



# DECISION

*Fair Work Act 2009*

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

**EDI Rail-Bombardier Transportation (Maintenance) Pty Ltd T/A EDI**  
(AG2016/7600)

## **EDI RAIL BOMBARDIER TRANSPORTATION (MAINTENANCE) PTY LTD ENTERPRISE AGREEMENT 2016-2020**

Manufacturing and associated industries

COMMISSIONER LEE

MELBOURNE, 2 FEBRUARY 2017

*Application for approval of the EDI Rail Bombardier Transportation (Maintenance) Pty Ltd Enterprise Agreement 2016-2020.*

[1] An application has been made for approval of an enterprise agreement known as the *EDI Rail Bombardier Transportation (Maintenance) Pty Ltd Enterprise Agreement 2016-2020* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by EDI Rail-Bombardier Transportation (Maintenance) Pty Ltd T/A EDI. The Agreement is a single enterprise agreement.

[2] The Applicant has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement.

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

[4] Pursuant to s.202(4) of the Act, the model flexibility term prescribed by the *Fair Work Regulations 2009* is taken to be a term of the Agreement.

[5] The Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia and Australian Rail, Tram and Bus Industry Union being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers these organisations.

[6] The Agreement was approved on 2 February 2017 and, in accordance with s.54, will operate from 9 February 2017. The nominal expiry date of the Agreement is 31 October 2020.



COMMISSIONER

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## Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:  
AG2016/7600

Applicant:  
EDI Rail Bombardier Transportation (Maintenance) Pty Limited

### Undertaking- section 190

I, Natasha Elkins, HR Coordinator of EDI Rail Bombardier Transportation (Maintenance) Pty Limited give the following undertakings with respect to the EDI Rail Bombardier Transportation (Maintenance) Pty Ltd Enterprise Agreement 2016 ("the Agreement"):

1. I have the authority given to me by EDI Rail Bombardier Transportation (Maintenance) Pty Limited to provide this undertaking in relation to this application before the Fair Work Commission.
2. Amendment to clause 27.12 Employees are entitled to two (2) days of unpaid personal or carers leave per occasion that an immediate family member is unwell or injured as per the NES Standards. Additional unpaid personal or carers leave may be granted at the Company's discretion where the Employee does not have sufficient accrued leave entitlements or the person is a Contractor.

Employer name: EDI Rail Bombardier Transportation (Maintenance) Pty Limited

Authority to sign: Natasha Elkins

Signature: 

Date: 30/01/2017

# **EDI RAIL BOMBARDIER TRANSPORTATION (MAINTENANCE) PTY LTD ENTERPRISE AGREEMENT 2016**





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## **PART 1 – GENERAL**

### **1. TITLE**

This Agreement shall be known as the EDI Rail Bombardier Transportation (Maintenance) Pty Ltd Enterprise Agreement 2016-2020 ('the Agreement').

### **2. PARTIES**

The parties to this Agreement are:

- (a) The Employer – EDI Rail Bombardier Transportation (Maintenance) Pty Ltd (the “Company”).
- (b) Employees of the Company who are engaged within the classifications outlined in this document (“Employees”).
- (c) The Unions representing the Employees – The Communications, Electrical, Electronic, Information, postal, Plumbing and Allied Services Union of Australia (“CEPU”) and Australian Rail Tram and Bus Union, West Australian PTA Branch (“RTBU”).

### **3. APPLICATION AND RELATIONSHIP TO AWARD**

- 3.1** This Agreement is intended to cover all matters concerning the employment relationship between the Company and the Employees covered under this Agreement. This Agreement replaces all previous Agreements and contains the terms and conditions agreed between the parties.
- 3.2** The applicable award to this Agreement is the Manufacturing and Associated Industries and Occupations Award 2010 (the “Award”). Relevant provisions of the award shall apply where the agreement is silent. If there is any inconsistency between this Agreement and the Award, the provision in this Agreement shall prevail.

### **4. DATE OF OPERATION**

- 4.1** The Agreement will be applicable from the first full pay period after the agreement is approved by the Fair Work Commission and shall operate for a period of four years from the commencement date. The nominal expiry date of this agreement is 31 October 2020.



## 5. OBJECTIVES OF THE AGREEMENT

**Our Goal** - We aim to be a leading provider of rollingstock maintenance in Australia by ensuring that we provide safe, reliable, available vehicles in an efficient and cost effective manner for our customers. To achieve our goals, our focus will be on ensuring that we have a multi skilled and highly motivated workforce who are focused on service quality, measurable productivity improvements, cost efficiency, and teamwork, for the mutual benefit of the Company, its Employees, stakeholders and the community.

**Customer Orientation**- We promote a flexible customer-focused culture that emphasises outstanding service to meet our commitments at every level of our organisation. We aim to satisfy the needs of our customers by fulfilling our requirements and where possible exceeding their expectations.

**People focus**– We consider our people to be a valuable asset and accordingly support and invest in developing the skills and abilities of our people to ensure we have a highly skilled, flexible and motivated workforce. We encourage the empowerment of our people through involving them in decision-making as well as recognising and rewarding high performance. We believe in working collaboratively at all levels of our organisation to ensure that we are all committed to achieving our common goals and objectives.

**Quality** – We are committed to providing high quality services that meets and where possible, exceed our customer's expectations. We endeavour to be responsive to customer needs and support the development of initiatives that improve processes and minimise defects.

**Growth** - We seek to grow our business by demonstrating and providing outstanding products and service to our customers whilst also taking into consideration our various stakeholders. We are committed to continuously improving our performance by encouraging innovation to improve practices as well as identifying areas that require change. We will continue to improve by utilising our skills, experience and expertise to improve reliability, presentation and maintenance of vehicles.

**Integrity** - We behave with integrity and in an ethical manner in everything we do and say, thereby earning and maintaining the trust and respect of customers, suppliers, Employees, partners, shareholders and communities.

**Health and Safety** - We are committed to ensuring our people work in a healthy and safe environment and always perform their duties in a safe and effective manner. We encourage a culture that recognises and operates with a safety focus that minimises and prevents the risk of workplace injuries in accordance with regulatory and industry requirements.

Employees and the Company therefore understand that it is an objective of this Agreement to provide an accident free workplace in accordance with the relevant Occupational Health and Safety Legislation.

## 6. DEFINITIONS

**'Continuous service'** unless otherwise specifically provided for in this Agreement, means unbroken service, without interruption with the company including probationary periods, contract of employment changes from fixed term employment to full employment and approved leave of absence (excludes unpaid and unapproved absences).



*"CPI"* means the annual CPI for Perth as of June of each year as published by the Department of Treasury for WA.

*'FW Act' or the 'Act'* means the Fair Work Act 2009 (Cth).

*'Ordinary hour's'* means the hours worked at the Company's maintenance facilities, which is set in accordance with clause 18.

*'the NES'* means the National Employment Standards as set out in the *Fair Work Act* 2009 (Cth) as amended from time to time.

*"reasonable"* means reasonable in the circumstances, which may take into consideration the situation affecting the Company and the Employee as well as the impact, consequences and cost to the Company.

## **7. FLEXIBILITY TERM**

- 7.1 The Company and Employee may agree to make an individual flexibility arrangement between the parties, to vary the effect of terms of this Agreement to meet the genuine needs of the Employee or the Company. Flexibility arrangements may relate to when work is to be performed or other similar matters.
- 7.2 When making an individual flexibility arrangement, the Company will endeavour to ensure that the terms of the individual flexibility arrangement are made in accordance with the provisions contained in the *Fair Work Act* 2009.
- 7.3 For the individual flexibility arrangement to be operational, it must:
  - (a) be in writing, include the names of the parties to the agreement and be signed by the parties (or the parent/guardian if the Employee is under 18 years of age); and
  - (b) include details of the terms of the Agreement that will be varied by the arrangement, how the arrangement will vary the effect of the terms, how the Employee's terms and conditions of employment will be better off overall as a result of the arrangement and state the day on which the arrangement commences.
- 7.4 The Company will provide the Employee with a copy of the individual flexibility arrangement within 14 days after the making of a flexibility arrangement.
- 7.5 Either party 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.

## **8. RESOLUTION OF DISPUTES**

- 8.1 The following procedure will apply to resolving any dispute that arises between the Company and Employees in any employment related matters including those contained within this Agreement or the NES.



- 8.2 In the first instance, the parties will attempt to resolve the matter within the Company through discussions between the Employee/s and the relevant Supervisor or Manager about the issue. Either of the parties may have a support person or representative with them to assist in relation to the matter, which may be an Employee representative or union delegate.
- 8.3 If such discussions are unsuccessful in resolving the dispute, a more senior level of Management or the Human Resources function may be consulted to assist with resolving the dispute.
- 8.4 If discussions at the workplace level are unable to resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission. Depending on the circumstances, the initial method used to resolve the dispute shall be through mediation or conciliation and if these means are unsuccessful, the matter may be resolved through arbitration.
- 8.5 The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.
- 8.6 Whilst parties are endeavouring to resolve the dispute in accordance with this procedure, the status quo must remain, i.e.:
  - (a) Employees must continue to perform his or her duties as normal unless he or she has reasonable concern about an imminent risk to his or her health or safety; and
  - (b) Employees must comply with directions given by the employer to perform available work, whether it is at the same workplace or another workplace unless it is unsafe, inappropriate or unreasonable for the Employee to comply with the direction.

## **9. CONSULTATION / INTRODUCTION OF CHANGE**

### **9.1 Model Consultation Term**

- (a) 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 or work where it will affect the majority of employees

#### **Major Change**

### **9.2 For major change refer to paragraph (9.1) (a)**

- (a) the employer must notify the relevant employees of the decision to introduce the major change; and
- (b) subclause 9.3 and 9.9 apply

### **9.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.**

**9.4** If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purpose of consultation
- (b) the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.

**9.5** 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.

**9.6** However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees

**9.7** The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

**9.8** 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 (9.2)(a) and subclauses (9.3) and (9.5) are taken not to apply.

**9.9** 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**

**9.10** For a change referred to in paragraph (9.1)(b):

**9.11** The relevant employees may appoint a representative for the purposes of the procedures in this term.

**9.12** 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.

**9.13** 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 purpose 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).

**9.14** However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

**9.15** The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

**9.16** In this term:

**Relevant employees** means the employees who may be affected by a change referred to in subclause (9.1).

## **PART 2 – TERMS AND CONDITIONS OF EMPLOYMENT**

### **10. TERMS AND CONDITIONS OF EMPLOYMENT**

- 10.1** The terms and conditions contained in this section are intended to outline some of the key provisions concerning the “Employees”. These terms and conditions have been taken from Company policies/procedures and legislation, which may be amended from time to time. Significant changes to any policy or procedure shall be communicated to Employees directly or through the consultative committee.
- 10.2** The provisions contained in this part are intended to supplement the obligations contained in the Joint Venture/Company Policies and Procedures, as varied from time to time.

### **11. PROBATIONARY PERIOD**

- 11.1** Upon commencement to a permanent position with the Company, new Employees will be subject to a probationary period for a minimum of three (3) months from their commencement date. This is to determine or confirm suitability to the role and the Company, subject to the following:
- (a) The Employee is required to satisfactorily perform his or her duties subject to clause 13. The Company will confirm the Employee’s continuation of employment during or at the end of the probationary period.
  - (b) The Employee’s probationary period may be extended beyond the three months and up to six months where the Company believes such an extension may enable the Employee to demonstrate their competence and suitability to the role.
  - (c) During or at the end of the probationary period, either party can give or forfeit one week’s notice and effect termination of employment. If notice is at the Company’s instigation, payment in lieu will be made for each day short of one week’s notice.
  - (d) This clause does not apply to non-permanent workers including Contractors.

### **12. MEDICAL EXAMINATIONS**

- 12.1** It is a Company and rail safety requirement that all new workshop Employees undergo a general medical examination to determine their fitness and suitability for the role.
- 12.2** Examinations (including but not limited to a physical assessment, sight, hearing, lung function, drug and alcohol tests) will be conducted by a Company nominated medical provider at the Company’s expense, to ensure Employees can perform the requirements of the job or to meet statutory requirements.
- 12.3** Any offer of employment is subject to successful completion of the medical examination, which shall confirm the person’s suitability to undertake the intended role.



- 12.4** An existing Employee may be required to undertake a medical examination to establish or confirm fitness and suitability to the role as well as to meet legislative requirements. Testing shall be conducted in accordance with the applicable Company policies and procedures.

### **13. PERFORMANCE OF WORK AND APPLICATION OF SKILLS AND COMPETENCIES**

- 13.1** Employees will be required to perform all duties necessary for the effective, repair and maintenance of vehicles, subsystems and/or components relating to passenger cars or any related work that is required to be completed.

- 13.2** To ensure the best utilisation of Employees in performing their duties, the Employee may be required to undertake work that constitutes multi-skilling or cross-skilling, which may include trade to non-trade or trade cross trade (but not into core trade) if applicable and provided that OH&S guidelines are met. Other general duties include housekeeping and cleaning in the work area. Employees' will not be expected to undertake work, which does not fall within their skills, competence, ability and training.

- 13.3** It is a condition of employment that an Employee:

- (a) Carries out his or her duties as directed or instructed and in accordance with their skills, competencies and training.
  - i. Employees may need to be trained, licensed and competent to be called upon to operate forklifts and overhead cranes or other equipment. The Company will pay the cost of obtaining any licenses and competency assessment where required to perform such duties.
  - ii. Basic computer skills may be required of Employees working in certain roles. Employees requiring such skills will be trained where those skills are required.
- (b) Performs work to the best of their ability and to an established and expected quality, standard and time frame given the persons competencies, training and experience.
  - i. Quality management principles apply as part of ongoing best practice initiatives, including continuous improvement program, which each Employee is responsible for implementing in their area of responsibility;
  - ii. Accreditation of ISO9001 is to be maintained as part of a quality assurance program.
- (c) Abides by all lawful and reasonable directions of the Company and its representatives during the course of employment. This includes abiding by Company policies and procedures and may also include working at other locations if required.
- (d) Not be absent from work without permission or notification as outlined in Part 3, in particular clause 27.
- (e) Undertakes training as required by the business
- (f) Agrees to work a reasonable amount of overtime at the relevant overtime rate (by agreement) on any of the seven days of the week (which may include public holidays) should such be necessary to



meet the service requirements to the customer, or to prevent or to rectify an equipment breakdown.

- (g) Acts in the Company's best interest and does not misuse Company resources for personal benefit or the benefit of another.

## **14. STAND DOWN**

- 14.1** If the Company is unable to provide any useful work as a result of industrial action or any cause outside of the Company's control, the Company is entitled to stand the Employee down without pay for the days or part of the day that they cannot be utilised.
- 14.2** Employees stood down for reasons other than direct industrial action may elect to have a stand down period paid as annual leave where they have an adequate balance of entitlements to such leave.
- 14.3** All reasonable attempts to usefully employ Employees shall be exhausted prior to Employees being stood down.
- 14.4** Any period of stand down will count as service for the accrual of leave to which the Employee would otherwise be entitled under this Agreement, provided that the Employee resumes work as required by the Company at the end of the stand down period.

## **15. CODE OF ETHICS/CODE OF CONDUCT**

- 15.1** The Company is committed to being an ethical organisation. We therefore have a Code of Ethics that explains the standards of behaviour that the Company expects of all Employees in their daily activities and dealings with others.
- 15.2** The Code incorporates internal policies and procedures as well as legal requirements and covers a number of areas including but not limited to the use of Company resources, conflicts of interest, confidential information, employment practices, health, safety and the environment.
- 15.3** The Code applies to Employees at all levels within the organisation and must be adhered to at all times, including when working off site and whilst at Company related events.
- 15.4** For clarification, breaches of the code of ethics do not constitute a breach of this Agreement. Breaches of the code of ethics shall be managed through the applicable company policies' and procedures.

## **16. OCCUPATIONAL HEALTH, SAFETY AND REHABILITATION**

- 16.1** The Company is committed to providing and maintaining a safe and healthy environment for all Employees. The objective for both the Company and the Employees is to provide a safe and accident free workplace in accordance with the applicable occupational health and safety laws. All Employees have a



responsibility to their fellow Employees and to themselves to maintain a safe and healthy working environment.

**16.2** The Company and Employees engaged under this Agreement are to take a constructive role in promoting improvements in occupational health, safety and rehabilitation.

**16.3** Policies concerning OH&S, rehabilitation and accident prevention are contained in the JV/Company's policies, procedures.

**16.4 Drug and Alcohol Policy**

The Company regards the possession or use of alcohol and drugs in the workplace as unacceptable. The use of drugs or alcohol may impair the Employee's ability to perform their work, which presents an unacceptable risk that may cause or contribute to accidents or injuries occurring.

**16.5** The Company is committed to providing a safe and insofar as practicable, a hazard free environment for all Employees, contractors, customers and visitors. Employees have a responsibility to their colleagues and themselves to maintain a safe and healthy working environment.

**16.6** To minimise the risk of harm associated with alcohol and drugs in the workplace, the Company reserves the right to:

- (a) Take appropriate action to ensure that any person on the Company's premises or worksite during work hours is not affected by alcohol or illicit or prescribed drugs.
- (b) Conduct alcohol and other drug testing
  - i. Where there is reason to believe that a person may be impaired by alcohol or drugs;
  - ii. Following a serious accident or injury; or
  - iii. On a random basis in accordance with the Company's Drugs and Alcohol policy and the Rail Safety Law as amended from time to time.
- (c) Test for alcohol and drugs as part of routine and pre-employment medical examinations. As part of this policy the examination results and personal details of the Employee remain confidential.
- (d) Cooperate with customers in the implementation and application of their drug and alcohol policies where applicable to the Company's or other companies' worksites or as imposed by specific employment terms and conditions or contractual obligations. This includes complying with another company's policies and procedures including those concerning drugs and alcohol which may be different from ours.
  - i. The customer may revoke and/or suspend an employee's access to site which may impact their ongoing employment, which may include termination of employment.
- (e) Encourage Employees who may have a drug, smoking or alcohol problem to seek professional care and counselling through the Employee Assistance Program in line with Company EAP assistance program. Participation and cooperation in the assistance program is required in such circumstances.



- (f) Provide information and training on the effects of alcohol and other drugs where possible.

#### **16.7 Smoking**

Smoking is prohibited at all times within the Company buildings or enclosed areas as part of a clean air policy, this includes the use of E-Cigarettes. Smoking is allowable only in designated areas and at designated break times. The Company will provide support and encouragement for Employees to quit smoking.

#### **16.8 Protective Clothing and Equipment**

The Company will provide Employees directly involved in passenger car maintenance work with a minimum of three sets of protective clothing, e.g. overalls or shirts, pants, jacket and one pair of safety footwear. Replacement for such property will be issued after evidence of reasonable wear and tear. It is the responsibility of Employees to clean, maintain and wear same in a neat and tidy condition.

- 16.9** Employees working in designated "hearing protection" areas will be required to wear an acceptable form of safety compliant hearing protection.
- 16.10** All Employees are required to wear safety glasses and high visibility clothing, or high visibility vests at all times while in designated areas or around the maintenance work area.
- 16.11** Employees are required to wear safety footwear whilst in the designated areas.
- 16.12** Employees are required to wear personal protective equipment that is appropriate for the task and environment in which they are working. E.g. a bump hat when working underneath vehicles.
- 16.13** The Company will supply its workforce where necessary with any other appropriate protective clothing and equipment in order to comply with the requirements of the applicable Occupational Health and Safety laws.

### **17. CATEGORIES OF EMPLOYMENT**

- 17.1** The Company may engage workers on a permanent or temporary full-time, part-time, fixed term or Contractor basis. This shall be advised to the worker at the time of engagement.
- 17.2** A full-time Employee is an Employee engaged to work an average of 38 ordinary hours per week. The Company will make arrangements for the employee to work 40 rostered hours per week (consisting of 38 ordinary and two paid at time and a half, which is totalled and averaged to create the consolidated rates).
- 17.3** A part-time Employee is an Employee engaged to work a pattern of hours which averages less than 38 hours per week, whereby:
- (a) The days and hours of work will be arranged by agreement between the Employee and the Company and shall be confirmed in writing and can be amended by mutual agreement.
  - (b) Part-time Employees will accrue entitlements pro rata on ordinary hours. Payment will be according to rostered days and hours.



- 17.4** Fixed-term employee means a worker engaged for a fixed period of employment or for the duration of a specific project.
- 17.5** A Contractor is an external worker engaged by the hour and paid as such. The Company will usually employ Contractors from external organisations to cover excess workloads due to increased work, special circumstances or where the particular skill required is not available.
- (a) Contractors shall be paid agreed rates through an agency in accordance with the agreement made between the Company and the agency that employs the Contractor. It is the responsibility of the agency to pay superannuation and other loading requirements pursuant to legislation.
  - (b) The Company may at its discretion offer permanent work to Contractors as a Company Employee if it is determined that their role is required to be fulfilled on an on-going basis and the Contractor is considered suitable for the role.
  - (c) The service of a Contractor may be terminated by one (1) hours' notice, given by either party to the other, on any day.
  - (d) Contractors are not permanent Employees and therefore shall not receive any paid leave entitlements contained in this Agreement.

## **18. HOURS OF WORK**

### **Ordinary Hours**

- 18.1** The ordinary hours of full-time work are 38 hours per week. By agreement the Employees agree to work an additional 2 hours per week to enable rosters to be arranged based on 8 hour shifts. The 40 hours per week shall consist of 38 hours paid at the ordinary rate and two paid at time and a half, which is totalled and averaged to create the consolidated hourly rates. Overtime rates apply to hours worked beyond rostered hours; Overtime rates apply as per clause 19.
- 18.2** The hours of work are arranged in accordance with a roster which is agreed between the Company and the Employees. Any changes to the rosters shall be by agreement between the parties. Starting and finishing times are determined by the Company having consideration of the customer needs and operational requirements.
- 18.3** Except in the case of shift work, ordinary hours are worked between 0600 to 1800 hours Monday to Friday, which can be amended to include Saturday and Sunday by agreement. If ordinary hours are arranged on Saturday or Sunday they shall be treated as ordinary but paid at penalty as per the Award.

### **18.4 Day Worker**

A day worker is an employee whose ordinary hours are arranged to be worked between the ordinary day hours of 6:00am to 6:00pm. Start and finish times will be arranged within this spread of ordinary hours, but this can be adjusted by one hour either side to suit operational requirements with agreement by the majority of employees affected. The days under which ordinary hours may be worked are from Monday to Friday, however can include work on Saturdays and/or Sundays by agreement.



**18.5** This clause does not preclude the employer reaching agreement with individual employees about how their working hours are to be arranged.

**18.6 Shift Work**

**18.7** Shift works is where an employee's ordinary hours are arranged according to a roster that regularly includes afternoon and night shifts. The rostered hours shall be arranged around operational requirements, which include shifts that rotate between day, afternoon and/or night shifts.

For clarification,

- i) A day shift is a shift where ordinary hours are arranged between 6am to 6pm.
- ii) An afternoon shift is a shift where ordinary hours finish after 6pm but on or before midnight;
- iii) A night shift is a shift where ordinary hours finish after midnight and before 8am

**18.8** The ordinary hours of work for shift workers will generally be arranged according to a roster to meet operational requirements, which on average consist of 40 hours per week (not exceeding 152 hours in 28 consecutive days).

**18.9** Significant changes to the shift rosters may occur due to operational requirements. Employees affected by any proposed changes will be consulted about the changes. Changes shall be agreed between the parties prior to them taking effect as per clause 18.2.

**18.10** Where a shift commences at or after 2300 on any day, the whole of that shift shall be deemed to for the purposes of this Agreement, to have been worked on the following day.

**18.11 Rest Periods**

When arranging all rosters, consideration will be given to ensure employees have adequate rest periods between shifts. This includes ensuring the employee has at least 10 hours off between consecutive shifts. The payment of penalty rates according to the award shall be payable where rest interval of 10 hours is not be provided.

**18.12 Meal breaks**

The timing of meal breaks are organised by the relevant Manager or Supervisor to ensure that they suit the operational requirement of the company.

**18.13** Employees (except those working shift work arrangements) who work for more than 6 hours will be entitled to a 30 minute unpaid meal break to be taken at a time that suits work requirements and the Employee.

**18.14** An Employee who whilst working on a shift arrangement (afternoon or night shift) of more than 6 hours per shift and who qualifies for shift allowance payments shall be paid at ordinary rates plus the applicable shift loading for the 30 minute meal break.

**18.15** An Employee required to work overtime hours for more than 3 hours after the completion of a rostered shift without being given at least 12 hours' notice, shall be provided with a meal paid for by the Company or if not possible, receive a meal allowance of \$13.81 (adjustable to award movements).



- (a) When overtime work is necessary it must, wherever reasonably practicable, be arranged so that an employee has at least 10 consecutive hours off duty between the work of successive working days.
- (b) An employee, other than a casual employee, who works so much overtime between the termination of their ordinary hours on one day and the commencement of ordinary hours on the next day that the employee has not had at least 10 consecutive hours off duty between those times must, subject to the provisions of this clause, be released after completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during such absence.
- (c) If on the instructions of the employer and employee resumes or continues works without having had 10 consecutive hours off duty the employee must be paid at the rate of double time until the employee is released from duty for such period. The employee is then entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during the absence.
- (d) By agreement between the employer and the individual employee, the 10 hour break provided for in this clause may be reduced to a period of no less than 8 hours.
- (e) The provision of this clause will apply in the case of a shift worker as if eight hours were substituted for 10 hours when overtime is worked:
  - i) For the purpose of changing shift rosters; or
  - ii) Where a shiftworker does not report for duty and a day worker or a shiftworker is required to replace the shiftworker; or
  - iii) Where a shift is worked by arrangement between the employees themselves.

#### **18.16 Shift work allowance**

An employee who works shift work, which alternates between the day, afternoon and/or night shall be paid shift allowance of 20% of their ordinary rate of pay of the employee for ordinary hours worked on an afternoon or night shift.

#### **18.17 Permanent Night shift allowance**

An employee who is employed to work all ordinary hours on a permanent night shift (required for at least 4 consecutive weeks) shall receive a night shift allowance of 30% of their ordinary rate of pay. The night shift loading applies to all ordinary hours worked on nightshift.

#### **18.18 Payment for working on Saturdays**

An employee who is required to work their ordinary hours of employment between midnight Friday and midnight Saturday shall be paid at the rate of time and a half of their ordinary rate of pay for all hours worked on a Saturday. As the time and a half rate is greater than the shift allowance, the penalty rate shall apply and not the shift allowance.



#### **18.19 Payment for working on Sundays and Public holidays**

Day and shift work employees who work their ordinary rostered shift on a Sunday, shall be paid at double time and on a public holiday, shall be paid at double time and a half. As the Sunday or public holiday rate is greater than the shift allowance, the applicable penalty rate shall apply and not the shift allowance.

Where shifts fall partly on a Sunday or public holiday, the day where the major portion of the shift falls that shall be deemed the applicable shift. Accordingly the entire shift shall be paid according to where the majority of hours fall.

Continuous shift work employees, who are required to work the majority of their rostered shift on a Sunday or public holiday, shall be paid at double time.

- 18.20** For clarification where there may be an allowance, penalty and/or loading applicable to the shift, the greater shall apply and not both (i.e. Allowances, loadings and penalties are not cumulative). E.g. for ordinary hours on weekends, Weekend penalties are greater than shift allowance so the weekend penalty rate applies and not the shift allowance.

### **19. OVERTIME**

- 19.1** The Company may require the Employee to work reasonable additional hours beyond ordinary rostered hours (8 hours per day or 40 hours per week). Additional hours shall be agreed between the Company and the Employee. These additional hours will be paid at overtime rates as follows:

- (a) Monday - Friday - Employees shall be paid at the rate of time and a half for the first three (3) hours worked in excess of ordinary hours and double time thereafter.
- (b) Saturday - Employees shall be paid at the rate of time and a half for the first three (3) hours and double time thereafter.
- (c) Sunday - Employees shall be paid at the rate of double time for all time worked on a Sunday.
- (d) Public Holidays – work completed on a Public Holiday as prescribed in this Agreement shall be paid at the rate of double time and a half. Continuous shift workers required to work overtime on a Public Holiday shall be paid for a minimum of three (3) hours at the rate of double time.
- (e) An employee who works overtime on Saturday, Sunday or a Public Holiday shall be paid for at least three (3) hours at the applicable overtime rate.
- (f) When calculating additional payments each day stands alone.

#### **19.2 On Call or Call Out Responsibilities**

Employees who are required to be 'on call' outside of their normal working hours shall receive an on-call payment of \$60 per week (this amount is adjustable to CPI). The on call period is defined as 10:00 to 18:00 Saturday and 08:00 to 12:00 Sundays, however this may be subject to change due to business/operational needs at mutual agreement. Whilst Employees are on call they are required to be ready and able to respond to situations and therefore must be in a suitable condition (e.g. be fit for duty).



- 19.3** *'Call out'* occurs when the Company requests an Employee, who is not at work or rostered to be at work, to attend for work. Work performed immediately prior to or immediately after a day or shift is not a call out. I.e. an Employee may come in as part of planned overtime requirements.
- 19.4** Where an Employee is called to work on a 'Call out', they shall be paid for a minimum of four (4) hours work at the rate of double time if called back to work with less than 24 hours' notice.
- 19.5** Employees who are required to attend an in-service incident requiring the use of the rerailment equipment shall receive a payment of \$45 per incident (This amount is adjustable to CPI).

## **20. CLASSIFICATIONS**

- 20.1** The classifications for Employees under this Agreement are as follows:

<b>CLASSIFICATION</b>	<b>GENERAL DESCRIPTION</b>
<b><i>Apprentices</i></b>	
All levels	A person currently undertaking an apprenticeship. Classification will depend on what year they are in (taking into consideration relevant work experience completed outside of the Company).
<b><i>Non-trade based Employees</i></b>	
Rollingstock Support Level 1	General level Rollingstock support Employee
Rollingstock Support Level 2	Advanced level Rollingstock support Employee
<b><i>Trade Based Employees</i></b>	
Rollingstock Maintainer Level 1	Rollingstock Maintainer with a general level of skill in a trade.
Rollingstock Maintainer Level 2	Rollingstock Maintainer with advanced or high-levels of skills and experience in a relevant trade with transferable skills.
Rollingstock Maintainer Level 3	Rollingstock Maintainer highly skilled in one or more trade who displays and applies supervisory, leadership and higher level technical skills across trade/s.
Team Leader Level 4	Team leader –functioning in a supervisory and leadership capacity.

- 20.2** The classification description outlining the main competencies required of each classification level is outlined at Appendix 1. The requirements relating to particular roles within under each classification will be detailed in the applicable position description for the role as amended from time to time.
- 20.3** Employees shall be classified and accordingly paid with respect to the actual performance of duties and utilisation of skills that are required to successfully perform their roles.
- 20.4** The number of Employees at each classification level and within each stream will be in accordance with the needs of the Company. This shall be reviewed by the Company on an ongoing basis during the life of the Agreement.



- 20.5** When a worker commences as a permanent employee with the Company, they may commence at Rolling stock Support Level 1 for non-trade based employee and Rolling stock Maintainer Level 1 for trade based employees.
- 20.6** After a recommended minimum of 12 months of employment, the employee can be assessed to determine whether they have the skills and competencies to progress to a Level 2.
- 20.7** Movements between classification levels (e.g. from Rollingstock Maintainer Level 2 to Level 3) will be subject to the need for the role to be undertaken by the Company and the Employee meeting the required qualifications/and or competencies of the higher level. Employees will be required to meet personal development objectives and where appropriate, performance objectives as set and agreed to in consultation between the Manager and the Employee.
- 20.8** Movement between classification streams (e.g. from a Non-trade to a Trade stream) will be subject to the Employee obtaining the required trade qualification/and or competencies required of the classification stream. Employees will be required to meet personal development objectives and where appropriate, performance objectives as set and agreed to in consultation between the manager and the Employee.
- 20.9** Employees who progress to a higher classification level position or to a higher classification stream will be required to undertake a trial period of three months to ensure that they are able to successfully perform in the higher level role.

#### **Transfers**

- 20.10** The Company may by agreement with the Employee, transfer an Employee from one position to another (a comparable level role) or between operational locations. In making any such decision, the Company will give consideration to the needs of the Employee along with those of the organisation.

## **21. PAYMENT OF WAGES**

- 21.1** Wages are paid fortnightly into financial institutions nominated by the Employee, which accept Electronic Funds Transfer Payments.



**21.2** Wages adjustments to occur during the period of operation of this Agreement will be as follows:

Note: Rates below are based on a consolidated rate for 40 hours worked (Ref clause 18.1). The consolidated hourly rate is based on the 38 ordinary hours' rate plus 2 hours at time and a half of ordinary hour rate; divided by 40 hours.

Classification	Consolidated Hourly Rate after first full pay period after 1 November 2016	Consolidated Hourly rate after 1 November 2017	Consolidated Hourly rate after 1 November 2018	Consolidated Hourly rate after 1 November 2019
<b>Non-trade based</b>				
Rollingstock Support Level 1	31.12	32.05	33.01	34.00
Rollingstock Support Level 2	33.15	34.14	35.16	36.22
<b>Trade Based</b>				
Rollingstock Maintainer Level 1	38.29	39.43	40.62	41.84
Rollingstock Maintainer Level 2	40.17	41.38	42.62	43.89
Rollingstock Maintainer Level 3	42.09	43.35	44.65	45.99
Rollingstock Team Leader	44.21	45.53	46.90	48.31

**21.3** The wage adjustment shall be effective from the first full pay period after the date specified above.

**21.4** The above rates of pay are an all-inclusive rate of pay for employees under this agreement. This includes tool allowance and various other allowances. Other allowances that apply in addition to this rate are outlined as follows:

- (a) Employees who are required by the company to hold an electrical licence and hold one, shall be paid an allowance of \$28.20 per week. This amount is adjustable to the Electrical, Electronic and Communications Contracting Award 2010.
- (b) Employees who are designated as first aiders and who hold appropriate certificates shall be paid a first aid allowance of \$15.58 per week. This amount is adjustable to award movements.

#### Apprentices

**21.5** Apprentices will be paid in accordance with the following as a percentage of the Rollingstock Maintainer Level 1 rate:

4 Year term	3.5 Year term	3 year term	Apprentice Percentage
First Year	First 6 Months		42%
Second Year	Next Year	First Year	55%
Third Year	Next year	Second Year	75%
Fourth Year	Final year	Third Year	88%

**21.6** The rate of pay for an adult apprentice over the age of 21 years who is a current employee shall be the rate of pay for a Rollingstock Support Level 2 Employee.



#### **Payment for Additional Responsibilities**

- 21.7** Where an Employee is directed to temporarily undertake most or all of the responsibilities of a position that attracts a higher base rate of pay, the Employee will be paid a higher rate proportional to the additional responsibilities for the time that he or she is required to undertake those duties.
- 21.8** For the purposes of this clause, the Employee is required to complete at least 5 days or 5 shifts in the higher role to be entitled to payment for additional responsibilities.

### **22. SUPERANNUATION**

- 22.1** The Company will contribute superannuation payments as prescribed by the applicable Superannuation Guarantee legislation.
- 22.2** Contributions based on ordinary hours shall be made into a complying Superannuation fund nominated by the Employee and paid at the rate of 9.5%. Where a nomination has not been made, the Company will contribute into the Australian Super Superannuation fund until a nomination is made.
- 22.3** The earnings upon which the contributions are made shall be calculated in accordance with the applicable legislation.
- 22.4** Upon commencement of employment, and thereafter quarterly from the month of August, an Employee may request the Company to arrange a Salary Sacrifice arrangement whereby the Employee makes an additional superannuation contribution instead of receiving the full amount of their wages. The following conditions apply:
  - a)** A salary sacrifice can only be made upon commencement and thereafter on a quarterly basis from August of each year
  - b)** Modifications to the election can only be made quarterly
  - c)** The total amount of superannuation contributions including the sacrificed wage contribution and the Company contribution cannot exceed the statutory age based limits for deductibility of employer superannuation contributions
  - d)** Salary sacrifice arrangements are subject to change to comply with superannuation and taxation laws, regulations and rulings.

### **23. INCOME PROTECTION/SALARY CONTINUANCE INSURANCE**

- 23.1** As an additional benefit to permanent Employees, employees under this agreement are eligible for coverage under the Company's group income protection insurance policy, which serves to enhance the general employment conditions of permanent Employees. The insurance applies to personal injuries or illnesses covered under the policy that are not excluded or otherwise compensable under workers compensation.



- 23.2** During the life of this agreement the Company shall make arrangements for the provision of an income protection policy that is beneficial to both the employees and the company
- 23.3** Employees under this agreement have a special provision to cover the difference between the current policy's waiting period and 14 days (interim period) to which an employee is required to use personal leave accruals if an applicable situation arose. Payment during the interim period shall be at the ordinary rate.
- 23.4** Employees can request details about the coverage from the Company should they require further information. Significant changes to the insurance coverage and or policy details shall be communicated to Employees if and when they arise.

## **24. TRAINING AND CAREER DEVELOPMENT**

- 24.1** The company is committed to providing training and development opportunities for a highly skilled workforce committed to achieving our goals and improving performance. Employees willing to advance and update their skills through training will be facilitated with opportunities for training and career development through the Company. Training will be subject to approval of the Employee's manager having considered the relevancy of the training and the operational needs of the Company.
- 24.2** The Company is an equal opportunity employer. Accordingly, in making staffing decisions management will give priority to selecting the most suitable person for opportunity at all levels in the Company.
- 24.3** Once the training plan is developed the parties will prioritise the training most important for the Company's business strategy and assist in the allocation of the Company's training investment.
- 24.4** As far as practicable attendance at Company initiated training courses will be arranged in accordance with work requirements and rosters.
- 24.5** The company will pay for reasonable training and related expenses incurred, which may include course costs, meals, accommodation and travel expenses to attend such training. Employees will be paid their ordinary rate for ordinary hours whilst attending such courses.

## **PART 3 - LEAVE AND RELATED ENTITLEMENTS**

### **25. NATIONAL EMPLOYMENT STANDARDS**

- 25.1** The Fair work Act 2009 prescribes the minimum entitlements to all employees through the National Employment Standards (NES).
- 25.2** Clauses 26 -34 refer to the entitlements prescribed in the NES and may also provide terms that supplement or are ancillary to the NES entitlements. They shall apply to the extent that they are not detriment the Employee relative to the NES.



## **26. ANNUAL LEAVE**

- 26.1** Full time Employees are entitled to 20 days (160 hours) of annual leave for each continuous year of service and part time Employees have a pro rata entitlement to annual leave based upon the proportion of the number of hours worked each week relates to 40 hours.
- 26.2** Annual leave entitlements will accumulate pro rata from year to year, however it does not accrue during periods of unauthorised or unpaid leave.
- 26.3** Continuous Shift workers as per clause 18.19 who are required to work seven day continuous shift work and are regularly rostered to work on weekends and public holidays are entitled to an additional 5 days (40 Hours) of annual leave pro rata for each year of continuous service as such a shift worker.
- 26.4** For periods of annual leave Employees shall be paid the wages they would have received in respect of the ordinary hours (40 rostered hours) the Employee would have worked had they not gone on leave during the relevant period. This may include certain allowances, loadings and penalties paid for all purposes of the award (e.g. first aid and electrical licence allowance) but do not include overtime, other payments or reimbursable expenses.
- 26.5** During periods of Annual leave, the Employee shall receive either their applicable hourly rate on rostered hours plus 17.5% Annual leave loading or the applicable hourly rate on rostered hours plus shift allowance (if applicable). The applicable payment is whichever is greater but not both.
- 26.6** Annual leave may be taken
  - (a) At the Employee's request with a minimum of 2 weeks' notice, however shorter notice periods may be accepted at mutual agreement. Leave approval is subject to the operational requirements of the workplace.
  - (b) At the Company's request by directing an Employee to take accrued leave at a suitable time, by giving a minimum of 2 weeks' notice.
- 26.7** The Company may direct an Employee to take annual leave where their accrued leave balance exceeds 8 weeks (320 hours)
- 26.8** Where there is a shutdown to all or any part of the business (e.g. at Christmas), the Employee may be required to take accrued annual leave. If the Employee does not have sufficient accrued leave, he/she may be required to take unpaid leave.
- 26.9** Where a public holiday falls within a period of annual leave the day shall be paid as a public holiday and not as annual leave.
- 26.10** The Company may agree to allow Employees to elect to cash out annual leave provided that they retain accrued leave of at least 20 days (160 hours) after the annual leave cashed out is deducted from their balance. Cashed out annual leave will be paid at the Employees ordinary rate of pay at the time of election plus annual leave loading.
- 26.11** Annual leave may be used for the purposes of Domestic Violence as per the Domestic Violence Policy



## **26.12 Unpaid Leave**

- 26.13** Where an Employee has used up all of their accrued leave entitlements, the Company may in its discretion approve an application for leave without pay. Any time spent on unpaid leave shall not be counted towards the accrual of any paid time off.

## **27. PERSONAL LEAVE /CARERS LEAVE**

- 27.1** The entitlement, accrual and taking of personal leave (sick or carer's leave) shall be in accordance with this Agreement and the NES.
- 27.2** Full time Employees are entitled to 10 days (based according to rostered hours at 8 hours per day) personal/carers leave per year of continuous service and Part-time Employees accrue personal leave on a pro rata basis on ordinary hours (except during unpaid or unapproved absences), which can be used for personal sick leave or carers leave.
- 27.3** The provision of personal/carers leave is to provide payment to Employees for absences due to:
- (a) the Employee's own illness, injury or emergency; or
  - (b) to care for an immediate family or household member due to illness, injury or emergency. An Employee's immediate family member is as defined in the FW Act and includes the Employee's spouse, child, parent, grandparent, grandchild or sibling of the Employee or their spouse.
- 27.4** Personal/carers leave is cumulative provided that Employees can only take leave in accordance with this clause and with leave that has accrued.
- 27.5** Personal/Carers leave is payable pursuant to the NES at the Employee's ordinary rate of pay for the ordinary hours (rostered hours) they would have worked during the period of leave. This excludes separate entitlements, such as incentive-based payments and bonuses, loadings, monetary allowances, overtime or penalty rates.
- 27.6** For personal/carers leave absences, the Employee is required to advise their supervisor of the reason and expected duration of the absence, as soon as practicable and prior to the Employee's expected commencement time.
- 27.7** Employees who are absent from work due to personal/carers leave are required to provide evidence that would satisfy a reasonable person where:
- (a) The absence is for 2 or more consecutive days; or
  - (b) The Employee has had 3 or more single day absences without a medical certificate within the calendar year.
  - (c) When it is taken either side of a public holiday or period of annual leave.
- 27.8** If the Employee can reasonably establish that they could not obtain a medical certificate, a statutory declaration attesting to the personal illness or injury must be provided instead.



- 27.9** For absences due to carers leave, the Company may also require an Employee to provide evidence of the family or household member's illness or injury. This can be as a medical certificate or statutory declaration. The Company may also require proof to satisfy a reasonable person of the relationship between the Employee and the person they are taking carers leave to provide care and support to.
- 27.10** Accrued personal leave cannot be cashed out in accordance with the requirements of the National Employment Standards in the FW Act. Outstanding Personal/carers leave is not payable on termination of employment.
- 27.11** Unpaid personal or carers leave may be granted at the Company's discretion where the Employee does not have sufficient accrued leave entitlements or the person is a Contractor.
- 27.12** Personal leave may be used for the purposes of Domestic Violence as per the Domestic Violence Policy

## **28. COMPASSIONATE LEAVE**

- 28.1** Compassionate leave shall be in accordance with the NES.
- 28.2** An Employee may be granted Compassionate leave
  - (a) to spend time with the Employee's immediate family or household member (as defined in the FW Act) who sustains a life threatening illness or injury; or
  - (b) After the death of the immediate family or household member.
- 28.3** Employees may take up to two days paid (at 8 hours per day) Compassionate leave per occasion, which shall be paid at the Employee's ordinary hourly rate of pay for the ordinary hours they would have worked during the period of leave. This excludes loadings, monetary allowances, overtime or penalty rates.
- 28.4** An Employee who claims an entitlement to Compassionate leave may be required to provide to the Company reasonable evidence of:
  - (a) the injury, illness or death of the family member; and
  - (b) the relationship of the Employee to the ill, injured or deceased person.
- 28.5** Compassionate leave taken by contractors will be unpaid.

## **29. PARENTAL LEAVE**

- 29.1** The entitlement to and the taking of parental leave shall be in accordance with the NES, which includes unpaid maternity, paternity and adoption leave entitlements. The employee may also be eligible for paid parental leave under the paid parental leave scheme as per the applicable legislation.
- 29.2** To become entitled to parental leave, the Employee must have completed at least 12 months of continuous service with the Company.



## **30. LONG SERVICE LEAVE**

- 30.1** An Employee who has completed at least seven 7 years continuous service with the Company in accordance with the Long Service Leave Act 1958 (WA) is entitled to access a pro rata amount of long service leave by mutual agreement.
- 30.2** Long service leave shall be taken in one continuous period, or if the employer and the employee so agree, in separate periods of not less than one week.
- 30.3** For the purpose of this clause, "continuous service" includes any period during which the Employee is absent on paid leave but does not include any period exceeding two continuous weeks during which the Employee is absent on leave without pay including parental leave, or any period for which an Employee has received a payment in lieu of the accrual of long service leave.
- 30.4** An Employee - may give the Employer at least 3 months' notice before being booked off on long service leave unless by mutual agreement a shorter period of notice is granted.
- 30.5** Long service leave shall be paid at the Employee's ordinary rostered (40 hours) base rate of pay at the time of the leave.
- 30.6** 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.

## **31. PUBLIC HOLIDAYS**

- 31.1** A full time Employee is entitled to the following public holidays and other gazetted public holidays:
- |                  |                         |
|------------------|-------------------------|
| ▪ New Year's Day | ▪ Anzac Day             |
| ▪ Australia Day  | ▪ Western Australia Day |
| ▪ Labour Day     | ▪ Queen's Birthday      |
| ▪ Good Friday    | ▪ Christmas Day         |
| ▪ Easter Monday  | ▪ Boxing Day            |
- 31.2** Where another day is generally observed in a locality in substitute for any of the above days, that day shall be the observed as the public holiday in lieu of the prescribed day.
- 31.3** Where a public holiday falls on a Saturday or Sunday and a substituted day is declared, payment for working on the Saturday or Sunday will be in accordance with the appropriate penalty rates as per the relevant Agreement or the Award provision.
- 31.4** Where Employees are not required to work on the public holiday, they will be paid for the ordinary hours normally worked that day at the ordinary rate of pay.
- 31.5** An Employee may be requested to work on a public holiday in accordance with the FW Act and if so will be paid at the rate of double time and a half.



**31.6** Part time employees shall be entitled to Public holidays that fall on their rostered days.

## **32. COMMUNITY SERVICE LEAVE**

**32.1** An Employee who engages in eligible community service activities including emergency management activities for organisations such as the CFA or SES, may be absent from work by reason of engaging in such activities, in accordance with the provisions contained in the NES. The Employee will be required to provide notice and documentation to support the taking of such leave and the Company has the right to refuse leave if no evidence is provided.

**32.2** An Employee, who is required to attend for jury service, will be entitled to payment of wages (at the ordinary rate) for time attended which falls on the Employee's ordinary rostered shift for up to 10 shifts/days. There will be no compensation where jury duty occurs over a weekend or any other such day where the Employee would not normally be at work. This provision is subject to notification and supporting documents being provided to the Company as per the requirements contained in the NES.

## **33. TERMINATION OF EMPLOYMENT**

### **33.1 Notice of termination by the Company**

Except in the case of Contractors and probationary Employees, the Company may terminate the Employee's contract of employment by giving notice in accordance with the following:

Period of continuous service	Period of notice
1 year or less	1 week
Over 1 year and up to 3 years	2 weeks
Over 3 years and up to 5 years	3 weeks
Over 5 years of completed service	4 weeks

**33.2** The period of notice is increased by one additional week for Employees over 45 years of age and who have completed more than two years continuous service with the Company at the date of notice.

**33.3** Where notice is given, the Employee is required to work the notice period unless otherwise agreed between the Employee and the Company.

**33.4** The Company can elect to make payment in lieu of the notice. In which case the Employee shall be paid an amount equivalent to what the Employee would have received had their employment continued until the end of the required notice period.

**33.5** In calculating any payment in lieu of notice, payment will be the wages an Employee would have received in respect of the ordinary time they would have worked (rostered hours) during the period of notice, had their employment not been terminated. This includes allowances, loadings, penalties and other amounts payable under the Employee's contract of employment.

**33.6** The period of notice in this clause, shall not apply in the case of dismissal for conduct that justifies summary dismissal including, neglect of duty or serious misconduct.



### **Resignation by an Employee**

- 33.7** Employees may resign from the Company by providing notice of termination in writing to the Company. The minimum notice required is the same as that required by the Company as per clause 33.1, except for the additional week for employees over 45 years.
- 33.8** If an Employee fails to give notice, the Company may withhold monies due to the employee to a maximum amount equal to the period of notice that was not provided. The Employee and the Company can mutually agree to shorter period of notice without forfeiture of monies.

### **Summary Dismissal for serious misconduct**

- 33.9** The Company shall have the right to dismiss any Employees without notice for serious misconduct. Serious misconduct may include but is not limited to:
- (a) Serious contravention of rules or regulations
  - (b) Wilful, reckless or deliberate behaviour by Employee that is inconsistent with the continuation of employment (including fighting, theft and/or damage to Company goods or property); or
  - (c) Conduct that cause's imminent and serious risk to health or safety of a person; or
  - (d) Conduct that effects or has the potential to effect the reputation, viability or profitability of the Company.
  - (e) In circumstances where the Employees right of access has been revoked or suspended by the customer ;
    - i. Permanently; or
    - ii. likely to be extended beyond six months

EDI Rail Bombardier Transportation (Maintenance) Pty Ltd and the employee shall discuss if alternative arrangements are available, but this will not limit EDI Rail Bombardier Transportation (Maintenance) Pty Ltd right to terminate the employee's employment in accordance with this agreement.

Where an Employee is terminated summarily, wages and other entitlements are paid only up until the time of dismissal.

### **Abandonment of Employment**

- 33.10** An Employee who is absent from work for a continuous period exceeding three rostered days or shifts without notification or the consent of the Company, will be deemed to have abandoned their employment.
- 33.11** The Company shall attempt to contact the Employee according to the current contact details provided by the Employee. If the Employee cannot be contacted or Employee does not establish to the satisfaction of the Company that they were absent for reasonable cause, the company can deem the employee to have abandoned their employment.



- 33.12** Termination by abandonment operates from the date of last attendance at work or the date that the Employee's absence was last granted or notification was given, whichever is later.

**Return of Property**

- 33.13** On termination of employment, Employees must return to the Company all property belonging to the Company which may include keys, passes, drawings, safety equipment/clothing etc. The Company reserves its right to withhold the Employee's final payment until such property is returned in good condition.

**34. REDUNDANCY**

- 34.1** The entitlement to redundancy pay is in accordance with the NES.

- 34.2** Redundancy occurs when the Company decides that it no longer requires the Employee's job to be done by anyone, provided that the reason for termination of employment is not due to:

- (a) a transmission of business or part of the business and the Employee is offered employment by the incoming Company (the transmittee); or
- (b) due to the ordinary and customary turnover of labour; or
- (c) insolvency of the Company.

- 34.3** Unless the Company can offer the Employee alternative duties or employment with an alternative employer with comparable duties and conditions, the company shall pay the Employee a redundancy payment.

**Amount of redundancy pay**

- 34.4** In addition to the period of notice prescribed for ordinary termination in clause 33.1, an Employee whose employment is terminated by reason of redundancy must be paid, the following amount of redundancy pay in accordance with their length of continuous service:

Period of continuous service	Redundancy pay
Less than 1 year	Nil
More than 1 year and less than 2 years	4 weeks' pay*
More than 2 years and less than 3 years	6 weeks' pay
More than 3 years and less than 4 years	7 weeks' pay
More than 4 years and less than 5 years	8 weeks' pay
More than 5 years and less than 6 years	10 weeks' pay
More than 6 years and less than 7 years	11 weeks' pay
More than 7 years and less than 8 years	13 weeks' pay
More than 8 years and less than 9 years	14 weeks' pay
More than 9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

\* "Weeks' pay" means at the Employee's base rate of pay for their ordinary hours of work to a maximum of 40 hours per week.



**Employee leaving during notice period**

- 34.5** An Employee whose employment is terminated by reason of redundancy may, with the agreement of the Company, terminate his/her employment during the period of notice. If so, they will be entitled to the redundancy benefit under this clause as if they remained with the Company until the expiry of such notice. In this circumstance the Employee will only be entitled to notice up to their termination date.

**Employees exempted**

- 34.6** Entitlement to a redundancy payment shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal including inefficiency within the first fourteen days, neglect of duty, misconduct, or to Contractors or Fixed-term Employees, trainees or apprentices.

**35. NO EXTRAS CLAIM**

The Company and its Employees agree that they will not for the duration of this Agreement, pursue any extra claims for changes in relation to the matters dealt with by this Agreement. The parties agree that this Agreement and Award are comprehensive and is intended to cover all the terms and conditions of employment between the parties.

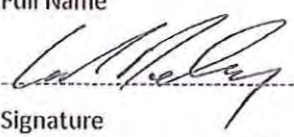


### 36. SIGNATORIES

The parties agree to this Enterprise Agreement are committed to the provisions contained herein.


#### Company Representative:

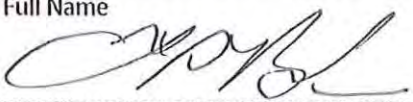
Signed for and on behalf of EDI Rail Bombardier Transportation (Maintenance) Pty Ltd by:

CARL JAMES DELANEY of Lot 201 HESTER AVENUE, WA 6032.  
Full Name Work Address  
 29/11/2016.  
Signature date  
GENERAL MANAGER.  
Position

#### Employee Representatives:

Signed on behalf of the Employees covered by the Agreement by:

Travis Andrew Walsh of 201 Hester Ave, WA, 6032  
Full Name Work Address  
 29/11/2016  
Signature date  
Rollingstock Maintainer  
Position

TODD PHILLIP BRIDGER of 122 KENSINGTON ST, WA 6004  
Full Name Work Address  
 30-11-2016  
Signature date  
TEAM LEADER  
Position



**EMPLOYEE UNION REPRESENTATIVE:**

Signed on behalf of the Communications, Electrical, Electronic, Information, postal, Plumbing and Allied Services Union of Australia ("CEPU") by:

LES McLAUGHLIN of 24/257 BALCETTA RD, BALCETTA

Full Name

Work Address

Signature

date

State Secretary

Position

**WITNESS:**

In the presence of:

Andy Biddens

of 24/257 Balcatta Road Balcatta

Full Name

Work Address

Signature

date

ETUWA Organiser

Position

Signed on behalf of the Australian Rail Tram and Bus Union West Australian PTA Branch ("RTBU") by:

PAUL ROBINSON

of UNIT 2/10 NASH STREET, PERTH WA 6000.

Full Name

Work Address

Signature

date

SECRETARY

Position

**WITNESS:**

In the presence of:

GEORGE JOHNSTON

of UNIT 2/10 NASH STREET, PERTH WA 6000.

Full Name

Work Address

Signature

date

RTBU ORGANISER.

Position

## APPENDIX ONE - CLASSIFICATIONS

The set of competency descriptions below, are a guide to the minimum skills expected to be used by Employees at each level. The list is not exhaustive in outlining the breadth of duties and the skills which may be deployed at each classification level and role requirements are outlined in the respective position descriptions. All Employees are expected to perform any other duties relevant to the completion of their role as directed by their supervisor or team leader. Employees may be asked to perform duties requiring skill at any level below their classification and this includes Trade qualified Employees performing duties of Rollingstock Support Employees if and when required.

We note that each of the classification levels contained in this Appendix may not necessarily be required at the commencement or during the period of this Agreement. The Company reserves the right to make determinations concerning the number of Employees at each level and in each stream in accordance with the needs of the business. This may be reviewed by the Company during the life of the Agreement.

Advancement between Levels and Streams will be pursuant the provisions contained in clause 20 of the Agreement, where progression to higher levels will depend on the individual's skills, abilities, competencies and training as well as to suit the needs of the business.

### **NON-TRADE STREAM**

#### **ROLLINGSTOCK SUPPORT EMPLOYEE LEVEL 1**

##### ***General level Rollingstock Support (Entry Level)***

Rollingstock Support workers are employed to work in a variety of roles and perform a range of duties that support the Rollingstock maintainers as well as undertake work that generally support the ongoing maintenance operations. Areas of work include procurement, operations and maintenance.

- Perform general cleaning and maintenance tasks on vehicles and around the maintenance facility;
- Work on minor repair and maintenance work on vehicles, parts and components etc.
- Use various tools, machinery and equipment (as trained) subject to work requirements
- Perform rudimentary maintenance tasks (oil, filter, component changes etc.)
- Carry out office duties, including data entry, filing, completing forms etc.;
- Follow instructions and carry out duties as required by their immediate supervisor or the tradesperson they are assisting;
- Work in a team environment and assist other employees where required;
- Perform railcar movements in accordance with safe operating instructions (if applicable)
- Assist in the control of safe railcar movements (if applicable)
- Be subject to a 3 Month probationary period and trained to be eligible for advancement to Service Support level 2 should a position become available in accordance with clause 20.

##### **▪ *Safety responsibilities:***

- Must not endanger their health and safety or that of others by their actions;
- Shall keep clean their own working areas and work stations;



- Shall wear Personal Protective Equipment as provided when required and as directed;
- Shall comply with divisional and site procedures and statutory requirements;
- Shall co-operate with management for the reduction of risk including partaking in Job Safety Analysis and Risk Assessment processes;
- Shall notify their supervisor of any unsafe plant, equipment, building, structure , or practice;
- Shall report any accidents or incidents to their supervisor;
- Shall not compromise the security and or operations of any Information Technology systems, which may include but is not limited to measuring instruments and work station data systems;

▪ *Physical requirements*

Many activities involve a high degree of physical labour. Applicants/Employees shall undergo a medical examination prior to or during employment, to determine and confirm his or her suitability to the role and the tasks required of them.

▪ *Examples of tasks include but are not limited to:*

- Kneeling or standing for extended periods of time;
- Bending under structures and equipment to fit, repair and remove parts;
- Reaching above shoulder height;
- Climbing over subassemblies and equipment;
- Twisting during access to fittings, or operating Gear unit fixtures;
- Light lifting, generally limited to 10 Kg and may be repetitive; and or
- Walking on concrete floors for extended periods.

▪ *Personal protective equipment required:*

- |                                    |  |
|------------------------------------|--|
| ○ Protective footwear (mandatory)  | ○ Full face shields (where applicable)           |
| ○ Ear defenders (where applicable) | ○ Breathing apparatus (where applicable)         |
| ○ Overalls (where applicable)      | ○ Aprons (where applicable)                      |
| ○ Safety glasses (mandatory)       | ○ Wellington boots (gumboots) (where applicable) |
| ○ Bump Hat (where applicable)      | ○ Paper coveralls (where applicable)             |
| ○ Gloves (where applicable)        |  |

## **ROLLINGSTOCK SUPPORT EMPLOYEE LEVEL 2**

### ***Advanced level Rollingstock Support***

Advanced Rollingstock Support workers are employed to work in a variety of roles and perform a range of duties that support the Rollingstock maintainers as well as generally support the ongoing maintenance operations. Areas of work in such roles include procurement, vehicle operations and maintenance.

- As they are required to perform work with a greater level of responsibility, they are required to have an adequate level of experience in a Rollingstock Support role, which is required to be utilised to successfully perform their duties.
- Advanced skills are usually achieved after the Employee has gained a reasonable level of experience from having worked for the Company, however may be developed whilst working outside the Company. The Company may assess the Employee so that it is satisfied that the Employee's experience and skills are at the required level.



- Advancement to Level 2 from Level 1, will be pursuant to clause 20 of the Agreement, where progression to higher levels will depend on the individual's skills, abilities, competencies and training as well as to suit the needs of the business.
- *Perform the tasks of a Rollingstock Support Employee level 1 plus a combination of the following depending on their area of work:*
  - Supervise level 1 members of support team and provide support and direction when required
  - Provide assistance to trades staff as required
  - Assist in fault diagnosis, perform minor repairs, perform maintenance task at a high level of competency under direction of trades staff;
  - Dismantle, clean, and inspect parts and repair where necessary;
  - Read drawings, diagrams specifications, technical instruction, and tables;
  - Follow instructions to determine what parts and materials are needed for the job;
  - Work from instructions or manuals to undertake work/repairs;
  - Trained to operate machinery incidental to the work, e.g.: cranes, press, wheel lathe, fork lift, computers etc.
  - use hand tools, machine tools, computer controlled machines;
  - finish products by cleaning, polishing, filing, or by applying protective coatings; and or
  - Complete relevant documentation and processes to support the procurement requirements
  - Assist with movement of vehicles to enable vehicle maintenance work to be undertaken (if applicable)
  - Required to record, manage and control all shunt or piloting movements anywhere within the depot/yard facility control of sale railcar movements (if applicable)
  - Eligible for training to perform high voltage isolations (if applicable)
  - Carry out other duties as required by Supervisor.
- Advancement to this role is subject to work demands, the Employee's performance and Company requirements.

## **TRADE STREAMS**

### **ROLLINGSTOCK MAINTAINER EMPLOYEE LEVEL 1:**

#### ***General Tradesperson– skilled in a trade (Entry level)***

Rollingstock maintainers are responsible for ensuring vehicles are maintained and repaired in accordance with all work requirements as well as quality and safety standards for our customer and the commuting public. Responsibilities include performing a range of maintenance work on vehicles, which includes testing, repairing, overhauling or modifying rail vehicles in the braking, traction, suspension, electrical components and other related rail vehicle systems.

- Must hold a relevant trades certificate (e.g. Electrical, Mechanical or Carriage/vehicle maintainer or similar recognised trade qualification with transferable skills)
- Must have relevant experience in the trade in last 10 years.
- Undertake work as directed by the Management or his delegate. Accordingly the Employee is required to:
  - Follow processes as defined by the technical services function;
  - Follow schedules and plans as defined by the maintenance planning function; and
  - Follow quality requirements as established by the Quality Assurance function.
- *Safety responsibilities:*



- Must not endanger their health and safety or that of others by his or her actions;
- Shall maintain cleanliness of their working areas and work stations;
- Shall wear Personal Protective Equipment as provided, when required and as directed;
- Shall comply with divisional and site procedures and statutory requirements;
- Shall co-operate with management for the reduction of risk including partaking in Job Safety Analysis process;
- Shall notify their supervisor of any unsafe plant, equipment, building, structure, or practice;
- Shall report any accidents or incidents to their supervisor; and
- Shall not compromise the security and or operations of any Information Technology systems, which includes but is not limited to measuring instruments and work station data systems.

▪ *Physical requirements:*

Many activities involve a high degree of physical labour. Applicants/Employees shall undergo a medical examination prior to and during employment, to determine and confirm his or her suitability to the role and the tasks required of them.

▪ *Examples of general work activities include but are not limited to:*

- Kneeling or standing for extended periods of time;
- Bending under structures and equipment to fit and remove parts;
- Reaching above shoulder height;
- Climbing over subassemblies and equipment;
- Twisting during access to fittings, or operating Gear unit fixtures;
- Light lifting, generally limited to 10 Kg and may be repetitive; and/ or
- Walking on concrete floors for extended periods;

▪ *Personal protective equipment required:*

- |                                    |   |
|------------------------------------|---|
| ○ Protective footwear (mandatory)  | ○ Full face shields (where applicable)            |
| ○ Ear defenders (where applicable) | ○ Breathing apparatus (where applicable)          |
| ○ Overalls (where applicable)      | ○ Aprons (where applicable)                       |
| ○ Safety glasses (mandatory)       | ○ Wellington boots (gum boots) (where applicable) |
| ○ Bump Hat (where applicable)      | ○ Paper coveralls (where applicable)              |
| ○ Gloves (where applicable)        |   |

▪ *General activities as applicable to trades:*

- Using drawings provided, review manuals and instructions identify procedures and requirements to complete maintenance and repair work, and confirm function of complex systems;
- Set up and adjust machines and equipment to undertake work requirements including repairs or modifications;
- Work in a team environment;
- Operate all types of machinery, including computer control systems, to produce or service parts using standard practises associated with trade: e.g.: drills, multimeter, grinder, welder, press, soldering iron etc.;
- Complete all quality/planning/system documentation during all stages of the activity;
- Eligible for training to operate cranes, forklifts to position components, use equipment and operate various tools and systems to complete work.



- Eligible for training to perform railcar movements in accordance with safe operating instructions (if applicable)
- Eligible for training to perform high voltage isolations(if applicable)

## **ROLLINGSTOCK MAINTAINER EMPLOYEE LEVEL 2:**

### ***Advanced Tradesperson– skilled at a high-level in a trade***

- *Perform requirements of Rollingstock Maintainer Employee Level 1 Plus:*
  - Demonstrate an advanced level of experience in their role, which is required to be utilised to successfully perform their duties.
  - The Employee has the ability to impart knowledge and training to Rollingstock Support staff and Rollingstock Maintainers
  - The Employee demonstrate excellent time management skills
  - The Employee demonstrates a high level of flexibility and understanding of Company needs
  - The Employee demonstrates ability to offer direction and leadership qualities as part of the maintenance team.
  - Advanced skills are usually achieved after the Employee has gained a reasonable level of experience from having worked for the Company in the Employee's trade specialisation.
  - Advanced skills may be developed whilst working outside the Company, however the Company may assess the Employee so that it is satisfied that the Employee's experience and skills are at the required level.
  - Advancement to Level 2 from Level 1 will be pursuant to clause 20 of the Agreement, where progression to higher levels will depend on the individual's skills, abilities, competencies and training as well as to suit the needs of the business.
  - The Employee has taken on extra duties or roles were these duties/roles will continue for the duration of employment.
- Advancement to this role is subject to work demands, the Employee's performance and Company requirements.

## **ROLLINGSTOCK MAINTAINER EMPLOYEE LEVEL 3:**

### ***Technically advanced Rollingstock maintainer highly skilled in a single trade or multiple trades.***

- *Perform the requirements of Rollingstock Maintainer Employees Levels 1 and 2 plus:*
- Capable of independent/autonomous and competent delivery of activity relating to:
  - Testing and commissioning activities
  - fault finding on complex systems
  - specialised diagnostic equipment
- *Demonstrates advanced knowledge, understanding and use of vehicle maintenance knowledge to improve the business and processes including:*
  - Able to plan, organize and understand key maintenance deliverables, in doing so, process map each work stage under their control to ensure maintenance schedules are harmonized.



- Participates in maintenance change evaluation processes and supports corrective actions where needed.
- Computerise Maintenance Management Systems (CMMS)
- Basic Inventory management
- Business processes, e.g.: ECR, NCR, NCC, MRF, MR
- Principles of OH&S policy & procedure
- Support self-management cultures and Support quality control processes
- As a higher level Employee, it may be necessary to assist in a leadership capacity by directing and controlling work performed by team members if and when necessary.
- Has strong technical skills, displays solid leadership qualities with a high credibility rating amongst peers. Able to delegate effectively and be a nominated 2IC.
- Advanced academic studies e.g.: certificate IV or 60% of Associate Diploma or equivalent.
- Medium to advanced computer skills.
- Advancement to Level 3 from Level 2 will be pursuant to clause 20 of the Agreement, where progression to higher levels will depend on the individual's performance, skills, abilities, competencies and training as well as to suit the needs of the business.

#### **TEAM LEADER LEVEL 4:**

***Team leader – skilled in one or more trade and functioning in a supervisory and leadership capacity.***

- Minimum training requirement: Trade qualified, certificate IV or 60% of Associate Diploma or equivalent.
- Medium to advanced computer skills (e.g.: Microsoft Office suite. and CMMS)
- Perform the tasks of Rollingstock Maintainer Employee Levels 1, 2 & 3 plus:
  - People management activities such as planning, organising, directing and controlling trade staff and tasks, and being first point of contact for team member and work location issues
  - Sets the bench mark for individual and team performance standards, in doing so, provides performance feedback, initiates actions to address poor performers and is a key contributor in the identification and selection of team resources.
  - Ensure staff under their control perform duties in a safe manner in accordance with divisional procedures and statutory requirements
  - Provide on the job training and coaching as needed.
  - Identify delegated responsibilities within group
  - Investigate and report accidents and incidents within their group
  - Communicate effectively including briefing of staff
  - Testing and commissioning activities when required
  - Support self-management cultures and Support quality control processes
  - Prepare maintenance reports and other required documentation
  - Understand and undertake basic Inventory management
  - Understand and work on improving reliability
- Advancement to Level 4 from Levels 2 or 3 will be pursuant to clause 20 of the Agreement, where progression to higher levels will depend on the individual's performance, skills, abilities, competencies and training as well as to suit the needs of the business.



## IN THE FAIR WORK COMMISSION

FWC Matter No.:  
AG2016/7600

Applicant:  
EDI Rail Bombardier Transportation (Maintenance) Pty Limited

### Undertaking- section 190

I, Natasha Elkins, HR Coordinator of EDI Rail Bombardier Transportation (Maintenance) Pty Limited give the following undertakings with respect to the EDI Rail Bombardier Transportation (Maintenance) Pty Ltd Enterprise Agreement 2016 ("the Agreement"):

1. I have the authority given to me by EDI Rail Bombardier Transportation (Maintenance) Pty Limited to provide this undertaking in relation to this application before the Fair Work Commission.
2. Amendment to clause 27.12 Employees are entitled to two (2) days of unpaid personal or carers leave per occasion that an immediate family member is unwell or injured as per the NES Standards. Additional unpaid personal or carers leave may be granted at the Company's discretion where the Employee does not have sufficient accrued leave entitlements or the person is a Contractor.

Employer name: EDI Rail Bombardier Transportation (Maintenance) Pty Limited

Authority to sign: Natasha Elkins

Signature: 

Date: 30/01/2017



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## Schedule 2.2—Model flexibility term

(regulation 2.08)

### Model flexibility term

- (1) An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
  - (a) the agreement deals with 1 or more of the following matters:
    - (i) arrangements about when work is performed;
    - (ii) overtime rates;
    - (iii) penalty rates;
    - (iv) allowances;
    - (v) leave loading; and
  - (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
  - (c) the arrangement is genuinely agreed to by the employer and employee.
- (2) The employer must ensure that the terms of the individual flexibility arrangement:
  - (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
  - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
  - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) 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
  - (d) includes details of:

- (i) the terms of the enterprise 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
- (e) states the day on which the arrangement commences.
- (4) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) 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.