



# DECISION

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

**Rhomberg Rail Australia Pty Ltd**  
(AG2018/4948)

## **RHOMBERG RAIL AUSTRALIA PTY LTD ENTERPRISE AGREEMENT 2018-2021**

Rail industry

COMMISSIONER HARPER-GREENWELL

MELBOURNE, 7 DECEMBER 2018

*Application for approval of the Rhomberg Rail Australia Pty Ltd Enterprise Agreement 2018-2021.*

[1] An application has been made for approval of an enterprise agreement known as the *Rhomberg Rail Australia Pty Ltd Enterprise Agreement 2018-2021* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Rhomberg Rail Australia Pty Ltd. The Agreement is a single enterprise agreement.

[2] The Employer 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. The Agreement does not cover all of the employees of the employer, however, taking into account the factors in Section 186(3) and (3A) I am satisfied that the group of employees was fairly chosen.

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

[6] The Agreement was approved on 7 December 2018 and, in accordance with s.54, will operate from 14 December 2018. The nominal expiry date of the Agreement is 14 December 2021.



COMMISSIONER

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## Annexure A

### IN THE FAIR WORK COMMISSION

**FWC Matter No.:**  
AG2018/4948

**Applicant:**  
Rhomberg Rail Australia

**Section 185 – Application for approval of a single enterprise agreement**

### Undertaking- Section 190

I, Richard Morgan, Managing Director for Rhomberg Rail Australia give the following undertakings with respect to the Rhomberg Rail Australia Enterprise Agreement 2018-2021 ("the Agreement"):

1. I have the authority given to me by Rhomberg Rail Australia to provide this undertaking in relation to the application before the Fair Work Commission.
2. Rhomberg Rail Australia hereby undertakes, where there is an inconsistency between this agreement and the NES, and the NES provides greater benefit, the NES provision will apply to the extent of the inconsistency.
3. Rhomberg Rail Australia hereby undertakes, that all Rostered Workers shall be entitled to five (5) weeks annual leave per annum.
3. Rhomberg Rail Australia hereby undertakes, to not unreasonably withhold permission from our employees to hold outside employment, hold any paid office, carry on any business or engage in any private practice of any profession outside the employer, whereby our Policies and Procedures are met and there is no conflict of interest.
4. Rhomberg Rail Australia hereby undertakes, where an employee is recalled for overtime, after they have left the premises of the employer, the employee shall be paid a minimum four hours.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

**Signature**



**Date** 6 December 2018

**Rhomberg Rail Australia Pty Ltd**  
**Enterprise Agreement**  
**2018 – 2021**

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



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## **1 APPLICATION, INCIDENCE AND OBJECTIVES**

### **1.1 Title of Agreement**

RHOMBERG RAIL AUSTRALIA PTY LTD ENTERPRISE AGREEMENT 2018-2021

### **1.2 Parties to The Agreement**

The parties to this Enterprise Agreement (EA) will be as follows:

- Rhomberg Rail Australia Pty Ltd, ACN 082 016 608 (the Employer)
- All persons who are employed by Rhomberg Rail Australia for which classifications and/or rates of pay are prescribed by the Agreement (the Employee/s).
- The Following Organisation of Employees, Their Officers and Members:
  - Australian Rail Tram and Bus Industry Union, Victoria, Northern Territory, South Australia, Western Australia, Queensland, Tasmania & New South Wales Branches.

### **1.3 Operation And Scope**

In this Agreement, the work carried out by Rhomberg Rail Australia means the provision of rail infrastructure inspection, routine maintenance, major periodic maintenance, renewals, construction and project work across Australia. This includes track, resurfacing, overhead line, civil and bridge work.

No employee will be disadvantaged by the making of this Agreement.

Unless the context otherwise requires, in this agreement:

### **1.4 Definitions**

**Act** means the Fair Work Act 2009 (Cth), as amended from time to time.

**Agreement** means the final agreed, signed and lodged "Rhomberg Rail Australia Pty Ltd Enterprise Agreement 2018-2021"

**"Basic" hourly rate of pay** is defined as the sum of an employee's classification rate on which an employee's fortnightly pay is calculated on, and on which long service, superannuation and total leave payments are also calculated

**Casual Worker** means an employee that is engaged on a casual basis with no guaranteed roster. A Casual Employee will be paid a 25% loading on their base rate only to compensate them for the casual nature of their employment including having no entitlement to paid leave.

**Employee** means all persons engaged by Rhomberg Rail Australia Pty Ltd within Australia under the classifications listed herein

**Employer or Company** means Rhomberg Rail Australia Pty Ltd, ACN 082 016 608 / ABN 70 082 016 608 represented by its senior management

**Enterprise Agreement** means this Rhomberg Rail Australia Pty Ltd Enterprise Agreement 2018-2021

**Family** means a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of an employee; or a child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner

**FWC** means Fair Work Commission and its successors

**FW Act** means the Fair Work Act 2009 and associated regulations



**Home Depot** means the depot to which an employee is appointed upon commencement, or as otherwise mutually agreed by the Company and the employee.

**Long Service Leave Act** means Long Service Leave Acts in each state the company operates.

- Australian Capital Territory: Long Service Leave Act 1976
- New South Wales: Long Service Leave Act 1955
- Northern Territory: Long Service Leave Act 1981
- Queensland: Industrial Relations Act 1999
- South Australia: Long Service Leave Act 1987
- Tasmania: Long Service Leave Act 1976
- Victoria: Long Service Leave Act 1992
- Western Australia: Long Service Leave Act 1958

**Manager** means the representative of Rhomberg Rail Australia management to whom the employee ultimately reports

**NES** means National Employment Standards as part of the Fair Work Act 2009

**Night shift** means a shift that occurs between the hours of 6:00 pm and 6:00 am

**Ordinary hours** is applicable to full time employees and shall be an average of seventy six (76) hours per fortnight.

**Overtime** is applicable to Full Time Employees and shall be paid for all hours worked in excess of the Ordinary Hours.

**Parties** means the Company and Employees and the RTBU

**Residence** means the employee domicile place of residence.

**Roster** means a work schedule containing the ordinary and overtime hours of work required of an employee over a period of time along with the RDOs, public holidays and other days of approved leave falling during that period.

**Rostered Day Off (RDO)** means a week day not worked as a result of the operation of a method of working a 38 hour week where sufficient extra ordinary time is worked on a number of days and accrued to allow for the day off.

**Non Rostered Worker** means an Employee engaged on a regular shift pattern between 6:00 AM and 6:00 PM Monday to Friday. Work shifts undertaken on a Saturday, Sunday, public holiday, afternoon or night shift will be treated as overtime.

**Rostered Worker** means an Employee engaged on either Night Shift, Early Morning Shift, Afternoon Shift, Saturday Shift, Sunday Shift or Public Holiday Shift on the basis of working ten (10) rostered shifts (ordinary hours) in each 3 month period (i.e.: 1 Jan – 31 Mar) on which a Saturday, Sunday, public holiday, afternoon or night shift payment is incurred.

**Temporary Depot** means a place of work assigned to an employee by the Company as a temporary replacement for the employee's normal home depot. A Temporary Depot can be a worksite, a track machine location or accommodation provided to an employee when they are required to work away from their normal residence.

**WHS** means Workplace Health and Safety

**WHS Laws** means the legislation in relation to Workplace Health and Safety which commenced on 1<sup>st</sup> January 2012 to harmonize occupational health and safety (OH&S) laws across Australia. Each state and territory is responsible for regulating and enforcing WHS laws, Rhomberg Rail Australia operates in each state/territory as follows, but not limited to:

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- The Commonwealth of Australia
- Occupational Health and Safety Act 2004 of Victoria
- Occupational Safety and Health Act 1984 of Western Australia

**Consultative Committee** means the committee formed to discuss issues in a consultative manner as well as Occupational Health and Safety matters.

### **1.5 Term – Nominal Expiry Date**

This Agreement shall come into operation from the date of its lodgement with the FWC and shall remain in force for three (3) years from this date unless varied or terminated earlier in accordance with the Fair Work Act 2009.

### **1.6 Step Up Clause**

Employees assigned to work on a nominated construction project, may be paid at a higher rate of pay or receive additional allowances, than is provided for under this agreement, , provided that:

- The terms, conditions or benefits of employment are contained in an agreement that is registered, and applies to the employer and its employees; or
- The terms, conditions or benefits of employment are contained in an agreement that is a common law agreement made between an employer and an individual employee.

Employees will be assigned to work on the nominated project by the Employer under the following conditions:

- they are notified in writing by the Employer that this will be so prior to commencement on that project of the revised arrangements for their rates of pay and allowances;
- that the additional payments cease when the employee's involvement on that particular project is ended;
- the employee is paid not less than the entitlements provided for under this Agreement

### **1.7 Agreement Principles**

The principle of "working together" is to capitalise on the synergies available to create a competitive advantage.

The competitive advantage will be realised through a focus on safety, asset reliability, and cost efficient solutions and through its people by way of adequate remuneration and job security.

We are committed to achieving these goals through the highest level of commitment and consultation with our customers, our people and all our stakeholders.

Our aim is to make the business a benchmark for which other operations will aspire to emulate as the preferred workplace, and an operation that totally satisfies the customer's needs.



## **1.8 Objectives**

In order to achieve the aforementioned goals and be consistent with a continuous improvement philosophy, the parties are committed to:

- Establishing a best practice focus in relation to occupational health and safety matters. At all times the emphasis will be on the prevention of accidents and injuries that all parties acknowledge are avoidable. Targets for best practice occupational health and safety will be established.
- Establishing effective communication processes by maintaining a high standard of employer/employee consultation and involvement in decision-making.
- A willingness by employees to undertake any task that the employee is competent to perform. Role Responsibility Statements will be developed over the life of the Enterprise Agreement in accordance with the classification structure. The parties will ensure that the tasks are safe, legal and within the classification structure of this Agreement and consistent with the scope of work of a project.
- A willingness by the parties to try to avoid any action which might disrupt the continuity of production or reduce the effectiveness of their employer's business;
- Improving the skill base of the employees.

To ensure the objectives of this Agreement are met, the parties agree that the following measures form an integral part of business operations:

- Ensuring that, at all times, terms and conditions of employment will be based upon the specific needs of the business.
- All parties to this Agreement will constantly seek improvements in safety, methods of production, work organisation, quality and in other areas that will enhance the effectiveness of operations.
- The parties recognise that issues should be processed through agreed procedures and that engaging in immediate industrial action is against the spirit and intent of this agreement and are committed to processing grievances through the dispute procedure.
- Ensuring that working relationships between employees are developed to promote mutual trust, co-operation and open communication of relevant information and ideas.
- A commitment to the provision of appropriate training opportunities to ensure employees are skilled to perform their jobs and develop themselves further in their career utilising national competency standards where applicable.
- Maintenance of standards of conduct and attendance necessary to ensure a safe, efficient and cooperative operation.

The parties accept that, subject to the proper consultation processes being followed, everyone will be expected to co-operate willingly to achieve the objectives of this Agreement, so that everyone performs to their full capability and potential.

## **1.9 Flexibility Term**

Rhomberg Rail Australia and an individual employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement in accordance with the Fair Work Act 2009 if;

- I. The flexibility arrangement deals with one or more of the following matters:

- Arrangements about when work is performed;
  - Pay rate;
  - Overtime Rates;
  - Penalty Rates;
  - Daily Travel Allowance;
  - Travel/Transit Time; and
- II. The flexibility arrangement meets the genuine needs of the employer and employee in relation to one or more of the matters mentioned in paragraph (a); and
- III. The flexibility arrangement is genuinely agreed to by the employer and employee.

The employer must ensure that the terms of the individual flexibility arrangement:

- I. are about permitted matters under section 172 of the *Fair Work Act 2009*; and
- II. are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
- III. result in the employee being better off overall based on this Agreement than the employee would be if no arrangement was made.

The employer must ensure that the individual flexibility arrangement:

- I. is in writing; and
- II. includes the name of the employer and employee; and
- III. 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
- IV. includes details of:
  - the terms of the enterprise agreement that will be varied by the arrangement; and
  - how the arrangement will vary the effect of the terms; and
  - 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 states the day on which the arrangement commences.

The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

The employer or employee may terminate the individual flexibility arrangement:

- a) as detailed specifically in the agreement itself; or
- b) if the employer and employee agree in writing — at any time.

There is no requirement that any individual flexibility arrangement agreed by the employer and an employee be approved by or consented to by any other party whether before or after the arrangement has been agreed to.

## **2 CONSULTATION, COMMUNICATION, DISPUTE RESOLUTION**

### **2.1 Dispute Settling Procedure**

If a dispute relates to either a matter arising under this agreement, or the National Employment Standards, the following procedures shall be followed, in relation to any industrial dispute/grievance.

#### **Step 1 - Employee and Supervisor**

In relation to any matter arising under or otherwise relating to this agreement that may be in dispute between the employee(s) and the employer, the employee(s) and their manager will attempt to resolve the matter at the workplace level.



This will involve the employee(s) and their manager meeting and conferring on the matter. If the matter is not resolved at such a meeting, then:

### **Step 2 - Employee and Senior Management**

The employer will arrange further discussions involving other managers at a more senior level or other representatives.

### **Step 3 – Fair Work Commission**

If the matter is still not settled after the above steps it may be submitted by either the employer or employee(s) and their representatives to Fair Work Commission, which shall endeavour to settle the dispute about any matters arising under the agreement and in relation to the National Employment Standards.

### **General Provision**

At the employee's choice they may appoint (with notification to the employer) a representative of their choice to assist him/her in settling the matter at any stage of the Dispute Resolution Procedures.

The employer and the employees agree that during the life of this agreement, they are committed to take no unlawful industrial action including stoppages or work, lockouts or any other bans or limitations on the performance of work.

Where a dispute exists and whilst the dispute remains unresolved and is being addressed through this procedure, the employer and the employee(s) will return to the situation and arrangements that existed prior to the issue which caused the dispute, such that no party is prejudiced during the process to resolve the matter.

During the dispute resolution procedure the employee will continue to work in accordance with this agreement and co-operate to ensure that the dispute resolution procedures are carried out as expeditiously as is reasonably possible.

## **2.2 Safety Issues Exempted**

Genuine safety issues relevant to this Clause and with respect to WHS Law will be the province of the Occupational Health and Safety Committee and isolated from industrial matters covered by 2.1 above.

## **2.3 Safety Conflict Resolution**

It is the responsibility of all employees to report identified hazards to their manager.

It is the responsibility of managers to ensure appropriate actions are taken to control work place hazards and to monitor the effectiveness of such controls.

The Parties agree that the following procedures shall apply for the handling of safety matters and while these are being followed, there shall be no stoppages of work related to the matter under consideration except in the affected area as provided for in Section 2.1.

Where a hazard has been identified and employees do not regard the control measure to be effective, work that can and/or expose workers to the hazard will cease. The supervisor will ensure a temporary control measure is implemented.

The supervisor together with a Consultative Committee representative will carry out a risk assessment to determine the effectiveness of the nominated control measure. If a risk level is determined to be between moderate to very high, an alternate control measure must be

applied. The alternate control measure will be risk assessed and, if classified below moderate, the control measure shall be implemented and work will continue.

Should the control measure remain unacceptable to the potentially exposed employees, the appropriate manager shall be consulted and the risk assessment performed again in conjunction with the OH&S Committee representative. Any agreed control measure shall be risk assessed prior to implementation.

Matters that remain unresolved shall be referred to the appropriate Government Authority for advice.

## 2.4 Consultative Mechanisms

Consultation provisions apply if the employer proposes to introduce a Major Change.

Major Change occurs if the employer has made a definite decision to introduce a major change to production, program, organization, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees. In the event of a major change:

- a) the employer must notify the relevant employees of the decision to introduce the major change; and
- b) the relevant employees may appoint a representative for the purposes of the procedures in this term, if:
  - a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.
- (c) as soon as practicable after making its decision, the employer must discuss with the relevant employees:
  - the introduction of the change;
  - the effect the change is likely to have on the employees; and
  - measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- (d) for the purposes of the discussion—provide, in writing, to the relevant employees:
  - all relevant information about the change including the nature of the change proposed; and
  - information about the expected effects of the change on the employees; and
  - any other matters likely to affect the employees.
  - However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (e) the employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

In this term, a major change is **likely to have a significant effect** on employees if it results in:

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



## **2.5 Consultative Committee**

The parties agree that a permanent consultative committee shall be established as a regular means of consulting on workplace issues.

The committee shall be a forum for the discussion of any matters that the Company and employees and their nominated representatives agree to discuss.

These matters shall include, but are not limited to:

- Zero Harm Initiatives;
- Company performance update;
- health and safety matters;
- matters pertaining to the relationship between the employees and the employer;
- best practice initiatives;
- skills development;
- rosters and working hours;
- amenities and standard of accommodation;
- team working; and
- changes to contractual or operational requirements, including redundancy.

The above matters to be discussed at the consultative committee should focus on continuous improvement, workplace systems, and matters generally affecting the overall effectiveness of the workplace. They should not include individual grievances or matters more appropriately dealt with in other forums or in the normal management procedures of the workplace.

The employee on the consultative committee shall be elected by their peers. The consultative committee shall consist of an employer representative(s) and an employee representative(s).

Any employee representative(s) nominated by employees for the purposes of consultation must be recognized and allowed full participation by the company.

The objectives, rules and guidelines of the committee shall be developed as part of the consultative process. Once agreed, the objectives, rules and guidelines shall be adhered to for the life of this Agreement and shall only be varied by agreement in accordance with the same during the life of this Agreement.

The structure and operation of the consultative committee acknowledge and provide measures for the effective exchange of information, views and feedback from employees, as the basis of discussions within the committee. The company shall provide support to ensure the effective operation of the consultative committee. The company and the employees agree that training for members of the committee and open sharing of information are vital for the effectiveness of the committee.

## **3 COUNSELLING AND DISCIPLINARY PROCEDURES**

### **3.1 Disciplinary Investigations:**

Disciplinary inquiries and investigations shall be confidential.

Any internal investigation by the Company in relation to a matter or incident that may lead to disciplinary action being taken against an employee must apply the principles of natural justice and due process, including:

- a) The employee being made fully aware in writing of the allegations that are the subject of investigation;

- b) The employee being provided with sufficient information to enable the provision of an informed response.
- c) The employee being informed of their entitlement to have a representative present as a witness/support person at any meetings/interviews, if so requested;
- d) The employee being given reasonable time (minimum 7 calendar days) to prepare a response to the allegations that are the subject of the investigation;

### **3.2 Suspension:**

If the Company suspends an employee while undertaking an investigation, the employee will be suspended and paid as per roster until an outcome is achieved.

Employees under investigation may be subject to the following action during the investigation:

- a) Suspension from duty with no reduction of pay; or
- b) Placed on alternative duties; or
- c) Re-assessed and returned to normal duties.

### **3.3 Process:**

#### **Step 1: Counselling**

When the Company has concern regarding the conduct of an employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may counsel the employee, which shall be documented and signed by the employee in acknowledgement of sighting the counselling with a copy placed on the employee's personnel file. During counselling, the employee shall be made aware of the standards of improvement in conduct that is to be made. If after 12 months from the date of counselling the Company determines that the conduct has been satisfactory, the Employee will be advised that the written record of the counselling has been removed from the employee's personnel file.

#### **Step 2: Second Written Warning**

If the employee fails to meet the agreed standards of improvement in accordance with Step 1, or if the Company has a second concern about the conduct of the employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination.

Based on its determination, the Company may provide the employee with a written warning, which shall be documented and signed by the employee in acknowledgement of sighting the warning with a copy placed on the employee's personnel file. The employee receiving the written warning shall be made aware of the standards of improvement in conduct that is to be made. If after 18 months from the date of written warning the Company determines that the conduct has been satisfactory; the Employee will be advised that the written warning has been removed from the employee's personnel file.

#### **Step 3: Final Written Warning**

If the employee fails to meet the agreed standards of improvement in accordance with Step 2, or if the Company has a third concern about the conduct of the employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The



employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may provide the employee with a final warning, which shall be documented and signed by the employee in acknowledgement of sighting the warning with a copy placed on the employee's personnel file. The employee receiving the final warning shall be made aware of the standards of improvement in conduct that is to be made. If after 24 months from the date of written warning the Company determines that the conduct has been satisfactory; the Employee will be advised that the written warning has been removed from the employee's personnel file.

#### **Step 4: Dismissal**

If the employee fails to meet the agreed standards of improvement in accordance with Step 3, or if the Company has a further concern about the conduct of the employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may dismiss the employee with a written notice of termination or offer the employee the choice to resign.

### **3.4 Serious Breaches**

Serious breaches in this context refer to breaches that for which it is not reasonable that a second breach would be tolerated and include such breaches that are likely to significantly put at risk other persons or the environment.

### 3.5 Categories

The following categories are to be utilized as a basis for counselling/ warning procedures.

CATEGORY	DEFINITION	APPROPRIATE DISCIPLINE
Category 1	<ul style="list-style-type: none"> <li>Absenteeism;</li> <li>Inefficiency and poor performance;</li> <li>Poor timekeeping and punctuality;</li> <li>Leaving workplace without permission;</li> </ul>	Work through four stages of discipline
Category 2	<ul style="list-style-type: none"> <li>Negligence;</li> <li>Breach of safety regulations;</li> <li>Ignoring reasonable instructions from supervisor</li> </ul>	May be necessary to by-pass the four stages of discipline and give a warning to employee
Category 3	<ul style="list-style-type: none"> <li>Major breach of safety regulations caused by negligence</li> <li>Possessing or consuming alcohol or other drugs on the job;</li> <li>Deliberately damaging Company property and personal property;</li> <li>Falsifying timesheets or Doctor's Certificates;</li> <li>Mistreating / abusing a work mate or supervisor;</li> <li>Fighting or physical violence</li> <li>Testing positive to alcohol or other drugs when undergoing test/s following initial positive result test</li> <li>Driving company vehicles on road whilst over legal road limit of 0.05</li> <li>Refusal to undergo testing for alcohol or other drugs</li> </ul>	May be necessary to dismiss an employee without due notice. Where mitigating circumstances exist, it may be appropriate to give a final warning or to terminate the employee's contract of employment with due notice.



### **3.6 Abandonment of Employment**

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

In circumstances where there is prima facie evidence that an employee has abandoned their employment, an employee will be deemed to have abandoned their employment if

within 14 days from when their unauthorised absence commenced, the employee is unable to establish to the satisfaction of the Company that they were absent for reasonable cause.

Termination of employment by abandonment in accordance with clause 4.1 shall operate as from the date of the last attendance at work or the last day's absence in respect of which consent was granted, or the date of the last absence in respect of which notification was given to the Company, whichever is the later.

## **4 SUPPLEMENTARY LABOUR**

A project may engage supplementary labour to cover peak workloads and provide skills not readily available within the business. This shall be done by sub-contracting the provision of "Day Labour" services to other companies, or by employing people on a casual basis (see section 5.2.2).

## **5 TERMS AND CONDITIONS OF EMPLOYMENT**

### **5.1 Employee Obligations**

The Employees shall:

- at the commencement of employment, attend and undertake relevant Company/ client induction program(s)
- be available, ready and willing to perform such work, including rostered work and reasonable overtime, as required by the Company, on the days and during the hours necessary for the Company to best meet any contractual obligations for the Company;
- comply with any request and/or direction of the Company to work reasonable overtime or rostered work as required by the Company during the working week and at weekends;
- Comply with, the Company's relevant policies and procedures, as amended from time to time.
- Comply with any project or site specific policies and procedures of the company or any client which may be advised to employees from time to time.
- Support and actively co-operate in all formal and informal programs initiated by the Company to improve productivity, increase efficiency and flexibility, improve the effectiveness of operations, and reduce costs.
- Be multi-skilled and work in a flexible manner to perform works, as directed by the Company. All Employees will be required to perform a diverse range of functions within their level of skill and competence as determined by the Company. There shall be no demarcation, restrictions or limitations on the performance of work whatsoever,

including or between traditional crafts, trades, occupations, vocations or callings.

- ▶ work in a safe manner at all times, including properly using all appropriate protective clothing and equipment provided by the Company;
- follow all reasonable directions of the Company to carry out work that is within their skills and competence,
- wear any clothing, personal protective equipment or uniform provided by the Company;
- participate as a team member in accordance with the organisation of work;
- be ready to commence work at the commencement of paid working time;
- undergo training as required;
- undertake medical examinations and/or treatment for injury management and rehabilitation purposes as directed;
- undertake drug and alcohol testing as directed (both random or with cause);
- implement changes to work practices and methods designed to improve performance consistent with the consultation requirements;
- comply with the disputes and grievances procedure as set out in this Agreement;
- comply with and participate in all safety programs and/or safety management systems as in place from time to time and
- Not smoke in any site office, mess/change shed, sanitary facilities, or any other amenities, vehicles, or any areas posted or designated as non-smoking areas.

## **5.2 Nature of Employment**

Employees can be engaged on a casual, part-time or full-time basis. The nature of employment will be stated and agreed to (signed-off by the employee and employer) in the letter of employment.

### **5.2.1 Permanent Employment**

A permanent employee is engaged on a full time basis of 38 paid hours per week averaged over a period of 2 weeks (i.e., 76 hours of rostered work per fortnight). A permanent employee will be required to work a combination of ordinary and overtime hours.

Permanent employees will be classified as either a Rostered Worker or a Non Rostered Worker. Rostered Workers will be rostered to suit the changing work patterns of the employer and will be entitled to 5 weeks annual leave per annum. Non Rostered Workers will work a regular shift pattern during normal hours and will be entitled to 4 weeks annual leave per annum. Rostered Workers and Non Rostered Workers may be required to work overtime as required by the employer.

It is the employer policy that a permanent employee cannot have outside employment, hold any paid office, engage in any paid employment, carry on any business or engage in the private practice of any profession outside of the employer, unless the employer management grants permission in writing. Permanent employees must declare in writing if they currently do, or wish to undertake any other business in addition to their permanent employment with the employer. Management and the employee will need to discuss whether this is acceptable, and come to a mutual agreement on how it will work, to ensure that there is no possible conflict of interest or does not cause a breach of the company's policies and procedures.



### **5.2.2 Casual Employment**

A casual employee engaged to work, will be paid a 25% loading on the base rate that they are employed at in lieu of all leave; public holidays; termination notice period; consultation and dispute settling procedure; redundancy benefits; training and competency conditions; and progression within the classification structure.

The 25% casual loading is not applicable to Travel Allowances. The employer is not obliged to ensure 76hrs per fortnight is guaranteed and may terminate casual employment at any time.

### **5.2.3 Part-Time Employment**

Part-time Employees may be engaged on such hours and terms as are advised to the Employee. All entitlements for part-time Employees under this Agreement shall be proportionate as the Employee's Ordinary Hours relate to full-time Ordinary Hours worked. A part-time employee is engaged to work a regular pattern of hours which are less than thirty eight (38) ordinary hours per week.

Before commencing part-time employment, the employer and the employees concerned must agree upon (the arrangement):

- The hours of work to be worked;
- The days upon which they will be worked;
- Starting and finishing times; and
- The classification applying to the work to be performed.

The employees concerned are entitled to be paid for the hours agreed upon provided they attend for work at the agreed times. The terms of the agreement may be varied by mutual consent. Employees shall be deemed to be employed by the week, except where specifically engaged as a casual Employee, or otherwise provided for in this Agreement

### **5.2.4 Probation Period**

When a permanent employee is first employed he/she will be placed on a probation period of three (3) months, with the ability to extend for a further three (3) months. During the probationary period the employer or employee may terminate the employee's services on the giving of seven (7) days' notice or payment of one week's pay in lieu of notice.

### **5.2.5 Job rotation and multi-skilling**

Job rotation aims to maximise flexibility and efficiency within the workplace, while broadening the employee's skills and experience, and increasing their job satisfaction.

An employee may be transferred to different positions within the organisation at the same classification level. This arrangement will only occur with the agreement with both the employer and employee. Training will be provided where necessary to enable job rotation to occur. If job rotation may be deemed to be a major change and have a significant effect on all employees, it shall be discussed in accordance with the consultative mechanism outlined in clause 2.3.1.

### 5.3 Termination of Employment – Notice Period

A notice period is the amount of notice an employer must give an employee if they plan to terminate the employee's employment. If the employer terminates employment of a permanent employee the following notice shall be provided (in accordance with the National Employment Standards):

Period of continuous service	Notice Period
Not more than 1 year	1 week
More than 1 year, but not more than 3 years	2 weeks
More than 3 years, but not more than 5 years	3 weeks
More than 5 years	4 weeks

The relevant notice period increases by 1 week if the employee is over 45 years old and has completed at least 2 years' continuous service with the employer.

If an employee terminates his employment with the employer, a notice period of two weeks shall apply.

An employee's employment may be terminated without notice for serious misconduct, in accordance with this agreement.

Satisfactory resources shall be applied to investigate serious misconduct instances to ensure a fair and thorough investigation is undertaken without prejudice.

### 5.4 Redundancy

#### 5.4.1 Redundancy Pay

An employee is entitled to be paid redundancy pay by the employer if the employee's employment is terminated due to:

- the employer's initiative because the employer no longer requires the job done by the employee to be done by anyone, except where this is due to the ordinary and customary turnover of labour; or
- because of the insolvency or bankruptcy of the employer

The amount of the redundancy pay equals the total amount payable to the employee for the redundancy pay period worked out using the following table at the employee's base rate of pay for his or her ordinary hours of work:

Period of continuous service with the employer on termination	Redundancy pay period
Less than 1 year	Nil
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks



At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
Greater than 9 years	16 weeks

This redundancy payment will be paid in addition to the notice period prescribed in section 5.3 of this Agreement.

This clause does not apply to a casual employee, an employee terminated during the probationary period, an employee whose employment is terminated because of serious misconduct, an apprentice, an employee (other than an apprentice) to whom a training arrangement applies and whose employment is for a specified period of time or is, for any reason, limited to the duration of the training arrangement.

It is possible for the employer to apply to Fair Work Australia for a determination reducing the liability to pay redundancy pay to a specified amount (that may be nil) if Fair Work Australia considers it appropriate. The employer may apply for the determination if an employee is entitled to redundancy pay, and the employee finds other acceptable alternative employment or the employer cannot pay the amount.

#### **5.4.2 Employee leaving during notice period**

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

#### **5.4.3 Job search entitlement**

An employee given notice of termination in circumstances of redundancy shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment. If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or he or she will not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

#### **5.4.4 Transfer of employment**

The 'transfer of employment' provisions under the Fair Work Act 2009 apply when an employee moves from one employer (the old employer) to another employer (the new employer) within three months, and there is a transfer of business involved.

## **6 HOURS OF WORK – ROSTERED AND OVERTIME**

### **6.1 Hours of Rostered Weekday, Weeknight & Weekend Work**

#### **6.1.1 Full Time Employees**

The rostered hours of work for full-time employees are to be 38 hours per week averaged over a period of 2 weeks (i.e., 76 per fortnight), consisting of a combination of rostered weekday, weeknight, and weekend shifts.

The pattern of work may require rostered hours of work to be between 7.6 and 12 hours per work shift, which are to be worked continuously on any day of the week. Minimum shift duration for machine transfer or travel in work shifts is 4 hours.

Permanent employees will have a Home Depot. Shift start and finish times are deemed to commence/finish at the Home Depot unless employees are directed to commence/finish at a Temporary Depot.

The employees' pay is made on the basis of actual hours worked, not on the planned roster.

### **6.1.2 Casual Employees**

A casual employee is entitled to all of the applicable rates and conditions of employment by this award except annual leave, paid personal/carers leave, paid community leave, notice of termination and redundancy benefits.

When engaging a person for casual employment, the employer must inform the employee, in writing, that the employee is to be employed as a casual, stating by whom the employee is employed, the job to be performed, the classifications level, and the relevant rate of pay.

A casual employee must be paid a casual loading of 25% for the ordinary hours as provided for in this award. The casual loading is paid as compensation for annual leave, personal/carers leave, community service leave, notice of termination and redundancy benefits and public holidays not worked.

A casual employee will be entitled to the penalty rates applicable to the relevant shift times.

- Where the relevant penalty rate is time and a half, the employee must be paid 175% of the ordinary time hourly rate prescribed for the employee's classification.
- Where the relevant penalty rate is double time, the employee must be paid 225% of the ordinary time hourly rate prescribed for the employee's classification.
- Where the relevant penalty rate is double time and a half, the employee must be paid 275% of the ordinary time hourly rate prescribed for the employee's classification.

### **6.1.3 Penalty Rates for Rostered and Overtime Shifts**

The following penalty rates will apply for transit time, rostered shifts and overtime shifts:

- Weekday shifts (Mon – Fri, between 0600hrs and 1800hrs) will be paid at single time (1.0T) for the first 8 hours, time and a half (1.5T) between 8 and 10 hours and double time (2.0T) in excess of 10 hours;
- Weeknight shifts (Mon – Fri, between 1800hrs and 0600hrs) will be paid at time and a half (1.5T) for the first 8 hours and double time (2.0T) in excess of 8 hours;
- Saturday shifts (between 0000hrs and 2400hrs) will be paid at time and a half (1.5T) for the first 4 hours and double time (2.0T) in excess of 4 hours;
- Sunday shifts will be paid at double time (2.0T); and
- Public Holiday shifts will be paid at double time and a half (2.5T).



#### **6.1.4 Rostering Principles**

Rostering will be based on fatigue management principles which:

- Address the opportunity for quantity and quality of sleep, particularly the 'time of day' effect;
- Ensure the number of consecutive shifts (in particular night shifts), shift lengths and roster periods between shifts are considered in roster compilation; and,
- Understand that you have a need to balance the competing requirements of your job with your social and home life.

The parties acknowledge the variations in business requirements for rostered work across the Employer's business. These variations need to be addressed through local level consultation and agreement, which addresses business requirements while ensuring compliance with the rostering principles contained in this Agreement.

Rhombberg Rail rostering principles are:

- Long term work programs (up to 3 monthly) are to be regularly updated and distributed to employees to allow planning of leave entitlements within future work commitments.
- Employee rosters for a 14 day cycle are to be developed based on work requirements and need to take into account the employers fatigue management policy. Rosters will provide indicative shift start and finish times only. These times may vary during the course of the roster due to changing operational requirements.
- Rosters will be posted 7 days in advance of the roster commencement and will only change due to unforeseen circumstances. Employee(s) will be consulted about any changes to their normal ordinary hour's roster. The maximum number of times a shift pattern can be changed is twice in a 14 day period or by mutual agreement.
- Changes after the commencement of the roster period may be required due to changes in work commitments or altered work schedules. Roster changes are to be mutually agreeable between the Company and employees; however the employee must have a legitimate reason to refuse a reasonable alteration.
- Rosters will identify and differentiate both rostered hours and rostered overtime hours/shifts. Any overtime shift not nominated on an employee's roster will be deemed non-rostered overtime.
- Employees are required to undertake a reasonable amount of rostered overtime at the request of the Company.
- Rostered overtime shifts may be cancelled due to unforeseen circumstances. Where possible, the Company will endeavor to find alternative work for the affected employees. In the event that no alternate work is available and the rostered overtime shift is cancelled, Employees will be entitled to the following remuneration for:
  - Shifts cancelled with more than 24 hours' notice – no pay
  - Shifts cancelled with less than 24 hours' notice – 4 hours pay
  - Shifts cancelled after shift commencement – 8 hours pay
- Overtime shifts notified after the commencement of roster period are deemed as non-rostered overtime shifts. Non rostered overtime shifts require mutual agreement between the Company and the affected employees.
- Shift duration shall be planned to be a maximum of 12 hours for a single shift (14 hours



including travel time). Shift durations can be extended upon agreement with individual employees, and compliance with risk assessment that is undertaken in the company's fatigue management policies and procedures.

- Rostered shifts shall be planned to a minimum of 7.6 hours for a single work shift or 4 hours for a travelling in a work shift or machine transfer shift.
- A rest day shall be a minimum of 34 hours. This consists of a 10 hour break at the completion of the last shift plus 24 hours break for the rest day.
- A minimum 10 hour break is to be rostered between work shifts
- Travel time may be taken immediately after a work shift. Total travel and work hours may exceed fatigue management guidelines as long as the employee is not required to drive a vehicle. The minimum break of 10 hours is to commence after the work and travel time is completed.
- Travel time undertaken prior to the commencement of the shift is to be included in the fatigue management calculations.
- Employees are entitled to a minimum of 2 consecutive days at home in a month, unless mutually agreed by the employee and the company.

## **6.2 Transit Time**

### **6.2.1 Start and Finish at Home Depot**

Employees will start and finish at their Home Depot (e.g. Wetherill Park, Thornton, Port Kembla, Gracemere Qld, Jandakot WA) and will not be paid for travelling from their home or place of residence.

Employees may be required to travel to a Temporary Depot (worksite or machine) after commencing at the Home Depot. Transit time between the Home Depot and the Temporary Depot will form part of their rostered working time and will be paid accordingly. Travel arrangements between the Home Depot and the Temporary Depot will be provided by the company.

In the event that employees are required to live away from home overnight and accommodation is not provided by the Company, they will be required to obtain accommodation within 15 minutes of the Temporary Depot. Daily Travel Allowance will be paid to the employee under clause 11 for each night that the employee is required to stay away.

When living away from home, Employees will start and finish their shift at the Temporary Depot with no allowance for travel time from their accommodation. If there is no available accommodation within 15 minutes of the worksite, transit time will be paid between the closest accommodation and the Temporary Depot.

### **6.2.2 Start and Finish at Worksites that are closer to Employee Residence**

Where an employees (usual) residential address is closer to the Temporary Depot than their nominated Home Depot and it is more convenient for the employee to travel directly to the Temporary Depot, the employee may start and finish their shift at the Temporary depot.

The employee shall receive an allowance of \$25.00 per day worked (flat).

This allowance is not applicable to those employees who are required to live away from home and/or are provided adequate Company transport to the work site.



Employees receiving this allowance will start and/or finish their shift on site and will not be entitled to transit time. This allowance is in compensation of all fares and travelling claims.

#### **6.2.3 Start and Finish at Worksites that are further from the Employee Residence**

At times, the Company may instruct an employee to start and finish a rostered shift or block of shifts at a Temporary Depot that is further away from their residential address than their Home Depot.

Employees will be paid "transit time" from their (usual) residential address to the Temporary Depot and return.

The transit time will be calculated using the "direct route" on "Google Maps". Employees will only be paid a maximum transit time of 4 hours. In the event that the Temporary Depot is more than 4 hours from their residential address, the employee will start and finish at the Home Depot and travel time and arrangements will be provided by the company as per clause 6.3.1.

In the event that employees are required to live away from home overnight and accommodation is not provided by the Company, they will be required to obtain accommodation within 15 minutes of the temporary worksite. Daily Travel Allowance will be paid to the employee under clause 11 for each night that the employee is required to stay away.

When living away from home, Employees will start and finish their shift at the temporary worksite with no allowance for transit time. If there is no available accommodation within 15 minutes of the worksite, transit time will be paid between the closest accommodation and the temporary worksite.

At the Company's discretion, compensation for fares and/or private car usage will be paid for travel between the employees (usual) residential address and the temporary worksite.

#### **6.2.4 Special Transit Arrangements (use of private motor vehicle)**

The Company may require an employee to use his private motor vehicle to travel from his nominated residential address to a Temporary Depot. In this event the Company will reimburse the employee on the following basis:

- Between 0 and up to 50km from the employees place of residence to the Temporary Depot at \$27.67 per shift or block of shifts
- Between 51 and up to 100km from the employees place of residence to the Temporary Depot at \$38.43 per shift or block of shifts
- Over 100km from the employees place of residence to the Temporary Depot at \$76.87 per shift or block of shifts
- Employees travelling by private motor vehicles are bound by the employer vehicle policy and safety instructions.
- This arrangement must be approved by the company prior to shift commencement

### **6.3 Meal/Crib Breaks**

Employees will be allowed an unpaid meal break of 30 minutes per shift. Meal breaks should be organised so as to ensure continuity of operations and taken in a flexible manner at any time during the shift to suit the needs of the work group. A meal break shall be taken within six (6) hours of commencing the shift.

An employee working greater than a ten (10) hours shift shall be allowed a crib break of twenty minutes without deduction of pay. The crib break shall be organised to ensure continuity of operations in conjunction with Company policies and procedures.

In the event that a shift is extended beyond 12 hours due to an emergency or other unforeseen circumstance, the Company may provide an appropriate meal to all affected employees in compliance with the risk assessment that is undertaken in the company's fatigue management policies and procedures.

#### **6.4 Rest Periods**

Rest periods between shifts are subject to the company's fatigue management policies and procedures.

Employees shall be rostered to have at least ten (10) consecutive hours off duty between successive shifts.

In most circumstances if extended shifts become necessary, the company's fatigue management policies and procedures allow for extending the finish time of one shift, with adjustment made to the starting time of the next shift, thus still allowing for a 10 hour rest period.

In the unusual situation where extended shifts become necessary to complete critical work and the rest period between shifts (after adjustment) results in less than a 10 hour break, each employee will be firstly consulted, and then work can only proceed if mutually agreed between the employee and employer. This will be subject to the approval process as outlined in the company's fatigue management policies and procedures.

Employees who agree to return to work prior to the conclusion of the 10 hour break will be paid at double time (2.0T) for the next shift or until they can be provided with a 10 hour break.

The arranged shift start time is defined by the roster or by the Supervisor (after liaising with management).



## 7 REMUNERATION AND PAYMENTS

Earnings will take the form of a basic hourly rate in fortnightly payments paid to an employee's nominated bank by electronic funds transfer (EFT).

The wage represents compensation for all time worked as rostered hours as described in Clause 6.1, Hours of Ordinary Rostered Work. The wage rates are inclusive of ordinary hours (based on an average of 38 ordinary hours per week), and all other payments including shift work allowances, disability payment, and all other wage related allowances or allowances for any other responsibilities and conditions except those which are mentioned below.

The 'basic' hourly rate is used for the purposes of calculating long service leave payments, superannuation, and total leave payments. The 'basic' hourly rate consists of the classification rate plus allowance rate which are paid for all ordinary hours worked as described below:

### 7.1 Classifications

The employee will be paid the rate of pay for their appropriate classification as outlined in the table below:

Classification	Date of Certification	First Anniversary	Second Anniversary
Entry Level	23.20	23.78	24.37
Level 1	23.75	24.34	24.95
Level 2	25.57	26.21	26.87
Level 3	28.61	29.32	30.06
Level 4	29.22	29.95	30.70
Level 5	32.01	32.81	33.63
Level 6	34.80	35.67	36.56
Level 7	37.59	38.53	39.49
Level 8	40.37	41.38	42.42
Level 9	45.74	46.88	48.05

These rates represent a 2.5 % increase on each anniversary of the date of certification of this agreement. The classifications for each Group are defined in Appendix 1.

Automatic progression for full time employees will be up to Level 4. This will be based on employees meeting the competency in the classification table (contained in Appendix 1) in a timely manner. An employee will be provided with an appropriate training programme to assist them in achieving this progression.

### 7.2 Superannuation Salary Sacrifice

An employee may apply in writing to the employer to have their gross salary reduced by an amount nominated by the employee as a salary sacrifice superannuation contribution for the benefit of the employee.

The employer must approve the employee's application to salary sacrifice before the employee's salary is adjusted for salary sacrifice contributions.

The employee will receive their reduced salary for periods of annual leave, long service leave, and other periods of paid leave provided the salary sacrifice contribution is paid during these periods.

The total value of the reduced salary and the agreed value of the benefits provided will not be less than the amount that would otherwise be paid if the salary sacrifice arrangement was not in place.

An employee is entitled to terminate their salary sacrifice arrangements provided that at least one month's notice in writing is given to the employer.

In the event that changes in legislation relating to superannuation or taxation remove the employer's capacity to maintain the salary sacrifice arrangements agreed to, the employer will be entitled to withdraw from the salary sacrificing arrangement by giving one month's notice to the relevant employee.

The employer recognises the need for the employee to consider independent financial and taxation advice. The employer recommends that an employee seeks such advice prior to entering into salary sacrifice arrangements.

## **8 SKILLS, TRAINING AND COMPETENCY**

Rhombberg Rail Australia is committed to providing its employees with opportunities for career growth and to make a positive contribution to the success of the business.

The skills and abilities of Rhombberg Rail employees are an integral part of the continued delivery of quality services to our customers. RRA is committed to the on-going development of its employees and where appropriate will include alignment of enterprise competencies to the appropriate National Competency Framework; recognition of prior learning for the purposes of translation and; the provision of training and development programs designed to ensure that work is undertaken and services are provided in a safe, productive and skilful manner.

Training may require employees to undertake traineeships and to gain nationally recognised qualifications established under the relevant training packages and qualification framework. Such training and any associated recognition of prior learning process will be in accordance with the Australian Qualifications Framework and monitored and audited by RRA's partnered Registered Training Provider.

National Competency Standards will be aligned with the Classification Structures set out as part of this Agreement and will be those required to effectively meet and undertake the work requirements of Rhombberg Rail. Employees will be paid in accordance with the wage rates associated with the relevant classification levels contained therein

### **8.1 Classification Competency Structure**

The National Competency Standards aligned to each classification will reflect the full range of competencies that are required for each classification level and will form Appendix 1 of this Agreement.



The Classification Structures contained in this Agreement will display the aligned Job Roles associated with the Rail Industry Worker Portal Work Roles applicable to each classification.

The competencies identified will provide a basis for:

- Establishing Learning Pathways
- Establishing individual and enterprise training plans
- Establishing new or moderating existing training programs for each work stream
- Development of Assessment tools and processes
- Attainment of nationally recognized qualifications

Rhomberg Rail may determine elective competencies specific to each classification or provide additional training specific to its business needs, which will be reflected in the Employee training plans.

Individual training plans will be established in consultation with each Employee and will indicate the required competencies/qualifications for the Employee to satisfy the requirements for the respective existing classification and/or lower classifications and for career progression.

To establish an individual training plan an assessment will be undertaken by Rhomberg Rail to ascertain any gaps in relation to mapped competencies. The Employee will be required to complete the gap training and successfully undergo assessment at or below their respective classification level before they may progress. The individual training plan will be provided within 1 month of being assessed.

Training plans will include a schedule and timetable for implementation of training and assessment. The schedule will take into account minimum qualifying service periods specified for automatic progression for respective levels.

## **8.2 Attainment and Maintenance of Competency**

Employees agree to undertake all of the required tasks, training and assessment required for the position appointed or progressed to. Refusal to do so, or failure to attain or maintain the required competency level, may disqualify an Employee to undertake the duties of the position. This will include continuation of training and undertaking of training and assessment where competencies change or new competencies may be required due to changed job and/or business requirements or changes to legislation. In such case Rhomberg Rail, in consultation with the Employee, will determine whether or not the Employee can undertake duties of an available lower position for which they are qualified and competent. Where this is determined and approved by Rhomberg Rail, the Employee will be paid the wage rate applicable to that lower level.

While Rhomberg Rail is committed to the development of its Employees, the primary focus of the attainment and accreditation of the specific competencies identified is to safely and effectively undertake the duties and responsibilities of the classification structures contained in this Agreement. Such accreditation may contribute to or enable an Employee to attain accreditation of a Certificate level under the Australian Qualification Framework; a Statement of Attainment of individual competencies; or both.

## **9 CLASSIFICATION STRUCTURES – TRANSLATION AND PROGRESSION**

Rhombberg Rail is committed to providing its people with options for both career and personal development. The classification structures contained in this agreement identify specific work streams and the associated specific core position tasks; minimum training course requirements; Core and Elective Workstream competencies; qualification requirements; entry requirements and; the associated progression or appointment arrangements.

The structures provide for:

- Induction and training of new employees;
- Translation of existing employees to new structures
- Appointment of experienced and skilled employees based on recognition of prior learning and competency assessment;
- Limited automatic progression to classification levels based on specific minimum periods of on-job learning and attainment and assessment of individual competency;
- Career progression to supervisory or specialist roles based on business requirements and appointment on merit.

Employees will be paid the wage rates specified in this agreement for undertaking the duties and responsibilities and demonstrating the competencies required of the respective appointed position and not in relation to individual qualifications, skills and competencies held that is not required for the role undertaken.

### **9.1 New Employees**

New employees will be appointed at the appropriate level dependent on existing qualifications; relevant experience ; demonstrated competencies and; must undertake and successfully complete any necessary Company training, work experience and assessment required for the classification level.

### **9.2 Translation**

Employees covered by this Agreement at the time of commencement of its operation will, where necessary, translate into the appropriate new classification stream and level.

Such employees will be required to have the relevant qualifications and base requirements for the translated classification level and possess, or undertake any required training and assessment to obtain, the respective competency requirements in line with the employees training plan.

An Employee subject to translation to the new structures, who does not wish, or is unable to translate to a higher level classification and duties, may elect to translate only to their respective equivalent current classification level and associated pay rates.

No existing Full Time Employee will have their pay level reduced as a result of translation to any new structure that may be established under this Agreement; subject to the employee continuing to undertake, as a minimum, all of the duties and tasks of their positions prior to translation process.



### **9.3 Appointment and Progression within Classification Structures**

The classification structures contained in this agreement provide both for progression of individuals to and through levels via limited automatic progression in specified classifications and by appointment to specified roles based on business needs and merit of applicants.

### **9.4 Appointment**

The classification structures contain specified classifications that are filled only in relation to business requirement as determined by Rhombert Rail from time to time. Where such requirement is approved, selection for these positions will be made based on merit of internal and external candidates

### **9.5 Progression**

Limited automatic progression applies to full time employees on the following classifications:

- Entry Level to Level 1 – 6 months
- Level 1 to Level 2 – 6 months
- Level 2 to Level 3 – 6 months
- Level 3 to Level 4 – 12 months

Progression to Classification Level 5 and above will be by company appointment

Where limited automatic progression applies to a classification level, the following requirements will apply:

Completion of all required training and; demonstration of the required competencies to progress to the higher classification.

Completion of the minimum qualifying period for progression. The relevant Manager of a division may authorise a reduced qualifying period based on possession of relevant experience and/or demonstrated competencies. The Company will take reasonable steps to provide training and undertake assessment of competencies within the specified qualifying period.

Progression to subsequent levels will be subject to the specific requirements for that level, as contained in this Agreement. Where an Employee has completed all necessary training and believes that they possess the necessary competency and qualifications to progress to the next automatic level, they may apply to undertake assessment. Rhombert Rail will make all reasonable efforts to undertake such assessment within 6 weeks of the date of receipt of the application. Where competency assessment is conducted later than 6 weeks from the date of the application and the applicant successfully completes all assessment requirements, the effective date for progression and relevant payment will be six weeks from the date of the application. In the event that the applicant does not successfully complete all assessment requirements, no progression will take place and Rhombert Rail will advise the applicant of the timing for any subsequent assessment. Subsequent appointment will be effective from the date of successful completion of all assessment requirements at the relevant level.

Employees will be required to carry out the full range of duties and training requirements associated with their classification.

## **10 SUPERANNUATION**

Rhombberg Rail Australia, as required by the Superannuation Guarantee (Administration) Act 1992, shall make a superannuation payment, to an approved superannuation scheme nominated by the employee on behalf of each employee.

Provided that ordinary time earnings for the purpose of establishing a valid earnings base under the Superannuation Guarantee (Administration) Act 1992 is calculated by multiplying the basic hourly rate by thirty eight (38).

## **11 TRAVEL ALLOWANCE**

Employees required to undertake duties which do not permit a return to their Home Depot each night shall be paid a Travel Allowance of \$187.00 in Year 1, \$192.00 in Year 2, and \$197.00 in Year 3. When accommodation is provided, only a meal allowance is payable, which will be \$85.00 per day in Year 1, \$87.00 per day in Year 2, and \$89.00 per day in Year 3.

Accommodation must be sought and booked at the closest location to the worksite and within 15 minutes of the worksite (if available). If accommodation is not available, management must be informed.

Such allowance will be payable, in full for the night or part thereof, including authorised paid or unpaid time off, during which the employee is ready, willing and available for work.

An employee who reasonably incurs incidental expenses in excess of the amount herein prescribed shall be granted upon production of receipts such additional amount as the employer approves.

Where the Company provides accommodation it must be single room accommodation for each employee and the accommodation will be to NRMA 3 star standard or its state/territory equivalent.

When accommodation is provided by the Company's client, it will be deemed suitable if it meets the NRMA 3 star standard or its state/territory equivalent.

## **12 ANNUAL LEAVE**

An employee (other than a casual employee) is entitled to four weeks (4) paid annual leave per annum. Rostered Employees shall be entitled to five (5) weeks annual leave. Annual leave is cumulative and accrues on a pro rata basis. Annual leave will be paid at the basic periodic rate of pay the employee receives immediately before the period of annual leave begins.

Annual leave will be credited to an employee upon the completion of each four-week period of service with the employer and is cumulative from year to year.

Annual leave will be paid at the ordinary rate of pay the employee receives immediately before the period of annual leave begins plus an annual leave loading of 20%.

Any authorisation given by an employer enabling an employee to take annual leave during a particular period is subject to the operational requirements of the workplace. However, where an employee requests leave be allowed in one continuous period, such request shall not be unreasonably refused. Annual leave shall be taken in blocks of 7.6 hours per day, thirty-eight (38) per week or seventy-six (76) hours per fortnight. In the event of lack of agreement between the employer and employee the matter may be dealt with in accordance with the grievance procedures.



Employees and their supervisors shall develop rosters to enable the scheduling of annual leave throughout the year to ensure continuity of maintenance and productive operation and an equal distribution of employees on leave.

In the case of extensive accumulated annual leave, the employer can direct an employee to take an amount of annual leave during a particular period if:

- the employee has accrued annual leave of more than 1/13 of the number of nominal hours worked by the employee for the employer during the period of 104 weeks preceding the time that the direction is given, and
- the amount of annual leave the employee is directed to take is less than, or equal to, 1/4 of the amount of accrued annual leave the employee has at the time the direction is given
- Cashing out of annual leave must be requested in writing, and a minimum of four (4) weeks must be remaining as the employee's accrued entitlement, after any cashing out of annual leave.

### **12.1 Stand Down / Useful Employment**

The Company may stand down employees without pay for any time during which the Company determines that an employee cannot be usefully employed through a stoppage of work for which the Company cannot reasonably be held responsible.

The company will consult with the effected employee/s, before implementation of any stand down. The employee/s, will receive written notice outlining the date on which the Stand Down is to commence, the reasons for the Stand Down and the expected duration of the Stand Down. This advice is to be provided at least 48 hours prior to the stand down commencing. The Company will keep affected staff updated on the expected duration of the Stand Down.

The Company will pursue all reasonable means in providing the affected employees with alternate duties prior to initiating the Stand Down. Where no alternative duties are allocated the Company may require Employees to undertake training and/or re-accreditation or clear accrued leave balances.

An Employee will take paid leave, or may elect to take unpaid leave, if their accrued leave balance is less than their annual leave entitlement.

An Employee taking leave under this clause shall be at liberty to take other employment and in the event of him/her so doing, the employee will be responsible to inform the employer of any limitation that secondary employment may place on not reporting for duty after being notified to return to normal duty. It shall be a reasonable excuse for the employee not reporting for duty after being notified to do so if he/she is required to work out a period of notice in such other employment.

The Company shall not be entitled to deduct payment for any public holiday which occurs during a period an Employee is on leave pursuant to this clause.

An Employee on leave pursuant to this clause shall be treated as having continuity of employment.

## **13 PERSONAL / CARER'S LEAVE AND COMPASSIONATE LEAVE**

One of the key efficiency and productivity contributors is high attendance and low absenteeism. For all periods of personal/carer's leave or compassionate leave, an employee must give his or her employer notice of the taking of such leave.

The employer is entitled to request evidence that would substantiate the reason for leave. Failure to either provide notice or, if required, evidence that would satisfy a reasonable person to substantiate the reasons for the leave means the employee is not entitled to the leave.

### **13.1 Personal / Carer's Leave**

The term 'personal/carer's leave' effectively covers both sick leave and carer's leave. The minimum entitlement to paid personal/carer's leave for an employee (other than a casual employee) is 10 days per year.

An employee may take paid personal/carer's leave:

- if they are unfit for work because of their own personal illness or injury or
- to provide care or support to a member of their immediate family or household, because of a personal illness, injury or unexpected emergency affecting the member. A member of the employee's immediate family means a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or a child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner.

An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service according to the number of ordinary hours worked, and can accumulate from year to year. It cannot be cashed out during the term of employment and it will not be paid out to the employee on termination of employment.

Payment for personal/carer's leave will be made at the basic hourly rate. An employee will not be entitled to paid personal/carer's leave for any period during which they are entitled to worker's compensation payments or on public holidays.

The employee is required to notify his or her direct Shift Supervisor or Manager by phone on the morning that the requirement for any quantity of sick leave arises and must advise the employer of the period, or expected period, of the leave.

A Doctor's Certificate will be required by the employer, for the employee to claim sick leave for two days or more consecutively, and also for the case where the sick day falls either side of a book-off day or public holiday.

### **13.2 Unpaid Carer's Leave**

An employee (including a casual employee) is entitled to two days of unpaid carer's leave for each occasion when a member of the employee's immediate family or household requires care or support because of a personal illness, injury, or an unexpected emergency.

An employee may take unpaid carer's leave for each occasion as a single continuous period of up to two days, or any separate periods to which the employee and his or her employer agree. An employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid personal/carer's leave. (This does not apply to casuals who have no entitlement to paid personal/carer's leave.)

### **13.3 Compassionate Leave**

An employee (including a casual employee) is entitled to two days of compassionate leave to spend time with a member of their immediate family or household who has sustained a



life-threatening illness or injury. Compassionate leave may also be taken after the death of a member of the employee's immediate family or household.

An employee may take compassionate leave for each occasion as:

- a single continuous two day period or
- two separate periods of one day each or
- any separate periods to which the employee and his or her employer agree.

If an employee (other than a casual employee) takes a period of compassionate leave, the employer shall pay the employee at the employee's base rate of pay for the ordinary hours they would have worked during the period.

## **14 LONG SERVICE LEAVE**

Subject to the provision of this clause, the Long Service Leave Act or other applicable legislation will apply:

Long Service Leave entitlements will be possible with management approval provided adequate notice is provided. The taking of such leave must not interfere with critical project deadlines and suitable replacement labour can be found if required.

Long Service Leave payment will be made on the basic hourly rate which applied immediately prior to taking Long Service Leave.

## **15 PARENTAL LEAVE AND RELATED ENTITLEMENTS**

The employer will grant unpaid parental leave other related entitlements in accordance with the National Employment Standards outlined in Part 2.2, Division 5 of the Fair Work Act 2009. Key terms are summarised as follows and a copy of the NES provisions will be available on request by the employee.

- Parental Leave: employees are entitled to 12 months of unpaid parental leave, if they have completed at least 12 months of continuous service with the employer.
- Unpaid special maternity leave: an eligible pregnant employee is entitled to take unpaid special maternity leave if the employee is not fit for work
- Transfer to a safe job or 'paid no safe job leave': an eligible pregnant employee has in specified circumstances an entitlement to be transferred to an 'appropriate safe job
- An employee is guaranteed a return to work immediately following a period of unpaid parental leave, entitling them to:
  - their pre-parental leave position or
  - If that position no longer exists, available positions for which they are qualified and suited, which is nearest in status and pay to their pre-parental leave position.
- Employees on unpaid parental leave are entitled to be kept informed of decisions by their employer that will have a significant effect on the status, pay or location of their pre-parental leave position.
- Unpaid pre-adoption leave: all employees (regardless of their length of service) are entitled to up to two days of unpaid pre-adoption leave to attend any interviews or examinations required for the adoption of a child. The employer may, however, direct an employee to

take another form of leave (e.g. paid annual leave) before accessing their unpaid pre-adoption leave entitlement.

The employee must inform the employer of their intention to take unpaid parental leave or related entitlements and the expected duration as soon as possible.

Periods of unpaid parental leave or related entitlements will not count as service for the purpose of accruing leave entitlements but will not break the employee's continuity of service.

## **16 COMMUNITY SERVICE LEAVE**

### **16.1 Jury Service**

An employee required to attend for Jury Service during rostered hours shall notify the Manager as soon as possible prior to the absence of such requirement and the expected duration of attendance for Jury Service.

If an employee is required to attend duty Jury Service on a rostered day the employee shall be paid at the basic hourly rate for the employee's ordinary hours of work for the first 10 days of absence provided the employer receives proof of their attendance and payments received. However the employee is required to pay to the employer any amount of jury fee received by the employee.

### **16.2 Voluntary Emergency Management Activity**

The eligible voluntary emergency management are outlined in the National Employment Standards.

An employee engages in a voluntary emergency management activity only if them:

- engage in an activity that involves dealing with an emergency or natural disaster
- the employee engages in the activity on a voluntary basis
- the employee is a member of, or has a member-like association with, a 'recognised emergency management body' and either:
  - the employee was requested by or on behalf of the body to engage in the activity or
  - No such request was made, but it would be reasonable to expect that if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.

An employee's absence from his or her employment is unpaid and is not covered by community service leave unless the employee complies with the notice and evidence requirements under the Fair Work Act 2009. A copy of the provisions will be made available on request by the employee.

### **CLOTHING AND PROTECTIVE EQUIPMENT**

The following work clothing shall be supplied on engagement of employment and will be replaced on a fair wear and tear basis upon satisfactory proof;

- Five (5) sets work clothing
- One (1) jacket
- One (1) pullover
- Two (2) pair safety boots
- One (1) set of wet weather clothing



If additional clothing is required it may be requested and issued subject to management for approval.

It is a condition of employment that all employees wear high visibility clothing or orange vest at all times at the workplace. It is also a requirement to wear all other safety clothing and protective equipment provided, whilst on a project, and to ensure their proper care and maintenance.

Protective clothing and equipment that is required to meet legislative requirements as well as to provide for the health and safety of employees shall be provided by the business. Replacement of such equipment shall be on a Fair, Wear and Tear basis.

It is a condition of employment that all employees shall abide by all instructions issued for the health and safety of employees and those provided for under legislative requirements. It is also a requirement that employees ensure that items issued receive proper care, maintenance and storage.

## **18 WORKS DURING SUMMER MONTHS IN QUEENSLAND**

In Queensland, employees may wish to commence their shift prior to 6am due to heat considerations. If requested by all the Employees in a work team, shifts may be rostered to commence between 4.00am and 6.00am and single time rates (1.0) will apply for these times.

## **19 INCLEMENT WEATHER**

"Inclement weather" will mean the existence of rain or abnormal climatic conditions (whether they be those of hail, cold, high wind, severe dust storm, extremes of high temperature or the like of any combination thereof), by virtue of which it is either not reasonable or safe for employees exposed thereto to continue working whilst such inclement weather prevails.

If owing to the inclement weather conditions you are unable to work, you will be entitled to be paid for the time lost. In the instance of inclement weather occurring on any one (1) day, the appropriate work health and safety legislation, pre-work brief procedures and safe working method statements will apply.

There will be no deduction of wages for time lost during inclement weather. An Employee or Employees ceasing work of their own volition where inclement weather conditions are not present as referenced in sub clause 3.7.1, will not be entitled to payment for the time lost.

"Inclement Weather" shall mean the existence of abnormal climatic conditions (whether they be those of hail, snow, cold, high wind, severe dust storm, extreme high temperature or the like), by virtue of which it is either unsafe for employees to continue working when exposed to this weather, i.e. If it is deemed safe to work, work should continue unless declared "inclement".

In all cases where emergency or critical work is necessary in these conditions, consideration will be given to ensuring that a safe work place is provided and safe systems of work are employed and wet weather gear is supplied.



Where it is in question as to the impact of the weather on the health or safety of a worker, consultation will be held between the worker and the supervisors concerned to establish the risk of continuing in areas affected by the weather. At all times steps will be taken to ensure that work can continue in a safe and secure manner.

Should a portion of work be affected by inclement weather all other employees not so affected will continue working, even if some employees may be entitled to cease work due to the inclement conditions.

If a portion of work is affected by inclement weather, employees may be transferred to another work location under cover on the site, or to another site not affected by the inclement weather or be provided with temporary cover for the existing location.

Where the weather poses too great a risk to the employee's health or safety, work training will be conducted in unaffected areas.

There must not be unilateral automatic cessation of work in inclement weather. The employer may direct the employees to do other work.

No employee shall lose ordinary pay for time lost due to inclement weather if this Clause has been complied with, but shall not be paid for time not worked if this Clause is not followed.

## **20 EMPLOYEE ASSISTANCE PROGRAM**

Rhombberg Rail Australia has engaged the services of an Employee Assistance Program. This is a confidential automated referral counselling and support service offered to employees to assist with their mental health and wellbeing.

Services are provided by independent specialist practitioners able to provide both short-term and long-term counselling and support to assist with work-related and personal issues.

Employee Assistance Program Australia (EAP) aims to ensure that all Australian workers who experience mental health and other well-being issues are supported, and that they work within positive workplace cultures that are conducive to their mental health and wellbeing.

## **21 USE OF COMPANY VEHICLE**

Where the employer provides the employee with a vehicle for the purpose of travelling to and from the work site, or to carry out their work functions, the employee will ensure that the vehicle is maintained regularly and garaged in a secure location.

The employee will be allowed minimal private use of the employer's vehicle for travel within the employee and employer's local area. Toll fares will be paid by the employee if the vehicle is used for private purposes.

The employee must have a current driver's licence (which is not a learner's permit). The employee is responsible for complying with all laws and regulations that apply to a driver while in control of a motor vehicle for official purposes.

Any traffic offence committed by an employee while in control of the employer's vehicle, including parking fines, will remain the sole responsibility of the employee.

All accidents should be reported immediately to the police and to the employer. The employee will be personally liable for any infringements they incur in these circumstances.

The employee may become liable for repairs to damage vehicles (including other parties), if it becomes apparent that the employee was driving recklessly or if there is an unsatisfactory record of careless driving.

## **22 PERFORMANCE MANAGEMENT**

### **22.1 Performance Review**

Employees will be invited to participate in the Performance Review process. Feedback interviews will be conducted on an annual basis. The interviews will give the employee the opportunity to receive feedback on their performance, assist in the identification of training needs and career development, provide direction for employees to meet individual team and project objectives and provide the opportunity for the employee to give the supervisor feedback on areas where he/she could assist the employee at their work. The Performance Review will be conducted via a discussion between each employee and his/her supervisor. Records of the discussion will be given to the employee and kept on the employee's file.

Areas of review will include but are not limited to:

- productivity;
- safety;
- environmental awareness;
- individual work history (skills audit);
- attitude and job satisfaction;
- team and individual performance targets;
- training requirements; and
- competency.

The overall objective of the Performance Review is to develop a suitable development program for all individuals and to establish mutual feedback in the workplace.



Failure to achieve the targets will trigger a collaborative assessment by the supervisor and the employee to identify factors that have affected performance so as to enable remedial action to be implemented.

## **22.2 Performance Bonus**

At the discretion and timing of management each year, sometime after the declaration of the company's annual results, a bonus for the preceding financial year may be paid to employees.

An employee is eligible to participate in the profit share distribution if they have had continuous service with the employer during the financial year to which the profits relate and are still in service on the date of payment of the bonus. If an employee has had less than the full year's continuous service, the payment will be calculated on a pro rata basis.

The performance payment for employees will recognise 3 components:

- an employee's contribution to company's success and;
- the employee's preparedness to work without demarcation and to take advantage of all multi-skilling opportunities, and
- the employee's Performance Review carried out on each employee individually covering (but not restricted to) their attitude, ability to deliver their duties with quality and efficiency, communication, commitment, enthusiasm, knowledge, and initiative

The employee and the employer agree that this provision excludes the operation of protected conditions which deal with incentive-based payments and bonuses

## **23 ABSENTEEISM PROCEDURE**

The Company philosophy to absenteeism is to focus on encouraging employees to be at work unless they are absent due to genuine illness, injury or approved leave. Where an employee's behaviour is contrary to these goals the management is committed to encouraging good performance by communicating and expectation for improvement.

Where an employee is absent from work without satisfactory notification, or sufficient reason the employee's supervisor will discuss the absence with the employee to ascertain the reason in accordance with the Counselling and Disciplinary Procedures.

## **24 PUBLIC HOLIDAYS**

An employee other than a casual shall be entitled, without loss of pay, to gazetted public holidays in the State or Territory that they are rostered to work in.

## **25 EMPLOYEE ORGANISATIONS**

It is the policy of Rhomberg Rail Australia to provide the best possible environment for our work teams to deliver exemplary results for our clients and stakeholders.

Rhomberg Rail Australia is committed to achieving the highest standards of managing effectively our human resources by encouraging organisational and business development, innovative technologies and enterprise throughout the organisation. The company and its management commits to the fostering of innovation and an intellectual climate accepting the



need for continuous improvement through managed change (internally and externally). To operate in a culture of continuous improvement, it is essential that the company functions as a team across all levels of the organisation, with mutual respect, accountability and responsibility.

As such, Rhomberg Rail Australia recognises the role of employee organisations as important stakeholders to develop and maintain workplace environments which support the company's spirit as described above and which support to increase the attractiveness of the rail industry in general public and on the labour market in particular.

### **25.1 Communication Principles**

This clause shall underpin Rhomberg Rail Australia's commitment to ensure appropriate communication with employee organisations in compliance with current law and in accordance with the following principles:

- Company's senior management is responsible to ensure appropriate communication with the responsible and authorised persons of the employee organisation (officials).
- The employee organisation ensures that only authorised persons employed by the organisation (officials) communicate directly with authorised senior management of the company in relation to workplace matters unless agreed otherwise.
- The communication principles outlined in this clause do not affect any other parts of this Agreement. In particular the process procedures outlined in the clauses of 'Consultation, Communication, Dispute Resolution', 'Counselling and Disciplinary Procedure' and 'Absenteeism Procedure' shall not be affected by the application of this clause.
- The company recognises that the employee organisation may nominate a representative of its organisation which is an employee of the company in order to act on behalf of the employee organisation in certain circumstances and without any unlawful discrimination in their employment (the 'employee organisation's representative').
- The company acknowledges that the 'employee organisation's representative' may participate and speak on behalf of the employee organisation in company meetings when required and agreed between the company and officials of the employee organisation.
- The 'employee organisation representative' may consult with the employee
- Organisation members and officials during meal breaks of a rostered working day and must not interrupt employees who are undertaking their work duties.
- The employer will not be required to pay an 'employee organisation representative' for time spent attending employee organisation business except with respect to training attendance as described in clause 25.2.

In the case that the activities of the 'company organisation representative' are not carried out in accordance with the outlined principles above or his or her behaviour in carrying the tasks is deemed to be not reasonable by the senior management, the following procedure shall apply:

- Senior management of the company shall notify authorised officials of the employee organisation about activities by the 'employee organisation's representative' which are deemed to be not reasonable (e.g. activities which distract the 'employee organisation representative' to the extent that he or she cannot perform his or her primary duties in accordance with the company's policies and procedures, activities which disrupt business operations, influencing employees to discontentment)
- Senior management and employee organisation's officials will discuss and agree on suitable actions to manage the situation and to stop unreasonable behaviour by the



'employee organisation representative' within 10 working days from the notification to the employee organisation.

- If senior management and employee organisation officials cannot agree on suitable actions to manage the situation or if activities continue which are deemed to be not reasonable, the company may commence actions in accordance with clauses 2 or 3 of this Agreement (whichever is applicable).

## **25.2 Employee Organisation Representatives Training**

Rhombberg Rail Australia seeks to establish an extraordinary relationship with its employees by a comprehensive set of modern and innovative management tasks regarding a safe, supportive and team oriented work environment. Rhombberg Rail Australia acknowledges the experience and pro-active approach of employee organisations to develop a modern workplace environment in accordance with the company's work culture. It is also recognised that employee organisations can offer training for their representatives in order to foster the relationship between Rhombberg Rail Australia's management, the employees and the employee organisation.

In order to have access to the employee organisation's potential of developing further a good workplace environment, the company supports training of 'employee organisation representatives' as follows:

- Employee organisation representatives' may attend to up to three training days per year during their working hours (at single time and up to a maximum of eight hours per day). They are not entitled to any expense allowances (e.g. travel allowances), overtime, penalty rates and transit time. Furthermore, company's Fatigue Management policies and procedures must be adhered to when attending trainings (which also includes travelling to and from the training location).
- A maximum of two (2) employees per year may attend training courses organised by the employee organisation. Once the company employs more than 100 full time permanent employees covered under this Agreement, a maximum of four (4) employees may attend the training in accordance with this clause.
- Application to attend these training courses must be submitted to the appropriate manager at least 6 weeks in advance of the training and will be supported by a statement from the relevant employee organisation indicating the relevance of the training to the employee organisation, the employee and to the objective of developing a mutual relationship with the company.
- Training attendance shall only be granted by management, if there are no disruptions to the company's business operations, but training attendance shall not be unreasonable withheld.
- 'Employee organisation representatives' and senior management shall identify opportunities to develop further the workplace environment after the training. In order to achieve this objective, the employee who attended the training shall discuss with management lessons learned from the training and how he or she proposes to implement the newly gained knowledge in accordance with the company spirit described above.

## **26 NO EXTRA CLAIMS**

This agreement provides the only means by which employees are to receive improved remuneration and conditions during its life. There shall be no extra claims in relation to remuneration or conditions for the term of the agreement, save for any "special conditions" as outlined in clause 1.5.2.

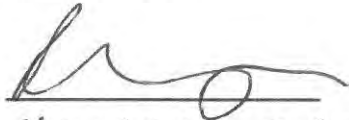




The parties to this Agreement are committed to the provisions contained herein.

Signed for and on behalf of **Rhomberg Rail Australia**

Signature of authorised person



Position/Title:

MANAGING DIRECTOR

Name of authorised person:

RICHARD MORGAN

Address:

9 McIlwraith St  
Wetherill Park 2164

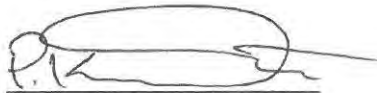
Date:

30/8/2018

Note: the above person is authorised by Rhomberg Rail Australia to sign this Agreement on its behalf.

Signed for and on behalf of the **Employees** to this agreement

Signature of authorised person



Position/Title:

TRACK WELDER

Name of authorised person:

PAULA KATOA

Address:

92 MORT ST BLACKTOWN  
N.S.W 2148

Date:

31.8.18

Signed for and on behalf of the **Rail, Tram and Bus Industry Union (RTBU)** as party to this agreement

Signature of authorised person



Position/Title:

NATIONAL SECRETARY

Name of authorised person:

BOB NANNA

Address:

Suite 210, 4 GILLBURN  
ST STONEP

Date:

31/8/18

**APPENDIX 1: Classification Competency Structure – OVERHEAD LINE**

Classification	Responsibilities	Mandatory Qualifications
<b>L4 Trade Assistant</b>	<ol style="list-style-type: none"> <li>1. Assist with Installation, maintenance and repair the overhead traction power equipment in accordance with predefined work programs to ensure the safe and effective operation of the traction power network.</li> <li>2. Ensure all work is performed in accordance with Workplace Health and Safety (WH&amp;S) requirements and legislative policies.</li> <li>3. Maintain all records and associated documentation required.</li> </ol>	<ol style="list-style-type: none"> <li>1. NHS Cat 3</li> <li>2. Nat Driving License C</li> <li>3. RIW – SW</li> <li>4. High Risk Work License Class – LF</li> <li>5. Working Safely in the Construction Industry (White Card)</li> </ol>
<b>L5 Trade Assistant Skilled</b>	<ol style="list-style-type: none"> <li>1. Assist with Installation, maintenance and repair the overhead traction power equipment in accordance with predefined work programs to ensure the safe and effective operation of the traction power network.</li> <li>2. Ensure all work is performed in accordance with Workplace Health and Safety (WH&amp;S) requirements and legislative policies.</li> <li>3. Maintain all records and associated documentation required.</li> </ol>	<ol style="list-style-type: none"> <li>1. NHS Cat 3</li> <li>2. Nat Driving License HR</li> <li>3. RIW – SW (PTA WA)</li> <li>4. Provide First Aid</li> <li>5. Work Safely at Heights</li> <li>6. High Risk Work License Class – LF</li> <li>7. High Risk Work License Class – DG</li> <li>8. High Risk Work License Class – RB</li> <li>9. High Risk Work License Class – WP</li> <li>10. High Risk Work License Class – CV</li> <li>11. RIIMPO301D Conduct Hydraulic Excavator Operations</li> <li>12. RISAM204D Operate Small Plant and Equipment: Quick Cut Saw</li> <li>13. High Risk Class VOC</li> <li>14. Working Safely in the Construction Industry (White Card)</li> <li>15. UETDRRF08B Perform EWP controlled descent escape</li> </ol>



<b>L5 OLE/Traction Rigger</b>	<ol style="list-style-type: none"> <li>1. Install, maintain and repair the overhead traction power equipment in accordance with predefined work programs to ensure the safe and effective operation of the traction power network.</li> <li>2. Ensure all work is performed in accordance with Workplace Health and Safety (WH&amp;S) requirements and legislative policies.</li> <li>3. Ensure all work is performed in accordance with technical and operational specifications and standards.</li> <li>4. Maintain all records and associated documentation required.</li> </ol>	<ol style="list-style-type: none"> <li>1. NHS Cat 1</li> <li>2. RIW – SW, (PTA WA)</li> <li>3. Provide First Aid</li> <li>4. Work Safely at Heights</li> <li>5. High Risk Work License Class – LF</li> <li>6. High Risk Work License Class – DG</li> <li>7. High Risk Work License Class – RB</li> <li>8. High Risk Work License Class – WP</li> <li>9. Nat Driving License MR</li> <li>10. TLIC2058 Travel Medium or Heavy self-Propelled on-track Equipment</li> </ol>
	<ol style="list-style-type: none"> <li>5. Report on actual work performed against scheduled work program.</li> <li>6. Progress the implementation and application of work procedures and practices in pursuit of ensuring continuous quality improvement.</li> </ol>	<ol style="list-style-type: none"> <li>11. TLIC2059 Travel Propel and Operate light on-track equipment</li> <li>12. TLIC3045 Operate road/rail vehicle</li> <li>13. Machine specific RRV Familiarisation training</li> <li>14. High Risk Class VOC</li> <li>15. UETDRRF03B Perform EWP rescue</li> <li>16. UETDRRF08B Perform EWP controlled descent</li> <li>17. Working Safely in the Construction Industry (White Card)</li> </ol>
<b>L6 Specialist OLE Rigger/ Traction</b>	<ol style="list-style-type: none"> <li>1. Install, maintain and repair the overhead traction power equipment in accordance with predefined work programs to ensure the safe and effective operation of the traction network.</li> <li>2. Ensure all work is performed in accordance with Workplace Health and Safety</li> </ol>	<ol style="list-style-type: none"> <li>1. NHS Cat 1</li> <li>2. PTA RIW – SW, PO1, PO2, RRV (PTA)</li> <li>3. Provide First Aid</li> <li>4. Work Safely at Heights</li> <li>5. High Risk Work License Class – LF</li> </ol>

<b>Rigger Advanced</b>	<p>(WH&amp;S) requirements and legislative policies.</p> <ol style="list-style-type: none"> <li>3. Ensure all work is performed in accordance with technical and operational specifications and standards.</li> <li>4. Maintain all records and associated documentation required.</li> <li>5. Report on actual work performed against scheduled work program.</li> <li>6. Progress the implementation and application of work procedures and practices in pursuit of ensuring continuous quality improvement.</li> </ol>	<ol style="list-style-type: none"> <li>6. High Risk Work License Class – RA</li> <li>7. High Risk Work License Class – WP</li> <li>8. High Risk Work License Class – CV</li> <li>9. RIISAM204D Operate Small Plant and Equipment: Quick Cut Saw</li> <li>10. FWPCOT2237 Maintain chainsaws</li> <li>11. FWPCOT2239 Trim and cut felled trees</li> <li>12. AHCARB205A Operate and maintain chainsaws</li> <li>13. Nat Driving License HR</li> <li>14. UETDRT29A Operate rail road vehicle</li> <li>15. Machine specific RRV Familiarisation training</li> <li>16. High Risk Class VOC</li> <li>17. UETDRTF03B Perform EWP rescue</li> <li>18. UETDRTF08B Perform EWP controlled descent</li> <li>19. Working Safely in the Construction Industry (White Card)</li> <li>20. TLIC2058 Travel Medium or Heavy self-propelled on-track equipment</li> <li>21. TLIC2059 Travel propel and operate light on-track equipment</li> <li>22. TLIC3045 Operate road/rail vehicle</li> </ol>
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<b>L7 Traction Linesperson</b>	<ol style="list-style-type: none"> <li>1. Install, maintain and repair the overhead traction power equipment in accordance with predefined work programs to ensure the safe and effective operation of the traction power.</li> <li>2. Ensure all work is performed in accordance with Workplace Health and Safety (WH&amp;S) requirements and legislative policies including work activities performed by subordinate employees.</li> <li>3. Ensure all work is performed in accordance with technical and operational specifications and standards including work activities performed by subordinate employees.</li> <li>4. Maintain all records and associated documentation required.</li> <li>5. Report on actual work performed against scheduled work program and equipment performance and condition irregularities.</li> </ol>	<ol style="list-style-type: none"> <li>1. NHS Cat 1</li> <li>2. UET30712 Certificate III in ESI Traction Linesperson</li> <li>3. RIW – SW, PO1, PO2, RRV (PTA WA)</li> <li>4. Perform Pole Top Rescue 12Mth</li> <li>5. Senior First Aid</li> <li>6. Work Safely at Heights</li> <li>7. High Risk Work License Class – LF</li> <li>8. High Risk Work License Class – DG</li> <li>9. High Risk Work License Class – RB</li> <li>10. High Risk Work License Class – WP</li> <li>11. High Risk Work License Class – CV</li> <li>12. RIISAM204D Operate Small Plant and Equipment: Quick Cut Saw</li> <li>13. FWPCOT2237 Maintain chainsaws</li> <li>14. FWPCOT2239 Trim and cut felled trees</li> </ol>
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	6. Progress the implementation and application of work procedures and practices in pursuit of ensuring continuous quality improvement.	15. AHCARB205A Operate and maintain chainsaws 16. Nat Driving License HR 17. UETTDRT29A Operate rail road vehicle 18. Machine Specific RRV Familiarisation Training 19. High Risk Class VOC 20. UETTDRRF03B Perform EWP rescue 21. UETTDRRF08B Perform EWP controlled descent 22. Working Safety in the Construction Industry (White Card) 23. TLIC2058 Travel Medium or Heavy self-propelled on-track equipment 24. TLIC2059 Travel propel and operate light on-track equipment 25. TLIC3045 Operate road/rail vehicle
<b>L8 Senior Traction Linesperson</b>	1. Install, maintain and repair the overhead traction power equipment in accordance with predefined work programs to ensure the safe and effective operation of the traction power. 2. Ensure all work is performed in accordance with Workplace Health and Safety (WH&S) requirements and legislative policies including work activities performed by subordinate employees. 3. Ensure all work is performed in accordance with technical and operational specifications and standards including work activities performed by subordinate employees. 4. Maintain all records and associated documentation required. 5. Report on actual work performed against scheduled work program and equipment performance and condition irregularities. 6. Progress the implementation and application of work procedures and practices in pursuit of ensuring continuous quality improvement. 7. Carry out Training and Assessment.	1. NHS Cat 1 2. UET30712 Certificate III in ESI Traction Linesperson 3. RIW – SW, PO1, PO2, RRV (PTA WA) 4. Perform Pole Top Rescue 12Mth 5. Senior First Aid 6. Work Safely at Heights 7. High Risk Work License Class – LF 8. High Risk Work License Class – DG 9. High Risk Work License Class – RB 10. High Risk Work License Class – WP 11. High Risk Work License Class – CV 12. RIISAM204D Operate Small Plant and Equipment: Quick Cut Saw 13. FWPCOT2237 Maintain chainsaws 14. FWPCOT2239 Trim and cut felled trees 15. AHCARB205A Operate and maintain chainsaws 16. Nat Driving License HR 17. UETTDRT29A Operate rail road vehicle 18. Machine Specific RRV VOC 19. High Risk Class VOC 20. UETTDRRF03B Perform EWP rescue 21. UETTDRRF08B Perform EWP controlled descent

		22. Working Safely in the Construction Industry (White Card) 23. TAE40110 – Certificate IV in Training and Assessment 24. TLIC2058 Travel Medium or Heavy self-propelled on-track equipment 25. TLIC2059 Travel propel and operate light on-track equipment 26. TLIC3045 Operate road/rail vehicle
L9 OLE Supervisor	1. Install, maintain and repair the overhead traction power equipment in accordance with predefined work programs to ensure the safe and effective operation of the traction power. 2. Ensure all work is performed in accordance with Workplace Health and Safety (WH&S) requirements and legislative policies including work activities performed by subordinate employees. 3. Ensure all work is performed in accordance with technical and operational specifications and standards including work activities performed by subordinate employees. 4. Maintain all records and associated documentation required. 5. Report on actual work performed against scheduled work program and equipment performance and condition irregularities. 6. Progress the implementation and application of work procedures and practices in pursuit of ensuring continuous quality improvement. 7. Carry out Training and Assessment. 8. Supervision of major/medium construction installations 9. Create and implement onsite work packs including SWMS and WMS as per RRA Policies and work practices. 10. Team rostering and onsite resource management.	1. NHS Cat 1 2. UET30712 Certificate III in ESI Traction Linesperson 3. RIW – SW, PO1, PO2, RRV (PTA WA) 4. Perform Pole Top Rescue 12Mth 5. Senior First Aid 6. Work Safely at Heights 7. High Risk Work License Class – LF 8. High Risk Work License Class – DG 9. High Risk Work License Class – RB 10. High Risk Work License Class – WP 11. High Risk Work License Class – CV 12. RIISAM204D Operate Small Plant and Equipment: Quick Cut Saw 13. FWPCOT2237 Maintain chainsaws 14. FWPCOT2239 Trim and cut felled trees 15. AHCARB205A Operate and maintain chainsaws 16. Nat Driving License HR 17. UETTDRT29A Operate rail road vehicle 18. Machine Specific RRV VOC 19. High Risk Class VOC 20. UETTDRTF03B Perform EWP rescue 21. UETTDRTF08B Perform EWP controlled descent 22. Working Safely in the Construction Industry (White Card) 23. TAE40110 – Certificate IV in Training and Assessment 24. TLIC2058 Travel Medium or Heavy self-propelled on-track equipment 25. TLIC2059 Travel propel and operate light on-track equipment 26. TLIC3045 Operate road/rail vehicle 27. BSB40812 - Certificate IV in Frontline Management



**APPENDIX 2:      Classification Structure – TRACK**

**Refer Attached**

## APPENDIX 2 – Classification Competency Structure – TRACK/RESURFACING

Classification	MINIMUM REQUIREMENTS	ESSENTIAL ELECTIVES	RRA COMMON ELECTIVES
Entry	Medical RRA Company Induction Construction Industry Safety Card (WHITE CARD) RIS1 and NTSA		
L1	All core units from TL121311 + 1 RRA ESSENTIAL Electives	Motor vehicle license Senior first aid	Group A COMMON Electives
L2	As per L1 + 1 specialist elective group from TL121311 (A, B OR C) + 1 RRA L2 ESSENTIAL Electives + 2 RRA Group A COMMON Electives	TL1S3039A Measure and mark track for resurfacing TL1S2013C Install minor structures	SOP 03 Isolation Procedure SOP 04 Environmental Procedures SOP 13 Fuelling Procedure Competent IT user (excel, word, projects, etc)
L3	As per L2 + An additional specialist elective group from TL121311 or TL121911 + 3 RRA Group A COMMON Electives + 1 RRA Group B COMMON Electives		Group B COMMON Electives
L4	As per L3 + 1 L4 RRA ESSENTIAL Electives + 2 RRA Group B COMMON Electives	TL1SS00053 Skill Set - Track Occupancy Protection Plant Operator (Non -High Risk)	Truck Driver MR/HR Working at Heights Traffic Controller Operate a 4x4 Track Vehicle Operator Track Machine Operator Drug and Alcohol tester Electrical Test & Tagger Proven/Qualified Minor Plant repairer Track machine Laser Trolley operator SOP 05 Minor Hydraulic System Repairs SOP 06 Hydraulic Cylinder Replacement SOP 07 Wear Plate Replacement SOP 08 - Brake Shoe Replacement SOP 09 Engine oil Change SOP 10 Tamping Tool Replacement SOP 11 Cross Conveyor Belt Replacement SOP 12 Track Machine Coupling Procedure SOP ? Installing and Removing broom tufts RRA-00200 Resurfacing Measuring RRA-00300 Front Tower Operations RRA-00500 Machine Inspections Proven Team Leader
L5	AS PER L4 + TL121311 Cert II in Rail Infrastructure (TRACK WORK) or TL121311 Cert II in Rail Infrastructure (STRUCTURES) or TL121311 Cert II in Rail Infrastructure (TRACK SURFACING) or TL1 21911 Cert II in Track Protection (TRACK WORK) or TL1 21911 Cert II in Track Protection (HANDSIGNALLER) using general electives from TL121311 or TL121911 + 1 L5 RRA ESSENTIAL Elective (not previously used in L4/L5) + 3 RRA Group B COMMON ELECTIVES	TL1SS00053 Skill Set - Track Occupancy Protection Plant Operator (Non-High Risk) TL121311 Cert II in Rail Infrastructure (TRACK WORK) TL121311 Cert II in Rail Infrastructure (STRUCTURES) TL121311 Cert II in Rail Infrastructure (TRACK SURFACING) TL121911 Cert II in Track Protection (TRACK WORK) TL121911 Cert II in Track Protection (HANDSIGNALLER) Proven IT user (excel, word, emailing etc)	
L6	As per L5 + TL132511 Cert III in Rail Infrastructure OR TL131811 Cert III in Rail Track Surfacing OR TL132311 Cert III in Rail Structures OR TL1 32711 Cert III in Track Protection + 1 L6 RRA ESSENTIAL Elective (not previously used in L6) + 4 RRA Group B COMMON Electives	TL132511 Cert III in Rail Infrastructure TL131811 Cert III in Rail Track Surfacing TL132511 Cert III in Rail Structures TL132711 Cert III in Track Protection Trade Certificate (deemed relevant by RRA) BRAD Tamper operator	



			<p>Group C COMMON Electives</p> <p>Proven Hydraulic skills Proven Electronics skills Proven track machine calibration skills Professional RRA IT user Signal Electrician Advanced Mechanical skills Advanced Electrical skills Network Controller Proven knowledge / implementation of track design Proven operator of all RRA resurfacing machines Supervision of Minor Const/Maint/Resurfacing</p>
L7	<p>As per L6 + 2 L7 RRA ESSENTIAL Electives (not previously used in L6 or L7) + 1 RRA Group C COMMON Elective</p>	<p>TLI32511 Cert III in Rail Infrastructure TLI31811 Cert III in Rail Track Surfacing TLI32511 Cert III in Rail Structures TLI 32711 Cert III in Track Protection BRAD Tamper operator Trade Certificate (3 Years track machine experience) Proven Operator 2x Resurfacing consists (T/O and Plain)</p>	<p>Group D COMMON Electives</p>
L8	<p>As per L7 + TLI42311 Certificate IV in Rail Infrastructure + 2 L8 RRA ESSENTIAL ELECTIVES (NOT PREVIOUSLY USED IN L6 OR L7 OR L8) + 2 RRA Group C COMMON ELECTIVES + 1 RRA Group D COMMON ELECTIVES</p>	<p>TLI32511 Cert III in Rail Infrastructure TLI31811 Cert III in Rail Track Surfacing TLI32511 Cert III in Rail Structures TLI 32711 Cert III in Track Protection BRAD Tamper operator Trade Certificate (4 Years track machine experience) Proven Operator 2x Resurfacing consists (T/O and Plain) Safeworking (Traffic Officer)</p>	
L9	<p>As per L8 + TLI42311 Cert IV in Rail Infrastructure (Both Specialist Elective Groups) + 2 L8 RRA ESSENTIAL Electives (not previously used in L6 or L7) + 2 RRA Group D COMMON Electives</p>	<p>Supervision of Major/Medium Construction Cert IV Trainer and Assessor Cert IV in Frontline Management RRA and Rail Standards Development Proven Engineer Proven Project Manager Proven Tendering / Estimating skills</p>	<p>RRA-00400 Leadership Manage Track machine or Train Pathing Team Rostering Track Inspection Analyse and Reporting</p>

Note 1 - All units are to follow an individual training plan as set out by RRA to ensure the units completed address the needs of the business and our clients. The training plans can and will be updated when required at the discretion of RRA. Training plans will be available for staff that do not meet the requirements to fulfil their proposed pay grade. Refusal to fulfil the training plan will result in reduction of the proposed pay grade. Where training has not been made available to the employees, the employees will not be disadvantaged and maintain their proposed pay grade. Additional training plans for staff progression beyond the proposed grades may be developed at the discretion of RRA.

Note 2 - Many units and classifications have been designed to meet the needs of the Rail Safety Worker competency systems set out by RRA's clients. At times these systems are updated and will require additional units to be completed to remain competent for the roles being performed. It is the requirement that all staff will complete additional units to comply with this system to maintain their grade.

Note 3 - Any units completed must be verified by RRA to ensure they meet the minimum requirements of the business. These may include but not limited to accredited licences, nationally recognised certificates (current or acceptable like units), RRA documented internal assessments, etc.

Note 4 - The additional Certificates II and III that form part of the RRA essential electives may be substituted by approved skill sets at the discretion of RRA.

Note 5 - In some circumstances, employees may not have to complete the structure set out in the classification table above providing the employee has additional skills that meets RRA's and their clients requirements.

Note 6 - Automatic progression to Level 4 for Permanent Fulltime staff within 18 months from commencement of their employment applicable only from the sign off date of this Agreement.





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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.

## IN THE FAIR WORK COMMISSION

**FWC Matter No.:**

AG2018/4948

**Applicant:**

Rhomberg Rail Australia

**Section 185 – Application for approval of a single enterprise agreement**

### Undertaking- Section 190

I, Richard Morgan, Managing Director for Rhomberg Rail Australia give the following undertakings with respect to the Rhomberg Rail Australia Enterprise Agreement 2018-2021 ("the Agreement");

1. I have the authority given to me by Rhomberg Rail Australia to provide this undertaking in relation to the application before the Fair Work Commission.
2. Rhomberg Rail Australia hereby undertakes, where there is an inconsistency between this agreement and the NES, and the NES provides greater benefit, the NES provision will apply to the extent of the inconsistency.
3. Rhomberg Rail Australia hereby undertakes, that all Rostered Workers shall be entitled to five (5) weeks annual leave per annum.
3. Rhomberg Rail Australia hereby undertakes, to not unreasonably withhold permission from our employees to hold outside employment, hold any paid office, carry on any business or engage in any private practice of any profession outside the employer, whereby our Policies and Procedures are met and there is no conflict of interest.
4. Rhomberg Rail Australia hereby undertakes, where an employee is recalled for overtime, after they have left the premises of the employer, the employee shall be paid a minimum four hours.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

**Signature**



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**Date**

6 December 2018