



TOPCOAT ASPHALT ENTERPRISE AGREEMENT 2024

CONTENTS

Clause	Clause Title	Page #
1	Title	2
2	Parties Bound by the Agreement	2
3	Definitions	2
4	Period of Operation	3
5	Interaction with other Instruments	3
6	Access to this Agreement	3
7	Individual Flexibility Arrangements	3
8	Workplace Consultation	5
9	Reasonable Directions and Policies	7
10	Types of Employment	7
11	Classification	9
12	Rates of Pay and Allowances	15
13	Hours of Work	18
14	Shift Work	23
15	Call-Outs	26
16	Breaks	26
17	Inclement Weather/Conditions	26
18	Standing Down of Employees	27
19	Payment of Wages	27
20	Home Visits	28
21	Superannuation	28

Clause	Clause Title	Page #
22	Annual Leave	28
23	Personal/Carer's Leave	29
24	Compassionate Leave	31
25	Long Service Leave	31
26	Unpaid Parental Leave	31
27	Additional Unpaid Leave	31
28	Leave to deal with family and domestic violence	32
29	Community service leave	32
30	Termination of Employment	32
31	Withholding from Final Pay	34
32	Abandonment of Employment	34
33	Redundancy	34
34	Medical Assessments	36
35	Drug and Alcohol Testing	36
36	Police Checks	36
37	Protective Clothing and Equipment	37
38	Smart Phone	37
39	National Code of Practice for the Construction Industry	37
40	Workplace Delegates' Rights	37
41	Resolving Workplace Disputes	40
42	No Further Claims	41

1 **TITLE**

This Agreement is called the “*Topcoat Asphalt Enterprise Agreement 2024*” (the “**Agreement**”).

2 **PARTIES BOUND BY THE AGREEMENT**

This Agreement covers Top Coat Asphalt Contractors Pty Ltd (a subsidiary of VSA Roads) and its employees who fall within the classifications set out in Clause 9 (Classifications) of this Agreement.

3 **DEFINITIONS**

In this Agreement, the following definitions apply:

“**Act**” means the *Fair Work Act 2009* (Cth).

“**Award**” means any Federal or State industrial or modern award which, but for this Agreement, would apply to, or cover the parties to this Agreement.

“**Code**” means the National Code of Practice for the Construction Industry as varied from time to time.

“**Commission**” means the Fair Work Commission, or any authority which replaces the Fair Work Commission during the life of this Agreement.

“**Employees**” means the employees covered by this Agreement in accordance with Clause 0 (Parties Bound by the Agreement).

“**Employer**” means Top Coat Asphalt Contractors Pty Ltd trading as Topcoat Asphalt

“**Guidelines**” means the Australian Government Implementation Guidelines for the Code as varied from time to time.

“**Family and Domestic Violence**” means violent, threatening or other abusive behaviour by an Employee’s Family Member that seeks to coerce or control the Employee and that causes the Employee harm or fear.

“**Immediate Family or Household Member**” means:

- (a) a member of an Employee’s household;
- (b) an Employee’s spouse, de facto partner, child, parent, grandparent, grandchild or sibling; or
- (c) a child, parent, grandparent, grandchild or sibling of the Employee’s spouse or de facto partner.

“**NES**” means the National Employment Standards in the Act.

“**Shiftworker**” means, for the purpose of the additional week of annual leave provided for in the NES, a seven day shiftworker Employee who is regularly rostered to work on Sundays and public holidays.

“**Smartphone**” means a mobile phone that performs many of the functions of a computer, typically having a touchscreen interface, internet access, and an operating system capable of running downloaded apps (as identified by Oxford Dictionary).

“**VSA Roads**” means VSA Roads Pty Ltd (ABN 77 654 864 516) and any of its subsidiary companies.

4 PERIOD OF OPERATION

The Agreement comes into operation seven days after its approval by the Commission. The nominal expiry date of this Agreement is 3 years after the commencement date.

5 INTERACTION WITH OTHER INSTRUMENTS

- 5.1** This Agreement replaces all previous written and oral agreements, arrangements and understandings between the Employer and its Employees about the matters dealt with in this Agreement.
- 5.2** This Agreement operates to the exclusion of any Award or enterprise agreement which may otherwise apply to the Employees, including without limitation the *Asphalt Industry Award 2020*. Any terms of such Awards or agreements (including without limitation terms relating to work arrangements, meal breaks, rest breaks, incentive-based payments and bonuses, overtime, penalty rates, shift loadings, monetary allowances, leave loadings and public holidays) are expressly excluded and have no effect.
- 5.3** In the event that any term of this Agreement conflicts with a more generous NES entitlement, the NES entitlement shall prevail.

6 ACCESS TO THIS AGREEMENT

The Employer will ensure that copies of this Agreement and the NES are available to all Employees, either on a noticeboard which is conveniently located at or near the Employer’s workplace or through electronic means, whichever makes them more accessible.

7 INDIVIDUAL FLEXIBILITY ARRANGEMENTS

- 7.1** An Employee and the Employer may agree to make an Individual Flexibility Arrangement (“**IFA**”) to vary the effect of any terms of this Agreement if:
- (a) the IFA deals with one or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;

(v) leave loading;

(b) the IFA meets the genuine needs of the Employer and the Employee; and

(c) the IFA is genuinely agreed to by the Employee and the Employer.

7.2 The Employer must ensure that:

(a) the terms of the IFA:

(i) are about permitted matters under section 172 of the Act;

(ii) are not unlawful terms under section 194 of the Act; and

(iii) result in the Employee being better off overall than the Employee would be if no IFA was made; and

(b) the IFA:

(i) is in writing;

(ii) states the names of the Employer and Employee;

(iii) is signed by the Employer and Employee (and, if the Employee is under 18 years of age, signed by the Employee's parent or guardian); and

(iv) includes details which confirm:

- the terms of this Agreement that will be varied by the IFA;
- how the IFA 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 IFA; and

(v) states the day on which the IFA commences.

7.3 The Employer must provide the Employee with a copy of the IFA at the time the IFA is agreed and made.

7.4 The Employer or an Employee may terminate an IFA:

(a) by giving no more than 28 days' written notice to the other party; or

(b) immediately, if both parties agree.

8 WORKPLACE CONSULTATION

- 8.1** This clause will apply if an 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 Employees; or
 - (b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees.
- 8.2** For a major change referred to in clause 6.1(a):
- (a) the Employer must notify the relevant Employees of the decision to introduce the major change; and
 - (b) subclauses 6.3 to 6.6, and clause 6.10, will apply.
- 8.3** As soon as practicable after making its decision, the Employer must:
- (a) discuss with the relevant Employees (or their representatives):
 - (i) the introduction of the major change;
 - (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 described in clause 6.3(a), the Employer must provide, in writing, to the relevant Employees (or their representatives):
 - (i) all relevant information about the change including the nature of the change proposed;
 - (ii) information about the expected effects of the change on the Employees; and
 - (iii) any other matters likely to affect the Employees.
- 8.4** However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees (or their representatives).
- 8.5** An Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees (or their representatives).
- 8.6** In this clause, a major change is 'likely to have a significant effect' on Employees if it results in:
- (a) the termination of the employment of the Employees;
 - (b) a major change to the composition, operation or size of the Employer's workforce or to the skills required of the Employees;

- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);
- (d) the alteration of hours of work;
- (e) the need to retrain the Employees;
- (f) the need to relocate the Employees to another workplace; or
- (g) the restructuring of jobs.

8.7 For a change referred to in clause 6.1(b):

- (a) the Employer will notify the relevant Employees of the proposed change; and
- (b) clauses 6.8 to 6.9, and clause 6.10, will apply.

8.8 As soon as practicable after proposing to introduce the proposed change, the Employer will:

- (a) discuss with the relevant Employees (or their representatives) the introduction of the change;
- (b) for the purposes of the discussion, provide to the relevant Employees (or their representatives):
 - (i) all relevant information about the change, including the nature of the change;
 - (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 the Employer reasonably believes are likely to affect the Employees; and
- (c) invite the relevant Employees (or their representatives) to give their views about the impact of the change, including any impact in relation to their family or caring responsibilities.

However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees (or their representatives).

8.9 The Employer will give prompt and genuine consideration to matters raised about the change by the relevant Employees (or their representatives).

8.10 In this clause:

- (a) **‘relevant Employees’** means the Employees who may be affected by a change to which this clause applies; and
- (b) the relevant Employees may appoint a representative for the purposes of the consultation procedures in this clause, and if:

- (i) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - (ii) the Employee or Employees advise the Employer of the identity of that representative,
- the Employer must recognise the representative.

9 REASONABLE DIRECTIONS AND POLICIES

- 9.1** Employees must comply with any reasonable directions given by the Employer (or VSA Roads and Colas Australia Group generally).
- 9.2** Employees must comply with any policies and procedures of the Employer (or VSA Roads and Colas Australia Group generally) as created or varied from time to time. These policies and procedures form part of this Agreement.
- 9.3** To the extent of any inconsistency between this Agreement and any policies and procedures of the Employer, this Agreement will prevail.

10 TYPES OF EMPLOYMENT

10.1 BASIS OF EMPLOYMENT

- (a) The Employer may engage Employees on a full-time, part-time, maximum-term or casual basis.
- (b) Upon engagement, the Employer will inform the Employee of the basis of their employment and their classification under this Agreement.
- (c) Employees shall perform the work for their classification set out in their duty statement, or as otherwise reasonably required by the Employer having regard to the Employee's skill, competence and training.
- (d) Employees recognise the requirement to work reasonable overtime.

10.2 WEEKLY EMPLOYMENT (OTHERWISE KNOWN AS FULL-TIME EMPLOYMENT)

A full-time Employee means a permanent Employee engaged to work 40 hours per week or more (8 hours per day, constituting 38 hours per week, plus two reasonable additional hours). The employee shall accrue 2 hours per week towards an RDO from the engaged 40 hours of work per week.

10.3 PART-TIME EMPLOYMENT

- (a) A part-time Employee means a permanent Employee who:

- (i) is engaged to work fewer than 40 hours per week (or an average of fewer than 40 hours per week over a four-week period);
 - (ii) has reasonably predictable hours of work; and
 - (iii) receives, on a pro-rata basis, equivalent pay and conditions to permanent full-time Employees in the same classification.
- (b) Where a part-time Employee's normal rostered hours fall on a prescribed public holiday, and work is not performed by the Employee that day, the Employee will not lose pay for that day. Where the Employee works on the public holiday, the Employee will be paid in accordance with clause 11.7 (Public Holiday Work).
- (c) Part time employees shall be rostered for a minimum of 4 consecutive hours per shift or paid in lieu thereof.

10.4 MAXIMUM-TERM EMPLOYMENT

A maximum-term Employee means a temporary Employee who is employed for a maximum term on either a full-time or part-time basis.

10.5 CASUAL EMPLOYMENT

- (a) A casual Employee means a non-permanent employee engaged and paid by the hour, to work the hours offered by the Employer from time to time, and where the Employer provides no firm advance commitment to continuing and indefinite work.
- (b) Casual Employees will be engaged for a minimum of four hours at a time or paid in lieu thereof.
- (c) A casual Employee's ordinary hours of work are the lesser of an average of 40 hours per week, or the hours required to be worked by the Employer, and a maximum of 8 hours per day or shift.
- (d) For each hour worked, a casual Employee will be paid the applicable hourly rate set out in clause 12.1(c) which includes a casual loading of 20%. The casual loading is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment.
- (e) A casual Employee (other than an irregular casual Employee engaged to perform work on an occasional, non-systematic or irregular basis) who has been engaged by the Employer for a sequence of periods over a six-month period, may elect to have their employment converted to full-time or part-time employment if their employment is to continue beyond the conversion process.

-
- (f) An Employee may make an election in accordance with clause (e) above by giving written notice to the Employer.
 - (g) The Employer will discuss the election with the Employee and advise the Employee within 21 days whether it consents to the election.
 - (h) The Employer may refuse this request on any of the following grounds:
 - i. the Employer considers that the Employee is still an irregular casual Employee engaged on an occasional, non-systematic or irregular basis;
 - ii. there are fair and reasonable operational grounds for not accepting the notification; and/or
 - iii. accepting the notification would result in the employer not complying with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.
 - (i) Where conversion is agreed, the details will be recorded in writing

10.6 PROBATIONARY PERIOD

A probation period of six months shall apply to new Employees from the commencement of employment.

11 CLASSIFICATIONS

11.1 OVERVIEW

- (a) The Employer's classification structure in this clause is based on providing Employees with the incentive to learn new on-the-job tasks and gain further licences / qualifications in order to improve their individual skills. Each classification has a set competency point assessment based on the level of knowledge and skill required to perform the tasks associated with the classification.
- (b) The Employer will determine the classification which applies to each Employee. An Employer may, at its discretion, nominate a higher classification for an Employee than is required under this Agreement in recognition of the Employee's specialised skills and / or years of service.
- (c) Employees may request that an Employer review their classification at any time, however it is at the Employer's discretion whether to ultimately make any changes to the classification following a review and/ or competency assessment.

- (d) An employee performance review should be conducted on an annual basis between the employee and a Management representative. The annual review should include a re-calculation of competency points, the identification of any future training opportunities and career aspirations should they exist. The performance review should occur in the same quarter as the anniversary of the agreement.

11.2 GRADE 1: NEW ENTRANT

Skill Level	Minimum Licences / Qualifications	Competencies Points Required
Low Skill Level And Industry Experience	<ul style="list-style-type: none"> WHS General Induction For Construction Work Car Licence 	0

11.3 GRADE 2: TEAM MEMBER

Skill Level	Minimum Licences / Qualifications	Competencies Points Required
A Team Member Can Either Be A New Entrant Truck And Trailer Driver, An Asphalt Employee Or Bitumen Surfacing Employee With The Required Amount Of Competency Points.	<ul style="list-style-type: none"> WHS General Induction For Construction Work Medium Rigid Truck Licence 	6

11.4 GRADE 3: TEAM MEMBER (UPPER)

Skill Level	Minimum Licences / Qualifications	Competencies Points Required
Senior Operator With At Least 12 Months Industry Experience, Ability To Perform Tasks Reliably And Unsupervised	<ul style="list-style-type: none"> WHS General Induction For Construction Work Heavy Rigid Truck Licence 	10*
<p>* Asphalt Workgroup Employee - the accumulated competency points must include one of the following classifications: Crew Truck (Tack) Operations, Level Hand, Paver Operator or Profile Operator</p> <p>* Transport Workgroup Employee - the accumulated competency points must include the following classification: Front End Loader</p>		

11.5 GRADE 4: TEAM SPECIALIST

Skill Level	Minimum Licences / Qualifications	Competencies Points Required
Multi-Skilled Senior Operator With Extensive Skills. OH&S, Environmental And Quality Compliant With Company Policies And Procedures, Ability To Perform Tasks Reliably And Unsupervised, And May Supervise Other Team Members And Collate Specific Job Records	<ul style="list-style-type: none"> • WHS General Induction For Construction Work • Heavy Combination Truck Licence 	16*
<p>* Asphalt Workgroup Employee - the accumulated competency points must include two of the following classifications: Crew Truck (Tack) Operations, Level Hand, Paver Operator or Profile Operator</p> <p>* Transport Workgroup Employee - the accumulated competency points must include the following classification: Front End Loader</p>		

11.6 GRADE 5: LEADING HAND

- Ability to perform all aspects of the position
- Responsibility for work (sections) and other employees
- Awareness and compliance with WH&S, Environmental and Quality Policy and Procedures
- Ability to operate most on-site equipment and understand most job requirements
- Extensive skills and experience and excellent attitude to work
- Some administrative paperwork
- Customer liaison and service

11.7 COMPETENCY POINTS BY TASK / POSITION

- a) Employees deemed to be competent will accumulate 100% of Work Group A
- b) Employees have a nominated primary work group which can be either B, C or D, Employees deemed competent will accumulate 100% of associated points in their primary work group.
- c) Employees deemed to be competent in Work Groups B or C can nominate the alternate B or C work group as their secondary work group and thus accumulate 50% of the secondary work group competency points. This doesn't include the same task as reflected in both working groups.
- d) Once the Employer has established a business need for a specific task and selected an Employee to undertake the task, in order for the Employee to gain access to the classification points they must:

- i. provide evidence of the appropriate licence or national competency (if applicable); and
- ii. be assessed internally or by an industry-recognised external provider as competent; and,
- iii. be willing to complete the task.

A - Tasks applicable to all Work Groups

Classification	Points	Classification	Points
1 st Aid Certificate	1	Crew OH&S Representative	2
Forklift	1		

B - Asphalt Work Group

Classification	Points	Classification	Points
General Labourer / Rake Hand	1	Float Driver	2
Multi Roller Operator	1	Crew Truck (Tack) Operations	3
Traffic Controller	1	Level Hand	4
Electrical Spotter Registration Card	1	Paver Operator	4
Steel Drum Operator	2	Profiler Operator	4
Skid Steer Operator	2		

C - Transport Work Group

Classification	Points	Classification	Points
Front End Loader Operator	2	Live Bottom Trailer Operator	4
Truck & Trailer Driver	4		

D - Bituminous Spray Sealing Work Group

Classification	Points	Classification	Points
Multi Roller Operator	1	Broom Operator	3
Groundsman	1	Suction Sweeper Operator	3
Rubber Mixing Operator	1	Bitumen Tanker Driver	3
Front End Loader/ Stack Site Co-ordinator	2	Spreader Truck Driver	3
Aggregate Loader/ Pre-Coater	2	Bitumen Sprayer Operator	6
Fuel Tank Driver	2		

11.8 TRAINING

- (a) An Employer may from time to time, in its discretion, offer Employees training opportunities relating to work. The Employer encourages Employees (and may require Employees) to participate in such training opportunities.
- (b) The training costs associated with undertaking external training offered by the Employer will be paid accordance with the table below containing a list of the most common training undertaken.
- (c) Training provided by the Employer will be, wherever possible, organised for week days. Should an Employee organise training for themselves on a weekend or public holiday, the Employer will not be required to pay for the day of the training, unless previously agreed between the Employee and Employer.
- (c) Nothing in this Agreement prevents the Employer and an Employee from entering into an agreement prior to the Employee upgrading their truck licence which:
- (i) provides for reimbursement by the Employer to the Employee of the direct costs of upgrading that Employee's truck licence if the Employee resigns, or if their employment is terminated for misconduct, serious misconduct or under performance, within a 12 month period;
 - (ii) provides that reimbursement must take place within the stipulated period of time; and
 - (iii) quantifies the cost of the truck licence upgrade which is limited to direct costs expended by the Employer on behalf of the Employee

Training Course Table

Training Course	Payment Responsibility	Number of Ordinary Hours of Work Paid Per Day of Attendance
Construction Induction Card	Employee	-
Heavy Rigid, Heavy Combination, Multi- Combination Truck Licence	Employer	8
First Aid	Employer	8
CPR	Employer	4
Traffic Control	Employer	8
Confined Space Entry	Employer	8
Electrical Spotters Course	Employer	8
Best Practice in: Asphalt Placement & Compaction	Employer	8
Health & Safety Representative, Initial Occupation Health and Safety	Employer	8
Be Bitumen Safe	Employer	2

- (d) The number of ordinary hours of work the Employee will be paid to attend each training opportunity is listed above. The Employee will be paid at their ordinary hourly rate of pay irrespective of when the training course is conducted (and despite any overtime or penalty rate clauses in this Agreement). If training is scheduled for a weekend or a public holiday, the Company will not be paying the Employee for this training day.

11.9 RETAINING COMPETENCY POINTS / MULTI SKILLING

- (a) All Employees will, when directed, perform duties outside their normal role provided that they have been trained in those duties or no further training is required to perform those duties.
- (b) Each Competency Assessment remains valid for a period of two years from the date of assessment. Should any of the following events occur during the two year validation period then the Employer at its discretion may remove the Competency Points from the Employee. An event includes:

- (i) A refusal by the Employee to undertake a task that they have been deemed competent to perform. An Employee must be willing at all times to perform any task that they hold the Competency Point for.
 - (ii) The Employee fails to keep all pre-requisite licences current.
 - (iii) The Employee engages in an act deemed to be endangering the health and safety of themselves and/or other in the work environment.
 - (iv) The Employee is involved in near misses or accidents that may result in an unsafe work environment.
- (c) Should a removal of Competency Points result in a lowering of an Employee's classification then the Employee will be notified of this in writing with their classification changing in the following pay week.
- (d) Provided that the Employer presents an opportunity to do so, the Employee must have completed each task that they have accrued points for, on at least one day during the period of the 12 months between reviews. If an Employee fails to complete any of the tasks for the points that they have accrued, then the Employer at its discretion may remove the Competency Points from the Employee.

If a Classification / Task is removed from the business, any points assigned to Employees associated with that task will remain for the duration of the Agreement.

12 RATES OF PAY AND ALLOWANCES

12.1 ORDINARY RATE OF PAY

- (a) The ordinary rates of pay for each hour worked by an Employee will be as follows (depending upon the Employee's classification and whether or not they are a casual Employee). Rates are based on an increase of:
- (i) 3.5% for the first full pay period after 1st of October 2024
 - (ii) 2.5% for the second full pay period after the 1st of October 2025
 - (iii) 2% for the third full pay period after the 1st of October 2026
- (b) Employees are paid by the hour inclusive of, industry disability, inclement weather, first aid, meals for overtime work, travel, leading hand (where applicable), protective clothing equipment and tools allowances.

- (c) The pay increase is effective as of the first full pay period after the 1st of October in the year that the rate increase applies.

2024 - 2026	Base Rate of Pay Weekly Employment			Base Rate of Pay Casual Employment		
	Oct 2024	Oct 2025	Oct 2026	Oct 2024	Oct 2025	Oct 2026
Grade 1: New Entrant	\$29.09	\$29.82	\$30.42	\$34.91	\$35.61	\$36.32
Grade 2: Team Member	\$32.88	\$33.70	\$34.37	\$39.46	\$40.25	\$41.06
Grade 3: Team Member Upper	\$34.16	\$35.01	\$35.71	\$40.99	\$41.81	\$42.65
Grade 4: Team Specialist	\$36.04	\$36.94	\$37.68	\$43.25	\$44.12	\$45.00
Grade 5: Team Specialist Upper	\$38.57	\$39.53	\$40.32			

12.2 TRAVEL ALLOWANCE

A weekend travel fee for interstate intercompany deployment is a fixed rate of \$400 per mobilisation and de-mobilisation with flight costs covered by the Employer.

Whilst travelling for a mobilisation or de-mobilisation to or from a camp, Employees are entitled to the Meal Allowance and Out of Pocket Expenses allowance. Once the Employee arrives at the camp, where meals and accommodation is provided at no cost to the Employee, they are no longer entitled to a Meal Allowance, however, the Out of Pocket Expenses allowance shall still be provided.

12.3 LIVING AWAY FROM HOME

- (a) As a general rule, accommodation of a reasonable standard, with air conditioning, will be supplied to Employees when working away (which occurs when a work site is further than one and a half hours' travel, one way, from the Employer's home base). Accommodation will be organised with absolute priority given to sourcing single rooms, these may not necessarily be in the same accommodation, if these are not available then:

- a single partition room will be considered
- If neither single room options are available, employees will be accommodated in twin share rooms until a single room or a single partition room becomes available.
 - (b) If whilst working in remote locations, the accommodation standard above cannot be met e.g. dormitory style accommodation and amenities, an additional \$20 per night allowance will be paid.
 - (c) The location of the accommodation provided when working away will be within 60 minutes travel of the work site and central to any nearby town facilities, where possible. Employees are encouraged to share rooms to control expensive accommodation costs.
 - (d) When working away, a casual Employee shall be entitled to accommodation and meals should the Employee fall ill, until such time that the Employee returns to work or to the base of the Employer.
 - (e) When working away, the Employer will pay the relevant Employee the following allowances:

	Oct-24	Oct-25	Oct-26
Out of Pocket Expenses: eg. laundry, toiletries, telephone calls and data , refreshments, entertainment etc.	\$34.50	\$35.00	\$36.00
Meal Allowance: e.g. Breakfast, Lunch and Dinner	\$74.50	\$77.50	\$80.00
Total:	\$109.00	\$112.50	\$116.00

- (f) When working away from home and a shift cancellation occurs for a planned weekday shift, the affected Employees will be paid 8 hours of ordinary time. When the cancelled work was planned for a weekend day shift, the Employee will be paid in lieu of four hours' work at the Employee's ordinary rate of pay. This applies to permanent and casual employees.

12.4 OVERTIME MEAL ALLOWANCE

The Company will pay a meal allowance of \$16.50 per meal if an Employee is required to work more than two hours overtime. The Employee will be entitled to another meal allowance of \$16.50 after five hours or more hours thereafter. This

allowance does not apply on days when the employee is paid the living away allowance (clause 12.3)

12.5 NYRSTAR (Port Pirie Smelter) - PROJECT ALLOWANCE

Based upon the factors of specialised PPE, working conditions and site access requirements on the Nyrstar Port Pirie Smelter facility, employees will be paid a standalone project allowance of \$100 per shift of work undertaken at the site.

13 HOURS OF WORK

13.1 ORDINARY HOURS OF WORK

The ordinary hours of work for full-time Employees are eight hours per day, Monday to Friday, and an average of 40 hours per week (constituting of 38 per week plus 2 reasonable additional hours and including time worked for RDO accrual purposes).

The ordinary hours of work for non-full-time Employees is less than an average of 40 hours per week over a 4 week period.

Ordinary hours of work for non-shiftwork Employees will be worked between the hours of 6 a.m. – 6 p.m. Monday to Friday.

A part-time Employee's ordinary hours of work to be worked each week shall be agreed between the Employer and the part-time Employee in writing on commencement of employment and shall not be more than 8 ordinary hours per day. The regular number of ordinary hours once fixed may be varied in writing by mutual agreement between the Employer and the Employee concerned. All time worked by a part-time Employee in excess of their regular number of ordinary hours will be overtime and paid in accordance with clause 13.2.

13.2 OVERTIME

Except as otherwise provided in this Agreement, all time worked by Employees in excess of or outside the ordinary hours of work (inclusive of time worked for accrual purposes) will be paid at time-and-a-half for the first two hours, and at double-time thereafter.

For the avoidance of doubt, this means all Employees who work in excess of 8 hours per day or in excess of 40 hours per week will be paid overtime. In computing overtime, each day's work will stand alone.

13.3 BANKED HOURS

- (a) An Employee may choose to accrue banked time instead of receiving payment for overtime.

-
- (b) Banked time will be accrued at the penalty rate applicable to the overtime worked by the Employee, for example:
 - (i) two hours of overtime at time-and-a-half will equal three hours banked time; and
 - (ii) two hours of overtime at double-time will equal four hours banked time.
 - (c) Banked time will be taken at a time agreed with the Employer (such agreement not to be unreasonably withheld), and will be paid in accordance with the Employer's normal pay cycle.
 - (d) Limits are to apply to the amount of accrued banked hours:
 - (i) A maximum of 300 banked hours is permitted;
 - (ii) Banked hours are to be cleared by 1st October each year, with an allowable maximum balance of 40 hours to remain;
 - (iii) Banked hours that previously accrued to the date of an effective new Agreement will have such hours paid out at the previous pay rate.
 - (e) Banked hours are paid out on termination of employment.
 - (f) In the case of casual employees being converted to permanent full-time terms, previously banked hours will be paid out at the casual rate on which the hours were worked.

13.4 COMPUTATION OF OVERTIME AND PENALTY RATES

For the purpose of computing overtime and penalty rates under this clause:

- (a) each day's work shall stand alone;
- (b) a day shall mean all time between the normal commencing time of one day and the normal commencing time of the next succeeding day;
- (c) Saturday shall mean all time between midnight Friday and midnight Saturday;
- (d) Sunday shall mean all time between midnight Saturday and midnight Sunday; and
- (e) all time worked after eight continuous hours' work shall be overtime.

13.5 SATURDAY WORK

- (a) Hours worked prior to 12 noon on a Saturday will be paid for at the rate of time-and-a-half for the first two hours and double time thereafter.
- (b) All hours worked after 12 noon on a Saturday will be paid for at the rate of double-time.
- (c) An Employee working on a Saturday will be afforded at least four hours' work, or paid in lieu thereof.

13.6 SUNDAY WORK

- (a) All hours worked on a Sunday will be paid at double-time.
- (b) Employees working on a Sunday will be afforded at least four hours' work, or paid in lieu thereof.
- (c) refer to clause 14.8 for Sunday night shift work.

13.7 PUBLIC HOLIDAY WORK

- (a) In accordance with the NES, Employees are entitled to be absent from their employment on a proclaimed public holiday in the place where the hours are worked. However, the Employer may reasonably request an Employee to work on a public holiday and in that case, they will be paid in accordance with this Agreement.
- (b) A full-time or part-time Employee who usually works ordinary hours of work on a public holiday or a day substituted for the public holiday, but does not work, will be paid for those ordinary hours at the ordinary rate of pay.
- (c) A casual Employee will not receive any payment for hours not worked on a public holiday.
- (d) All hours worked on a proclaimed public holiday in the place where the hours are worked will be paid at double-time-and-a-half, subject to anything else in this clause.
- (e) Employees working on a proclaimed public holiday will be afforded at least four hours' work, or paid in lieu thereof.
- (f) Where a public holiday falls on the weekend, and a substituted public holiday applies, Employees will only be paid public holiday rates on the substituted public holiday.
- (g) Employees may choose to be paid time-and-a-half, and also receive one day's time in lieu of work, instead of being paid double-time-and-a-half for working on a proclaimed public holiday

(subject to work schedules and the operational requirements of the Employer).

13.8 CANCELLATION OF WEEKEND AND PUBLIC HOLIDAY SHIFTS

If an Employee is advised and scheduled to work on a weekend (either day shift or Sunday night) or proclaimed public holiday, and that work does not proceed and the Employee is not provided with a minimum notice period of:

- (a) 12 hours for a weekend day shift; or
- (b) 24 hours for a Sunday night shift

then the Employee will be paid:

- (c) 4 hours work at the Employee's ordinary rate of pay, in the case of a cancelled weekend day shift.
- (d) In the case of a cancelled Sunday night shift, permanent employees will be paid 8 hours of ordinary time and casual employees will be paid 4 hours of ordinary time.

13.9 REST PERIOD AFTER OVERTIME SHIFT

- (a) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that Employees have at least ten consecutive hours off duty between work on successive days.
- (b) An Employee who works so much overtime that there is less than ten hours between their ordinary hours of work on one day and the commencement of ordinary hours of work on the next day, shall, subject to this clause, be released after completion of such overtime until the Employee has had at least ten consecutive hours off duty without loss of pay for their ordinary hours of work during such absence. If, on the instructions of an Employer, the Employee resumes or continues work without having had such ten consecutive hours off duty the Employee shall be paid double-time until released from duty for such period and the Employee shall then be entitled to be absent until they have had ten consecutive hours off duty without loss of pay for their ordinary hours of work during such absence.
- (c) The provisions of this clause shall apply in the case of shiftworkers as if eight hours were substituted for ten hours when overtime is worked:
 - (i) for the purpose of changing shift rosters;
 - (ii) where a shiftworker does not report for duty and another Employee is required to replace the shiftworker;

- (iii) where a shift is worked by arrangement between Employees themselves; or
- (iv) where an emergency response (call out) is required and the duration of the call out from leaving place of residence to return is less than two hours in length.

13.10 ROSTERED DAY OFF

- (a) Full-time Employees each bank two hours every week towards a rostered day off (“**RDO**”). Every eight hours banked amounts to one RDO. A full-time Employee accordingly accrues one RDO every four weeks.
- (b) Part-time and casual Employees do not accrue banked hours towards RDO’s.
- (c) RDO’s are intended to give both the Employer and its Employees flexibility in relation to organising work. The Employer recognises there may be times when it is convenient for an Employee to take a day off, without using another form of paid or unpaid leave. Equally, there are times when the Employer may require Employees to take an RDO, such as when work is cancelled due to inclement weather. RDO’s are to be taken by mutual agreement.
- (d) The following conditions apply to RDO’s:
 - (i) Only two ordinary hours each week will be banked towards RDO’s.
 - (ii) There is no maximum limit to the number of RDO’s that may be accrued by an eligible Employee.
 - (iii) Unless payment for an RDO has been made in advance, the Employer will pay an Employee an amount equivalent to eight ordinary hours of work for each RDO taken.
 - (iv) For the purpose of nominated reference RDO dates, the Employer will use the annual Civil Contractors Federation (South Australia) calendar with published industry RDOs and public holidays.
 - (v) An Employee may take an RDO at any time they wish, subject to the Employer’s operational requirements. If an Employee wishes to take an RDO, the Employee must complete a leave form in advance and ensure that the RDO has been authorised by the Employer before the RDO is taken.
 - (vi) The Employer will keep records of RDO’s accrued, taken voluntarily and taken involuntarily.

- (vii) Where an Employee has 12 or more accrued RDO's, the Employee must use RDO's before taking any accrued annual leave.
- (viii) The value of any RDOs not taken are paid out on termination of employment or at the employees request.

13.11 SPECIAL CIRCUMSTANCES

Where a majority of affected Employees and the Employer agree, another method of arranging working hours different to that set out in this clause can be adopted (provided that the ordinary hours of work for a full-time Employee do not exceed an average of 40 hours per week in a four-week period).

14 SHIFT WORK

14.1 DEFINITIONS

For the purposes of this Agreement, 14.1 parts (a), (b) and (c) is to be read as the majority of hours worked past the shift starting time as indicated below:

- (a) Day shift means any shift starting on or after 4.00 a.m. and before 11.00 a.m.
- (b) Afternoon shift means any shift starting at or after 11.00 a.m. and before 6.00 p.m.
- (c) Night shift means any shift starting at or after 6.00 p.m. and before 4.00 a.m.
- (d) Rostered shift means a shift of which the Employee concerned has had at least 48 hours' notice.

14.2 ROSTER

Shifts shall be worked according to a roster determined by the Employer, which shall:

- (a) provide for rotation of shifts unless all Employees concerned agree otherwise;
- (b) provide for not more than eight shifts to be worked over any nine consecutive days; and
- (c) specify the commencing and finishing times of each shift.
- (d) with respect to planning of night shift works, best endeavours will be made by the Employer to provide forward notice of blocks of night works for respective crews, estimated duration and as much notice as possible for anticipated shift changes (from night to day works or vice versa).

14.3 PAID LEAVE

Each day of paid leave taken and any public holiday occurring during any shift cycle shall be regarded as a shift worked for leave accrual purposes. You shall accrue your leave entitlements whilst on paid leave, however you do not accrue leave if you “cash out” your leave.

14.4 WORK ON ROSTERED OFF SHIFT

The rostered off shift prescribed by this clause shall be taken as a paid shift off. Provided that where the Employer for emergency reasons requires an Employee to work on their rostered off shift the Employee shall, in addition to any accrued entitlements, be paid at overtime rates for all work performed on the rostered off shift.

14.5 SHIFT WORK OVERTIME

All time worked by a shiftworker in excess of or outside their ordinary hours of work (inclusive of time worked for accrual purposes), or on a shift other than a rostered shift, shall be paid double-time unless the overtime is worked due to arrangements between the Employees themselves, or for the purpose of effecting the customary rotation of shifts.

14.6 SHIFT ALLOWANCE

An Employee whilst on afternoon or night shift other than on a Saturday, Sunday or public holiday, shall be paid for such shift an allowance equal to 50% of their ordinary rate of pay.

14.7 SATURDAYS

Shiftworkers working shifts between midnight on Friday and midnight on Saturday shall be paid double-time for their ordinary hours of work (inclusive of time worked for accrual purposes).

14.8 SUNDAYS

When customer and project requirements allow, the Employer will endeavour to commence a week of night works on a Sunday night. For Sunday night shifts, the hours worked will form part of the ordinary hours for the start to a new pay week and will be paid at the applicable penalty rate of double time.

14.9 FIVE CONSECUTIVE SHIFTS

- (a) If a shiftworker works on an afternoon or night shift and does not continue to work such shifts for at least five successive afternoons or nights, the shiftworker shall be paid time-and-a-half for the first eight hours worked during the shift and then double-time for all time worked after the initial eight hours.
- (b) If a shift is cancelled, the loading shall not apply on top of the ordinary hours. Cancelled shifts are not to be considered a break in the five consecutive afternoon or night shift rosters.
- (c) If a public holiday falls on one of the consecutive afternoon or night shifts, this will not be considered a break in the five consecutive afternoon or night shift roster.
- (d) If an employee chooses to take leave during a five day rostered afternoon or night shift, the employee is to be paid at the five consecutive shift loading rate for the actual shifts worked.
- (e) If a shiftworker works on a Friday afternoon or night shift and does not continue to work such shifts for at least five consecutive shifts, the shiftworker shall be paid time-and-a-half for all hours worked up until midnight, to a maximum of eight hours. All hours worked on the same shift after midnight, irrespective of whether eight hours has been worked, will be paid as double-time. If a shift is cancelled, the loading shall not apply on top of the ordinary hours.
- (f) If a shiftworker is deployed for a rostered five day (night shift), away from their home base, and any of the five-night shifts are cancelled;
 - (i) Full time employees will be paid 8 ordinary hours
 - (ii) Casual employees, if working away from their home base will be paid 8 ordinary hours.
 - (iii) Casual employees, if working from their home base will be paid 4 ordinary hours.
 - (iv) Casual employees are entitled to the agreed allowances within this Agreement (e.g. meals).

14.10 SHIFT CHANGE (Nights to Days)

Where a shift change occurs from night shift to day shift during a working week, permanent employees will be paid 8 hours of normal time, which will be included in the ordinary hours for the week. Casual employees will be paid 4 hours at their ordinary rate.

15 **CALL-OUTS / RECALL**

Call out provisions will apply as follows:

(a) **MONDAYS TO FRIDAYS**

Employees called out to work after having left work for the day will be paid a minimum of four hours work. All payments will be made at overtime rates referred to in clause 11.2 for the first call out and for the actual time worked at each subsequent call out.

(b) **SATURDAYS**

An employee called out to work on a Saturday will be paid a minimum of four hours work. All payments will be calculated at overtime rates referred to in clause 11.5 for the first call out and for the actual time worked at each subsequent call out.

(c) **SUNDAYS**

An employee called out to work on a Sunday will be paid a minimum of four hours work. All payment will be calculated at overtime rates referred to in clause 11.6 for the first call out and for the actual time worked at each subsequent call out.

16 **BREAKS****16.1** **MEAL AND REST BREAKS**

- (a) Employees are entitled to an unpaid and uninterrupted 30 minute lunch break per day and a paid 15 minute morning tea break. The lunch break must be organised to meet the work schedule but in any event commence within four and seven hours of the commencement of the Employee's shift.
- (b) The time of taking scheduled meal breaks or rest breaks may be altered by the Employer if it is necessary to do so meet requirements of continuity of operations. In addition, the Employer may stagger the time of taking breaks to meet its operational requirements.

17 **INCLEMENT WEATHER/ CONDITIONS**

- (a) In the event of inclement weather/conditions affecting a workplace or worksite, work will continue until the particular work being performed can no longer be done safely and efficiently.
- (b) Inclement weather/conditions includes weather heat, cold, rain, strong wind and any other abnormal weather conditions that place an Employee's health and safety at risk.

- (c) If inclement weather/conditions are such that the Company or the Employees feel it is not safe to continue to work, a discussion will take place between the Supervisor in charge and the Employees. A course of action will be decided upon and controls agreed to.
- (d) If the on-set of inclement weather is such that work is likely to cease, then steps must be taken to ensure that work being undertaken is rendered safe, that is, free from risk or hazard to Employees and the general public, before work ceases.
- (e) The Parties agree that Employees may be relocated to other unaffected sites or workplaces that are not affected by the inclement weather. Employees may also be required to undertake training activities, maintenance and housekeeping duties at depots

18 STANDING DOWN OF EMPLOYEES

- 18.1** Subject to clause 16.2, where work for an Employer is impracticable on any day through shortage of material, which shortage the Employer could reasonably have avoided, the relevant Employees shall be paid for the work lost at their ordinary rate of pay.
- 18.2** The Employer may stand down without pay any Employee who cannot be usefully employed because of:
- (a) any strike;
 - (b) any breakdown of machinery; or
 - (c) any stoppage of work by any cause for which the Employer cannot be held responsible.
- 18.3** Prior to any stand downs occurring, discussions shall take place between the Employer and relevant Employees.

19 PAYMENT OF WAGES

- 19.1** Employees will be paid on the Wednesday of each week for the work performed in the week ending the previous Tuesday, by electronic funds transfer into their nominated bank accounts. If the Employer fails to make payment on the appropriate day for reasons beyond the Employer's control, that will not constitute a breach of this Agreement.
- 19.2** It is an Employee's obligation to provide the correct bank account details to their Employer, and to advise the Employer promptly of any changes to those details.

20 **HOME VISITS**

If an Employee is required to work away for a continuous period of four weeks or more, the Employee will be brought home at the Employer's expense for one weekend visit. This entitlement may be varied by negotiation and agreement between the Employer and a majority of affected Employees.

21 **SUPERANNUATION**

The Employer will make superannuation contributions for its Employees in accordance with applicable superannuation legislation. Such contributions will be made into approved funds nominated by the relevant Employees or, in the absence of such nomination, into the Colonial First State First Choice Employer Superannuation Fund (or such other default fund as the Employer may nominate from time to time).

22 **ANNUAL LEAVE**

22.1 Full-time Employees will be entitled to 4 weeks of paid annual leave for each completed year of service. Part-time Employees will be entitled to annual leave on a pro-rata basis, and casual Employees will not be entitled to annual leave.

22.2 A shift worker shall receive an additional week of annual leave.

22.3 Employees may take accrued annual leave at a time agreed with their supervisor. There may be times when Employees are not permitted to take annual leave. However, the Employer will endeavour to accommodate annual leave requests.

22.4 Subject to clause 20.5, the Employer may require Employees, or some of them, to take a specified period of annual leave, provided that:

- (a) the Employer and the Employee first reasonably attempt to agree on taking the annual leave at a mutually-agreeable time;
- (b) the Employer gives the Employee at least four weeks' written notice of the requirement; and
- (c) after taking the annual leave as required by the Employer, the Employee will still have at least four weeks' annual leave accrued.

22.5 The Employer may also require Employees, or some of them, to take the Christmas / New Year period as annual leave where the Employer intends to temporarily close, provided that the Employer gives the relevant Employees at least four weeks' written notice. Where an Employee has been given such notice then:

- (a) if the Employee has accrued sufficient annual leave to cover the full closing period – the Employee must take paid annual leave for that period; and

- (b) if the Employee has accrued insufficient annual leave – the Employee must take such paid annual leave as is accrued, and otherwise take RDOs or unpaid leave for the remaining period.

22.6 An Employee and the Employer may agree to cash out the Employee’s accrued annual leave, provided that:

- (a) each cashing out of a particular amount of annual leave is the subject of a separate written agreement between the Employer and Employee;
- (b) the separate written agreement states the amount of annual leave to be cashed out, the payment to be made for that leave, and the date on which the payment is to be made;
- (c) the separate written agreement is signed by the Employer and the Employee (and, if the Employee is under 18 years of age, by the Employee’s parent or guardian);
- (d) the Employee is paid for the cashed-out annual leave no less than the amount that would have been payable had the Employee taken the leave at the time the payment is made; and
- (e) after cashing out the annual leave, the Employee will still have at least four weeks’ annual leave accrued.

22.7 Annual leave will not be debited for any day that falls on a prescribed public holiday.

22.8 Accrued but unused annual leave will be paid out on termination of employment.

23 PERSONAL/CARER’S LEAVE

23.1 Full-time Employees will be entitled to ten days paid personal/carer’s leave for each completed year of service. Part-time Employees will be entitled to personal/carer’s leave on a pro-rata basis, and casual Employees will not be entitled to personal/carer’s leave.

23.2 Personal/carer’s leave may be taken as:

- (a) personal or sick leave, where the Employee has a personal illness or injury; or
- (b) carer’s leave, where an Employee is required to provide care or support to an Immediate Family or Household Member who requires care or support because of:
 - (i) a personal illness or injury; or
 - (ii) an unexpected emergency.

23.3 An Employee is entitled to two days unpaid carer’s leave for each occasion when an Immediate Family or Household Member requires care or support because of

a personal illness or injury, or an unexpected emergency. However, unpaid carer's leave may not be taken when an Employee's personal/carer's leave entitlements have not yet been exhausted.

- 23.4** Employees must give notice to their supervisor of an intention to take personal/carer's or unpaid carer's leave as soon as possible. The Employer require a medical certificate or statutory declaration, additionally for any instance where consecutive days of leave are taken.
- 23.5** If an absence due to personal/carer's or unpaid carer's leave is two days or longer:
- a) where leave is requested on a day proceeding or following a public holiday or weekend, an Employee will be required to provide their supervisor or manager with the following evidence as soon as reasonably practicable:
 - (i) a medical certificate; or
 - (ii) if that is not reasonably practicable, a statutory declaration made by the Employee, stating that the Employee was, is or will be unfit to work during the period.
- 23.6** If the Employee requires a period of carer's leave:
- (i) a medical certificate stating that the Immediate Family or Household Member had, has or will have a personal illness or injury; or
 - (ii) if not reasonably practicable, or in the case of an unexpected emergency, a statutory declaration made by the Employee stating the reason that the Employee required the leave.
- 23.7** Nothing in this clause limits the Employer's common law rights to require further evidence in addition to a medical certificate or statutory declaration in reasonable circumstances. Employees that do not comply with the notice requirements under this clause when absent from work may not be paid.
- 23.8** Personal/carer's and unpaid carer's leave entitlements will not be debited for any day that falls on a prescribed public holiday.
- 23.9** Personal/carer's leave is not paid out on termination of employment.
- 23.10** If an Employee is receiving workers' compensation payments, the Employee is not entitled to paid personal/carer's leave for the period covered by the workers' compensation payments, and the Employee is also not entitled to superannuation contributions on any workers' compensation payments.

24 **COMPASSIONATE LEAVE**

- 24.1** Full-time and part-time Employees will be entitled to two days' paid compassionate leave, and casual Employees will be entitled to 2 days' unpaid compassionate leave, for each occasion when an Immediate Family or Household Member:
- (a) develops a personal illness that poses a serious threat to his or her life;
 - (b) sustains an injury that poses a serious threat to his or her life; or
 - (c) dies.
- 24.2** 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
- (a) The employee, or the employee's spouse or de facto partner, has a miscarriage.
- 24.3** To be entitled to paid compassionate leave, an Employee may be required to provide their supervisor with satisfactory evidence of the relevant illness, injury or death.

25 **LONG SERVICE LEAVE**

- 25.1** Employees will be entitled to long service leave in accordance with the *Long Service Leave Act 1987 (SA)*.
- 25.2** However, the Employer may register with Portable Long Service Leave in South Australia, or a similar portable long service leave scheme, and make payments in satisfaction of an Employee's long service leave entitlements in accordance with the rules or requirements of that scheme. Affected Employees will be notified where this occurs, and in such instances an affected Employee will need to apply to the relevant scheme to receive pay while taking long service leave.

26 **UNPAID PARENTAL LEAVE**

Employees will be entitled to unpaid parental leave in accordance with the Act.

27 **ADDITIONAL UNPAID LEAVE**

If an Employee wishes to take an additional period of unpaid leave, the Employee should apply to their supervisor in writing requesting such leave and setting out the proposed start and end dates of the unpaid leave period. The Employer may then, in its discretion, grant all or part of the unpaid leave request, depending upon the Employee's individual circumstances and the Employer's operational considerations.

28 LEAVE TO DEAL WITH FAMILY AND DOMESTIC VIOLENCE

- 28.1** An Employee is entitled to take paid family and domestic violence leave if:
- (a) they are experiencing Family and Domestic Violence; or
 - (b) they need to do something that they cannot do outside of their ordinary hours of work to deal with the impact of the Family and Domestic Violence.
- 28.2** An Employee is entitled to 10 days' paid family and domestic violence leave in full at the start of each 12 month period of their employment but leave not taken does not accumulate from year to year.
- 28.3** The Employer may require evidence for any unpaid family and domestic violence leave such as a document issued by the police or a court, or a statutory declaration.
- 28.4** An Employee must notify the Employer as soon as reasonably possible if they intend to take unpaid family and domestic violence leave, including notification of the expected period of such leave.

29 COMMUNITY SERVICE LEAVE

Employees are entitled to community service leave in accordance with the Act.

30 TERMINATION OF EMPLOYMENT

- 30.1** A full-time, part-time or maximum-term Employee's employment may be terminated at any time by the Employee or Employer giving the notice of termination set out in the table below in writing:

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

* If an Employee is over 45, and has completed at least two years' continuous service with the Employer, the period of notice is to be increased by one week.

- 30.2** A casual Employee's employment may be terminated at any time, and without notice.

- 30.3** The Employer may, at its discretion, provide pay in lieu of notice for all or part of a notice period. Payments for pay in lieu of notice for a full-time Employee will be calculated on the basis that the Employee would have worked 40 ordinary hours of work per week during the relevant notice period. Payments for part-time Employee will be calculated on the actual work the Employee would have performed during the relevant notice period.
- 30.4** An Employee's employment may be summarily terminated without notice, or pay in lieu of notice, if the Employee engages in serious misconduct within the meaning of the Act, or for any other reason which warrants summary dismissal at common law. Serious misconduct includes, without limitation:
- (a) dishonesty;
 - (b) fraud;
 - (c) theft;
 - (d) intoxication at work (see Clause 33 (Drug and Alcohol Testing));
 - (e) lodgement of time cards which knowingly contain false information;
 - (f) assaulting another Employee;
 - (g) wilful disobedience;
 - (h) wilful breach of duty, Employer or Colas Australia Group policy or procedure, or this Agreement;
 - (i) disobeying a lawful and reasonable direction;
 - (j) materially failing to perform duties;
 - (k) engaging in conduct which, in the Employer's opinion, may injure the Employer's or Colas Australia Group's reputation or property; or
 - (l) being convicted of an offence precluding or inhibiting the further performance of the Employee's duties.
- 30.5** The Employer may suspend an Employee while it investigates whether to exercise its rights to dismiss the Employee under this clause. An Employee will be paid in lieu of their ordinary hours of work during any suspension, unless the Employee would not have worked during the suspension period anyway.
- 30.6** The Employer will provide a statement of service to a departing Employee on request, unless the Employee is being summarily dismissed. A statement of service will set out the departing Employee's period of service with the Employer and the classification(s) in which the Employee was employed.
- 30.7** The Employer will pay an Employee their wages and all other amounts owed to them for time worked up to the end of the day of termination, no later than 7 days after the day on which the Employee's employment terminates. This is subject to any order from the Fair Work Commission.

31 **WITHHOLDING FROM FINAL PAY**

31.1 If an Employee, who is at least 18 years old and:

- (a) does not provide the period of notice required under clause 28.1, then the Employer may deduct from wages due to the Employee under this Agreement an amount that is no more than one week's wages for the Employee;
- (b) owes the Employer money because the Employer provided a loan to the Employee which has not been repaid, and the Employee provided written authorisation for the deduction of any unpaid loan amounts from their final pay at the time of entering into the loan, then on termination the Employer may deduct any agreed amounts owing on that loan from wages due to the Employee under this Agreement; or
- (c) an Employee misappropriating or stealing funds, or wilfully damaging an Employer's property,

then, on the termination of the Employee's employment and with appropriate evidence being communicated, the Employer may deduct the amount of those monies owed to the Employer from the Employee's final pay.

32 **ABANDONMENT OF EMPLOYMENT**

32.1 If an Employee is absent from work without notifying their supervisor of the reasons for the absence for a period of three days or longer, this will be regarded as primary evidence that the Employee has abandoned their employment.

32.2 In these circumstances, the Employer will make a reasonable attempt to call the Employee on their last known telephone number about the abandonment. If no contact is made with the Employee within five days of the first day the Employee failed to attend work, the Employer may in its discretion terminate the Employee's employment immediately in writing. Where an employee's employment is terminated due to abandonment of employment, the employee will be afforded the notice of termination in accordance with the NES.

32.3 Even if an Employee does ultimately attend work within five days of the first day the Employee failed to attend work, the Employee may nevertheless be subjected to disciplinary action, up to and including termination of employment, for having been absent from work without approval.

33 **REDUNDANCY**

33.1 Redundancy occurs when the Employer no longer requires the job done by an Employee to be done by anyone. The following situations, which are not exhaustive, may lead to a job becoming redundant, although not necessarily in every case:

- (a) technological change;
- (b) position redesign/change resulting in the requirement of a substantially different set of skills, competencies and/or capabilities;
- (c) process change;
- (d) rationalisation of existing operations;
- (e) organisational restructuring, including mergers and acquisitions;
- (f) closure of an office or plant or a section of an office or plant;
- (g) reduced levels of business requiring reductions in staffing levels; and
- (h) financial imperatives requiring downsizing of operations.

33.2 In addition to receiving notice of termination or pay in lieu thereof under this Agreement, an Employee will be entitled to redundancy pay in accordance with the following table if the Employee's employment is terminated at the Employer's initiative because the Employee's job is redundant:

Period of Continuous Service	Redundancy Pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	12 weeks' pay
7 years and less than 8 years	14 weeks' pay
8 years and less than 9 years	16 weeks' pay
9 years and less than 10 years	18 weeks' pay
10 years and over	20 weeks' pay and 2 weeks per year after 10 years

33.3 The Employer shall have no obligation to provide redundancy pay in circumstances where the Employer:

- (a) would be excluded from an obligation to provide redundancy pay under section 121 of the Act;
- (b) obtains other acceptable employment for the Employee; or

33.4 An Employer may, in its discretion, use a redundancy fund or scheme to meet all or some of its potential obligations under this clause. Where an Employer uses such a fund/scheme, any payments made out of the fund/scheme to an Employee, which are intended to meet the Employer's liabilities under this clause, will be set-off against the Employer's liability under this clause – that is, the Employee will receive the fund/scheme payment or a payment from the Employer under this clause, whichever is the greater, but not both.

34 **MEDICAL ASSESSMENTS**

The Employer may, at its expense, require an Employee to undergo a reasonable medical assessment by an agreed medical practitioner for the purpose of assessing whether an Employee is able to meet the inherent requirements of the Employee's job, or to manage the Employer's workplace health and safety obligations.

35 **DRUG AND ALCOHOL TESTING**

The Employer recognises the safety benefits that flow both to its business and its Employees by maintaining a workplace that is free from drugs and alcohol, and by requiring that no person attending the workplace does so under the influence of drugs or alcohol. For this reason the Employer may require Employees to undergo drug and alcohol testing in accordance with any relevant policies and procedures adopted or varied from time to time. This may include, but is not necessarily limited to, breath, urine or saliva testing.

36 **POLICE CHECKS**

The Employer may, at its own expense, conduct police checks or other character investigations relevant to an Employee and their employment. The Employee must provide written consent to any such checks or investigations.

37 PROTECTIVE CLOTHING AND EQUIPMENT

- 37.1** While at work, Employees are required to wear any uniform, protective clothing and/or personal protective equipment which the Employer provides. Such clothing and equipment remains the property of the Employer, and must be returned to the Employer when the employment ends.
- 37.2** It is the Employee's responsibility to keep such clothing and equipment clean and in a proper condition, subject to reasonable wear and tear. Any lost or damaged clothing or equipment must be immediately reported to the Employee's supervisor.

38 SMART PHONE

During their employment with the Employer, each Employee must have a working Smart Phone connected to a mobile network and with access to data, at their own cost. A smart phone is necessary to access timekeeping, safety and other related Employer and VSA Roads documents.

39 NATIONAL CODE OF PRACTICE FOR THE CONSTRUCTION INDUSTRY

The Code and Guidelines may apply to one or more projects in which the Employer is involved and on which an Employee may be working. If the Code and Guidelines apply, the Employer and the Employees must comply with the Code and Guidelines.

40 WORKPLACE DELEGATES' RIGHTS

- 40.1** This clause provides for the exercise of the rights of workplace delegates set out in section 350C of the Act.
- 40.2** In this clause:
- (a) **delegate's organisation** means the employee organisation in accordance with the rules of which the workplace delegate was appointed or elected; and
 - (b) **eligible Employees** means members and persons eligible to be members of the delegate's organisation who are employed by the Employer in the enterprise.
- 40.3** Before exercising entitlements under 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.
- 40.4** An Employee who ceases to be a workplace delegate must give written notice to the Employer within 14 days.

40.5 Right to representation

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 this Agreement or a policy of the Employer under which eligible employees are entitled to be represented and which concerns their industrial interests.

40.6 Entitlement to reasonable communications

- (a) A workplace delegate may communicate with eligible Employees for the purpose of representing their industrial interests under clause 38.5. This includes discussing membership of the delegate's organisation and representation with eligible Employees.
- (b) A workplace delegate may communicate with eligible Employees during working hours or work breaks, or before or after work.

40.7 Entitlement to reasonable access to the workplace and workplace facilities

- (a) The Employer must provide a workplace delegate with access to or use of the following workplace facilities:
 - (i) a room or area to hold discussions that is fit for purpose, private and accessible by the workplace delegate and eligible Employees;
 - (ii) a physical or electronic noticeboard;
 - (iii) 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;
 - (iv) a lockable filing cabinet or other secure document storage area; and
 - (v) office facilities and equipment including printers, scanners and photocopiers.

-
- (b) The Employer is not required to provide access to or use of a workplace facility under clause 38.7(a) if:
 - (i) the workplace does not have the facility;
 - (ii) 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
 - (iii) the Employer does not have access to the facility at the enterprise and is unable to obtain access after taking reasonable steps.

40.8 Entitlement to reasonable access to training

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.

40.9 Exercise of entitlements under this clause

- (a) A workplace delegate's entitlements under this clause are subject to the conditions that the workplace delegate must, when exercising those entitlements:
 - (i) comply with their duties and obligations as an Employee;
 - (ii) 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;
 - (iii) not hinder, obstruct or prevent the normal performance of work; and
 - (iv) not hinder, obstruct or prevent eligible Employees exercising their rights to freedom of association.
- (b) For the avoidance of doubt, this clause does not:
 - (i) 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; or
 - (ii) require an eligible Employee to be represented by a workplace delegate without the Employee's agreement.

41 RESOLVING WORKPLACE DISPUTES

41.1 If a dispute relates to:

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

this term sets out procedures to settle the dispute.

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

41.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the relevant Employee(s) and the Employer's relevant supervisors and/or management.

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

41.5 The Commission may deal with the dispute in two stages:

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

41.6 If the Commission arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that the Commission 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.

41.7 While the parties are trying to resolve the dispute using the procedures in this clause, and unless the Employer in its discretion decides otherwise:

- (a) an Employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- (b) an Employee must comply with a direction given by the Employer to perform other available work at the same workplace, or at another workplace, unless:
 - (i) the work is not safe;
 - (ii) applicable occupational health and safety legislation would not permit the work to be performed;
 - (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.

41.8 The parties to the dispute agree to be bound by a decision made by the Commission in accordance with this clause.

42 **NO FURTHER CLAIMS**

There will be no further claims in relation to the Employees' terms and conditions of employment during the term of this Agreement.

Executed by the parties as an enterprise agreement:

Signed for and on behalf of
Top Coat Asphalt Contractors Pty Ltd
by its duly authorised representative:

[Signature]
Signature of Authorised Representative

Mathew Alan Schepers
Full Name

[Signature]
Signature of Witness

Daniel Rensburg-Phillips
Full Name

9 Weddel Court Haverton North
Address 3026

50-54 Millers Rd Wingfield
Address SA 5013

Corporate Services Manager
Position Title

On behalf of Top Coat Asphalt Contractors Pty Ltd as the Corporate Services Manager of VSA Roads, the majority owner of Top Coat Asphalt Contractors Pty Ltd.

Signed for and on behalf of the
Employees of Top Coat Asphalt Contractors Pty Ltd:

[Signature]
Signature of Authorised Representative

Thomas Talbot-Smith
Full Name

[Signature]
Signature of Witness

Patrick Corbett
Full Name

531 Stebens Heath Road
Address Andrews farm

4E Wilfred St Edwardstown
Address

crew member
Position Title

On behalf of the employees as an approved bargaining representative.