



# DECISION

*Fair Work Act 2009*

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

**Watco Transportation Services Pty Ltd**  
(AG2021/45)

## **WATCO WA TRANSPORTATION SERVICES PTY LTD MAINTENANCE AND ROLLINGSTOCK AGREEMENT 2020**

Manufacturing and associated industries

DEPUTY PRESIDENT BEAUMONT

PERTH, 19 FEBRUARY 2021

*Application for approval of the Watco WA Transportation Services Pty Ltd Maintenance and Rollingstock Agreement 2020.*

[1] Watco Transportation Services Pty Ltd has made an application for the approval of an enterprise agreement known as the *Watco WA Transportation Services Pty Ltd Maintenance and Rollingstock Agreement 2020* (the **Agreement**). The application was made under s 185 of the *Fair Work Act 2009* (Cth) (the **Act**). The Agreement is a single enterprise agreement.

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

[3] In compliance with s 190(4) of the Act, the bargaining representative's views regarding the undertakings proffered were sought. They were provided with the opportunity to raise and address any objections they had to the undertakings proffered by the Applicant. No objection was raised.

[4] Subject to the undertakings referred to above, and on the basis of the material contained in the application and accompanying declarations, 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.

[5] The "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU) (the **organisation**), 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), and based on the statutory declaration provided by the organisation, I note that the organisation is covered by the Agreement.

[6] The Agreement was approved on 19 February 2021 and, in accordance with s 54, will operate from 26 February 2021. The nominal expiry date of the Agreement is 19 February 2024.



DEPUTY PRESIDENT

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## Annexure A



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IN THE FAIR WORK COMMISSION

FWC Matter No.:  
AG2021/45

Applicant:  
Watco WA Transportation Services Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

### Undertaking – Section 190

I, Cameron Swaine, Vice President Maintenance and Rolling Stock have the authority given to me by Watco WA Transportation Services Pty Ltd ("Watco") to give the following undertakings with respect to the Watco WA Transportation Services Pty Ltd Maintenance and Rolling Stock Agreement 2020 ("the Agreement"):

1. Watco undertakes that the 84 hours over a Roster Cycle Period as referenced in clause 20.1 of the Agreement consists of a period of 14 days which is made up of two Roster Cycles as defined in clause 27.2 of the Agreement.
2. A Roster Cycle as defined in clause 27.1 is seven days from 0000 Sunday to 2359 Saturday. A Roster Cycle constitutes 38 ordinary hours, plus 4 reasonable additional hours per Roster Cycle for the purposes of sections 62 and 63 of the FW Act.
3. Hours of work will otherwise be in accordance with the Agreement.
4. The terms are defined as per the Agreement.

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

**Customer First - Safety Always!**



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Section 185 – Application for approval of a single enterprise agreement

### Undertaking – Section 190

I, Cameron Swaine, Vice President Maintenance and Rolling Stock have the authority given to me by Watco WA Transportation Services Pty Ltd ("Watco") to give the following undertakings with respect to the Watco WA Transportation Services Pty Ltd Maintenance and Rolling Stock Agreement 2020 ("the Agreement"):

1. Watco undertakes that for the purposes of clause 16, the Company will provide the Team Member the applicable notice of termination pursuant to s117-123 of the Fair Work Act 2009 and clause 15.2 of the Agreement.

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

Cameron Swaine  
Signature

8/2/2021  
Date

***Customer First - Safety Always!***



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West Perth, WA 6005  
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IN THE FAIR WORK COMMISSION

**FWC Matter No.:**  
AG2021/45

**Applicant:**  
Watco WA Transportation Services Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

## Undertaking – Section 190

I, Cameron Swaine, Vice President Maintenance and Rolling Stock have the authority given to me by Watco WA Transportation Services Pty Ltd ("Watco") to give the following undertakings with respect to the Watco WA Transportation Services Pty Ltd Maintenance and Rolling Stock Agreement 2020 ("the Agreement"):

1. Watco undertakes that for the purposes of clause 17.3, the Company will in accordance with s 120(2) of the Fair Work Act 2009, seek a determination by the Fair Work Commission to reduce the amount of redundancy pay that would otherwise be payable if Watco has obtained other acceptable employment for the Team Member.
2. Clause 17.3.1 will not be valid and Point (1) above shall overwrite this clause.

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

Cameron Swaine  
Signature

8/2/2021  
Date

***Customer First - Safety Always!***



# **Watco WA Transportation Services Pty Ltd Maintenance and Rollingstock Agreement 2020**

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

## **GENERAL INFORMATION**

### **1 TITLE**

- 1.1 This Agreement shall be known as the Watco WA Transportation Services Pty Ltd Maintenance and Rollingstock Agreement 2020.

### **2 SCOPE AND APPLICATION**

- 2.1 This Agreement is a collective agreement made pursuant to The Fair Work Act 2009 (Cth) [Act], as amended or varied from time to time.
- 2.2 This Agreement shall be binding upon Watco WA Transportation Services Pty Ltd ("the Company"), Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU) and Team Member(s) employed from time to time by the Company in one of the Classifications detailed in Appendix 2 to this Agreement ("Team Members") who perform maintenance work in the rail supply chain at locations in Western Australia below latitude 26 degrees South.

### **3 TERM OF OPERATION**

- 3.1 This Agreement will commence operation seven (7) days after it is approved by the Fair Work Commission and will have a nominal expiry date of three (3) years after the date that it is approved by the Fair Work Commission.
- 3.2 Re-negotiations of this Agreement will take place approximately three (3) months prior to the expiry of the Agreement.

### **4 RELATIONSHIP TO PREVIOUS AWARDS OR AGREEMENTS**

- 4.1 This Agreement supersedes all previous awards, agreements and orders of the FWC and its predecessors, and all awards, agreements and orders of any State or Territory that would otherwise apply to the Company or Team Members under the Agreement. This Agreement will be lodged with the FWC.
- 4.2 This Agreement will be read and interpreted in conjunction with the applicable relevant Award and the NES.
- 4.3 Where there is inconsistency in the terms between this Agreement and the Award, the terms of this Agreement shall prevail to the extent of any inconsistency. In the event the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

### **5 GLOSSARY OF TERMS**

- 5.1 The following terms which appear throughout this Agreement are defined as follows:

<b><u>TERM</u></b>	<b><u>MEANING</u></b>
<b>Act</b>	means the <i>The Fairwork Act 2009</i> (Cth), as amended or varied from time to time.

<b>Agreement</b>	means the Watco WA Transportation Services Pty Ltd maintenance and Rollingstock Agreement 2020.
<b>Award</b>	Refers to the Manufacturing and Associated Industries and Occupations Award 2020.
<b>Annual Wage</b>	means an annual wage that is paid over 52 weeks per year (the 52 weeks included the Team Member's annual leave weeks' entitlement).
<b>Company</b>	means Watco WA Transportation Services Pty Ltd (ABN 72 153 426 601).
<b>Counted Hours</b>	Means 84 rostered Ordinary Hours in the Roster Cycle Period.
<b>Foundation Principles</b>	Watco guiding business principles designed to provide Workplace Safety, outstanding customer service and improved profitability in all areas of operations.
<b>Guide Roster</b>	means a guide roster which will exhibit known working, including sign on and sign off times and all RDOs in a Depot, with the exception of blank line rosters. Sign on/off times may be altered in the construction of roster cycles but should reflect the Guide Roster as close as possible (subject to operational requirements and leave arrangements).
<b>Immediate Family</b>	means a Team member's spouse, de facto partner, child, parent, grandparent, grandchild or sibling (or a child, parent, grandparent, grandchild or sibling of the Team Member's spouse or de facto partner).
<b>NES</b>	The National Employment Standards contained in Chapter 2 Part 2-2 of the Act.
<b>Non-Operational Work</b>	means work which is not rail safety critical work, i.e. car driving.
<b>Operational Roster</b>	means a roster developed from a guide roster to provide detail of attendance requirements. Operational rosters allocate Team Members to work lines, shifts and adjust the rostered work to accommodate work variations, planned leave, and/or any other issues known at the time of posting.
<b>Ordinary Hours</b>	Means the hours that are regularly worked each Roster Cycle by a full time and part time Team Member, and these hours do not attract overtime rates. Ordinary Hours in a Roster Cycle Period are 84 hours.
<b>Roster Cycle</b>	means a designated period of work commencing from 0000 hours Sunday to 2359 hours Saturday.

<b>Roster Cycle Period</b>	means the grouping of Roster Cycles aligned to the Company's fortnightly Pay cycle.
<b>Rostered Day Off (RDO)</b>	means a scheduled non-working day that occurs in a Roster Cycle. RDOs must be identified in all guide and operational rosters.
<b>Serious Misconduct</b>	<p>For the definition of <i>Serious Misconduct</i>, Serious Misconduct has its ordinary meaning. Further conduct that is Serious Misconduct includes the following:</p> <p>(a) wilful or deliberate behaviour by a Team Member that is inconsistent with the continuation of the contract of employment;</p> <p>(b) conduct that causes serious and imminent risk to:</p> <p>(i) the health or safety of a person; or</p> <p>(ii) the reputation, viability or profitability of the employer's business.</p> <p>(c) the Team Member, in the course of the Team Member's employment, engaging in:</p> <p>(i) theft; or</p> <p>(ii) fraud; or</p> <p>(iii) assault;</p> <p>(d) the Team Member being intoxicated (under the influence of Alcohol or Drugs) at work;</p> <p>(e) the Team Member refusing to carry out a lawful and reasonable instruction that is consistent with the Team Member's contract of employment.</p>
<b>Shiftworker</b>	<p>For the purpose of the additional week of annual leave provided for in section 87(1)(b) of the Act, a shiftworker is a 7-day shiftworker who is regularly rostered to work on Sundays and public holidays.</p> <p>Definition as per clause 34.2 of the Award.</p>
<b>Team Member</b>	means an employee of the Company covered by this Agreement.
<b>Temporary Deployment</b>	Means a type of working that requires a Team Member, for the purpose of servicing the Customer's needs, to be deployed to a place other than their Home Depot. It includes expenses and temporary transfers.
<b>Union (AMWU)</b>	means the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU).

## **CONTRACT OF EMPLOYMENT**

### **6 COMMITMENTS**

- 6.1 The parties to this Agreement agree that the fundamental objective of the Company, its management and Team Members is to provide safe and effective service to its customers in accordance with the Watco Foundation Principles as defined in Clause 7 of this Agreement.
- 6.2 Accordingly, the parties agree that in interpreting and implementing this Agreement, paramount emphasis shall be placed on interpretations that enhance providing efficient service to customers and the achievement of the Watco Foundation Principles.
- 6.3 The purpose of this Agreement is to benefit the Company, its customers and Team Members performing work under this Agreement.
- 6.4 The parties to this Agreement recognise the vital importance of on-time and reliable provision of services to customers of the Company. To ensure that this service is provided, the parties to this Agreement give a commitment to make every possible effort to avoid disruption to services.
- 6.5 All parties to this Agreement further commit that any differences must be settled through the Dispute Settling Procedure in the Agreement.

### **7 FOUNDATION PRINCIPLES**

- 7.1 The parties to this Agreement agree that the Watco Customer First Foundation Principles will be used to guide all lawful decisions, actions and deeds of the Team Members while performing assigned duties for Watco.
- 7.2 Team Members while performing their assignments will always work to improve Watco's Customer satisfaction with Watco rail service by delivering safe, accurate, timely, and value-added service. For avoidance of doubt, Team Members are responsible for delivering the right service, at the right time, in a safe and economical manner to the Customer without sacrificing safety standards.
- 7.3 Team Members while performing their assignments will always work to improve the Profitability of Watco by delivering service that will assist in growing Watco freight revenue from its Customer's, that will always be done in the most cost efficient manner possible without sacrificing safety and that will always be done with a minimum amount of assets, including but not limited to Locomotives, Wagons, Watco vehicles and other equipment.
- 7.4 Team Members while performing their assignments will always work to improve and grow long term, value creating relationships with the Watco Customers and the Communities in which Watco operates.

### **8 NO EXTRA CLAIMS**

- 8.1 It is a term of this Agreement that the Company, the Union and Team Members bound by this Agreement will not pursue any extra claims for the duration of this Agreement.

## **9 MULTI-SKILLING AND NO DEMARCATION**

- 9.1 It is agreed that the Company is employing multi-skilled Team Members who will apply their skills and training to all activities required to operate a rail supply chain business, subject to the Team Member holding current and/or appropriate qualifications and training to do so, where required. No demarcation is to exist between tasks, and all Team Members are required to work with contractors, the customer and other Team Members as required and directed by the Company.

## **10 WORK AREA TEAMS**

- 10.1 Work Area Teams (WAT) and their composition will be introduced by consultation at the local level.
- 10.2 The WAT will comprise Team Members of differing and varied skill levels who will be encouraged to share knowledge and skills, increase their versatility and adaptability and have the responsibility for completing elements of work.
- 10.3 Members of WAT's will be required to work to the full utilisation of their existing skills, competence and training, without regard to traditional demarcations, provided that:
- 10.3.1 It does not promote de-skilling; and
  - 10.3.2 the Team Member retains payment at their highest level of skill used as a requirement of the task.

## **11 GENERAL TEAM MEMBER RESPONSIBILITIES**

- 11.1 The Company has expectations of its Team Members of good conduct, safe working, sobriety, efficiency, productive and economical working, which shall be essential requirements in the Company's service. Responsibilities, duties and a general overview include:
- 11.1.1 Follow lawful and reasonable instructions at all times;
  - 11.1.2 Apply customs and practices with due diligence;
  - 11.1.3 Comply with all Company policies, procedures and safe working rules (whether in this Agreement or not) as varied from time to time;
  - 11.1.4 Team Members will be provided access to Company policies, procedures and safe working rules through the Company's induction process and the documents will be available to Team Members on the Company portal.
  - 11.1.5 Use initiative where appropriate and necessary;
  - 11.1.6 Work to the full scope of the job/task;
  - 11.1.7 Apply knowledge, skills and care to the utmost at all times;
  - 11.1.8 Act in good faith at all times in support of Company goals and/or objectives and the Foundation Principles;
  - 11.1.9 Not engage in conduct in conflict with the Company's interests;

- 11.1.10 Apply highest standard of integrity and confidentiality to ensure that the Company activities are preserved;
  - 11.1.11 Report immediately and provide information to the Company should a breach of safety occur;
  - 11.1.12 Use all protective clothing and equipment provided by the Company and follow all prescribed Occupational Health and Safety policies and procedures of the Company;
  - 11.1.13 Comply with all obligations under the contract of employment and this Agreement;
  - 11.1.14 Undertake a drug or alcohol test, which must comply with the recognised applicable Australian standard when required to do so by the Company;
  - 11.1.15 Undertake training as required by the Company; and,
  - 11.1.16 Assist in training as required by the Company.
- 11.2 Team Members will do all work directed by the Company as defined in the Classification structure of this Agreement which is within their skill and competence even if the work is not part of ordinary duties, including the shunting of locomotives and rail wagons where it is deemed safe to do so.
- 11.3 Once classified in a particular Classification, a Team Member shall be required to continue to demonstrate the skills and responsibility attached to the Classification as a part of their consistent performance of duties.

## **12 WORKPLACE FLEXIBILITY**

- 12.1 Team Members recognise the need to be flexible in their performance of duties and may be required to perform a wider range of duties including work which is incidental or peripheral to their main tasks, responsibilities, or functions as detailed in their relevant Classification.
- 12.2 Team Members must work to the full extent of their skills and training and may be required to work higher or lower level duties to fulfil a customer commitment or request.
- 12.3 Should a Team Member be required to work at a higher level on a temporary basis they will be paid at the appropriate rate for the time they are covering the position.
- 12.4 The Company and a Team Member covered by this Agreement may agree to make an Individual Flexibility Arrangement (IFA) to vary the effect of terms of the Agreement if:
- 12.4.1 the IFA deals with one or more of the following:
    - 12.4.1.1 arrangements about when work is performed;
    - 12.4.1.2 overtime rates;
  - 12.4.2 the IFA meets the genuine needs of the Company and Team Member in relation to one or more of the matters mentioned in paragraph 12.4.1; and

- 12.4.3 the arrangement is genuinely agreed to by the Company and Team Member.
- 12.4.4 The Company must ensure that the terms of the IFA:
  - 12.4.4.1 are about permitted matters under section 172 of the Act; and
  - 12.4.4.2 are not unlawful terms under section 194 of the Act; and
  - 12.4.4.3 results in the Team Member being better off overall than the Team Member would be if no arrangement was made.
- 12.4.5 The Company must ensure that the IFA:
  - 12.4.5.1 is in writing; and
  - 12.4.5.2 includes the name of the Company and Team Member; and
  - 12.4.5.3 is signed by the Company and Team Member and if the Team Member is under 18 years of age, signed by a parent or guardian of the Team Member; and
  - 12.4.5.4 includes details of:
    - 12.4.5.4.1 the terms of the enterprise agreement that will be varied by the arrangement; and
    - 12.4.5.4.2 how the arrangement will vary the effect of the terms; and
    - 12.4.5.4.3 how the Team Member will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
    - 12.4.5.4.4 states the day on which the arrangement commences.
- 12.4.6 The Company must give the Team Member a copy of the IFA within 14 days after it is agreed to.
- 12.4.7 The Company or Team Member may terminate the IFA:
  - 12.4.7.1 by giving no less than 28 days written notice to the other party to the arrangement; or
  - 12.4.7.2 if the Company and Team Member agree in writing — at any time.

### **13 TYPES OF EMPLOYMENT**

#### ***13.1 Full Time***

- 13.1.1 A full time Team Member is a Team Member employed in a Maintenance crew classification who is engaged to work 84 Ordinary Hours per Duty Cycle in accordance with clause 20.1 of this Agreement.

### **13.2 Part Time**

- 13.2.1 A part time Team Member is one who is engaged to work defined hours, which are less than the Ordinary Hours of a full time Team Member in the equivalent classification. Further, a part time Team Member shall:
- 13.2.1.1 have their defined hours set out in a written agreement between Watco and the Team Member;
  - 13.2.1.2 receive, on a pro rata basis based on their defined hours, equivalent pay and conditions under this Agreement to those of full time Team Members who do the same kind of work; and
  - 13.2.1.3 be paid overtime rates for any agreed or directed hours worked in addition to the minimum number of hours referred to in clause 13.2.1.1 in accordance with:
  - 13.2.1.4 clause 20.3.1.1, in respect of Team Members employed in a Maintenance crew classification.

### **13.3 Casual**

- 13.3.1 A casual Team Member is a Team Member who is engaged as such and paid by the hour. Casual Team Members have the following entitlements:
- 13.3.1.1 subject to clause 13.3.1.3, a 25% casual loading on the hourly rate of pay;
  - 13.3.1.2 unpaid leave as specifically provided for in this Agreement;
  - 13.3.1.3 a casual Team Member who works a Public Holiday is entitled to be paid the agreed penalty rate of 1.5 times their base rate of pay as per Appendix 1. A casual Team Member who receives payment under this clause will not be entitled to the 25% casual loading for any work performed on a Public Holiday as per clause 13.3.1.1;
  - 13.3.1.4 unless stated otherwise in this Agreement, the Team Member will be engaged and paid for at least 2 consecutive hours of work each occasion they are required to attend work; and
  - 13.3.1.5 the right to request casual conversion in accordance with and subject to clause 13.3.3.
- 13.3.2 For clarity:
- 13.3.2.1 casual Team Members do not get paid overtime rates unless stated otherwise in this Agreement; and
  - 13.3.2.2 the hourly loadings referred to in clauses 13.3 and specifically clause 13.3.1.1 of this Agreement, are paid instead of annual leave, paid personal/carer's leave, paid compassionate leave, payment by Watco in respect of jury service, notice of termination and redundancy benefits.

- 13.3.3 A Team Member who is engaged by Watco as a casual Team Member under this Agreement and who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the Team Member could continue to perform on a full time or part time basis in accordance with this Agreement (the Prerequisite), may request that their employment be converted to full time or part time employment in accordance with the following provisions:
- 13.3.3.1 if the Team Member has worked equivalent full time hours for the purposes of clause 13.1 of this Agreement over the preceding period of 12 months of casual employment, the Team Member may request to have their employment converted to full time employment;
  - 13.3.3.2 if the Team Member has worked less than equivalent full-time hours for the purposes of clause 13.1 of this Agreement over the preceding period of 12 months of casual employment, the Team Member may request to have their employment converted to part time employment consistent with the pattern of hours previously worked;
  - 13.3.3.3 any request under this clause 13.3.3 must be provided to Watco in writing;
  - 13.3.3.4 Watco may agree or refuse any request made under this clause 13.3.3, but the request may be refused on reasonable grounds and after there has been consultation with the Team Member (for clarity, consultation under this clause does not need to be carried out in accordance with clause 33.3 of this Agreement);
  - 13.3.3.5 reasonable grounds for refusal must be based on facts which are known or reasonably foreseeable and include (without limitation) that:
    - 13.3.3.5.1 it would require a significant adjustment to the casual Team Member's hours of work in order for the Team Member to be engaged on a full time or part time basis in accordance with this Agreement (in other words, the casual Team Member does not meet the Prerequisite);
    - 13.3.3.5.2 it is known or reasonably foreseeable that the requesting Team Member's position will cease to exist within the next 12 months;
    - 13.3.3.5.3 it is known or reasonably foreseeable that the hours of work which the requesting Team Member is required to perform will be significantly reduced in the next 12 months; or
    - 13.3.3.5.4 it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which

the requesting Team Member's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the requesting Team Member is available to work;

- 13.3.3.6 if Watco refuses a Team Member's request to convert made under this clause 13.3.3, Watco must provide the requesting Team Member with Watco's reason(s) for refusal in writing within 21 business days of the request being made. If the requesting Team Member does not accept Watco's refusal and wishes to dispute Watco's decision, that dispute must be dealt with in accordance with the dispute resolution procedure in clause 33.2 of this Agreement;
- 13.3.3.7 where Watco agrees to a request to convert made under this clause 13.3.3, Watco and the requesting Team Member must discuss and record in writing:
  - 13.3.3.7.1 the form of employment to which the Team Member will convert – that is, full time or part time employment; and
  - 13.3.3.7.2 if it is agreed that the Team Member will become a part time Team Member, the matters referred to in clause 13.2 of this Agreement;
  - 13.3.3.7.3 the conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed;
  - 13.3.3.7.4 once conversion to full time or part time employment has been carried out under this clause 13.3.3, the Team Member may only revert to casual employment with the written agreement of Watco;
- 13.3.3.8 nothing in this clause 13.3.3 obliges a regular casual Team Member to convert to full time or part time employment, nor permits Watco to require a casual Team Member to so convert; and
- 13.3.3.9 nothing in this clause requires Watco to increase the hours of a casual Team Member seeking conversion to full time or part time employment.

- 13.4 A full time or part time Team Member can be employed on a fixed-term basis for a defined period or task.

- 13.5 Team Members may also be engaged as apprentices or under a traineeship in a relevant classification outlined in Appendix 2 and will be paid the corresponding annual wage for that classification as set out in Appendix 1.

#### 14 PROBATIONARY PERIOD

- 14.1 There shall be a probationary period of employment of six (6) months for all new Team Members. This probationary period will facilitate assessment by the Company of the skills and capacity of the Team Member, and allow the Company and/or the Team Member to determine if they wish to continue with the employment relationship. During the probationary period should a Team Member not reach the level of competency required of the position, they will be advised and support will be given to provide the Team Member the opportunity to reach their potential.
- 14.2 Subject to Clause 15.4, either party may terminate the employment during the probationary period on 1 weeks' notice.

#### 15 TERMINATION OF EMPLOYMENT

- 15.1 When a Team Member fails to perform their assigned duties in accordance with the classifications outlined under Appendix 2 of this Agreement, the contract of employment, the Foundation Principles on a continual basis or engages in Serious Misconduct that Team Member may be subject to disciplinary procedures, including termination of employment.
- 15.2 The Company may terminate the employment of a Team Member as outlined below:
- 15.2.1 Notice of termination of a casual Team Member will be one hour.
- 15.2.2 In order to terminate the employment of a permanent fulltime or permanent part time Team Member, the Company shall give to the Team Member the following notice:

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year up to the completion of 3 years	2 weeks
3 years and over	4 weeks

- 15.2.3 If the Team Member is over 45 years of age and has completed at least 2 continuous years of employment, the period of notice will be increased by 1 week.
- 15.2.4 In calculating any payment in lieu of notice, the weekly wages of any particular Team Member as detailed in clause 20.2.4, shall be used.
- 15.2.5 The period of notice in this clause shall not apply in the case of dismissal for Serious Misconduct or abandonment of employment.

**15.3 Additional Options Upon Giving of Notice**

- 15.3.1 If a Team Member or the Company give notice of termination, the Company may:
- 15.3.1.1 elect to make a payment of wages for the notice period to the Team Member instead of requiring the Team Member to work for part, or all, of the notice period, in which case the employment ends when the payment is made.

**15.4 Notice of Termination by Team Member**

- 15.4.1 The notice of termination required to be given by a Team Member shall be the same as that required of the Company. If a Team Member fails to give notice the Company shall have the right to withhold from the Team Members termination payment an amount equal to the amount of notice not given.
- 15.4.2 Once a Team Member gives notice of termination, all accrued entitlements will be paid to the Team Member into the last known bank account in the next pay period after the Team Members last day of employment.

**15.5 Termination without Notice**

- 15.5.1 Subject to the provisions of the Agreement detailing Counselling and Disciplinary Procedures, the following shall apply:
- 15.5.1.1 Irrespective of clause 15.4 above, the Company may terminate a Team Members employment without notice in the case of dismissal for Serious Misconduct as identified by the Company.
- 15.5.1.2 Further to the definition of Serious Misconduct in this Agreement the following can be deemed Serious Misconduct:
- 15.5.1.3 intentional damage to the property of the Company;
- 15.5.1.4 abuse threaten or harass a customer or another Team Member.

**16 ABANDONMENT OF EMPLOYMENT**

- 16.1 Where a Team Member is absent from duty for more than 5 days without the consent of the Company it will be considered prima facie evidence that the Team Member has abandoned their employment.
- 16.2 Termination of employment as a result of abandonment in accordance with this sub-clause shall be from the date of the last date of attendance at work. Prior to termination the Company will:
- 16.2.1 make reasonable attempts to contact the Team Member to determine reasons for absence.
- 16.2.2 attempt to contact the Team Member in writing at the Team Member's last known address, advising the Team Member that their absence may

result in termination of employment should the Team Member fail to contact their manager within a further five (5) days of the date of the letter.

- 16.3 If the Team Member fails to contact their manager within the five (5) day period, the Team Member shall be deemed to have abandoned their employment and the Company may accept the abandonment as terminating the Team Member's employment.

## 17 REDUNDANCY

- 17.1 Discussions before termination of employment will occur:

17.1.1 where the Company considers that it no longer requires the position a Team Member has been appointed to, and this is not due to the ordinary and customary turnover of the business and that decision may lead to termination of employment, the Company shall hold discussions with the Team Members directly affected and the Union.

17.1.2 These discussions shall take place as soon as is practicable after the Company has become reasonably aware of the reasons for the termination of employment, measures to avoid or minimise terminations, period over which the terminations are likely to be carried out, and measures to mitigate any adverse effects of any terminations on the Team Members concerned.

### 17.2 *Redundancy Pay*

- 17.2.1 In addition to any period of notice prescribed for ordinary termination in this Agreement, and subject to Clause 17.3, a Team Member (other than a casual Team Member), whose employment is terminated for reasons set out in Clause 17.1.1, shall be entitled to the following amount of Redundancy pay in respect of a continuous period of service:

<u>Period of Continuous Service</u>	<u>Redundancy Pay</u>
Less than 1 year	Nil
1 year but less than 2 years	4 weeks pay
2 years but less than 3 years	6 weeks pay
3 years but less than 4 years	7 weeks pay
4 years but less than 5 years	8 weeks pay
5 years but less than 6 years	10 weeks pay
6 years but less than 7 years	11 weeks pay
7 years but less than 8 years	13 weeks pay
8 years but less than 9 years	14 weeks pay
9 years but less than 10 years	16 weeks pay

<u>Period of Continuous Service</u>	<u>Redundancy Pay</u>
10 years and over	12 weeks pay

- 17.2.2 During the period of notice of termination given by the Company, a Team Member shall be allowed reasonable time off without loss of pay for the purpose of seeking other employment, provided such time off does not adversely affect the operation of the business or services provided to a customer.

### **17.3 *Alternative Employment***

- 17.3.1 Team Members shall not be paid Redundancy pay in circumstances where they are offered Comparable Employment, including circumstances where they do not accept the offer of Comparable Employment.
- 17.3.2 “Comparable Employment” means employment:
- 17.3.2.1 is on terms and conditions that, in total, are overall no less favourable than the terms and conditions which applied to the Team Member/s immediately before their position/s was made redundant; and
- 17.3.2.2 is with a new employer, the new employer recognises and treats the Team Members continuous service with the Company as service with it.

### **17.4 *Reduction in Hours***

- 17.4.1 In the event of a significant economic down-turn, natural disaster or other form of negative major business disruption, it is the intention of parties to protect the long-term job security of Team Members. To this end, if such an event were to occur, the parties will meet and agree on measures aimed at preserving jobs, including but not limited to, reduction in permanent hours and removal of any specified allowances. These measures will be to specifically preserve employment and continue service levels to customers.
- 17.4.2 If all options have been exhausted in the above consultation process, the Company may stand down Team Members without pay for anytime during which they cannot be usefully employed in their normal position due to any cause outside of the Company’s control including industrial action.

## **18 SIGNIFICANT CHANGE**

- 18.1 Where the Company makes a decision that it intends to proceed with a significant change in its workplace arrangements the Company will consult and shall advise Team Members, and the Union;
- 18.1.1 the nature of the change;

- 18.1.2 the reason for it;
  - 18.1.3 the timing of it; and,
  - 18.1.4 any other relevant information related to the effects of the change.
- 18.2 Consultation shall also take place between the parties of how the implementation of the change will take place.
- 18.3 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant parties.

## **19 STAND DOWN**

- 19.1 Watco may stand down a Team Member or Team Members without pay for any time during which they cannot usefully be employed because of any cause for which Watco cannot reasonably be held responsible, including:
- 19.1.1 industrial action (other than industrial action organised by or engaged in by Watco);
  - 19.1.2 a breakdown of machinery or equipment for which Watco cannot reasonably be held responsible;
  - 19.1.3 a stoppage of work for any cause for which Watco cannot reasonably be held responsible.
- 19.2 Watco shall provide each Team Member to be stood down with written notice at least (3 clear days) in advance of the stand down commencing for that Team Member. Watco will use best endeavours to give as much notice as possible to Team members. Such notice shall state:
- 19.2.1 the commencement date of the stand down;
  - 19.2.2 the reason for the stand down;
  - 19.2.3 the expected duration of the stand down; and
  - 19.2.4 that the Team Member is at liberty to take other employment during the period of the stand down and taking into consideration their obligations for notice periods.
- 19.3 Team Members stood down in accordance with this clause 19 shall be treated for all purposes (other than payment) as having continuity of employment.
- 19.4 Team Members stood down in accordance with this clause 19 may elect to have all or part of a stand down period paid as annual leave or other time owed where there is a relevant accrued entitlement (other than personal/carer's leave).
- 19.5 As soon as practicable and prior to the stand down commencing, Watco Australia will consult with the affected Team Members and other stakeholders. In this consultation, the performance of useful work shall be considered.
- 19.6 Any Team Member stood down in accordance with this clause 19 may, at any time during the stand down, terminate their employment without notice and shall be

entitled to receive, on the next Watco pay cycle, any payments to which they are entitled up to the time of the resignation.

- 19.7 Any Team Member who is stood down in accordance with this clause 19 shall be at liberty to take other employment and, in the event of doing so, Watco Australia shall not require the Team Member to return to work until the Team Member has worked their period of notice where required to do so by the other employer and it is a reasonable time period.
- 19.8 Team Members who are stood down under this provision shall be treated for all purposes (other than payment) as having continuity of employment.
- 19.9 A Team Member who is stood down in accordance with this clause 19 may elect to take annual leave or other leave accrued by Watco Australia for the period of the advised stand down notification. For clarity, leave does not include personal/carer's leave.

## **20 REMUNERATION AND HOURS OF WORK**

### **20.1 *Hours of Work***

- 20.1.1 A permanent full time Team Member can be rostered to work up to 84 Counted Hours per Roster Cycle Period.
- 20.1.2 The Company can roster a Team Member up to 90 hours per Roster Cycle Period, for clarity the 6 additional hours will constitute reasonable Additional Hours and be paid as per Clause 20.3.
- 20.1.3 The Company can roster Team Members to perform more than 42 Counted Hours over a Roster Cycle, without any additional or overtime rates, if the Team Member's Counted Hours in the Roster Cycle Period is 84 hours or less.
- 20.1.4 The maximum total hours a Team Member can work within a 14 day period is 120 hours.
- 20.1.5 All hours worked by a full time Team Member in reaching their Counted Hours per Roster Cycle Period do not attract any penalties or allowances in addition to those specified in Clause 22, and are fully compensated for in each Team Member's annual wage.
- 20.1.6 Any hours worked in addition to 84 Counted Hours per Roster Cycle Period will be paid in accordance with Clause 20.3.
- 20.1.7 Any hours worked in addition to 84 Counted Hours per Roster Cycle Period do not accrue towards a Team Member's Counted Hours for the next rolling Roster Cycle Period.
- 20.1.8 RDO hours are stand alone to Ordinary Hours and Counted Hours and all time worked on an RDO will be paid as per Clause 20.3.

## **20.2 Annual Wage**

- 20.2.1 In approaching the issues of hours of work and remuneration in this Agreement, the parties to the Agreement understand and give a priority to the development of flexible working arrangements. In particular, the parties have been guided by the principle of remuneration reflecting skills and tasks completed, or when the work is performed. Accordingly, the rate of pay structure detailed in Appendix 1, provides for and promotes flexible deployment of Team Members by the Company and flexible working time for Team Members.
- 20.2.2 In recognition of the particular circumstances of the Company's operations, the remuneration and rostered hours reflecting worked hours must meet commercial and customers' needs, be cost efficient and provide a healthy and safe working environment with a quality of life for Team Members.
- 20.2.3 A permanent full time Team Member's annual wage is payable for all work performed per Annum and is inclusive of all authorized paid leave. The annual wage is provided in Appendix 1 in this Agreement.
- 20.2.4 A full time Team Member's Ordinary Hours, for payroll purposes, are 84 hours per Roster Cycle Period.
- 20.2.5 Team Members will be paid wages on a fortnightly basis by electronic funds transfer into an account of the Team Member's choice, with permanent full time Team Members paid 84 Ordinary Hours per Roster Cycle Period.

## **20.3 Overtime**

- 20.3.1 The rate of one and half times of the Team Member's base rate of pay as per Appendix 1, will be paid for all hours worked for the following:
- 20.3.1.1 any hours worked in excess of a Team Member's Counted Hours (84) in a Rostered Cycle Period;
- 20.3.1.2 hours worked on an RDO.
- 20.3.2 RDO's will not be included as part of the Team Members total Counted Hours.

## **20.4 Wage Increases**

- 20.4.1 Wage increases are based on the Australian Bureau of Statistics (ABS) seasonally adjusted Perth Consumer Price Index (CPI). Wage increases are based on a floor and ceiling of the annual Perth CPI. If Perth CPI drops below 1.5% then the Company will pay 1.5% in annual wage increases, if the Perth CPI goes above 3% the Company will pay a maximum of 3% in annual wage increases.
- 20.4.2 The rates contained in Appendix 1, shall be adjusted from the beginning of the first pay period commencing on or after the 1st October of each year

in accordance with the annual percentage change in the CPI (All groups) for Perth, measured by the latest publication data available at that date, the calculation to be taken to the nearest ten cents.

## **20.5 Superannuation**

- 20.5.1 The Company will make superannuation contributions calculated on the annual wage rates as defined in Appendix 1, of this Agreement on behalf of each Team Member in accordance with the *Superannuation Guarantee Charge Act 1992* (Cth), to an eligible MySuper fund of the Team Member's choice.
- 20.5.2 Where an eligible MySuper fund has not been nominated by the Team Member, the Company will contribute the superannuation payments to the default MySuper fund, Australian Super.

## **20.6 Salary Sacrifice**

- 20.6.1 Team Members may elect to salary sacrifice a portion of their wages into the superannuation fund (subject to the rules of the fund to which the contribution is to be made).
- 20.6.2 The Team Member will bear the cost of any tax or surcharge resulting from contributions under this Clause.
- 20.6.3 The Company will not be liable:
  - 20.6.3.1 If the law or the position of the Australian Taxation Office in relation to salary sacrifice changes;
  - 20.6.3.2 For financial advice to Team Members in relation to salary sacrifice arrangements;
  - 20.6.3.3 For any costs or losses associated with salary sacrifice arrangements;
  - 20.6.3.4 If it refuses to approve a proposed salary sacrifice arrangement or discontinues an existing salary sacrifice arrangement; and
  - 20.6.3.5 Team Members can vary the amount of salary sacrifice contributed every 12 months.
- 20.6.4 Team Members need to advise in writing if they wish to terminate or change their salary sacrifice agreement.

## **21 WORK LOCATION**

### **21.1 Home Depot**

- 21.1.1 A Home Depot is a location where Team Members are permanently based and Team Members will be advised of that location in the letter of offer of employment.
- 21.1.2 The Company reserves the right to establish 'Home Depots' at any location to suit business requirements. The Company will consult with the parties to this Agreement prior to the establishment of a Home Depot.

Team Members will be appointed to a Home Depot and will sign on and off at this location. Should a Team Member temporarily transfer to another Home Depot for work, temporary deployment conditions as per clause 21.3 come into effect.

- 21.1.3 Team Members with more than 2 years continuous service at their appointed home location can nominate to transfer to an alternative home location. Team Members can register their interest to be placed on a Locations Waiting List and transfer to their selection if an opportunity exists. The Company reserves the right to decide transfers of individuals to other locations.
- 21.1.4 The Company can roster Team Members to perform work at any depot or sign on location for a period of up to and including 10 working days, which can be separate and/or cumulative, by providing the Team Member with reasonable notice in accordance with clause 29.2 should the operational need arise. The duration can be extended with mutual agreement of both parties.

## **21.2 *Additional Sign on Locations***

- 21.2.1 The Company reserves the right to establish additional sign-on locations during the life of this Agreement to suit its business and commercial objectives.
- 21.2.2 When setting up an additional sign-on location the Company will ensure that appropriate communication systems are available so that Team Members can obtain the appropriate documentation to carry out their duties.
- 21.2.3 The Company will also ensure the availability of appropriate amenities for the use of Team Members at additional sign-on locations, specifically secure parking facilities, washbasins, soap, toilets and personal lockers.

## **21.3 *Temporary Transfers and Expenses***

- 21.3.1 A Team Member may be temporarily deployed from their home depot to a selected location to support the commercial interests of the Company at the time. The Company will communicate with the Team Member concerned through the normal process of creating the roster and before the deployment regarding the length of the deployment and will endeavour to ensure minimal impact to a Team Members personal life. This will include taking into consideration the Team Member's family and social commitments.
- 21.3.2 A temporary deployment may include a Temporary Location Transfer and/or an Expense deployment.
- 21.3.3 The Company has the right to roster Team Members for Expenses and Temporary Transfers up to a total of two weeks (10 working days) per annum as a part of the Team Members ordinary hours as per clause 21.1.4.

Team Members can be rostered for multiple deployments until they have reached the cumulative ten days.

- 21.3.4 The Duration of a temporary transfer can be extended with mutual agreement of both parties beyond the required 10 working days.
- 21.3.5 Team Members who work assignments away from their Home Depot whilst temporarily deployed and are required to stay overnight will be provided suitable lodging by the Company. The parties to this agreement recognise that the nature of the geography of operation means the Company can only use best endeavours to provide the required standard of accommodation but will commit to providing if it is available and practical to do so without impacting on operational requirements and train services.
- 21.3.6 When Team Members are rostered away from their Home Depot on a temporary deployment they will be paid allowances and expenses in accordance with clause 22.7.

## **22 ALLOWANCES**

### **22.1 *Call Outs***

- 22.1.1 A Team Member called from their home to work as a result of unplanned maintenance will be paid a minimum of four (4) hours paid at one and a half (1.5) times the ordinary hourly pay rate. These paid hours will not count towards the counted hours provided in the Agreement.

### **22.2 *Stand-By***

- 22.2.1 The Company at its discretion may roster Team Members on Stand-by. When a Team Member is rostered to remain on Stand-by in a fit for work state on Weekends they will be paid an allowance of \$3.50 per hour up to a maximum of 12 hours in any 24-hour period.
- 22.2.2 To receive the allowance the Team Member must be contactable, rostered and attend in a fit state when requested.

### **22.3 *Electrical License Allowance***

- 22.3.1 A Team Member who holds a current "A" Grade electrical license valid in the State of Western Australia will be reimbursed by the Company for the full cost of the license renewal annually upon production of proof of payment.

### **22.4 *First Aid Allowance***

- 22.4.1 A Team Member appointed by the Company as the qualified First Aider will be paid an allowance of \$3.30 per shift worked flat, attracting no premium or penalty. This will be paid to one individual in the team who is appointed at the discretion of the Company.

### **22.5 *Overtime Meal Allowance***

22.5.1 A Team Member who is required by the Company to work in excess of one and a half hours of additional hours after working an ordinary shift as per the guide roster shall be paid a meal allowance of \$15.66. This amount will be increased by the same percentage increases applied to wages in this agreement.

**22.6 Car Allowance**

22.6.1 A Team Member who is requested by the Company to use their personal vehicle to report to an assignment location that is other than their normal duty point will be reimbursed for actual kilometres in excess of those normal travelled from his or her home to his or her normal duty point. The reimbursement rate will be \$0.80 per kilometre fixed for the life of the agreement.

**22.7 Living Away from Home Allowance (LAFHA)**

22.7.1 A Team Member required to temporarily reside away from their home depot shall be paid a living away from home allowance (LAFHA) in accordance with the table below.

22.7.2 Definitions for a temporary transfer are referred to in clause 21.3.

TOTAL LAFHA \$131.88						
Duration away from Home Depot (hours)	Full LAFHA	Breakfast	Lunch	Dinner	Incidentals	Total Payment
	\$ 131.88	\$ 27.60	\$ 30.96	\$ 53.18	\$ 20.13	
Up to 24 Hours	X					\$ 131.88
Beyond 24 hours up to 32 hours	X	X			X	\$ 179.61
32 hours up to 40 hours	X	X	X		X	\$ 210.57
40 hours up to 48 hours	X	X	X	X	X	\$ 263.75
After 48 hour period - entitled to a full LAFHA each 24 hour period or paid part thereof for each 8 hours worked as outlined in the above table						

**Note** These amounts will be increased by the same percentage increases applied to wages in this agreement.

## **23 LEAVE**

### **23.1 *Annual Leave***

- 23.1.1 Applications for annual leave will be submitted online for approval in the payroll system and rosters posted at home locations.
- 23.1.2 The Company may direct a Team Member to take a period of annual leave in accordance with the Act.
- 23.1.3 Annual leave loading is not payable and has been included in the annual wage.
- 23.1.4 Any and all leave requests can be refused based on Operational requirements.
- 23.1.5 Subject to providing the Company with a written election to forgo the amount of annual leave, a Team Member may request to cash out up to two weeks annual leave as per the Company's Leave Procedure in lieu of the Team Member taking that leave. This request can be denied on commercial grounds and is at the discretion of the Company. The Company will not unreasonably refuse these requests.
- 23.1.6 When annual leave is cashed out it will be paid at the same rate that would have applied if the Team Member had taken the leave. Cashing out of leave will be in accordance with the Act.

### **23.2 *Jury Service***

- 23.2.1 A Team Member required for jury service during his or her ordinary working hours shall be permitted to attend jury service without loss of pay in accordance with S111 of the Act. Payments for Court attendance shall be paid directly to the Company. A Team Member shall notify the Company as soon as possible of the date upon which he or she is required to attend for jury service. Further the Team Member shall give the Company proof of his or her attendance, the duration of such attendance and the amount received in respect of jury service.

### **23.3 *Personal / Carers Leave***

- 23.3.1 Personal leave is for the sole purpose of providing income for full and part time Team Members unable to attend work through injury of illness of themselves or members of their immediate family or household or an unexpected emergency affecting such member and shall be allowed 10 days per year for full-time Team Members and pro-rata for part-time Team Members.
- 23.3.2 Where a Team Member is absent on Personal leave (paid or unpaid) for an extended period and/or the Company has a good and sufficient reason to believe that the Team Member will be unable to return to work or is

unable to undertake the duties of the position, the Company – at its cost – may direct the Team Member to undertake a medical examination by a duly qualified medical practitioner to determine the Team Members fitness for work.

- 23.3.3 An eligible Team Member, after four weeks service with the Company, who is absent from work on account of personal illness/injury shall be entitled to leave without loss of pay subject to the National Employment Standards (NES):
- 23.3.4 A Team Member shall not be entitled to be paid for any absence for any period for which the Team Member is entitled to worker's compensation;
- 23.3.5 The Team Member shall take all reasonable steps prior to the commencement of such absence, to inform the Company as soon as possible of the Team Members inability to attend for duty and shall state the nature of the illness/injury and the estimated duration of the absence, in some exceptional circumstances this may be communicated at a later period where the Team Members was incapacitated to do so at the time; and
- 23.3.6 The Team Member must comply with any request by the Company that a claim for personal leave be supported by reasonable evidence outlined in the Act and satisfactory to the Company in respect of any day or days for which personal leave is claimed.
- 23.3.7 For the purposes of this Clause, Immediate Family includes a Team Members spouse, child, parent, grandparent, grandchild or sibling or a child, parent, grandparent, grandchild or sibling of your spouse. Spouse includes a former spouse, a de facto spouse, or a former de facto spouse.

#### **23.4 Long Service Leave**

- 23.4.1 Team Members shall be entitled to receive long service leave entitlements in accordance with applicable long service leave legislation as amended from time to time.
- 23.4.2 For the purpose of this Agreement, the applicable act is Long Service Leave Act 1958 (WA), as amended or varied from time to time.

#### **23.5 Domestic Violence Leave**

- 23.5.1 Domestic violence leave will be provided to Team Members who are the victim of domestic violence as per the NES.

#### **23.6 Other Leave**

- 23.6.1 All Team Members are entitled to access community services, compassionate, parental, or other leave provisions as per the National Employment Standards (NES).

- 23.6.2 All Team Members are entitled to apply to the Company for unpaid leave and the application will be determined by the Company taking into account operational requirements.

## 24 PUBLIC HOLIDAYS

24.1 In accordance with Clause 24.2.1, a Team Member shall be entitled to the following holidays without loss of pay on the following days applying;

24.1.1 New Year's Day, Australia Day, Labour Day, Good Friday, Easter Monday, Anzac Day, Western Australia Day, Queen's Birthday, Christmas Day, Boxing Day.

24.1.2 Any further public holidays gazetted by either State or Federal Government shall be considered as part of this clause.

### 24.2 *Work on a Public Holiday;*

24.2.1 Where a Team Member is required to work on a public holiday described in Clause 24.1 that Team Member shall:

24.2.1.1 Will be paid 8.4 ordinary hours as per the Team Member's ordinary wage for that duty cycle; and

24.2.1.2 be paid 1.7 times the base rate of pay (appendix one) for the actual hours worked on the public holiday

24.2.1.3 have no time accrued for time in lieu or for any other purpose

24.2.1.4 Not refuse to work a public holiday where it falls within the normal rostered hours as per the guide roster and rostering principles.

24.2.2 Where a Team Member does not work on a public holiday that Team Member shall (Excluding where RDO's fall on a Public Holiday as a part of the guide roster):

24.2.2.1 have 8.4 ordinary hours accrued to the counted hours for that rostering cycle pay period.

### 24.3 *Interaction Between Public Holidays and RDO's*

24.3.1 The general principle is for RDO's to be allocated as per the Guide Roster. This results in more certainty and less disruption for both the business and Team Members in each roster. If an RDO falls on a public holiday in accordance with the guide, the RDO will not be moved and the Public Holiday is treated as a normal RDO.

## 25 ROSTERING PRINCIPLES

25.1 The following rostering principles have been developed to assist in providing a consistent and flexible approach to the rostering of Team Members across the business.

- 25.2 They are to be read in conjunction with the procedure for the management of fatigue. In cases where there is a conflict between satisfying the requirements of either these rostering principles or the fatigue management procedure the latter shall prevail in any case where such a conflict is likely to increase the potential for a workplace hazard. Rostering shall also comply with relevant occupational, health and safety legislation.
- 25.3 While every opportunity will be taken to accommodate individual Team Members requirements, this Agreement focuses on ensuring maximum efficient deployment of personnel. For the purposes of this Agreement, and in consideration of the need for flexible deployment of Team Members, the Ordinary Hours of Work for Team Members covered by this Agreement (as outlined in clause 20) are deemed to be those hours for which Team Members are required to work by the Company, subject to the following qualifications:
- 25.4 Team Members are required to work rosters in accordance with the Rostering Guidelines and clause 28, Shift Lengths of Duty.
- 25.5 At locations where the implementation of a Guide Roster is not practicable and subject to meeting operational needs, rosters will be drawn up by the Company to meet specific business requirements.
- 25.6 As part of the regular rostering the Company shall comply with the applicable rail safety legislation and law relating to fatigue management and rostering of rail safety workers.

## **26 ROSTERING CONSULTATIVE PROCESS**

- 26.1 Joint consultation shall take place to determine the suitability, applicability and implementation of any proposed new rostering system. Where such concepts are being considered Team Members will be consulted to determine the suitability and applicability of the concept to the collective preference of the applicable Team Members.
- 26.2 The Company reserves the right to manage and implement rosters and guidelines to be compliant with this Agreement, the Company's fatigue procedure that is compliant with regulatory fatigue obligations as well as be compliant with efficient and effective customer service.
- 26.3 Rostering guidelines shall be developed through an agreed consultative process and should consider and address both guide and operational roster issues.
- 26.4 A representative delegate will be elected by Team Members to attend at least one yearly rostering consultative meeting with the Company.
- 26.5 Rostering guidelines will be communicated to relevant Team Members in the location including new and relieving Team Members.
- 26.6 These rostering guidelines shall include practices to address rostering issues such as, but not limited to:
- 26.6.1 when business / operational changes require alterations to the roster(s);

- 26.6.2 where fatigue management reviews require changes to the roster(s);
  - 26.6.3 when management or Team Members initiated changes are proposed to accommodate an altered distribution of the work and / or time off;
  - 26.6.4 with the intent that the Company and relevant Team Members, through the rostering consultative process, determine how the proposed changes can be best implemented to accommodate both operational requirements and the needs of the Team Member affected by the changes.
- 26.7 The Company will consult with the Rostering Consultative Committee Elected Representative. A 14day period will be given to consult and socialise changes or issues related to rosters.
- 26.8 The delegate will be rostered to attend the yearly meeting along with appropriate travel time.

## **27 ROSTER CYCLES & RDO'S.**

- 27.1 A roster cycle is seven days from 0000 Sunday to 2359 Saturday.
- 27.2 A roster cycle period is 14 days in duration made up of two roster cycles and is aligned with the pay cycle. For every roster cycle period, four RDO's will be rostered.
- 27.3 Once the operational roster for the roster cycle has been posted the RDOs can only be moved with the agreement of the Team Member concerned. Where a Team Member agrees to move the originally designated RDO no overtime payments will be made for work conducted on a day originally designated as an RDO.
- 27.4 The minimum duration of a single RDO will be 24 hours from sign off of the shift prior to the RDO to sign on for the first shift after the RDO.
- 27.5 Working on a RDO may occur, subject to satisfying fatigue management requirements, and the Team Member has indicated a preparedness to work on that day.
- 27.6 All time worked on a Rostered Day Off will be paid as per Clause 20.3 and will not be included as part of the Team Members total Counted Hours.

## **28 SHIFT LENGTHS OF DUTY.**

- 28.1 Team Members can be rostered by the Company to perform shifts up to 12 hours.
- 28.2 Team Members shall have a minimum engagement of 8 hours per operational shift for a permanent Team Member and 6 hours for a casual Team Member. The minimum shift length for non-operational work can be 6 hours for the use for example, medicals, training, travel, car driving etc.
- 28.3 The minimum rostered rest period between shifts that are Non Operational shall be 10 hours.
- 28.4 The Company can roster a Team Member to work up to 90 hours per Rostered Cycle Period endeavouring to not unreasonably roster Team Members above their counted hours each roster cycle period without taking into consideration their

family and social requirements and operational requirements in accordance with clause 20.2.4.

- 28.5 Any hours requested to be worked above 90 hours will be at mutual agreement.
- 28.6 In the case of an emergency, incident or delays out of the Company's control Team Members may be required to work shifts of up to a maximum of 14 hours. The working of shifts between 12 & 14 hours shall be subject to the Team Members indication of fitness to continue.
- 28.7 Team Members are entitled to minimum rostered rest periods between shifts as follows:
  - 28.7.1 At the Team Members home location and for operational shift lengths of 12 hours – 12 Hour Rest Period;
  - 28.7.2 At a Temporary Deployment location - 9.5 Hours Minimum Rest period can be used.
- 28.8 Subject to satisfying fatigue management requirements Team Members may be requested to resume work for their next rostered shift up to one hour earlier than the minimum rostered rest period where circumstances require and the Team Member is prepared to do so.
- 28.9 The maximum number of consecutive ordinary shifts a Team Member can be rostered will be determined by the Company's Fatigue Management Procedure.
- 28.10 The maximum number of ordinary hours within a 7 day roster cycle, Sun 0000 to Sat 2359 (inclusive) will be 50 hours.
- 28.11 The Maximum total hours a Team Member can work within a fourteen day rostered pay period is 120 hours.
- 28.12 When Released Early - Team Members shall be paid for the full rostered shift where a Team Member remains available for work but is released from duty early with the Company's agreement.
- 28.13 Meal Break Length - On any shift that exceeds six hours, Team Members shall be entitled to paid meal break of 25 minutes duration during the first 8 hours of work.
- 28.14 Meal breaks shall be taken to cause the least disruption to operations, notwithstanding this provision the break shall commence no later than the fifth hour of duty.

## **29 SHIFT CHANGES**

- 29.1 Working changes and Team Member absences can occur on and at short notice. These changes may result in shift cancellations, additional shifts, shift adjustments (e.g. start times) or changes to shift lengths.
- 29.2 Where these changes occur at least 8 hours notice (or greater, where possible) will be given, and consideration will be given to:
  - 29.2.1 a Team Members personal and family circumstances;
  - 29.2.2 operational requirements;

- 29.2.3 depot guidelines established at the depot;
  - 29.2.4 fatigue management principles, including “time of day” considerations;
  - 29.2.5 the number of shifts a Team member has worked;
  - 29.2.6 the length of the shifts that the Team member has worked; and
  - 29.2.7 the breaks a Team Member has had between the shifts worked.
- 29.3 Subject to operational requirements, fatigue management principles, consent by their supervisor and providing the arrangement is cost neutral to the business, Team Members may mutually exchange shifts subject to operational requirements, fatigue management principles, consent by their supervisor and providing the arrangement is cost neutral to the business, Team Members may mutually exchange shifts. Team Members need to communicate this change to the manager responsible for rostering and resource planning.

### **30 CLEARING OF AND RETURNING FROM ANNUAL LEAVE**

- 30.1 A key objective of the agreed rostering principles is to provide Team Members with the highest possible level of certainty, particularly with regard to RDOs.
- 30.2 Rostering guidelines should address practices for the clearing of and the returning from annual leave. The guidelines should include protocols for Team Members starting leave, where they resume on the roster and could also include practices where Team Members are not rostered to start before 0600 hours on their first shift back from leave unless they are prepared to do so.

### **31 REQUEST DAYS**

- 31.1 As a means of addressing a Team Member out of the ordinary personal obligations (such as medical appointments, special family commitments, and the like) a Team Member may make requests not to be rostered on a specific day, or days, during a specific roster cycle.
- 31.2 Reasonable endeavours will be made to meet the request having regard for the nature of the request and the disruption to the roster, including the allocation of RDOs and the impact on other Team Members.
- 31.3 Particular attention will be given to regularly occurring requests, which would result in Team Members not working their share of additional hours and weekends or other particular shifts.
- 31.4 The Team Members RDOs may be moved as shown on the guide roster to accommodate a request day.

## **OCCUPATIONAL HEALTH AND SAFETY**

### **32 GENERAL SAFETY PRINCIPLES**

- 32.1 The Company and Team Members acknowledge and agree that a safe and secure workplace is important and that Team Members will:

- 32.1.1 Comply with all applicable Occupational Health and Safety laws, regulations and code(s) of practice
  - 32.1.2 Ensure, to the best of their ability the safety of all people in the workplace
  - 32.1.3 Wear and use any safety and protective equipment provided
  - 32.1.4 Comply with the Company's occupational health and safety procedures and safety practices and procedures, or alternatively face disciplinary action, including termination of employment
  - 32.1.5 Immediately report to management any accidents, incidents, near misses or hazards, arising during the course of their employment.
- 32.2 It is a condition of employment that the Team Member abide by both the Company's and client's Occupational Health and Safety policies and procedures. Once the Team member is inducted under the umbrella of the Watco policy then they must comply with those policies. Team Members may be required to be inducted as a part of their employment at sites of the Company's customers and are required to comply and do so if requested.
- 32.3 You will comply with all lawful directions given by the Company and by authorised Team Members of the client, including carrying out work for the safety of personnel and plant, and for emergency prevention of pollution subject to appropriate training, using all appropriate protective clothing and equipment and keeping the workplace and equipment in a clean and safe condition. It is a condition of employment to comply with the Company's occupational health and safety policies and procedures.
- 32.4 You agree to wear the appropriate safety clothing and equipment at all times when their use is deemed necessary by the Company or authorised Team Members of the client.
- 32.5 Training**
- 32.5.1 Any Team Member may be required to undertake 'on the job' or 'off the job' training to meet the level of competence required by Watco, including training to meet the requirements of new technology or equipment that may be introduced, applicable rail safety law (including route knowledge) or occupational health and safety legislation.
  - 32.5.2 All training time carried out at Watco's request will be counted as Ordinary Hours. Training time is from start time to finish time of actual training program and accordingly Team Members will be rostered to align to start and finish times of the training program. Travel time will be given to Team Members who are stationed in rural and regional areas.
  - 32.5.3 Team Members give a commitment to undertake this training and Watco is committed to providing reasonable training opportunities to Team Members, and any reasonable opportunities to exercise the knowledge, skills, or abilities acquired from this training.

- 32.5.4 Watco will meet all reasonable costs associated with specific training for the ongoing maintenance of the required competencies.
- 32.5.5 All Team Members are required to be accredited, obtain and hold relevant qualifications, certificates and licences, including a valid motor vehicle drivers licence, that are deemed appropriate to their classification and contract of employment.
- 32.5.6 Team Members employed in a Maintenance crew classification under this Agreement must undertake the required level of Safe Access Rail Corridor qualifications and maintain any infrastructure track access permits applicable for that Team Member (mandatory) with the relevant refresher training.
- 32.5.7 Failure to maintain the qualifications and or licences referred to in; clause 32.5.5, and/or clause 32.5.6, may lead to termination of employment.

**32.6 *Personal Protective Equipment (PPE)***

- 32.6.1 Watco shall issue individual Team Members with personal protective equipment and clothing as appropriate to their work requirements, with the exception of prescription safety glasses which will be subsidised to a maximum amount of \$400 per year of service per Team Member where safety glasses are required to be worn by that individual Team Member.
- 32.6.2 Team Members shall ensure that all personal protective equipment and clothing is used, worn and maintained in accordance with Watco and the manufacturer's requirements.
- 32.6.3 Watco shall issue personal protective equipment and clothing on either a periodic or fair wear and tear basis as determined by Watco, having regard to legal requirements and any specific product requirements.

**32.7 *Company Vehicles***

- 32.7.1 The Company may provide from time to time Team Members vehicles to use during the course of their employment and the vehicles must be road worthy and fit for purpose as per the Company's regulatory obligations.
- 32.7.2 A Team Member has an obligation to take care of vehicles under their supervision as per Company Policy. When a Team Member becomes aware of damage to or anything which in their opinion may compromise the safety or roadworthiness of a vehicle they must report it immediately to their supervisor or the Company's operations centre (WOC).
- 32.7.3 At that point a Company manager will determine the vehicles fit for purpose in line with its regulatory obligations.
- 32.7.4 A Vehicle Inspection Form must be completed by the Team Member before operating Company vehicles and turned in at the beginning or end of each day's shift to the relevant Home Depot.

**32.8 *Alcohol and Drugs***

- 32.8.1 The Company is required to ensure that none of its Team Members are under the influence of alcohol and/or drugs when about to sign on for work or while at work. The Company policies set out procedures for both random and compulsory testing for drugs and alcohol that comply with relevant state rail safety legislation. It is agreed that the Company may carry out its testing obligations and program of medical examinations as set out in its Company policies, Accreditation documents and under the applicable Acts.
- 32.8.2 All Team Members are required to comply with the Company's Drug and Alcohol policies and procedures.
- 32.8.3 A Team Member shall not, by the consumption of alcohol or a drug, be in such a state as to endanger his/her own safety at work or the safety of any other person at work.
- 32.8.4 Being under the influence of alcohol or drugs while on duty shall be deemed to be Serious Misconduct.
- 32.8.5 A Team Member will undertake a drug or alcohol test. The Company shall use swab and fluid testing in accordance with the relevant Australian standard when requested to do so by the Company. The Company will bear all costs associated with such testing. Blood testing may be required where the Company has a regulatory or legislative requirement to do so or is ordered by law to undertake such.

**32.9 *First Aid Facilities***

- 32.9.1 Suitable first aid equipment in a hygienic container shall be available in each workplace/vehicle in an accessible and clearly identified place. This equipment should be regularly inspected, and replenished as necessary by the Company.
- 32.9.2 The Company will provide and pay for accredited First Aid training to all Team Members on a periodical basis, as required by applicable rail safety law and regulation. Should a new Team Member not be accredited with First Aid at the commencement of service then training will be provided by the Company.

**32.10 *Medical Examinations***

- 32.10.1 No person shall be eligible for entrance to the Company's service unless they produce a Cat 1 medical certificate from the duly qualified and accredited rail safety medical practitioner certifying that they are fit for duty. This Agreement acknowledges that legislation has imposed conditions on the Company's Rail Safety Accreditation to operate on the rail system that requires all Team Members to be medically fit and to be subject to a regime of medical testing. A Team Member must maintain the required level of fitness to be eligible for entrance to the Company's service.

- 32.10.2 The result of Company initiated examinations will be communicated to the Team Member concerned.
- 32.10.3 The parties to this Agreement understand the need for the requirements of the National Standard for Health Assessment of Rail Safety Workers (details of which the Company shall provide to all Team Members) to be achieved and maintained by Team Members. In the event that a Team Member cannot maintain the required medical standards for adequate performance of his/her duties, the Team Member and the Company shall hold discussions regarding the capacity of the Team Member to continue in his/her employment with consideration for a level of employment that the Team Member can be deemed fit to perform and meet the Company's requirements. Physical incapacity to perform duties may be a reason for termination of employment, subject to a Team Members rights under workers' compensation legislation.
- 32.10.4 The Team Member has the duty of care to maintain their fitness for work throughout their employment.
- 32.10.5 Any follow up or specialist tests are the obligation of the Team Member to follow up and provide documentation in a reasonable timeframe to maintain their fitness for work and Track Access Permit. Failure to do so may result in termination, leave without pay or any disciplinary action.

### **32.11 Health Assessment**

- 32.11.1 This clause 32.11 applies to Team Members employed in a classification under this Agreement.
- 32.11.2 The parties to this Agreement acknowledge that legislation imposes conditions on Watco's Rail Safety Accreditation to operate on the rail system that requires all Team Members to be medically fit and to be subject to a regime of medical testing, and further that the requirements of the National Standard for Health Assessment of Rail Safety Workers (as amended from time to time) (the **National Standards**) must be achieved and maintained by Team Members throughout their Watco employment.
- 32.11.3 Each Team Member's employment with Watco is conditional upon them passing a Cat 1 medical and producing a certificate from the duly qualified and accredited rail safety medical practitioner certifying that they are fit for duty.
- 32.11.4 During their employment with Watco:
  - 32.11.4.1 a Team Member must maintain the required level of fitness to be eligible for entrance to Watco's service, under this clause 32.11, throughout their employment with Watco;
  - 32.11.4.2 Team Members may, due to the operation of the National Standards and/or where directed by Watco, be required to undertake a health assessment from time to time including to determine whether they are fit for duty;

- 32.11.4.3 in the event that a Team Member cannot maintain required medical standards, the Team Member and Watco shall hold discussions regarding the capacity of the Team Member to continue in his/her employment with consideration for a level of employment that the Team Member can be deemed fit to perform and meet Watco's requirements. Physical incapacity to perform duties may be a reason for termination of employment, subject to a Team Members rights under workers' compensation legislation.
- 32.11.4.4 The result of health assessments initiated by Watco will be communicated to the Team Member concerned.
- 32.11.4.5 Any follow up or specialist tests are the obligation of the Team Member to follow up and provide documentation to Watco in a reasonable timeframe to maintain their fitness for work and track access permit. Failure to do so may result in termination, leave without pay or any disciplinary action.
- 32.11.5 Responsibility for the cost of health assessments carried out under this clause 32.11 will be as follows:
- 32.11.5.1 Watco will pay cost of the health assessment including all required tests up to the decision by a duly qualified and accredited rail safety medical practitioner for the purposes of the National Standard that the Team Member is either:
- 32.11.5.1.1 fit for duty unconditional;
  - 32.11.5.1.2 fit for duty conditional;
  - 32.11.5.1.3 temporarily unfit for duty;
  - 32.11.5.1.4 fit for duty subject to review;
  - 32.11.5.1.5 fit for duty subject to job modification; or
  - 32.11.5.1.6 permanently unfit for duty.
- (the Determination)*
- 32.11.6 if further tests are required following the Determination, the Team Member will be liable to cover the cost of those tests except that:
- 32.11.6.1 Watco will cover the cost of the first sleep apnoea test occurring before or after the Determination (thereafter, further sleep apnoea tests will need to be organised and paid for by the Team Member);
- 32.11.6.2 Watco will cover the cost of a stress ECG whether undertaken before or after the Determination;

32.11.7 notwithstanding any other provision of this clause 32.11.5 and clause 32.11.6, Watco will not be liable to cover the cost of investigation of existing, known medical conditions or referrals to a Team Member's local General Practitioner;

32.11.8 Watco will roster time for Team Members to attend a health assessment undertaken pursuant to this clause 32.11 and will cover incidental travel associated with such attendance.

### **32.12 *Trauma Associated with Serious Accidents or Incidents***

32.12.1 This clause refers to circumstances where a Team Member covered by this Agreement is in charge of a train or working in the vicinity to where the incident occurred involved in a serious accident or incident that results in an injury or fatality to another party or parties.

32.12.2 In the circumstances referred to in Clause 32.12.1 the Company shall ensure that:

32.12.2.1 The Team Member is replaced, as per the Company's incident management plan, on the day concerned by a suitable qualified Team Member; and

32.12.2.2 That the Team Member is provided with transport to their home or their Home Depot, as so elected by that Team Member; and

32.12.2.3 That the Team Member, if the incident involves a fatality or associated with serious trauma, is provided with up to two days paid leave to receive psychological counselling from an accredited provider. This trauma leave is a separate entitlement to any other leave.

### **32.13 *Fatigue Management***

32.13.1 The freight services business is conducted in a 24 hour a day and seven day a week operation. Accordingly, work teams of Team Members are required to perform their work on shifts, which have irregular starting times and varying lengths. The parties acknowledge that as a result of these operational requirements the Team Members engaged in operations are more likely to be exposed to the effects of work related fatigue compared to day shift workers. Accordingly the parties agree to the establishment and implementation of the undermentioned Fatigue Management principles.

32.13.2 Addressing the opportunity for quantity and quality of sleep, particularly addressing the "Time of Day" effect.

32.13.3 Ensuring the number of consecutive shifts (In particular night shifts), shift lengths, and rest periods between shifts are considered in roster compilation, again addressing the time of day considerations.

- 32.13.4 Understanding that Team Members have a need to balance the competing requirements of their jobs with their social and domestic responsibilities.
- 32.13.5 An integral part of the effective management of fatigue will be the raising of awareness and the training of both managers/supervisors/rostering personnel and Team Members in fatigue management. Awareness raising and training will address, but not be limited to:
  - 32.13.5.1 Methods of minimising the risks associated with shift work.
  - 32.13.5.2 The responsibilities of both the Company and Team Member in managing the requirements of the operations.
  - 32.13.5.3 An understanding of physiological and psychological effects shift work has on Team Members.
  - 32.13.5.4 The training and implementation of the Company's fatigue management procedure.
  - 32.13.5.5 Shift worker wellbeing and fitness for work considerations including management of non-work periods.
  - 32.13.5.6 The parties acknowledge that fatigue management is an evolving process and further management methods and processes will continue to be developed in the future.

### **33 DISCIPLINE AND DISPUTES**

#### ***33.1 Counselling and Discipline Procedure***

##### ***33.1.1 Discipline***

- 33.1.1.1 Disciplinary measures are implemented following unjustifiable and/or clearly inappropriate behaviour by an individual, but within the context of performance management.
- 33.1.1.2 The disciplinary process is generally broken down into the following stages and has no bearing on the procedure for investigating incidents;
  - 33.1.1.2.1 Initial request for information and facts of what occurred and all information assessed,
  - 33.1.1.2.2 Formal (written) notice of disciplinary hearing in to a matter and notification if required to attend a disciplinary hearing,
  - 33.1.1.2.3 Formal allegation/s and facts are discussed at the disciplinary hearing and sufficient time is allocated (the Team Members is provided the opportunity to respond to the allegation/s) to respond to the allegations within the disciplinary hearing,

- 33.1.1.2.4 Findings and recommendations are presented to the Disciplinary Committee, where an impartial decision to the outcome of the hearing is determined.
- 33.1.1.2.5 Determination of outcome provided to the Team Member through consultation and in writing by the Company
- 33.1.1.2.6 Opportunity for the Team Member to appeal the decision.
- 33.1.1.3 Team Members facing disciplinary proceedings will at all times be accorded procedural fairness (including reasonable opportunity to rebut the charge at each decision stage, including timely examination of all relevant Company material and personnel) and the right to a representative of their choice.
- 33.1.2 *Pending Investigation*
  - 33.1.2.1 Pending the outcome of the disciplinary process a Team Member may be:
    - 33.1.2.1.1 Withdrawn from the operating roster on guaranteed hours. Where the Team Member is subsequently exonerated, the Team Member will be paid for the rostered hours for that cycle if not worked; or
    - 33.1.2.1.2 Placed on alternative duties; or
    - 33.1.2.1.3 Suspended with pay where any of the following are alleged:
      - 33.1.2.1.4 being under the influence of drugs or alcohol during working hours;
      - 33.1.2.1.5 abuse or harassment of a customer or another Team Member;
      - 33.1.2.1.6 breaching a safety regulation in such a way as to reasonably cause a risk of injury; or
      - 33.1.2.1.7 disobeying a lawful and reasonable direction.
    - 33.1.2.1.8 Breach of Company Policies, Procedures and Golden Safety Rules (as amended by the Company from time to time).
- 33.1.3 *Suspended without pay where any of the following are alleged:*
  - 33.1.3.1 Serious Misconduct
  - 33.1.3.2 theft;
  - 33.1.3.3 violent behavior (including assault);
  - 33.1.3.4 wilful damage to the property of the Company;

- 33.1.3.5 fraud;
  - 33.1.3.6 breaching a safety regulation in such a way as to reasonably cause an imminent
  - 33.1.3.7 risk of injury;
  - 33.1.3.8 disobeying a lawful and reasonable direction.
  - 33.1.3.9 Breach of Company Policies, Procedures and Golden Safety Rules (as amended by the Company from time to time).
- 33.1.4 *Conclusion of the investigation*
- 33.1.4.1 Disciplinary measures that the Company may take against a Team Member include:
    - 33.1.4.1.1 None
    - 33.1.4.1.2 Caution - a verbal or written caution, warning or reprimand;
    - 33.1.4.1.3 Demotion - a reduction in position, classification and pay for a period of up to six months; where the Team Member will be paid and worked at the regressed level; or
    - 33.1.4.1.4 Suspension With Pay - Suspension from duty but with pay for a period of up to four weeks; and
    - 33.1.4.1.5 Suspension Without Pay - Suspension from duty without pay for a period of up to four weeks; or
    - 33.1.4.1.6 Dismissal - Dismissal, with or without notice as applicable.
    - 33.1.4.1.7 Dismissal excepted, a Team Member with a grievance in relation to the application of this clause shall follow the Resolution of Disputes process outlined in of this Agreement.

**33.2 *Dispute Settling Procedure***

- 33.2.1 If a dispute relates to:
  - 33.2.1.1 a matter arising under the agreement ; or
  - 33.2.1.2 the National Employment Standards;
  - 33.2.1.3 this term sets out procedures to settle the dispute.
- 33.2.2 Team Member who is a party to the dispute may appoint a representative for the purposes of these procedures.
- 33.2.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Team Member or Team Members and relevant supervisors and/or management. This

should be done in a timely manner but due to extenuating and operational circumstances may take longer to implement. As a guide the discussions should be held within the first 4 days of the dispute being raised

- 33.2.4 Prior to notification of the dispute to Fair Work Australia, senior management and Union officials will meet and attempt to resolve the issues in dispute.
- 33.2.5 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.
- 33.2.6 The Fair Work Commission may deal with the dispute in two stages:
  - 33.2.6.1 The Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  - 33.2.6.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
    - 33.2.6.2.1 arbitrate the dispute; and
    - 33.2.6.2.2 make a determination that is binding on the parties.

***Note** If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.*

- 33.2.7 While the parties are trying to resolve the dispute using the procedures in this term:
- 33.2.8 a Team Member must continue to perform his or her work as he or she would normally have done prior to dispute unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- 33.2.9 a Team Member must comply with a direction given by the Company to perform other available work at the same workplace, or at another workplace, unless:
  - 33.2.9.1 the work is not safe; or
  - 33.2.9.2 applicable occupational health and safety legislation would not permit the work to be performed; or
  - 33.2.9.3 the work is not appropriate for the Team Member to perform; or
  - 33.2.9.4 there are other reasonable grounds for the Team Member to refuse to comply with the direction.
- 33.2.10 The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this Clause.

### **33.3 Model consultation term**

- 33.3.1 This term applies if the employer:
  - 33.3.1.1 has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
  - 33.3.1.2 proposes to introduce a change to the regular roster or ordinary hours of work of employees.
- 33.3.2 *Major change*
  - 33.3.2.1 For a major change referred to in clause 33.3.1.1:
    - 33.3.2.1.1 the employer must notify the relevant employees of the decision to introduce the major change; and
    - 33.3.2.1.2 subclauses 33.3.2.2 to 33.3.2.8 apply.
  - 33.3.2.2 The relevant employees may appoint a representative for the purposes of the procedures in this term.
  - 33.3.2.3 If:
    - 33.3.2.3.1 a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
    - 33.3.2.3.2 the employee or employees advise the employer of the identity of the representative;
    - 33.3.2.3.3 the employer must recognise the representative.
  - 33.3.2.4 As soon as practicable after making its decision, the employer must:
    - 33.3.2.4.1 discuss with the relevant employees:
      - (i) the introduction of the change; and
      - (ii) the effect the change is likely to have on the employees; and
      - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
    - 33.3.2.4.2 for the purposes of the discussion--provide, in writing, to the relevant employees:
    - 33.3.2.4.3 all relevant information about the change including the nature of the change proposed; and
      - (i) information about the expected effects of the change on the employees; and
      - (ii) any other matters likely to affect the employees.

- 33.3.2.5 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 33.3.2.6 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 33.3.2.7 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in clause 33.3.2.1.1 and subclauses 33.3.2.2 and 33.3.2.4 are taken not to apply.
- 33.3.2.8 In this term, a major change is *likely to have a significant effect on employees* if it results in:
  - 33.3.2.8.1 the termination of the employment of employees; or
  - 33.3.2.8.2 major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
  - 33.3.2.8.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - 33.3.2.8.4 the alteration of hours of work; or
  - 33.3.2.8.5 the need to retrain employees; or
  - 33.3.2.8.6 the need to relocate employees to another workplace; or
  - 33.3.2.8.7 the restructuring of jobs.
- 33.3.3 *Change to regular roster or ordinary hours of work*
  - 33.3.3.1 For a change referred to in clause 33.3.2.2:
    - 33.3.3.1.1 the employer must notify the relevant employees of the proposed change; and
    - 33.3.3.1.2 subclauses 33.3.3.2 to 33.3.3.7 apply.
  - 33.3.3.2 The relevant employees may appoint a representative for the purposes of the procedures in this term.
  - 33.3.3.3 If:
    - 33.3.3.3.1 a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
    - 33.3.3.3.2 the employee or employees advise the employer of the identity of the representative;
    - 33.3.3.3.3 the employer must recognise the representative.

- 33.3.3.4 As soon as practicable after proposing to introduce the change, the employer must:
- 33.3.3.4.1 discuss with the relevant employees the introduction of the change; and
- 33.3.3.4.2 for the purposes of the discussion--provide to the relevant employees:
- (i) all relevant information about the change, including the nature of the change; and
  - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
  - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
  - (iv) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 33.3.3.5 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 33.3.3.6 The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- 33.3.3.7 In this term:
- 33.3.3.7.1 "*relevant employees*" means the employees who may be affected by a change referred to in subclause 33.3.2.1.

## **34 WORKPLACE REPRESENTATIVES**

### **34.1 *Reasonable Time to Discuss Issues***

- 34.1.1 Where Team Members at the workplace have elected a workplace representative/s to represent the members in employment-related matters, the Company shall provide the representative/s reasonable time to discuss those matters with the Members and management.

### **34.2 *Facilities Available***

- 34.2.1 To facilitate the representative/s role, the Company will allow workplace delegates reasonable access to telephone, facsimile, photocopying and email services, where available and provided, for the purpose of carrying out their role. Use of resources by workplace delegates will be subject to the delegate complying with the prevailing Company policy provisions and the specific directions of the site manager (neither of which shall impose unreasonable restriction on the operation of this clause).

**34.3 Union Contact**

- 34.3.1 Workplace delegates that represent Union members at the workplace will be allowed reasonable time to attend to any work related matters, on behalf of Union members but must consult with their supervisor prior to attending to any such matters.
- 34.3.2 Workplace Delegates will be entitled to reasonable unpaid time off to attend Union meetings, congresses and conferences, subject to operational constraints. Workplace delegates seeking such leave are required to give fourteen (14) days notice and the Company will not unreasonably refuse to approve such leave.
- 34.3.3 The Company will provide a lockable notice case to be used by workplace delegates for posting notices authorised by the Union.
- 34.3.4 Special paid leave will be granted to Team Members of the Company who are delegates of their Union to attend their Union's National Council, National Executive, Branch Council, Branch Executive and Divisional Committee meetings, or their equivalent and as recognised by the AEC or other relevant authority.
- 34.3.5 To be eligible for special paid leave, the Team Member:
  - 34.3.5.1 is required to apply for leave at least four (4) weeks prior to the meeting; plus
  - 34.3.5.2 provide written evidence (including basic details of the meeting) that they are an elected delegate of the Union; and
  - 34.3.5.3 are required by the Union to attend the meeting.

**35 RIGHT OF ENTRY**

- 35.1 The secretary of the AMWU or their representative has a right of entry as per Part 3-4 of the FWA.

### 36 APPENDICES

#### 36.1 APPENDIX 1: Schedule 1 - (Annual Wage Rates)

##### Permanent Team Member

Level	Rate
Level 1	\$73,819
Level 2	\$87,229
Level 3	\$100,661
Level 4	\$114,070

##### Casual Team Member (exclusive of 25% loading)

Level	Rate
Level 1	\$33.80 per hour
Level 2	\$39.94 per hour
Level 3	\$46.09 per hour
Level 4	\$52.23 per hour

##### Casual Team Member (inclusive of 25% loading)

Level	Rate
Level 1	\$42.25 per hour
Level 2	\$50 per hour
Level 3	\$57.75 per hour
Level 4	\$65.25 per hour

### **36.2 APPENDIX 2: (Classifications)**

The parties to this Agreement recognise the need for Team Members to be able to perform a wide range of tasks in the performance of their duties. The Company recognises the value of training to achieve multi-skilling and the importance of training to the career/s of Team Members. The Classification Structure detailed in this Appendix categorises Team Members according to their Classification.

Classifications relate to the following factors:

#### **Level of experience;**

- Range of skills (including levels of training or competency) required for performing duties;
- Level of supervision (including degree of instructions required and/or given);
- Degree of responsibility

#### ***Team Member Level 1***

- Entry level to general labouring duties, assist tradesperson/field service technician
- Undertake an apprenticeship in mechanical or electrical fields or undertake relevant training to obtain qualifications recognised by the rail industry
- After suitable training, be competent to use hand and power tools to repair and maintain rollingstock under supervision of another Watco team member
- Undertake training to advance to higher skill levels
- Complete relevant paperwork
- Hold a WA car drivers license to enable driving of a company car
- Undertake training and in relation to OH&S legislation and Watco's policies and procedures.
- Be able to operate small plant and carry out basic plant maintenance
- Maintain and hold an Arc Infrastructure Track Access Permit at the applicable level.
- Other duties as assigned

#### ***Team Member Level 2***

- All qualifications described in Level 1.
- Be Trade Qualified in a mechanical or electrical trade commensurate with the rail industry and skill sets required
- Maintain and undertake training and in relation to OH&S legislation and Watco's policies and procedures.

- After suitable training, be able to safely perform shunting operations of rollingstock at designated maintenance sites
- After suitable training, be able to act as a Locomotive Second Person and assist the locomotive driver in shunting and marshalling of trains at designated maintenance sites
- After suitable training, be able to undertake Train Examinations and certify trains as fit for departure
- Be able to undertake minor repairs to all types of rolling stock inclusive of roadworthiness inspections and daily checks
- Be able to undertake Fuelling and Provisioning of locomotives, vehicles, and crew cars
- Be able to supervise, instruct and mentor others in the proper use of all tools, plant and equipment used in day-to-day rollingstock maintenance
- Be able to complete and sign off all relevant paperwork
- Undertake training to advance to higher levels
- Any task within your competence to perform as directed by the Company
- Obtain and hold a Heavy Rigid (HR) classification driver's license
- Maintain and hold an Arc Infrastructure Track Access Permit at the applicable level.
- Other duties as assigned

### ***Team Member Level 3***

- All qualifications described in Level 1 and Level 2
- A Tradesperson who holds a trades qualification of mechanical or electrical trade
- After suitable training, be able to drive a locomotive or shunt tractor during shunting activities, with or without remote control at designated maintenance sites
- Undertake locomotive and vehicle provisioning including daily locomotive checks
- Able to provide effective on job training of others rail workers
- Safely operate and maintain all plant and equipment
- Maintain and undertake training and in relation to OH&S legislation and Watco's policies and procedures.
- Identify and rectify complex faults with all company plant, vehicles and rollingstock including locomotives and wagons.
- Maintain and hold an Arc Infrastructure Track Access Permit at the applicable level.
- Be able to obtain track access and safe work permits from relevant authorities to work in rail corridor

- Mentor, Coach and support Team Members
- Promote the Customer First Foundation Principles to both internal and external stakeholders
- Be able to supervise Level 1 and 2 team members in relation to on-job and off-job training, re-training, and relevant operational requirements.
- If and when required, be able to undertake duties of a Level 4
- Other duties as assigned

***Team Member Level 4***

- All qualifications and functions described in Level 3
- A Tradesperson who holds dual tradesperson qualifications of mechanical and/or electrical trade or skillsets recognised by Watco WA Rail that benefit the operational requirements of the company
- Mentor, Coach and support Team Members
- Promote the Customer First Foundation Principles to both internal and external stakeholders
- Be able to supervise multiple Level 1, 2 and 3 team members in relation to on-job and off-job training, re-training, and relevant operational requirements.
- Undertake or hold a Cert IV Training and Assessment course to enable effective training of Watco Team Members
- Maintain and hold an Arc Infrastructure Track Access Permit at the applicable level.
- Other duties as assigned

**37 ENDORSEMENT OF THE AGREEMENT**

37.1 The parties recognise that each has a responsibility to ensure the successful operation of this Agreement. The signatures below testify the fact that the Agreement has been endorsed at peak Company and Union levels.

  
\_\_\_\_\_  
Signature

FOR THE COMPANY

CHIEF OPERATING OFFICER

Position / Authority Held

FOR THE COMPANY

**Watco WA Rail Pty Ltd  
Halcyon House  
1 Campbell Street  
West Perth WA 6005**

\_\_\_\_\_  
Address

FOR THE COMPANY

  
\_\_\_\_\_  
Signature

FOR THE UNION

Assistant State Secretary

Position / Authority Held

FOR THE UNION

121 Royal Street  
East Perth WA 6004

\_\_\_\_\_  
Address

FOR THE UNION

  
\_\_\_\_\_  
Witness Signature

Witness Signature

  
\_\_\_\_\_  
Witness Signature:

Witness Signature:

11/1/2021  
\_\_\_\_\_  
Date of Signing Agreement

Date of Signing Agreement

12/01/2021  
\_\_\_\_\_  
Date of Signing Agreement

Date of Signing Agreement



1 Campbell St,  
West Perth, WA 6005  
Phone: (08) 9416 6377  
Fax: (08) 9226 0309

IN THE FAIR WORK COMMISSION

**FWC Matter No.:**

AG2021/45

**Applicant:**

Watco WA Transportation Services Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

## Undertaking – Section 190

I, Cameron Swaine, Vice President Maintenance and Rolling Stock have the authority given to me by Watco WA Transportation Services Pty Ltd ("**Watco**") to give the following undertakings with respect to the Watco WA Transportation Services Pty Ltd Maintenance and Rolling Stock Agreement 2020 ("**the Agreement**"):

1. Watco undertakes that the 84 hours over a Roster Cycle Period as referenced in clause 20.1 of the Agreement consists of a period of 14 days which is made up of two Roster Cycles as defined in clause 27.2 of the Agreement.
2. A Roster Cycle as defined in clause 27.1 is seven days from 0000Sunday to 2359 Saturday. A Roster Cycle constitutes 38 ordinary hours, plus 4 reasonable additional hours per Roster Cycle for the purposes of sections 62 and 63 of the FW Act.
3. Hours of work will otherwise be in accordance with the Agreement.
4. The terms are defined as per the Agreement.

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

Cameron Swaine  
Signature

8/2/2021  
Date

***Customer First - Safety Always!***



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West Perth, WA 6005  
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IN THE FAIR WORK COMMISSION

**FWC Matter No.:**

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**Applicant:**

Watco WA Transportation Services Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

## Undertaking – Section 190

I, Cameron Swaine, Vice President Maintenance and Rolling Stock have the authority given to me by Watco WA Transportation Services Pty Ltd ("**Watco**") to give the following undertakings with respect to the Watco WA Transportation Services Pty Ltd Maintenance and Rolling Stock Agreement 2020 ("**the Agreement**"):

1. Watco undertakes that for the purposes of clause 16, the Company will provide the Team Member the applicable notice of termination pursuant to s117-123 of the Fair Work Act 2009 and clause 15.2 of the Agreement.

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

*Cameron Swaine*

Signature

*8/2/2021*

Date

***Customer First - Safety Always!***



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IN THE FAIR WORK COMMISSION

**FWC Matter No.:**  
AG2021/45

**Applicant:**  
Watco WA Transportation Services Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

## Undertaking – Section 190

I, Cameron Swaine, Vice President Maintenance and Rolling Stock have the authority given to me by Watco WA Transportation Services Pty Ltd ("**Watco**") to give the following undertakings with respect to the Watco WA Transportation Services Pty Ltd Maintenance and Rolling Stock Agreement 2020 ("**the Agreement**"):

1. Watco undertakes that for the purposes of clause 17.3, the Company will in accordance with s 120(2) of the Fair Work Act 2009, seek a determination by the Fair Work Commission to reduce the amount of redundancy pay that would otherwise be payable if Watco has obtained other acceptable employment for the Team Member.
2. Clause 17.3.1 will not be valid and Point (1) above shall overwrite this clause.

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

*Cameron Swaine*

Signature

*0/2/2021*

Date

***Customer First - Safety Always!***