

**EALWIN PTY LTD ENTERPRISE
AGREEMENT 2024**

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TITLE

This Agreement shall be known as the Ealwin Pty Ltd Enterprise Agreement 2024.

1. DEFINITIONS

In this Agreement, unless the contrary intention appears:

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

- 1.14 “Employee Representative” means a person:
- (a) who is an Employee; or
 - (b) chosen and appointed by an individual Employee or a number of Employees to represent them in relation to the terms of this Agreement; or
 - (c) who acts on the instructions of the Employee or Employees.
- 1.15 “Parties” to this Agreement shall mean the Company and the Company's Employees engaged on work classified in this Agreement.
- 1.16 “Building Code 2016” – means the Code for the Tendering and Performance of Building Work 2016 made in accordance with the Building and Construction Industry (Improving Productivity) Act 2016.
- 1.17 “Weekly Hire Employee” – is entitled to the notice of termination provisions of the Act as defined in this agreement and should work 38 ordinary hours per week.

2. POLICIES, AWARDS AND AGREEMENTS

2.1 Duration of Agreement

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

2.2 Application

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

2.3 Scope

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

2.4 Relationship to other Awards and Agreements

- 2.4.1 This Agreement operates subject to Chapter 2 of the FW Act to provide terms and conditions for Company Employees covered by the Agreement.
- 2.4.2 The relevant award for purposes of applying the better off overall test to this Agreement is the Building and Construction General On-site Award 2020.
- 2.4.3 Where modern award conditions have been excluded or modified by the terms of this Agreement, remuneration and other conditions of this Agreement have been set at a

level to ensure that persons employed under this Agreement, are better-off-overall than they would otherwise be under the modern award.

2.4.4 This Agreement will 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.

2.4.5 Where this Agreement gives an Employee an entitlement that is the same as an entitlement under the NES:

- (a) those terms operate in parallel with the Employee's NES entitlement, but not so as to give the Employee a double benefit; and
- (b) the provisions of the NES relating to the NES entitlement apply, as a minimum standard, to the Agreement entitlement.

2.5 **No Extra Claims Commitment**

2.5.1 The Employees covered by this Agreement undertake that they will not pursue any further claims against the Company during its period of operation.

2.5.2 Notwithstanding the provisions of this clause, any party to this Agreement may apply to the FWC to vary the Agreement in accordance with the relevant provisions of the FW Act. However, such variations shall be compliant with the Building Code 2016 or its successor.

2.5.3 If, subsequent to approval of this Agreement by the FWC, any clause of this Agreement is deemed inconsistent with the Building Code 2016 or its successor, the parties agree to vary the Agreement pursuant to the FW Act to address any inconsistency.

3. **CONTRACT OF EMPLOYMENT**

3.1 **Engagement of Employees**

3.1.1 Employees under this Agreement shall be employed in one of the following categories:

- (a) weekly hire Employees
- (b) part-time weekly hire Employees
- (c) casual Employees

3.1.2 At the time of engagement, the Company and the Employee will agree in writing:

- Whether the Employee is to be employed as a weekly hire, part-time or casual Employee;
- Upon the hours to be worked by the Employee, the days upon which the hours will be worked and commencing times for the work;
- Upon the classification applying to the work to be performed;
- Upon the period of employment.

3.1.3 Employment is subject to a probation period of three (3) months which may be extended by a further six (6) months at the discretion of the Company.

3.1.4 All Employees shall be required to supply personal details for record keeping and other

purposes pertaining to their employment. Employees may also be required to undertake a Pre-Placement Medical Examination.

3.1.5 An Employee that has knowingly provided false or misleading personal details and other information or false or misleading information in the pre placement medical may be summarily dismissed.

3.2 Full-Time Employment

3.2.1 All full-time Employees engaged in building and construction work shall be employed on a weekly hire basis and shall work an average of 38 hours per week calculated over a four (4) week period.

3.3 Part-Time Employment

3.3.1 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. The Employee will be informed of their ordinary hours or work and their start and finish times.

3.3.2 For each ordinary hour worked, a part-time Employee will be paid no less than the hourly rate of pay for the relevant classification and pro rata entitlements for those hours. The Company must inform a part-time Employee of the ordinary hours of work and the starting and finishing times.

3.3.3 Where the normal hours of a part-time Employee fall on a public holiday and work is not performed by the Employee, such Employee will not lose pay for the day.

3.3.4 A part-time Employee may be required to work additional hours to those provided in this clause. Where this occurs, overtime payment in accordance with clause 7.3 shall be paid when such Employee works in excess of their ordinary hours.

3.4 Casual Employment

3.4.1 A casual Employee is a person who is subject to a work pattern that is not regular and systematic, and that is not subject to any limit in terms of its duration.

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

3.4.3 Where a casual Employee performs overtime work, weekend work or public holiday work, the penalty payment applicable shall be calculated using the rates set out in Table 1 of Appendix 2 of this Agreement and applying the following penalty rates in accordance with clause 7.3 and 7.4 of this Agreement as appropriate:

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

The overtime rates above are inclusive of the casual loading.

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

3.4.5 A casual Employee shall be entitled to all of the applicable rates and conditions of employment prescribed by this Agreement except payment for annual leave, annual leave loading, personal / carers leave, parental leave, jury service, public holidays, redundancy, and rostered days off.

3.4.6 A casual Employee, other than an irregular casual Employee, who has been engaged by the Company for a sequence or periods of employment under this Agreement during a period of six months, has the right to elect to have their contract of employment converted to full-time or part-time employment if the employment is to continue beyond the conversion process.

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

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

3.5 **Flexibility Arrangements**

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

- (a) The Agreement deals with 1 or more of the following matters:
 - (i) Arrangements about when work is performed;
 - (ii) Overtime rates;
 - (iii) Penalty rates;
 - (iv) Allowances;
 - (v) Leave loading; and
- (b) The arrangement meets the genuine needs of the Company and Employee in relation to 1 or more of the matters mentioned in Clause 4.7.1(a); and
- (c) The arrangement is genuinely agreed to by the Company and the Employee.

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

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

3.5.3 The Company must ensure that the individual flexibility arrangement:

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

- 3.5.4 The Company must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 3.5.5 The Company or Employee may terminate the individual flexibility arrangement;
- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) if the Company and Employee agree in writing to the termination – at any time.

4. REMUNERATION

4.1 Classification

- 4.1.1 Persons engaged as Employees under the terms of this Agreement shall be classified in accordance with the classifications set out in Appendix 1 of this Agreement.
- 4.1.2 Any payments or other entitlements provided to Employees in excess of the minimum requirements set out in this Agreement (if applicable), may be off set against any liability, claim or entitlement that an Employee may claim against the Company with respect to their employment.

4.2 Rates of Pay

- 4.2.1 The wage rates set out in Table 1 of Appendix 2 of the Agreement apply to full-time and part-time Employees engaged in the classifications described in Appendix 1 of this Agreement over the life of the Agreement.
- 4.2.2 Rates apply on and from the beginning of the first pay period to commence after the date indicated.
- 4.2.3 The rates of pay in Appendix 2 of this Agreement have been calculated to incorporate the Industry Allowance and Special Allowance.

4.3 Superannuation

- 4.3.1 The Company shall make superannuation contributions to the Construction and Building Industry Super (Cbus) fund, or another fund nominated by the Employee provided the fund complies with the Superannuation Guarantee Legislation including a MySuper product.
- 4.3.2 The rate of contribution shall be in accordance with superannuation guarantee charge (SCG).
- 4.3.3 “Ordinary Time Earnings” means the actual ordinary rate of pay the Employee receives for ordinary hours of work. This includes the Employee’s wage rate (including casual loading), allowances, bonus’, paid leave or holiday pay, payments made in lieu of notice or any other remuneration paid in relation to ordinary time worked.
- 4.3.4 Employees earning less than \$450 per month shall not be entitled to any superannuation contribution.
- 4.3.5 Employees under the age of 18 years of age, who work less than 30 hours per week, shall not be entitled to any superannuation contribution.

4.4 Payment of Wages

4.4.1 The pay week shall commence on the Thursday of each week and conclude on the following Wednesday. Monies will be transferred to the nominated account on the 8th day following the completion of the working week.

4.4.2 All wages, allowances and other monies shall be paid:

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

4.4.3 On becoming aware of any overpayment to an Employee the Company will immediately notify the Employee and set a reasonable payback period.

4.4.4 In determining any termination payment, the Company may deduct from the payment any balance of outstanding monies owing to the Company.

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

4.4.6 Employees who leave the company within three (3) months of commencement are required to return all unused items of company clothing or will have the value of used items deducted from termination payment. Employees should refer to the company uniform policy for details on the dollar value of uniforms supplied to them.

4.5 Site Specific Payments

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

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

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

4.6 Leading Hand Allowance

4.6.1 A person appointed as a leading hand shall be paid at a rate of the undermentioned hourly amounts above the hourly rates of the highest classification supervised in accordance with the number of persons supervised.

In charge of not more than 1 person	\$0.60 per hour
In charge of two and not more than 5 persons	\$1.30 per hour
In charge of six and not more than 10 persons	\$1.60 per hour
In charge of more than 10 persons	\$2.15 per hour

4.6.2 This allowance will not form part of the rate for all purposes of this Agreement.

4.7 Over-Agreement Payments

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

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

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

5. TRAVEL ARRANGEMENTS

5.1 Daily Fares

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

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

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

5.1.4 Employees who are required to commence or cease work on a building and construction site, shall be paid a Daily Fares Allowance of \$30.00 for each day worked at a construction site located:

- (a) Within a radius of 100 kilometres of the GPO in a capital city of a State or Territory;
- (b) Within a radius of 100 kilometres of the principal post office in a regional city or town in a State or Territory; or,
- (c) Within a radius of 100 kilometres from the place where an Employee performing distant duty is accommodated with the Company's approval.

5.1.5 The Daily Fares Allowance is also taken as compensation for road tolls and parking costs.

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

- (a) The Company provides the Employee with a vehicle; or
- (b) The Company provides or offers to provide transport from the Employee's

- home to the job and return free of charge; or,
- (c) On rostered days off.
- (d) Or where the Employee is absent from work.

5.2 **Travel Outside Radial Areas**

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

- (a) The allowance prescribed in the table in clause 6.1.4 for each day worked; and,
- (b) Payment for the time reasonably spent in travelling from the designated radial boundary to the job and return to the radial boundary. Payments shall be calculated to the next 15 minutes, with a minimum payment of 30 minutes per return journey per day; and,
- (c) Any other expenses necessarily and reasonably incurred in such travel, which will be at a rate per kilometre of \$0.50 cents where the Employee uses their own vehicle to travel by the most direct trafficable route.

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

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

5.2.4 Where an Employee agrees to the Company's request to use the Employee's own vehicle for such a transfer, the Employee must be paid an allowance per kilometre of \$0.83 cents. The Employees is required to travel by the most direct trafficable route.

5.3 **Travel To and From Distant Work**

5.3.1 An Employee travelling to or from a location where Distant Work is undertaken shall be:

- Paid at the relevant rate of pay set out in Appendix 2 of this Agreement for a period of up to eight (8) hours per day while travelling to the site location, or home from the location.
- Reimbursed for any fares, meals, or any other incidental expenses reasonably incurred in the travelling.

5.3.2 An Employee undertaking Distant Work shall be permitted to return to their home during a period of distant work. Where an Employee does return to their home, the travel shall be undertaken in the Employee's own time at the Employee's own expense.

5.4 **Accommodation and Board During Distant Work**

5.4.1 The Company may require an Employee to undertake distant work at locations where it is not reasonable or possible for the Employee to return to their normal place of residence each night.

- 5.4.2 Where this occurs, the Company shall provide the Employee with accommodation in a hotel, motel or rented premises at no expense to the Employee. This accommodation shall be in clean and well maintained premises, and be of an adequate standard, in a single or shared room with adequate furnishings, bedding, floor coverings, lighting, heating and access to bathroom facilities.
- 5.4.3 The Company shall also reimburse an Employee undertaking distant work a sum of up to \$35.00 per day for:
- The cost of three adequate meals each day; and,
 - For other incidental expenses incurred by the Employee while undertaking distant duty.
- 5.4.4 These allowances will not apply to Employees who reside in the local region where the Employee is locally engaged on the Company's project but maintains a separate place of residence from that recorded on the Employees job application form.
- 5.4.5 Employees shall not be entitled to receive the daily fares allowance on those days that an Employee is receiving the living away from home allowance.

6. HOURS OF WORK

6.1 Ordinary Hours of Work

- 6.1.1 The ordinary hours of work for full-time Employees are up to eight (8) hours per day, and an average of 38 per week, worked from Monday to Friday between the hours of 7.00 a.m. and 6.00 p.m.
- 6.1.2 The ordinary hours of duty for casual Employees are eight (8) hours per day, worked from Monday to Friday between the hours of 7.00 a.m. and 6.00 p.m.
- 6.1.3 With respect of clause 7.1.1 and 7.1.2 above, pursuant to clause 33.1 (viii) of the Building and Construction General On-Site Award 2010, the ordinary working day may start at 6.00 a.m. The change to the start time requires an agreement between the Company and the Employee(s) and their representative(s) if required.
- 6.1.4 The Company shall fix the daily hours of work for Employees within the Ordinary Hours and Spread of Hours provisions in this clause. Where a change to the fixed daily ordinary hours of work are necessary, the provisions of clause 7.1.5 shall apply.
- 6.1.5 Ordinary working hours may be established by agreement between the Company and the majority of Employees in the business or part of the business concerned. Any such agreement shall be subject to the operating requirements of the Company.
- 6.1.6 The matters on which agreement may be reached include:
- How the hours are to be averaged within a work cycle established in accordance with this clause;
 - The duration of the work cycle for Employees provided that such duration does not exceed twelve months;
 - Rosters which specify the starting and finishing times of working hours and,
 - The manner in which overtime provisions of this Agreement shall apply.

- 6.1.7 This does not preclude the Company reaching agreement with individual Employees about how their working hours are to be averaged in accordance with this clause.
- 6.2 **Rostered Days Off**
- 6.2.1 The ordinary working hours shall be 8 hours per day Monday to Friday with 0.4 of an hour per day accruing toward a rostered day off (RDO's). The accrual applies on all ordinary days worked (except RDO's) and shall not accrue during periods of annual leave.
- 6.2.2 A rostered day off shall be taken as provided below:
- The parties shall agree to the date upon which an Employee may elect to take their rostered day off;
 - The parties agree that any Employee shall be entitled to bank up to 5 days at any one time for the purposes of a rostered day off;
 - The parties agree that the Company may direct an Employee to use any part of their banked rostered day off accrual;
 - Where more than 1 accrued RDO is to be taken on consecutive working days, application for such paid leave shall be sought giving at least two week's notice from the Employee;
 - Employees will be paid all unpaid RDO accruals upon termination.
- 6.3 **Overtime**
- 6.3.1 Overtime shall be paid where an Employee works in excess of their ordinary hours in any one day, Monday to Friday or outside the span of ordinary hours set out in clauses 7.1.1, 7.1.2 or 7.1.3.
- 6.3.2 An overtime rate of time and a half for the first two (2) hours on each day, and double time thereafter, shall apply to all overtime worked Monday to Friday.
- 6.3.3 All calculation of overtime payments shall use the applicable ordinary time rates set out in Appendix 2 Table 1 of this Agreement.
- 6.3.4 All Employees agree to work a reasonable amount of overtime without notice in the event of unusual events such as delays or urgent rectification work for clients.
- 6.3.5 All Employees must make themselves available to work reasonable additional hours. Reasonable additional hours shall be determined through consideration of the following factors:
- The Work Health and Safety risk of an Employee working any additional hours
 - The personal circumstances of the Employee
 - The operational requirements of the Company
 - The amount of notice provided to the Employee
 - The amount of notice provided by an Employee of an intention to refuse work
 - The amount of hours already worked by the Employee over the previous four week period
 - Whether the Employee is being asked to work on a public holiday
- 6.3.6 This list is not exhaustive of all possible considerations to take into account when determining reasonable additional hours. Communication with each Employee is the key in determining what will be reasonable.

6.4 Work on Weekends and Public Holidays

6.4.1 All work performed on a Saturday by Employees shall be paid at time and a half for the first 2 hours and at double time after that. Employees undertaking work on a Saturday shall be paid for a minimum attendance of four hours.

6.4.2 All work performed on a Sunday by Employees shall be paid at double time. A full-time Employee undertaking work on a Sunday shall be paid for a minimum attendance of four hours.

6.4.3 All work performed by Employees on a public holiday shall be paid at a rate of double time and a half, with a minimum payment for four (4) hours.

6.4.4 As a general rule, Employees will not work on public holidays. However, the Company may request an Employee to work on a public holiday if the request is reasonable.

6.4.5 If the Company requests an Employee to work on a public holiday, the Employee may refuse the request if:

- The request is not reasonable; or,
- The refusal is reasonable.

6.4.6 Where ordinary duty commenced on a Friday and extends after midnight, the whole of the shift shall be paid in accordance with provisions relating to work performed on a Friday.

6.5 Ordinary Time Meal and Rest Breaks

6.5.1 Subject to the provisions of sub-clause 7.6.5 of this Agreement, Employees are entitled to a paid rest period of 10 minutes between 9.00 a.m. and 11.00 a.m. for any day worked.

6.5.2 Employees are entitled to an unpaid meal break of 30 minutes no later than after five (5) hours of work in any day.

6.5.3 This meal break may be rescheduled to suit site operations, such as material deliveries, crane lifts or concrete pours. Where this occurs, the unpaid break may be taken either before or after the operation in question is complete.

6.5.4 If the Company requires an Employee to work during the unpaid break, either:

- (a) The Employee shall be paid at the rate of double time (calculated on the base rate) for the period worked between the prescribed time of cessation for the usual meal break and the beginning of the time allowed in substitution for the meal break; or
- (b) The Company and Employee(s) may agree to shorten the working day by the length of the break not taken. Time worked in this matter will form part of the ordinary working time for the day and will be paid accordingly.

6.6 Overtime and Weekend Crib Breaks

6.6.1 An Employee required to work overtime for at least one and a half hours after working ordinary hours Monday to Friday, shall be paid a meal allowance of \$20.00 to meet the cost of the meal on each occasion. This payment shall also be in lieu of the 20 minutes

crib break payable for overtime worked after two (2) hours, Monday to Friday.

- 6.6.2 A crib break may be taken after each subsequent block of four (4) hours overtime worked, provided that work is resumed after the crib break. These crib breaks are paid at the rate applicable immediately prior to the crib break.
- 7.6.4 An Employee performing duty on a Saturday, Sunday or public holiday shall be allowed a crib break of 20 minutes after each four hours of work performed, if the Employee continues work after such crib break.
- 7.6.5 Crib breaks connected with Saturday, Sunday or public holiday work shall be paid at the rate applicable at the time that the break is taken.
- 7.6.6 If the Company requires an Employee to work during the unpaid break referred to in clause 7.5.2 of this Agreement, either:
- (a) the Employee shall be paid at the rate of double time (calculated on the base rate) for the period worked between the prescribed time of cessation for the usual meal break and the beginning of the time allowed in substitution for the meal break; or
 - (b) the Company and Employee(s) may agree to shorten the working day by the length of the break not taken. Time worked in this manner will form part of the ordinary working time for the day and will be paid accordingly.

Rest Period Before or After Overtime

- 6.6.3 When overtime work is necessary, wherever reasonably practical, it shall be arranged so that Employees have at least 10 consecutive hours off duty between the work of two successive days.
- 6.6.4 If a full-time Employee does not have a break of 10 consecutive hours off between ordinary work on one day and the commencement of their ordinary work on the next day as a result of working overtime shall:-
- Be released from duty without loss of pay for ordinary working time until they have had 10 consecutive hours rest; or,
 - Be paid at double ordinary time rates if the Employee resumes or continues work without having 10 consecutive hours off duty. When ultimately released from duty they shall not be required to report for work again on that day.
- 6.6.5 Should an Employee's 10 hours rest period end within two hours of their normal ceasing time, they shall not be required to report for work on that day.
- 6.6.6 If excessive time is involved in an Employee travelling from their home during their rest period, special consideration as to the length of the rest period will be given on an individual basis.
- 6.7 **Call Back**
- 6.7.1 An Employee shall be deemed to be on a call back if the Employee is recalled to work overtime without receiving prior notice before ceasing work.
- 6.7.2 Any Employee who is called back to work as defined in clause 7.8.1 shall be paid for a minimum of four (4) hours work at the appropriate overtime rate for each time so

recalled, provided that any subsequent call backs occurring within a four hour period of a call back shall not attract any additional payment.

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

Time off in lieu of payment for overtime

- 6.7.4 An employee may elect with the consent of the employer to take time off in lieu of payment for overtime at a time or times agreed with the employer, in accordance with this clause.

- 6.7.5 The following requirements apply to time off in lieu of payment for overtime:

(a) A separate written agreement must be made by the employee and Company for each occasion on which overtime that has been worked is to be taken as time off in lieu. Each such agreement must be retained as an employee record and must:

- (i) state when the Employee started and ceased working the overtime hours;
- (ii) state that the Employee and Company agree that the Employee may take time off in lieu of payment for the overtime; and
- (iii) include a note in the following terms:
'If requested by the Employee at any time, the Company must pay the Employee for any accrued entitlement to take time off in lieu of payment for overtime which the employee has not yet used. Payment must be made at the overtime rate applying to the overtime worked and must be made in the next pay period following the request.'

(b) overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate; that is, an hour for each overtime hour worked.

(c) The time to be taken off in lieu of overtime must be agreed between the Employee and Company and must be taken within six months of the overtime being worked. Otherwise, payment for the overtime must be made to the Employee at overtime rates in the next pay period after that six month period.

(d) Notwithstanding any other provision of clause 7.9.2, if requested by an Employee at any time, the Company must pay the Employee for any accrued entitlement to take time off in lieu of payment for overtime which the Employee has not yet used. Payment must be made at the overtime rate applying to the overtime worked and must be made in the next pay period following the request for payment.

(e) If, upon termination of employment, an Employee has an accrued entitlement to take time off in lieu of payment for overtime which the employee has not yet used, the Employee must be paid for the overtime at the overtime rate applying to the overtime worked.

- 6.7.6 An Employee who is entitled to request a change in working arrangements under section 65 of the Fair Work Act 2009 may make a request under that section for time off in lieu of payment for overtime at a time or times specified in the request or at a

time or times to be subsequently agreed with the Company. This clause will apply to such time off in lieu. Pursuant to section 65(5) of the Fair Work Act 2009, the Company may refuse such a request only on reasonable business grounds.

6.7.7 A Company must not exert undue influence or undue pressure on an Employee in relation to a decision by the Employee to make, or not make, an agreement to take time off in lieu of payment for overtime.

Note: Under s 345 of the Fair Work Act 2009, a person must not knowingly or recklessly make a false or misleading representation about an Employee's workplace rights under this Agreement clause.

6.8 **Hours Flexibility**

6.8.1 The parties recognise that workload in the industry may fluctuate. Accordingly, the hours worked will be as required and the Employees will be given all possible notice of the hours required per day, which will usually be no less than four (4) hours and no more than 10 hours a day.

6.8.2 A five (5) or six (6) day working week will be the usual requirement, but in terms of the hours to be worked and the days on which work is to be performed, the parties shall adopt a reasonably flexible approach.

6.9 **Shift Work**

6.9.1 Employees may work some or all of their ordinary hours on shift work.

6.9.2 For the purpose of this clause:

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

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

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

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

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

6.9.6 For all work performed on a Saturday or Sunday, the normal rates of pay applicable to weekend overtime shall apply. Provided that an ordinary night shift commencing before and extending beyond midnight Friday shall be regarded as a Friday shift.

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

7. INCLEMENT WEATHER PROCEDURE

7.1 Inclement weather means the existence of rain or abnormal climatic conditions (whether they are those of hail, cold, high wind, severe dust storm, extreme high temperature or the like or any combination thereof) of which it is either not reasonable or not safe for employees exposed thereto to continue working whilst the conditions prevail.

7.2 An employee will be entitled to payment by the Company for ordinary time lost through inclement weather for up to 32 hours in every calendar month. No employee will be entitled to receive more than 32 hours inclement weather payment in any period of 4 weeks.

7.3 If an employee commences employment during a monthly period the employee will be credited with the following entitlement:

- (i) 32 hours where the employee commences on any working day within the first week;
- (ii) 24 hours where the employee commences on any working day within the second week;
- (iii) 16 hours where the employee commences on any working day within the third week; and
- (iv) 8 hours where the employee commences on any working day within the 4th week.

7.4 The number of hours credited to any employee will be reduced by the number of hours for which payment is made in respect of lost time through inclement weather. Lost time includes time spent remaining on site, as required in clause 8.5.

7.5 An Employee will not be entitled to payment for time lost due to inclement weather unless the Employee remains on the job:

- (i) for more than an accumulated total of 4 hours of ordinary time in any one day; or
- (ii) after the midday meal break, for more than an accumulated total of 50% of the normal afternoon work time; or
- (iii) during the final 2 hours of the normal work day for more than an accumulated total of one hour, the employer will not be entitled to require the employees to remain on site beyond the expiration of any of the above circumstances.

7.6 The period of time employees are required to remain on site, as provided above, shall reduce the employees' credits for inclement weather hours. Provided that where an employee agrees to remain on site beyond the periods specified above, any such additional wet time will be paid for but will not be debited against the employees' inclement weather hours. Wet time occurring during overtime will not be taken into account for the purpose of this clause.

7.7 Should Employees on a portion of a site be affected by inclement weather, all other Employees not so affected will continue working regardless of the fact that affected Employees may be entitled to cease work due to inclement weather.

7.8 Employees may be transferred from one location on a site where it is unreasonable to

work due to inclement weather, or work at another location on the same site, or another site, which is not affected by inclement weather.

- 7.9 When inclement weather conditions exist the Company shall not require an affected employee to commence or continue to work where it is unreasonable or unsafe to do so. Except in the case of emergency work (or concrete pour) and provided the work is not unsafe to perform. Employees will not be required to start a concrete pour in inclement weather.
- 7.10 Where a concrete pour has been commenced prior to the commencement of a period of inclement weather, Employees may be required to complete such concrete pour to the Company's satisfaction and for such work will be paid at the rate of Double Time calculated to the next hour, and in the case of wet weather will be provided with adequate wet weather gear.
- 7.11 If an Employee's clothes become wet as a result of working in the rain, the employee will be entitled to go home without loss of pay unless the employee has a change of dry working clothes available.
- 7.12 Where the Employees are in the sheds because they have been rained off, or if at the starting time, morning tea, or lunch time it is raining, Employees will not be required to go to work in dry areas or to be transferred other sites unless the rain stops or adequate protection is provided. Protection will, where necessary, be provided for the Employees' tools.

A "dry area" means a work location that has not become saturated by rain.

- 7.13 Employees must contact an Ealwin Pty Ltd supervisor prior to leaving site.
- 7.14 Casual employees will not be paid for lost time due to inclement weather, beyond the four hour minimum engagement as specified in subclause 4.4.4 of this Agreement.

8. LEAVE

8.1 Accrual of Entitlements / Continuity of Service

- 8.1.1 Accrued entitlements of full-time and part-time Employees as at the date of lodgement of this Agreement shall carry forward as entitlements under this Agreement. Those entitlements shall be applied in accordance with the provisions of this Agreement.
- 8.1.2 The following reasons for absence are to be included in calculating continuous service for purposes of accrual of entitlements: -
- Any paid Personal / Carer's Leave, Annual Leave or Long Service leave taken;
 - Any absence on unpaid community leave
- 8.1.3 Entitlements to Annual Leave, Personal / Carer's Leave and Redundancy do not accrue if an Employee has an absence that is for any other reason.
- 8.1.4 Absences for reasons other than those that count for calculating continuous service do not otherwise break the continuity of the Employee's employment with the Company.
- 8.1.5 An Employee is not entitled to take or accrue any leave or absence (whether paid or unpaid) when the Employee is absent from work because of a personal illness, or a personal injury, for which the Employee is receiving workers compensation payments.

This limitation does not prevent an Employee from taking unpaid parental leave during a period where the Employee is receiving workers compensation payments.

8.2 Annual Leave

8.2.1 All full-time and part-time Employees are entitled to annual leave. Payment for annual leave shall be made at the Employee's base rate of pay for the Employee's ordinary hours of work in the period.

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

8.2.3 Annual leave accrues progressively during each year of service according to the Employee's ordinary hours of work and accumulates from year to year.

8.2.4 For each completed year of continuous service Employees engaged on continuous shift work shall be entitled up to an additional five (5) working days annual leave. This entitlement shall accrue on a pro-rata basis for each completed week of continuous shift duty during any anniversary year. For the purpose of this clause, "continuous shiftworker" means an Employee engaged to work in a system of consecutive shifts throughout the 24 hours of each of at least six consecutive days without interruption (except during breakdown or meal breaks or due to unavoidable causes beyond the control of the Company) and who is regularly rostered to work those shifts.

8.2.5 Annual leave may be taken at any time:

- (a) by agreement between an Employee and the Company;
- (b) subject to clause 9.2.6; and
- (c) subject to available credit and the operational requirements of the Company, but the Company shall not unreasonably refuse or revoke an authorisation for annual leave.

8.2.6 Annual leave may be taken in the following ways:

- (a) at a time, and for a period, fixed by the Company where there is an annual close down or part of the Company closes down;
- (b) in periods of not less than one day, provided that the Employee seeks the agreement of the Company at least one week before commencing the period of annual leave;
- (c) where an Employee has accrued in excess of 2 years (i.e. 8 weeks) worth of annual leave, the Company may require the Employee to take the excess leave at a time and for a period fixed by the Company.

8.2.7 An Employee taking leave may request to be paid in advance for the period of leave taken. This advance payment shall be the amount of wage the Employee would have received on a pay day during the period of leave, for the ordinary time hours the Employee would have worked had they not been on leave during the period.

8.2.8 If a public holiday occurs during a period of annual leave, that public holiday shall be added to the period of leave.

8.2.9 Subject to clause 9.2.10 of this agreement, no payment shall be made in lieu of annual leave unless the payment is made in lieu of an Employee's entitlements at the time of terminating employment. A full-time or part-time Employee who terminates their employment, or whose employment is terminated by the Company, shall be entitled to

a payment for any credit of annual leave not taken.

- 8.2.10 Employees may, with the Company's approval, cash out a portion of their accrued annual leave entitlement in accordance with the following terms:
- (a) paid annual leave must not 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; and
 - (b) each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the Company and the Employee; and
 - (c) the Employee will be paid at least the full amount that would have been payable to the Employee had the Employee taken the leave that the Employee has forgone.

8.3 **Annual Leave Loading**

- 8.3.1 In addition to the payment prescribed in clause 9.2 hereof, an eligible full-time or part-time Employee will be entitled to an annual leave loading calculated at 17.5% on the payment due to them for their accrued annual leave entitlement. This loading shall be paid on accrued leave paid out on termination.

8.4 **Personal / Carer's Leave**

- 8.4.1 Full-time Employees are entitled to 10 days of paid personal/carer's leave based on the Employee's ordinary hours of duty and the Employee's ordinary rate of pay for each completed year of continuous employment with the Company. Part-time Employees are entitled to the pro-rata equivalent.

- 8.4.2 Paid personal / carer's leave accrues progressively during each year of service according to the Employee's ordinary hours of work, and accumulates from year to year.

- 8.4.3 All accrued personal/carer's leave shall be available for use as sick leave and carer's leave in accordance with the provisions outlined below.

- 8.4.4 An Employee (other than a casual Employee) may take paid personal/carer's leave if the leave is taken:

- (a) As sick leave - because the Employee is unfit for work as a result of a personal illness, or personal injury, affecting the Employee; or
- (b) As carer's leave - to provide care or support to a member of the Employee's immediate family, or a member of the Employee's household, who requires care or support because of:
 - (i) a personal illness, or personal injury affecting the immediate family or household member, or
 - (ii) an unexpected emergency affecting the immediate family or household member.

- 8.4.5 An Employee (including a casual Employee) may take 2 days unpaid carer's leave per occasion if:

- (a) the leave is taken to provide care or support as provided for in sub-clause 9.4.5(b) of this Agreement; and
- (b) the Employee does not have any paid personal/carer's leave available.

8.5 Compassionate Leave

8.5.1 An Employee is entitled to two days of compassionate leave for each occasion when a member of the Employee's immediate family or a member of the Employee's household:

- Contracts or develops a personal illness that poses a serious threat to their life; or,
- Sustains a personal injury that poses a serious threat to their life; or,
- Dies.

8.5.2 An Employee may take compassionate leave on a particular occasion if the leave is taken:

- For the purpose of spending time with the member of the Employee's immediate family or household who has contracted or developed the serious personal illness, or sustained the serious personal injury; or,
- After the death of the member of the Employee's immediate family or household;

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

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

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

8.5.5 For part-time Employees, compassionate leave is paid on a pro-rata basis.

8.5.6 For casual Employees, compassionate leave is unpaid leave.

8.6 Notice of Absence

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

8.6.2 The notice: -

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

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

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

8.6.4 The Company may request evidence in the form of a certificate from a treating medical or clinical practitioner, a notice published in a newspaper or other media, or other evidence required to satisfy the Company. A back dated or retrospective medical certificate will not be accepted as reasonable evidence to justify an Employee's absence from work.

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

8.7 **Immediate Family or Household**

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

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

9. **ADDITIONAL LEAVE**

9.1 **Community Service Activities**

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

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

9.2 **Absence While Engaging in a Community Service Activity**

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

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

9.3 **Notice Regarding Absence**

9.3.1 An Employee who wants an absence from their employment to engage in a community

service activity must give the Company notice of the absence.

9.3.2 The notice:

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

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

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

9.4 **Payment to Employees (Other Than Casuals) on Jury Service**

9.4.1 This clause applies if:

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

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

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

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

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

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

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

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

absence.

9.5 Parental Leave

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

9.6 Long Service Leave

9.6.1 The applicable rate of pay for Long Service Leave will be the corresponding rate of pay in the relevant Table of Appendix 2 of this Agreement or clause 5.8 Over Agreement Payments of this Agreement, whichever is the greater.

9.7 Leave Without Pay

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

9.8 Public Holidays

9.8.1 A full-time Employee shall be entitled to observe public holidays without reduction of ordinary pay. (No payment shall be made for Easter Saturday or Easter Sunday unless the employee works on those days)

9.8.2 An Employee is entitled to a day off on a public holiday, subject to the Company requesting an Employee to work on a particular public holiday.

9.8.3 An Employee may refuse the request (and take the day off) if the Employee has reasonable grounds for doing so.

9.8.4 The following days are considered public holidays:

- New Year's Day
- Australia Day
- Good Friday
- Easter Saturday
- Easter Sunday
- Easter Monday
- Anzac Day
- Christmas Day
- Boxing Day
- Queen's Birthday
- Labour Day

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

9.8.5 If an Act of Parliament or Proclamation substitutes another day for any of the above-named public holidays, the special rates shall only be payable for work done on the day substituted.

9.8.6 Where an Employee is absent from their employment on the working day before, or the

working day after a public holiday, they shall provide a Doctors Certificate or other acceptable evidence to support an application for such leave on the day.

9.8.7 Employees shall not receive pay for public holidays while receiving workers compensation benefits.

9.8.8 Public holidays may be substituted for alternative days by agreement between the Company and Employees. Where an alternative day is substituted for a public holiday in accordance with this clause, penalty rates will only be payable if an Employee works on the alternative day.

9.8.9 Where any day other than those listed in clause 10.8.4 is gazetted as a public holiday in the area in which the Employee works, that day will be regarded as a normal working day and an additional day's paid leave during the Christmas-new year period will be substituted.

10. INSURANCE

10.1 Workers Compensation

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

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

11. TERMINATION

11.1 Notice of Termination (Weekly Hire)

11.1.1 The required period of notice is to be calculated as follows:

- (a) calculate the period of notice using the table at the end of this sub-clause; and
- (b) then increase the period of notice by one (1) week if the Employee:
 - is over 45 years old; and
 - has completed at least two (2) years of continuous service with the company.

Employee's period of continuous service with the Company	Period of Notice
Not more than 1 year	At least 1 week
More than 1 year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

11.1.2 Notice of termination of employment shall be given by either party to this Agreement. However, where an Employee is over 45 years of age and has worked for the Company for two or more years, the Employee is not required to give the Company the additional week's notice. The Company may pay the dismissed Employee the equivalent to the notice period in lieu of receiving notice; alternatively an Employee may forfeit payment

for the notice period.

11.1.3 Nothing in this clause shall affect the right of the Company's ability to summarily dismiss an Employee without notice in accordance with Clause 12.4, Summary Dismissal, of this Agreement.

11.1.4 An Employee shall be entitled to receive payment upon termination for all unused Annual Leave, Rostered Day Off entitlements if applicable and Long Service Leave entitlements.

11.2 Notice of Termination (Casual Employees)

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

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

11.3 Summary Dismissal

11.3.1 Nothing in this clause affects the Company's ability to dismiss an Employee without notice for unreasonable refusal of duty, gross negligence, or other misconduct sufficiently serious for the Company to treat the Employee's conduct as repudiation of the employment contract, bringing the contract to an end.

11.3.2 In such circumstances, payment shall be made up to the time of dismissal only and no notice is payable.

11.3.3 The circumstances where summary dismissal may be warranted include but are not limited to:

- (a) wilful or deliberate behaviour by an Employee that is inconsistent with the continuation of the contract of employment;
- (b) conduct that causes serious and imminent risk to:
 - (i) the health or safety of a person; or
 - (ii) the reputation, viability or profitability of the Company's business.
- (c) an Employee, in the course of their employment, engaging in:
 - (i) theft; or
 - (ii) fraud; or
 - (iii) assault;
- (d) an Employee being intoxicated or under the influence of illicit drugs at work;
- (e) an Employee refusing to carry out a lawful and reasonable instruction that is consistent with the Employee's contract of employment.

11.4 Consultation Arrangements

11.4.1 This term applies if the Company:

- (a) has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise that is likely to

- have a significant effect on the Employees;
- (b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees.

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

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

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

11.4.4 If:

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

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

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

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

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

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

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

- (a) the termination of the employment of Employees; or
- (b) major change to the composition, operation or size of the Company's workforce or to the skills required of Employees; or
- (c) the elimination or diminution of job opportunities (including opportunities for

- promotion or tenure); or
- (d) the alteration of hours of work; or
- (e) the need to retain Employees; or
- (f) the need to relocate Employees to another workplace; or
- (g) the restructuring of jobs.

11.4.10 Change to regular roster or ordinary hours of work

For a change referred to in paragraph 12.5.1(b);

- (a) the Company must notify the relevant Employees of the proposed change; and
- (b) clauses 12.5.11 and 12.5.15 apply.

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

11.4.12 If;

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

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

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

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

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

11.4.16 In this term relevant Employees means the Employees who may be affected by a change referred to in clause 12.5.1.

12. REDUNDANCY / SEVERANCE

12.1 This clause shall apply to full-time and part-time Employees where the Company has made a definite decision to introduce changes in jobs in progress, work programme, organisation, structure or technology that are likely to have significant effects on the operational requirements of the Company, and on Employees.

12.2 Significant effects include termination of employment, major changes in the composition, operation or size of the Company's workforce or in the skills required.

12.3 The Company may terminate the employment of an Employee on the grounds of redundancy where the Company has made a definite decision that it no longer wishes the job the Employee has been doing done by that, or any other person.

12.4 In cases where the Company terminates employment on grounds of redundancy, the actual Employee(s) to be retrenched shall be determined by considerations such as: -

- Company operational requirements;
- Employee’s classifications;
- Employee’s experience, skills and ability; and,
- Employee’s personal qualities, and service record, including length of service, attendance, punctuality, and general reliability.

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

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

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

12.7 A week’s pay is defined as 38 hours at the Employees’ rate of pay as provided in this Agreement without any allowances.

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

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

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

12.10 The Company may utilise funds it has paid into a redundancy trust fund to meet its obligation for redundancy payments to Employees.

13. WORK HEALTH AND SAFETY

- 13.1 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.
- 13.2 Smoking is not permitted inside Company premises (including toilets) or vehicles.
- 13.3 Employees should immediately notify Company management by completion of the relevant form if they injure themselves at work or subsequently become aware of any injury or disease that they may have sustained during the course of employment with the Company.

14. DRUG AND ALCOHOL

- 14.1 Under no circumstances will any Employee affected by alcohol and / or any other drug be permitted to work and / or operate any equipment on work sites and / or Company projects.
- 14.2 If an Employee is affected by alcohol and / or any other drug and is consequently sent home to recover, such Employee will not be paid for any lost time.
- 14.3 the parties to this Agreement agree that no alcohol or drugs will be permitted on work sites and /or Company projects while using Company vehicles, plant or equipment.
- 14.4 An Employee who is taking prescription medication is responsible for ensuring that the medication prescribed will not affect their ability to work safely. Where an Employee is taking prescription medication that may adversely affect their ability to undertake any kind of work safely, will advise their Supervisor or Management so the risks can be managed.
- 14.5 Where an Employee is found to be affected by alcohol and /or any other drug, the Company may take disciplinary action under clause 4.7 of this Agreement.
- 14.6 To ensure the maintenance of this policy and compliance with Work Health and Safety requirements, Employees may be subject to alcohol and / or any drug testing. Any programme of testing will be introduced following consultation with the Company's Employees.

15. EQUIPMENT AND APPAREL

15.1 Protective and Working Clothing

- 15.1.1 Employees are required to present ready for work with appropriate footwear, specifically over ankle and lace up work boots. In order to assist Employees to comply with this obligation, the Company shall pay each Employee \$2.88 per week.
- 15.1.2 New Employees will be eligible for protective clothing four (4) weeks following commencement of work, provided that if the Employee leaves the Company during the first three (3) months, the Employee will be required to repay the Company the cost of the protective clothing provided on a pro-rata basis.

- 15.1.3 Employees will be issued with the following:
- (a) One (1) Sloppy Joe
 - (b) Three (3) shirts
 - (c) Two pairs of trousers
- 15.1.4 Employees are expected to wear Company provided clothing and maintain it in a tidy manner, so as to display a professional image of the Company.
- 15.1.5 Clothing supplied will have a minimum of UPF 40+ Rating (Australian Standards 4399).
- 15.1.6 Employees will be required to wear appropriate clothing in an effort to provide protection from the harmful effects of UV exposure.
- 15.1.7 It is a condition of employment that while working on site Employees are required to wear hard hats, steel capped boots and appropriate protective clothing at all times.
- 15.1.8 Additional personal protective equipment e.g. gloves, eye protection, sun protection will be supplied where required.
- 15.2 **Company Plant, Equipment and Vehicles**
- 15.2.1 Where vehicles, plant or equipment are provided, they are to be used for the purpose of Company business. They shall not be used for personal or recreational use or for the carrying of passengers, unless authorised in writing by the Company. Company vehicles, plant and equipment will be driven / operated by Employees only.
- 15.2.2 Employees shall be responsible for the following with Company Plant, Equipment and Vehicles while they are in charge of the plant, equipment or vehicles:
- Maintaining fuel, oil, water and any other fluid levels;
 - Notifying the Company that servicing and or maintenance is required;
 - Maintaining all interior and exterior appearance in a clean state;
 - Machine equipment must be turned off during breaks
 - Keeping vehicles and/or plant and attachments locked/secured and in a secure place at all times when not in use;
 - Reporting to the Company any damage, however slight;
 - Any liability arising from the carrying of unauthorised passengers, breaches of road laws, or council parking regulations;
 - Keeping any logbook up to date;
 - Complete a daily machine check and ensure machine is up and running to service the needs of the client.
 - Any liability to insurance excess will be the responsibility of the Employee where the plant, vehicle or equipment is used for personal use or the driver/operator is at fault or the driver/operator is under the influence of alcohol or a prohibited drug;
 - Where an Employee is responsible for damage to the Company's or another person's property or equipment due to the Employee's negligence, the Employee will be liable to pay for the damage.
 - Misuse of fuel or fuel cards that are not used for their intended purpose will result in immediate dismissal and the company will seek restitution.
- 15.2.3 A breach of the above provisions will lead to disciplinary action being taken under the Disciplinary Procedures of this Agreement.
- 15.2.4 Employees should not leave any personal possessions in company vehicles as the

vehicle insurance may not cover any loss or damage to such personal possessions.

16. WORKPLACE DELEGATE RIGHTS

- 16.1 This clause provides for the exercise of the rights of workplace delegates set out in section 350C of the Fair Work Act.
- 16.2 Before exercising entitlements under clause this clause, a workplace delegate must give the employer written notice of their appointment or election as a workplace delegate. If requested, the workplace delegate must provide the employer with evidence that would satisfy a reasonable person of their appointment or election.
- 16.3 An employee who ceases to be a workplace delegate must give written notice to the employer within 14 days.
- 16.4 A workplace delegate may represent the industrial interests of eligible employees who wish to be represented by the workplace delegate in matters including:
- (a) consultation about major workplace change;
 - (b) consultation about changes to rosters or hours of work;
 - (c) resolution of disputes;
 - (d) disciplinary processes;
 - (e) enterprise bargaining where the workplace delegate has been appointed as a bargaining representative under section 176 of the Act or is assisting the delegate's organisation with enterprise bargaining; and
 - (f) any process or procedure within an award, enterprise agreement or policy of the employer under which eligible employees are entitled to be represented and which concerns their industrial interests.
- 16.5 A workplace delegate may communicate with eligible employees for the purpose of representing their industrial interests under this clause. This includes discussing membership of the delegate's organisation and representation with eligible employees.
- 16.6 A workplace delegate may communicate with eligible employees during working hours or work breaks, or before or after work.
- 16.7 The employer must provide a workplace delegate with access to or use of the following workplace facilities:
- (a) a room or area to hold discussions that is fit for purpose, private and accessible by the workplace delegate and eligible employees;
 - (b) a physical or electronic noticeboard;
 - (c) electronic means of communication ordinarily used in the workplace by the employer to communicate with eligible employees and by eligible employees to communicate with each other, including access to Wi-Fi;
 - (d) a lockable filing cabinet or other secure document storage area; and
 - (e) office facilities and equipment including printers, scanners and photocopiers.
- 16.8 The employer is not required to provide access to or use of a workplace facility under clause 49.7 if:
- (a) the workplace does not have the facility;
 - (b) due to operational requirements, it is impractical to provide access to or use of the facility at the time or in the manner it is sought; or
 - (c) The employer does not have access to the facility at the enterprise and is unable to obtain access after taking reasonable steps.
- 16.9 Unless the employer is a small business employer, the employer must provide a workplace delegate with access to up to 5 days of paid time during normal working hours for initial training and at least one day each subsequent year, to attend training related to representation of the industrial interests of eligible employees, subject to the following conditions:
- (a) In each year commencing 1 July, the employer is not required to provide access to paid time for training to more than one workplace delegate per 50 eligible employees.

- (b) The number of eligible employees will be determined on the day a delegate requests paid time to attend training, as the number of eligible employees who are:
 - (i) full-time or part-time employees; or
 - (ii) regular casual employees.
- (c) Payment for a day of paid time during normal working hours is payment of the amount the workplace delegate would have been paid for the hours the workplace delegate would have been rostered or required to work on that day if the delegate had not been absent from work to attend the training.
- (d) The workplace delegate must give the employer not less than 5 weeks' notice (unless the employer and delegate agree to a shorter period of notice) of the dates, subject matter, the daily start and finish times of the training, and the name of the training provider.
- (e) If requested by the employer, the workplace delegate must provide the employer with an outline of the training content.
- (f) The employer must advise the workplace delegate not less than 2 weeks from the day on which the training is scheduled to commence, whether the workplace delegate's access to paid time during normal working hours to attend the training has been approved. Such approval must not be unreasonably withheld.
- (g) The workplace delegate must, within 7 days after the day on which the training ends, provide the employer with evidence that would satisfy a reasonable person of their attendance at the training.

16.10 A workplace delegate's entitlements under this clause are subject to the conditions that the workplace delegate must, when exercising those entitlements:

- (a) comply with their duties and obligations as an employee;
- (b) comply with the reasonable policies and procedures of the employer, including reasonable codes of conduct and requirements in relation to occupational health and safety and acceptable use of ICT resources;
- (c) not hinder, obstruct or prevent the normal performance of work; and
- (d) not hinder, obstruct or prevent eligible employees exercising their rights to freedom of association.
- (e) This clause does not require the employer to provide a workplace delegate with access to electronic means of communication in a way that provides individual contact details for eligible employees.
- (f) This clause does not require an eligible employee to be represented by a workplace delegate without the employee's agreement.

17. ANTI-DISCRIMINATION

17.1 It is agreed that:

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

- (b) Any dispute concerning these provisions and their operation will be progressed initially under the dispute resolution procedure in this agreement; and
- (c) Nothing in these provisions allows any treatment that would otherwise be prohibited by anti-discrimination provisions in applicable Commonwealth, State or Territory legislation.
- (d)

18. SETTLEMENT OF DISPUTES

18.1 If a dispute relates to:

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

this term sets out procedures to settle the dispute.

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

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

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

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

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

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

A decision that FWC makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

- 18.6 While the parties are trying to resolve the dispute using the procedures in this term:
- (a) an Employee must continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety; and
 - (b) an Employee must comply with a direction given by the Company to perform other available work at the same workplace, or at another workplace, unless:
 - (i) the work is not safe; or
 - (ii) applicable work health and safety legislation would not permit the work to be performed; or
 - (iii) the work is not appropriate for the Employee to perform; or
 - (iv) there are other reasonable grounds for the Employee to refuse to comply with the direction.
- 18.7 The parties to the dispute agree to be bound by a decision made by the FWC in accordance with this term.
- 18.8 In discharging its role and exercising its powers under this procedure, the FWC must not determine an outcome that is inconsistent with the Building Code 2016 or its successor or a Commonwealth law.

19. ENDORSEMENT OF AGREEMENT

19.1 The parties recognise that each has a responsibility to ensure the successful operation of this Agreement. The signatures below testify the fact that the Agreement has been endorsed by the Parties.

19.2 This Agreement is made on this 14th day of October 2024.

Executed for and on behalf of the Company:

Signed: 

Director's Name: Laurence Eales

Signed by the Witness:

Signed: 

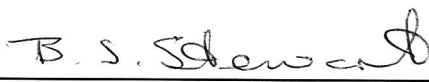
Name of Witness: Melanie Cosgrove

Signed by the Employee Bargaining Representative:

Signed: 

Name of Employee: Daniel Brown
(Employee Bargaining Representative)

by the Witness:

Signed: 

Name of Witness: BARBIE STEWART

20. APPENDIX 1 – AGREEMENT CLASSIFICATIONS

Agreement Classifications	Award Equivalent Classifications	Description
Level 1	CW1(d)	Employees in this classification will be new entrants to the industry. They will remain on this classification until capable of being engaged on higher classifications.
Level 2	CW2	Employees in this category will be engaged as labourers or as Water Truck, Fuel Truck and Tipper Truck drivers.
Level 3	CW3	Service person (non-fitter) Fix-it person
Level 4	CW4	Employees in this category will be engaged to operate either skid steer / bobcat or roller.
Level 5	CW5	Employees in this category will be engaged to operate Dozers D3, D4, D5, D6, D7, D8 & D9, Scrapers 613, 623, 621, 627 & 631, Frontend Loader's, Excavators up to 65T, Dumpers up to 100T, Compactors 815 – 825, Graders 12H, 140H, 160H, 14H and 16H, Backhoe.
Level 6	CW6	Employees in this category will be engaged to operate dozers D10, D11, final trim grader operator, excavators 75 to 120T or scrapers 637,651 and 657, or equivalent.
Level 7	CW7	Employees in this classification will be able to perform work on plant and equipment at a higher level of skill than a CW6, exercise high precision trade and / or operative skills using various materials and specialised techniques at a higher level than CW6. They may also implement quality control programs and plan complex construction sequencing.

Note : Movement between classification levels is at the discretion of the Company.

21. APPENDIX 2 – WAGE RATES

The following rates are the base rates of pay, inclusive of special allowance and industry allowance payable pursuant to the reference award. They shall apply over the life of the Agreement for the calculation of Employee remuneration, and for any calculation of Employee redundancy pay, public holiday pay, personal leave and annual leave entitlements.

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

Table 1 – Full-Time and Part-Time Employees

Agreement Classifications	Start Rates Per Hour \$	1 July 2025 Per Hour \$	1 July 2026 Per Hour \$	1 July 2027 Per Hour \$
Level 1	29.00	29.58	30.17	30.77
Level 2	29.50	30.09	30.69	31.30
Level 3	30.20	30.80	31.42	32.04
Level 4	31.20	31.82	32.46	33.10
Level 5	32.00	32.64	33.29	33.95
Level 6	33.00	33.66	34.33	35.01
Level 7	33.90	34.57	35.26	35.97

Table 2 - Casual Employees

Agreement Classifications	Start Rates Per Hour \$	1 July 2025 Per Hour \$	1 July 2026 Per Hour \$	1 July 2027 Per Hour \$
Level 1	36.25	36.97	37.71	38.46
Level 2	36.87	37.61	38.36	39.13
Level 3	37.75	38.50	39.27	40.06
Level 4	39.00	31.82	32.46	33.10
Level 5	40.00	40.80	41.61	42.44
Level 6	41.25	42.07	42.91	43.77
Level 7	42.37	43.22	44.08	44.96