of the Act.

SIGNATORIES

This Agreement is made at BOWMANS on the 19TH day of

MARCH, 2021



Signed for and on the behalf of
BOWMANS RAIL PTY LTD

Acting as the duly authorised representative of the Company empowered to sign this Agreement.

(Please Print)

Name DAVID MARTIN Title GENERAL MANAGER OPERATIONS

Address 26 DUBLIN ROAD
MALLALA SA 5502

Signed for and on behalf of


THE EMPLOYEES

Acting as the duly authorised representative of the Employees empowered to sign this Agreement.

(Please Print)

Name Michael Henderson Title DRIVER

Address 2 Loachwood LANE
BAKALAVA 5461

Signed for and on behalf of 

THE AUSTRALIAN RAIL TRAM AND BUS UNION

Acting as the duly authorised representative of the RTBU empowered to sign this Agreement.

(Please Print) 

Name DARREN PHILLIPS Title BRANCH SECRETARY

Address 63 LEDGER ROAD
BEVERLEY SA 5009

SCHEDULE 1 – DEFINITIONS

In this Agreement:

“**Act**” means the Fair Work Act 2009.

“**Company**” means Bowmans Rail Pty Ltd .

“**Diagnosis**” means the issuing of a certificate of fitness or otherwise (Health Assessment Report) that addresses an Employees ability to fulfil the inherent requirements of the role.

“**Employee**” means an Employee of the Company whose employment is covered by this Agreement.

“**FWC**” means Fair Work Commission.

“**Home Depot**” means the depot to which an Employee is appointed upon commencement, or as otherwise agreed with the Employee and specified in relevant transfer documentation.

“**National Employment Standards**” means the terms and conditions imposed by Part 2-2 of the Act.

“**Parties**” means the Employee and the Company.

“**SHE**” means Safety Health and Environment.

“**Shift worker**” means an employee who works shift work who the Company may roster over seven (7) days and who is regularly rostered to work on the majority of Sundays and /or public holidays.

“**SMS**” means Safety Management System.

“**Employee Representative**” means a person who may witness proceedings and provide information and advice to employees but may not advocate on behalf of employees.

“**Duty Free Day**” refers to a day upon which the employee is not rostered to work. An employee can elect to make themselves available to work on their duty free day(s), however, this is entirely the employee’s decision.

“**Available Day**” refers to a day upon which the employee has not been rostered to work, however, could be asked to work in consultation with the employer, unless they have indicated they are not available or have taken leave.

“Lift Up” refers to an employee’s shift start time being brought forward up to a maximum of two (2) hours early.

“Lay Back” refers to an employee’s shift start time being delayed up to a maximum of four (4) hours. The time between lift back commencement and when the shift commences does not count towards the seventy-six (76) ordinary hours in the fortnight. They are standalone hours and are paid at the base rate.

“Stand alone” means the hours paid will not be included in the calculation of the seventy-six (76) hour fortnight.

“Home Depot” means the employee’s appointed operational base as specified upon commencement of employment with the Company.

“Held away from Home” means the employee is being held at a place other than their home depot. Maximum time an employee can be held away from home is twelve (12) hours from their clock off time before entitlements of pay at ordinary pay commence.

“Away base (Barracks)” means a nominated location at which train crew sign-off from a shift which will not end at, or sign on for a shift that does not start at their appointed Home Depot.

“Temporary Transfer” refers to when an employee is required to work away from their home depot for more than thirty six (36) hours; or when the transfer working conditions have been classified as a temporary transfer within the offer to the employee. Clock on and Clock off location during temporary transfers are defined as the work location, not the barracks location.

“Duty Cycle” refers to the 76 hour payroll fortnight.

SCHEDULE 2 – CLASSIFICATIONS

Employees will be categorised in accordance with the following classifications and may be required to undertake duties associated at that level or a lower level within their skills, qualifications and training. The following factors relate to Classifications:

- i. Level of experience;
- ii. Range of skills (including level of training or competency) required to perform duties;
- iii. Range of route knowledge and geographic operating experience;
- iv. Degree of responsibility;

Classification	Typical Duties/Qualification (not exhaustive)	Supervision Required
<p>Level 1 New Starter Trainee Locomotive Driver (unqualified)</p>	<p>Undertaken induction and is successful in nationally recognised & accredited on & off job qualifications training as detailed in the Company's HRP 10.27 Training plan –Rail Operator (Trainee).</p> <p>An employee may be classified at this level for a minimum of 6 months or as detailed in the individual's training plan.</p>	<p>During all In-Cab Operations.</p>
<p>Level 2 Advanced Trainee Locomotive Driver (unqualified)</p>	<p>Has completed on the job training assessment in modules identified in HRP 10.27 Training plan –Rail Operator (Trainee). Undertaking training in nationally accredited TLI42613 - Certificate IV in Train Driving or equivalent.</p> <p>Competent to perform and is performing the requirements of Second person.</p> <p>Minimum of 12 months on the job at this level or as detailed in the individual's training plan.</p> <p>Note: As part of trainee programs, a Level 2 Advanced Trainee progresses to Level 3 and does not need to progress to Level 2.5.</p>	<p>During all In-Cab Operations.</p>
<p>Level 2.5 Terminal and or Yard Shunter Driver</p>	<p>Must complete entry level in-field operational tasks (under strict supervision) required for the acquisition of vocational knowledge and skill development with an appropriate attitude committed to Bowmans Rail safety standards.</p> <p>Achieve competency in Terminal Shunting requirements (location specific).</p> <p>Achieve competency in the relevant accredited units of competency according to Bowmans Rail training plan.</p> <p>On the job training (location specific).</p> <p>Minimum 100 hours of shunting/yard duties. Shunting and Marshalling Rolling Stock, Radio Communications, providing Operational assistance for Train movements, Conducting Train Examination, Perform Basic Wagon</p>	<p>During all In-Cab Operations while training. Supervision not mandatory once deemed competent</p>

	Maintenance, Locomotive Start Up and Stabling.	
Level 3 Assistant Locomotive Driver (unqualified)	<p>Successful completion of nationally accredited TLI42613 - Certificate IV in Train Driving or equivalent as detailed in HRP 10.26 and 10.27.</p> <p>Demonstrates competence in duties in relation to engine, air brake, locomotive & train inspection and in-cabin shunting.</p> <p>Demonstrates on job competencies, main line operations.</p> <p>Minimum of 250 control hours on job experience at level 2 or as detailed in individual's training plan.</p>	During all In-Cab Operations.
Level 4 Qualified Locomotive Driver (qualified)	<p>Demonstrates competence in safe operation of locomotives and trains to ensure optimum fuel conservation and timely delivery of customer freight.</p> <p>Able to prepare and maintain locomotives and rolling stock for operational requirements.</p> <p>Maintaining, servicing and provisioning of locomotives and rail wagons to meet operational requirements.</p> <p>Able to conduct inspections to ensure compliance with prescribed Regulatory Standards.</p> <p>Demonstrates route competencies to Bowmans Intermodal Benchmarks.</p> <p>Ensure compliance with all rail safety and Transport and handling of dangerous goods standards.</p> <p>May be required to develop rosters to optimise effective use of resources.</p> <p>Minimum of 250 control hours on job experience at level 3 or as detailed in individual's training plan</p> <p>Route accreditation as detailed in individual's training plan</p> <p>May be required to coach/buddy all employees within this classification structure.</p>	Supervision not mandatory once deemed competent
Level 5 Qualified Locomotive Driver Trainer	<p>Employees whom hold Certificate IV in Training & Assessment TAE40116 - Certificate IV in Training and Assessment or equivalent also have demonstrated competency at Level 4, and subject to the needs of the business maybe considered for a Driver Trainer position, subject to possessing the necessary qualifications, skills, and experience.</p> <p>A Driver Trainer/Assessor occupies an important leadership position in the organization. They will have already demonstrated and continue to demonstrate, superior performance in all aspects of operations covered in Levels 1 to 4 above.</p> <p>The Driver Trainer/Assessor is required to undertake training, competency assessments, employee communication, mentoring and motivation, performance reviews and feedback, procedural and business improvement reviews, customer</p>	

	presentations and other special duties and tasks as required.	
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SCHEDULE 3 - RATES OF PAY

New rates of pay effective first full pay period after endorsing EA

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Bowmans Rail	Level 1	Level 2	Level 2.5 Terminal Shunter	Level 3 Assistant Driver	Level 4 Qualified & Route Qualified Driver	Level 5 Driver Trainer
Date effective	TBA ¹	TBA	TBA	TBA	TBA	TBA
Full time employee						
Annualised rate	\$55,314.31	\$66,333.29	\$71,760.52	\$77,187.82	\$93,931.30	\$99,450.27
Weekly rate	\$1063.74	\$1275.64	\$1380.01	\$1,484.38	\$1,806.37	\$1912.51
Hourly rate	\$27.99	\$33.57	\$36.32	\$39.06	\$47.54	\$50.33
Overtime @ 170% all time > 76 hours/fortnight	\$47.59	\$57.07	\$61.74	\$66.41	\$80.81	\$85.56
Public holidays	\$41.99	\$50.35	\$54.47	\$58.59	\$71.30	\$75.49

Bowmans Rail Train Crew Enterprise Agreement 2020

hours worked 150%						
Casual Employees						
Hourly rate	\$34.99	\$41.96	\$45.40	\$48.83	\$59.42	\$62.91
Overtime @ 170% all time >12 hours per shift	\$59.49	\$71.34	\$77.17	\$83.01	\$101.01	\$106.95
Public holidays hours worked 200%	\$69.98	\$83.92	\$90.79	\$97.66	\$118.84	\$125.82

The Base Remuneration outlined in this agreement will be increased in the following manner

- On acceptance of the Enterprise Agreement 2.25%
- From the first anniversary of the Enterprise Agreement 2.25%
- From the second anniversary of the Enterprise Agreement 2.25%

SCHEDULE 4 – REDUNDANCY

Redundancy payments and conditions relating to redundancy situations for full time and part time Employees covered by this Agreement will be in accordance with the following provisions:

1. Notice Period

The relevant notice period prescribed at clause 28.1 shall apply.

2. Other Entitlements

Payment of all other accrued entitlements except personal leave will be made in accordance with relevant legislation.

3. Redundancy Payment

Redundancy payments shall be made as per below:

Period of continuous service	Redundancy pay
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
At least 10 years	16 weeks

4. Alternative Employment

The Company is not liable for severance payments if the Company is able to arrange reasonable alternative employment, within the Company for the person to be redeployed and the Employee accepts by agreement, in the knowledge that the terms and conditions of employment are less favourable than the Employee's current position.

Where an Employee accepts an alternate position on this basis the Employee shall be entitled to the same period of notice as they would have been entitled to under

clause 27 of this Agreement, if their employment was to be terminated. The Company may at its discretion make an equivalent payment in lieu of such notice.

Appendix 1

Accommodation standards for Barracks Working

The company acknowledges The Rail Tram and Bus Industry Union minimum accommodation standards document (found in Appendix 1 of this document) for the employees covered in this Enterprise Agreement when undertaking Barracks Working. Bowman's Rail will endeavour to adhere to the standards outlined within the RTBU's minimum accommodation standards document as closely as possible when employees are working in major regional centres (Adelaide, Broken Hill and Port Augusta.) In minor regional centres the accommodation standards will be used as a guide for the company to follow. Where RTBU standards cannot be reasonably met, accommodation will be selected in consultation with all staff required to use accommodation.



Accommodation
Standards pdf (2).pdf

Schedule 2.3 Model consultation term

(regulation 2.09)

Model consultation term

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

Major change

- (2) For a major change referred to in paragraph (1)(a):
 - (a) the employer must notify the relevant employees of the decision to introduce the major change; and
 - (b) subclauses (3) to (9) apply.
- (3) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (4) If:
 - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.
- (5) As soon as practicable after making its decision, the employer must:
 - (a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
 - (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.
- (6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
- (9) In this term, a major change is *likely to have a significant effect on employees* if it results in:
 - (a) the termination of the employment of employees; or

- (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (d) the alteration of hours of work; or
- (e) the need to retrain employees; or
- (f) the need to relocate employees to another workplace; or
- (g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

- (10) For a change referred to in paragraph (1)(b):
 - (a) the employer must notify the relevant employees of the proposed change; and
 - (b) subclauses (11) to (15) apply.
- (11) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (12) If:
 - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.
- (13) As soon as practicable after proposing to introduce the change, the employer must:
 - (a) discuss with the relevant employees the introduction of the change; and
 - (b) for the purposes of the discussion—provide to the relevant employees:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- (14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- (16) In this term:

relevant employees means the employees who may be affected by a change referred to in subclause (1).

IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2021/4399

Applicant:
Bowmans Rail Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, David Paul Martin, Operations Manager, have the authority given to me by Bowmans Rail Pty Ltd to give the following undertakings with respect to the Bowmans Rail Train Crew Enterprise Agreement ("the Agreement"):

1. Clause 28.7 of the Agreement – Deductions

If an employee fails to return any company items upon termination of the employee's employment the company will not deduct the monetary value of such items from any payments made to the employee. In such circumstances, the monetary value of such items will be an amount owed to the company by the employee.

2. Clause 20.3 of the Agreement Personal Leave

This clause will operate so that it is not inconsistent with the National Employment Standards (NES) and employees will be required to notify absences in accordance with s107(2) of the *Fair Work Act 2009 (Cth)* (**the Act**) i.e. notice of the absence must be given as practicable (which may a time after the leave has started) and any evidence provided by an employee to support the taking of personal leave will be evidence that would satisfy a reasonable person in accordance with s107(3) of the Act

3. Schedule 4 Clause 4 Redundancy

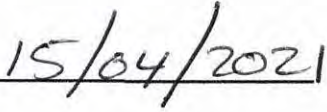
The terms of this Schedule will operate so that such terms are subject to the NES. That means that if an employee's role is redundant and alternative employment is offered, the employer will have the opportunity to make an application to the Fair Work Commission to vary the entitlement to redundancy pay in accordance with s 120(2) of the Act.

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

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature



Date