



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

360 Personnel Pty Ltd T/A 360 Personnel Pty Ltd
(AG2020/1072)

360 PERSONNEL PTY LTD ENTERPRISE AGREEMENT 2020 - 2024

Building, metal and civil construction industries

DEPUTY PRESIDENT SAUNDERS

NEWCASTLE, 1 MAY 2020

Application for approval of the 360 Personnel Pty Ltd Enterprise Agreement 2020 - 2024.

[1] An application has been made for approval of an enterprise agreement known as the *360 Personnel Pty Ltd Enterprise Agreement 2020 - 2024 (Agreement)*. The application was made pursuant to section 185 of the *Fair Work Act 2009 (Act)*. The Agreement is a single enterprise agreement.

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

[3] The Agreement is approved and, in accordance with section 54 of the Act, will operate from 8 May 2020. The nominal expiry date of the Agreement is 30 April 2024.



DEPUTY PRESIDENT

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**360 PERSONNEL PTY LTD
ENTERPRISE AGREEMENT
2020 - 2024**

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1. TITLE

This Agreement shall be known as the 360 Personnel Pty Ltd Enterprise Agreement 2020 – 2024

2. DEFINITIONS

In this Agreement, unless the contrary intention appears:

- 2.1 The “Agreement” means the 360 Personnel Pty Ltd Enterprise Agreement 2020 – 2024.
- 2.2 The “Company” means 360 Personnel Pty Ltd.
- 2.3 “Construction work” means all work performed in connection with the construction, alteration, extension, restoration, maintenance, repair, demolition or dismantling of buildings, structures or works that form, or are to form, part of land, whether or not the buildings, structures or works are permanent in, or in connection with the operations of the Company.
- 2.4 The “FW Act” means the Fair Work Act 2009 (Cth).
- 2.5 “FWC” means Fair Work Commission.
- 2.6 The “FW Regulations” means regulations made under the FW Act.
- 2.7 “Workplace Right” has the same meaning as that contained in Section 341 of the FW Act as far as this applies to Employees.
- 2.8 “Adverse Action” has the same meaning as that contained in Section 342 of the FW Act as far as this applies to Employees.
- 2.9 “Superannuation legislation” means the Superannuation Guarantee (Administration) Act 1992 (Cth), the Superannuation Guarantee Charge Act 1992 (Cth), the Superannuation Industry (Supervision) Act 1993 (Cth) and the Superannuation (Resolution of Complaints) Act 1993 (Cth),
- 2.10 The “National Employment Standards” (NES) are minimum standards applying to employment conditions.
- 2.11 “Distant Work” means work at locations where it is not reasonable or possible for the Employee to return to their normal place of residence, or to any separately maintained residence, each night.
- 2.12 “Employee” means a person:
 - (a) employed by the Company; and
 - (b) who performs work in any State or Territory in Australia; and
 - (c) who performs work in accordance with the classifications covered by this Agreement, and
 - (d) has the meaning in the FW Act.

- 2.13 "The Company" has the same meaning as "Employer" as defined in the FW Act.
- 2.14 "Employee Representative" means a person:
- (a) who is an Employee; or
 - (b) chosen and appointed by an individual Employee or a number of Employees to represent them in relation to the terms of this Agreement; or
 - (c) who acts on the instructions of the Employee or Employees.
- 2.15 "Parties" to this Agreement shall mean the Company and the Company's Employees engaged on work classified in this Agreement.
- 2.16 "Building Code 2016" means the Code for the Tendering and Performance of Building Work 2016, enacted in accordance with the Building and Construction Industry (Improving Productivity) Act 2016.
- 2.17 "Daily Hire Employee" – is an Employee engaged on a full-time or part-time basis and is subject to one day's notice of termination, or a payment of one day's pay in lieu of notice and who works 38 ordinary hours per week as a full-time Employee or who works on average of fewer than 38 ordinary hours per week as a part-time Employee.
- 2.18 "Leading Hand" – is an Employee who is required to supervise or direct or be in charge of another Employee or other Employees.

3. POLICIES, AWARDS AND AGREEMENTS

3.1 Duration of Agreement

- 3.1.1 This Agreement shall come into operation seven (7) days after the Agreement is approved by FWC under the FW Act.
- 3.1.2 The Agreement has a nominal expiry date of four (4) calendar years from the date of approval by the FWC.
- 3.1.3 The Agreement shall continue to apply beyond its expiration date until it ceases to operate by virtue of the operation of Sections 58, 224 or 227 of the FW Act.

3.2 Application

- 3.2.1 This Agreement deals with matters pertaining to the employment relationship between:
- (a) the Company; and,
 - (b) Employees of the Company who are engaged in any of the callings or classifications defined by the Appendices of this Agreement.

3.3 Scope

- 3.3.1 This Agreement shall apply where the Company undertakes construction work, including maintenance work.

3.4 Relationship to other Awards and Agreements

- 3.4.1 This Agreement operates subject to Chapter 2 of the FW Act to provide terms and conditions for Company Employees covered by the Agreement.
- 3.4.2 The relevant Award for purposes of applying the Better-Off-Overall test to this Agreement is the Building and Construction General On-site Award 2010. The provisions of this Award are expressly incorporated into the terms and conditions of this Agreement.
- 3.4.3 Where modern award conditions have been modified by the terms of this Agreement, remuneration and other conditions of this Agreement have been set at a level to ensure that persons employed under this Agreement, are better-off-overall than they would otherwise be under the modern award. However, where the Agreement is silent on the reference award provisions, then those modern award provisions shall apply.
- 3.4.4 This Agreement shall be read in conjunction with the NES.
- 3.4.5 Where this Agreement gives an Employee an entitlement that is the same as an entitlement under the NES:
- (a) those terms operate in parallel with the Employee's NES entitlement, but not so as to give the Employee a double benefit; and
 - (b) the provisions of the NES relating to the NES entitlement apply, as a minimum standard, to the Agreement entitlement.

3.5 No Extra Claims Commitment

- 3.5.1 The Employees covered by this Agreement undertake that they will not pursue any further claims against the Company during its period of operation.
- 3.5.2 Notwithstanding the provisions of this clause, any party to this Agreement may apply to the FWC to vary the Agreement in accordance with the relevant provisions of the FW Act. However, such variations shall be compliant with the Building Code 2016.
- 3.5.3 If, subsequent to approval of this Agreement by the FWC, any clause of this Agreement is deemed inconsistent with the Building Code 2016, the parties agree to vary the Agreement pursuant to the FW Act to address any inconsistency.

4. CONTRACT OF EMPLOYMENT

4.1 Engagement of Employees

- 4.1.1 Employees under this Agreement shall be employed in one of the following categories:
- (a) Full-time or Part-time Daily Hire Employees;
 - (b) Casual Employees

- 4.1.2 At the time of engagement, the Company and the Employee will agree in writing:
- Whether the Employee is to be employed as a daily hire full-time or part-time Employee or casual Employee;
 - Upon the hours to be worked by the Employee, the days upon which the hours will be worked and commencing times for the work;
 - Upon the classification applying to the work to be performed;
 - Upon the period of employment.

4.1.3 Employment is subject to a probation period of three (3) months which may be extended by a further three (3) months at the discretion of the Company.

4.1.4 All Employees shall be required to supply personal details for record keeping and other purposes pertaining to their employment.

4.1.5 An Employee that has knowingly provided false or misleading personal details and other information or false or misleading information may be summarily dismissed.

4.2 Full-Time or Part-Time Employment

4.2.1 All full-time Employees engaged in building and construction work shall be employed on a daily hire basis and shall work 38 hours per week.

4.2.2 Part-time Employees shall work fewer than 38 hours per week and will have reasonably predictable hours of work.

4.3 Casual Employment

4.3.1 A casual Employee is one engaged and paid in accordance with the provisions of this clause.

4.3.2 A casual Employee shall be paid a 25% loading on the applicable hourly rate in accordance with the calculation as prescribed in Table B in Appendix 2 of this Agreement for the Employee's classification, for each hour of ordinary duty worked. This rate shall not attract any premium or penalty.

4.3.3 Subject to the provisions of clause 7.1.2 of this Agreement, where a casual Employee performs overtime work, weekend work or public holiday work, the penalty payment applicable shall be calculated using the rates set out in Table A of Appendix 2 of this Agreement and applying the following penalty rates in accordance with clause 7.3 and 7.4 of this Agreement as appropriate:

- (a) Time and a half - 175% of the ordinary hourly rate;
- (b) Double time - 225% of the ordinary hourly rate;
- (c) Double time and a half - 275% of the ordinary hourly rate.

4.3.4 On each occasion a casual Employee is required to attend work, the Employee shall be entitled to payment for a minimum of four (4) hours' work, plus any relevant allowances for time actually worked.

4.3.5 A casual Employee shall be entitled to all of the applicable rates and conditions of employment prescribed by this Agreement except payment for annual leave, annual leave loading, personal / carers leave, jury service, public holidays not worked and redundancy.

4.3.6 A casual Employee, other than an irregular casual Employee, who has been engaged by the Company for a sequence or periods of employment under this Agreement during a period of six months, has the right to elect to have their contract of employment converted to full-time or part-time employment if the employment is to continue beyond the conversion process. The Company must give notice in writing to the Employee of the provisions of this clause within four (4) weeks of the Employee having obtained six (6) months service.

4.3.7 A casual Employee who has a right to elect may give four weeks' notice in writing to the Company that they seek to elect to convert their contract of employment to full-time or part-time employment, and within four weeks' of receiving such notice the Company must consent to or refuse the election. The Company must not unreasonably refuse any such election.

4.3.8 A casual Employee who does not elect to convert their contract of employment to full-time or part-time employment is deemed to have elected against any such conversion.

4.4 Flexibility Arrangements

4.4.1 A Company and Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of the terms of the Agreement if:

- (a) The Agreement deals with 1 or more of the following matters:
 - (i) Arrangements about when work is performed;
 - (ii) Overtime rates;
 - (iii) Penalty rates;
 - (iv) Allowances;
 - (v) Leave loading; and
- (b) The arrangement meets the genuine needs of the Company and Employee in relation to 1 or more of the matters mentioned in Clause 4.5.1(a); and
- (c) The arrangement is genuinely agreed to by the Company and the Employee.

4.4.2 The Company must ensure that the terms of the individual flexibility arrangement:

- (a) Are about permitted matters under section 172 of the FW Act; and
- (b) Are not unlawful terms under section 194 of the FW Act; and
- (c) Result in the Employee being better off overall than the Employee would be if no arrangement was made.

4.4.3 The Company must ensure that the individual flexibility arrangement:

- (a) Is in writing; and
- (b) Includes the name of the Company and Employee; and
- (c) Is signed by the Company and Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
- (d) Includes details of:
 - (i) The terms of this Agreement that will be varied by the arrangement; and
 - (ii) How the arrangement will vary the effect of the terms; and
 - (iii) How the Employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
- (e) States the day on which the arrangement commences.

4.4.4 The Company must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

4.4.5 The Company or Employee may terminate the individual flexibility arrangement;

- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
- (b) if the Company and Employee agree in writing to the termination – at any time.

4.5 Stand Down of Employees

4.5.1 The Company may stand down an Employee without pay during a period in which the Employee cannot usefully be employed because of one of the following circumstances:

- (a) Industrial action (other than industrial action organised or engaged in by the Company);
- (b) A breakdown of machinery or equipment, for reasons by which the Company cannot be held responsible for the breakdown;
- (c) A stoppage of work for any cause for which the Company cannot reasonably be held responsible.

4.5.2 An Employee is not taken to be stood down during a period when the Employee:

- (a) is taking paid or unpaid leave that is authorised by the Company; or
- (b) is otherwise authorised to be absent from their employment.

4.6 Employee Performance Management

4.6.1 Where the Company believes that an Employee is not meeting the standards of performance, conduct reasonably expected of them or affected by alcohol and / or any other drug the following procedures will apply:

- In the first instance, the Employee will be counselled as to where their performance or conduct is deficient. Where appropriate, the steps to be taken to remedy the deficiency will be identified and a review period will be set. Where an Employee is found to be affected by alcohol and / or any drug, counselling and rehabilitation may be offered to the Employee. In more serious cases a written warning may be issued at this stage.
- If the Employee's work performance or conduct fails to improve to the standard reasonably required by the Company, the Employee will be counselled again and the Company may issue a written warning advising the Employee that their employment is in jeopardy if there is not an immediate and sustained improvement by the Employee. A further monitoring and review period may be set if appropriate. In more serious cases, the Company issues the Employee with a final written warning.
- Should the matter still not be resolved, except where the Employee has already been issued with a final written warning, the Employee will be counselled again and a further written warning given. This warning shall be a final warning unless, in the opinion of the Company, this is not warranted.

- A final written warning should advise the Employee that unless there is an immediate and sustained improvement by the Employee, their employment may be terminated.

4.6.2 The Employee will at all stages be given the opportunity to make a response and have another Employee or support person present if they so wish.

4.6.3 Nothing prevents the Company from terminating the Employee's employment in accordance with this Agreement during any stage of this process.

5. REMUNERATION

5.1 Classification

5.1.1 Persons engaged as Employees under the terms of this Agreement shall be classified in accordance with the classifications set out in Appendix 1 of this Agreement.

5.1.2 Any payments or other entitlements provided to Employees in excess of the minimum requirements set out in this Agreement (if applicable), may be off set against any liability, claim or entitlement that an Employee may claim against the Company with respect to their employment.

5.1.3 The provisions of sub-clause 5.1.2 of this Agreement, shall not operate or be applied in any way which may result in or have the effect of excluding or reducing NES entitlements.

5.2 Rates of Pay

5.2.1 The wage rates set out in Table A of Appendix 2 of the Agreement apply to full-time and part-time Employees engaged in the classifications described in Appendix 1 of this Agreement over the life of the Agreement.

5.2.2 Rates apply on and from the beginning of the first pay period to commence after the date indicated.

5.2.3 The rates of pay in Appendix 2 of this Agreement have been calculated to incorporate the Follow-the-Job Loading Industry Allowance, Special Allowance and where applicable, the Tool Allowance.

5.3 Superannuation

5.3.1 The Company shall make superannuation contributions to the Construction and Building Industry Super (Cbus) fund, or another fund nominated by the Employee provided the fund complies with the Superannuation Guarantee Legislation including a MySuper product.

5.3.2 The rate of contribution shall be 9.5% of ordinary time earnings in accordance with superannuation legislation which may change from time to time.

5.3.3 "Ordinary Time Earnings" means the actual ordinary rate of pay the Employee receives for ordinary hours of work. This includes the Employee's wage rate (including casual loading), allowances, bonus', paid leave or holiday pay, payments made in lieu of notice or any other remuneration paid in relation to ordinary time worked or work related injury or illness for which the Employee is receiving Workers' Compensation payments (subject to a maximum of 52 weeks).

5.3.4 Employees earning less than \$450 per month shall not be entitled to any superannuation contribution.

5.3.5 Employees under the age of 18 years of age, who work less than 30 hours per week, shall not be entitled to any superannuation contribution.

5.4 Payment of Wages

5.4.1 All wages, allowances and other monies shall be paid weekly: -

- (a) Into an account in the name of the Employee (whether or not jointly with another person) at a financial institution by electronic transfer of funds or other means; or
- (b) By cheque payable to the Employee if there is agreement in writing between the Company and the Employee.

5.4.2 Weekly wages shall be processed so as to be accessible by the Employee no later than the close of business on Friday of each working week.

5.4.3 On becoming aware of any overpayment to an Employee the Company shall immediately notify the Employee of the overpayment, and obtain a written authority from the Employee to effect deductions. Employees shall pay back all monies overpaid.

5.4.4 In determining any termination payment, the Company may deduct from the payment any balance of outstanding monies owing to the Company, with the written authority of the Employee.

5.4.5 The Company shall pay any termination entitlements by cheque or by direct debit into the Employee's nominated account with a bank or financial institution no later than five (5) days after the termination.

5.5 Site Specific Payments

5.5.1 Where site specific payments are made on a project these payments must be made in accordance with the requirements of the Building Code 2016.

5.5.2 The following conditions will apply where site specific payments are made:

- The Company may, at its discretion, adopt some or all of those payments for the duration of that project.
- Payments will only apply while Employees are engaged on the site or project.
- Project Agreements cannot override the arrangements of this Agreement.
- Site Specific payments cannot apply unless they are provided for in an industrial instrument approved by the FWC.

5.6 Over-Agreement Payments

5.6.1 The Company may enter into an arrangement with an Employee to pay that Employee remuneration in excess of that provided in Appendix 2 of this Agreement. Additional remuneration may be paid by way of a higher rate than the rate specified for the Employee's classification in the relevant Table in Appendix 2 of this Agreement.

5.6.2 Where remuneration is paid by way of a higher hourly rate, the new rate shall become the hourly rate for all purposes of this Agreement, including for the calculation of long service payments by the Long Service Corporation.

5.6.3 An hourly rate in excess of the wage rates set out in the relevant Table in Appendix 2 of this Agreement may be subject to review based on Employee performance, project progress, or other criterion. Payment of the amount of the higher hourly rate may be discontinued in circumstances where an Employee's performance is assessed as unsatisfactory. Alternatively, the amount of excess may be offset against any later increases in the hourly rates prescribed in the relevant Table in Appendix 2 of this Agreement.

5.7 Leading Hand Allowance

5.7.1 An Employee shall be paid a leading hand allowance where such Employee is required by the Company to take responsibility for supervising the work of other Employees.

Leading Hands	Allowance Per Hour \$
In charge of 1 person	0.60
In charge of 2 to 5 persons	1.25
In charge of 6 to 10 persons	1.60
In charge of more than 10 persons	2.20

6. TRAVEL ARRANGEMENTS

6.1 Daily Fares

6.1.1 Employees shall start and cease work on a building and construction site at the usual commencing and finishing times, and will transfer from site to site as directed by the Company.

6.1.2 Time spent by Employees travelling from home to the site and return outside ordinary hours will not be regarded as time worked, except as otherwise provided in this Agreement.

6.1.3 The allowances prescribed by this clause are not to be taken into account for calculating entitlements for overtime, penalty rates, annual or personal / carer's leave or rostered days off.

6.1.4 Employees who are required to commence or cease work on a building and construction site, shall be paid a Daily Fares Allowance of \$17.45 for each day worked at a construction site located:

- (a) Within a radius of 50 kilometres of the GPO in a capital city of a State or Territory;
- (b) Within a radius of 50 kilometres of the principal post office in a regional city or town in a State or Territory: or,
- (c) Within a radius of 50 kilometres from the place where an Employee performing distant duty is accommodated with the Company's approval.

6.1.5 The allowance entitlement in the preceding clause shall not apply where: -

- (a) The Company provides the Employee with a vehicle not related to their contract of employment; or
- (b) The Company provides or offers to provide transport from the Employee's home to the job and return free of charge; or,
- (c) Or where the Employee is absent from work.

6.2 Travel Outside Radial Areas

6.2.1 Where the Company requires an Employee to travel daily from inside a radial area mentioned in the clause 6.1.4, to work on a building and construction site outside that area, the Employee will be entitled to:

- (a) The allowance prescribed in clause 6.1.4 for each day worked; and,
- (b) Payment for the time reasonably spent in travelling from the designated radial boundary to the job and return to the radial boundary. Payments shall be calculated to the next 15 minutes, with a minimum payment of 30 minutes per return journey per day; and,
- (c) Any other expenses necessarily and reasonably incurred in such travel, which will be at a rate per kilometre set out in the table below where the Employee uses their own vehicle to travel by the most direct trafficable route.

Start Date Per KM \$	1 July 2021 Per KM \$	1 July 2022 Per KM \$	1 July 2023 Per KM \$	1 July 2024 Per KM \$
0.50	0.51	0.52	0.53	0.54

6.2.2 An employee whose residence is outside the radial areas prescribed in clause 6.1.4 and who crosses a radial boundary while travelling to work on a building and construction site will be entitled to the daily fares allowance (where applicable) but not the payments set out in sub-clauses 6.2.1(b) or (c).

6.2.3 An Employee transferred from one site to another during working hours will be paid for the time occupied in travelling and, unless transported by the Company, must be paid reasonable cost of fares by the most convenient public transport between such sites.

6.2.4 Where an Employee agrees to the Company's request to use the Employee's own vehicle for such a transfer, the Employee must be paid an allowance per kilometre at a rate set out in the table below where the Employee travels by the most direct trafficable route.

Start Date Per KM \$	1 July 2021 Per KM \$	1 July 2022 Per KM \$	1 July 2023 Per KM \$	1 July 2024 Per KM \$
0.80	0.81	0.82	0.83	0.84

6.3 Travel To and From Distant Work

- 6.3.1 An Employee travelling to or from a location where Distant Work is undertaken shall be:
- Paid at the relevant rate of pay set out in Appendix 2 of this Agreement for a period of up to eight (8) hours per day while travelling to the site location, or home from the location.
 - Reimbursed for any fares, meals, or any other incidental expenses reasonably incurred in the travelling.
- 6.3.2 An Employee undertaking Distant Work shall be permitted to return to their home during a period of distant work. Where an Employee does return to their home, the travel shall be undertaken in the Employee's own time at the Employee's own expense.
- 6.3.3 An Employee undertaking Distant Work shall be entitled to the Weekend Return Home provisions and the Rest and Recreation provisions of the reference Modern Award.

6.4 Accommodation and Board During Distant Work

- 6.4.1 The Company may require an Employee to undertake distant work at locations where it is not reasonable or possible for the Employee to return to their normal place of residence each night.
- 6.4.2 Where this occurs, the Company shall provide the Employee with accommodation in a hotel, motel or rented premises at no expense to the Employee. This accommodation shall be in clean and well maintained premises, and be of an adequate standard, in a single or shared room with adequate furnishings, bedding, floor coverings, lighting, heating and access to bathroom facilities.
- 6.4.3 The Company shall also reimburse an Employee undertaking distant work a sum of up to \$60.00 per day for:
- The cost of three adequate meals each day; and,
 - For other incidental expenses incurred by the Employee while undertaking distant work.
- 6.4.4 As an alternative to subclause 6.4.2 above, the Company may require an Employee to arrange and pay for their own accommodation and meals whilst required to be away from home. When this occurs, an Employee shall be paid a living away from home allowance of \$525.00 per 7 day week or \$75.00 per day (night) where the Employee is away from home for less than 7 days in a week.

7. HOURS OF WORK

7.1 Ordinary Hours

- 7.1.1 Ordinary hours will be 38 hours per week, Monday to Friday with a maximum of 7.6 ordinary paid hours a day. All ordinary hours shall be worked between the hours of 7.00 a.m. and 6.00 p.m. The ordinary hours of work for part-time Employees are less than 38 per week.

7.1.2 With respect of clause 7.1.1 above, pursuant to clause 33.1 (viii) of the Building and Construction General On-Site Award 2010, the ordinary working day may start at 6.00 a.m. The change to the start time requires an agreement between the Company and the Employee(s) and their representative(s) if required.

7.1.3 Start and finish times, and times for meal breaks shall be agreed between the parties from time to time. Where no agreement can be reached, the Company shall determine all reasonable work times that accord with business requirements.

7.1.4 The working day will commence on the directed hour or half hour after tools and minor materials have been unpacked and readied for use. Finishing time will be on the hour or half hour directed and does not include time to pack up tools and sundry material.

7.2 Rostered Days Off

7.2.1 The parties agree that no system of rostered days off shall be observed. This Agreement was made in accordance with the provisions of clause 33.1(a) (vii) of the reference Award prior to the making of the Agreement.

7.3 Overtime

7.3.1 Overtime shall be paid where an Employee works in excess of their ordinary hours in any one day, Monday to Friday or outside the span of ordinary hours set out in clauses 7.1.1, 7.1.2 or 7.1.3.

7.3.2 An overtime rate of time and a half for the first two (2) hours on each day, and double time thereafter, shall apply to all overtime worked Monday to Friday.

7.3.3 All calculation of overtime payments shall use the applicable ordinary time rates set out in Appendix 2 Table A of this Agreement.

7.3.4 All Employees agree to work a reasonable amount of overtime without notice in the event of unusual events such as delays or urgent rectification work for clients.

7.3.5 All Employees must make themselves available to work reasonable additional hours. Reasonable additional hours shall be determined through consideration of the following factors:

- The Work Health and Safety risk of an Employee working any additional hours
- The personal circumstances of the Employee
- The operational requirements of the Company
- The amount of notice provided to the Employee
- The amount of notice provided by an Employee of an intention to refuse work
- The amount of hours already worked by the Employee over the previous four week period
- Whether the Employee is being asked to work on a public holiday

7.3.6 This list is not exhaustive of all possible considerations to take into account when determining reasonable additional hours. Communication with each Employee is the key in determining what will be reasonable.

7.4 Work on Weekends and Public Holidays

- 7.4.1 All work performed on a Saturday by Employees shall be paid at time and a half for the first 2 hours and at double time after that. Employees, except casuals, undertaking work on a Saturday shall be paid for a minimum attendance of three (3) hours.
- 7.4.2 All work performed after 12 pm on Saturday shall be paid at double time.
- 7.4.3 All work performed on a Sunday by Employees shall be paid at double time. A full-time Employee undertaking work on a Sunday shall be paid for a minimum attendance of four hours.
- 7.4.4 All work performed by Employees on a public holiday shall be paid at a rate of double time and a half, with a minimum payment for four (4) hours.
- 7.4.5 As a general rule, Employees will not work on public holidays. However, the Company may request an Employee to work on a public holiday if the request is reasonable.
- 7.4.6 If the Company requests an Employee to work on a public holiday, the Employee may refuse the request if:
- The request is not reasonable; or,
 - The refusal is reasonable.
- 7.4.7 Subject to sub-clause 7.4.4 of this Agreement, where ordinary duty commenced on a Friday and extends after midnight, the whole of the shift shall be paid in accordance with provisions relating to work performed on a Friday.

7.5 Ordinary Time Meal and Rest Breaks

- 7.5.1 Subject to the provisions of sub-clause 7.6.5 of this Agreement, Employees are entitled to a paid rest period of 10 minutes between 9.00 a.m. and 11.00 a.m. for any day worked.
- 7.5.2 Employees are entitled to an unpaid meal break of 30 minutes no later than after five (5) hours of work in any day.
- 7.5.3 This meal break may be rescheduled to suit site operations, such as material deliveries, crane lifts or concrete pours. Where this occurs, the unpaid break may be taken either before or after the operation in question is complete.
- 7.5.4 If the Company requires an Employee to work during the unpaid break referred to in clause 7.5.2 of this Agreement, either:
- (a) the Employee shall be paid at the rate of double time (calculated on the base rate) for the period worked between the prescribed time of cessation for the usual meal break and the beginning of the time allowed in substitution for the meal break; or
 - (b) the Company and Employee(s) may agree to shorten the working day by the length of the break not taken. Time worked in this manner will form part of the ordinary working time for the day and will be paid accordingly.

7.6 Overtime and Weekend Crib Breaks

- 7.6.1 An Employee required to work overtime for at least one and a half hours after working ordinary hours, shall be paid a meal allowance of \$15.50 to meet the cost of the meal.
- 7.6.2 An Employee required to work overtime of two (2) hours or more on any day, Monday to Friday, shall be entitled to a crib break of 20 minutes. This break shall be paid at double ordinary time rates of pay.
- 7.6.3 A further crib break of 30 minutes may be taken after each subsequent block of four (4) hours overtime worked, provided that work is resumed after the crib break. These crib breaks are paid at the rate applicable immediately prior to the crib break.
- 7.6.4 An Employee performing duty on a Saturday, Sunday or public holiday shall be allowed a crib break of 20 minutes after each four hours of work performed, if the Employee continues work after such crib break.
- 7.6.5 Crib breaks connected with Saturday, Sunday or public holiday work shall be paid at the rate applicable at the time that the break is taken.

7.7 Rest Period Before or After Overtime

- 7.7.1 When overtime work is necessary, wherever reasonably practical, it shall be arranged so that Employees have at least 10 consecutive hours off duty between the work of two successive days.
- 7.7.2 If an Employee does not have a break of 10 consecutive hours off between:
- (a) ordinary work on one day and the commencement of their ordinary work on the next day as a result of working overtime; or,
 - (b) Saturdays, Sundays and holidays (not being ordinary working days) in the 24 hours preceding the employees ordinary commencing time on the next ordinary working day or shift, shall:-
 - Be released from duty without loss of pay for ordinary working time until they have had 10 consecutive hours rest; or,
 - Be paid at double ordinary time rates if the Employee resumes or continues work without having 10 consecutive hours off duty. When ultimately released from duty they shall not be required to report for work again until 10 consecutive hours is taken.
- 7.7.3 Should an Employee's 10 hours rest period end within two hours of their normal ceasing time, they shall not be required to report for work on that day.
- 7.7.4 If excessive time is involved in an Employee travelling from their home during their rest period, special consideration as to the length of the rest period will be given on an individual basis.

7.8 Call Back

- 7.8.1 An Employee shall be deemed to be on a call back if the Employee is recalled to work overtime without receiving prior notice before ceasing work.

7.8.2 Any Employee who is called back to work as defined in clause 7.8.1 shall be paid for a minimum of four (4) hours work at the appropriate overtime rate for each time so recalled, provided that any subsequent call backs occurring within a four hour period of a call back shall not attract any additional payment.

7.8.3 Except in the case of unforeseen circumstances arising, the Employee shall not be required to work the full four (4) hours if the job that the Employee was recalled to perform is completed within a shorter period. This sub-clause shall not apply in cases where it is customary for an Employee to return to the place of work to perform a specific job(s) outside the Employees ordinary hours, or where overtime is continuous subject to a reasonable meal break with the completion or commencement of ordinary hours.

7.9 Shift Work

7.9.1 Employees may work some or all of their ordinary hours on shift work. Where Employees perform shift work on building and construction sites, the provisions of this clause shall apply. Where Employees perform shift work on civil construction sites, the award shift work provisions of clause 34.2 shall apply.

7.9.2 For the purpose of this clause:

- Afternoon Shift means a shift commencing at or after 1.00 pm and before 3.00 pm.
- Night Shift means a shift commencing at or after 3.00 pm and before 11.00 pm.
- Morning Shift means a shift commencing at or after 4.30 am and before 6.00 am.
- Early Afternoon Shift means a shift commencing on or after 11.00 am and before 1.00 pm.

7.9.3 Provided that the Employee is employed continuously (inclusive of public holidays) for five (5) shifts Monday to Friday, the following rates shall apply:

- (a) Afternoon and Night Shifts - Ordinary time plus 50 per cent (50%).
- (b) Morning and Early Afternoon Shifts - Ordinary time plus 25 per cent (25%).

7.9.4 In the case of broken shifts (i.e., less than five (5) consecutive shifts Monday to Friday), the rates prescribed shall be time and a half for the first two (2) hours and double time thereafter.

7.9.5 Where ordinary duty commenced on a Friday and extends after midnight, the whole shift shall be paid in accordance with provisions relating to the relevant shift contained above.

7.9.6 For all work performed on a Saturday or Sunday, the normal rates of pay applicable to weekend overtime shall apply. Provided that an ordinary night shift commencing before and extending beyond midnight Friday shall be regarded as a Friday shift. Provided further, where a shift commences on a Sunday night but the majority of the shift is worked on the Monday morning, the shift will be paid as a Monday shift. Conversely, where the majority of the shift is worked on a Sunday night (prior to midnight), then the Sunday rate of pay will be paid for the entire shift.

7.9.7 All work in excess of shift hours, Monday to Friday shall be paid for at double time based on the ordinary rates of pay (excluding shift rates).

8. INCLEMENT WEATHER PROCEDURE

- 8.1 Inclement weather means rain, or abnormal climatic conditions such as hail, snow, cold, high wind, severe dust storm, extreme high temperature, or any combination of these.
- 8.2 The procedures set out below shall apply if it is either not reasonable, or not safe, for Employees exposed to these climatic conditions to continue working.
- 8.3 The Company and relevant Employees must confer within a reasonable time (not exceeding 60 minutes) whether or not the conditions in this clause shall apply.
- 8.4 An Employee will be entitled to payment by the Company for ordinary time lost through inclement weather for up to 32 hours in every calendar month. The calendar shall operate in accordance with the Inclement Weather Calendar published by the Master Builders Association of NSW. No Employee will be entitled to receive more than 32 hours inclement weather payment in any period of 4 weeks.
- 8.5 A part-time Employee, will be entitled to payment on a pro-rata basis according to the number of ordinary hours agreed to be worked in the four (4) week period.
- 8.6 Where an Employee has less than one month of continuous employment with the Company, the maximum pay entitlement for time lost due to inclement weather shall be determined by which week in the four week inclement weather calendar that the Employee commenced work.
- 8.7 Employees shall accept transfer to an area or site not affected by inclement weather if, in the opinion of the Company, useful work is available in that area or site. If it is necessary, and consistent with safe working procedures, to walk through inclement areas in order to make areas safe, reasonable personal protection will be provided.
- 8.8 If only a part of a project is affected by inclement weather, all other Employees not affected shall continue working, regardless of the fact that some Employees may not be gainfully employed due to inclement weather.
- 8.9 Employees shall be transferred to work within the scope of their skill, competence and training.
- 8.10 Where it is necessary to transfer to another site or location, transport shall be provided, or payment made for use of an Employee's own vehicle, at ordinary time rates.
- 8.11 Where a full-time Employee is not able to perform any work at any location because of inclement weather, the Employee shall receive payment at the ordinary rate. Payment for time lost due to inclement weather is subject to a maximum of 32 hours pay in any calendar month for each Employee.
- 8.12 Where Employees are prevented from working by inclement weather, and have not been assigned duties where it is reasonable and safe to work, the Company may release Employees from any requirement to remain on-site.

Employees may be released from duty where Employees have been prevented from working: -

- For more than an accumulated total of four hours of ordinary time in any one day; or after the meal break,

- For more than an accumulated total of 50% of the normal afternoon work time; or,
- During the final two hours of the normal work day for more than an accumulated total of one hour.

9. LEAVE

9.1 Accrual of Entitlements / Continuity of Service

9.1.1 Accrued entitlements of full-time and part-time Employees as at the date of lodgement of this Agreement shall carry forward as entitlements under this Agreement. Those entitlements shall be applied in accordance with the provisions of this Agreement.

9.1.2 The following reasons for absence are to be included in calculating continuous service for purposes of accrual of entitlements: -

- illness or accident up to a maximum of four weeks after the expiration of paid sick leave;
- jury service;
- injury received during the course of employment and up to a maximum of 26 weeks for which the employee received worker's compensation;
- where called up for military service for up to three months in any qualifying period;
- long service leave; and
- any reason satisfactory to the employer, provided the employee has informed the employer within 24 hours of the time when the employee was due to attend for work, or as soon as practicable thereafter, of the reason for the absence and probable duration

9.1.3 Entitlements to Annual Leave, Personal / Carer's Leave and Redundancy do not accrue if an Employee has an absence that is for any other reason.

9.1.4 Absences for reasons other than those that count for calculating continuous service do not otherwise break the continuity of the Employee's employment with the Company.

9.1.5 An Employee is entitled to take and accrue any leave or absence (whether paid or unpaid) when the Employee is absent from work because of a personal illness, or a personal injury, for which the Employee is receiving workers compensation payments. An Employee is not prevented from taking unpaid parental leave during a period where the Employee is receiving workers compensation payments.

9.2 Annual Leave

9.2.1 All full-time and part-time Employees are entitled to annual leave. Payment for annual leave shall be made at the Employee's ordinary time rate of pay as defined in clause 5.2.3 of this Agreement.

9.2.2 Employees (other than casual Employees) are entitled to 4 weeks annual leave per year of service.

- 9.2.3 Annual leave accrues progressively during each year of service according to the Employee's ordinary hours of work and accumulates from year to year.
- 9.2.4 Consistent with Section 87(1)(b)(ii) and Section 196(2) of the FW Act for each completed year of continuous service Employees engaged on continuous shift work shall be entitled up to an additional one (1) weeks' annual leave. This entitlement shall accrue on a pro-rata basis for each completed week of continuous shift duty during any anniversary year. For the purpose of this clause, "continuous shiftworker" means an Employee engaged to work in a system of consecutive shifts throughout the 24 hours of each of at least six consecutive days without interruption (except during breakdown or meal breaks or due to unavoidable causes beyond the control of the Company) and who is regularly rostered to work those shifts.
- 9.2.5 Annual leave may be taken at any time:
- (a) by agreement between an Employee and the Company;
 - (b) subject to clause 9.2.6; and
 - (c) subject to available credit and the operational requirements of the Company, but the Company shall not unreasonably refuse or revoke an authorisation for annual leave.
- 9.2.6 Annual leave may be taken in the following ways:
- (a) at a time, and for a period, fixed by the Company where there is an annual close down or part of the Company closes down;
 - (b) in periods of not less than one day, provided that the Employee seeks the agreement of the Company at least one week before commencing the period of annual leave;
 - (c) where an Employee has accrued in excess of 2 years (i.e. 8 weeks) worth of annual leave, the Company may require the Employee to take the excess leave at a time and for a period fixed by the Company.
- 9.2.7 An Employee taking leave may request to be paid in advance for the period of leave taken. This advance payment shall be the amount of wage the Employee would have received on a pay day during the period of leave, for the ordinary time hours the Employee would have worked had they not been on leave during the period.
- 9.2.8 If a public holiday occurs during a period of annual leave, that public holiday shall be added to the period of leave.
- 9.2.9 No payment shall be made in lieu of annual leave unless the payment is made in lieu of an Employee's entitlements at the time of terminating employment. A full-time or part-time and who terminates their employment, or whose employment is terminated by the Company, shall be entitled to a payment for any credit of annual leave not taken.

9.3 Annual Leave Loading

- 9.3.1 In addition to the payment prescribed in clause 9.2 hereof, an eligible full-time or part-time Employee will be entitled to an annual leave loading calculated at 17.5% on the payment due to them for their accrued annual leave entitlement inclusive of the daily fares allowance. This loading shall be paid on accrued leave paid out on termination. However, if an Employee is in receipt of a shift loading and proceeds on annual leave, such Employee shall continue to receive payment of the shift loading in lieu of the 17.5% leave loading where the shift loading is higher.

9.4 Personal / Carer's Leave

- 9.4.1 Full-time Employees are entitled to 10 days of paid personal/carer's leave based on the Employee's ordinary hours of duty and the Employee's ordinary rate of pay for each completed year of continuous employment with the Company. Part-time Employees are entitled to the pro-rata equivalent.
- 9.4.2 Paid personal/carer's leave accrues progressively during each year of service according to the Employee's ordinary hours of work, and accumulates from year to year.
- 9.4.3 All accrued personal/carer's leave shall be available for use as sick leave and carer's leave in accordance with the provisions outlined below.
- 9.4.4 An Employee (other than a casual Employee) may take paid personal/carer's leave if the leave is taken:
- (a) As sick leave - because the Employee is unfit for work as a result of a personal illness, or personal injury, affecting the Employee; or
 - (b) As carer's leave - to provide care or support to a member of the Employee's immediate family, or a member of the Employee's household, who requires care or support because of:
 - (i) a personal illness, or personal injury affecting the immediate family or household member, or
 - (ii) an unexpected emergency affecting the immediate family or household member.
- 9.4.5 An Employee (including a casual Employee) may take 2 days unpaid carer's leave per occasion if:
- (a) the leave is taken to provide care or support as provided for in sub-clause 9.4.4(b) of this Agreement; and
 - (b) the Employee does not have any paid personal/carer's leave available.

9.5 Compassionate Leave

- 9.5.1 An Employee is entitled to two days of compassionate leave for each occasion when a member of the Employee's immediate family or a member of the Employee's household:
- Contracts or develops a personal illness that poses a serious threat to their life; or,
 - Sustains a personal injury that poses a serious threat to their life; or,
 - Dies.
- 9.5.2 An Employee may take compassionate leave on a particular occasion if the leave is taken:
- For the purpose of spending time with the member of the Employee's immediate family or household who has contracted or developed the serious personal illness, or sustained the serious personal injury; or,
 - After the death of the member of the Employee's immediate family or household;

9.5.3 An Employee may take compassionate leave for a particular permissible occasion as:

- A single continuous period of two days; or,
- Two separate periods of one day each; or,
- Any separate periods to which the Employee and the Company agree.

9.5.4 If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the Employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

9.5.5 Employees other than casual Employees will be paid for a period of compassionate leave at their base rate of pay for their ordinary hours of work in the period.

9.5.6 For casual Employees, compassionate leave is unpaid leave.

9.6 Notice of Absence

9.6.1 An Employee must give the Company notice of the taking of Personal / Carer's Leave, or Compassionate Leave if the Employee is taking leave.

9.6.2 The notice: -

- Must be given to the Company by 7.00 a.m. on the first day of the absence, or as soon as is reasonably practicable after this time and;
- Must advise the Company of the period, or expected period of the leave.

9.6.3 An Employee who has given the Company notice of the taking of such leave must, if required by the Company, provide evidence that would satisfy a reasonable person that:

- If it is paid Personal / Carer's leave — the leave is taken for a reason specified in the clause relating to accrual of Carer's / Personal Leave; or,
- If it is unpaid Carer's leave — the leave is taken for a permissible occasion in circumstances specified in the clause relating to unpaid Carer's Leave; or,
- If it is compassionate leave — the leave is taken for a permissible occasion in circumstances specified in the clause relating to Compassionate Leave.

9.6.4 The Company may request evidence in the form of a certificate from a treating medical or clinical practitioner, a notice published in a newspaper or other media, or other evidence required to satisfy the Company.

9.6.5 An Employee is not entitled to take Personal / Carer's Leave, Unpaid Carer's Leave or Compassionate Leave unless the Employee gives notice of the absence in accordance with this Clause.

9.7 Immediate Family or Household

9.7.1 The entitlement to Compassionate and Carer's leave is subject to the person being either a member of the Employee's household or a member of the Employee's immediate family being;

- A spouse includes a former spouse. A de-facto partner includes a former de-facto partner of the Employee. A de-facto partner also means a person who, although not legally married to the Employee, lives with the Employee in a relationship as a couple on a genuine domestic basis (whether the Employee and the person are of the same sex or different sexes).
- A child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the Employee or spouse or child of a de-facto partner of the Employee.

10. ADDITIONAL LEAVE

10.1 Community Service Activities

10.1.1 Each of the following is an eligible community service activity:

- Jury service (including attendance for the purpose of jury selection) that is required by or under a law of the Commonwealth or of a State or Territory; or,
- Carrying out a voluntary emergency management activity (within the meaning of Section 109 of the FW Act; or
- An activity prescribed by the FW Regulations.

10.2 Absence While Engaging in a Community Service Activity

10.2.1 An Employee who engages in an eligible community service activity is entitled to be absent from their employment for a period if the period consists of one or more of the following:

- Time when the Employee engages in the activity;
- Reasonable travelling time associated with the activity;
- Reasonable rest time immediately following the activity; and,
- Unless the activity is jury service—the Employee's absence is reasonable in all the circumstances.

10.3 Notice Regarding Absence

10.3.1 An Employee who wants an absence from their employment to engage in a community service activity must give the Company notice of the absence.

10.3.2 The notice:

- Must be given to the Company as soon as reasonably practicable (which may be a time after the absence has started); and
- Must advise the Company of the period, or expected period, of the absence.

10.3.3 An Employee who has given the Company notice of an absence under this clause must, if required by the Company, provide evidence that would satisfy a reasonable person that the absence is because the Employee has been or will be engaging in an eligible community service activity.

10.3.4 An Employee's absence from their employment is not permissible unless the Employee complies with the clause.

10.4 Payment to Employees (Other Than Casuals) on Jury Service

10.4.1 This clause applies if:

- An Employee is absent from their employment for a period because of jury service in accordance with this clause; and,
- The Employee is not a casual Employee.

10.4.2 The Company shall pay the Employee at the Employee's base rate of pay for the Employee's ordinary hours of work in the period.

10.4.3 The Company may require the Employee to give the Company evidence that would satisfy a reasonable person:

- That the Employee has taken all necessary steps to obtain any amount of jury service pay to which the Employee is entitled; and,
- Of the total amount (even if it is a nil amount) of jury service pay that has been paid, or is payable, to the Employee for the period.

10.4.4 If the Company requires the Employee to provide the evidence referred to in sub-clause 10.4.3 of this Agreement:

- The Employee is not entitled to payment under sub-clause 10.4.2 unless the Employee provides the evidence; and,
- If the Employee provides the evidence the amount payable to the Employee under this clause is reduced by the total amount of jury service pay that has been paid, or is payable, to the Employee, as disclosed in the evidence.

10.4.5 If an Employee is absent because of jury service in relation to a particular jury service summons for a period, or a number of periods, of more than 10 days in total:

- The Company is only required to pay the Employee for up to 10 days of absence; and
- The evidence provided in response to a requirement under this clause need only relate to the first 10 days of absence; and,
- The reference in this clause to the total amount of jury service pay as disclosed in evidence is a reference to the total amount so disclosed for the first 10 days of absence.

10.5 Leave to Deal with Family and Domestic Violence

10.5.1 This clause applies to all Employees, including casuals.

10.5.2 Definitions

(a) In this clause:

“family and domestic violence” means violent, threatening or other abusive behaviour by a family member of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

“family member” means:

- (i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- (ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or
- (iii) a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

- (b) A reference to a spouse or de facto partner in the definition of family member in sub-clause 10.5.2(a) includes a former spouse or de facto partner.

10.5.3 Entitlement to Unpaid Leave

An Employee is entitled to 5 days' unpaid leave to deal with family and domestic violence, as follows:

- (a) the leave is available in full at the start of each 12 month period of the employee's employment; and
- (b) the leave does not accumulate from year to year; and
- (c) is available in full to part-time and casual employees.

Note: 1. A period of leave to deal with family and domestic violence may be less than a day by agreement between the Employee and the Company.

2. The Company and Employee may agree that the Employee may take more than 5 days' unpaid leave to deal with family and domestic violence.

10.5.4 Taking Unpaid Leave

An Employee may take unpaid leave to deal with family and domestic violence if the Employee:

- (a) is experiencing family and domestic violence; and
- (b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside their ordinary hours of work.

Note: The reasons for which an Employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

10.5.5 Service and Continuity

The time an Employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the employee's continuity of service.

10.5.6 Notice and Evidence Requirements

(a) Notice

An Employee must give the Company notice of the taking of leave by the Employee under this clause.

The notice:

- (i) must be given to the Company as soon as practicable (which may be a time after the leave has started); and
- (ii) must advise the Company of the period, or expected period, of the leave.

(b) Evidence

An Employee who has given the Company notice of the taking of leave under this clause must, if required by the Company, give the Company evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in this sub-clause 10.5.6.

Note: Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.

10.5.7 Confidentiality

(a) The Company must take steps to ensure information concerning any notice an Employee has given, or evidence an Employee has provided under sub-clause 10.5.6 is treated confidentially, as far as it is reasonably practicable to do so.

(b) Nothing in this clause prevents the Company from disclosing information provided by an Employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the Employee or another person.

Note: Information concerning an Employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the Employee. The Company should consult with such Employees regarding the handling of this information.

10.5.8 Compliance

An Employee is not entitled to take leave under this clause unless the Employee complies with the provisions of this clause.

10.6 Parental Leave

10.6.1 An Employee will be entitled to Parental Leave (and related entitlements) in accordance with the FW Act.

10.7 Long Service Leave

10.7.1 The applicable rate of pay for Long Service Leave will be the corresponding rate of pay in the relevant Table of Appendix 2 of this Agreement or clause 5.6 Over Agreement Payments of this Agreement, whichever is the greater.

10.8 Leave Without Pay

- 10.8.1 An Employee wishing to take any leave without pay must give the Company at least one (1) week's notice. Leave without pay will only be approved at the Company's absolute discretion. Leave without pay will not be considered as time in service for the accrual of any form of leave including rostered days off where applicable.

10.9 Public Holidays

- 10.9.1 A full-time Employee shall be entitled to observe public holidays without reduction of ordinary pay. (No payment shall be made for Easter Saturday or Easter Sunday unless the Employee works on those days)
- 10.9.2 A part-time Employee shall be entitled to observe public holidays without reduction of pay where their ordinary hours of work fall on a public holiday.
- 10.9.3 An Employee is entitled to a day off on a public holiday, subject to the Company requesting an Employee to work on a particular public holiday.
- 10.9.4 An Employee may refuse the request (and take the day off) if the Employee has reasonable grounds for doing so.
- 10.9.5 The following days are considered public holidays:
- New Year's Day
 - Australia Day
 - Good Friday
 - Easter Saturday
 - Easter Sunday
 - Easter Monday
 - Anzac Day
 - Christmas Day
 - Boxing Day
 - Queen's Birthday
 - Labour Day

And any other day, or part-day, declared under a law of a State or Territory to be observed generally within the State, Territory, or a region of the State or Territory, as a public holiday.

- 10.9.6 If an Act of Parliament or Proclamation substitutes another day for any of the above named public holidays, the special rates shall only be payable for work done on the day substituted.
- 10.9.7 Where an Employee is absent from their employment on the working day before, or the working day after a public holiday, they shall provide a Doctors Certificate or other acceptable evidence to support an application for such leave on the day.
- 10.9.8 Employees in receipt of pay for public holidays while receiving workers compensation benefits, shall be paid in accordance with Clause 11.1.2.
- 10.9.9 Public holidays may be substituted for alternative days by agreement between the Company and Employees. Where an alternative day is substituted for a public holiday in accordance with this clause, penalty rates will only be payable if an Employee works on the alternative day.

10.9.10 Where any day other than those listed in clause 10.9.5 is gazetted as a public holiday in the area in which the Employee works, that day will be regarded as a normal working day and an additional one and a half day's paid leave during the Christmas-New year period will be substituted.

10.9.11 Where a holiday is gazetted in addition to the public holiday's prescribed in Clause 10.9.5 of this Agreement and such additional holiday is a half day holiday in the area in which the Employee works, that half day will be regarded as a normal working day and an additional days paid leave during the Christmas-New year period will be substituted.

11. INSURANCE

11.1 Workers Compensation

11.1.1 An Employee entitled to worker's compensation payments will be paid their relevant base rate of pay in accordance with the relevant State/Territory legislation.

11.1.2 Where an Employee is absent from work and receiving workers compensation benefits and such absence falls over a Public Holiday, payment for the Public Holiday shall be made by the Workers Compensation Insurer or the Company, but not both.

12. TERMINATION

12.1 Notice of Termination (Daily Hire Employees)

12.1.1 The following provisions shall apply to full-time or part-time daily hire Employees:

12.1.2 One day's notice of termination of employment will be given on either side or one (1) day's pay will be paid or forfeited in lieu of notice.

12.1.3 Notice given at or before the usual starting time of any ordinary working day shall expire at the completion of that day's work.

12.1.4 Payment in lieu of notice shall be at the ordinary hourly rate of pay only (as prescribed by this Agreement). It shall not include payment for superannuation, redundancy or any other remuneration prescribed by this Agreement.

12.1.5 Nothing in this clause affects the Company's ability to summarily dismiss an Employee without notice in accordance with Clause 12.4 Summary Dismissal of this Agreement.

12.1.6 The Company shall pay any termination entitlements by cheque or by funds transfer into the Employee's nominated account with a bank or financial institution no later than five (5) days after the date of termination.

12.2 Notice of Termination (Casual Employees)

12.2.1 Termination of all casual engagements shall require one (1) hour's notice on either side or the payment or forfeiture of one (1) hour's pay, as the case may be.

- 12.2.2 The Company may advise a casual Employee that their services are not required the next day, or until advised by the Company. This advice must be given on a day that the Employee works, before the Employee ceases duty. Such advice constitutes notice of termination for the purposes of this Agreement.

12.3 Abandonment of Employment

- 12.3.1 Absence of a full-time or part-time Employee from work for a continuous period exceeding three working days without the consent of the Company shall be prima facie evidence that the Employee has abandoned their employment.
- 12.3.2 The Company shall send a letter, by registered post, to the Employee's address requiring the Employee provide a valid reason for the absence within a period of five (5) working days from the date of the letter. Alternatively, the Company may contact the Employee by email or other electronic means, extending the same five (5) working days period to respond.
- 12.3.3 If the Employee fails to establish to the Company's satisfaction that they were absent for reasonable cause, the Employee shall be deemed to have abandoned their employment.
- 12.3.4 The abandonment of employment by the Employee shall be deemed to take effect from the date of last attendance, or the date of the last absence for which Company consent was given.
- 12.3.5 In such circumstances, a full-time (or part-time) Employee shall be entitled to be paid in lieu of notice in accordance with clause 12.1 of this Agreement.

12.4 Summary Dismissal

- 12.4.1 Nothing in this clause affects the Company's ability to dismiss an Employee without notice for unreasonable refusal of duty, gross negligence, or other misconduct sufficiently serious for the Company to treat the Employee's conduct as repudiation of the employment contract, bringing the contract to an end.
- 12.4.2 In such circumstances, payment shall be made up to the time of dismissal only and no notice is payable.
- 12.4.3 The circumstances where summary dismissal may be warranted include but are not limited to:
- (a) wilful or deliberate behaviour by an Employee that is inconsistent with the continuation of the contract of employment;
 - (b) conduct that causes serious and imminent risk to:
 - (i) the health or safety of a person; or
 - (ii) the reputation, viability or profitability of the Company's business.
 - (c) an Employee, in the course of their employment, engaging in:
 - (i) theft; or
 - (ii) fraud; or
 - (iii) assault;
 - (d) an Employee being intoxicated or under the influence of illicit drugs at work;
 - (e) an Employee refusing to carry out a lawful and reasonable instruction that is consistent with the Employee's contract of employment.

12.5 Consultation Arrangements

12.5.1 This term applies if the Company:

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

12.5.2 For a major change referred to in clause 12.5.1(a):

- (a) the Company must notify the relevant Employees of the decision to introduce the major change; and
- (b) subclauses 12.5.3 to 12.5.9 apply.

12.5.3 The relevant Employees may appoint a representative for the purposes of the procedures in this term.

12.5.4 If:

- (a) a relevant Employee(s) appoints a representative for the purposes of consultation; and
- (b) the Employee or Employees advise the Company of the identity of the representative; the Company must recognise the representative.

12.5.5 As soon as practicable after making its decision, the Company must:

- (a) discuss with the relevant Employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the Employees; and
 - (iii) the measures the Company is taking to avert or mitigate the adverse effect of the change on the Employees; and
- (b) for the purposes of the discussion, provide in writing, to the relevant Employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the Employees' and
 - (iii) any other matters likely to affect the Employees.

12.5.6 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.

12.5.7 The Company must give prompt and genuine consideration to matters raised about the major change to the relevant Employees.

12.5.8 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Company, the requirements set out in clause 12.5.2 (a) and clauses 12.5.3 and 12.5.5 are taken not to apply.

- 12.5.9 In this term, a major change is likely to have a significant effect on Employees if it results in:
- (a) the termination of the employment of Employees; or
 - (b) major change to the composition, operation or size of the Company's workforce or to the skills required of Employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retain Employees; or
 - (f) the need to relocate Employees to another workplace; or
 - (g) the restructuring of jobs.
- 12.5.10 Change to regular roster or ordinary hours of work:
- For a change referred to in paragraph 12.5.1(b);
- (a) the Company must notify the relevant Employees of the proposed change; and
 - (b) clauses 12.5.11 and 12.5.15 apply.
- 12.5.11 The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 12.5.12 If:
- (a) a relevant Employee(s) appoint a representative for the purposes of consultation; and
 - (b) the Employee or Employees advise the Company of the identity of the representative; the Company must recognise the representative.
- 12.5.13 As soon as practicable after proposing to introduce change, the Company must:
- (a) discuss with the relevant Employees the introduction of the change; and
 - (b) for the purposes of the discussion – provide to the relevant Employees;
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what the Company reasonably believes will be the effects of the change on the Employees; and
 - (iii) information about any other matters that the Company reasonably believes are likely to affect the Employees; and
 - (c) invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 12.5.14 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 12.5.15 The Company must give prompt and genuine consideration to matters raised about the change by the relevant Employees.
- 12.5.16 In this term relevant Employees means the Employees who may be affected by a change referred to in clause 12.5.1.

13. REDUNDANCY / SEVERANCE

13.1 This clause shall apply to full-time and part-time daily hire Employees.

13.2 For the purpose of this clause, redundancy means a situation where an Employee ceases to be employed by the Company, other than for reasons of misconduct or refusal of duty.

13.3 The Company shall provide Employees with one (1) day's notice of redundancy or pay in lieu of such notice.

13.4 In addition to the period of notice prescribed above, an Employee whose employment is terminated by reason of redundancy shall be entitled to severance pay in accordance with the following table:

Period of continuous service with the Company	Redundancy / Severance Pay
Less than 1 year	1.75 hours pay for each completed week of service
1 year or more but less than 2 years	2.4 weeks pay plus for all service in excess of 1 year, 1.75 hours pay per completed week of service up to a maximum of 4.8 weeks' pay
2 years or more but less than 3 years	4.8 weeks pay plus, for all service in excess of 2 years, 1.6 hours pay per completed week of service up to a maximum of 7 weeks' pay
3 years or more but less than 4 years	7 weeks pay plus, for all service in excess of 3 years, 0.73 hours pay per completed week of service up to a maximum of 8 weeks' pay
4 years or more	8 weeks pay

13.5 An Employee employed for less than 12 months will be entitled to a redundancy /severance payment of 1.75 hours per week of service if, and only if, redundancy is occasioned otherwise than by the Employee.

13.6 A weeks' pay is defined as 38 hours at the Employees' rate of pay as provided in this Agreement without any allowances.

13.7 A part-time Employee will be entitled to payment on a pro-rata basis.

13.8 The above redundancy provisions do not apply in any of the following circumstances:

- Where an incoming Company offers to continue the employment of the Employee;
- Where the Company transfers the Employee to a related Company and ensures continuity of service;
- Where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency, misconduct or neglect of duty, or
- Where the Employee is a casual Employee, Apprentice or a trainee engaged for a specific period of time or for a specific task or tasks.

14. WORK HEALTH AND SAFETY

- 14.1 The parties to this Agreement are committed to the safe operation of machinery and equipment, to the observance of safe working practices, the proper use of all personal safety equipment and to the safety and health of all Employees and other persons who may enter the workplace.
- 14.2 Smoking is not permitted inside Company premises (including toilets) or vehicles.
- 14.3 Employees should immediately notify Company management by completion of the relevant form if they injure themselves at work or subsequently become aware of any injury or disease that they may have sustained during the course of employment with the Company.

15. DRUGS AND ALCOHOL

- 15.1 This clause shall be read in conjunction with the Building Code 2016.
- 15.2 Under no circumstances will any Employee affected by alcohol and/or any other drug be permitted to work and/or operate any equipment on a work site.
- 15.3 If an Employee is affected by alcohol and/or any other drug and is consequently sent home from a worksite to recover, such Employee will not be paid for any lost time.
- 15.4 The parties to this Agreement agree that no alcohol or drugs will be permitted on a work site or whilst using Company vehicles, plant or equipment.
- 15.5 An Employee who is taking prescription medication is responsible for ensuring that the medication prescribed will not affect their ability to work safely. Where an Employee is taking prescription medication that may adversely affect their ability to undertake any kind of work safely, the Employee will advise their Supervisor or Management so the risks can be managed.
- 15.6 Where an Employee is found to be affected by alcohol and/or any other drug, the Company may take disciplinary action under clause 4.6 of this Agreement.
- 15.7 To ensure the maintenance of this policy and compliance with Work Health and Safety requirements, Employees may be subject to alcohol and/or any other drug testing. Any program of testing will be introduced following consultation with the Company's Employees.

16. EQUIPMENT AND APPAREL

16.1 Protective and Working Clothing

- 16.1.1 The Company shall provide appropriate personal protective equipment required by Employees when carrying out their work.
- 16.1.2 Equipment and clothing shall be replaced by the Company on the basis of fair wear and tear.

16.1.3 The Company may require that old items of apparel are presented for inspection if required, prior to replacement.

16.1.4 Employees are expected to wear Company provided clothing and maintain it in a tidy manner, so as to display a professional Company image.

16.2 Supply of Vehicles

16.2.1 The Company may provide full-time Employees with a serviced motor vehicle for the purposes of: -

- Travel between their place of residence and work sites;
- Transfer from site to site during working hours;
- Carriage of other Employees, Company equipment or working materials as required; and,
- Other purposes authorised by the Company.

16.2.2 The Company shall ensure that the motor vehicle provided is registered, insured and is in a fully roadworthy condition when it is provided to an Employee for use in accordance with this clause. The Company shall pay for the cost of fuel, oil and lubricants, other consumables, and maintenance for fair wear and tear.

16.2.3 An Employee supplied with a vehicle is required to comply at all times with applicable laws, and shall exercise due care in overall use of the Company vehicle provided, as well as in its garaging and security.

16.2.4 An Employee supplied with a vehicle shall take all reasonable steps to ensure that the vehicle is appropriately cleaned and maintained. Repairs to a vehicle for wear and tear that is above and beyond a level reasonable for the industry shall be the full responsibility of the Employee.

16.3 Company Owned Tools and Equipment

16.3.1 Where an Employee is supplied with Company owned equipment and / or tools, such equipment / tools, shall be the sole responsibility of the Employee.

16.3.2 It is agreed that Employees covered by this Agreement shall carry Company owned tools between sites without penalty to the Company.

16.3.3 The Company may deduct from an Employee's wages the cost of replacement of any Company owned tool / equipment for which the Employee assigned the tools / equipment cannot account for. Any deduction must be authorised in writing by the Employee.

17. ANTI-DISCRIMINATION

17.1 It is agreed that:

- (a) The parties will achieve a principal object of the FW Act, which is to respect and value the diversity of the workforce by helping to prevent and eliminate discrimination at their enterprise on the basis of age, race, colour, sex, sexual preference, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;

- (b) Any dispute concerning this clause and its operation may be progressed under the dispute resolution procedure in this agreement.
- (c) Nothing in this clause:
 - (i) limits the ability of the parties to this Agreement to exercise their rights under applicable Commonwealth, State or Territory legislation, or
 - (ii) allows any treatment that would otherwise be prohibited by anti-discrimination provisions in applicable Commonwealth, State or Territory legislation.

18. SETTLEMENT OF DISPUTES

18.1 If a dispute relates to:

- (a) a matter arising under the agreement; or
- (b) the NES;

this term sets out procedures to settle the dispute.

18.2 An Employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

18.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Employee or Employees and relevant supervisors and / or management.

18.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the FWC.

18.5 The FWC may deal with the dispute in 2 stages:

- (a) the FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- (b) if the FWC is unable to resolve the dispute at the first stage, the FWC may then:
 - (i) arbitrate the dispute; and
 - (ii) make a determination that is binding on the parties.

Note: If the FWC arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that FWC 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.

18.6 While the parties are trying to resolve the dispute using the procedures in this term:

- (a) an Employee must continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety; and

- (b) an Employee must comply with a direction given by the Company to perform other available work at the same workplace, or at another workplace, unless:
 - (i) the work is not safe; or
 - (ii) applicable work health and safety legislation would not permit the work to be performed; or
 - (iii) the work is not appropriate for the Employee to perform; or
 - (iv) there are other reasonable grounds for the Employee to refuse to comply with the direction.

18.7 The parties to the dispute agree to be bound by a decision made by the FWC in accordance with this term.

18.8 In discharging its role and exercising its powers under this procedure, the FWC must not determine an outcome that is inconsistent with the Building Code 2016.

19. ENDORSEMENT OF AGREEMENT

19.1 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 by the Parties.

19.2 This Agreement is made on this 7th day of April 2020.

Executed for and on behalf of the Company:

Signed: [Signature]

Director's Name and Title: Paul Eljed - Director

Address of Director: C/- Suite 1 / Level 4 / 402 - 410 Chapel Road BANKSTOWN NSW 2200

Signed by the Witness:

Signed: [Signature]

Name of Witness: Sam Moller

Address of Witness : C/- Suite 1 / Level 4 / 402 - 410 Chapel Road BANKSTOWN NSW 2200

Signed by the Employee Bargaining Representative:

Signed: [Signature]

Name of Employee and Job Title: Mitchell Wilson skilled labourer

Address of Employee : C/- Suite 1 / Level 4 / 402 - 410 Chapel Road BANKSTOWN NSW 2200

Signed by the Witness:

Signed: [Signature]

Name of Witness: Sam Moller

Address of Witness : C/- Suite 1 / Level 4 / 402 - 410 Chapel Road BANKSTOWN NSW 2200

APPENDIX 1 – AGREEMENT CLASSIFICATIONS

Agreement Classifications	Award Equivalent Classifications	Description
Level 1	CW1(c)	General labourer (other than as specified)
Level 2	CW1(d)	Labourer (3) - Trades Labourer, Jack Hammerman, Mixer Driver (concrete), Gantry Hand or Crane Hand, Crane Chaser, Cement Gun Operator (except in Vic), Concrete Cutting or Drilling Machine Operator, Concrete Gang including Concrete Floater (as defined), Roofer Plasterer's Assistant Terrazzo Assistant Stonemason's Assistant (including assistant in factory in NSW)
Level 3	CW2	Labourer (2) - Scaffolder (as defined), Powder Monkey, Hoist or Winch Driver, Foundation Shaftworker (as defined), Steel Fixer including Tack Welder, Concrete Finisher (as defined)
Level 4	CW3	Artificial Stoneworker, Carpenter and / or Joiner, Bridge and Wharf Carpenter, Floorsander (Tas), Marble and Slate Worker, Stonemason Caster, Fixer, Floorlayer Specialist, Plasterer Bricklayer, Tilelayer (NSW) Roof Tiler, Slate Ridger, Roof Fixer Painter, Glazier (except Vic) Shophand Quarryworker Labourer (1) – Rigger, Dogger Machinist Operator Group A
Level 5	CW4	Marker or Setter Out Artificial Stoneworker, Carpenter and / or Joiner, Bridge and Wharf Carpenter, Marble and Slate Worker, Stonemason Bricklayer, Tilelayer Caster, Fixer, Floorlayer Specialist, Plasterer Roof Tiler, Slate Ridger, Roof Fixer Painter, Glazier Letter Cutter Signwriter Operator Group B
Level 6	CW5	Carver Special Class Tradesperson Carpenter / Joiner Bricklayer Plasterer Stonemason Operator Groups C, D and E
Level 7	CW6	Operator Groups F and G
Level 8	CW7	Sub Foreperson (Bridge and Wharf Carpenter) Operator Group H Crane Driver NSW
Level 9	CW8	Carpenter-Diver Foreperson (Bridge and Wharf Carpenter)

Note: Movement between classification levels is at the discretion of the Company. Should any dispute arise regarding the classification levels described above, the provisions of the Settlement of Disputes clause of this Agreement shall apply.

APPENDIX 2 – WAGE RATES

The following rates in Table A are the base rates of pay, inclusive of special allowance, industry allowance follow-the-job loading and tool allowances payable pursuant to the reference award. They shall apply over the life of the Agreement for the calculation of Employee remuneration, and for any calculation of Employee redundancy pay, public holiday pay, personal leave and annual leave entitlements. These base rates of pay shall be used to calculate overtime payments and the 25% loading for casual Employees.

Note: Start Rates identified in the Wage Rates Tables below are applicable and payable seven (7) days after the Fair Work Commission approves the Agreement. Subsequent wage rate increases identified in the Tables below shall apply on and from the beginning of the first full pay period to commence on or after the date identified.

Table A Daily Hire Employees

Agreement Classifications	Start Rates Per Hour \$	1 July 2021 Per Hour \$	1 July 2022 Per Hour \$	1 July 2023 Per Hour \$	1 July 2024 Per Hour \$
Level 1	23.18	23.88	24.60	25.34	26.10
Level 2	23.59	24.30	25.03	25.78	26.55
Level 3	24.06	24.74	25.52	26.29	27.08
Level 4	25.61	26.38	27.17	27.99	28.83
Level 5	26.35	27.14	27.95	28.79	29.65
Level 6	27.10	27.91	28.75	29.61	30.50
Level 7	26.89	27.70	28.53	29.39	30.27
Level 8	28.51	29.37	30.25	31.16	32.09
Level 9	36.76	37.86	39.00	40.17	41.38

Table B Casual Employees

Agreement Classifications	Start Rates Per Hour \$	1 July 2021 Per Hour \$	1 July 2022 Per Hour \$	1 July 2023 Per Hour \$	1 July 2024 Per Hour \$
Level 1	28.98	29.85	30.75	31.68	32.63
Level 2	29.49	30.38	31.29	32.23	33.19
Level 3	30.08	30.93	31.90	32.86	33.85
Level 4	32.01	32.98	33.96	34.99	36.04
Level 5	34.94	33.93	34.94	35.99	37.06
Level 6	33.88	34.89	35.94	37.01	38.13
Level 7	33.61	34.63	35.66	36.74	37.84
Level 8	35.64	36.71	37.81	38.95	40.11
Level 9	45.95	47.33	48.75	50.21	51.73