



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Metro Trains Sydney Pty Ltd (MTS)
(AG2020/294)

METRO TRAINS SYDNEY ASSET ENGINEERING INFRASTRUCTURE ENTERPRISE AGREEMENT 2019

Rail industry

DEPUTY PRESIDENT BOYCE

SYDNEY, 26 MARCH 2020

Application for approval of the Metro Trains Sydney Asset Engineering Infrastructure Enterprise Agreement 2019.

[1] An application has been made for approval of an enterprise agreement to be known as the *Metro Trains Sydney Asset Engineering Infrastructure Enterprise Agreement 2019* (**Agreement**). The application was made pursuant to s.185 of the *Fair Work Act 2009* (**Act**). It has been made by Metro Trains Sydney Pty Ltd (**Applicant** or **Employer**). The Agreement is a single enterprise agreement.

[2] I note that the Agreement was made on 17 January 2020, but was filed for approval with the Fair Work Commission on 10 February 2020. Observing that s.185(3)(a) of the Act imposes a 14-day time limit to bring an application of this kind (and that the time is measured by reference to the day an agreement is made), the Applicant has brought this application 10 days out of time.

[3] Despite the Applicant's non-compliance in this regard, I find that it is fair to extend the period for making the application by 10 days. I do so in reliance of the power afforded to me by s.185(3)(b) of the Act, and having had regard to all of the circumstances (namely, that the delay is of a short duration, and has not caused prejudice to any employees seeking to be covered by the Agreement).

[4] I note that the notification time for the Agreement was late October 2019, but the Notice of Employee Representational Rights was issued to relevant employees on 29 November 2019. I consider this delay to be a minor technical or procedural error under s.173(3) of the Act, and therefore consider the Agreement to have been genuinely agreed to (notwithstanding the error, as no employee has been disadvantaged (see: s.188(2) of the Act)).

[5] The Employer has provided written undertakings dated 18 March 2020. Those undertakings are attached at **Annexure A** to this decision and become terms of the Agreement. I am satisfied that the undertakings will not cause financial detriment to any

employee covered by the Agreement (as compared to the relevant provisions of the *Rail Industry Award 2010*), and that the undertakings will not result in substantial changes to the Agreement.

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

[7] I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[8] The following employee organisations (all of which were bargaining representatives for the Agreement), have given notice under s.183 of the Act that they want to be covered by the Agreement:

- a) Australian Rail, Tram and Bus Industry Union;
- b) Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia; and
- c) “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union.

[9] In accordance with s.201(2) of the Act, I note that the Agreement covers the foregoing organisations.

[10] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 2 April 2020. Despite the somewhat equivocal wording of clause 5.1 of the Agreement, the nominal expiry date of the Agreement is to be 24 months from the date the Agreement takes effect (i.e. 31 March 2022).



DEPUTY PRESIDENT

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.: **AG2020/294 - Application by Metro Trains Sydney Pty Ltd (MTS)**
Applicant: **Metro Trains Sydney**

Section 185 – Application for approval of a single enterprise agreement

UNDERTAKING - Section 190

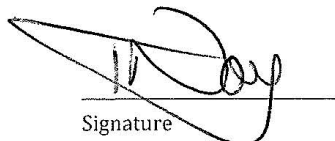
I, Timothy Noy – General Manager – Legal, Commercial & Company Secretary on behalf of Jason Breton, General Manager - People, Culture and Risk for Metro Trains Sydney Pty. Ltd., give the following undertakings with respect to the Metro Trains Sydney Asset Engineering Infrastructure Enterprise Agreement 2019 (“**the Agreement**”).

1. For the purposes of the National Employment Standards, the Rail Industry Award-2010 prescribes that a shift worker means “an employee who is a seven (7) day shift worker who is regularly rostered to work on Sundays and Public Holidays.” Clause 24 of the award states for the purposes of Division 6 of the NES, a shift worker as defined in the Rail industry Award and a Permanent Night Shift Worker shall be entitled to five weeks leave for each year of service. The definition of a “Continuous Shift Worker” as per Clause 28 of the Agreement gives further explanation of the work roster arrangement that a shift worker would perform.
2. Clause 19 (Abandonment of Employment), Notwithstanding the provisions of Clause 19, MTS agrees that it shall not terminate the employment of an employee except with the minimum notice of termination for the purpose of s.117 of the *Fair Work Act 2009 (Cth)*.
3. Clause 74 (Public Holidays), Notwithstanding the provisions sub-clause 74.3 of the Agreement MTS shall where agreed, allow an individual employee to substitute a day or part day for any of the public holidays as prescribed in sub-clause 74.2.
4. Clause 76 (Notification of Absence), Notwithstanding the terms of Clause 76, notice of absence due to personal leave reasons, such advice shall be provided as reasonably practicable and preferably where possible, prior to the commencement of the employees shift.
5. Clause 32 (Wage Increases), Notwithstanding the terms of Clause 32, the first wage increase of 3% to the base amounts contained in Schedule 1 shall apply at the commencement of the first full pay period one (1) year after the Agreement came into effect.

6. Furthermore, the following grammatical changes are considered to apply to the Agreement without removing or varying the intent of the listed Clauses or Sub-Clauses;
 1. Clause 41 (Superannuation Guarantee Charge)
 - Removal of the word "Charge" from the Clause title and also where mentioned in sub-clause 41.1.
 2. Clause 85 (Sick Leave)
 - Replacement of "toss" of ordinary time pay in sub-clause 85.1 with "loss" of ordinary time pay.
 3. Clause 102 (Blood Donor Leave)
 - Replacement of "riot" to disrupt operational requirements in sub clause 102.2 with "not" to disrupt operational requirements.
 4. Clause 116 (Trade Union Training)
 - Replacement of "toss" of ordinary time pay in sub-clause 116.3 with "loss" of ordinary time pay.
7. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signed for and on behalf of the employer

Timothy Noy
General Manager – Legal, Commercial & Company Secretary


Signature

47 Tallawong Road
ROUSE HILL NSW 2155

Address

18/3/2020

Date

Metro Trains Sydney
Enterprise Agreement 2019

Asset Engineering Infrastructure

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 this agreement.

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SECTION ONE - APPLICATION & OPERATION OF AGREEMENT

1 TITLE

- 1.1 This agreement shall be known as the Metro Trains Sydney Asset Engineering Infrastructure Enterprise Agreement 2019 (the Agreement).

2 COVERAGE AND APPLICATION

- 2.1 The Agreement covers (Parties):
- 2.2 Metro Trains Sydney Pty Ltd (the Company) in respect of Employees of the Company who are employed within the Asset Engineering Division and the Network Asset Management Division and whose classifications are included in Appendix One (Employees); including any new divisions of Metro performing work directly and solely related with the maintenance of rail infrastructure assets for the Sydney metropolitan network, excluding all current Metro divisions (Employees);

The following Employee organisations, to the extent that the Fair Work Commission notes in its decision to approve the Agreement that the Agreement covers them:

- the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU),
- the Electrical Trades Union (ETU),
- the Australian Rail, Tram and Bus Industry Union (RTBU), and
- Australian Metal Workers Union (AMWU).

Any reference in this Agreement to "Union" or "Unions" is a reference to the abovementioned unions (Unions).

3 RELATIONSHIP TO AWARDS AND AGREEMENTS

- 3.1 The Agreement is a comprehensive agreement that operates to the inclusion of any Awards or other agreements. For the avoidance of doubt the Agreement operates to the exclusion of all prior agreements, formal and informal (including Individual Flexibility Agreements), save to the extent that the operation of a relevant past agreement provision is specifically preserved in the Agreement.
- 3.2 Nothing in the Agreement is to be taken as overriding agreements made for the purposes of the 'Work Health and Safety Act 2011 (NSW)'.
- 3.3 Where a payment in relation to wages, allowances or entitlements is being made, and the Company, the Employees and/or the Unions agree that the relevant provision has been omitted from the Agreement through no fault of the Company or the Employees and/or the Unions, the payment will continue to operate as per the omitted provision. For the avoidance of doubt, in order for the wages, allowances and/or provisions payment to continue, there must be an agreement reached by:
- the Company; and

- the Employees and I or the Unions that the provision relating to the payment was omitted from the Agreement as per this clause.

4 NO EXTRA CLAIMS

- 4.1 The Agreement is in full and final settlement of all matters subject to claims by the Parties covered by the Agreement, and for the life of the Agreement no further claims will be made or supported by the Parties covered by the Agreement.

5 OPERATION AND NOMINAL EXPIRY DATE

- 5.1 The Agreement shall take effect seven (7) days after the Agreement is approved by the Fair Work Commission, i.e. the date of effect. The nominal expiry date of the agreement is 24 months from the date of the effect of the agreement 16 January 2022. The Company and the Unions will review the Agreement six (6) months prior to its nominal expiry date.

6 BEST PRACTICE

- 6.1 The Company, Employees and Unions are committed to the objective of achieving the best-known practice, nationally or internationally, where such practice is considered relevant and adaptable by the Company. Targets will be set on the basis of current or existing standards of infrastructure and equipment. Best practice is a continuous improvement process, which involves constantly reviewing, changing, adapting and integrating related approaches to organisational issues. Best practices are not fixed and not restricted to an examination of costs, but also include quality and delivery of service issues.
- 6.2 The Company, Employees and Unions recognise that best practice must be achieved within determined timeframes to enhance the performance of various Company functions. The Company, Employees and Unions agree that best practice is outcome rather than simply activity based. It provides the processes, structures, rights and obligations that are essential to ensure that the full capacity for innovation of Employees is fully and effectively used. Best practice depends on effective training of both management and Employees to acquire and utilise the skills which are necessary to effectively develop, implement and evaluate the change process.
- 6.3 The Company, Employees and Unions agree that a best practice approach and methodology are important to the implementation of the Agreement.
- 6.4 Best practice programs are to be based on the following principles:
- leadership will be used to create and deploy clear values;
 - all Company, Employees and Unions will be fully involved;
 - a planned and structured approach will be used to set and achieve objectives;
 - appropriate facts, data and analysis will be used by all Employees to perform their functions;

- the customer will define product and service quality;
- partnerships with suppliers and customers will be actively pursued;
- quality will be achieved by having well planned and managed processes;
- processes will be standardised as part of process management;
- continual improvement of all processes will be pursued;
- ways will be sought to innovate and redesign processes;
- emphasis will be on prevention and improvement;
- an appropriate level of community and environmental responsibility will be demonstrated;
- The company may only use a tracking device fitted to a vehicle to identify the closest vehicle to a fault situation within rail, all issues relating to an employee's rights are listed in Clause 121; and
- the introduction of new technology, (fixed or mobile) will not lead to increased wage claims.

7 CONSULTATION AND INTRODUCTION OF CHANGE

7.1 This term applies if:

- the Company has made a decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
- the change is likely to have a significant effect on Employees.

7.2 Prior to making a definite decision to implement major change, the Company must notify the relevant Employees of the decision to introduce the major change. The relevant Employees may appoint a representative, including a representative from one of the Unions, for the purposes of the procedures in this term. If:

- a relevant Employee appoints, or relevant Employees, appoint a representative for the purposes of consultation; and
- the Employee or Employees advise the Company of the identity of the representative; the Company must recognise the representative.

7.3 As soon as practicable after making its decision, the Company must discuss with the relevant Employees:

- the introduction of the change;
- the effect the change is likely to have on the Employees;
- measures the Company is taking to avert or mitigate the adverse effect of the change on the Employees; and

for the purposes of the discussion - provide, in writing, to the relevant Employees:

-
- all relevant information about the change including the nature of the change proposed;
 - information about the expected effects of the change on the Employees; and
 - any other matters likely to affect the Employees.
- 7.4 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 7.5 The Company must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- 7.6 If a term in the 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 above are taken not to apply.
- 7.7 In this term, a major change is likely to have a significant effect on Employees if it results in:
- the termination of the employment of Employees; or
 - major change to the composition, operation or size of the Company's workforce or to the skills required of Employees; or
 - the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - the alteration of hours of work; or
 - the need to retrain Employees; or
 - the need to relocate Employees to another workplace; or
 - the restructuring of jobs.
- 7.8 In this term, relevant Employees mean the Employees who may be affected by the major change. The Company will also commit to:
- Consult Employees about changes to their regular roster or ordinary hours of work;
 - Provide information to the Employees about the change;
 - Invite the Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities);
 - Consider any views given by the Employees about the impact of the change; and
 - Allow for representation of those Employees for the purposes of that consultation.
- Provided that such consultation will operate in conjunction with any other term of the Agreement requiring consultation or agreement with Employees in relation to changes to hours of work or related matters.

8 DISPUTE RESOLUTION

- 8.1 If a dispute relates to:
- a) a matter arising under the Agreement (excluding a matter relating to Work health and safety); or
 - b) the National Employment Standards; or
 - c) a matter pertaining to the employment relationship;
 - d) then the following procedures apply.
- 8.2 An Employee who is a party to the dispute may be represented at all stages for the purposes of the procedures in this clause, by their representative, which may include the union.
- 8.3 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, in good faith.
- 8.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.
- 8.5 The Fair Work Commission may deal with the dispute in two (2) stages:
- a) 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
 - b) For matters arising under 9.1 (a) and (b), if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then arbitrate the dispute; and make a determination that is binding on the parties.

Note: if the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Fair Work Act 2009 (Cth).

- 8.6 A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div. 3 of Part 5.1 of the 'Fair Work Act 2009 (Cth)'. Therefore, an appeal may be made against the decision.
- 8.7 The parties to the dispute and their representatives must genuinely attempt to resolve the dispute through the processes set out in this clause and must cooperate to ensure these processes are carried out expeditiously.
- 8.8 In the event of a clause 8.1 (a) or (b) dispute, while the parties are trying to resolve the dispute using the procedure in this clause, work must continue in accordance with the usual practice existing prior to the matter that is the subject of the dispute (status quo), pending the resolution of the dispute unless:
- there is a reasonable concern about an imminent risk to health and safety associated with the status quo (in which case status quo will not apply); or

- the status quo has a direct impact on service delivery or Government related initiatives (in which case the status quo will only apply up to the conclusion of the steps in clause 9.5 (a)).

For the avoidance of doubt, the state of affairs as it existed prior to the matter that is the subject of the dispute will remain in place. For example, if the dispute is about a change to work, the status quo represents the position before the change.

- 8.9 In the event of a clause 9.1 (c) dispute, the status quo will not apply, pending the resolution of the dispute.
- 8.10 The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this clause. For the avoidance of doubt, this excludes matters arising under 9.1 (c).

9 GRIEVANCE PROCEDURE ("FAIR TREATMENT")

- 9.1 The objective of the Fair Treatment System is to provide Employees with access to a system of review when there is a belief an Employee has been treated unfairly. The Company is firmly committed to ensuring that this system shall provide for an orderly, fair and speedy mechanism to resolve issues. Issues dealt with under this system are non-industrial and of a personal nature. At any stage in this process the Employee has the right to appoint another person to act on their behalf in relation to resolving the matter. This person may be a Union representative.
- 9.2 The Procedure for the Fair Treatment and handling of issues of a non-industrial, personal nature is as follows:
- In the first instance an Employee should discuss the issue with their supervisor.
 - If the matter remains unresolved, then they can refer the matter to their manager.
 - If the matter is still unresolved, or the Employee feels that they are not receiving fair treatment, then they should inform their manager and arrange to talk with their Department Manager/Chief Executive Officer.
 - If the Employee still feels that they are not receiving fair treatment, or if their Department Manager has not become involved within fourteen (14) days of when the issue was raised, the matter can be referred by either party for mediation. Company, Employees and Unions will participate in the mediation process in good faith. The Company, Employees and Unions will agree on a mediator considered appropriate to mediate the issue.
- 9.3 As soon as is practicable (usually within twenty-four 24 hours) after the Employee has initiated a step in the process, the Employee will be advised of how and when the issue will be addressed.

-
- 9.4 Where a grievance exists and whilst that grievance remains unresolved and is being addressed through this procedure, the Company, Employees and Unions will return to the situation and arrangements that existed prior to the issue which caused the grievance, such that no party is prejudiced during the process to resolve the matter.
- 9.5 If matters cannot be resolved under this process, the Employee has recourse to the Dispute Resolution Procedure, provided that any matter resolved through arbitration will be private and will not set a precedent for other Employees.

SECTION TWO - EMPLOYMENT RELATIONSHIPS

10 FULL-TIME EMPLOYMENT

10.1 Full-time Employees are those who, over a period of twenty-eight (28) days (unless otherwise agreed), work an average of thirty-eight (38) ordinary hours per week.

11 PART TIME EMPLOYMENT

11.1 Employees engaged to work on a part-time basis must have a regular pattern of hours, which shall average less than thirty-eight (38) hours per week provided that before commencing part-time employment, the Company and the Employee concerned must agree upon (the arrangement):

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

11.2 The Employee concerned is entitled to be paid for the hours agreed upon.

11.3 The arrangement and any variations to it shall be in writing and retained by the Company. A copy of the arrangement, and any variation, shall be provided by the Company to the Employee concerned.

11.4 Otherwise, the terms of the Agreement shall apply pro-rata to part-time Employees on the basis that ordinary weekly hours for full-time Employees are thirty-eight (38).

11.5 Part-time Employees required by the Company to work in excess of the agreed hours shall be paid overtime for such hours.

11.6 Part-time Employees whose normal paid hours fall on a public holiday, but who are not required to work that day shall not lose pay for that day. Part-time Employees required to work on such public holiday shall be paid in accordance with Clause 37.

11.7 Where an Employee and the Company agree in writing, part-time employment may be converted to full time, and vice-versa, on a permanent basis or for a specified period of time. If such an Employee transfers from full-time to part-time (or vice-versa), all accrued entitlements will be maintained. Following transfer to part-time employment accrual will occur on a pro-rata basis.

11.8 Part-time employment can include job sharing; where two (2) Employees undertake the work of the equivalent of one (1) position on a part-time basis i.e. two (2) part-time positions equalling the equivalent of one (1) full-time role. Job sharing can only occur with the agreement of the Company and the two (2) Employees concerned.

12 APPRENTICE/TRAINEE AGREEMENT

- 12.1 Apprentices/Trainees, both new and existing Employees, shall be trained for qualification in accordance with an AQTF accredited training course prescribed and provided by a relevant training organisation, which may include the Company. A suitable document describing the terms of the arrangement shall be provided to the Apprentice/Trainee.
- 12.2 Apprentices/Trainees shall not be required to work overtime unless over eighteen (18) years of age.
- 12.3 When an Apprentice/Trainee is required to attend a technical college or school as part of their training on a day that they are rostered off, they shall observe an alternate rostered day off as agreed with the Company.
- 12.4 Except in cases of emergency, Apprentices will not be required to work overtime or shift work if doing so would interfere with their attendance at training.

13 APPRENTICE/TRAINEE RATES OF PAY

- 13.1 Apprentices/Trainees shall be paid the following percentage of all-purpose hourly wage rate:

Apprentice 4 Year Term	Percentage
First Year	45%
Second Year	55%
Third Year	75%
Fourth Year	90%

- 13.2 Apprentices over the Age of 21 Years: Notwithstanding the provisions of this clause, Apprentices 21 years of age or over shall not be paid less than 75% of the Level they are classified at the time of turning 21 and thereafter.

14 APPRENTICE/TRAINEE ARRANGEMENTS FOR EXISTING EMPLOYEES

- 14.1 An existing Employee who agrees to become an Apprentice/Trainee shall have their pre-Apprenticeship/Traineeship rate of pay maintained, in accordance with the pay increases contained herein, until such time as the Apprentice/Trainee rate should equal or exceed such rate.

15 SUPPLEMENTARY LABOUR

- 15.1 Supplementary labour will be available to cover excessive workloads caused by increases in work or for special programs or where a particular skill is not available. It is recognised that in some instances a rapid response to the workload is required.

- 15.2 Prior to the engagement of supplementary labour, where practical the training and/or transfer of existing Employees will be considered. Training will be considered when the skill requirement is long term and the work is of sufficient volume to justify the training investment and retention of competence by the Employee in the required skill. Where training is proceeding, supplementary labour hire may be required to address the immediate workload.
- 15.3 During the engagement of supplementary labour, no Employee of the same occupation who is available to transfer to this work will be declared surplus.
- 15.4 Consultation with Employees and Unions will occur prior to the use of supplementary labour. Supplementary labour hire shall be appropriately qualified to undertake the work required.
- 15.5 The engagement of supplementary labour is to be used to support the existing Employees and not to reduce the workforce numbers.
- 15.6 In the event of a dispute over this process, the Company, Employees and Unions are committed to the process contained in the Dispute Resolution Procedure as set out in the Agreement.
- 15.7 In respect of work that is covered by the Agreement, the Company shall only use a contractor if the wages, and wage related matters, which apply to it and/or its employees are the same or better overall than those provided for in the Agreement.

16 CONTRACT OF EMPLOYMENT

16.1 Employment terms and conditions are as follows:

- Employees shall be engaged on a weekly basis and placed on a period of probation for six (6) months at the commencement of their employment. This probationary period is not intended to constitute (or reduce) the minimum employment period as defined by relevant legislation.
- During the probationary period the Company or Employee may terminate employment by the giving of seven (7) days' notice. Alternatively, the Company may terminate employment by paying one (1) week's pay in lieu of notice.

16.2 Employee's shall:

- be paid on a fortnightly basis by Electronic Funds Transfer (EFT) to a nominated account;
- comply with any reasonable and lawful request of the Company and, subject to the business needs or requirements, work reasonable overtime and in accordance with shift rosters which may vary from time to time (see clause 69) provided that they are appropriately skilled, competent, trained and qualified;
- properly use/wear all protective clothing, uniforms and equipment that is provided by the Company;

- adhere to start and finish times for all work periods;
- participate in developing and implementing work methods that are designed to improve performance of the business; and
- comply with the Dispute Resolution Procedure as set out in the Agreement.

17 FLEXIBILITY PROVISIONS

17.1 The Company and any Employee covered by this Agreement may agree to make an Individual Flexibility Arrangement (IFA) to vary the effect of terms of the Agreement, if the IFA deals with one (1) or more of the following matters:

- Annualised salary
- Arrangements about when work is performed;
- Overtime rates;
- Penalty rates;
- Allowances;
- Leave loading; or

The IFA deals with the following matter:

- The IFA meets the genuine needs of the Company and the Employee in relation to one (1) or more of the matters listed above; and
- The IFA is genuinely agreed to by the Company and Employee.

17.2 The Company must ensure that the terms of the IFA:

- Are about permitted matters under section 172 of the 'Fair Work Act 2009 (Cth)'; and
- Are not unlawful terms under section 194 of the 'Fair Work Act 2009 (Cth)'; and
- Result in the Employee being better off overall than the Employee would be if no IFA was made.

17.3 The Company must ensure that the IFA:

- Is in writing; and
- Includes the name of the Company and the Employee; and
- Is signed by the Company and the Employee and if the Employee is under eighteen (18) years of age, signed by a parent or guardian of the Employee; and
- Includes details of the terms of the Agreement that will be varied by the IFA; and
- Includes details of how the IFA will vary the effect of the terms; and

- Includes details of How the Employee will be better of overall in relation to the terms and conditions of his or her employment as a result of the IFA; and
 - States the day on which the IFA commences.
- 17.4 The Company must give the Employee a copy of the IFA within fourteen (14) days after it is agreed to.
- 17.5 The Company or the Employee may terminate the IFA:
- By giving no less than twenty-eight (28) days written notice to the other party to the arrangement; or
 - If the Company and the Employee agree in writing at any time.

18 TERMINATION OF EMPLOYMENT

18.1 Termination of employment by the Company or Employee shall be in accordance with the requirements of relevant legislation, and by giving the relevant period of notice as set out in the following table (excluding probationary Employees).

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

- 18.2 An Employee, in giving notice of resignation, may request an earlier exit date than that calculated in accordance with the table above. However, if the Company agrees to the earlier exit date, the Employee will only be paid up to and including the final day of work with the Company.
- 18.3 An Employee over the age of forty-five (45) and who has completed at least two (2) years of service with the Company is entitled to one (1) extra weeks' notice in addition to the period of notice set out in the above table.
- 18.4 Alternatively, the Company may:
- Pay the Employee in lieu of their notice period; or
 - Require the Employee to work for part of the Employee's notice period and pay the Employee for the balance of the period.
- 18.5 An Employee's employment may be terminated without notice for serious misconduct.
- 18.6 Employees are required to return all Company issued uniform, PPE and equipment on termination of their employment.

19 ABANDONMENT OF EMPLOYMENT

- 19.1 Where the absence of an Employee from work for a continuous period exceeding three (3) working days has occurred without consent or notification to the Company shall be prima facie evidence that the Employee has abandoned their employment.
- 19.2 Provided that if within a period of fourteen (14) days from their last attendance at work or the date of their last absence in respect of which notification has been given or consent has been granted, the Employee has not established to the satisfaction of the Company that they were absent for reasonable cause, the Employee shall be deemed to have abandoned their employment.
- 19.3 Termination of employment by abandonment in accordance with this subclause shall operate as from the date of the last attendance at work or the last day's absence in respect of which consent was granted, or the date of the last absence in respect of which notification was given to the Company, whichever is the later.

20 TRANSITION TO RETIREMENT

- 20.1 The Company is committed to supporting Employees who are approaching retirement to do so in a graduated way, progressively reducing the intensity of their work commitments as they transition to retirement.
- 20.2 Access to transition to retirement arrangements requires an Employee to confirm their retirement date within a period not exceeding twelve (12) months. Employees who have indicated their intention to retire may consider participating in a retirement transition arrangement.
- 20.3 The Company will not unreasonably refuse any reasonable request by an Employee to amend their retirement date.
- 20.4 Transition to retirement arrangements that may be available to Employees include:
- reduction of working hours (i.e. part-time employment);
 - job sharing;
 - refocusing the Employee's responsibilities and duties;
 - project based work and secondments;
 - appointment to a role focused on training or mentoring other Employees;
or
 - accessing long service leave or other paid leave entitlements on a regular and systematic basis.
- 20.5 The availability and suitability of any of the transition to retirement arrangements set out above will be assessed on a case-by-case basis, with consideration for the operational requirements of the Company and the long-term benefits of retaining the Employee's knowledge and skills.

21 REDUNDANCY

- 21.1 An Employee, whose position is determined by the Company as being surplus to requirements, shall be offered an alternative position within the Company when that is a viable option.
- 21.2 Should there be no alternative position available within the Company or, where applicable, the Employee is not offered a position (in accordance with Clause 22) with an organisation taking over under a transfer of business, the following redundancy package shall be provided to the Employee on separation from the Company:
- Four (4) weeks' (or five (5) weeks' in accordance with Clause 18.1) severance pay, in lieu of notice of termination in Clause 18; plus
 - Two (2) weeks' pay, at the Employee's ordinary rate at the time of separation, for each completed year of continuous service with the Company up to a maximum of 16 weeks.

22 TRANSMISSION OF BUSINESS

- 22.1 In the event of the Company selling, transmitting, assigning or otherwise transferring the whole or part of the business in which Employees covered by the Agreement are employed, and in the event of Employees being offered employment in that business by a new company upon the terms and conditions of employment of the Agreement with continuity of entitlements and at the same location, then the Company will not be liable for payment of any notice amounts or redundancy or severance payments in respect of the termination of employment of such Employees arising from the transmission or transfer.

23 CONTINUITY OF SERVICE

- 23.1 As a consequence of any functions or activities being performed by the Company or its successors, assignees or transmittees, Employees who continue their employment with the Company or their successor, assignee or transmitttee shall have their service with the Company, including service recognised by a previous company count for all purposes with the new company and for the purposes of calculating any redundancy payments. (.) Furthermore, this will include salary progressions where applicable and the maintenance of all accrued entitlements, pro rate accruals with the previous companies transferring with the Employee, sick leave, annual leave, annual leave loading, long service leave, rostered days off or their equivalent, time off in lieu owing, public holidays, and any other accrued entitlements.

24 CODE OF CONDUCT

- 24.1 The policy of the Company is to have fair, equitable and consistent procedures in the workplace for the purpose of ensuring acceptable behaviour and conduct.

25 PERFORMANCE MANAGEMENT PROCESS

- 25.1 The Company is committed to work with Employees to assist them to achieve satisfactory standards of work performance and conduct. When an Employee does not meet satisfactory standards of conduct in the areas of neglect of duty, approach to work or other misconduct, the process outlined below is to be followed, which shall include the Company providing training where appropriate. The Employee has the right to have representation or the Employee's nominated witness present during this process.
- 25.2 While in most cases each step of the following procedure will be followed in sequential order, in certain cases of serious breaches of procedures or unacceptable conduct, the Company may elect to skip disciplinary steps. Serious breaches in this context refer to breaches for which it is not reasonable that a second breach would be tolerated and include such breaches that are likely to significantly put at risk other persons or the environment:

Step 1 - Recorded Verbal Warning/Counselling;

When the Company has concern regarding the conduct of an Employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The Employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may verbally warn the Employee, which shall be documented with a copy placed on the Employee's personnel file however will not be taken into account for further disciplinary action after twelve (12) months. The Employee under counselling shall be made aware of the standards of improvement in conduct that is to be made.

Step 2 - First Written Warning;

If the Employee fails to meet the agreed standards of improvement in accordance with Step 1, or if the Company has a second concern about the conduct of the Employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The Employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may provide the Employee with a written warning, which shall be documented with a copy placed on the Employee's personnel file however will not be taken into account for further disciplinary action after twelve (12) months. The Employee receiving the written warning shall be made aware of the standards of improvement in conduct that is to be made.

Step 3 - Final Written Warning;

If the Employee fails to meet the agreed standards of improvement in accordance with Step 2, or if the Company has a third concern about the conduct of the Employee, the Company shall undertake an investigation into the issues pertaining to the unsatisfactory conduct. The Employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination. Based on its determination, the Company may provide the Employee with a written warning, with a copy placed on the Employee's personnel file. The Employee receiving the written warning shall be made aware of the standards of improvement in conduct that is to be made.

Step 4 - Dismissal;

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

- 25.3 The disciplinary counselling procedures do not warrant the involvement of barristers and/or solicitors.
- 25.4 The Company may elect to suspend an Employee whilst conducting an investigation into alleged serious misconduct. If the Company suspends an Employee while undertaking an investigation, the Employee will be suspended and paid as per roster.

26 SUMMARY DISMISSAL

- 26.1 The Company may dismiss an Employee, without notice, for serious misconduct warranting summary dismissal. The Company shall undertake an investigation into the issues pertaining to the serious misconduct. The Employee/s concerned will be afforded due and proper process including right to representation and opportunity to respond. The Employee will be given the opportunity to provide an explanation. The Company will consider this explanation and relevant facts in making its determination.
- 26.2 Based on its determination, the Company may summarily dismiss the Employee. For the purpose of this clause serious misconduct is as defined in the 'Fair Work Act 2011 (Cth)' as varied from time to time.
- 26.3 Under normal circumstances, use of the internet that has not been approved by the Company will not constitute serious misconduct. However, any Employee who violates this clause will be subject to the disciplinary code of conduct which in extreme cases may lead to dismissal.

27 STAFF DEVELOPMENT AND FEEDBACK

- 27.1 The following provisions will apply to Employees nominated by the Company from time to time. The overall objective of the feedback discussion is to provide a suitable development program for Employees and to establish a process for mutual feedback in the workplace. The feedback discussion will enable both the supervisor and the Employee to measure the effectiveness of any training undertaken (or being undertaken) and provide a forum for ideas and suggestions.
- 27.2 It is an expectation of the Company that Employees will participate in the staff development and feedback process, which will include formal feedback discussions, generally conducted on a twelve (12) monthly basis. Informal discussions will occur midway through the twelve (12) month period to review progress of development.
- 27.3 An Employee may choose to be accompanied, during the feedback discussion, by a third person of their choice.
- 27.4 Records of the discussion will be given to the Employee and a copy will be kept on the Employee's file.
- 27.5 Areas of review will include but are not limited to productivity, safety, environmental awareness, individual work history (skills audit), job satisfaction, team and individual performance targets, training requirements and competency.

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SECTION THREE - WAGES & RELATED MATTERS

28 DEFINITIONS

- **"Continuous Shift Worker"**: Continuous Shift Worker is defined as an employee whose ordinary hours rotate on a 24/7 continuous basis, e.g. Day Shift, Afternoon Shift and Night Shift rotating continuously over seven (7) days of the week.
- **Early Morning Shift**: Early Morning Shift is defined as a shift rostered to start at or after 4:00am (0400 hours) and before 6:00am (0600 hours).
- **"Day Shift"**: Day Shift is defined as a shift rostered to start at or after 6:00am (0600 hours) and to finish at or before 6:00pm (1800 hours).
- **"Afternoon Shift"**: Afternoon Shift is defined as a shift rostered to finish after 6.00pm (1800 hours) and before, midnight (0000 hours).
- **"Night Shift"**: Night Shift is defined as a shift rostered to finish at or after midnight (0000 hours) or start before 4:00am (0400 hours).
- **"Permanent Night Shift"**: Permanent Night Shift is defined as a roster of shifts consisting of Night Shift only for a continuous period of four (4) weeks or more.
- **"Saturday Shift"**: A Saturday Shift is defined as a shift performed between midnight (0000 hours) on Friday and midnight (0000 hours) on Saturday.
- **"Saturday/Sunday Public Holiday Shift"**: A Saturday/Sunday Public Holiday Shift is defined as a public holiday which falls on a Saturday or Sunday which has not been substituted for another day (Monday to Friday).
- **"Sunday Shift"**: A Sunday Shift is defined as a shift performed between midnight (0000 hours) on Saturday and midnight (0000 hours) on Sunday.
- **"Rotating Shifts"**: Rotating Shifts are when an Employee works on all rostered rotating shifts, i.e. Day, Afternoon, Night.
- **"Extended Shift Roster"**: One in which the ordinary component of rostered shifts is greater than eight (8) hours. (For the avoidance of doubt, this does not include rostered overtime, for example where the roster contains 5 x 8hr shifts with 0.5 hours of overtime rostered per day resulting 8.5-hour rostered shifts or similar.)
- **"Shift Worker"**: Whilst an Employee works on Extended Shifts, Rotating Shifts or Permanent Night Shift, they shall be considered to be a Shift Worker for the purposes of the Agreement.
- **"Ordinary hours"**: Ordinary hours are as defined under clause 56.
- **"Normal rate"**: is the base rate of pay plus any allowances paid under clause 34 when the Employee is not at work.

- **"All-purpose Allowances"**: Allowances described as being 'all-purpose' will be added to an employee's hourly rate for all purposes of the Agreement which includes superannuation, overtime, penalty rates, shift penalties and periods of paid leave such as Annual leave, Sick leave and Public Holidays, Long Service Leave.
- **"Overtime"**: means all hours worked outside the Ordinary hours of work as defined under clause 36.

29 CLASSIFICATION

- 29.1 All classification structures covered by the Agreement will, in part, be based on competency standards under the Australian Qualification Training Framework (AQTF), supporting the objectives of the Company and the level of responsibility associated with the position. The remuneration for each position is set out in Appendix One. .
- 29.2 Progression through the Classification Structure will be both vacancy and competency based.
- 29.3 The Company and the Unions both where possible commit to future development of a classification structure.

30 HIGHER CLASSIFICATION DUTIES

- 30.1 An Employee who is requested to work at a level which attracts a higher rate of pay than his/her ordinary grade or level, shall be paid the rate applicable to such work for the time so engaged. Where the work is for a period of four (4) hours or more, the payment shall be for a minimum of eight (8) hours.
- 30.2 No restrictions shall be placed on the allocation of work on either a higher or lower grade or level to an employee where circumstances require; provided that the Company is satisfied the Employee is capable, trained or qualified to perform the work allocated.
- 30.3 When an Employee has acted in a higher classified position for a period, or periods, of six (6) months or longer (in any continuous twelve (12) month period), the Employee shall receive a personal classification to the higher-level position. This shall only apply where the higher position is vacant with no permanently appointed incumbent.

31 ANNUALISED SALARY ARRANGEMENT

- 31.1 The annualised salary must ensure that the Employee is better off overall than they otherwise would have been had the terms of the Agreement not been varied. The annualised salary will be specified in writing as well as the provisions of the Agreement that will no longer apply as well as an explanation of how the Employee will be better off.
- 31.2 Once the annualised salary is paid then it will be in full satisfaction of any obligation to otherwise make payments to the Employee under the Agreement.

31.3 An employee can only convert to an annualised salary by mutual agreement with the Company and cannot elect to change back to a conventional wage until the nominal expiry date of the Agreement.

32 WAGE INCREASES

32.1 Wage increases during the life of the Agreement as follows:

- 3% per annum from the first full pay period on or after _____ 2019.

33 PAYMENT UPON APPROVAL OF THE AGREEMENT

33.1 Pay increases are effective from the date Employees commenced roster shift work.

33.2 As some of the increases above are stated to apply prior to the date of operation of the Agreement, following commencement of Agreement, Employees shall receive a payment equivalent to the difference between what they did receive and what they would have received for wages if the Agreement had come into operation immediately prior to the date of the first wage increase set out above.

34 PENALTY PAYMENTS

34.1 Shift penalties for all ordinary hours worked shall be subject to payment of the following:

- Early Morning Shift Allowance (Monday to Friday) - 15%
- Afternoon Shift Allowance (Monday to Friday) - 15%
- Night Shift Allowance (Monday to Friday) - 30%
- Saturday/Sunday Shift - 100%
- Public Holiday Shift - 150%
- Saturday/Sunday Public Holiday Shift - 200%

35 EXTRA RATES NOT CUMULATIVE

35.1 When two or more extra rates are payable simultaneously, the applicable rate is that which is most beneficial to the Employee.

36 OVERTIME

36.1 The Company may require Employees to work reasonable overtime and Employees shall work such reasonable overtime as required. All overtime will be paid at double time.

36.2 In all other circumstances, the start time for overtime shall commence from when the Employee attends work or when they were requested to attend work, whichever is the later, and the finish time for overtime will be when the Employee finishes on the job or at the depot, whichever is applicable.

37 PUBLIC HOLIDAY PAYMENTS

- 37.1 An Employee shall be paid at the rate of double time and a half for work undertaken on public holidays.
- 37.2 Where time worked on a public holiday falls on a Saturday or Sunday which has not been substituted for another day (Monday to Friday), payment will be made at triple time.
- 37.3 Payment under this clause shall be made in lieu of any shift allowances prescribed under clause 34.
- 37.4 An employee who is rostered to and works into and/or out of a Public Holiday will be paid an additional seven (7) hours thirty-six (36) minutes in addition to the penalty payments for the holiday.
- 37.5 Employees will receive a payment of seven point six (7.6) hours where an off-roster day falls on a public holiday (i.e. in addition to their ordinary fortnightly pay).

38 ANNUAL LEAVE LOADING

- 38.1 Employees when taking annual leave are entitled to loading as detailed below unless the leave to be taken has accrued from previous years and loading has already been paid against that accrual;

Description	Amount of Loading
Shift workers	20%
All Others	17.5%

- 38.2 The above are percentages of the Employee's ordinary weekly wage/salary, inclusive of all-purpose payments.
- 38.3 Shift Workers will be paid an annual leave loading of 20% or an amount equivalent to their standard rostered shift penalties as defined in clause 34, excluding public holiday penalties, whichever is the greater.

39 SALARY MAINTENANCE

- 39.1 Salary maintenance is a critical component of previous and ongoing restructuring and organisational changes.
- 39.2 Salary maintenance provides as a minimum the retention of grade classification, at the time of restructuring, with ongoing wage escalation as per the Agreement and with overtime as appropriate at the new position classification pay scale.
- 39.3 Individual Employees may retain additional arrangements as agreed at the time. Such arrangements will be provided to the Employee in writing. No Employee will be discriminated against because of such arrangements.

39.4 The provisions of this clause do not apply to Employees who have been demoted, or moved to an alternative position, due to the outcome of a disciplinary or underperformance matter.

40 SALARY PACKAGING

40.1 Employees may salary sacrifice or package their salaries in any legal form, consistent with Company Policy as applicable from time to time, provided that there is no additional cost to the Company. For Employees seeking individual advice, the cost of any individual packaging advice from taxation or financial advisers, costs of any fringe benefits tax payable and costs for setting up any individual arrangements will be borne by the Employee.

40.2 The annual salary of the Employee (prior to packaging or salary sacrifice) will remain unchanged for all purposes including the calculation of penalty rates, allowances, termination and superannuation.

40.3 An Employee may enter into a salary packaging arrangement with regard to the State Government defined benefits superannuation schemes provided that it complies with the requirements as set out in State Legislation and other relevant guidelines/instructions.

40.4 Once in place, an Employee may only vary their salary sacrifice arrangement on one (1) further occasion each calendar year.

40.5 Subject to the requirements set out in this Clause, Employees may also enter into Novated Leasing arrangements on the basis that the arrangement is between the Employee and the Company's chosen third-party provider and that there is no additional cost to the Company to facilitate this arrangement.

41 SUPERANNUATION GUARANTEE CHARGE

41.1 The Company will pay an amount equivalent to the prevailing Superannuation Guarantee Charge into the Employee's approved fund of choice. Should the Employee not specify a fund of choice upon commencement, the Company will pay the prevailing Superannuation Guarantee Charge into one of the following approved funds:

- First State Super RTBU
- EISS Super ETU
- Australian Super AMWU

42 SALARY SACRIFICE FOR SUPERANNUATION

42.1 Employees may salary sacrifice into their approved fund of choice provided such salary sacrifice arrangements comply with the requirements as set out in the relevant legislation.

- 42.2 Timing for changes to salary sacrifice shall be in accordance with the guidelines established by the Company. Minimum amount for salary sacrifice shall be twenty-five dollars (\$25) per week or as stipulated by the Fund, whichever is the greater.
- 42.3 An Employee may enter into a salary packaging arrangement with regard to the State Government defined benefits superannuation schemes providing that it complies with the requirements as set out in State Legislation and other relevant guidelines / instructions.

43 PAYROLL DEDUCTIONS

- 43.1 An Employee may nominate accounts into which payments on the Employees' behalf may be deposited, including deductions made for Income Protection Insurance.
- 43.2 Where an Employee has received an overpayment, the Company may deduct the value of up to six (6) hours (pro-rata for part time Employees) of base rate of pay from each wages payment. The full balance of any over payment can be recovered from a termination payment.
- 43.3 The first deduction shall not occur until after notification to the Employee of the over payment and agreement on the deduction is sought.
- 43.4 Employees will be advised of a right to request alternative repayment arrangements in circumstances where Employees may experience financial hardship.

SECTION FOUR - ALLOWANCES & REIMBURSEMENTS

Allowances paid to employees who satisfy the below criteria and where the capability is required by the business

45 ELECTRICAL LICENCE ALLOWANCE

45.1 This is an all-purpose allowance paid to all Employees who hold an unrestricted electrical supervisor or contractor licence.

46 HIGH VOLTAGE ALLOWANCE

46.1 This an all-purpose allowance paid to any employees engaged under this agreement who are required to carry out work of any kind on High Voltage apparatus.

46.2 MTS considers the overhead wiring (OHV) and its associated equipment to be HV apparatus and the merging of two trades under the one classification is the basis for this allowance.

47 PROTECTION OFFICER ALLOWANCE

47.1 This is an all-purpose allowance paid to any Employee engaged under this agreement who are deemed competent to fulfil the role of Protection Officer.

48 AUTHORISED PERSONS ALLOWANCE

48.1 This is an all-purpose allowance paid to any Employee engaged under this agreement who are deemed competent to fulfil the role of an Authorised Person.

49 HIGH VOLTAGE/AUTHORISED PERSON (INCLUSIVE OF ELECTRICAL LICENCE ALLOWANCE)

49.1 This is an all-purpose allowance paid to any Employee engaged under this agreement who are required to carry out work of any kind on high voltage apparatus and who are deemed competent to fulfil the role of an Authorised person.

50 INFRASTRUCTURE WORKS ALLOWANCE

50.1 This is an all-purpose allowance that represents the sum of allowances associated with infrastructure work in the rail industry including but not limited to; work in tunnels, at heights, in the rail corridor, in train yards/sheds, etc. and will be paid to all personnel engaged under this agreement who carry out work on any infrastructure assets (including rolling stock) or in any infrastructure environment (including the SMTF Yard) throughout the metro network.

51 FIRST AID ALLOWANCE

51.1 This is an all-purpose allowance paid to any Employee engaged under this agreement who hold a first aid certificate.

52 MEAL ALLOWANCE

52.1 All Employees receive in accordance with Clauses 60 and 63.

53 TRAVELLING AND INCIDENTAL EXPENSES

53.1 Where travelling and incidental expenses are not paid directly by the Company, Employees will be reimbursed upon the provision of a receipt up to a maximum of the amount specified in Table 1 of Australian Tax Office Tax Determination TD 2015/14 (as updated from time to time).

54 AUSTRALIAN ELECTRICAL LICENSE

54.1 Where the Employer requires an Employee to obtain an Australian Electrical License in connection with their duties, the Employer will meet the cost of this licence up to the level of supervisory licence.

55 AUSTRALIAN COMMUNICATIONS AUTHORITY (ACA) LICENCE

55.1 Where the Employer requires an Employee to obtain an Australian Communications Authority licence in connection with their duties, the Employer will meet the cost of this licence.

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SECTION FIVE- HOURS OF WORK

56 ORDINARY HOURS

- 56.1 For Employees who work Monday to Friday, Ordinary Hours are one hundred and fifty-two (152) ordinary hours scheduled over nineteen (19) days in a four (4) week cycle. Employees engaged on a nineteen (19) day, four (4) week cycle will be provided with a Rostered Day Off (RDO) that represents the twentieth (20th) day of the four (4) week cycle in accordance with clause 59;
- 56.2 Employees who work a seven (7) day roster, an average of thirty-eight (38) hours per week determined as per the procedure set out in this agreement, the ordinary hours of work shall be an average of thirty-eight (38) hours per week and shall be,
- Not less than eight (8) hours per shift unless otherwise agreed between the Company and the Employee concerned and their representative, excluding part-time arrangements;
 - Not more than ten (10) days per pay fortnight; and
 - Not more than twelve (12) hours per shift, , except in exceptional circumstances and then only if expressly authorised by the Manager of the Department.

57 SHIFT WORK

- 57.1 When a shift extends over two (2) pay periods, that shift shall be deemed to be part of the pay period of when the shift commences.
- 57.2 No Employee, during the course of any shift, shall be booked off duty for more than half an hour (30 minutes), including time for a meal, unless otherwise agreed upon between the Company and the Employee concerned.
- 57.3 Each hour (or part thereof) of Ordinary hours of work shall be paid at the rate applicable for the day worked regardless of when the shift was commenced, with the exception of Sunday shifts carrying over into Monday which will attract a penalty of 100% for the entirety of the shift.
- 57.4 The maximum number of consecutive Shifts an Employee may be required to work is twelve (12). An Employee may be rostered to work up to a maximum of five (5) consecutive twelve (12) hour Shifts. An Employee may be required to work six (6) or seven (7) consecutive twelve (12) hour Shifts only after approval has been given by the Manager. An Employee cannot work more than seven (7) consecutive twelve (12) hour Shifts.
- 57.5 The start and finish times of any given Shift may be changed to meet work requirements under the following circumstances: -
- For no more than two (2) Shifts out of twenty-eight (28) (i.e., the roster cycle) by management decision.

- For any more than two (2) Shifts only by mutual agreement of the Employee. The Employee may not unreasonably withhold agreement.

57.6 The cancellation and/or re-allocation of a Shift to an alternate date may occur with mutual agreement of the Employee concerned and where at least forty-eight (48) hours' notice is given to the Employee. If less than forty-eight (48) hours' notice is given to the Employee a penalty of 15% for the re-allocated Shift, in addition to all other entitlements associated with the Shift, shall be paid to the Employee.

Note: what this means is that if a Friday Shift is cancelled and rescheduled to the Saturday with less than forty-eight (48) hours' notice, the Employee will receive the normal payment of double time for the Saturday Shift plus an additional payment of 15% for the Saturday Shift because of less than forty-eight (48) hours' notice.

57.7 Except by mutual agreement Employees will not be required to work a Shift of which they have received less than forty-eight (48) hours' notice, more than once in each fortnightly roster period.

57.8 An Employee who has been given less than forty-eight (48) hours' notice to work at a location significantly different from that indicated on the roster, will not be required to work at the changed location if personal hardship is raised, e.g. Chatswood to Tallawong.

57.9 The alteration of all Shifts within a fortnightly roster period may be changed with twenty-eight (28) days' notice.

57.10 The above changes may occur with shorter periods of notice where the Employee(s) agree.

57.11 Employees may swap their Shifts by mutual agreement where the manager approves. Managers will not unreasonably withhold approval.

57.12 There should be no more than one short notice Shift change per fortnight roster period.

58 SHIFT WORK AVAILABILITY

58.1 A shift worker is required to make themselves available to work shifts as determined by the Company in accordance with the requirements set out in this agreement.

58.2 An Employee shall be given a copy of the rostered hours they are required to work at least two (2) weeks prior to the commencement of each roster. New rosters will be developed in accordance with Schedule One the Rostering Principles, Parameters and Guidelines contained within this agreement.

58.3 Whilst an Employee works on Extended Shifts, Rotating Shifts or Permanent Night Shift, he/she shall be considered to be a Shift Worker for the purposes of the Agreement.

58.4 An Employee may agree to reduce the notice period required to change shifts by mutual agreement.

59 ROSTERED DAYS OFF (RDO)

- 59.1 RDO's will be rostered, and taken, Monday to Friday as agreed between the Company and the relevant Employees during the cycle so as to guarantee continuity of operation.
- 59.2 RDO's may be accumulated to a maximum of five (5) days where it is agreed by the Company and taken to meet operational requirements.
- 59.3 A rostered RDO is not to be substituted for sick leave or any other paid leave.

60 MEAL/CRIB BREAK

- 60.1 For non-shift workers When possible, the arrangement of work for a shift shall be such that Employees shall be allowed an unpaid, thirty (30) minute break, to be taken within the spread of the shift. Ideally, this break shall be taken as close to mid-shift as possible, i.e. no later than the end of the fifth (5th) hour, but shall be taken so as not to disrupt the continuity of the work group's operations.
- 60.2 For non-shift workers Flexibility shall be exercised at all times, and when the nature of the work requires a "straight shift", a twenty (20) minute crib break shall be applied without deduction of pay. The crib time shall also be organised to ensure continuity of the Company's operations.
- 60.3 Employees considered "shift workers", shall be allowed a paid, thirty (30) minute break, incorporated into the normal length of their shift and to be taken within the spread of the shift. Ideally, this break shall be taken as close to mid-shift as possible, i.e. no later than the end of the fifth (5th) hour, but shall be taken so as not to disrupt the continuity of the work group's operations
- 60.4 Any Employee working overtime shall be allowed a crib break of twenty (20) minutes without deduction of pay after each four (4) hours of overtime worked, but this provision shall not prevent any agreed arrangement being made for the taking of a longer meal interval without pay.

61 REST BREAK

- 61.1 A rest break of not more than ten (10) minutes will be taken at a time determined by the operational requirements of the business.

62 TIME OFF IN LIEU

- 62.1 An Employee may elect, with the consent of the Company, to take time off in lieu of payment of overtime at a time or times agreed with the Company. Any time taken off in lieu will be during ordinary hours; that is an hour for each hour worked. Where the Employee has not taken time off within four weeks, the Employee will be paid for such time at the rates specified in Clause 36.

63 OVERTIME MEAL ALLOWANCE

63.1 Any Employee who is required to work overtime attached to an ordinary shift for a period of greater than two (2) hours, or work an overtime shift of more than ten (10) hours, shall either be supplied with a meal by the Company or be paid a Meal Allowance as specified in Appendix Two of the Agreement. If they work beyond a further two (2) hours, a further Meal Allowance for a second meal.

64 CALL OUT AFTER ORDINARY HOURS

64.1 Any Employee recalled after leaving duty for the day or shift to work overtime shall be paid for a minimum of four (4) hours at the appropriate rate.

64.2 Time worked under this clause will be paid as overtime in accordance with Clause 36.

64.3 When an Employee is required to immediately report to work, the start time for overtime calculation shall commence from when they are notified and the finish time for overtime calculation will be when the Employee arrives home.

65 FATIGUE MANAGEMENT

65.1 The Company agrees to develop practices and working arrangements that take into consideration the nature of the rail working environment. In respect to fatigue management, rosters, additional hours and work will all be monitored to ensure Employees do not place themselves at an unacceptable level of risk.

65.2 In return, Employees agree to present for work in a safe manner without undue impairment caused by fatigue or external activities likely to cause fatigue. Employees and the Company have a shared responsibility in ensuring fatigue related risk is minimised.

65.3 Any future changes to fatigue management practices will be discussed between the parties.

66 MINIMUM BREAK FROM WORK

66.1 Employees shall be provided a ten (10) hour break between shifts.

66.2 If the ten (10) hour break includes time that would normally be worked as a part of the Employee's ordinary hours, they shall receive payment for those hours at the applicable shift rate.

66.3 Employees shall be paid at the rate of double time from when they recommence duties until they have been given the opportunity to have a ten (10) hour break when:

- The maximum working hours and minimum breaks stipulated in clause 70.10 are not met; or
- They are required to return to work without having had a ten (10) hour break from when they last worked overtime.

66.4 Based on operational requirements, Employees may be required to report for duty without having a ten (10) hour break. The Company will exercise its discretion when determining whether an Employee may be required to report for duty before having a ten (10) hour break and circumstances such as this, Employees will be paid in accordance with the above.

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SECTION SIX- ROSTERS / ROSTER CYCLES

67 ROSTER PRINCIPLES

- 67.1 All rostering will be based on fatigue management principles which:
- addresses the opportunity for quantity and quality of sleep particularly the 'time of day' effect;
 - ensures the number of consecutive Shifts (in particular night Shifts), Shift lengths and roster periods between Shifts are considered in roster compilation; and
 - understands that Employees have a need to balance the competing requirements of their jobs with their social and domestic responsibilities.
- 67.2 The company will Schedule the work of Employees to eliminate or minimize the potential health and safety risks to all stakeholders is required. The following performance- based principles should underline the design of work schedules:
- minimize the occasions on which Employees are required to work more than 12 hours in a period.
 - ensure that any period of extended hours is compensated with a longer break before resuming a Shift.
 - avoid rapid Shift changes so that at least a 24-hour break is provided before rotating to a new Shift.
 - ensure Employees have a minimum of 48 consecutive hours free of work in a 14-day period.
 - minimize consecutive night Shifts in order to limit reductions in performance levels caused by circadian disruption, fatigue and reduced alertness.
 - account for "covering" contingencies caused by sickness or absences.
 - capacity to replace/relieve Employees where unplanned or unavoidable extended hours have created a risk to Employee health and safety.
- 67.3 The allocation of appropriate numbers of Employees during peak times and periods of demand is fundamental to minimizing the exposure to risks associated with extended working hours. Numbers and types of Employees should be rostered on the basis of predictable demands for services by daily, weekly, seasonal and annual trends.
- 67.4 Rosters (also referred to as 'Roster Cycle') must include the start and finish times of each Shift.
- 67.5 Rosters are to show the work location or section of track where the work is to be performed of each Shift.

- 67.6 Except as provided in this paragraph the ordinary Shifts to be worked by an Employee will be of a maximum length of twelve (12) hours. Rosters may contain a maximum of six Shifts of less than eight (8) hours duration with a minimum duration of six (6) hours duration in any twenty-eight (28) day period.
- 67.7 Except by mutual agreement Employees will not be rostered to work more than two (2) weekends in any twenty-eight (28) day period, that is, "2 weekends in 4" means precisely that, and confirms that our definition of a weekend is either a Saturday and Sunday or a Saturday or a Sunday. This precludes a single weekend day on 3 or 4 consecutive weekends being acceptable in any twenty-eight (28) day period.
- 67.8 Other than by mutual agreement, the Company will not impose a regime of permanent afternoon or night Shift.
- 67.9 In any four (4) week period, one (1) week of nights and / or one (1) week of afternoons may be required as a maximum. The two (2) one-week periods are mutually exclusive and cannot be substituted. The week of nights is subject to a maximum of five (5) consecutive Shifts, and the week of afternoons is subject to a maximum of six (6) consecutive Shifts respectively. The spreading of these Shifts "all over the place" will not be deemed as acceptable.
- 67.10 Areas and/or groups of Employees who currently work to a rostering system will not have their roster patterns changed merely as a result of the introduction of averaged pay working.

68 ROSTERING PARAMETERS

- 68.1 In addition to the principles outlined above, the 'default' rostering parameters are outlined in clause 56, as well as the points listed below:
- maximum number of Shifts less than 8 hours but not less than 6 hours - 6 in a 28-day period;
 - employees will not be rostered for more than 2 weekends, consisting of a Saturday and a Sunday, or a Saturday only or a Sunday only, in a 28-day period, provided that no splitting of weekend occurs at the start and finish of the roster cycle; and
 - maximum number of night Shifts and/or afternoon Shifts - one (1) week of nights or 2 weeks of afternoons, or one (1) week of each in a 28-day period.

It is recognized, however, that these 'default' parameters are intended to apply to work groups where local level consultation and/or custom and practice has not developed business specific rostering arrangements.

- 68.2 Where a Shift is cancelled and/or re-allocated to an alternative day with less than 48 hours' notice, the Employee will be paid a penalty payment of 15% for the reallocated Shift in addition to all entitlements associated with the Shift.

- 68.3 It is recognized that the Employer needs a system of rostered work for Infrastructure Workers that, while promoting efficient and flexible work practices that assist the Employer to achieve its business objectives, also achieves a suitable balance between business and Employee needs and obligations.
- 68.4 The parties acknowledge that the current and future business requirements of the Employer will rely on an effective system of rostering Infrastructure staff to meet its maintenance and project needs and it is acknowledged that any new Employees must be prepared to be rostered. The success of its rostering system will be demonstrated not only by the extent to which it meets business requirements but also by reconciling the different groups within the workforce.
- 68.5 The parties acknowledge the variations in business requirements for rostered work across the Employer's business units. These variations need to be addressed through local level consultation and agreement which addresses business requirements while ensuring compliance with the rostering principles contained in this Agreement.
- 68.6 The objective for the allocation of Annual Leave is to ensure that a minimum of two (2) weeks annual leave can be taken by staff with school age children within a recognized school holiday period and to ensure equity in annual leave rostering.

69 ROSTER CHANGES

- 69.1 Any future/further roster changes or changes to work arrangements will be made in accordance with the following principles/steps. Changes to work arrangements/rosters will only occur after steps one, two, four and three, if needed, have been adhered to.

Step One:

The Company will notify work groups and their representatives when it proposes to make a work arrangement/roster change, including the reasons for the work arrangement/roster change.

Step Two:

Within one (1) week of the notification above, a meeting will be scheduled between the Company and nominated Employee representatives to discuss feedback and options. Work arrangement/roster changes will be determined by agreement of the majority of effected Employees and that agreement will not be unreasonably withheld. The following principles will apply in determining whether agreement can be reached:

- Rosters will be discussed with the Employees
- Outcomes must meet business requirements
- Impact of the change on an individual's remuneration
- Work/life balance considerations

- Fatigue requirements must be factored into any work arrangement/roster outcome.

Step Three:

If no agreement can be reached, the Company or the Employees and/or their representatives may progress the matter to the Fair Work Commission under the Dispute Resolution procedures contained within the Agreement (clause 8).

Step Four:

New rosters will initially be filled on a volunteer basis. Where there are insufficient volunteers to work new rosters, the Company is entitled to populate any roster vacancies from remaining Employees by providing notice to these Employees in accordance with the shift change provision of the Agreement (clause 58).

70 CONSULTATION AND RESOLUTION OF ROSTERING ISSUES

- 70.1 All Employees are to receive a copy of the roster to which they are being asked to work. To reduce any possible adverse impact of proposed rosters on work groups or Employee's roster shall be validated after consultation.
- 70.2 A draft roster shall be presented to all Employees thirty-five (35) days prior to commencement of work patterns. Work groups and individuals Will have seven (7) days to comment on and resolve any issues.
- 70.3 The personal circumstances (including all pre-notified periods of training) of Employees must be taken into account when rosters are drawn up.
- 70.4 There is an obligation on both management and the individual not to unreasonable constrain availability or to unreasonably fail to take into account all personal circumstances. Where accommodation of the circumstances is not possible for key members (those with specialist or scarce skills) of staff mutual agreement must be reached between the individual and the rostering manager. If mutual agreement does not occur, the provisions of clause 70 below will apply.
- 70.5 A process of consultation will assist in the development and maintenance of a safe workplace by ensuring that schedules and workloads are reasonable and practicable for a particular workplace or organization. Consequently, effective "controls" for workplace scheduling and task allocation are developed through consultation with those working the Shifts.
- 70.6 Employees will be involved in the development and design of rosters, taking into consideration the design principles set out above. In addition, Employees should be involved in all future discussions regarding changes or adjustments to their Shift system.

- 70.7 The Manager or their nominee is accountable for resolution of the operational issues. They will take an overt role to regularly review the rosters and their development and implementation and consult with staff and unions alike. Specifically, they will seek to accelerate the resolution of disputes and misapplication of rostering practices in conjunction with staff and union representatives. The Human Resources Manager in accordance with Step 3 of the Dispute Settlement Procedure (DSP) is the central reference point for resolution of issues that cannot be resolved at the local and team management level.
- 70.8 There is no place for coercion, threats, intimidation or other such tactics in the rostering process. Metro-trains Sydney expects alternative options to be considered which might include working shorter Shifts, rescheduling work and provision of individually tailored support, etc. All staff have the right to raise any example of this kind of management with the Manager and Unions at any time.
- 70.9 Rosters will be drafted, discussed and implemented through the consultation process. They will conform to rostering principles.
- 70.10 Where Agreement cannot be reached about a particular roster the following guidelines will apply:
- Maximum Shift length - 12 hours (14 hours including travel time to/from residence)
 - Minimum break between Shifts - 10 hours.
 - Maximum number of Shifts - 12 in 14 days.
 - Maximum number of consecutive day Shifts - 11
 - Maximum number of consecutive night Shifts - 5 x 8 hour, 4x 10-hour, 3 x 12 hour
 - Maximum number of 12-hour Shifts - 7 in 14 days
 - Maximum number of consecutive 12-hour Shifts - 4

71 PAYMENT ON ROSTER CHANGE

- 71.1 A 3% lump sum, (one-off payment), calculated on an Employee's base rate of pay, to those Employees who agree to a new roster in accordance with this Schedule. Payment will be made in the first full pay period following the commencement of the new roster. For the avoidance of doubt, this payment will only apply to the first roster change after the Agreement has been approved, not for any further roster changes made under this schedule.

72 HAZARDS OF SHIFT WORK AND RISK MANAGEMENT

- 72.1 The hazards associated with Shift work may be amplified by various factors. The Employer is committed to managing this situation by the application of fatigue assessment tools to assist decision-making and minimize work-related fatigue.

- 72.2 The Employer is committed to working within the consultation principles outlined in the Enterprise Agreement regarding Shift alterations and will use a fatigue assessment program to design rosters and manage circumstances that may give rise to an increase in consecutive numbers of night Shifts.
- 72.3 Work related fatigue is an identifiable and potential workplace hazard. Accordingly, management of workplace fatigue should occur within Work Health & Safety (WH&S) framework. Under an WH&S framework there is a joint (Employer/Employee) responsibility in the management of the process. A collaborative approach between the Employer and Employees is required in the management of the risks and minimization of the hazards.
- 72.4 All fatigue related incidents and absences will be recorded and assessed. Reasonable access to relevant information should be made available to the Union and local WH&S representatives.
- 72.5 A risk management approach will be adopted when assessing work related fatigue using the fatigue management index;
- an approach that examines the likelihood, consequence and susceptibility of risk of fatigue related to the tasks in the Shift will be adopted
 - assessment of risk will be undertaken in conjunction with local management and Employee representatives using defined methodology
 - local managers and Employee representatives will be trained in the application of risk assessment methodology.

73 RAISING AWARENESS AND TRAINING

- 73.1 An integral part of the effective management of fatigue will be the raising of awareness and the training of managers, supervisors and Employees in fatigue management. Awareness raising and training will address but not be limited to:
- Methods of minimizing the risks associated with Shift work.
 - The responsibilities of both the Employer and the Employee in managing the requirements of business operations.
 - An understanding of the physical and psychological effects Shift work has on Employees.
 - How to identify potential and/or existing problems associated with lack of sleep and fatigue.
 - Individual coping strategies to best minimize the adverse impacts of Shift work and extended hours.
 - Services made available to help Employee's better cope with Shift work and extended hours, such as Employee- assistance schemes.
 - Utilization of Fatigue Management Index and risk assessment tools and processes.

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- All Employees engaged in Shift work will be required to complete the "Practical Living for Shift workers" training package.
 - Employees' spouse/partners will be invited to participate in the "Practical Living for Shift workers" program. This will be an on-going program.

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SECTION SEVEN - LEAVE & PUBLIC HOLIDAYS

74 PUBLIC HOLIDAYS

- 74.1 An Employee other than a casual Employee shall be entitled, without loss of pay, to public holidays as per that prescribed in the New South Wales Government Gazette.
- 74.2 Public Holidays are New Year's Day, Australia Day, Labour Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, ANZAC Day, Queen's Birthday, Christmas Day and Boxing Day. These Public Holidays are correct at the time of writing the Agreement however they are subject to change in accordance with the New South Wales Government Gazette.
- 74.3 The Company and a majority of affected Employees may agree to substitute another day for any public holiday provided the agreement is recorded and in writing and made available to each affected Employee.
- 74.4 Part time Employees who are rostered on to work on a Public Holiday but who are not required to work that day are to be paid for the hours they were required to work at single rate of pay.
- 74.5 Part time Employees who are not required to work and not rostered to work on a Public Holiday are not entitled to paid leave of absence.

75 ATTENDANCE MANAGEMENT

- 75.1 The attendance management procedure is aimed at assisting managers/supervisors in the management of total leave, single day leave and non-approved absences. This procedure has as its guiding principle the welfare of the Employee.
- 75.2 This procedure recognises that many factors, other than genuine illness, may cause an individual to take sick leave, including family and financial commitments, drug and alcohol abuse and morale at work. These problems are more likely to be identified and resolved early if attendance is managed effectively.
- 75.3 Attendance Management Model:

Step 1: Increase Awareness and Monitor Absences

The Employer will regularly communicate attendance requirements to Employees. The Employer will also regularly monitor attendance. Where an individual's attendance appears to be unsatisfactory, the Employer will discuss this with the Employee and will reinforce attendance requirements.

Where appropriate, the Employer will refer the Employee to available support services such as the Employee Assistance Program:

Step 2: Formal Interview

If an Employee's attendance remains unsatisfactory, the Employer should arrange an interview in private with the Employee, who is to be advised that they may invite a support person to this interview. The discussion should be confidential, constructive and aimed at problem solving. Details of the interview should be documented, a copy given to the Employee and a copy placed on the Employee's personnel file. The interview should aim to:

- Provide information/feedback on the Employee's attendance record.
- Discuss the issue with the Employee and establish the reason(s) for the unsatisfactory attendance.

If the reasons for absences are determined to be unsatisfactory and are not supported by Medical Certificates or to the satisfaction of the manager, then the Employer will:

- Reinforce what performance is expected of the Employee and set goals. These goals may include the Employee seeking assistance to address any underlying personal issues.
- Set another time to review attendance and let the Employee know that their performance will be monitored in the interim.
- Follow-up and counsel Employees who are poor attendees prior to any further course of action. Effective counselling is a means of improving an Employee's absence record and should be used to head off further action where possible.

Step 3: Attendance Management Program

If attendance remains unsatisfactory and/or the Employee has had more than 6 occurrences of sick leave in a year without a medical certificate, the Employer will discuss the matter again with the Employee to reinforce the Employer's expectations and to assist the Employee to improve their attendance. The discussion should ideally develop solutions and gain the Employee's commitment to change. That commitment to change should include the performance levels expected of the individual. The Employee should be advised that they will be placed on an Attendance Management Program.

Following this discussion, the Employer will provide the Employee a letter which outlines what is expected of them while on the Attendance Management Program and the consequences of not meeting those expectations, as well as the assistance available to the Employee. The letter should also confirm that all future sick leave absences should be supported by a medical certificate and any future absences which are unsupported will not be approved as paid leave. The letter should indicate that any further instances of unsatisfactory attendance may result in disciplinary action.

Step 4: Unsatisfactory Attendance While On Attendance Management Program

Where the attendance standard is breached, the Employer will counsel the Employee, reinforcing expected attendance behaviour, identifying agreed solutions and gaining the Employee's commitment to improved attendance.

If a further breach occurs within 12 months, the Employer will interview the Employee, who may have a support person present. The Employer will reinforce attendance expectations and provide a letter to the Employee, outlining those expectations.

If a further breach occurs within 6 months of this interview, a final warning letter will be issued.

Should another breach occur within 6 months of this final warning letter being issued, the Employer will refer the matter for disciplinary action.

76 NOTIFICATION OF ABSENCE

76.1 From the outset of any episode of sickness absence, the onus is placed on the Employee to maintain contact. Employees must ensure their supervisor or other nominated person is directly notified before or as soon as reasonably practicable on the first day or shift of absence, if they are unable to attend work due to personal/carers leave. As far as practicable, Employees will advise the expected duration of the absence. Employees will provide advanced notice wherever possible and should be at least two (2) hours prior to the Employee's shift commences.

76.2 This section does not apply to an Employee who could not comply with it because of circumstances beyond the Employee's control.

77 ABSENTEEISM

77.1 The Company's philosophy is to focus on encouraging Employees to be at work unless they are absent due to illness, injury or approved leave. Where it becomes apparent to the Company that an Employee has developed a pattern of behaviour that is contrary to these goals, the Company's management is committed to encouraging and facilitating good performance by communicating an expectation for improvement and providing the means by which improvement can be achieved and which may require the Employee, upon return to work, to attend an examination conducted by a Company nominated Medical Officer. The Company will endeavour to work with the Employee to determine and resolve factors causing absenteeism.

78 METRO SPECIAL LEAVE

78.1 Employees will be entitled to up to three (3) days paid leave to attend to necessary and pressing circumstances.

78.2 Metro Special Leave will be granted at the discretion of MTS, and only if the Employee's leave accruals are exhausted.

78.3 Metro Special Leave does not accumulate year to year.

79 ANNUAL LEAVE

79.1 An Employee shall accrue the following amount of paid annual leave for each year of continuous service.

Description	Amount of Annual Leave
Non-shift/Day Worker	4 weeks (152 hours) *based on a standard 38-hour week
Shift Workers	5 weeks (192 hours) *based on a standard 38-hour week

79.2 Part-time Employees are entitled to and will accrue pro-rata annual leave entitlements based on the Ordinary Hours worked for the previous fortnight.

79.3 If the period during which an Employee takes paid annual leave includes any other period of paid leave specified in the Agreement (other than Community Service Leave in accordance with Clause 104), the Employee is taken not to be on paid annual leave for the period of that other leave.

79.4 For the avoidance of doubt, any Employee may apply to substitute personal leave for annual leave subject to meeting the requirements as set out in Clause 84.

79.5 An Employee's entitlement to annual leave shall accrue progressively during the year and accumulates from year to year.

79.6 An Employee, who, upon retirement, resignation or termination of employment, has an outstanding leave accrual, will be paid an amount equal to the unused leave and any annual leave loading applicable. Annual leave must be taken in accordance with the Employee's rostered/ordinary hours.

80 DIRECTION TO TAKE EXCESS ANNUAL LEAVE

80.1 The Company may direct an Employee to take paid annual leave if the Employee has accrued more than eight (8) weeks' paid annual leave, and the Company and the Employee are unable to reach agreement on the taking of leave.

80.2 The Company must give an Employee at least twenty-eight (28) days' notice prior to the date the Employee is required to commence the leave.

80.3 The amount of annual leave the Employee is directed to take must be less than or equal to a quarter of the amount of leave accrued.

81 REDUCTION OF ANNUAL LEAVE

81.1 On a once only basis, Employees may apply to cash out annual leave entitlements, provided such payments:

- Are restricted to minimum periods of not less than two (2) weeks;
- Are in blocks of completed weeks, and;
- Do not reduce overall annual leave entitlements below four (4) weeks (five (5) weeks for shift workers) after payment is made.

81.2 Any agreement for the cashing out of annual leave under this clause must be set out in writing and signed by both the Company and the Employee. Applications for payment are granted at the Company's discretion.

81.3 Employees must be paid at not less than the rate of pay applicable to the Employee under the Agreement, than what would have been payable had the Employee taken this leave.

81.4 In addition, Employees may elect to clear these surplus credits and nominate to prospectively salary sacrifice future earnings into a complying Superannuation Fund in accordance with and subject to Australian Taxation Office requirements; provided such arrangements may only be introduced or cease as the case might be, on a once per annum basis from the service anniversary dates of individual Employees.

81.5 These arrangements must cease when annual leave credits for an individual have been reduced to four (4) weeks (five (5) weeks for shift workers) regardless of when this level of annual leave is reached.

81.6 Applications for the reduction of annual leave, under this clause, must be made to the Line Manager & Payroll.

82 METHOD OF TAKING LEAVE

82.1 Requests for annual leave will take into consideration Company operational requirements. Employees should provide as much notice as possible when requesting annual leave.

82.2 When an Employee requests that annual leave be allowed in one continuous period, such request shall not be unreasonably refused, but is subject to the Company's operational requirements. In the event of lack of agreement between the Company and Employee the matter may be dealt with in accordance with the Dispute Resolution Procedure.

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

83 LONG SERVICE LEAVE

83.1 An Employee is entitled to long service leave in accordance with the NSW Long Service Leave Act (1955).

83.2 When an Employee has completed at least five (5) years continuous service:

- Pro rata long service leave may be taken with the approval of the Company,
 - If an Employee's employment ceases, pro rata payment for long service leave will be granted
- 83.3 In cases when an Employee retires on account of age or ill health, dies or is terminated on the grounds of redundancy, entitlement to long service leave is subject to a minimum five (5) years completed continuous service.

84 PERSONAL LEAVE (SICK AND CARER'S LEAVE)

- 84.1 An Employee shall be entitled to receive ten (10) days Personal Leave regardless of shift length. Personal Leave per year will accrue on a monthly basis. Any accrued leave shall accumulate and accrue to the Employee's credit.
- 84.2 During employment, or upon termination for any reason, Employees shall not be offered payment for accrued Personal Leave, i.e. "paying out" of Personal Leave. If an Employee is terminated by the Company and is re-engaged within a period of six (6) months, then the Employee's unclaimed balance of Personal leave shall continue from the date of re-engagement. In such a case the Employee's next year of service will commence after a total of twelve (12) months has been served with the Company, excluding the period of interruption in service.
- 84.3 Personal leave must be taken in accordance with the Employee's rostered/ordinary hours.

85 SICK LEAVE

- 85.1 An Employee, who is absent from work on account of personal illness or injury shall be entitled to paid Sick Leave, from their Personal Leave entitlement, whenever such absence causes loss of ordinary time pay.
- 85.2 An Employee absent from a rostered overtime shift shall be entitled to paid Sick Leave, from their Sick Leave entitlement upon the provision of the satisfactory certificate of a registered medical practitioner. This payment will be made at the rate of the Employee's ordinary time pay.
- 85.3 Paid Sick Leave shall be authorised where the Company is satisfied that the absence of an Employee from duty was due to genuine illness or injury. Applications for leave of absence on the grounds of illness shall be supported by the satisfactory certificate of a registered medical practitioner or other evidence approved by the Company such as a Statutory Declaration.
- 85.4 The Company may, in any personal leave year of service, grant an aggregate of up to five (5) days leave of absence on the grounds of illness without the production of a medical certificate. Furthermore, the maximum number of consecutive days that will be granted without the production of a medical certificate shall be two (2).

85.5 If an Employee would have been required to work on a public holiday (i.e. would have been rostered for normal duty), the Employee is not entitled to payment for that public holiday except as a deduction from personal leave credits or as sick leave without pay.

85.6 An Employee who is involved directly in an industrial stoppage will not be entitled to paid leave of absence for any illness or injury on any working day or shift reduced by the stoppage unless the absence extends prior and beyond that day or shift and is fully covered by a medical certificate. An Employee may be granted paid leave of absence provided absence from duty due to illness or injury commenced from a date prior to the stoppage commencing and such period is covered by a medical certificate.

86 CARER'S LEAVE

86.1 An Employee is entitled to use their accrued personal leave to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency subject to the conditions set out in this clause.

86.2 The term immediate family includes:

- a spouse, a de facto partner, child parent, grandparent, grandchild or sibling of the Employee; or
- a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee.

86.3 This entitlement is subject to the Employee being responsible for the care and support of the person concerned.

86.4 Where an Employee has exhausted all paid leave, they are entitled to take unpaid carer's leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency. The Company and the Employee shall agree on the period. In the absence of agreement, the Employee is entitled to take up to two (2) days (up to a maximum of sixteen (16) hours) of unpaid leave per occasion.

86.5 The Employee shall furnish a medical certificate or statutory declaration, confirming the illness of the person concerned, or nature of the unexpected emergency.

87 PARENTAL LEAVE

87.1 Parental leave is an entitlement provided to expecting parents to care for the birth of a child or a newly adopted child. The minimum entitlement under the National Employment Standards (NES) for Parental leave is twelve (12) months unpaid. This entitlement is dependent on the Employee meeting the eligible criteria as outlined below.

87.2 Parental leave means paid and unpaid parental leave and adoption leave as detailed hereunder.

87.3 For the purpose of clauses 87, 98 and 99 to the extent that they relate to adoption leave, child means a child under sixteen (16) years of age as at the day of placement, or expected day of placement, of the child with an Employee for the purposes of adoption, other than:

- a child who has, or will have, lived continuously with the Employee for a period of six (6) months or more as at the date of placement, or expected placement, of the child; or
- a child who is a child of the Employee or the Employee's spouse or de facto partner (otherwise than because of the adoption).

87.4 For the purpose of this clause, spouse may include a de facto or former spouse.

87.5 In relation to Employee couples, and subject to subclauses 89, 96 and 97 parental leave is to be available to only one (1) parent at a time, in a single unbroken period, except that both parents may simultaneously take up to eight (8) weeks at the time of the birth or placement of the child.

88 ELIGIBILITY FOR PARENTAL LEAVE

88.1 Any Employee who is employed with the Company on a full-time or part-time basis can take unpaid Parental leave provided they meet the below requirements:

- The leave is associated with the birth and care of a child or newly adopted child or;
- The placement of a child under sixteen (16) for adoption; and
- Where the Employee has worked for the business for a minimum of twelve (12) months before the date (or expected date) of birth or adoption. The twelve (12) months includes annual and personal leave.

89 PARTNER PAY PARENTAL PAY

89.1 An Employee that has completed ten (10) months continuous employment with the Company is entitled to one (1) week/ five (5) days paid Partner leave and a further two (2) weeks of unpaid Partner leave (including same sex partners).

89.2 In cases of still birth, paid parental leave may be granted subject to the production of substantiating medical evidence but not in cases where the pregnancy terminates earlier than twenty weeks prior to the expected date of delivery.

89.3 Employees may also apply to be granted unpaid parental leave on the proviso that the Employee will be the primary care giver for the child during the period concerned and that they will not be having time off with a spouse or de facto spouse who is on parental leave. The maximum period of leave granted for both paid and unpaid parental leave should not exceed fifty-two (52) weeks.

90 VARIATION OF PERIOD OF PARENTAL LEAVE

90.1 An Employee may apply to the Company to extend the period of parental leave on one (1) occasion. Any extension is to be notified as soon as possible but no less than fourteen (14) days before the end of the period. A period of parental leave may be shortened by written agreement between the Employee and the Company and the Employee must provide notice of return to work in accordance with Clause 92.

91 PARENTAL LEAVE AND OTHER ENTITLEMENTS

91.1 An Employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding the maximum period provided for under the Agreement for that category of parental leave or a period longer as agreed.

92 RETURNING TO WORK AFTER A PERIOD OF PARENTAL LEAVE

92.1 An Employee will notify of their intention to return to work after a period of parental leave at least four (4) weeks prior to the expiration of the leave.

92.2 An Employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of an Employee transferred to a safe job, the Employee will be entitled to return to the position they held immediately before such transfer.

92.3 Where such position no longer exists but there are other positions available which the Employee is qualified for and is capable of performing, the Employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

93 REPLACEMENT EMPLOYEES

93.1 A replacement Employee is an Employee specifically engaged or temporarily promoted or transferred, as a result of an Employee proceeding on parental leave.

93.2 Before a Company engages a replacement Employee the Company must inform that person of the temporary nature of the employment and of the rights of the Employee who is being replaced.

94 COMMUNICATION DURING PARENTAL LEAVE

94.1 Where an Employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Company shall take reasonable steps to:

- make information available in relation to any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave; and
- provide an opportunity for the Employee to discuss any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave; and

- the Employee shall take reasonable steps to inform the Company about any significant matter that will affect the Employee's decision regarding the duration of parental leave to be taken, whether the Employee intends to request to return to work and whether the Employee intends to request to return to work on a part-time basis.

94.2 The Employee shall also notify the Company of changes of address or other contact details.

95 TRANSFER TO A SAFE JOB

95.1 Where an Employee is pregnant and, in the opinion of a registered Medical Practitioner, that the Employee is fit for work, but that illness or risks arising out of the pregnancy or hazards connected with the work assigned to the Employee make it inadvisable for the Employee to continue at her present work, the Employee will, if the Company deems it practicable, be transferred to a safe job be transferred to a safe job with no other change to the employee's terms and conditions of employment until the commencement of parental leave.

95.2 If the transfer to a safe job is not practicable, the Employee may elect, or the Company may require the Employee, to commence parental leave for such period as is certified necessary by a registered Medical Practitioner.

96 COMPANY PAID PARENTAL LEAVE

96.1 An employee who has completed ten (10) months of continuous service by the date of commencement of Paid Parental Leave is entitled to fourteen (14) weeks of paid leave as the primary carer of a new-born child. Paid Parental Leave must begin on the commencement on the first day of Parental Leave and can be taken at either:

- Fourteen (14) weeks full pay, or
- Twenty Eight (28) weeks half pay.

96.2 The maximum period of paid and unpaid leave is not to exceed fifty-two (52) weeks. This includes all other leave entitlements used for the duration of time whilst on Parental Leave.

96.3 When the pregnancy of an Employee terminates earlier than twenty (20) weeks prior to the expected date of delivery there is no entitlement to paid parental leave.

96.4 An Employee will be granted Parental Leave with pay for a total period of fourteen (14) weeks upon production of a certificate from a legally qualified Medical Practitioner stating that she is pregnant and specifying the expected date of birth.

96.5 When an Employee has been employed on a part-time basis for all or portion of a continuous period of employment of ten (10) calendar months, she is entitled to be granted leave on a proportionate basis.

- 96.6 Employees may be granted additional leave after the period of Parental Leave has expired as a deduction from other leave credits and/or leave without pay.
- 96.7 The maximum leave granted both paid and unpaid (including the period of Parental Leave) should not exceed fifty-two (52) weeks.
- 96.8 Payment in respect of Parental Leave should not be made in advance but paid in accordance with normal arrangements for payment of salary.

97 SPECIAL PARENTAL LEAVE ARRANGEMENTS

- 97.1 Where the pregnancy of an Employee not then on parental leave terminates within twenty - eight (28) weeks of the expected date of birth of the child, other than by the birth of a living child, then the Employee may take unpaid special parental leave of such periods as a registered practitioner certifies as necessary.
- 97.2 Where an Employee is suffering from an illness not related to the direct consequences of the confinement, an Employee may take any paid sick leave to which she is entitled in lieu of, or in addition to, special parental leave.
- 97.3 Where an Employee not then on parental leave suffers illness related to her pregnancy, she may take paid sick leave to which she is then entitled, and such further unpaid special parental leave as a registered Medical Practitioner certifies as necessary before her return to work. The aggregate of special or general parental leave may not exceed fifty-two (52) weeks.
- 97.4 Where leave is granted during the period of absence, an Employee may return to work at any time, as agreed between the Company and the Employee provided that time does not exceed four (4) weeks from the recommencement date desired by the Employee.

98 ADOPTION LEAVE

- 98.1 If an Employee is adopting a child and has at least ten (10) months continuous service, they will be entitled to fourteen (14) weeks paid leave provided that they are the primary care giver. Further, Employees with at least twelve (12) months service are entitled to a period of unpaid adoption leave. Total leave shall not exceed fifty-two (52) weeks.
- 98.2 In cases where the employee is a non-primary carer of the child, they are entitled to one (1) weeks' paid leave with a further option to extend as per Clause 90.
- 98.3 The Employee will notify the Company at least ten (10) weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An Employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the Employee, the adoption of a child takes place earlier.
- 98.4 Before commencing adoption leave, an Employee will provide the Company with a statutory declaration stating:

- the Employee is seeking adoption leave to become the primary caregiver of the child;
 - particulars of any period of adoption leave sought or taken by the Employee's spouse; and
 - that for the period of adoption leave the Employee will not engage in any conduct inconsistent with their contract of employment.
- 98.5 A Company may require an Employee to provide confirmation from the appropriate government authority of the placement.
- 98.6 Where the placement of a child for adoption with an Employee does not proceed or continue, the Employee will notify the Company immediately and the Company will nominate a time not exceeding four (4) weeks from receipt of notification for the Employee's return to work.
- 98.7 An Employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.
- 98.8 An Employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The Employee and the Company should agree on the length of the unpaid leave. Where agreement cannot be reached, the Employee is entitled to take up to two (2) days unpaid leave. Where paid leave is available to the Employee, the Company may require the Employee to take such leave instead.

99 RIGHT TO REQUEST

- 99.1 An Employee entitled to parental leave pursuant to the provisions in Clause 87 may request the Company to allow the Employee:
- to extend the period of simultaneous unpaid parental leave for an Employee couple provided for in Clause 87 up to a maximum of eight (8) weeks;
 - to extend the period of unpaid parental leave provided for in Clause 87 by a further continuous period of leave not exceeding twelve (12) months; or
 - to return from a period of parental leave on a part-time basis until the child reaches school age;
 - to assist the Employee in reconciling work and parental responsibilities.

99.2 The Company shall consider the request having regard to the Employee's circumstances and, provided that the request is genuinely based on the Employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the Company's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service. The Employee's request and the Company's decision must be recorded in writing.

99.3 When an Employee wishes to make a request, such a request must be made as soon as possible but no less than seven (7) weeks prior to the date upon which the Employee is due to return to work from parental leave.

100 COMPASSIONATE LEAVE

100.1 An Employee is entitled to up to two (2) days compassionate leave for the purpose of spending time with a person in the event of illness or injury that poses a serious threat to life of a member of the Employee's immediate family or household (refer to clause 86.2 for definition).

100.2 Each period of compassionate leave stands alone and is not debited against any other type of leave. Employees are also entitled to take unpaid compassionate leave. The Company and Employee should agree on the length of unpaid leave. In the absence of agreement, the Company shall specify the period of unpaid compassionate leave.

100.3 Claims for compassionate leave shall be supported by evidence reasonably required by the Company.

101 BEREAVEMENT LEAVE

101.1 An Employee is entitled to up to two (2) days bereavement leave on each occasion of the death of a member of the Employee's immediate family or household (refer to clause 86.2 for definition).

101.2 Each period of bereavement leave stands alone and is not debited against any other type of leave. Employees are also entitled to take unpaid bereavement leave. The Company and Employee should agree on the length of unpaid leave. In the absence of agreement, the Company shall specify the period of unpaid bereavement leave.

101.3 Claims for bereavement leave shall be supported by evidence reasonably required by the Company.

102 BLOOD DONOR LEAVE

102.1 An Employee shall receive leave with pay to attend a Blood Bank for the purposes of making a blood donation. This leave is subject to a maximum of four (4) hours payment at ordinary time rate for each occasion on which ordinary time pay is lost.

102.2 The Employee shall provide the Company with reasonable notice in advance and a certificate of attendance at the Blood Bank. Leave shall be taken so as not to disrupt operational requirements and consideration given to required break times after donating blood.

103 CITIZENSHIP CEREMONY LEAVE

103.1 An Employee who is required to attend a ceremony for the purposes of receiving his/her Australian Citizenship Certificate shall receive leave with pay at ordinary time rate for any time on which ordinary time pay are lost.

103.2 The Employee shall provide the Company with reasonable notice in advance and allow the Citizenship Certificate to be sighted for verification.

104 COMMUNITY SERVICE LEAVE (INC. JURY SERVICE)

104.1 An Employee who engages in an eligible community service activity is entitled to be absent from his or her employment for a period in accordance with Division 8 of Part 2.2 of the Fair Work Act 2011 (Cth), however if an Employee is required to attend for Jury Service they shall receive their normal rostered ordinary time pay provided the Company receives proof of their attendance.

104.2 An Employee may be released with pay from their normal duties to participate in firefighting, flood relief or other emergency activities, including the requirement to deliver plant or equipment for such activities where:

- The Employee is a registered member of volunteer organisations such as SES and CFA; and
- The Employee has obtained permission to be released from duties from the General Manager.

104.3 Release for volunteer activity is subject to no undue inconvenience being caused in the Employee's absence.

104.4 Whenever reasonably practicable the period of release should indicate a minimum rest period of eight (8) hours following cessation of such activity and before commencement of ordinary duty.

104.5 An Employee who takes community service leave is required to provide to the Company adequate evidence (as determined by the Company) of participation in the eligible community service activity.

105 SPECIAL LEAVE

105.1 Where an Employee requires time away from work for a substantial reason (i.e. Additional Compassionate, Reserve Forces, Major Sporting Events, Study) they may be granted paid leave at the discretion of the Company

105.2 The aforementioned is an indicative listing of the leave that may be sought by Employees; however, it is not limited to only these and further leave types are contained within the Company's policies.

106 LEAVE WITHOUT PAY

106.1 Leave without pay may be granted at the expiration of Employees' leave entitlements in accordance with Company's leave policies. Provisions of this clause do not apply to Clauses 87, 98 and to Employees who are yet to accrue or have exhausted paid leave entitlements can request unpaid leave which may be granted at the discretion of the Company.

SECTION EIGHT - AMENITIES, FACILITIES & OTHER BENEFITS

107 FACILITIES

107.1 The Company shall continue to provide facilities including the provision of lockers, drinking and boiling water, appropriate protective clothing, heating and cooling, ventilation and rest room facilities. All provided facilities will comply with the Worksafe Compliance Code, Workplace Amenities and Work Environment 2008 as amended from time to time.

108 PROVISION OF TOOLS

108.1 The Company shall provide, maintain and replace tools ordinarily required in the performance of employees work and all necessary power tools, special purpose tools and precision measuring instruments.

Once a set of tools are issued by the Company to an employee, that particular set of tools will become that employee's tools.

The tools that are provided (excluding specialist tools as above) will be the employees personal property once that have completed 12 months service with the Company.

109 PERSONAL PROTECTIVE EQUIPMENT

109.1 To ensure that safety standards and a business-like image is maintained, all field Employees are required to wear Company issued clothing whilst engaged at work. Suitable Company issued protective clothing shall be supplied by the Company and will be replaced on a fair wear and tear basis upon satisfactory proof.

109.2 It is also a condition of employment that all Employees wear a high visibility safety vest at all times where required. It is also a requirement to wear all other appropriate safety clothing and protective equipment provided, whilst working in the business, and to ensure its proper care, maintenance and storage.

109.3 In the first instance, wherever suitable Australian-made clothing and equipment can be economically sourced, it shall be used in favour of articles manufactured outside of Australia.

110 WORK CLOTHING AND PERSONAL PROTECTIVE EQUIPMENT

110.1 Where designated, Employees will receive a work clothing and personal protective equipment

- (PPE) kit.

110.2 The work clothing and PPE allotment will include:

- 2 pairs of safety footwear;
- 5 or 8 sets of work clothing incorporating the Employer logo;
- One (1) jacket or one (1) pullover incorporating the Employer logo;
- One (1) hat;

- Relevant PPE dependent on job requirement; and
- One (1) kit bag.

The above items are the only acceptable forms of work clothing and PPE for designated Employees. Employees must wear such work clothing when on duty.

110.3 Employees must at all times use relevant PPE where such a safety requirement exists. Failure to use relevant PPE may result in disciplinary action being taken. Continual breaches of a requirement to use PPE may result in dismissal.

110.4 Replacement of work clothing items and PPE will be on a fair wear and tear basis and will be maintained.

110.5 Lost work clothing items and PPE will be replaced at the discretion of management following investigation into the alleged loss. Where the loss has occurred as a result of an Employee's negligence or lack of care, the Employee concerned will meet the cost of replacement of the item(s).

110.6 Laundering of work clothing is the responsibility of the Employee unless Work Health and Safety policies provide otherwise.

110.7 For the purpose of this clause, the following definitions apply:

- "Set" means one (1) shirt and one (1) pair of pants or one (1) shirt and one (1) pair of shorts (subject to profile), or
- one (1) shirt and one (1) action back overalls, or one (1) pair of coveralls.

The allocation of 5 or 8 sets is determined by whether an Employee is on routine maintenance in which case 5 sets will be supplied, or on migratory conditions where an 8 on 6 off roster arrangement exists in which case 8 sets will be supplied.

111 START AND FINISH LOCATIONS

111.1 Employees will start and finish at 47 Tallawong Road, Rouse Hill (Home Depot).

112 ACCIDENT MAKE UP PAY

112.1 An Employee, who is in receipt of workers compensation payments, shall also receive payment from the Company of an amount equal to the difference between the workers compensation payment and the Employee's ordinary base rate of pay, plus 50% of any ordinary hours' penalties at the time of the injury for a maximum period of fifty-two (52) weeks.

112.2 An Employee on engagement shall be required to declare all workers compensation claims made by them and in the event of false or inaccurate information being deliberately and knowingly declared the Company may require the Employee to forfeit their entitlement to accident pay. Accident pay shall not be paid where any period of other paid leave of absence has been granted.

- 112.3 In the case of an Employee rostered off on an extra day off which falls in a period when they are receiving workers compensation, they are not entitled to an alternative extra day off at a later stage. The Company shall not dismiss any Employee by reason only of them being in receipt of accident pay.
- 112.4 An Employee off duty and in receipt of accident pay shall continue to receive payments of any acting in higher allowance being paid at the time of the injury for the full period that they would have continued to so.
- 112.5 An Employee who has submitted a claim for workers compensation and is absent from duty for more than a week and where it is apparent there may be a delay in the assessment of their claim, may be paid sick pay (subject to the availability of credits pending determination of the claim). On acceptance of a claim, sick leave used under this clause for the claim will be re-credited.

113 TRAUMA COUNSELLING AND TRAUMA LEAVE

- 113.1 Where an Employee attends or deals directly with the consequences of a serious work related or workplace incident, post-traumatic stress counselling is available. Attendance will be optional but is recommended.
- 113.2 In addition, an Employee will be provided with up to five (5) days' paid leave, provided the Employee has sought trauma counselling through the Company's Employee Assistance Program (EAP) and leave has been approved by the Company.
- 113.3 During the Trauma Leave the Employee will be expected, if medically fit, to attend any meetings regarding the accident in hours that are mutually agreeable.
- 113.4 During any period of Trauma Leave provided under this clause, the Employee is to be paid what he or she would have received for the normal rostered shift for the first five (5) days not including the day of the incident.
- 113.5 Employees have access to Employee Assistance Services that can assist with coping strategies for working Shift work and associated work or personal issues.

114 INCOME PROTECTION INSURANCE

- 114.1 Income Protection Insurance is optional. Eligibility for Income Protection Insurance in accordance with this clause is available to Employees who are eligible to be a member of the CEPU (Electrical Division- NSW).
- 114.2 The Company shall provide Income Protection Insurance to those Employees who elect to take it up through 'Chifley finance'. If an Employee elects to take up the option of Income Protection Insurance during the life of the Agreement, then their wage will be reduced by the cost of the individual policy at the commencement of the coverage of the policy with deductions continuing for the life of the Agreement in accordance with policy payment schedules.

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SECTION NINE - GENERAL

115 WH&S REPRESENTATIVES TRAINING

- 115.1 An Employee elected as a Work Health and Safety Representative may be granted (5) five days paid leave to undergo introductory or refresher training with a provider of their choosing in accordance with provisions in the Work Health and Safety Act 2011 (NSW).
- 115.2 The training should be undertaken as soon as practicable after appointment, having regard to the availability of course places and work requirements. The granting of leave applies only to the first period of election.
- 115.3 Further training in health and safety, in such matters as specific hazard courses, safe working practices or to provide necessary emergency services should be undertaken as appropriate and at the Company's discretion as to timing.
- 115.4 Payment is not to be made for travelling time in addition to the leave granted. Leave to attend courses is not to be debited against any leave. Payment is to be as for a normal rostered shift and is to include shift allowance, site disability allowance or any all-purpose allowance regularly paid, excluding rostered overtime, that would otherwise have been worked.
- 115.5 Payment is not to be made for incidental allowances such as dirt, heat, fumes allowances etc, as may be paid intermittently. Where an Employee works shifts, attendance should be scheduled where practical to maintain the shift pattern and not exceed the normal number of shifts.

116 TRADE UNION TRAINING

- 116.1 An Employee who is an elected Union Delegate or equivalent workplace representative and who is nominated by his/her Union to attend accredited Trade Union Training courses may receive paid leave for such attendance.
- 116.2 Paid leave totalling no more than five (5) days in any calendar year may be granted, provided that the Employee can be released from his/her work.
- 116.3 The Union concerned shall provide the Company with the course accreditation number and title, dates and times on which the course will be presented and the course venue. Payment will only be provided where a loss of ordinary time pay is involved.

117 COMPANY MANDATED TRAINING

- 117.1 All Employees are required to hold necessary qualifications and experience to undertake the requirements of their roles as such the Company will from time to time schedule and book Employees on internal or external training during work hours.
- 117.2 When Employees are required to attend training during working hours they will be paid as per roster.

117.3 By mutual agreement, Employees may start and finish at the training location.

118 EMPLOYEE STAND DOWN - WITHOUT PAY

118.1 The Company may stand down Employees for any time during which they cannot be usefully employed in their classification or grade of work in which they are usually employed, because of industrial action by any persons whatsoever or any other cause whatsoever for which the Company cannot justly be held responsible, subject to the provisions of this clause.

118.2 The Company shall issue Employees with written notification of the stand down.

118.3 Employees who are stood down shall be treated for all purposes (other than payment) as having continuity of service and employment.

118.4 Employees who are stood down may at any time while they are stood down, terminate their employment without notice and shall be entitled to receive as soon as practicable, all payments to which they are entitled.

118.5 Employees who terminate their employment while they are stood down shall for all purposes (other than payment in lieu of notice) be treated as if their employment had resigned from the Company.

118.6 Employees who are stood down are permitted to accept alternative employment. In such cases it shall be a reasonable excuse for not reporting for duty to the Company that the Employee is working out a period of notice which they are required to give to the alternative Company, provided that it does not exceed one (1) week.

118.7 Employees shall, if required by the Company, furnish a statutory declaration setting out details of any other employment during this period.

118.8 Employees whom the Company proposes to stand down shall be entitled to elect to take annual leave and accrued days to which they are entitled, or which is accruing to them.

118.9 The Company shall not be entitled to deduct payment for any proclaimed public holiday which occurs during the period in which Employees are stood down and for which payment would be due in ordinary course, except where Employees have become entitled to payment for the holiday whilst otherwise employed. The Company may require details of payment received where application for payment of such is requested.

119 FAMILY VIOLENCE

119.1 The Company recognises that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, the Company is committed to providing support to staff that experience family violence.

- 119.2 The Company accepts the definition of Family violence as stipulated in the 'Crimes (Domestic and Personal Violence) Act 2007' (NSW). The definition of family violence includes physical, sexual, financial, verbal or emotional abuse by a family member.
- 119.3 An Employee experiencing family violence will have access to twenty (20) days per year (non-cumulative) of paid special leave for medical appointments, legal proceedings and other activities related to family violence. This leave will be in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.
- 119.4 An Employee who supports a person experiencing family violence may take carer's leave to accompany them to court, to hospital, or to mind children (in accordance with Clause 84 and 86).
- 119.5 In order to provide support to an Employee experiencing family violence and to provide a safe work environment to all Employees, the Company will approve any reasonable request from an Employee experiencing family violence for:
- changes to their span of hours or pattern or hours and/or shift patterns;
 - job redesign or changes to duties;
 - relocation to suitable employment within the Company;
 - a change to their telephone number or email address to avoid harassing contact;
 - any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.
- 119.6 An Employee experiencing family violence will be referred to the appropriate support services/agencies and/or other local resources.

120 GENERAL MEASURES

- 120.1 Proof of family violence may be required and can be in the form an agreed document issued by the Police Service, a Court, a Doctor, District Nurse, Maternal Health Care Nurse, a Family Violence Support Service or Lawyer.
- 120.2 All personal information concerning family violence will be kept confidential. Information will not be kept on an Employee's personnel file without their express written permission.
- 120.3 Understanding the traumatic nature of family violence, the Company will support their Employee if they have difficulties performing their tasks at work. No adverse action will be taken against an Employee if their attendance or performance at work suffers as a result of experiencing family violence.
- 120.4 An Employee experiencing family violence may raise the issue with their immediate supervisor, their union delegate or People & Culture representative.

121 TRACKING DEVICES

121.1 Definitions:

- "Disciplinary action" means any form of discipline.
- "Tracking Device" means equipment that records the location, whether directly or indirectly, of a thing, whether by the use of equipment that uses Global Positioning System (GPS) or by another like means.

121.2 The Company must not, and cannot use, any data created by a Tracking Device, indirectly or directly:

- as evidence against an employee in applying disciplinary action to that employee or in any legal action for unfair dismissal or the like;
- to set or assess individual performance benchmarks, or the like, for an Employee.


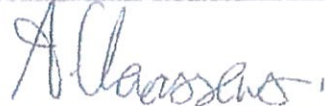
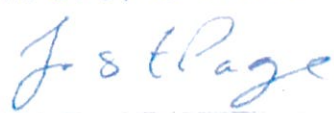
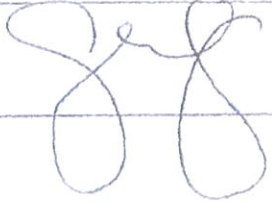
121.3 The Company will bear the cost of replacement or repairs in any case that a Tracking Device is damaged in the course of its ordinary use.


121.4 Nothing in these clauses constitutes consent by employees to the use of a Tracking Device.

SIGNATORIES

**TO THE METRO TRAINS SYDNEY ASSET ENGINEERING INFRASTRUCTURE
ENTERPRISE AGREEMENT 2019**

The Company, Employees and Unions are committed to the provisions contained herein.
In witness thereof the Company and Unions hereto have duly executed this Enterprise Agreement.

<p>This Enterprise Agreement is signed for and on behalf of Metro Trains Sydney (MTS) 47 Tallawong Road, Rouse Hill, Sydney NSW 2153</p>	<p>This Enterprise Agreement is signed for and on behalf of Australian Rail, Tram and Bus Industry Union (RTBU) Level 4, 321 Pitt Street Sydney NSW 2000</p>
<p>Name </p>	<p>Name </p>
<p>Date 23rd JANUARY 2020</p>	<p>Date 30-1-2020.</p>
<p>Mr. Nigel Holness Chief Executive Officer</p>	<p>Alexander Claassens Branch Secretary.</p>
<p>This Enterprise Agreement is signed for and on behalf The Electrical Trades Union (ETU) (CEPU) 5/370 PITT ST SYDNEY NSW 2000</p>	<p>This Enterprise Agreement is signed for and on behalf of Australian Manufacturing Workers' Union (AMWU)</p>
<p>Name JUSTIN PAGE </p>	<p>Name STEVEN MURPHY STATE SECRETARY 123 PARRAMATTA ROAD GRANVILLE NSW 2142</p>
<p>Date 4-02-20</p>	<p>Date 10.02.2020</p>
<p>SECRETARY</p>	<p></p>

<p>SIGNATORIES</p> <p>TO THE METRO TRAINS SYDNEY ASSET ENGINEERING INFRASTRUCTURE ENTERPRISE AGREEMENT 2019</p> <p>The Company, Employees and Unions are committed to the provisions contained herein. In witness thereof the Company and Unions hereto have duly executed this Enterprise Agreement</p>	
<p>This Enterprise Agreement is signed for and on behalf of Richard O'Connell – MTS employee representative 47 Tallawong Road, Rouse Hill, Sydney NSW 2155</p>	
<p>Name</p> 	
<p>Date 04 FEB 2020</p>	

APPENDIX ONE - CLASSIFICATIONS AND PAYRATES

TABLE 1: Pay rates

Position	Base Rate (excluding super)
Team Leader	\$71.51 per
Other	\$52.50 per

TABLE 2: Allowances

Allowances	Rate (excluding super)
Electrical License Allowance	\$2.00
High Voltage Allowance*	\$3.90
Protection Officer Allowance*	\$1.50
Authorised Persons Allowance*	\$5.50
Infrastructure Works Allowance	\$2.00
First Aid Allowance	\$0.45
Meal Allowance	\$17.00
High Voltage and Authorised Persons Allowance*	\$9.40

* Team Leaders will be paid these allowances on utilisation of qualifications on a per shift basis only.

IN THE FAIR WORK COMMISSION

FWC Matter No.: **AG2020/294 - Application by Metro Trains Sydney Pty Ltd (MTS)**

Applicant: **Metro Trains Sydney**

Section 185 – Application for approval of a single enterprise agreement

UNDERTAKING - Section 190

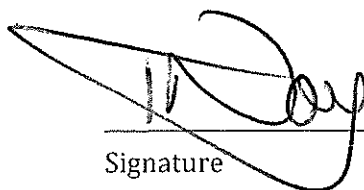
I, Timothy Noy – General Manager – Legal, Commercial & Company Secretary on behalf of Jason Breton, General Manager - People, Culture and Risk for Metro Trains Sydney Pty. Ltd., give the following undertakings with respect to the Metro Trains Sydney Asset Engineering Infrastructure Enterprise Agreement 2019 (“**the Agreement**”).

1. For the purposes of the National Employment Standards, the Rail Industry Award-2010 prescribes that a shift worker means “an employee who is a seven (7) day shift worker who is regularly rostered to work on Sundays and Public Holidays.” Clause 24 of the award states for the purposes of Division 6 of the NES, a shift worker as defined in the Rail industry Award and a Permanent Night Shift Worker shall be entitled to five weeks leave for each year of service. The definition of a “Continuous Shift Worker” as per Clause 28 of the Agreement gives further explanation of the work roster arrangement that a shift worker would perform.
2. Clause 19 (Abandonment of Employment), Notwithstanding the provisions of Clause 19, MTS agrees that it shall not terminate the employment of an employee except with the minimum notice of termination for the purpose of s.117 of the *Fair Work Act 2009 (Cth)*.
3. Clause 74 (Public Holidays), Notwithstanding the provisions sub-clause 74.3 of the Agreement MTS shall where agreed, allow an individual employee to substitute a day or part day for any of the public holidays as prescribed in sub-clause 74.2.
4. Clause 76 (Notification of Absence), Notwithstanding the terms of Clause 76, notice of absence due to personal leave reasons, such advice shall be provided as reasonably practicable and preferably where possible, prior to the commencement of the employees shift.
5. Clause 32 (Wage Increases), Notwithstanding the terms of Clause 32, the first wage increase of 3% to the base amounts contained in Schedule 1 shall apply at the commencement of the first full pay period one (1) year after the Agreement came into effect.

6. Furthermore, the following grammatical changes are considered to apply to the Agreement without removing or varying the intent of the listed Clauses or Sub-Clauses;
1. Clause 41 (Superannuation Guarantee Charge)
 - Removal of the word "Charge" from the Clause title and also where mentioned in sub-clause 41.1.
 2. Clause 85 (Sick Leave)
 - Replacement of "toss" of ordinary time pay in sub-clause 85.1 with "loss" of ordinary time pay.
 3. Clause 102 (Blood Donor Leave)
 - Replacement of "riot" to disrupt operational requirements in sub clause 102.2 with "not" to disrupt operational requirements.
 4. Clause 116 (Trade Union Training)
 - Replacement of "toss" of ordinary time pay in sub-clause 116.3 with "loss" of ordinary time pay.
7. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signed for and on behalf of the employer

Timothy Noy
General Manager – Legal, Commercial & Company Secretary



Signature

47 Tallawong Road
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Address

18/3/2020

Date