



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Genesee & Wyoming Australia Pty Ltd
(AG2017/511)

**GENESE & WYOMING AUSTRALIA PTY LTD (SA/NT)
INFRASTRUCTURE MAINTENANCE ENTERPRISE AGREEMENT
2017**

Rail industry

COMMISSIONER ROE

MELBOURNE, 9 MARCH 2017

Application for approval of the Genesee & Wyoming Australia Pty Ltd (SA/NT) Infrastructure Maintenance Enterprise Agreement 2017.

[1] An application has been made for approval of an enterprise agreement known as the *Genesee & Wyoming Australia Pty Ltd (SA/NT) Infrastructure Maintenance Enterprise Agreement 2017* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Genesee & Wyoming Australia Pty Ltd. The Agreement is a single enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 as are relevant to this application for approval have been met. The Agreement does not cover all of the employees of the employer, however, taking into account the factors in Section 186(3) and (3A) I am satisfied that the group of employees was fairly chosen.

[3] Pursuant to s.205(2) of the Act, the model consultation term prescribed by the *Fair Work Regulations 2009* is taken to be a term of the Agreement.

[4] The Australian Rail, Tram and Bus Industry Union 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) I note that the Agreement covers the organisation.

[5] The Agreement was approved on 9 March 2017 and, in accordance with s.54, will operate from 16 March 2017. The nominal expiry date of the Agreement is 31 December 2019.



COMMISSIONER

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**Genesee & Wyoming Australia Pty Ltd
(SA/NT) Infrastructure Maintenance
Enterprise Agreement
2017**

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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PART 1 - APPLICATION OF AGREEMENT

1 TITLE

This Agreement will be known as the Genesee & Wyoming Australia Pty Ltd (SA/NT) Infrastructure Maintenance Enterprise Agreement 2017 (the Agreement).

2 DEFINITIONS

Employer	Genesee & Wyoming Australia Pty Ltd (SA/NT) (ABN 17 079 444 296)
Afternoon Shift	Means a shift which commences before 6.00 pm and finishes at or after 6.30 pm.
Continuous Shift Work	Means work carried on with consecutive shifts of Employees' throughout the 24 hours for 7 days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of the Employer. It should be noted that the Employer does not operate on a Continuous Shift work basis.
Early Morning Shift	Means a shift which commences at or between 4.00 am and 5.30 am.
Employee	A person specified in clause 3.2b).
Employee Representative	Any person nominated by the Employee.
Night Shift	Means a shift which commences at or between 6.00 pm and 3.59 am.
Parties	The Parties to this Agreement as specified in clause 3.
PPE	Personnel Protective Equipment.
Rostered Shift	Means any shift of ordinary hours of which the Employee has had at least 48 hours' notice.
Shift Work	Means any system of work which is being carried out on a regular scheduled basis outside ordinary working hours, for a minimum of five (5) consecutive shifts.
Site	The geographical area in which work is being performed.
The Act	The Fair Work Act 2009 (Cth) as amended.
The Union	The Australian Rail, Tram and Bus Industry Union (RTBU).

3 PARTIES TO THIS AGREEMENT

3.1 The Parties to the Agreement will be as follows:

- 3.1.1 Genesee & Wyoming Australia Pty Ltd (SA/NT) (ABN 17 079 444 296) (The Employer), and the Employees covered by this Agreement.
- 3.1.2 The Australian Rail, Tram and Bus Union (RTBU).

3.2 The Parties & Persons bound by the Agreement are as follows:

- a) Genesee & Wyoming Australia Pty Ltd (SA/NT) (ABN 17 079 444 296). (The Employer)
- b) Employees engaged in the classifications contained within this Agreement.
- c) The Australian Rail, Tram and Bus Industry Union (RTBU).

4 APPLICATION AND SCOPE OF THIS AGREEMENT

- 4.1 This Agreement covers the Employer and its Employees engaged in the classifications contained in this Agreement to perform infrastructure maintenance work on the Employers rail corridors and adjoining tracks, sidings or any other corridor the Employer has maintenance responsibility for in the State of South Australia and Northern Territory.
- 4.2 This Agreement does not cover the following activities or personnel;
- a) Staff Management and Staff Supervisory Personnel.
 - b) Engineers/Technicians/Surveyors.
 - c) Clerical and Administration Personnel.
 - d) Commissioning and operations.
- 4.3 Subject to compliance with sections 183 and 201(2) of the Act, the Union will be covered by this Agreement.

5 DURATION OF THIS AGREEMENT

- 5.1 The Agreement will commence to operate in accordance with the Act being seven (7) days after the Fair Work Commission makes a decision to approve the Agreement and it has a nominal expiry of 31 December 2019. The Agreement may only be terminated in accordance with the Act.
- 5.2 The Parties agree that for the life of the Agreement there will be no further claims made by one Party against another. This Agreement may, however, be varied at any time during the life of this Agreement in accordance with the Act.

6 WORKPLACE FLEXIBILITY

Workplace flexibility is a condition of employment. Employees shall be multi-skilled and work in a completely flexible manner. All Employees will be required to perform a diverse range of functions within their level of skill and competence. There shall be no demarcation, restrictions or limitations on the performance of work what-so-ever, including or between traditional crafts, occupations, vocations or callings.

7 COMMITMENT

- 7.1 The Parties to this Agreement are committed to ensuring that:
- 7.1.1 Within the operations of the Employer a harmonious and safe working environment exists where all persons are treated fairly.
 - 7.1.2 Operating in accordance with the applicable Legislation, Regulations and Codes.
 - 7.1.3 Encouraging and supporting open two way communication between management and the workforce.
 - 7.1.4 The development and maintenance of constructive relationships with workers and unions on industrial and Employee relations issues which may directly or indirectly affect the Employer's operations.
 - 7.1.5 Grievances and disputes are attended to in a professional and timely manner, applying sound Industrial Relations principles, and resolving both industrial and safety disputes that do arise through the agreed procedures within this Agreement.
 - 7.1.6 All personnel are suitably skilled to undertake the duties for which they are employed in a safe and productive manner.
 - 7.1.7 In order for the continued success of the Employer, it is essential to maintain the confidence and trust of customers and all other stakeholders to whom the Employer does business with or to whom the Employer has a responsibility towards, whilst at all times maintaining high standards of integrity and fair dealing.

8 LOCAL EMPLOYMENT EMPHASIS

- 8.1 The Employer within the provisions of Equal Employment Opportunity shall endeavor where practicable to offer employment to local residents from Alice Springs, Katherine, and Darwin subject to suitable qualifications.
- 8.2 The Employer has a commitment to aboriginal participation by maximising employment opportunities for aboriginal residents in the areas of employment.

PART 2 - CONTRACT OF EMPLOYMENT AND RELATED MATTERS

9 RECRUITMENT / INDUCTION

- 9.1 To minimise misunderstandings and differences of interpretation the Parties agree to the following procedures:
 - 9.1.1 All prospective Employees must complete an Application for Employment Form and supply details of all trade certificates, tickets, permits etc where requested.
 - 9.1.2 Prospective Employees will undertake a pre-employment /pre-placement functional medical test, which includes rail and track safety hearing and eyesight tests and a urine sample drug & alcohol testing, at the Employer's expense. The results of such tests will be strictly confidential and made available to both the Employee and Employer.
 - 9.1.3 All new Employee(s) will be given an explanation of the applicable policies and procedures that are to be observed. The Employee will also be given an explanation of the terms and conditions of this Agreement.

10 ENGAGEMENT

- 10.1 An Employee shall be engaged on a full time, part time, fixed term, permanent or casual employment basis. Each Employee will be notified in a letter of appointment at the time of their engagement, the nature of their employment status and the terms and conditions of their contract of employment.
- 10.2 The Employee will be directed to undertake a range of such activities that is within their skill, training and competency. The level of flexibility and skill is reflected in the wage rates for each classification.

11 PROBATIONARY PERIOD

- 11.1 All new Employees will be subject to a probationary period under the following conditions:
 - 11.1.1 The period of probationary employment will be commensurate with the requirements of the position and will be outlined in the written offer of employment. Unless otherwise required a probationary period of up to three (3) months from the date of commencement will be applied to new Employees.
 - 11.1.2 An Employee's probationary period may be extended beyond the initial period, for up to a further three (3) months, where there is a likelihood that such an extension will provide the employee with the opportunity of satisfying the probationary requirements. The Employee shall be advised in writing of such an extension before the expiry of the original probationary period.
 - 11.1.3 A probationary period will not apply to casual Employees and temporary Employees engaged for a period of less than six (6) months.
 - 11.1.4 On commencing employment, probationary Employees will be advised of the performance standards required and will undergo regular performance reviews during the period of probationary employment.
 - 11.1.5 Employees will undergo an induction and orientation program at the commencement of employment, during which they will be familiarised with The Employer, their work sites and the requirements of their position.
 - 11.1.6 During the probationary period, the Employee's employment may be terminated by either the Employee or the Employer providing one (1) week's written notice (or payment in lieu).

12 CODE OF ETHICS

- 12.1 All Employees are required to adhere to the Employers Code of Ethics when undertaking work including;
- When In proximity of the Site or on the Site.
 - Occupying Employer provided accommodation or facilities.
 - Travelling in Employer provided transport or vehicles.
 - In public places when wearing Employer provided clothing that identifies the Employer.
- 12.2 All Employees must follow lawful instructions given by their Supervisor. Should any Employee be unable to perform the assigned task for any reason whatsoever, it is their duty to inform their Supervisor immediately.
- 12.3 Refusal to comply with any lawful instruction may result in disciplinary action.
- 12.4 Each person is accountable for:
- Complying with all relevant policies and procedures
 - Abiding by Site specific work rules as specified and as amended from time to time.
 - Participating in and abiding by the cultural and environmental processes applicable to the site.
 - Their personal fitness for work and compliance with applicable policies.
 - Maintaining uninterrupted continuity of work.

13 ABANDONMENT OF EMPLOYMENT

- 13.1 The absence of an Employee from work for a continuous period exceeding five working days without the consent of the Employer shall be prima facie evidence that the Employee has abandoned their employment.
- 13.2 The Employer will make reasonable attempts to contact the Employee to determine any reasons for the absence. This contact will include the Employer writing to the Employee at the Employee's last known address informing the Employee that the absence may result in the Employee's services being terminated.
- 13.3 If within a further period of five (5) days the Employee has not established, to the satisfaction of the employer, that they were absent for a reasonable cause they shall be deemed to have abandoned their employment and, at the employer's discretion, their employment may be terminated.
- 13.4 Termination of employment by abandonment in accordance with this subclause shall operate as from the date of the last attendance at work or the last day's absence in respect of which consent was granted whichever is the later.

14 STANDING DOWN OF EMPLOYEES

- 14.1 Despite anything elsewhere contained in this Agreement, the Parties agree that the Employer will have the right to stand down Employees without pay for all or part of any day an Employee cannot be usefully employed because of industrial action or through any breakdown in machinery or any stoppage of work by any cause for which the Employer cannot reasonably be held responsible. This will only occur following consultation with the Employees concerned and the union.
- 14.2 Notwithstanding the above, Employees except for industrial action may elect to use accrued leave entitlements to receive payment for time where stood down as provided for above. The Employer shall make every effort, so as to not unfairly disadvantage the relevant Employees.

15 TERMINATION OF EMPLOYMENT

15.1 Termination by the Employer

- 15.1.1 Termination of an Employee's contract of employment may occur by the employer giving the Employee four (4) weeks' notice.

- 15.1.2 In addition to this notice, Employees over 45 years of age at the time of the giving of the notice and with not less than two (2) years continuous service are entitled to an additional week's notice.
- 15.1.3 The Employer may, at its election, make payment in lieu of notice, either wholly or in part thereof.
- 15.1.4 Nothing in this Agreement affects the Employer's rights to dismiss an Employee at any time without notice for serious misconduct that would justify summary dismissal. If an Employee is dismissed on this basis, the Employee will be entitled to be paid for work only up to the time of dismissal.
- 15.1.5 Termination of a casual's employment contract may occur by the Employer giving the Employee notice of termination at the end of a shift.
- 15.1.6 Nothing in this clause shall affect the right of the Employer to summarily dismiss an Employee for conduct that justifies this action.

15.2 Termination by the Employee

- 15.2.1 An Employee may resign from employment by giving four (4) weeks' notice in writing, while a casual Employee may resign by providing notice at the end of a shift.
- 15.2.2 If an employee fails to give the required notice the Employer may withhold from any monies due to the Employee on termination under this Agreement or the National Employment Standards under the Act, an amount not exceeding the amount the Employee would have been paid under this Agreement in respect of the period on notice required by this clause less any period of notice actually given by the Employee.
- 15.2.3 Where agreed, a shorter period of notice may be given without forfeiture of pay.

16 GENERAL EMPLOYMENT OBLIGATIONS

- 16.1 Where there is a requirement to record time worked, Employees must complete the relevant documentation or any timekeeping device as advised by the Employer.
- 16.2 If an Employee is unable to attend work or misses the arranged transport to commence a work cycle for any reason, the Employee must give the Employer as much notice as possible and at least notify the Employer no later than the time the Employee is required to commence work (except in extraordinary circumstances where it is not possible to do so). When notifying the Employer of an inability to attend work, the Employee must explain the reason and the estimated duration of the absence.

PART 3 - CLASSIFICATION & WAGES

17 CLASSIFICATION DEFINITIONS

- 17.1 All Employees covered by this Agreement will be classified and paid according to their primary occupational role and skills used - not skills acquired. For the purposes of this Agreement the skills based classification structure is contained in APPENDIX A.
- 17.2 As a guideline the notional key skills and knowledge requirements for the rail construction workers classified under this Agreement are outlined in APPENDIX A.

18 WAGE BASE RATES

- 18.1 The wage base rates for each classification are as prescribed in APPENDIX B. Without limiting the generality of this clause the wage base rates shall include, compensation for all disabilities, special rates and/or special skills and allowances (other than those for which allowances are otherwise expressly provided for within this Agreement) and/or special rates associated with, or likely to be associated with, work on, or in connection with, a Project including industry allowance, project or similar allowance and any allowance for work at dirty work, hot work, confined spaces, obnoxious, dust, toxic or irritant materials or other allowance of a kindred nature.

18.2 Escalation

The rates of pay referred to in APPENDIX B will be as follows:

- a) 2% from first full pay period commencing on or after 1 January 2017;
- b) 2% from first full pay period commencing on or after 1 January 2018; and
- c) 0% from first full pay period commencing on or after 1 January 2019;

19 CASUAL EMPLOYEES

- 19.1 A casual Employee is an Employee employed on an occasional basis and whose work pattern is not regular and systematic. When a person is engaged for casual employment the Employee will be informed in writing that the Employee is to be employed as a casual, the job to be performed, the classification level.
- 19.2 A casual Employee shall be entitled to all the applicable rates and conditions of employment prescribed in this Agreement except annual leave, personal leave, notice of termination, jury service, redundancy benefits and public holidays.
- 19.3 On each occasion a casual Employee is required to attend work the Employee shall be entitled to payment for a minimum of four (4) hours work.
- 19.4 Casual Employees will be paid a casual loading of 25% in lieu of annual leave, personal leave, jury service, public holidays and redundancy as contained in this Agreement. When a casual Employee is required to work overtime, weekend work or on public holidays, the following penalties shall apply:
 - 19.4.1 When the penalty rate is time and a half, the casual Employee shall be paid 175% of the hourly rate prescribed.
 - 19.4.2 When the penalty rate is double time, the casual Employee shall be paid 225% of the relevant hourly rate prescribed.
 - 19.4.3 On a public holiday the casual Employee will be paid 275% of the hourly rate prescribed.

20 USE OF SKILLS

- 20.1 All relevant skills held by a person are to be available for use by the Employer and are expected to be utilised. Job rotation will be utilized to the extent necessary for the maintenance of skills and competencies.
- 20.2 An Employee who is required by the Employer to perform duties at a higher grade than currently classified for a period of 4 hours or more in a day will be paid at the higher rates for the entire day. When engaged for less than 4 hours at a higher rate the employee will be paid at the higher rate for the hours worked.

21 GENERAL BENEFITS AND ALLOWANCES

If applicable, in addition to the wage rates prescribed in this Agreement, eligible Employees shall be entitled to the general benefits and allowances as provided for in APPENDIX C of this Agreement. The rates for all allowances shall be payable from the commencement of the first full pay period after the dates specified.

22 PROVISION OF TOOLS

The Employer will provide all appropriate tooling required for the relevant workplace and/or project.

23 PAYMENT OF WAGES

Employees will be paid their wages by electronic funds transfer fortnightly. Where Employees are working at isolated locations the payslips shall be posted at the earliest possible convenience to a central point at the work location or their nominated postal address.

PART 4 - WORKING ARRANGEMENTS

24 ORDINARY HOURS OF WORK

- 24.1 The ordinary hours of work shall be an average of seventy six (76) per fortnight and shall be worked between the hours of 6.00am and 6.00pm Monday to Friday inclusive. The daily ordinary working hours shall be 8 hours per day Monday to Friday with 0.4 of an hour per day accruing for a rostered day off (RDOs). The accrual applies on all ordinary days worked (except RDOs) and paid leave (excluding workers compensation). A rostered day off shall be taken as provided below in clause 25.
- 24.2 Provided that where Agreement is reached between the Employer and the relevant Employees this spread of hours may be changed to allow for climatic conditions, special project and/or site requirements.
- 24.3 The Parties agree that hours of work provisions will be implemented in a suitable and flexible manner. The following measures will be available during the life of this Agreement, to achieve the required objectives:
- 24.3.1 When the Employer considers it necessary on account of climatic, special project and/or site requirements. Generally work may be performed outside the span of ordinary working hours prescribed above without the payment of overtime penalties provided the ordinary number of working hours determined in anyone day is not exceeded and work is performed only during daylight hours. This will only occur following consultation with the Employees concerned.
- 24.3.2 Application of an average of a seventy six (76) hour ordinary working fortnight may vary from Employee to Employee or section or sections of Employees from time to time to suit programming requirements of a site or project. Provided that no more than eight hours ordinary time per day shall be worked. Except whereby in special circumstances with the Agreement of a majority of the relevant Employees, up to 10 hours "deemed ordinary time" can be worked on any day between Monday to Sunday. Such time worked will count towards the industry standard of working "Forty (40) Weekly Ordinary Hours" for leave accrual purposes. The "deemed ordinary time" worked in excess of eight hours per day is to be paid at the applicable overtime rates.
- 24.3.3 To allow greater continuity of operation, 12-hour shifts can be worked on weekends. The working of 12 hour shifts as part of the ordinary hours of work (the daily ordinary hours of work shall be 8 hours). In these cycles where the weekend or part of the weekend is included in such roster periods, the time worked shall be counted towards the ordinary hours where so rostered, but paid at the applicable overtime rates.

25 ROSTERED DAYS OFF

- 25.1 The daily ordinary working hours shall be eight (8) hours per day over a shift cycle of five (5) days with 0.4 of an hour per day accruing for a rostered day off (RDOs). The accrual applies on all ordinary days worked (except RDOs) and paid leave (excluding workers compensation). A rostered day off shall be taken by mutual Agreement between the Employer and the majority of Employees.
- 25.2 Except where there is a rail possession, an emergency or work arising due to unforeseen circumstances Employees affected shall receive an alternative day off as agreed between the Parties. Otherwise at least two (2) working days notification is required, if the scheduled RDO is to be changed.
- 25.3 A new Employee will be only eligible for an RDO after achieving 7.6 RDO accrual hours
- 25.4 The options for all or individual Employees will include:
- a) An alternative day in the same or immediately following four (4) week cycle.
 - b) Banking of up to but no more than five (5) RDO's but must be cleared within the calendar year.
 - c) Pay out up to 50% of their accrued RDO's at ordinary time rates of pay
- 25.5 Employees will be paid all unpaid RDO accruals upon their termination of employment.

25.6 Any disputes arising from this clause shall be resolved in accordance with clause 45.

26 OVERTIME

26.1 Requirement to Work Overtime

- 26.1.1 It is recognised that excessive overtime is of detriment to personal, family and community life and can jeopardize workplace safety.
- 26.1.2 However, due to the requirement to travel long distances to remote sites, the Employer generally requires Employees to be available to work “block work” 11 days on 3 days off, which requires working at least eight (8) hours per day on a Saturday and Sunday every second weekend.
- 26.1.3 The number of hours (including ordinary hours and overtime) which will usually comprise the working week will be specified by the Employer for each project or job.
- 26.1.4 The Parties and persons bound by this Agreement shall not in any way, whether directly or indirectly, be a party to or concerned in any ban, limitation or restriction upon the working of reasonable overtime (including “one in all in” overtime policy) in accordance with the requirements of this subclause.

26.2 Payment of Overtime

- 26.2.1 All time worked in excess of the nominated average work cycle of thirty- eight ordinary hours (38) per week or outside of the span of ordinary hours of work shall be paid as overtime at the following rates;
 - a) Monday to Midnight Saturday at the rate 1.7 times the ordinary rate of pay.
 - b) All time worked from Midnight Saturday to Midnight Sunday shall be paid at double time.
 - c) An Employee required to work on a Saturday or Sunday shall be afforded at least four (4) hours work or paid for four (4) hours at the appropriate rate
- 26.2.2 All work performed on a gazetted public holiday shall be paid at the rate of double and half time the ordinary rate of pay.

27 RECALL TO DUTY

- 27.1 An Employee recalled to work overtime after completing a rostered shift on any day to perform track maintenance work shall be paid for a minimum of four (4) hours work at the appropriate rate for each time the Employee is recalled.
- 27.2 Except in the case of unforeseen circumstances arising, the Employees shall not be required to work the full four (4) hours if the job the Employee was recalled to perform is completed within a shorter period.
- 27.3 In all other cases when an Employee is recalled to work overtime after completing a rostered shift on any day to perform a required task (e.g. to return a work vehicle to the depot). Then the Employee shall only be paid for the actual overtime hours worked to complete the requested task at the appropriate overtime rate of pay.
- 27.4 This overtime not worked shall not be regarded as overtime for the purpose of clause 29 when the actual time worked is less than four (4) hours on the recall or on each of the recalls.

28 REST PERIOD AFTER OVERTIME

- 28.1 When overtime work is necessary it shall, wherever reasonably practicable be so arranged that Employees have at least ten (10) consecutive hours off duty between the work of successive days. An Employee who works so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day that the Employee has not had at least ten (10) consecutive hours off duty between those times shall, subject to this subclause be released after completion of the overtime until the Employee has had ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- 28.2 For fatigue management purposes no Employee without a written directive from their Manager shall resume or continue work without having had the ten (10) consecutive hours off duty. If so instructed the Employee shall be paid at double time rate of pay until they are released from duty for such period.
- 28.3 The provisions of this sub clause shall apply in the case of shift workers as if eight (8) hours were substituted for ten (10) hours when overtime is worked. For the purpose of changing shift rosters or where a shift is worked by arrangement between the Employees themselves.

29 FATIGUE MANAGEMENT

- 29.1 As guideline for the purpose of fatigue management an Employee should be required to work no more than 13 consecutive days without a day off.
- 29.2 Employees may apply to use their accrued Rostered Day Off (RDO) for their fatigue day.
- 29.3 Weekend work will be scheduled where possible, but on occasions the nature of work to be performed is such that call-outs preclude correct planning procedures.

30 MEAL BREAKS AND REST PAUSES

- 30.1 While meal breaks will generally be taken at normal hours, the Parties agree that due to specific work requirements greater flexibility in meal breaks may be mutually agreed on to suit track possessions or continuous operations, without additional rates of pay.
- 30.2 Employees shall be entitled to a paid 20 minute crib break during the normal working hours rostered between Monday and Fridays.
- 30.3 An Employee required to work overtime on a Saturday, Sunday, or public holiday shall be allowed a 30 minute paid crib break after each five (5) hours worked if the work is scheduled to continue after the break. Payment for the crib break shall be at the prevailing overtime rate. A second meal break of 20 minutes shall be due if working eight (8) hours or more, and paid at the prevailing overtime rate. Subsequent paid meal breaks are due every four (4) hours.
- 30.4 The times of taking the breaks will be as agreed between the Employer and majority of Employees affected.

31 SHIFT WORK

- 31.1 The ordinary hours of work shall be an average of 38 hours per week averaged over the roster period.
- 31.2 Except at regular changeover of shifts an Employee shall not be required to work more than one shift in 24 hours.
- 31.3 For all paid time on duty not subject to overtime penalty on days other than a Sunday, Saturday or public holiday, and Employee in receipt of an adult wage rate shall be paid from the commencement of the first full pay period after the dates specified below:

	01/01/2017	01/01/2018	01/01/2019
Early Morning Shift	\$2.98	\$3.04	\$3.04
Afternoon Shift	\$2.98	\$3.04	\$3.04
Night Shift	\$3.50	\$3.57	\$3.57

31.4 An Employee Who:

- 31.4.1 Remains on night shift for longer than four (4) weeks, or works on a night shift which does not rotate so as to give at least one third of their time off night shift in each 4 week cycle shall be paid 30% more than the ordinary rate.
- 31.4.2 Overtime rates shall apply as for day worker provisions.
- 31.5 The minimum rate to be paid to a shift worker on a Saturday (midnight Friday to midnight Saturday) shall be time and a half. The minimum rate paid to a shift worker on a Sunday (midnight Saturday to midnight Sunday) shall be double time. The minimum rate paid to a shift worker on a public holiday shall be double time and a half.

- 31.6 Shift workers on afternoon or night shift which does not continue for at least five (5) successive working shifts shall be paid at 50% more for all ordinary hours worked. The sequence of shift work shall not be deemed to be broken under this paragraph by reason of the fact that the works are closed on an RDO, Saturday, Sunday or public holiday.

32 INCLEMENT WEATHER

- 32.1 The determination to cease work due to inclement weather shall be at the discretion of the site supervisor or his delegated Employee. Inclement weather shall mean rain, hail, extreme temperature, dust or a combination of climatic conditions such that is not reasonable or safe for Employees exposed thereto to continue working.
- 32.2 Employees will be paid for ordinary hours not worked due to inclement weather as determined under subclause 32.1, so long as they remain available for work for at least four (4) hours (or half the remaining ordinary hours) after the commencement of the work cessation due to inclement conditions.
- 32.3 If work under cover is available or training arranged Employees will relocate as directed to carry out such work or training.

PART 5 - LEAVE AND ENTITLEMENTS

33 ANNUAL LEAVE

33.1 Entitlement

- 33.1.1 A full time Employee shall at the end of each year of employment be entitled to paid annual leave of 4 weeks of ordinary time at the ordinary weekly wage rate for ordinary hours. Seven day continuous shift workers, that is shift workers who are rostered to work regularly on Sundays and public holidays, shall be allowed an additional one (1) weeks annual leave.
- 33.1.2 However, whilst the Employer does not operate on a Seven Day Continuous Shift Work basis the Employer has agreed for those Employees who are rostered to work at least 20 Sundays within a calendar year they shall be allowed an additional one (1) weeks annual leave.
- 33.1.3 For the purposes of good health and wellbeing Employees shall be required to take their annual leave on yearly basis and endeavour to only accrue their annual leave credits up to a maximum of 30 days.
- 33.1.4 Annual leave accrues weekly, on a pro rata basis based on Employees' ordinary hours of work.
- 33.1.5 The period of annual leave shall be exclusive of any public holiday that occurs during the period.
- 33.1.6 The provisions of this clause shall not apply to casual Employees.

33.2 Rate of Pay for Annual Leave

Annual leave shall be paid at the ordinary weekly base wage rate for ordinary hours paid to the Employee immediately prior to proceeding on annual leave.

33.3 Calculation of Annual Leave Pay

- 33.3.1 Annual leave shall be paid at the Employee's ordinary weekly base wage rate for ordinary hours for the period of annual leave excluding shift allowances and weekend rate payments, but including leading hand allowance and the special trades' qualification allowance; plus an amount equal to 17.5% of the amount.
- 33.3.2 Seven Day Continuous Afternoon and Night Shift Workers who would have worked on shift work had they not been on leave - a loading of 20% per cent or the shift loading (including relevant weekend penalty rates) whichever is the greater but not both.

33.4 Notice of Taking Annual Leave

Unless otherwise agreed, one (1) month's notice of the start of leave will be given by the Employee. Annual leave may be taken in any combination of days or weeks agreed between the Employer and the Employee.

33.5 Payment on Termination

33.5.1 If an Employee is terminated after the end of a year of employment, the Employee will be entitled to any untaken leave as at the date of termination and shall be paid for that leave accordingly.

33.5.2 If an Employee is terminated before the end of a full year of employment, the Employee shall be paid in accordance with clause 33.3 for one twelfth of the annual period of entitlement for each completed month of employment in that year less, if applicable, any annual leave taken during that period.

33.6 Employer Close Down

33.6.1 With notice of one month, the Employer may close a workshop/site or part of a workshop/site or reduce the number of Employees in a workshop/site so that all or most Employees take their annual leave at the same time.

33.6.2 When a workshop/site is closed Employees must take the annual leave to which they are entitled or take unpaid leave.

33.6.3 If an Employee is employed for less than one (1) year, any leave taken by that Employee will be proportionate to their length of service and if such leave is not 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 subclause 33.6.2.

34 PERSONAL AND CARERS LEAVE

34.1 Entitlement

34.1.1 A full-time Employee shall be entitled to accrue 10 days paid personal and carers leave per year of continuous service with their Employer, in accordance with and subject to the provisions of the Act (as amended).

34.1.2 Personal and carers leave is cumulative and accrues progressively during a year of service according to Employees' ordinary hours of work.

34.2 Personal Leave

34.2.1 Paid leave taken by the Employee because of a personal illness or injury of the Employee.

34.3 Carers Leave

34.3.1 Leave taken by the Employee to provide care or support to a member of the Employee's immediate family, or a member of the Employee's household, who requires care or support because of:

- a) A personal illness or injury of the member; or
- b) An unexpected emergency affecting the member

34.4 Leave shall not apply for illnesses or injury covered by workers compensation.

34.5 An Employee shall not be entitled to be paid or deducted personal and carers leave for more ordinary hours than the Employee would have worked on that day.

34.6 Payment

Personal and carers leave will be paid at the Employee's rate payable for ordinary hours. To be paid, the Employee must meet the following requirements;

- a) Have a credit entitlement to the period of leave;
- b) Notify the Employer of the absence as soon as reasonably practicable;

- c) Advise the Employer how long the absence is likely to be;
- d) Provide evidence satisfactory to the Employer of the illness or injury;
- e) In circumstances where an Employee has, in any twelve (12) month period, taken paid/personal/carers leave for more than two (2) consecutive days or on more than two (2) single day absences, the Employee must substantiate any further personal/carers leave through the production of a medical certificate when requested, or, if it is not reasonably practicable to provide a medical certificate then a statutory declaration.

34.7 Continuity of Employment

Continuity of employment for sick leave accumulation is not broken by absence from work on leave granted by the Employer, or the termination or standing down of the Employee for any period not exceeding 3 months, provided that the Employee is re-employed by the Employer. But such period of absence or stand down will not count as service.

35 COMPASSIONATE LEAVE

- 35.1 A full-time Employee working in remote locations and is required to travel interstate for a family bereavement shall be entitled to three (3) days of compassionate leave in lieu of the statutory two (2) days as prescribed under Fair Work Act 2009 (Cth) on each occasion when a member of the Employee's immediate family or a member of the Employee's household;
- a) Contracts or develops a personal illness that poses a serious threat to his/her life; or
 - b) Sustains a personal injury that poses a serious threat to his/ her life; or
 - c) Dies.
- 35.2 However, the Employee is entitled to compassionate leave only if the leave is for the purpose of spending time with the above mentioned person and the Employee gives the Employer any evidence that the Employer reasonably requires to substantiate the illness, injury or death.
- 35.3 Payment for compassionate leave shall be at the amount the Employee would reasonably have expected to be paid if the Employee had worked for the period of paid leave.

36 PARENTAL LEAVE

After twelve (12) months of continuous employment, an Employee (other than a casual) may take up to 52 weeks of unpaid leave for the purposes of caring for a new born or newly adopted child. The parental leave period of 52 weeks may upon application be extended for a further 52 weeks unpaid leave. The leave may be taken by either the mother or the father or a combination but in all cases the total leave taken may not exceed 104 weeks. The Employee will provide the Employer with substantiating documentation as required under the relevant Federal Government legislation.

37 JURY SERVICE LEAVE

- 37.1 An Employee required to attend for jury service during their ordinary working hours shall be reimbursed by the Employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the amount of wage they would have received in respect of the ordinary time he/she would have worked inclusive of time worked for accrual purposes as prescribed in clause 24.
- 37.2 An Employee shall notify the Employer as soon as possible of the date upon which he/she is required to attend for jury service. Further the Employee shall give the Employer proof of his/her attendance, the duration of such attendance, and the amount received in respect of such jury service.

38 LONG SERVICE LEAVE

- 38.1 Employees will receive thirteen weeks long service leave after ten years of continuous service. This first period of long service leave shall be taken in one period, unless otherwise agreed between the Employer and the Employee.

- 38.2 After ten (10) years' continuous service long service leave shall accrue at the rate of 1.3 weeks for each completed year of service.
- 38.3 Long service leave shall be taken at a time or time agreed between the Employer and the Employee, or, where there is no Agreement, as directed by the Employer on sixty (60) days' notice.
- 38.4 Long service leave shall be paid at the Employee's ordinary rate of pay.
- 38.5 Where a public holiday falls within a period of long service leave such day shall be deemed to be a portion of the long service leave and no other payment or benefit shall apply.
- 38.6 For the purpose of this clause, "continuous service" has the meaning provide in applicable legislation and:
- 38.6.1 includes any period during which the Employee is absent on paid leave or workers compensation but does not include any period exceeding two (2) continuous weeks during which the Employee is absent on leave without pay, including parental leave; and
 - 38.6.2 does not include any period for which an Employee has received a payment in lieu of the accrual of long service leave, and
 - 38.6.3 such periods provided in this clause that do not count as service shall not be deemed to break the continuity unless there is an actual termination of the employment contract by either the Employer or the Employee.
- 38.7 An Employee will be entitled to pro rata long service leave under the following circumstances:
- 38.7.1 Where the Employer terminates the Employee's services for reasons of redundancy or ill health where the Employee is certified permanently unfit to perform the duties of their appointed position; or
 - 38.7.2 Upon termination of employment, for reasons other than serious misconduct, where the Employee has completed seven (7) years continuous service.
- 38.8 This clause is intended to reproduce but not derogate from the application of terms of, the Long Service Leave Act (NT), and is intended to be read in conjunction with that Act and any other applicable State or Territory legislation such that the more favourable arrangement applies to the Employee.

39 PUBLIC HOLIDAYS

- 39.1 All full time Employees shall be entitled to the following public holidays, without loss of ordinary pay;
- a) New Year's Day
 - b) Australia Day
 - c) Good Friday
 - d) Easter Monday
 - e) Anzac Day
 - f) Queen's Birthday
 - g) Christmas Day
 - h) Proclamation Day / Boxing Day
 - i) Show day (date based on location of employment)
If the location of any show runs over multiple days one mutually agreed, pre-determined day will be selected.
- 39.2 For Employees based in the Northern Territory
- a) NT Government Gazetted Picnic Day
 - b) May Day
- 39.3 For Employees based in South Australia
- a) Adelaide Cup
 - b) Labour Day

- 39.4 Where any of the prescribed public holidays fall on a Saturday or Sunday, if the public holiday is gazetted by the Government to be observed on another day, then the substituted day shall be a holiday without deduction of ordinary pay.
- 39.5 Any Employee required to work on a public holiday nominated herein shall be paid at the rate of double time and a half for all time so worked.
- 39.6 It will be available for the Employer and a majority of the affected Employees to substitute the nominated public holiday for another day and the prescriptions of this clause will apply to the substituted day.

40 COMMUNITY SERVICE LEAVE

Community service leave including entitlement to be absent from employment during period of voluntary community or emergency service (e.g. firefighting) as provided in the Act (as amended).

PART 6 - WORKPLACE HEALTH AND SAFETY

41 SAFETY

- 41.1 Employees will comply with the relevant Acts, Regulations, Codes of Practice and the Employer's Occupational Safety and Health Policies and Procedures (as amended from time to time).
- 41.2 The health, safety and wellbeing of our Employees are fundamental to success. In particular the Employer wants to ensure that Employees arrive home to their families safely.
- 41.3 The Employer shall implement relevant policies and procedures to assist in the management of fatigue and this will require the co-operation of the Employee.
- 41.4 Any Employee becoming aware of a situation that is unsafe is responsible for immediately reporting the matter to his/her supervisor/foreman or other nominated representative of the Employer.

42 DRUGS AND ALCOHOL IN THE WORKPLACE

- 42.1 The Parties to this Agreement are committed to providing a safe, healthy and productive work environment. Drug and alcohol use or abuse that places this environment at risk will not be tolerated by the Employer. The Employer will implement policies and procedures dealing with drugs and alcohol in the workplace, which may include random drug and alcohol testing. It is a condition of employment that all Employees comply with relevant policies and procedures as amended from time to time.
- 42.2 Each Employee will be provided with a copy of the relevant policies and procedures and be also made aware of the policy and procedures at their point of engagement.
- 42.3 The Parties further agree that no person will be allowed to enter or work on at workplace and/or site if they are under the influence of or affected by alcohol or drugs.

43 SMOKING

The Employer will put in place policies and procedures dealing with smoking in the workplace which will apply to all site offices, meeting rooms, mess/change sheds, vehicles and wherever appropriate signage is displayed. All Employees are to be informed and adhere to relevant policies and procedures. On relevant sites the safety committee will be consulted regarding the management of specific no-smoking issues in accordance with relevant policies and procedures, given that once a work area becomes enclosed, it will be deemed a non-smoking area.

44 PERSONAL PROTECTIVE EQUIPMENT (PPE) AND CLOTHING

- 44.1 Employees will be provided with all necessary protective clothing and equipment as required. Clothing remains the property of the Employer and if requested shall be returned upon termination of the Employee's employment with the Employer.
- 44.2 This will include but is not limited to:
- a) Eye protection

- b) Hearing protection
 - c) Sunscreen protection
 - d) Head Protection
 - e) Hand Protection
 - f) Dust masks
 - g) Safety boots
 - h) Wet weather gear
- 44.3 Damaged and/or worn PPE will be replaced on a fair wear and tear basis, provided they are produced for replacement.
- 44.4 An Employee whilst at work on any day must be appropriately wearing all the necessary PPE for the work to be performed and have access to all other items of PPE that may be required to give protection.
- 44.5 It is a condition of employment that where an Employee who has been issued with the required PPE, is found not to be wearing or using the same on the job then, the following disciplinary procedure will be taken:
- a) Verbal warning and if required a "Re- Induction".
 - b) Written warning and if required a "Re- Induction".
 - c) Any further prima facie breach – Eight (8) hours suspension without pay and a final written warning.
 - d) Employment terminated on the grounds of misconduct.
- 44.6 This disciplinary procedure will not be unreasonably applied. The Parties recognise the legal obligation for both the Employer and Employees to have a genuine duty of care to protect the safety of all other persons and themselves in the workplace by complying to the relevant Safety Acts, Regulations, Codes of Practice and Employer safety policies and procedures by appropriately using and by wearing the necessary PPE and protective clothing provided for their protection.
- 44.7 An Employee who wilfully damages supplied PPE must replace it at their own cost and the disciplinary procedure set out above shall be applied.
- 44.8 Notwithstanding the above, the Employer reserves the right to exercise appropriate discretion in relation to the application of some or all of the steps set out in the above disciplinary procedure.
- 44.9 All Employees will be issued by the Employer, at no cost to Employees, with:
- a) One pair of safety footwear and a safety helmet upon commencing work. Footwear will be replaced on the basis of fair wear and tear.
 - b) One jacket for any Employee working between 1 May & 31 August each year. The jacket will be then replaced on two (2) yearly basis or a genuine basis of fair wear and tear.
 - c) Five (5) sets of long legged navy blue coloured trousers & orange long sleeved shirts
- 44.10 New Employees shall be provided with the issue of clothing as soon as practicable after their engagement.
- 44.11 Clothing and footwear supplied will be Australian made where practical and have a minimum UPF rating of 40 (Australian Standard 4399).

PART 7 - INTRODUCTION OF CHANGE, CONSULTATION AND DISPUTE RESOLUTION

45 DISPUTE RESOLUTION

- 45.1 This clause applies to any dispute including matters arising under the agreement and the National Employment Standards.
- 45.2 The following procedure for the avoidance or resolution of disputes will apply. The mechanism and procedures for resolving disputes will include, but not be limited to the following:

- Step 1:** Where the employer or Employee(s) raises an issue, in writing or otherwise, with the employer or the Employee(s) as applicable, discussions shall take place, between the Employee(s) and their direct manager / supervisor, concerning the issue being raised.
- Step 2:** Where the issue is not resolved, or a way to resolve the issue is not agreed, the issue may be referred to the next level of management. The Employee(s) and the manager(s) will attempt to resolve the issue.
- Step 3:** If the issue remains unresolved, or a way to resolve the issue is not agreed, the issue may be referred to senior management of the employer. The employer and the Employee(s) will attempt to resolve the issue.
- Step 4:** Where, having complied with this procedure, the parties are unable to resolve matters, the dispute may be referred, by either party, to an agreed mediator to conciliate and, if necessary, to arbitrate the matter. The parties agree to participate in the process in good faith and shall accept the determination of the mediator as final.

- 45.3 In any case where the parties are unable to agree on the mediator, the matter will be referred to Fair Work Commission as mediator at this step and if necessary to arbitrate the matter.
- 45.4 Where a matter is to be arbitrated in accordance with Step 4 above, the arbitrator, in the conduct of the arbitration, may exercise such powers as are agreed between the parties.
- 45.5 The Employer will bear any cost for the services of the mediator, unless the mediator determines otherwise, based on submissions made by the parties, however each party will meet their own costs associated with any paid representation.
- 45.6 At any step in the dispute resolution process a party may be represented by a representative of their choice.
- 45.7 Where the parties are endeavoring to resolve the issue in accordance with this procedure the provision of services to customers will be maintained and the status quo that prevailed immediately prior to the change that led to the dispute shall be maintained. No action taken by either party to maintain services while this procedure is being complied with will be deemed to prejudice the position of the parties in respect of the dispute.
- 45.8 At each stage of the dispute resolution process agreed timeframes will be determined that are suitable to the circumstances of the matter in dispute and
- 45.8.1 If the matter remains unresolved; or
- 45.8.2 An extension of timeframes has not been agreed;
- The dispute will be escalated to the next step in the process.
- 45.9 In this clause "party" means the Employer or the Employee(s) engaged in the dispute.

46 CONSULTATIVE MECHANISMS

- 46.1 The Employer will establish an overarching, or as required on a site by site basis, Consultative Committee as a forum for the effective communication between the Parties. The Consultative Committee shall consist of a maximum of two (2) management representatives and two (2) Employee representatives elected by the relevant Employees.
- 46.2 The Consultative Committee shall:
- 46.2.1 Monitor the implementation of the terms of this Agreement.
- 46.2.2 Determine the achievement/non achievement of any particular safety benchmarks.
- 46.2.3 Facilitate the process of workplace reform through consultation.
- 46.2.4 Ensure Employees are properly consulted in respect of issues impacting on their wages, working conditions and job security/redundancy.

- 46.3 In situations where the Employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and the change is likely to have a significant effect on Employees of the enterprise. The Model Consultation provisions of the Act shall be followed as prescribed in APPENDIX D of this Agreement.

PART 8 - GENERAL

47 DISCIPLINARY MATTERS

- 47.1 Subject to the following provisions of this clause, the disciplinary measures that the employer may take against an Employee include:
- a) A caution or reprimand;
 - b) Subject to availability of suitable positions, a temporary reduction in position, classification and pay for a period of up to six (6) months;
 - c) Suspension from duty without pay (subsequent to the results of an appropriate investigation) for a period of up to two (2) weeks; and
 - d) Dismissal, with or without notice as applicable.
- 47.2 Pending the outcome of the disciplinary process Employees may be:
- a) Suspended on normal pay; or
 - b) Placed on alternative duties; or
 - c) Re-assessed and returned to normal duties as suitable.
- 47.3 Any internal investigation of a matter or incident by the employer that may lead to disciplinary action being taken by the employer must apply the principles of natural justice. These principles include:
- a) The Employee being made fully aware of the reasons and the matters that are the subject of an investigation;
 - b) The Employee being provided with relevant information to enable the provision of an informed response;
 - c) The Employee being entitled to have a representative present as a witness at any meetings / interviews, if so requested;
 - d) The Employee being given adequate time to prepare a response to any allegations or matters which are the subject of the investigation;
 - e) The Employee being given a reasonable opportunity to put their case to those in charge of the investigation and those who will make any findings and / or determine the disciplinary measures (if any) to be taken;
 - f) Disciplinary inquiries and investigations shall be conducted in a discreet manner and, to the extent possible, shall be confidential.
- 47.4 All disciplinary matters, where possible, should be carried out within the following timeframes;
- a) Letter of Allegation is to be given to the Employee within 48 hours of the report of the alleged incident.
 - b) Letter of Response is provided by Employee to the employer within 48 hours of Employee receiving letter of allegation.
 - c) Letter of Disciplinary action or Letter of Closure to be issued within 48 hours of the Employer receiving letter of response from the Employee.

48 REPRESENTATION

- 48.1 Employees may seek at their discretion the assistance of the relevant unions in all matters and procedures under this Agreement. Where requested by an Employee to represent and assist them under this Agreement a representative of that union will be allocated time as follows:
- 48.1.1 The time will be taken when mutually convenient to the Employee and the Employer.

48.1.2 Before leaving the workplace to discuss grievances with the Employer, the Employee shall seek and obtain permission from the immediate supervisor of the workplace.

49 UNION RIGHT OF ENTRY

Union right of entry requirements shall as prescribed under Part 3-4 of Fair Work Act 2009 (Cth). For the avoidance of doubt, any dispute as to any aspect of this clause shall be resolved in accordance with clause 45 Dispute Resolution.

50 REPRESENTATIVES

- 50.1 The Employer recognises workplace delegates who are authorised by the Union and will permit such delegates to perform their role without discrimination. This clause is subject to the delegates concerned continuing to act in accordance with their contract of employment and the terms and conditions of this Agreement.
- 50.2 It is further recognised that workplace delegates represent union members at the workplace and will be allowed reasonable time to attend to any work related matters on behalf of union members, subject to operational requirements; however they must obtain their supervisor's consent prior to attending to any such matters.
- 50.3 The Employer will allow workplace delegates reasonable access to telephone, facsimile, photocopying and email services, where available and provided, for the purpose of carrying out their role. The use of resources by workplace delegates will be subject to the delegate complying with the relevant policies and procedures (Which shall not impose unreasonable restriction on the operation of this subclause) and the specific directions of the site manager.
- 50.4 Workplace Delegates will be entitled to reasonable unpaid time off to attend union meetings, congresses and conferences, subject to operational constraints. Workplace delegates seeking such leave are required to give fourteen (14) days' notice and the Employer will not unreasonably refuse to approve such leave.
- 50.5 The Employer will provide a lockable notice case to be used by workplace delegates for posting formal Union notices signed off by the delegates and or Union Official. All material posted must be authorised by the relevant Union.
- 50.6 Special paid leave, at the ordinary hourly rate, will be granted to Employees of the Employer to be elected through the Australian Electoral Commission as delegates of their Union to attend their Union's National Council; National Executive, Branch Council; Branch Executive and; Divisional Committee meetings, or their equivalent.
- 50.7 The Employer will provide forty (40) hours of special paid leave to be shared by elected delegates in a twelve (12) month period.
- 50.8 To be eligible for special paid leave, the Employee:
- 50.8.1 Is required to apply for leave at least four (4) weeks prior to the meeting;
 - 50.8.2 Is required to provide documentary evidence, signed by the appropriate authorised Officer of the Union, that they are an elected delegate of the Union and are required by the Union to attend the meeting. This documentation must also include the duration of the meeting.

51 WORKPLACE RELATIONS TRAINING

- 51.1 Workplace relations training is specifically targeted at maintaining harmonious workplace relations between the Employer and its Employees.
- 51.2 Unions will identify training course content and ensure that all training is delivered by appropriately qualified trainers. Unions will fund all cost associated with the development and delivery of workplace relations training programs.
- 51.3 The Employer will provide 40 hours of leave, at the ordinary rate, to be shared by elected delegates in a twelve (12) month period for such training.

52 INDIVIDUAL FLEXIBILITY ARRANGEMENT

- 52.1 The Employer and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if the Agreement deals with one or more of the following matters:
- a) arrangements about when work is performed;
 - b) overtime rates;
 - c) penalty rates;
 - d) allowances;
 - e) leave loading; and
- 52.2 The arrangement meets the genuine needs of the Employer and Employee in relation to one or more of the matters mentioned in clause 52.1; and
- 52.3 The arrangement is genuinely agreed to by the Employer and Employee.
- 52.4 The Employer must ensure that the terms of the individual flexibility arrangement:
- 52.4.1 are about permitted matters under section 172 of the Act; and
 - 52.4.2 are not unlawful terms under section 194 of the Act; and
 - 52.4.3 result in the Employee being better off overall than the Employee would be if no arrangement was made.
- 52.5 The Employer must ensure that the individual flexibility arrangement:
- a) is in writing; and
 - b) includes the name of the Employer and Employee; and
 - c) is signed by the Employer and Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
- 52.5.1 includes details of:
- a) the terms of this Agreement that will be varied by the arrangement; and
 - b) how the arrangement will vary the effect of the terms; and
 - c) 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
 - d) states the day on which the arrangement commences.
- 52.6 The Employer must give the Employee a copy of the individual flexibility arrangement within fourteen (14) days after it is agreed to.
- 52.7 The Employer or Employee may terminate the individual flexibility arrangement:
- a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - b) if the Employer and Employee agree in writing — at any time.



PART 9 - SIGNATORIES

Signed for and on behalf of Genesee & Wyoming Australia Pty Ltd:

Representative: Vanessa Hoey Director Human Resources
Name **Position (Authority to Sign)**

 20/2/2017
Signature **Date**

In the presence of: Megan Griffin Human Resources Advisor
Name **Position**

 20/2/2017
Signature **Date**

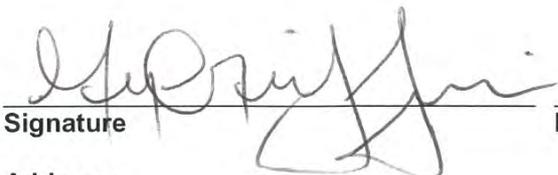
Address:
3/33 Richmond Road KESWICK SA 5035

Signed for and behalf of the Employees by a representative of the Employees:

Representative: Darren Phillips Branch Secretary, RTBU
Name **Position (Authority to Sign)**

 21-02-2017
Signature **Date**

In the presence of: Megan Griffin Human Resources Advisor
Name **Position**

 21.02.2017
Signature **Date**

Address:
63 Ledger Road BEVERLEY SA 5009

END OF AGREEMENT

APPENDIX A

53 CLASSIFICATION OF LABOUR AND SKILL LEVELS

- 53.1 At the start of employment, each Employee will be assigned to a classification level based on skills, qualifications and experience and in consideration of the substance of the duties to be carried out with the Employer. This assignment will be specified in the contract of employment between the Employer and Employee. Levels will be calculated on skills required for particular work.
- 53.2 The parties agree to undertake a review of the classification structure during the life of the Agreement. This review will focus on the development of a structure that provides for a competency based classification structure in line with Transport Logistics Industry Skills Council.

54 RAIL MAINTENANCE WORKER CLASSIFICATIONS

Indicative Duties (the duties stated below are not all mandatory for an Employee to be employed under this classification)	
Level 8	Carry out routine per way activities under supervision Use & maintain basic hand and power tools, e.g. rail saws, grinder, jackhammers etc Completed Induction Procedures Comply with OH&S requirements & Work effectively with others Drive light vehicle requiring C class licence
Level 7	Undertakes Safe working Duties such as protection of personnel, flagging duties Carry out more complex & wider range of maintenance activities Drive road vehicle requiring LR,MR,HR class licences Use rail mounted track equipment – spike pullers, spike drivers, sleeper inserters, scarifier, sleeper borer, spot tamper etc., including self propelled equipment Process workplace documentation
Level 6	Entry level for tradesman – electrician Reading technical drawings, carry out electrical tests fault finding Install & maintain signalling equipment Safe working responsibilities including supervision & protection of plant & personnel Work as leading hand (in charge of level 7 and 8 workers)
Level 5	Performs thermit welding Operates front end loader, backhoe, pettibone, excavator, ballast regulator Check & assess operational capabilities of equipment Assess track faults and carry out repairs Carry out maintenance to interlocking, mechanical signalling and rail bonding Carry out repairs to structures, drainage work, track lubricators
Level 4	Carry out track inspections and apply standards and QC Assistant Tamper operator Responsible for small crew –team leader duties Co-ordinate and allocate maintenance tasks Perform training & administrative duties Apply accident – emergency procedures
Level 3	Carry out inspections, prioritise and allocate work Record & analyse track parameters Work to budgets & Manage emergencies Supervise large gang & Oversee track protection Tamper operator
Level 2	Investigate safety incidents Prepare & Deliver training Supervise multiple operations or large teams & Manage rosters, promote effective workplace Implement & monitor environmental protection policies and procedures Arrange & manage supply Agreements Signal electrician with high level competency to problem solve, repair and is responsible for work performed under their supervision Install & maintain train detection systems, signalling power supplies, telemetry control, track circuits & level crossing systems
Level 1	Signal Electrical Manager/Supervisor



APPENDIX B

55 HOURLY WAGE RATES

CLASSIFICATION	2017	2018	2019
	2%	2%	0%
Level 8	\$ 27.76	\$ 28.32	\$ 28.32
Level 7	\$ 29.30	\$ 29.89	\$ 29.89
Level 6	\$ 30.84	\$ 31.46	\$ 31.46
Level 5	\$ 32.39	\$ 33.03	\$ 33.03
Level 4	\$ 33.93	\$ 34.60	\$ 34.60
Level 3	\$ 34.55	\$ 35.24	\$ 35.24
Level 2	\$ 37.02	\$ 37.76	\$ 37.76
Level 1	\$ 40.18	\$ 40.98	\$ 40.98

APPENDIX C

56 SUPERANNUATION

- 56.1 The employer will make superannuation contributions on the Employee's behalf, as provided by the Superannuation Guarantee (Administration) Act 1992, into a complying superannuation fund of the Employee's choice.
- 56.2 Where an Employee does not select a fund the contributions shall be made to Australian Super, which is an authorized MySuper product by the Australian Prudential Regulation Authority.

57 REDUNDANCY

- 57.1 Employees, other than fixed term and casual Employees, who have their employment terminated due to redundancy, shall be entitled to:
 - 57.1.1 two (2) weeks' notice, in lieu of any other period of notice required under this Agreement, for each completed year of service, or ordinary pay in lieu, up to a maximum of twelve (12) weeks; and
 - 57.1.2 severance pay of three (3) weeks ordinary pay for each completed year of service;
 - 57.1.3 'Service' for the purposes of this clause, means continuous service, as defined;
 - 57.1.4 'Ordinary Pay' for the purpose of this clause, means the Employee's ordinary rate of pay plus an average of weekend payments calculated over the twelve (12) months up to the date of redundancy.
- 57.2 Where positions covered by the Agreement are made redundant, the employer will apply the following options in managing such redundancies and these options, unless otherwise impracticable, shall be applied in the following order:
 - 57.2.1 Employees may be offered redeployment subject to suitable opportunities existing and Employees accepting those offers including the requirement to undertake any necessary training or competency development;
 - 57.2.2 Examining opportunities for voluntary redundancies by calling for expressions of interest, however, the employer shall be under no obligation to accept all or any particular expression of interest;
 - 57.2.3 Apply involuntary redundancies where it is satisfied that the above alternatives have been exhausted or are inappropriate to the particular circumstances of the redundancies. Where multiple involuntarily redundancies in the one classification at the one location are proposed Employees shall be selected based on the Employers need for skills, competencies, qualifications and experience at the time.
- 57.3 Where the employer offers an Employee suitable equivalent alternative employment on no lesser wages and conditions, when viewed overall, and the Employee rejects such an offer the Employee's services may be terminated and the employer will not be obliged to pay the Employee the notice and severance payments prescribed by this clause. For the purposes of clarity, the Employee may agree to accept an offer of employment that is not equivalent alternative employment. In such cases where accepting a position with lower remuneration the Employee will maintain the higher rate of pay, as defined in clause 57.1.4, for a period of twelve (12) weeks, but shall not be entitled to the severance pay under clause 57.2.2.
- 57.4 In the event of a transfer of business, and
 - 57.4.1 The Employee is offered an equivalent position with the new employer on no lesser wages and conditions, when viewed overall; and
 - 57.4.2 That offer of employment recognises continuity of service,
 - 57.4.3 The Employee shall not be entitled to the notice and severance payments prescribed by this clause.
- 57.5 Employees whose positions become redundant shall be provided with access to applicable counselling services and reasonable paid leave for attendance at these support services.



57.6 Employees made redundant under the provisions of this clause shall, subject to suitability and availability, be given preference for re-employment should opportunities subsequently arise within the employer's operations

58 LIVING AWAY FROM HOME ALLOWANCE

58.1 Qualification

An Employee who is required to work at a distance from his usual place of residence that is unreasonable to return home each day will be entitled to in all practicality to a good standard of board and lodging or accommodation or on approval by the Employer is paid a living away from home accommodation allowance outlined below or as mutually agreed in addition to the relevant daily meal allowance below:

ACCOMMODATION ALLOWANCE			
	01/01/2017	01/01/2018	01/01/2019
(Daily)	\$102.62	\$104.67	\$104.67

58.2 Entitlement

58.2.1 When reasonable board and lodging/accommodation only is provided to an Employee, a daily meal allowance shall be paid to the Employee for each day they are required to stay overnight at the distant location.

58.2.2 The daily meal allowance rates shall be payable from the commencement of the first full pay period after the dates specified below:

DAILY MEAL ALLOWANCE			
	01/01/2017	01/01/2018	01/01/2019
(Daily)	\$83.77	\$85.44	\$85.44

59 OVERTIME MEAL ALLOWANCE

59.1 An overtime meal allowance outlined below is payable to an Employee who works two (2) hours or more after ceasing time of ordinary hours on any working day. This meal allowance will also be payable to an Employee who is in receipt of a full living away from home allowance as prescribed in APPENDIX C in clause 58 of this Agreement.

59.2 It is agreed by the Parties that the payment of the meal allowance is in lieu of the first 20 minutes crib payable for overtime hours worked on any working day.

59.3 The overtime meal allowance rates shall be payable from the commencement of the first full pay period after the dates specified below:

OVERTIME MEAL ALLOWANCE			
	01/01/2017	01/01/2018	01/01/2019
(Daily)	\$23.87	\$24.34	\$24.34

60 ON CALL ALLOWANCE

60.1 The on call allowance rates shall be payable from the commencement of the first full pay period after the dates specified below:

ON CALL ALLOWANCE			
	01/01/2017	01/01/2018	01/01/2019
NIGHT ONLY	\$13.36	\$13.63	\$13.63
DAY & NIGHT	\$33.34	\$34.01	\$34.01

60.2 The payment of an On Call allowance shall apply when an Employee has been directed by the Employer to be available outside normal working hours for recall to duty. An Employee on call is required to remain in a sober state and be in compliance with relevant policies and procedures relating to alcohol and drugs in the workplace. The Employee must be easy to contact, in order to qualify for this special payment.

61 REMOTE LOCALITY ALLOWANCE

61.1 A weekly remote locality allowance will be payable for Employees based in Alice Springs, Tennant Creek, Katherine or Darwin.

61.2 The weekly remote locality allowance rates shall be payable from the commencement of the first full pay period after the dates specified below:

REMOTE LOCALITY ALLOWANCE			
	01/01/2017	01/01/2018	01/01/2019
(Weekly)	\$51.89	\$52.93	\$52.93

62 FIRST AID ALLOWANCE

62.1 An Employee who is qualified to provide first aid and is nominated by the Employer as a first aid officer at a workplace will receive the appropriate allowance as prescribed below. The first aid allowance is paid as a flat rate and attracts no penalty or premium. This allowance shall continue only for the period that the Employee remains as the nominated first aid officer.

62.2 The weekly first aid allowance rates shall be payable from the commencement of the first full pay period after the dates specified below:

FIRST AID ALLOWANCE			
	01/01/2017	01/01/2018	01/01/2019
(Weekly)	\$19.30	\$19.69	\$19.69

63 TOOL ALLOWANCE

63.1 A tool allowance will be paid to eligible Employees who provide their own work tools, such as fitters.

63.2 The weekly tool allowance rates shall be payable from the commencement of the first full pay period after the dates specified below:

TOOL ALLOWANCE			
	01/01/2017	01/01/2018	01/01/2019
(Weekly)	\$21.17	\$21.59	\$21.59

64 LOSS OF CLOTHING PROVISION

64.1 An Employee shall be reimbursed by the Employer for the loss of clothes, tools and personal belongings by fire or breaking and entering whilst securely stored at the employer's direction in a room or building on the employer's premises, job or workshop or in a lock-up.

64.2 The maximum amount an Employee can be reimbursed by the Employer over the life of this Agreement is as specified below:

LOSS OF CLOTHING			
	01/01/2017	01/01/2018	01/01/2019
(Maximum Amount)	\$2,370.07	\$2,417.47	\$2,417.47

65 TRAVEL FROM DEPOT OR TEMPORARY ACCOMMODATION TO SITE

65.1 Where travel to a site is from the Employer's depot or temporary accommodation in the field, then travelling time in the Employer provided transport shall be as follows:

65.2 Weekdays

65.2.1 The driver and those Employees being transported in the Employer vehicle travel time shall be capped at one (1) hour per day, and if any Employee is required to work overtime. The overtime commences on the completion of the combined travel and ordinary daily hours of work.

65.2.2 The drivers responsible for the Employer vehicle is entitled to be paid an additional 20 minutes pay per day at the ordinary rate of pay for conducting safety checks and general maintenance.



65.3 Weekends and Public Holidays

- 65.3.1 The driver and those Employees being transported in the Employer vehicle shall be paid as if working at the relevant overtime penalty rate for the day.
- 65.3.2 The driver responsible for the Employer vehicle is entitled to be paid an additional 20 minutes pay per day at the relevant overtime penalty rate of pay for conducting safety checks and general maintenance.

APPENDIX D

66 CONSULTATION PROVISION

- 66.1 The Employer must notify the relevant Employees of the decision to introduce the major change.
- 66.2 The relevant Employees may appoint a representative for the purposes of the procedures in this term 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.
- 66.3 As soon as practicable after making its decision, the Employer must:
- 66.3.1 Discuss with the relevant Employees:
- a) The introduction of the change; and
 - b) (the effect the change is likely to have on the Employees; and
 - c) measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and
- 66.3.2 For the purposes of the discussion — provide, in writing, to the relevant Employees:
- a) all relevant information about the change including the nature of the change proposed; and
 - b) information about the expected effects of the change on the Employees; and
 - c) any other matters likely to affect the Employees.
- 66.4 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 66.5 The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- 66.6 If a term in the enterprise 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 subclauses 66.1, 66.2 and 66.3 are taken not to apply.
- 66.7 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.
- 66.8 In this term, relevant Employees means the Employees who may be affected by the major change.

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).