

***FAIR WORK ACT 2009***

**ECS**

**ENTERPRISE AGREEMENT**

**2024**

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## **ECS Enterprise Agreement 2024**

### **1. TITLE**

1.1. ECS Enterprise Agreement 2024 (Agreement).

### **2. PARTIES, SCOPE AND APPLICATION**

2.1. This Agreement applies throughout Australia to:

- (a) ECS Exact Ceiling Solution Pty Ltd and ECS Assets (Vic) Pty Ltd (the Company or Employer); and
- (b) Employees of the Company who are engaged in building and construction work falling within one of the classifications set out in Appendix A of this Agreement, including apprentice construction workers in respect of those classifications.

### **3. PERIOD OF OPERATION**

3.1. This Agreement commences operation 7 days after approval by the Fair Work Commission (FWC) and will nominally expire 4 years from the date of approval.

### **4. RELATIONSHIP TO MODERN AWARD**

- 4.1. This Agreement incorporates the Building and Construction General On-site Award 2020 (Award) as varied from time to time. Where a term of this Agreement is inconsistent with the Award, the Agreement will prevail to the extent of any inconsistency.
- 4.2. This Agreement is to be read and interpreted in conjunction with the National Employment Standards (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. OBJECTIVES AND COMMITMENTS**

5.1. The Parties commit to the objectives of this Agreement, which are to:

- (a) establish practices that will enable the creation of a cooperative and productive workplace;
- (b) support the implementation of high levels of OH&S practices, procedures and training;
- (c) ensure that fair and equitable employment practices are applied in the workplace;
- (d) improve efficiency and promote productivity in the workplace; and
- (e) provide for the establishment and strict observance of disputes settlement procedures that enables the efficient resolution of issues without recourse to industrial action.

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### **6. CONSULTATION**

**6.1.** This term applies if the Employer:

- (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.

### **6.2. Major change**

**6.3.** For a major change referred to in paragraph 6.1(a):

**(a)** The Employer must notify the relevant Employees of the decision to introduce the major change; and

**(b)** Subclauses 6.4 to 6.10 apply.

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

**6.5.** 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 Employer of the identity of the representative;

**(c)** the Employer must recognise the representative.

**6.6.** As soon as practicable after making its decision, the Employer must:

**(a)** discuss with the relevant Employees:

**(i)** the introduction of the change; and

**(ii)** the effect the change is likely to have on the Employees; and

**(iii)** measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and

**(b)** for the purposes of the discussion—provide, in writing, to the relevant Employees:

**(i)** all relevant information about the change including the nature of the change proposed; and

**(ii)** information about the expected effects of the change on the Employees; and

**(iii)** any other matters likely to affect the Employees.

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- 6.7.** However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 6.8.** The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- 6.9.** If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in paragraph 6.3(a) and subclauses 6.4 and 6.6 are taken not to apply.
- 6.10.** 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 Employer'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.
- 6.11.** Change to regular roster or ordinary hours of work
- 6.12.** For a change referred to in paragraph 6.1(b):
- (a)** the Employer must notify the relevant Employees of the proposed change; and
  - (b)** subclauses 6.13 to 6.17 apply.
- 6.13.** The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 6.14.** 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 Employer of the identity of the representative;
  - (c)** the Employer must recognise the representative.
- 6.15.** As soon as practicable after proposing to introduce the change, the Employer must:
- (a)** discuss with the relevant Employees the introduction of the change; and

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- (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 Employer reasonably believes will be the effects of the change on the Employees; and
  - (iii)** information about any other matters that the Employer reasonably believes are likely to affect the Employees; and
- (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).

**6.16.** However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.

**6.17.** The Employer must give prompt and genuine consideration to matters raised about the change by the relevant Employees.

**6.18.** In this term a relevant Employees means the Employees who may be affected by a change referred to in subclause 6.1.

## **7. DISPUTE RESOLUTION PROCEDURE**

**7.1.** A major objective of this Agreement is to eliminate lost time and/or production arising out of disputes or grievances.

**7.2.** This dispute resolution procedure applies to disputes about a matter under this Agreement or a dispute in relation to the NES. This procedure will be followed by all relevant parties in good faith, in a timely manner and without unreasonable delay.

**7.3.** In the first instance the parties must attempt to resolve the matter at the workplace by discussions between the Employee or Employees concerned and the relevant supervisor.

**7.4.** If such discussions do not resolve the dispute, the matter will be referred to more senior levels of management as appropriate.

**7.5.** If the dispute is still not resolved, either party may refer the dispute to the FWC.

**7.6.** If after conciliation in the FWC the matter remains unresolved, the FWC can arbitrate the dispute. In doing so, the FWC can use all the dispute settling powers available to it under the Fair Work Act 2009 (Cth) (FW Act).

**7.7.** The Employer or an Employee may appoint another person, organisation, or association to accompany and/or represent them at any stage of the disputes process.

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- 7.8.** While the dispute resolution procedure is being conducted, work must continue without interruption from industrial stoppages, bans and/or limitations.
- 7.9.** Subject to applicable occupational health and safety legislation, an Employee must not unreasonably fail to comply with a direction by the Employer to perform work, whether at the same or another workplace, which is safe and appropriate for the Employee to perform.
- 7.10.** The outcome of any dispute, including an outcome determined by the FWC, will not be inconsistent with:
- (a)** any other applicable State and Territory Building and Construction Industry Codes of Practice and Implementation Guidelines; and
  - (b)** any other applicable legislation.
- 7.11.** If any party to a particular dispute fails or refuses to follow any step of this procedure the non-breaching party will not be obligated to continue through the remaining steps of the procedure and may immediately refer the matter to the FWC.

## **8. FLEXIBILITY**

- 8.1.** The Company and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
- (a)** the Agreement deals with 1 or more of the following matters:
    - (i)** arrangements about when work is performed;
    - (ii)** overtime rates;
    - (iii)** penalty rates; and
    - (iv)** allowances.
  - (b)** the arrangement meets the genuine needs of the Employer and Employee in relation to 1 or more of the matters mentioned in paragraph (a); and
  - (c)** the arrangement is genuinely agreed to by the Employer and Employee.
- 8.2.** Where the Company wants to enter into a variation agreement with an individual Employee, it must provide a written proposal to the Employee. Where the Employee's understanding in written English is limited, the Company must take measures, including translation into an appropriate language, to ensure that the Employee understands the proposal.
- 8.3.** Provided, however, that the company must ensure that any variation agreement is genuinely agreed to by the Company and the Employee and that it results in the Employee being better off overall than they would have been without the agreement.

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**8.4.** The Company must also ensure that any such variation agreement is:

- (a)** In writing (including details of the terms that will be varied, how the arrangement will vary the effect of the terms, how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement, and the day on which the arrangement commences);
- (b)** Signed by the parties (i.e. the company and Employee), and if the Employee is under 18, by a parent or guardian of the Employee;
- (c)** Provided to the Employee within 14 days after it is agreed to;
- (d)** Able to be terminated by either party given written notice of not more than 28 days, or at any time by both parties agreeing in writing.

**8.5.** The Company must ensure that the terms of the flexibility arrangement:

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

## **9. SEVERABILITY**

**9.1.** To the extent that sections 253, 326 or 56 of the FW Act render a clause of this Agreement of no effect that clause is severed and does not affect the application of the remainder of the Agreement.

**9.2.** To the extent it is possible, all terms of this Agreement should be interpreted in a manner that would give them effect.

## **10. EMPLOYER AND EMPLOYEE DUTIES**

**10.1.** An Employer may direct an Employee to carry out such duties as are reasonably within the limits of the Employee's skill, competence and training.

**10.2.** An Employer may direct an Employee to carry out such duties and use such tools and equipment as may be required provided that the Employee has been properly trained in the use of such tools and equipment.

**10.3.** Directions issued by the Employer will be consistent with the Employer's occupational health and safety responsibilities.



**11. ENGAGEMENT OF EMPLOYEES**

**11.1.** An Employee will be engaged on one of the following bases:

- (a)** full-time daily hire or weekly hire;
- (b)** part-time daily hire or weekly hire; or
- (c)** as a casual.

**11.2.** Where the Company engages plant operators, these Employees will be employed on a weekly-hire basis.

**11.3. Probation period**

**11.4.** At the commencement of employment, all Employees will be engaged on a 6 month probationary employment period. If an Employee's performance or conduct is not satisfactory during the probationary period, the Employer may terminate the Employee's employment. The Employer may terminate the Employee's employment at any time during the probation period by providing notice in accordance with this Agreement. This notice will be in writing.

**11.5. Full-time Employees**

**11.6.** A full-time Employee is an Employee who works an average of 36 hours week per week.

Note: The normal working day is an 8 hour day and the weeks where you do not take an RDO will be 40 hours. However due to the RDO system of work, 0.8 hour of each day will accrue towards an RDO. Therefore, by accruing an RDO every two weeks you will work an average of 36 hours per week. The RDO system is detailed in clause 16.

**11.7. Part-time Employees**

**11.8.** A part-time Employee is an Employee who works an average of fewer than 36 ordinary hours per week.

**11.9.** For each ordinary hour worked, a part-time Employee will be paid the applicable hourly rate of pay for the relevant classification and pro rata entitlements for those hours.

- (a)** Before commencing a period of part-time employment the Employee and the Employer will agree in writing:
  - (i)** That the Employee may work part-time;
  - (ii)** Upon the hours to be worked by the Employee, the days upon which the hours will be worked and commencing times for the work;
  - (iii)** Upon the classification applying to the work to be performed; and
  - (iv)** Upon the period of part-time employment.

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- (b) The terms of an Agreement may be varied, in writing, mutually at any time.

### **11.10. Casual Employment**

- (a) Casual Employee has the meaning given by section 15A of the FW Act.
- (b) A casual Employee will be paid an hourly rate no less than the rate listed in Appendix A for their classification plus a casual loading of 25%. This casual loading is to compensate for all aspects of permanent employment including annual leave, paid personal/carer's leave, paid community service leave, RDO's, payment for public holidays not worked, redundancy and notice of termination
- (c) Casual Employee shall be provided with a minimum of 4 hours work or pay per engagement.
- (d) A casual Employee required to work overtime, weekend work or public holidays shall be entitled to the relevant overtime or penalty rate provided in this Agreement, provided that:
  - (i) Where the relevant overtime or penalty rate is time and a half, the casual Employee shall be paid at 175% of the base hourly rate prescribed in Appendix A; and
  - (ii) Where the relevant overtime or penalty rate is double time, the casual Employee shall be paid at 225% of the base hourly rate prescribed in Appendix A; and
  - (iii) Where the relevant overtime or penalty rate is double time and a half, the casual Employee shall be paid at 275% of the base hourly rate prescribed in Appendix A.
- (e) (e) Termination of employment shall be by either the Company giving one hour's notice or payment in lieu thereof, or an Employee giving one hour's notice to the Company or the forfeiture of one hour's pay.

## **12. ABANDONMENT OF EMPLOYMENT**

- 12.1.** This clause describes the circumstances which amount to abandonment of employment by a permanent Employee. This clause will operate subject to the NES.
- 12.2.** The absence of an Employee from work for a continuous period exceeding three working days without the consent of the Employer, or without notice to the Employer is prima facie evidence that the Employee has abandoned their employment.
- 12.3.** If within a period of seven days from an Employee's last attendance at work (or from the date of the last absence where notification was given or consent was granted) an Employee has

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not established, to the satisfaction of the Employer that he or she was absent with reasonable cause, the Employee will be deemed to have abandoned their employment.

### 13. TERMINATION OF EMPLOYMENT

#### 13.1. Daily-hire Employees

- (a) For Daily-hire Employees, the notice of termination shall be one day on either side or one day's pay shall be forfeited. Notice given at or before the usual starting time of an ordinary working day shall be deemed to expire at the completion of that day's work.
- (b) Nothing in this clause shall limit the right of the Company to dismiss an Employee without notice for serious misconduct or refusing duty.

#### 13.2. Weekly-hire Employees

- (a) For Weekly-hire Employees, the period of written notice by the Employer shall be:

Period of continuous service	Period of notice
One year or less	One week
Over one year and up to the completion of three years	Two weeks
Over three years and up to the completion of five years	Three weeks
Over five years	Four weeks

- (b) In addition to the notice above, Weekly-hire Employees over 45 years of age at the time of giving notice with not less than two years continuous service shall be entitled to an additional weeks' notice.

13.3. The notice of termination required to be given by an Employee shall be the same as that required for an Employer, save and except that there shall be no additional notice based on the age of the Employee concerned.

13.4. Nothing in this clause shall limit the right of the Company to dismiss an Employee without notice for serious misconduct.

### 14. REDUNDANCY

14.1. The following redundancy clause is an industry specific redundancy scheme as defined in s.12 of the FW Act. In accordance with s.123(4)(c) of the FW Act the provisions of Subdivision

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B Redundancy pay of Division 11 of the NES do not apply to Employees covered by this Agreement.

**14.2.** For the purposes of this clause, redundancy means a situation where an Employee ceases to be employed by an Employer to whom this Agreement applies, other than for reasons of misconduct or refusal of duty. Redundant has a corresponding meaning.

### 14.3. Redundancy pay

- (a)** Week's pay means the ordinary time rate of pay at the time of termination for the Employee concerned multiplied by 36.
- (b)** Redundancy pay does not apply to a casual Employee.
- (c)** Service by an Employee as a casual does not count as service for the purposes of redundancy pay.
- (d)** Redundancy pay does not apply to an apprentice. Service as an apprentice will entitle an Employee to accumulate credits towards the payment of a redundancy benefit in accordance with this clause if the Employee completes an apprenticeship and remains in employment with that Employer for a further 12 months.
- (e)** Subject to the above, a redundant Employee will receive redundancy payments, calculated as follows, in respect of all continuous service with the Employer:

<b>Period of continuous service with an Employer</b>	<b>Redundancy pay</b>
1 year or more but less than 2 years	2.4 weeks' pay plus for all service in excess of 1 year, 1.75 hours pay per completed week of service up to a maximum of 4.8 weeks' pay.
2 years or more but less than 3 years	4.8 weeks' pay plus, for all service in excess of 2 years, 1.6 hours pay per completed week of service up to a maximum of 7 weeks' pay.
3 years or more than but less than 4 years	7 weeks' pay plus, for all service in excess of 3 years, 0.73 hours pay per completed week of service up to a maximum of 8 weeks' pay.
4 years or more	8 weeks' pay.

- (f) Provided that an Employee employed for less than 12 months will be entitled to a redundancy payment of 1.75 hours per week of service if, and only if, redundancy is occasioned otherwise than by the Employee.

**14.4. Redundancy pay scheme**

- (a) An Employer may offset an Employee's redundancy pay entitlement in whole or in part by contributions to a redundancy pay scheme.
- (b) Provided that where the employment of an Employee is terminated and:
  - (i) the Employee receives a benefit from a redundancy pay scheme, the Employee will only receive the difference between the redundancy pay in this clause and the amount of the redundancy pay scheme benefit the Employee receives which is attributable to Employer contributions. If the redundancy pay scheme benefit is greater than the amount payable under clause 14.3 then the Employee will receive no redundancy payment under clause 14.3; or
  - (ii) the Employee does not receive a benefit from a redundancy pay scheme, contributions made by an Employer on behalf of an Employee to the scheme will, to the extent of those contributions, be offset against the liability of the Employer under clause 14.3, and payments to the Employee will be made in accordance with the rules of the redundancy pay scheme fund or any Agreement relating thereto. The Employee will be entitled to the fund benefit or the Award benefit whichever is greater but not both.
- (c) The redundancy pay scheme must be an Approved Worker Entitlement Fund under the Fringe Benefits Tax Regulations 1992 (Cth).

**15. SUMMARY DISMISSAL**

**15.1.** Summary dismissal may occur if an Employee behaves in a manner deemed to constitute serious misconduct. Where an Employee is dismissed for serious misconduct, no notice or redundancy are due or payable and wages are paid up to the time of dismissal only.

**15.2.** Serious misconduct includes the following:

- (a) wilful or deliberate behaviour by an Employee that is inconsistent with the continuation of the contract of employment;
- (b) conduct that causes serious and imminent risk to:
  - (i) the health or safety of a person; or

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- (ii) the reputation, viability or profitability of the Employer's business.
- (c) the Employee, in the course of the Employee's employment, engaging in:
  - (i) theft; or
  - (ii) fraud; or
  - (iii) assault; or
  - (iv) sexual harassment
- (d) the Employee being intoxicated at work;
- (e) the Employee refusing to carry out a lawful and reasonable instruction that is consistent with the Employee's contract of employment.

### **16. HOURS OF WORK**

**16.1.** Ordinary hours of work will be eight (8) hours per day Monday to Friday with the notional weekly hours based on a 36 hour week.

**16.2.** Ordinary hours may be worked between the hours of 5:00 am and 5:00 pm Monday to Friday.

**16.3.** The Company can alter start and finish times within the spread of ordinary daily hours after consulting with affected Employees.

#### **16.4. Breaks**

- (a) One 35 minute paid lunch break will be scheduled within ordinary time to be taken no later than 5 hours after work starts.
  - (i) The 35 minute paid lunch break will contribute to an Employees ordinary hours of work.
- (b) If total hours worked for the day are to be ten hours or more there will be an additional 20 minute rest break paid at time and one half of ordinary time rates to be taken at the end of ordinary hours, and prior to the commencement of overtime. Employees, in accordance with the Award, may elect to take payment in lieu of stopping work for this break in which case the Employee will be regarded as having worked a further 20 minutes, and be paid accordingly.

### **17. WORK CYCLES AND ROSTERED DAYS OFF**

**17.1.** The ordinary working hours for full-time employees will be worked in a 10 day/two week cycle, Monday to Friday inclusive, with eight hours worked for each of nine days and with 0.8 of an

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hour on each of those days accruing towards the tenth day, which will be taken as a paid day off.

### **17.2. Taking RDOs**

**17.3.** The RDO does not have to be taken on the tenth day of the work cycle. The paid RDO will be taken at a time mutually agreed between the Company and the relevant Employee/s unless otherwise provided by the Agreement.

**17.4.** An employee must provide at least 7 days' notice of their intent to take an RDO. Lesser notice may be provided by agreement with the Company.

**17.5.** Where you are working on a project site that operates in accordance with a RDO schedule, unless alternative work is available at other project sites, your banked RDOs will be utilised in accordance with that project sites RDO schedule.

**17.6.** Each day of paid leave taken and any public holiday occurring during any cycle of two weeks will not be regarded as a day worked for RDO accrual purposes.

**(a)** A full-time Employee will instead be paid for 8 hours of work on a day of leave or on a public holiday.

### **17.7. Banking of RDOs**

**17.8.** An unlimited amount of RDO's may be accrued for the purpose of creating a bank to be drawn upon by the Employee at times mutually agreed.

### **17.9. Excessive RDOs: Direction to take RDOs**

**17.10.** An Employee will have excessive RDOs banked where they have 5 or more banked RDOs.

**17.11.** If an Employee has an excessive RDOs banked, the Company or the Employee must seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive RDO bank.

**17.12.** If no agreement can be reached per clause 17.9 then the Company may direct the Employee in writing to take one or more banked RDOs.

**17.13.** However, a direction by the employer under clause 17.10:

- (a)** is of no effect if it would result at any time in the Employee's remaining RDO bank being less than 3 RDOs when any other agreed RDO arrangements are taken into account; and
- (b)** must not be inconsistent with any RDO arrangement that is already agreed to by the employer and employee.

### **17.14. Agreement on working other than the RDO cycle**

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**17.15.** The Company and a majority of Employees may agree to an alternate method of arranging working hours, provided that the ordinary hours worked in any one week from Monday to Friday are within the spread of hours set out in this Agreement and that no more than eight ordinary hours are worked in any one day.

### **18. OVERTIME**

**18.1.** Overtime shall be payable for any hours worked outside an Employee's ordinary hours of work, or outside of span of ordinary hours as set in this Agreement.

**18.2.** The Employer may require an Employee (excluding persons under 18 years of age) to work reasonable additional hours (overtime) at overtime rates.

**18.3.** Overtime worked on any of Monday to Friday inclusive will be paid at the rate of time and one half (150%) of the Employee's ordinary time rate for the first two hours and double time (200%) thereafter.

**18.4.** Overtime is calculated by reference to the Employee's hourly rate of pay in Appendix A. When calculating overtime each day stands alone.

#### **18.5. Saturdays, Sundays and Public Holidays**

**(a)** This clause does not apply to shift work.

**(b)** Overtime worked on a Saturday will be paid for at the rate of time and one half (150%) for the first two hours and double time (200%) thereafter. All overtime worked after 12 noon on Saturday will be paid for at the rate of double time.

**(c)** Overtime worked on a Sunday will be paid for at the rate of double time (200%).

**(d)** Overtime worked on a Public Holiday will be paid for at the rate of double time and one half (250%), subject to a minimum payment for four hours.

**(e)** An Employee who is required to work on a Saturday or Sunday shall be afforded:

**(i)** At least four hours' work or be paid for four hours at the appropriate overtime rates;

**(ii)** One 30 minute combined Rest Period/Crib Break after four hours work paid at the appropriate rate and taken at an agreed time during the morning;

**(iii)** A further 20 minute Crib break paid at time and one half ordinary time rates if total worked hours are in excess of 10 hours.

#### **18.6. Rest Period After Overtime**



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- (a)** Where it is necessary to work extended overtime, an Employee will be given at least ten consecutive hours off duty between the end of overtime and the commencement of the Employee's ordinary work on the next day or shift.
- (b)** If the Employer requires an Employee to resume or continue to work without having had ten consecutive hours off duty, the Employee will be paid at double time (200%) until the Employee is released from duty and permitted to have ten consecutive hours off work.
- (c)** An Employee who has worked continuously (except for meal and crib times allowed by this Agreement) for 20 hours is not required to continue at, or recommence work, for at least 12 hours without loss of ordinary working time occurring during such absence.

**18.7.** An Employee may refuse to work overtime in circumstances where the working of such overtime would result in the Employee working hours which are unreasonable having regard to:

- (a)** any risk to Employee health and safety from working the additional hours;
- (b)** the Employee's personal circumstances including any family responsibilities;
- (c)** the needs of the workplace/project, site or enterprise. Such needs include but are not limited to unforeseeable delays in the programme; work that is critical in ensuring site access, housekeeping activities, and maintenance;
- (d)** the notice (if any) given by the Employer of the overtime and by the Employee of his or her intention to refuse it;
  - (i)** the usual patterns of work in the industry or part thereof in which the Employee works;
  - (ii)** the nature of the Employee's role, and the Employee's level of responsibility; and
  - (iii)** any other relevant matter.

### **18.8. Time off instead of payment for overtime**

- (a)** An Employee and Employer may agree in writing to the Employee taking time off instead of being paid for a particular amount of overtime that has been worked by the Employee.
- (b)** Any amount of overtime that has been worked by an Employee in a particular pay period and that is to be taken as time off instead of the Employee being paid for it must be the subject of a separate agreement.
- (c)** An agreement must state each of the following:
  - (i)** the number of overtime hours to which it applies and when those hours were worked;

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- (ii) that the Employer and Employee agree that the Employee may take time off instead of being paid for the overtime;
  - (iii) that, if the Employee requests at any time, the Employer must pay the Employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;
  - (iv) that any payment mentioned in subparagraph (iii) must be made in the next pay period following the request.
- (d) The period of time off that an Employee is entitled to take is the same as the number of overtime hours worked.

### **19. SHIFT WORK**

19.1. Shift work shall be as prescribed by the Award.

### **20. STAND DOWN**

20.1. The Employer may stand down an Employee without pay on any day or part thereof where an Employee cannot be usefully employed due to any of the following circumstances:

- (a) Industrial action affecting the workplace or work of the Employee; or
- (b) A break-down of machinery, or failure or lack of power, for which cause the Employer is not reasonably responsible; or
- (c) A stoppage of work for any cause for which the Employer cannot reasonably be held responsible.

20.2. The above does not apply to a period to which the inclement weather provisions of the Agreement and award apply.

20.3. Nothing in this clause prevents an Employee from taking annual leave instead of being stood down.

### **21. WAGE RATES AND CLASSIFICATION STRUCTURE**

#### **21.1. Classification Structure**

21.2. All Employees working under this Agreement shall be classified according to the skill-based classification structure set out in Appendix A.

#### **21.3. Rates of Pay**

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- (a)** The actual rates of pay applicable from the commencement of the Agreement are set out in Appendix A.
- (b)** These rates of pay are inclusive of the following Award prescribed entitlements:
  - (i)** Base rates of pay (clause 19.1 of the Award)
  - (ii)** Follow the job loading (clause 19.3 of the Award)
  - (iii)** Industry allowance (clause 22 of the Award)
  - (iv)** Tool allowance (clause 21.1 of the Award)
  - (v)** Annual leave loading (clause 31.2(b) of the Award)
  - (vi)** Fares and travel pattern allowance (clause 26.1(a) of the Award)
- (c)** Any variation or increase to the above Award entitlements will not flow on to the rates of pay in this Agreement

### **21.4. Junior Apprentice Rates**

- (a)** Junior Apprentice means an Employee who is aged 20 years of age or younger at the time of entering into a contract of training in a specified trade.
- (b)** A junior apprentice will be paid at the rates in Appendix A.
- (c)** The rate of pay for a junior apprentice will be inclusive of the payments in clause 22.3(b) with the exception of follow the job loading, annual leave loading and fares and travel pattern allowance. These payments will be made per the Agreement.

### **21.5. Adult Apprentice Rates**

- (a)** Adult Apprentice means an apprentice who is 21 years of age or over at the commencement of their apprenticeship.
- (b)** An adult apprentice will be paid at the rates in Appendix A.
- (c)** The rate of pay for an adult apprentice will be inclusive of the payments in clause 22.3(b) with the exception of follow the job loading, annual leave loading and fares and travel pattern allowance. These payments will be made per the Agreement.

### **21.6. Wage Increases**

- (a)** Wages will be reviewed on or after 1 July 2024, 2025, 2026 and 2027. The wage rates will be increased, subject to the Employer's sole discretion and consideration of such factors as Employee performance, the performance of the business, general economic factors, the Employee's ability and overall value to the business and the applicable

## **ECS Enterprise Agreement 2024**

minimum weekly wage percentage increase determined by the Fair Work Commission in its Annual Wage Review.

### **22. LEADING HAND ALLOWANCE – CARPENTER AND PLASTERER**

**22.1.** An Employee that is classified as a carpenter or plasterer under Appendix A will be a leading hand where they are required to supervise or direct or be in charge of another employee or other employee/s .

**22.2.** A person specifically appointed to be a leading hand under this clause must be paid an allowance of \$4.00 per hour.

**22.3.** The allowance under this clause will not be considered an all-purpose allowance and will not form part of the ordinary hourly rate.

**22.4.** All other employees will receive the leading hand allowance in accordance with the Award.

### **23. EXPENSE RELATED AND OTHER AWARD PRESCRIBED ALLOWANCES**

**23.1.** All expense-related and other allowances not specifically addressed by this Agreement will be paid as per the Award.

### **24. FARES AND TRAVELLING ALLOWANCE**

**24.1.** The daily fares and travel pattern allowance is incorporated into the rates of pay set out in Appendix A.

**24.2.** The daily fares and travelling allowance has not been incorporated into the rates of pay for a junior or adult apprentice.

**24.3.** A junior and adult apprentice will be entitled to daily fares and travel allowance in accordance with the Award.

**24.4.** The daily fares and travel allowance will not be payable on any day where the Employee is:

- (a)** Provided with a fully maintained Company vehicle
- (b)** Is reimbursed for fuel costs; or
- (c)** Provided with transport, or is offered transport, free of charge from the Employee's home to the job site; or
- (d)** Is required to commence or cease work at the Employer's workshop, yard or depot.

## **ECS Enterprise Agreement 2024**

- 24.5.** The cost of Citylink tolls or similar will be reimbursed for those Employees who are required by their Employer to use their own vehicle during working hours, but not for travel to and from work.
- 24.6.** Apprentices will not be paid the daily fares and travelling allowance for days they attend an RTO for training and assessment in accordance with the contract of training.

## **25. LIVING AWAY FROM HOME PAYMENTS**

- 25.1.** When Employees are employed on a job at such a distance from their usual places of residence that they cannot reasonably return to those residences each night the Company will either:
- (a)** Provide adequate meals and accommodation; or
  - (b)** Where Employees are provided with accommodation by the Company but where meals are not supplied, an allowance of \$50.00 per day will be paid to cover the cost of meals and incidentals, and no further allowances will be payable. This allowance will not be paid at weekends where an Employee returns home.
  - (c)** Pay to the Employee a living away from home allowance at the amount prescribed by the Award.
- 25.2.** The arrangement will be agreed prior to the commencement of the distant work.

## **26. SUPERANNUATION**

- 26.1.** Superannuation contributions will be paid in accordance with the Superannuation Guarantee (Administration) Act 1992 (Cth).
- 26.2.** Employer superannuation contributions payments will be made into a complying fund of the Employee's choice. If a superannuation fund is not nominated within 28 days of commencement, the Employer will enquire with the Australian Taxation Office (ATO) to determine if the Employee has a stapled super fund. If the Employee has no stapled super fund, the contribution will be paid into the Employer's default fund.
- 26.3.** Employer superannuation contributions are based on ordinary time earnings and will be paid whilst an Employee is on paid leave. No superannuation contributions are payable whilst an Employee is on unpaid leave.

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### **27. PAYMENT OF WAGES**

- 27.1.** All wages, allowances and other monies will be paid by electronic funds transfer which Employee(s) may request be split between up to two accounts.
- 27.2.** Payments must be paid and available to the Employee not later than the end of ordinary hours of work on Friday of each working week.
- 27.3.** During the life of this Agreement, the Company may, by agreement between the Employer and the majority of Employees, alter the pay week to commence on Monday and conclude on Sunday of each week with bank transfers to be effected by midday Thursday.
- 27.4.** When notice is given, all monies due to the Employee must be paid within two working days of the Employee's last day of employment.

### **28. ANNUAL LEAVE**

- 28.1.** Annual leave is provided for in the NES.
- 28.2.** For the purpose of the additional week of leave provided by the NES, a shift worker means a continuous shift worker as defined by the Award.
- 28.3.** Full-time and Part-time Employees are entitled to annual leave. For each year of service with their Employer, an Employee is entitled to 4 weeks of paid annual leave. A Full-time or Part-time Employee shall accrue paid annual leave progressively during a year of service according to the Employee's ordinary hours of work. Unused annual leave accumulates from year to year.
- 28.4.** Any accrued untaken annual leave shall be paid out on termination of employment.
- 28.5.** An Employee is entitled to take an amount of annual leave during a particular period if:
- (a)** The amount of annual leave is credited to the Employee; and
  - (b)** The Employee has provided a minimum of two weeks' notice (or shorter period where the Employer agrees); and
  - (c)** The Employer has approved the Employee's taking of annual leave during that period. The Employer's approval will be based on the operational requirements of the workplace at the time, but the Employer will not unreasonably refuse or revoke an approval to take annual leave.
- 28.6. Shut down periods**

## **ECS Enterprise Agreement 2024**

**28.7.** The Company may direct an Employee to take a period of paid annual leave during all or part of the Company's shut down periods where the Employer shuts down the business, part of the business, or a site where the Employee works (e.g. Easter and Christmas/New Year periods).

**28.8.** If an Employee does not have sufficient accrued annual leave for the period of a shut down, the Employee may be required by agreement to take leave without pay for the balance of the shutdown period for which leave is not accrued.

### **28.9. Excessive annual leave**

- (a)** An Employee has an excessive leave accrual if the Employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by the Award).
- (b)** If an Employee has an excessive leave accrual, the Employer or the Employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c)** If an Employer has genuinely tried to reach agreement with an Employee under this clause but agreement is not reached (including because the Employee refuses to confer), the Employer may direct the Employee in writing to take one or more periods of paid annual leave.
- (d)** However, a direction by the Employer under this clause:
  - (i)** is of no effect if it would result at any time in the Employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under this clause or otherwise agreed by the Employer and Employee) are taken into account; and
    - (ii)** must not require the Employee to take any period of paid annual leave of less than one week; and
    - (iii)** must not require the Employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
    - (iv)** must not be inconsistent with any leave arrangement agreed by the Employer and Employee.
- (e)** The Employee must take paid annual leave in accordance with a direction under this clause that is in effect.
- (f)** An Employee to whom a direction has been given may request to take a period of paid annual leave as if the direction had not been given.

### **28.10. Cashing out of annual leave**

## **ECS Enterprise Agreement 2024**

- (a)** Paid annual leave must not be cashed out except in accordance with an agreement under this clause.
- (b)** Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement.
- (c)** An Employer and an Employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the Employee.
- (d)** An agreement under this clause must state:
  - (i)** the amount of leave to be cashed out and the payment to be made to the Employee for it; and
  - (ii)** the date on which the payment is to be made.
- (e)** An agreement under this clause must be signed by the Employer and Employee and, if the Employee is under 18 years of age, by the Employee's parent or guardian.
- (f)** The payment must not be less than the amount that would have been payable had the Employee taken the leave at the time the payment is made.
- (g)** An agreement must not result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h)** The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i)** The Employer must keep a copy of any agreement as an Employee record.

### **29. PERSONAL/CARER'S LEAVE AND COMPASSIONATE LEAVE**

**29.1.** Personal/carer's leave and compassionate leave entitlements are provided for in the NES.

**29.2.** The minimum entitlement to paid personal/carer's leave for an Employee (other than a casual Employee) is 10 days per year.

**29.3.** An Employee's entitlement to paid personal/carer's leave accumulates progressively during a year of service.

**29.4.** Personal/carer's leave continues to accumulate when an Employee takes a period of paid personal/carer's leave or paid annual leave. Personal/carer's leave does not accumulate on unpaid leave unless it is community service leave.

**29.5.** An Employee may take paid personal/carer's leave:

- (a)** if they are unfit for work because of their own personal illness or injury (including pregnancy-related illness); or



## **ECS Enterprise Agreement 2024**

- (b)** to provide care or support to a member of the Employee's immediate family or household because of a personal illness, injury or unexpected emergency affecting the member.

**29.6.** A member of the Employee's immediate family means a spouse, de facto partner, child, parent, grandparent, grandchild, sibling of an Employee and a child, parent, grandparent, grandchild or sibling of the Employee's spouse or de facto partner.

### **29.7. Unpaid Carer's Leave**

**29.8.** All Employees (including casuals) are entitled to a period of up to 2 days unpaid carer's leave for each occasion when a member of the Employee's immediate family or household requires care or support because of a personal illness, injury, or an unexpected emergency. The leave will be granted subject to the provision of reasonable evidence as illustrated above.

### **29.9. Compassionate Leave**

**29.10.** Employees (other than Casual Employees) are entitled to 2 days paid compassionate leave for each occasion when:

- (a)** a member of the Employee's immediate family or household has sustained a life-threatening illness or injury or dies;
- (b)** a child is stillborn, where the child would have been a member of the Employee's immediate family, or a member of the Employee's household, if the child had been born alive; or
- (c)** the Employee, or the Employee's spouse or de facto partner, has a miscarriage.

**29.11.** A Casual Employee is entitled to unpaid compassionate leave in accordance with this clause.

### **29.12. Notice and evidence requirements**

- (a)** For all periods of personal/carer's leave or compassionate leave, an Employee must give the Employer notice of the taking of such leave.
- (b)** The notice must be given to the Employer as soon as practicable (which may be a time after the leave has started), and must advise the Employer of the period, or expected period, of the leave.
- (c)** Unless otherwise provided for under this Agreement, an employee must provide the employer evidence in support of their leave. The provision of appropriate reasonable documentary evidence includes:

## **ECS Enterprise Agreement 2024**

- (i) For personal leave, a medical certificate or if not reasonably practicable to provide a medical certificate a statutory declaration made by the Employee may be reasonable evidence. Statutory declarations and medical certificates that have been provided through an online or remote consultation may not be reasonable evidence where absences are longer than one day, repeated, fall before or after a public holiday, weekend day or RDO, or where the employer has expressly requested a medical certificate.
- (ii) For carers leave, a medical certificate in respect to the family or household member, or a statutory declaration by the Employee is agreed to be reasonable evidence.
- (iii) For compassionate leave, any evidence that would reasonably satisfy a reasonable person.
- (d) A failure to either provide notice, or evidence that would satisfy a reasonable person to substantiate the reasons for the leave on each occasion, means the Employee is not entitled to the leave or payment for the period of leave.

### **30. COMMUNITY SERVICE LEAVE**

**30.1.** Community service leave is provided for in the NES.

### **31. LONG SERVICE LEAVE**

**31.1.** Long service leave will be paid in accordance with applicable laws.

### **32. PUBLIC HOLIDAYS**

**32.1.** Public holidays are provided for in the NES.

**32.2.** An Employee is entitled to be absent from their employment on a day or part-day that is a public holiday in the place where the Employee is based for work. Public holidays will be those days gazetted by the State or Territory government of the location for where the work is based.

**32.3.** The Employer and the Employee may agree to substitute another day or another part-day for a day or a part-day that would otherwise be a public holiday or a part-day public holiday respectively under the NES.

**32.4.** All work performed on public holidays, or substituted days, must be paid for at the rate of double time and a half (250%), subject to a minimum payment for four hours' work.

## **ECS Enterprise Agreement 2024**

### **33. HEALTH AND SAFETY**

- 33.1.** The parties to this Agreement are committed to the safe operation of machinery and equipment, to the observance of safe working practices, the proper use of all personal safety equipment and to the safety and health of all Employees and other persons who may enter the workplace.
- 33.2.** Compliance with the Employer's safety requirements is essential and failing to do so is considered misconduct in employment that will lead to disciplinary action, which may include dismissal.
- 33.3.** Employees will not undertake any task or operate any equipment that they have not been trained to perform safely. Any Employee that is unsure whether he/she or a work colleague is competent to safely perform a task or operate equipment will not proceed and will notify the Company immediately.
- 33.4.** Before commencing work, Employees shall conduct a thorough risk assessment to identify and eliminate any hazards to themselves or other persons. If an Employee cannot safely rectify these hazards he/she should not commence work and immediately notify Company management.
- 33.5.** Employees should immediately notify Company management by completion of the relevant form if they injure themselves at work or subsequently become aware of any injury or disease that they may have sustained during the course of employment with the company.

### **34. FITNESS FOR WORK**

- 34.1.** The Employer has a zero-tolerance approach to drugs and alcohol in the workplace.
- 34.2.** Under no circumstances will any Employee affected by alcohol and/or by any other drug be permitted to work or operate any equipment on Company projects.
- 34.3.** If an Employee affected by alcohol or any other drug is sent home to recover, they will not be paid for the lost time.
- 34.4.** Further, the parties agree that no alcohol and/or drugs will be permitted on Company projects and that Employees must not consume any alcohol during lunch, rest or crib breaks.
- 34.5.** The Employer may establish a system of drug and alcohol testing (which may include random and for-cause medical testing for the presence of drugs or alcohol).

**ECS Enterprise Agreement 2024**

**35. SIGNATORIES**

Signatures:

**ECS Exact Ceiling Solution Pty Ltd signing on behalf of ECS Assets (Vic) Pty Ltd**

Employer Representative Signature



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Name (please print)

Matthew Nugent

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Position

Director

---

Address

20 Penton Court, Diamond Creek VIC 3089

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Date

11/07/2024

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**ECS Exact Ceiling Solution Pty Ltd**

Employee Representative Signature



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Name (please print)

David Walshe

---

Position

Full Time Carpenter

---

Address

29 Bishop Avenue, Diamond Creek VIC 3089

---

Date

10/07/2024

---

**ECS Assets (Vic) Pty Ltd**

Employee Representative Signature



---

## ECS Enterprise Agreement 2024

Name (please print)

---

Mitch Appleby

---

Position

---

Project Manager / Carpenter

---

Address

---

20 Gravid Street, Werribee VIC 3030

---

Date

---

10/07/2024

---

The Company must retain a copy for the duration of the workplace agreement and also 7 years after the workplace agreement is terminated.

**APPENDIX A – CLASSIFICATIONS AND RATES OF PAY**

Where applicable, the classifications are to be read in accordance with the skills, duties and indicative tasks for each corresponding level under the Award.

<b>LABOURERS AND TRADE QUALIFIED EMPLOYEES</b>		
<b>CLASSIFICATIONS</b>	<b>DUTIES, EXPERIENCE AND QUALIFICATIONS</b>	<b>BASE HOURLY RATE FROM COMMENCEMENT</b>
		<b>\$</b>
<b>Labourer</b>	CW1	31.00
<b>Plasterer</b>	CW3 Trade qualified	40.00
<b>Carpenter</b>	CW3 Trade qualified	40.00

<b>APPRENTICES</b>	
<b>STAGE OF APPRENTICESHIP</b>	<b>BASE HOURLY RATE FROM COMMENCEMENT</b>
	<b>\$</b>
<b>1<sup>st</sup> year</b>	17.37
<b>2<sup>nd</sup> year</b>	20.06
<b>3<sup>rd</sup> year</b>	22.74
<b>4<sup>th</sup> year</b>	26.77

ADULT APPRENTICES	
STAGE OF APPRENTICESHIP	BASE HOURLY RATE FROM COMMENCEMENT \$
1 <sup>st</sup> year	26.92
2 <sup>nd</sup> year	26.92
3 <sup>rd</sup> year	26.92
4 <sup>th</sup> year	26.92

Note: Subject to clauses 19.8(a) and 19.8(c) of the Award, the rate of pay of an adult apprentice will be the ordinary hourly rate prescribed for the lowest paid classification in the Award, or the ordinary hourly rate prescribed in the above table for adult apprentices, whichever is the greater.