



**Mobile Concreting Solutions Pty Ltd**

**Enterprise Agreement 2024**

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## 1. Title of Agreement

1.1 This Agreement shall be known as the *Mobile Concreting Solutions Pty Ltd Enterprise Agreement 2024* (Agreement).

## 2. Scope & Application

2.1 The Agreement covers Mobile Concreting Solutions Pty Ltd (ABN: 50 130 398 266) (Company) and the Employees of the Company employed in the classifications included in clause 11 ("Classifications and Wage Rates") of this Agreement engaged in Australia (Employees).

2.2 This Agreement will not cover or apply to Employees:

- a) engaged on the Perdaman Ceres Project at the Burrup Peninsula near Karratha in the State of Western Australia;
- b) employed on site at any Mobile Concreting Solutions Quarry, including but not limited to the Tom Price Quarry, Indee Sands, Mt Regal and Onslow;
- c) employed as a manager.

## 3. Period of Operation

3.1 This Agreement commences operation 7 days from the date of its approval by the Fair Work Commission (**Commission**).

3.2 The nominal expiry date of this Agreement shall be 4 years from the date the Agreement is approved by the Fair Work Commission.

3.3 This Agreement shall continue to operate beyond the nominal expiry date until it is replaced or terminated in accordance with the *Fair Work Act 2009* (**FW Act**).

## 4. Relationship to Awards, Legislation and Other Instruments

4.1 This Agreement operates to the exclusion of any award.

4.2 Where any legislation, award, policy, procedure or other document is referred to in this Agreement it is not incorporated into and does not form part of this Agreement. In particular, references to entitlements provided for in the National Employment Standards (NES) and other legislation are:

- a) for information only and do not incorporate those entitlements into this Agreement; and
- b) not intended as a substitute for the detailed provisions of the NES and other legislation.

4.3 This Agreement will be read and interpreted in conjunction with the NES. Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

## 5. No Extra Claims

- 5.1 The Employees bound by the Agreement intend and agree that this Agreement is in settlement of all bargaining and other claims for the life of the Agreement.
- 5.2 No Party covered by the Agreement, acting either individually or collectively, nor any Employee, shall pursue or undertake any form of industrial activity or action in support of any additional claim during the duration of the Agreement. Such 'industrial activity or action' would include the encouragement, initiation or undertaking of any form of work stoppage, strike, work ban or other limitation that impedes or prevents the performance of normal work by the Company's Employees or any other Employee or entity. Any such action taken, whether industrial or otherwise, shall constitute a fundamental breach of the Agreement.

## 6. Contract of Employment

- 6.1 Employees will be employed in one of the following categories:
- a) full time Employees;
  - b) part time Employees;
  - c) casual Employees.

### *Full Time Employees*

- 6.2 Subject to clause 18 ("Jump Up Agreement") a full-time Employee is an Employee who works an average of 38 ordinary hours per week.

### *Part Time Employment*

- 6.3 Subject to clause 18 ("Jump Up Agreement"), a part time Employee is an Employee who works an average of fewer than 38 ordinary hours per week and has reasonably predictable hours of work.
- 6.4 The terms of this Agreement will apply pro rata to part time Employees on the basis of their ordinary hours compared to a full-time Employee's hours. Before commencing a period of part-time employment, the Employee and the Company will agree in writing:
- that the Employee may work part time;
  - upon the hours to be worked by the Employee, the days upon which the hours will be worked and commencing times for the work;
  - upon the classification applying to the work to be performed.
- 6.5 The terms of the agreement in clause 6.4 may be varied by agreement between the Parties.
- 6.6 A part time employee shall be rostered for a minimum of 4 consecutive hours on any rostered day/shift.

- 6.7 A part time Employee who is required by the Company to work in excess of the hours agreed to in clause 6.4, or as varied under clause 6.5, must be paid overtime in accordance with clause 21 (“Overtime and Penalties”).

*Casual Employee*

- 6.8 A casual Employee is an employee engaged with no firm advance commitment to continuing and indefinite work, according to an agreed pattern of work for the employee. A casual Employee may be offered work according to the needs of the Company. The Company is under no obligation to provide a casual Employee with, and does not guarantee, continuing employment at the end of each engagement. Casual Employees may elect to accept or reject work that is offered to them by the Company. Each occasion a casual Employee works will be deemed a new engagement, with their employment ceasing at the end of each engagement.
- 6.9 Casual Employees will be paid by the hour, at the appropriate Ordinary Hourly Rate plus a loading of 25% for all ordinary hours worked. The casual loading is in lieu of annual leave, paid personal/carer’s leave, paid compassionate leave, paid community service leave, notice of termination and redundancy benefits.
- 6.10 A casual Employee will be entitled to the relevant penalty rates prescribed by clauses 20 (“Shiftwork”) and 21 (“Overtime and Penalties”) in this Agreement as the case may be, provided that where the:
- a) relevant penalty is 115% of the Ordinary Hourly Rate, the casual Employee must be paid 140% of the Ordinary Hourly Rate prescribed for the Employee’s classification;
  - b) relevant penalty is 117.5% of the Ordinary Hourly Rate, the casual Employee must be paid 142.5% of the Ordinary Hourly Rate prescribed for the Employee’s classification;
  - c) relevant penalty is 130% of the Ordinary Hourly Rate, the casual Employee must be paid 155% of the Ordinary Hourly Rate prescribed for the Employee’s classification;
  - d) relevant penalty is 150% of the Ordinary Hourly Rate, the casual Employee must be paid 175% of the Ordinary Hourly Rate prescribed for the Employee’s classification;
  - e) relevant penalty is 200% of the Ordinary Hourly Rate, the casual Employee must be paid 225% of the Ordinary Hourly Rate prescribed for the Employee’s classification;
  - f) relevant penalty is 250% of the Ordinary Hourly Rate, the casual Employee must be paid 275% of the Ordinary Hourly Rate prescribed for the Employee’s classification; or
  - g) relevant penalty is 300% of the Ordinary Hourly Rate, the casual Employee must be paid 325% of the Ordinary Hourly Rate prescribed for the Employee’s classification.

To avoid doubt, the rates prescribed in 6.10(a) to (g) above incorporate the casual loading.

6.11 A casual Employee is entitled to payment for a minimum of 4 hours' work per engagement.

#### *Casual Conversion*

6.12 Offers and requests for conversion from a casual Employee to a full time Employee or part time Employee are provided in accordance with the NES.

### **7. Probationary Period**

7.1 Employees (other than casual Employees) will be initially engaged on a 3-month probationary period.

7.2 During the probation period either the Employee or the Company will have the right to terminate employment after giving the other party 1 weeks' notice.

7.3 The Company may provide a performance appraisal before the end of the probationary period.

### **8. Duties**

8.1 An Employee's duties and responsibilities may be varied by the Company within the Employee's range of skills, qualification, competence and training.

8.2 An Employee is required when performing their duties and responsibilities, to:

- a) comply with any lawful and reasonable direction given by the Company;
- b) use their best endeavours;
- c) devote the whole of their time and attention to their work;
- d) ensure the highest level of safe working practices are adhered to and maintained; and
- e) not engage in any activities, either during or outside of working time, which:
  - i. conflicts with the business interests of the Company; or
  - ii. harms the reputation of the Company, its officers, employees, agents, contractors or clients.

### **9. Stand Down**

9.1 The Company is entitled to stand down and deduct payment for any part day or day an Employee cannot be usefully employed due to:

- a) breakdown of plant or machinery or any stoppage of work by any cause that ceases work for which the Company cannot be reasonably held responsible; or
- b) industrial action including bans or limitation of normal work, whether ‘protected’ or unlawful.

9.2 Employees may elect to use their accrued annual leave entitlement in order to receive payment for any time they are ‘stood down’ as provided for in subclause 9.1(a), except where the reason for the stand-down relates to the reason set out in subclause 9.1(b). Any period of ‘stand down’ does not count toward the Employee’s ‘service’.

9.3 Notwithstanding clause 9.1, where Employees are not able to work ordinary hours due to inclement weather, they will be stood down and continue to receive payment for ordinary hours whilst remaining on site.

9.4 By agreement with the Company, Employees may apply for leave without pay during periods of inclement weather which will entitle them to leave site without pay.

## 10. Fitness for Work

10.1 An Employee must not be affected by alcohol or drugs during working hours.

10.2 An Employee may be subject to drug and alcohol testing throughout their employment, including daily, random and “for cause” testing.

10.3 An Employee who is taking medication, or suffering from any condition, that may affect or limit the Employee’s ability to carry out work safely must advise their supervisor.

10.4 An Employee who returns a positive test or fails to undertake a test may be subject to disciplinary action which may include termination of employment.

## 11. Classifications and Wage Rates

11.1 An Employee will be paid no less than the following Ordinary Hourly Rates of pay:

Classification	Ordinary Hourly Rate
Labourer – L1	\$25.00
Labourer – L2	\$25.50
Laboratory/Field Technician – L1	\$27.00
Laboratory/Field Technician – L2	\$30.25
Laboratory/Field Technician – L3	\$33.50
Laboratory/Field Technician – L4	\$35.50
Agitator Truck Driver	\$35.00
Production Officer	\$39.00
Production Supervisor	\$42.00

11.2 The following loadings and allowances have been incorporated into the Ordinary Hourly Rates of pay:



- a) Annual leave loading;
- b) Industry disability allowance;
- c) Miscellaneous driving allowance – dirty material;
- d) Travel, board and lodging.

11.3 The Ordinary Hourly Rates in this Agreement will be reviewed annually by the Company and consideration will be given to movements in labour market rates, the Company’s performance, and the National Minimum Wage Order for Modern Awards. Review of the wages of individual Employees will also take into account each individual Employee’s work performance. Where the Company decided that there will be an increase in wages, this will take effect from the beginning of the first full pay period on or after the 1<sup>st</sup> of July, however there is no guarantee that any increases will be awarded as a result of the annual reviews except in accordance with s.206 of the *Fair Work Act 2009*.

11.4 No employee shall suffer a reduction in their Ordinary Hourly Rate of pay as a result of this Agreement coming into operation.

## 12. Allowances

### *First Aid Allowance*

12.1 An Employee holding either a Third Year First Aid Medallion of the St John Ambulance Association or a "C" Standard Senior First Aid Certificate of the Australian Red Cross Society, appointed in writing by the Company to perform first aid duties, will be paid an all-purpose allowance of \$17.94 per week.

### *Leading Hand Allowance*

12.2 For the purposes of this clause, ‘Leading Hand’ means an Employee who is required by the Company to supervise, direct or to be in charge of another Employee or employees. A leading hand allowance is payable to an Employee performing work as a leading hand or who is in charge of the plant as follows: The allowance will be paid for all purposes of this Agreement.

In charge of	\$ per week
3-10 persons	44.38
11-20 persons	66.10
More than 20 persons	83.96

### *Overtime Meal Allowance*

12.3 An Employee who is required to work overtime for at least 1.5 hours after working ordinary hours inclusive of time worked for accrual purposes, will either be supplied with a meal or be paid a meal allowance of \$18.59 per occasion. The Employee will be entitled to this meal allowance again 6 hours or more after their normal finishing time and every 4 hours after that while they are continuing to work.

- 12.4 An employee required to start work 2 hours or more prior to their normal starting time must be paid the amount specified for a meal allowance in clause 12.3 above.

*Prescription Case Hardened Lenses*

- 12.5 Where the Company requires an Employee to have their prescription lenses case hardened, will pay for the cost of such case hardening.

*Vehicle Allowance*

- 12.6 A vehicle allowance of \$0.95 per km is payable to an Employee who is directed by the Company to use the Employee's own private vehicle for any purpose during working hours.

**13. Higher Duties**

- 13.1 Where an Employee is required and has agreed to undertake the duties of a higher classification for more than 2 hours, the higher classification's Ordinary Hourly Rate will apply for the time worked on that day. An employee required by the Company to perform the work of a higher classification level for less than 2 hours, will be paid the higher rate for the actual time worked at that higher level.

- 13.2 Such payment is based on the Employee having and exercising the requisite skills, experience and qualifications to perform the higher classification role. Following the completion of activities under the higher classification, the Employee will revert back to the Ordinary Hourly Rate that is applicable to their original classification.

**14. Payment of Wages**

- 14.1 Wages shall be paid on a weekly basis by electronic fund transfer to an acceptable financial institution nominated by the employee.

- 14.2 The Company may deduct from an Employee's wages, or any monies owing, any amount it is authorised or required to deduct, including any overpayment of remuneration or any amount provided for by this Agreement.

**15. Distant Work**

- 15.1 Where Employees are required to work at a location away from the Company's premises which is such a distance that they cannot reasonably be expected to return home at night, the Company will provide suitable board and lodging or reimburse Employees any reasonable expense for meals and accommodation not provided.

- 15.2 Where Employees are provided with camp accommodation they are required to comply with the relevant rules for that camp.

- 15.3 Where distance work is required, the Employee will be paid at their Ordinary Hourly Rate of pay for time spent travelling for mobilisation and demobilisation up to a maximum of 12 hours per day. Where the travel occurs on a Sunday or public holiday, travelling time will be paid at 150% of the Ordinary Hourly Rate.

- 15.4 The Company will provide appropriate transport from the Point of Hire to the location of the distant work and the return from the distant work to the Point of Hire.
- 15.5 The Company will provide a meal allowance of \$18.59 for each meal taken during such travel.
- 15.6 Subject to Clause 15.1, the minimum reimbursement for meals and accommodation not provided will be the greater of \$106.38 per day or an amount which fully reimburses the Employee for all reasonable accommodation and meal expenses incurred.
- 15.7 Subject to Clause 15.1, where accommodation is provided but not meals, the minimum reimbursement for meals not provided will be \$34.48 per day.

## **16. Hours of Work and Meal and Rest Breaks**

### *Hours of Work*

- 16.1 The maximum number of Ordinary Hours per week shall be an average of 38 Ordinary Hours over up to a 4-week work cycle, which (except in the case of shift workers) shall be worked between 5am and 6pm Monday to Friday inclusive.
- 16.2 No more than 8 Ordinary Hours will be worked on any day. The maximum of 8 Ordinary Hours per day will be utilized for shiftworkers, and for non-shiftworkers when an RDO system is implemented as per clause 22 ("Rostered Days Off"). Otherwise, the maximum number of Ordinary Hours worked each day will be 7.6.

### *Meal & Rest Breaks*

- 16.3 A rest period not exceeding 10 minutes and without deduction of pay will be allowed each day of work at a time determined by the Company. The rest period will be taken no later than 4 hours after the Employee commences work.
- 16.4 The Company shall structure the working hours to include one half-hour unpaid meal break to be taken within the first 6 hours of the commencement of work, provided that this may be extended upon agreement between an Employee, or group of Employees, and the Company.
- 16.5 When an Employee is required to work overtime after the usual finishing time of the day or shift for 2 hours or more, the Employee will be entitled to a further 20-minute rest break without deduction of pay immediately after the finishing time, and a 30-minute paid crib break after each 4 hours of continuous work. If the Employee is entitled to the 20-minute break outlined in this sub-clause but does not take it, the Employee will be regarded as having worked 20 minutes more than the time worked and be paid accordingly.
- 16.6 Where an Employee who works during a meal break at the Company's request is unable to take a meal break as prescribed, the Employee will be paid:
  - a) 200% of the Ordinary Hourly Rate for the time worked during the meal break on any day Monday to Friday; or
  - b) 300% of the Ordinary Hourly Rate for the time worked during the meal break on Saturdays, Sundays and public holidays;

until such time as the Employee takes the meal break.

- 16.7 In the case of shift workers, meal breaks will be paid and counted as time worked for the purposes of determining Ordinary Hours.

*Minimum Break Between Shifts*

- 16.8 Where overtime work is necessary and it is practical to do so, an Employee will have at least 10 consecutive hours off duty between the work of successive days.

- 16.9 Where, after working overtime, an Employee has not had at least 10 consecutive hours break between shifts, the Employee must be released until the Employee has 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- 16.10 If, on the direction of the Company, an Employee resumes or continues work without having had 10 consecutive hours off duty, the Employee will be paid at the rate of 200% of the Ordinary Hourly Rate until they are released from duty for 10 consecutive hours.

- 16.11 In the case of shift workers who rotate from one shift to another, the 10 hours outlined above shall be read as if 8 hours were substituted for 10 hours when overtime is worked:

- a) for the purpose of changing shift rosters; or
- b) where a shiftworker does not report for duty.

*Rosters*

- 16.12 The Company will give Employees their roster for working their Ordinary Hours at least 7 days in advance of the commencement of the working week or work cycle.

- 16.13 If due to unforeseen circumstances the Company needs to change an Employee's roster to keep the operation operating effectively, the Company may change the Employee's roster upon giving the Employee no less than notice on the previous day of the change.

- 16.14 For the purpose of sub-clause 16.13 unforeseen circumstances means circumstances outside the control of the Company which the Company would not ordinarily have had the opportunity to plan for in advance.

- 16.15 If the Employee is a shift worker and is given less than 7 days' notice of a change to the Employee's roster under sub-clause 16.13, the Employee will continue to be paid the shift work penalty rates that would have otherwise been payable under clause 20 ("Shift Work"). for the balance of the 7-day notice period, even if the Employee is transferred to day work.

**17. Project Working Hours**

- 17.1 An Employee may be required to work on a site or project which works to a 36-Ordinary Hour week.

- 17.2 If, in such a case, the Company elects to roster the Employee on a 36-hour week, then, for that Employee whilst so engaged, Ordinary Hours for all purposes of this Agreement will not exceed an average of 36 per week over a specified roster cycle.

## **18. Jump Up Agreement**

- 18.1 By way of a common-law agreement between the Company and an Employee, an Employee may elect to work pursuant to the terms of a Letter of Assignment (LoA).
- 18.2 An election to work pursuant to the terms of a LoA will only be valid if the terms and conditions of the LoA are better off overall when compared to not only the Modern Award but also compared to this Enterprise Agreement as a minimum.
- 18.3 For the avoidance of doubt at no stage can an Employee receive a payment or benefit less than the NES.
- 18.4 An Employee or Company engaged in a LoA may end the assignment agreement and revert to the terms of the Enterprise Agreement by providing 1 months' notice.
- 18.5 A LoA is an agreement that applies to, or is prevalent on, a specific assignment that the particular Employee is working on.
- 18.6 At all times a LoA is in operation, this Agreement will continue to apply to the Company and the Employee. At no time can an Employee or the Company elect (unilaterally or otherwise) not to be covered by the Agreement.

## **19. Protective Clothing and Equipment (PPE)**

- 19.1 Where an Employee is required either by the Company or by legislation to wear PPE, the Company will provide the Employee with the required PPE or reimburse the Employee for the cost of purchasing such PPE on commencement of work.
- 19.2 Subject to fair wear and tear PPE will be replaced when required.

## **20. Shiftwork**

- 20.1 As a condition of employment, the Employees agree to work shiftwork when required to do so by the Company.
- 20.2 The Company can require Employees to work shiftwork but before it does so, it must give 48 hours' notice of the intention to introduce shiftwork. The notice will include advice on the intended starting and finishing times of the respective shifts. However, less than 48 hours' notice may be given in the event of safety or emergency requirements.
- 20.3 Shiftwork definitions and penalties for Ordinary Hours (other than on Public Holidays) of Work are as follows:
  - a) for all Employees other than Agitator Truck Drivers:

Shift Type	Definition	% of Ordinary Hourly Rate Payable (other than on overtime, weekends or public holidays)
Afternoon Shift	A shift finishing after 6.00pm and before midnight	115%
Night Shift (other than Permanent Night Shift)	A shift finishing subsequent to midnight and at or before 8.00am	115%
Permanent Night Shift		130%

b) for Employees engaged as Agitator Truck Drivers:

- i) Shiftwork' means work extending for at least 2 weeks and performed either in daily recurrent periods, wholly or partly between the hours of 6.30pm and 8.30am, or in regular rotating periods, but does not include work performed by day workers.
- ii) Shiftwork definitions are outlined in the table below.

Shift Type	Definition	% of Ordinary Hourly Rate Payable (other than on overtime, weekends or public holidays)
Afternoon Shift	A shift finishing after 6.30pm but not later than 12.30am	117.5%
Night Shift	A shift finishing after 12.30am but not later than 8.30am	130%

20.4 The shiftwork loadings specified above are not paid in the circumstances described in sub-clause 20.5, where only the applicable overtime rate is applied.

20.5 Where less than five consecutive shifts are worked, employees shall be paid at overtime rates in lieu of shift loading, except when the shift process has come to an end in the last week and less than five consecutive days is required to finish the work.

20.6 The consecutive nature of shifts will not be regarded as broken, if work is not carried out on a public holiday, Saturday or Sunday.

## 21. Overtime and Penalties

21.1 The Company may require Employees to work a reasonable amount of overtime.

- 21.2 Subject to the provisions of this clause, where an Employee is directed to work beyond the ordinary hours Monday to Saturday, they will be paid 150% of their Ordinary Hourly Rate for the first 2 hours and 200% thereafter.
- 21.3 Where an Employee is directed to work on a Sunday they will be paid 200% of their Ordinary Hourly Rate.
- 21.4 All work performed on public holidays (other than Good Friday or Christmas Day) will be paid 250% of the Employee's Ordinary Hourly Rate.
- 21.5 All work performed on Good Friday or Christmas Day will be paid 300% of the Employee's Ordinary Hourly Rate.
- 21.6 In computing overtime each day shall stand alone.
- 21.7 An Employee required to work overtime on a Saturday, Sunday or Public Holidays will be afforded at least 4 hours' work or be paid for 4 hours at the appropriate rate.
- 21.8 The Company may withdraw any offer to work overtime, without notice, where threatened or actual industrial activity or action affects Company operations.

## **22. Rostered Days Off (RDO)**

### *Accrual of RDO's*

- 22.1 Employees, (other than casual Employees) may be required to work on a RDO system.
- 22.2 Where an RDO system is implemented:
- a) If the Employee is rostered to work a 38-hour week, the Employee will accrue one RDO for every four weeks worked by working eight hours each day, being paid 7.6 ordinary hours' pay and accruing 0.4 of an hour towards an RDO.
  - b) If the Employee is rostered to work a 36-hour week, the Employee will accrue one RDO for every two weeks worked by working eight hours each day, being paid 7.2 ordinary hours' pay and accruing 0.8 of an hour towards an RDO.
  - c) RDOs shall not be accrued during any period of unpaid leave or unauthorised absence from work. RDOs shall accrue during authorized paid leave and paid public holidays.
  - d) A maximum of 10 RDOs may be accumulated.
  - e) At the time of termination, any untaken RDO accrual hours shall be paid to the Employee at their Ordinary Hourly Rate.

### *Taking RDO's*

- 22.3 The Company shall determine a method for the taking of RDOs so that RDOs do not cause an interruption to the work schedule or program of the Company or the client.

- 22.4 The Company and an individual employee may agree to substitute a scheduled RDO for another day subject to the requirements of the work schedule or program of the Company or the client.
- 22.5 When an RDO falls on a public holiday, the next working day or part-day will be taken instead of the RDO unless an alternate day or part-day is agreed to between the Employee and the Company.
- 22.6 An Employee may be directed by the Company to take RDO's accrued in excess of 10 days.

### **23. Individual Flexibility**

- 23.1 The provisions of the Agreement that the Company and employee may agree to vary under an Individual Flexibility Arrangement (IFA) in relation to the following:
- a) Arrangements about when work is performed;
  - b) Overtime rates;
  - c) Penalty rates;
  - d) Allowances; and
  - e) Leave Loading.
- 23.2 All other requirements for an IFA are as per Regulation 2.08 and Schedule 2.2 of the *Fair Work Regulations 2009* and must be complied with.

### **24. Annual Leave**

- 24.1 This clause shall not apply to casual Employees.
- 24.2 Annual leave is provided for in the NES. Under the NES, annual leave accrues progressively during a year of service according to the Employee's ordinary hours of work and accumulates from year to year.
- 24.3 Annual leave does not accrue during any period of unpaid leave, unauthorised absence or workers' compensation.
- 24.4 Any untaken annual leave is paid out on termination.
- 24.5 Annual leave is paid at the Employee's Ordinary Hourly Rate of pay for the Employee's ordinary hours of work in the period.
- 24.6 For the purposes of this clause 24 ("Annual Leave"), 'shiftworker' shall mean:
- a) Except in the case of Agitator Truck Drivers – a shiftworker who regularly works Sundays and public holidays;
  - b) In the case of Agitator Truck Drivers - an Employee who is a 7-day shiftworker who is regularly rostered to work on Sundays and public holidays.



24.7 Employees will be entitled to paid annual leave at the rate of:

- a) 4 weeks per annum; or
- b) 5 weeks per annum in the case of shiftworkers as defined in 24.6 above.

24.8 Part time Employees will accrue paid annual leave on a pro rata basis. Annual leave can be taken by agreement between the Company and an Employee following a request by the Employee to take accrued annual leave. Leave approval is subject to the operational requirements of the workplace but shall not be unreasonably withheld.

24.9 Notwithstanding the above, the Company may direct an Employee to take annual leave in the circumstances outlined in 24.10 to 24.14 below.

#### *Annual Shutdown*

24.10 The Company may require an Employee to take accrued annual leave during a temporary shutdown period in which the Company decides to shut down all or part of the business, provided that:

- a) the Company gives affected Employees a minimum of 1 months' written notice of the direction to take accrued annual leave; and
- b) the direction is reasonable.

24.11 In the case of affected Employees employed after the written notice is given, the Company will give written notice as soon as reasonably practical after the Employee is engaged.

24.12 Where an Employee has insufficient accrued annual leave to cover the whole of the shutdown period, they may be requested by the Company and may mutually agree in writing to take unpaid leave for that period of the shutdown, or mutually agree with the Company to take annual leave in advance.

#### *Excessive Annual Leave*

24.13 An Employee has an excessive annual leave accrual if the Employee has accrued more than 8 weeks (10 weeks in the case of shiftworkers) paid annual leave.

24.14 If an Employee has excessive annual leave accruals, the Company may seek to confer with the Employee and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual. If the Company has genuinely tried to reach agreement with an Employee but no agreement is reached (including because the Employee refuses to confer), the Company may direct the Employee in writing to take one or more periods of paid annual leave, provided that:

- a) the Employee's remaining accrued entitlement to paid annual leave must not be less than 6 weeks when any other paid annual leave arrangements are taken into account; and
- b) the Company must not require the Employee to take any period of paid annual leave of less than 1 week; and

- c) the Company must give no less than 8 weeks, but no more than 12 months' notice of the direction to take the leave before the leave begins.

#### *Annual Leave in Advance*

24.15 The Company and an Employee may agree in writing to the Employee taking a period of paid annual leave before the Employee has accrued an entitlement to the leave. An agreement must:

- a) state the amount of leave to be taken in advance and the date on which leave is to commence; and
- b) be signed by the Company and Employee and, if the Employee is under 18 years of age, by the Employee's parent or guardian.

24.16 If, on the termination of the Employee's employment, the Employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under this sub clause, the Company may deduct from any money due to the Employee on termination an amount equal to the amount that was paid to the Employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

#### *Cashing Out Annual Leave*

24.17 By written agreement with the Company, an Employee may elect to cash out part of their accrued annual leave entitlement each 12 months, provided that:

- a) the maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months shall be 2 weeks;
- b) paid annual leave cannot be cashed out if the cashing out would result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks;
- c) each cashing out of a particular amount of paid annual leave must be by a separate written agreement in writing between the Company and the Employee; and
- d) the Employee must be paid at least the full amount that would have been payable to the Employee had the Employee taken the leave.

## **25. Personal/Carers' Leave**

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

25.1 Personal/carer's leave entitlements are provided for in the NES.

25.2 The NES entitles Employees (other than casual Employees) to 10 days of paid personal/carer's leave for each year of service.

25.3 Under the NES, paid personal/carer's leave accrues progressively during a year of service according to the Employee's ordinary hours of work and accumulates from year to year. Paid personal/carer's leave does not accrue during any period of unpaid leave, unauthorised absence or workers' compensation.

25.4 Under the NES, paid personal/carer's leave may be taken:

- a) because the Employee is not fit for work because of a personal illness, or personal injury, affecting the Employee; or
- b) to provide care or support to a member of the Employee's immediate family, or a member of the Employee's household, who requires care or support because of:
  - i) a personal illness, or personal injury, affecting the member; or
  - ii) an unexpected emergency affecting the member.

25.5 Paid personal/carer's leave may not be taken in advance of accrual.

25.6 Under the NES, an Employee (other than a casual Employee) shall be paid for any period of paid personal/carer's leave at the Employee's Ordinary Hourly Rate of pay for the Employee's ordinary hours of work in the period.

*Unpaid Carer's Leave*

25.7 Unpaid carer's leave entitlements are provided for in the NES.

25.8 The NES entitles Employees (including casual Employees) to 2 days of unpaid carer's leave for each occasion (a *permissible occasion*) when a member of their immediate family or household, requires care or support because of:

- a) a personal illness, or personal injury, affecting the member; or
- b) an unexpected emergency affecting the member.

25.9 Under the NES:

- a) an Employee may take unpaid carer's leave for a particular permissible occasion if the leave is taken to provide care or support as referred to in clause 25.8;
- b) an Employee may take unpaid carer's leave for a particular permissible occasion as:
  - i) a single continuous period of up to 2 days; or
  - ii) any separate periods to which the Employee and the Company agree;
- c) an Employee cannot take unpaid carer's leave during a particular period if the Employee could instead take paid personal/carer's leave.

*Notice and Evidence Requirements (paid and unpaid personal/carer's leave)*

25.10 An Employee who is unable to attend work must notify the Company as soon as practicable of their inability to attend work, the estimated duration of the absence and the reason for the absence. Generally, this should occur before the commencement of the Employee's shift.

25.11 An Employee who has given notice of the taking of personal/carer's leave may be required by the Company to provide evidence that would satisfy a reasonable person that the leave is being taken for the specified reason.

25.12 An Employee is not entitled to take paid or unpaid personal/carer's leave under the NES unless the Employee complies with these notice and evidence requirements.

*Workers' Compensation Exclusion*

25.13 An Employee is not entitled to take paid or unpaid personal/carer's leave during a period when the Employee is absent from work because of a personal illness, or a personal injury, for which the employee is receiving workers' compensation.

**26. Compassionate Leave**

26.1 Compassionate leave entitlements are provided for in the NES.

26.2 The NES entitles Employees (including casual Employees) to 2 days of compassionate leave for each occasion (*a permissible occasion*) when:

- a) a member of the Employee's immediate family or household:
  - i) contracts or develops a personal illness that poses a serious threat to his or her life; or
  - ii) sustains a personal injury that poses a serious threat to his or her life; or
  - iii) dies; or
- b) a baby in the Employee's immediate family or household is stillborn; or
- c) the Employee experiences miscarriage; or
- d) the Employee's current spouse or de facto partner experiences a miscarriage.

The 2 days' compassionate leave need not be consecutive.

*Payment*

26.3 Under the NES:

- a) an Employee (other than a casual Employee) shall be paid for any period of compassionate leave at the Employee's Ordinary Hourly Rate of pay for the Employee's ordinary hours of work in the period.
- b) for casual Employees, compassionate leave is unpaid leave.

*Notice and Evidence Requirements*

26.4 An Employee who wishes to take compassionate leave must notify the Company as soon as practicable of the reason for and estimated period of the leave. Generally, this should occur before the commencement of work.

26.5 An Employee who has given notice of the taking of compassionate leave may be required by the Company to provide evidence that would satisfy a reasonable person that the leave is being taken for that reason.

26.6 An Employee is not entitled to take compassionate leave under the NES unless the Employee complies with the notice and evidence requirements in this Agreement.

*Workers' Compensation Exclusion*

26.7 An Employee is not entitled to take compassionate leave during a period when the Employee is absent from work because of a personal illness, or a personal injury, for which the employee is receiving workers' compensation.

*Definition of Immediate Family and Household*

26.8 For the purpose of clauses 25 and 26:

a) 'immediate family' is defined as:

- i) your spouse/former spouse, de facto partner/former de facto partner, child, parent, grandparent, grandchild or sibling; or
- ii) a child, parent, grandparent, grandchild or sibling of your spouse/former spouse or de facto partner/former de facto partner.

Provided that 26.8(a)(i) and (a)(ii) also include step relations (i.e. step-parents and step-children).

b) 'household' means any other person who lives with you.

**27. Family and Domestic Violence Leave**

27.1 This clause applies to all Employees, including casuals.

27.2 In this clause:

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

d) 'family member' means:

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

27.3 An Employee is entitled to 10 days' paid leave to deal with family and domestic violence, as follows:

- a) The leave is available in full at the start of each 12-month period of the Employee's employment; and
  - b) the leave does not accumulate from year to year; and
  - c) is available in full to part-time and casual Employees.
- 27.4 An Employee may take paid leave to deal with family and domestic violence if the Employee:
- a) is experiencing family and domestic violence; and
  - b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside their ordinary hours of work.
- 27.5 An Employee must give their Company notice of the taking of leave. The notice:
- a) must be given to the Company as soon as practicable (which may be a time after the leave has started); and
  - b) must advise the Company of the period, or expected period, of the leave.
- 27.6 An Employee who has given their Company notice of the taking of must, if required by the Company, give the Company evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in sub clause 27.4 above.

## **28. Public Holidays**

- 28.1 Public holiday entitlements are provided for in the NES.
- 28.2 The following days shall be observed as public holidays (Public Holidays):
- a) New Year's Day (1 January);
  - b) Australia Day (26 January);
  - c) Good Friday;
  - d) Easter Monday;
  - e) Anzac Day (25 April);
  - f) Sovereign's Birthday;
  - g) Christmas Day (25 December); and
  - h) Boxing Day (26 December);

provided that, if any other day declared by or under a law of a State or Territory is generally observed in a locality as an additional day or as a substitute day for any of the said holidays, the additional day shall also be observed, or the day so substituted shall be observed.

28.3 Due to the nature of the industry and operational requirements, Employees may be reasonably requested to work on public holidays.

28.4 Where work is performed on public holidays, the relevant public holiday penalty rates outlined in this Agreement will apply.

28.5 Employees (other than casual Employees) who are not required to work on a day on which they are normally required to work because it's a public holiday, will be paid for the Ordinary Hours normally worked on that day at their Ordinary Hourly Rate.

**29. Long Service Leave**

Long service leave entitlements are provided for in applicable legislation.

**30. Unpaid Parental Leave**

Unpaid parental leave entitlements are provided for in the NES.

**31. Community Service Leave**

An Employee will be entitled to community service leave in accordance with the NES.

**32. Superannuation**

32.1 Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of Company's and employees.

32.2 Contributions shall be paid into an eligible fund nominated by the Employee. Provided that where an Employee does not nominate a fund, or the Company is unable to pay into that fund, contributions will be paid into a MySuper fund nominated by the Company.

**33. Termination of Employment**

33.1 Except in the case of casual employees, the contract of employment may be terminated at any time by either party providing notice in accordance with the table below.

Period of continuous service	Notice to be provided
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

If the Company is the party giving notice and, at the time notice is given, the Employee is over 45 years of age with not less than 2 years' continuous service, he or she will be entitled to an additional one week's notice.

- 33.2 The period of notice for a casual Employee is 1 day.
- 33.3 Instead of providing notice, the Company may provide the Employee with payment in lieu of notice for the period of notice not provided. Payment will be the total of all amounts that, if the employment had continued until the end of the required notice period, the Company would have become liable to pay.
- 33.4 Where the Company has given notice of termination, an employee is entitled to up to one day's time off each week of the minimum notice period without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the Company.
- 33.5 Where the Employee aged at least 18 years fails to provide the required notice, the Company may deduct from any monies owing an amount that is no more than one week's wages.
- 33.6 Where a casual Employee fails to provide 1 working days' notice of the termination of their Employment, the Company will only pay the Employee up to the time that they ceased work.
- 33.7 An Employee's employment may be terminated immediately by the Company for any conduct which would justify summary dismissal. In such circumstances, payment of wages shall be made up to the time of the dismissal only.
- 33.8 If on termination an Employee owes the Company money, this may be recovered by the Company from any accrued entitlements owing to the Employee. The Company is authorized to make any reasonable deductions for the purposes of this clause upon issuing written advice to the Employee of the amount the Employee owes the Company.
- 33.9 Upon termination of employment for any reason, an Employee must immediately return to the Company all property belonging to the Company which the Employee has in their possession.

#### **34. Absence from Work**

- 34.1 Employees have a responsibility to notify the Company of any absences from work prior to the commencement of the workday or as soon as reasonably practicable.
- 34.2 An Employee will be deemed to have abandoned their employment if the Employee is absent from work without notification for a continuous period exceeding 3 working days without consent of the Company or a reason unacceptable to the Company.
- 34.3 The Company will make reasonable attempts to contact an Employee prior to terminating their employment pursuant to this clause. If the Company is able to contact the Employee, the Company will require the Employee to provide substantive justification of their absence and reason for non-notification. The Company reserves the right to take disciplinary action where this explanation is not satisfactory.



### 35. Redundancy

35.1 Where an Employee is terminated for reason of redundancy the Company will comply, where applicable, with the redundancy pay provisions contained in the NES as summarised below.

35.2 An Employee is made redundant where their employment is terminated:

- a) at the Company's initiative because it no longer requires the job done by the Employee to be done by anyone, except where this is due to the ordinary or customary turnover of labour; or
- b) because of the insolvency or bankruptcy of the Company.

35.3 Where eligible, the NES provides for Employees to receive severance payments calculated at their base rate of pay for Ordinary Hours worked in accordance with the following table:

Period of continuous service	Severance pay
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
At least 10 years	12 weeks

35.4 The amount of severance pay is in addition to the notice requirements.

35.5 Where an Industry Specific Redundancy Scheme in any applicable award provides a greater entitlement than the redundancy provision under this clause, the Company will pay to the Employee the amount listed in the Award.

35.6 Upon application to the Fair Work Commission, the Company may seek to vary the amount of severance pay where it obtains other acceptable employment or cannot pay the amount.

35.7 Employees are not entitled to severance pay if, for example:

- a) they have less than 12 months' continuous service;
- b) they are employed for a specified period of time for a specified task, or for the duration of a specified season;

- c) they are terminated because of serious misconduct;
- d) they are employed as a casual;
- e) they are engaged as an apprentice;
- f) a training arrangement applies (other than an apprenticeship) and the employment is for a specified period of time or for any reason limited to the duration of the training arrangement;
- g) there is a transfer of employment where an Employee accepts employment with the new Company who agrees to recognise the Employee's service with the Company;
- h) there is a transfer of employment, and an Employee rejects an offer of employment with the new Company which recognises the Employee's service with the Company and the terms and conditions of employment offered are on an overall basis no less favourable than those provided by the Company.

*Transfer to lower paid duties on redundancy*

35.8 Clause 35.9 applies if, because of redundancy, an Employee is transferred to new duties to which a lower ordinary rate of pay applies.

35.9 The Company may:

- a) give the Employee notice of the transfer of at least the same length as the Employee would be entitled to under clause 33.1 of this Agreement as if it were a notice of termination given by the Employer; or
- b) transfer the Employee to the new duties without giving notice of transfer or before the expiry of a notice of transfer, provided that the Company pays the Employee as set out in clause 35.3 or 35.5 (which ever applies) of this Agreement.
- c) If the Company acts as mentioned in clause 35.9(b), the Employee is entitled to a payment of an amount equal to the difference between the Employee's Ordinary Hourly Rate of pay for the hours of work the Employee would have worked in the first role, and the Ordinary Hourly Rate of pay for the period for which notice was not given.

*Employee leaving during redundancy notice period*

35.10 An Employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by 33.1 of this Agreement.

35.11 The Employee is entitled to receive the benefits and payments they would have received under this clause, had they remained in employment until the expiry of the notice.

35.12 However, the Employee is not entitled to be paid for any part of the period of notice remaining after the Employee ceases to be employed.

*Job search entitlement*

35.13 Where the Company has given notice of termination to an employee in circumstances of redundancy, the Employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice outlined in 33.1 of this Agreement for the purpose of seeking other employment.

35.14 If an Employee is allowed time off without loss of pay of more than one day under clause 35.13 above, the Employee must, at the request of the Company, produce proof of attendance at an interview.

35.15 A statutory declaration is sufficient for the purpose of clause 35.14.

35.16 An Employee who fails to produce proof when required under clause 35.14 is not entitled to be paid for the time off.

35.17 This entitlement applies instead of clause 33.4 of this Agreement.

**36. Consultation**

36.1 This term applies if the Company:

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

*Major Change*

36.2 For a major change referred to in paragraph 36.1(i):

- a) The Company must notify the relevant Employees of the decision to introduce the major change; and
  - i) the introduction of the change; and
  - ii) the effect the change is likely to have on the Employees; and
  - iii) measures the Company is taking to avert or mitigate the adverse effect of the change on the Employees; and
- b) subclauses 36.3 to 36.8 apply.

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

36.4 If:

- a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and

- b) the Employee or Employees advise the Company of the identity of the representative; the Company must recognise the representative.

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

- c) discuss the changes with the relevant Employees.
- d) for the purposes of the discussion-provide, in writing, to the relevant Employees:
  - i) all relevant information about the change including the nature of the change proposed; and information about the expected effects of the change on the Employees; and
  - ii) any other matters likely to affect the Employees.

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

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

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

- a) the termination of the employment of Employees; or
- b) major change to the composition, operation or size of the Company's workforce or to the skills required of Employees; or
- c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- d) the alteration of hours of work; or
- e) the need to retrain Employees; or
- f) the need to relocate Employees to another workplace; or
- g) the restructuring of jobs.

*Change to regular roster or ordinary hours of work*

36.9 For a change referred to in paragraph 36.1(ii):

- a) the Company must notify the relevant Employees of the proposed change; and
- b) subclauses 36.10 to 36.15 apply.

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

36.11 If:

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

36.12 As soon as practicable after proposing to introduce the change, the Company must:

- a) discuss with the relevant Employees the introduction of the change; and
- b) for the purposes of the discussion-provide to the relevant Employees:
  - i) all relevant information about the change, including the nature of the change; and
  - ii) information about what the Company reasonably believes will be the effects of the change on the Employees; and
  - iii) information about any other matters that the Company reasonably believes are likely to affect the Employees; and
- c) invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

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

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

36.15 In this clause relevant Employees means the Employees who may be affected by a change referred to in subclause 36.1.

### **37. Dispute Resolution Procedure**

37.1 If a dispute relates to:

- a) a matter arising under this Agreement; or
- b) the NES;

this clause sets out procedures to settle the dispute.

37.2 The Employee has the freedom of choice to appoint or nominate any other person, association or organisation to accompany or represent them during any stage of a dispute.

37.3 The parties agree that one of the fundamental objectives of this Agreement is to eliminate lost time in the event of a dispute. Further, the parties agree that it is in the best interests of both parties to achieve prompt resolution of disputes directly between the Employee(s) concerned and the Company.

37.4 The parties agree to adhere to the following procedure to achieve the prompt resolution of disputes:

- a) In the event of the Employee experiencing a difficulty or concern in relation to a matter arising under this Agreement, or the NES, the Employee should raise the matter with the immediate Supervisor who will make every effort to resolve the matter.
- b) If the matter cannot be resolved, it will be referred to the relevant Manager.
- c) If the matter cannot be resolved by the Manager, the Employee should refer the matter directly to a Company Director who will discuss and resolve the matter.
- d) Where a matter cannot be resolved in accordance with the above, nothing shall prevent either party from referring the matter to the Fair Work Commission (FWC) for assistance. All steps above must be fully exhausted before this referral may occur.
- e) Provided the Fair Work Commission is satisfied that the above steps have been complied with and that genuine attempts have been made to resolve the dispute at the workplace level, the Fair Work Commission must attempt to resolve the dispute by mediation or conciliation.
- f) If the parties to the dispute agree, the Fair Work Commission may attempt to resolve the dispute by making a recommendation.
- g) If the dispute remains unresolved, the Fair Work Commission may arbitrate and make a determination that is binding on the parties (save for any right of appeal to the Fair Work Commission) if either party refers the dispute to the FWC for arbitration.
- h) The FWC shall not propose or support any settlement that would be inconsistent with:
  - i) any applicable version of the National Code of Practice for the Construction Industry and Implementation Guidelines; or
  - ii) This Agreement.

37.5 At all times whilst a dispute is being resolved work will continue.

### **38. Model Delegates Rights Term**

38.1 The parties to this Agreement will adopt and apply the relevant Model Delegates Rights Term on and from 1 July 2024.

38.2 Notwithstanding that there is no applicable delegates' rights term at the time of making or approving this Agreement, the parties agree that the delegates' rights term as designed and inserted into the *Road Transport and Distribution Award 2020* and the *Premixed Concrete Award 2020* by the FWC, as may be amended from time to time, will be incorporated into this Agreement from the time the clause is inserted into the aforementioned modern awards.

### 39. Accident Make Up Pay

- 39.1 An Employee will be entitled to accident makeup pay where an Employee suffers an injury and weekly payments are due to the Employee under any applicable workers' compensation legislation for a maximum period of 52 weeks.
- 39.2 The 52-week period commences from the date of the injury. In the event of more than one absence arising from one injury, such absences are to be cumulative in the assessment of the 52-week period.
- 39.3 If an Employee's employment is terminated within the 52-week period, such an Employee will continue to be entitled to receive accident pay.
- 39.4 Accident pay will be calculated on a pro-rata basis for periods of injury of less than one week.
- 39.5 An Employee will not be entitled to any payment under this clause in respect of any period of paid annual leave or long service leave, or for any paid public holiday.
- 39.6 If an Employee entitled to accident pay under this clause returns to work on reduced hours or modified duties, the amount of accident pay due will be reduced by any amounts paid for the performance of work.
- 39.7 In the event an Employee receives a lump sum payment in lieu of weekly payments under the applicable workers' compensation legislation, the liability of the Company to pay accident pay will cease from the date the Employee receives the payment.
- 39.8 Where the Employee recovers damages from the Company or a third party in respect of the said injury independently of the applicable workers' compensation legislation, such Employee will be liable to repay to the Company the amount of accident pay which the Company has paid under this clause and the Employee will not be entitled to any further accident pay thereafter.
- 39.9 For a casual Employee, the weekly payment referred to in clause 38.1 will be calculated using the Employee's average weekly ordinary hours with the Company over the previous 12 months or, if the Employee has been employed by the Company for less than 12 months, the Employee's average weekly ordinary hours over the period of employment with the Company.

### 40. Definitions

In this Enterprise Agreement:

**"Agreement"** means the *Mobile Concreting Solutions Pty Ltd Enterprise Agreement 2024*.

**"Company"** means Mobile Concreting Solutions Pty Ltd.

**"Employee"** means an Employee of Mobile Concreting Solutions Pty Ltd.

**"FWC"** means Fair Work Commission.

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

**"Inclement Weather"** means the existence of rain or abnormal climatic conditions (whether hail, extreme cold, high wind, severe dust storm, extreme high temperature or the like or any combination of these conditions) where it is not reasonable or it is unsafe for employees to continue working in those conditions.

**"NES"** means National Employment Standards under the FW Act, as amended from time to time.



**41. Signatories to this Agreement**

The following Parties are bound by this Agreement:

**Company**

Signed for and on behalf of Mobile Concreting Solutions Pty Ltd (ABN 50 130 398 266).

  
Signature

  
Witness Signature

Jessica Twomey - HR Manager  
Full name & Position

ALESSIA BELLIN - QHSE MANAGER  
Full name & Position

30/5/24  
Date

30/05/2024  
Date

L1, 985 Wellington Street, West Perth 6005  
Address

**For Employees**

Signed on behalf of the employees covered by this Agreement.

  
Signature

  
Witness Signature

NAHAR SINGH - BATCHER  
Full name & Position

MIKE SINGER BDM  
Full name & Position

30/05/24  
Date

30.5.24  
Date

LOT 115 BEDROCK TURN, GAPE RIDGE  
Address