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# EASTERN COMMUNITY LEGAL CENTRE ENTERPRISE AGREEMENT 2024-2028

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Approved by Eastern Community Legal Centre Employees

November 15, 2024

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## Part 1 – Application and Operation

### 1. Agreement Title

This agreement shall be known as the Eastern Community Legal Centre Enterprise Agreement 2024 – 2028 (the Agreement).

### 2. Purpose of the Agreement

2.1 The purpose of this Agreement is to:

- (a) clarify the rights and entitlements of Employees and the Employer in relation to terms and conditions of employment;
- (b) ensure those terms and conditions are fair and equitable, tailored to the needs of Eastern Community Legal Centre (ECLC), whilst maintaining consistency with its values, mission statement and strategic plan;
- (c) provide a balance between:
  - i. maintaining Employee satisfaction in the workplace; and
  - ii. improving the effectiveness and productivity of ECLC; and
- (d) prevent workplace disputes and provide a framework for their resolution.

### 3. Definitions

#### 3.1. Singular and Plural

For the purposes of this Agreement unless the context otherwise requires, words in the singular include words in the plural and vice versa.

#### 3.2. Definition of Terms

- 3.2.1 **Agreement** means Eastern Community Legal Centre Enterprise Agreement 2024 – 2028.
- 3.2.2 **Award** means the Social, Community, Home Care and Disability Services Industry Award 2010.
- 3.2.3 **Bullying** means repeated, unreasonable behaviour directed towards a worker, or group of workers, which creates a risk to a worker's mental or physical health and safety.
- 3.2.4 **Casual Employee** means an employee who is engaged by ECLC as a casual employee with no firm advance commitment to continuing and indefinite work according to an agreed pattern of work for the employee.
- 3.2.5 **CEO or Chief Executive Officer** means the Eastern Community Legal Centre Chief Executive Officer.
- 3.2.6 **Close Association** means a person in relation to whom the Employee can show there is a particularly important relationship.
- 3.2.7 **Continuous service** is defined at clause 71, and includes all periods of paid leave, including public holidays, and any other leave or periods of service as specifically referred to as counted for continuous service within this Agreement.
- 3.2.8 **Days** refer to business days, Monday to Friday excluding public holidays and closedown periods.

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- 3.2.9 **Discrimination** means when a person or group is treated less favourably than another due to a characteristic or 'personal attribute' that is protected by legislation e.g. age, gender, race, disability or marital status and the treatment causes the person to be disadvantaged. Unlawful discrimination can occur either directly or indirectly.
- 3.2.10 **ECLC** means Eastern Community Legal Centre Inc.
- 3.2.11 **Employee** means a permanent or fixed-term staff member, employed on a full-time or part-time basis the Employer, and covered by this Agreement pursuant to clause 5.
- 3.2.12 **Employer** refers to Eastern Community Legal Centre Inc.
- 3.2.13 **Fixed-term employee** means an employee who is engaged for a specific purpose for a fixed period or project on either a part-time or full-time basis.
- 3.2.14 **Full-time employee** means an employee who is employed to work an average of 38 or 37.5 ordinary hours per week.
- 3.2.15 **FW Act** refers to the Fair Work Act 2010.
- 3.2.16 **Harassment** means any unwelcome, unwanted, or uninvited behaviour (verbal, non-verbal, physical, written, or visual) which intimidates, humiliates, or offends another person or persons on the basis of a ground of discrimination such as age, sex, race, disability, sexual orientation, religious belief or marital status.
- 3.2.17 **Household** means any person who lives with the Employee.
- 3.2.18 **Immediate family member** means: a spouse or former spouse, de facto partner or former de facto partner, child, parent, grandparent, grandchild, sibling, or child, parent, grandparent, grandchild or sibling of the Employee's spouse or de facto partner (or former spouse or de facto partner). This definition includes step-relations (for example, step-parents, and step-children) as well as adoptive relations.
- 3.2.19 **NES** refers to the National Employment Standards (NES) prescribed by part 2-2 of the Fair Work Act 2009 (Cth).
- 3.2.20 **Part-time employee** means an employee, other than a casual employee, who is engaged to work a specified number of days and hours that are less than 37.5 ordinary working hours per week.
- 3.2.21 **Partner** means spouse including a current or former: spouse, de facto spouse, or partner, regardless of gender identity or sexuality.
- 3.2.22 **Primary Carer** means the Employee who will assume the principal role for the care or attention of a child or children.
- 3.2.23 **Representative** normally refers to a union representative; a Representative may represent Employees during disciplinary meetings.
- 3.2.24 **Secondary Carer** means the parent or Partner who is not the Primary Carer of the Child.
- 3.2.25 **Secondees (External Incoming)** means where a member of staff from another employer (the seconding organisation) comes to work for ECLC for a defined period of time whilst maintaining their contract with the seconding organisation (their substantive employer).
- 3.2.26 **Supervisor** refers to an employee's nominated supervisor, which may include an employee's Team Leader, Manager or Director, or the CEO (or delegated nominee).

- 3.2.27 **Support Person** refers to an individual who accompanies an employee to meetings with the employer, providing emotional support and assistance during disciplinary or performance processes.
- 3.2.28 **Trainees** mean and refer to an individual who is employed by the Employer under the provisions of a relevant training scheme.
- 3.2.29 **Workplace Delegate** means a person appointed or elected, in accordance with the rules of a union, to be a delegate or representative (however described) for members of the union who work at ECLC.

## 4. Operation of Agreement

- 4.1 This Agreement will commence seven (7) days after it is approved by the Fair Work Commission.
- 4.2 The nominal expiry date of this Agreement is four (4) years from the date of commencement.
- 4.3 This Agreement will continue to apply after its nominal expiry date until the Agreement is varied, replaced, or terminated in accordance with the Fair Work Act.

## 5. Scope and Application

- 5.1 The parties covered by this Agreement are:
- (a) Eastern Community Legal Centre (ECLC);
  - (b) Australian Services Union (ASU); and
  - (c) Employees of ECLC.
- 5.2 This Agreement does not apply to the Chief Executive Officer, volunteers, secondees (external incoming) or contractors/consultants.
- 5.3 The Award is the underlying modern award for this Agreement. In accordance with the FW Act, this Agreement operates to the exclusion of the Award.
- 5.4 This Agreement will be read and interpreted in conjunction with the NES. Where there is an inconsistency between this Agreement and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
- 5.5 Any party can request commencement of negotiations to renew this Agreement within 6 months of its expiry.
- 5.6 A copy of the Agreement will be made available to all Employees to whom the Agreement applies. This may be done by electronic means including email or intranet.

## 6. Delegations

- 6.1 The Chief Executive Officer may delegate to a person any of their powers or functions under this Agreement (other than the power set out in this clause).
- 6.2 A person exercising powers or functions under a delegation under this clause must comply with reporting requirements and any directions of the Chief Executive Officer.

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## Part 2 - Consultation, Dispute Resolution and Representation

### 7. Consultation

#### 7.1. Consultation about Change

7.1.1 The Employer is obliged to engage in consultation where the Employer:

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

#### 7.2. Major Change

7.2.1 For a major change referred to in clause 7.1.1 (a):

- (a) the Employer must notify the relevant Employees of the decision to introduce the major change; and
- (b) subclauses 7.2.2 to 7.2.8 apply.

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

7.2.3 If:

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

7.2.4 As soon as practicable after making its decision, the Employer must:

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

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

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

7.2.7 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in clause 7.2.1(a) and subclauses 7.2.2 and 7.2.4 are taken not to apply.



- 7.2.8 In this term, a major change is likely to have a significant effect on Employees if it results in:
- (a) the termination of the employment of Employees; or
  - (b) major change to the composition, operation, or size of the Employer's workforce or to the skills required of Employees; or
  - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - (d) the alteration of hours of work; or
  - (e) the need to retrain Employees; or
  - (f) the need to relocate Employees to another workplace; or
  - (g) the restructuring of jobs.

### 7.3. Change to regular roster or ordinary hours of work

- 7.3.1 For a change referred to in clause 7.1.1(b):
- (a) the Employer must notify the relevant Employees of the proposed change; and
  - (b) subclauses 7.3.2 to 7.3.6 apply.
- 7.3.2 The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 7.3.3 If:
- (a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
  - (b) the Employee or Employees advise the Employer of the identity of the representative;
- the Employer must recognise the representative.
- 7.3.4 As soon as practicable after proposing to introduce the change, the Employer must:
- (a) discuss with the relevant Employees the introduction of the change; and
  - (b) for the purposes of the discussion—provide to the relevant Employees:
    - i. all relevant information about the change, including the nature of the change; and
    - ii. information about what the Employer reasonably believes will be the effects of the change on the Employees; and
    - iii. information about any other matters that the Employer reasonably believes are likely to affect the Employees; and
    - iv. 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).
- 7.3.5 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 7.3.6 The Employer must give prompt and genuine consideration to matters raised about the change by the relevant Employees.
- 7.3.7 In this term, relevant Employees means the Employees who may be affected by a change referred to in clause 7.1.
- 7.3.8 Any dispute arising out of a consultative process is to be dealt with under the provisions of clause 8 – Dispute Resolution of this Agreement. Consultation should comply with the requirements of OHS legislation.

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## 8. Dispute Resolution

### 8.1. Application

8.1.1 This clause sets out procedures for settling disputes relating to:

- (a) the Agreement; or
- (b) the National Employment Standards.

8.1.2 The dispute resolution procedure is to be used when informal attempts between the parties to resolve the dispute have not resolved the issue. The dispute resolution procedure is not to be used as a disciplinary procedure; the process for disciplinary action is outlined in clause **76** – Disciplinary Matters.

### 8.2. Representation

8.2.1 The Employee is entitled to nominate a representative to be present during any stage of the dispute resolution procedures and mediation.

### 8.3. Process for dispute resolution

8.3.1 In the first instance, the parties will genuinely attempt to resolve the dispute at the workplace level, by discussions between the Employee or Employees concerned and relevant manager and/or director. The arrangement of a meeting under this clause will ordinarily take place within seven working days of notification of a dispute.

8.3.2 If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the Employee or Employees concerned and the CEO, or the Board where the CEO is a party to the dispute. These discussions will, where possible, take place within a further ten days, or as soon as the parties can reasonably commence discussions.

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

8.3.4 The Fair Work Commission may deal with the dispute in 2 stages:

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

8.3.5 The parties to the dispute agree to be bound by any determination made by the Fair Work Commission under this clause subject only to their rights of appeal under the FW Act.

8.3.6 The parties to the dispute may agree to refer the dispute to a body or person other than the Fair Work Commission (such as an accredited mediator).

### 8.4. Obligations

8.4.1 Until the matter is resolved work must continue in accordance with the custom and practice in existence prior to notification of the matter unless:

- (a) the Employer or Employee have a reasonable concern about an imminent risk to the Employee's health and safety; or
- (b) the Employer has a reasonable concern that it is not able to provide a safe working environment for the Employee or any other workplace participant.

In the event that a concern arises under clause 8.4.1(a) or 8.4.1(b), a director or CEO may direct the Employee to perform other available work or undertake work at another workplace location where this is reasonable in all the circumstances.

## 9. Representation and Workplace Delegates

### 9.1. Workplace Representation

- 9.1.1 The Employer recognises the role that union officials and Workplace Delegates play in promoting understanding and knowledge of workplace relations and in dispute resolution. The Employer is committed to:
  - (a) Developing and maintaining constructive on-going interaction between the Employer, Employees, union officials and Workplace Delegates.
  - (b) Respecting the rights of Employees to engage in union activities.
  - (c) Effective prevention and settlement of industrial disputes.
- 9.1.2 The Employee will provide the Employer with written notice of their appointment or election as a Workplace Delegate. An Employee who ceases to be a Workplace Delegate must give written notice to the Employer within 14 days.
- 9.1.3 An Employee (whether individually or collectively) in any dealings with the Employer is entitled to choose to be represented by a nominated representative of their choice in relation to any matter arising from, or in connection, with this Agreement.
- 9.1.4 Workplace Delegates will be provided with reasonable time off from normal duties for such periods of time as is necessary to enable them to carry out representative functions pertaining to employment matters arising from this Agreement, subject to operational requirements. These functions may include participation in bargaining and other consultation processes or any other representative function.
- 9.1.5 A Workplace Delegate may communicate with employees for the purpose of representing their industrial interests, including discussing membership of the Workplace Delegates' organisation with eligible employees.

### 9.2. Workplace Consultative Committee

- 9.2.1 A Workplace Consultative Committee will be established to:
  - (a) facilitate an exchange of information and improve understanding of workplace issues affecting Employees;
  - (b) provide an avenue for Employees to contribute views on workplace issues affecting them; and
  - (c) provide a mechanism for reasonable consultation with Employees about significant workplace matters considered by the CEO or Employees to be relevant for the Workplace Consultative Committee.
- 9.2.2 The Workplace Consultative Committee will meet quarterly unless it otherwise agrees.

### 9.3. Union Representative Training

- 9.3.1 On being notified in writing that an Employee has been appointed as a Workplace Delegate, the Employer will allow them reasonable time in working hours, without loss of pay, to perform the tasks required to effectively represent Employees on matters arising from this Agreement, subject to operational requirements. These functions may include participation in bargaining and other consultation processes or any other representative function.
- 9.3.2 The Employer will provide a Workplace Delegate with access to up to five (5) days paid leave to attend workplace relations training in the first 12-month period. The Employer will provide a Workplace Delegate with up to five (5) days paid leave to attend workplace relations training in each subsequent year, provided that the granting of such leave does not unduly affect operational capacity.

### 9.4. Reasonable access to workplace facilities

- 9.4.1 The Employer must allow a Workplace Delegate to access or use the following workplace facilities:
- (a) a room or area to hold private discussions;
  - (b) a physical or electronic noticeboard;
  - (c) electronic means of communication ordinarily used in the workplace by the employer;
  - (d) a lockable filing cabinet or other secure document storage; and
  - (e) office facilities such as printers, scanners and photocopiers.
- 9.4.2 The Employer is not required to provide access to or use of a workplace facility in clause 9.4.1 if:
- (a) the workplace does not have the facility;
  - (b) 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 and is unable to obtain access after taking reasonable steps.

## Part 3 - Work Environment

### 10. Individual Flexibility Arrangements

- 10.1 The Employer and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
- 10.1.1 The Agreement deals with one or more of the following matters:
- (a) arrangements about when work is performed.
  - (b) allowances.
  - (c) annual leave loading.
- 10.1.2 The arrangement meets the genuine needs of the Employer and the Employee in relation to one or more of the matters outlined in clause 10.1.1.
- 10.1.3 The arrangement is genuinely agreed to by the Employer and the Employee.
- 10.2 The Employer must ensure that the terms of the individual flexibility arrangement:
- (a) are 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.
- 10.3 The Employer must ensure that the individual flexibility arrangement:
- (a) is in writing; and
  - (b) includes the name of the Employer and Employee; and
  - (c) is signed by the Employer 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 the 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 his or her employment as a result of the arrangement; and
  - (e) states the date on which the arrangement commences.
- 10.4 The Employer must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 10.5 A cooling off period of 7 days from the signing of an individual flexibility arrangement shall apply, during which an Employee or the Employer may cancel the individual flexibility arrangement by giving 24 hours' notice to the other party.
- 10.6 The Employer 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 Employer and Employee agree in writing at any time.
- 10.7 The Employer is responsible for ensuring that all of the requirements of clause 10.3 are met.

## 11. Flexible Work Arrangements

- 11.1 ECLC is committed to fostering a flexible working environment where Employees can excel in their roles, supported by balancing personal and work commitments.
- 11.2 ECLC extends access to flexible working arrangements to all Employees, over and above the category of Employees who meet the circumstances as covered in s65 Fair Work Act.
- 11.3 Examples of types of flexible working arrangements may include, but are not limited to,:
- (a) changes in hours/days of work (e.g. reduction in hours worked, changes to start/finish times, changes in days worked)
  - (b) changes in patterns of work (e.g. working 'split shifts' or job sharing)
  - (c) changes in location of work (e.g. working from home or another location)
  - (d) changes to breaks (e.g. longer, or more frequent breaks)
- 11.4 Employees applying for flexible working arrangements should follow ECLC policy and procedures, using prescribed forms.
- 11.5 In seeking access to flexible working arrangements, individual Employees should be aware that operational requirements may limit access to workplace flexibility options. Flexible work requests will not however be unreasonably refused and will only be refused on reasonable operational grounds.

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- 11.6 Where management refuses a request for flexible working arrangements, the reasons why must be clearly stated (in writing) within 21 days of a request being made.
  - 11.7 Managers and Employees must document agreed Flexible Working Arrangements and notify Human Resources as soon as practical.

## 12. Working from Home

- 12.1 As part of an overall flexible working arrangement, ECLC recognises the potential benefits to home working. As such, the Employer endeavours to accommodate the needs and preferences of Employees, where possible, subject to:
  - (a) the operational requirements of the organisation;
  - (b) work, health, and safety requirements; and
  - (c) individual Employee circumstances,ensuring work can be performed at home as effectively as at the organisation's premises.
- 12.2 Working from home is granted at the Employer's discretion and requires prior approval of a manager following consultation and discussion, subject to clause 11.5.
- 12.3 In most circumstances, a maximum 50 per cent of ordinary hours should be undertaken in home-based working. This ensures face-to-face interaction, on-site support and team collaboration can be maintained, whilst balanced with the benefits that can occur working from home.
- 12.4 The Working from Home Policy outlines the process for Employees who seek to perform work from home, either on an occasional or ad hoc basis or as an ongoing arrangement.
- 12.5 A Working from Home Agreement must be completed for all ongoing arrangements.

## 13. Childcare Arrangements

- 13.1 Where an Employee is requested to work outside their ordinary hours of work and where less than 24 hours' notice of the request to perform such work has been given by the Employer, the Employee will be reimbursed for reasonable childcare expenses incurred.
- 13.2 Evidence of expenditure incurred by the Employee must be provided as soon as possible after undertaking the work.
- 13.3 Where an Employee is requested to work outside their ordinary hours of work and where less than 24 hours' notice of the request to perform such work has been given by the Employer, the Employee may decline to undertake the additional work.

## 14. Diversity, Equity, and Inclusion

- 14.1 ECLC recognises the importance of a diverse workforce, and the invaluable contribution made by all Employees. It is committed to equal opportunity in employment where everyone feels accepted, safe, affirmed and celebrated and feels comfortable to bring their whole selves to work.
- 14.2 ECLC is committed to affirmative action in leadership, management, employment, and professional development of people representing the diverse groups that represent the community in which it works.
- 14.3 ECLC is committed to providing induction and regular training for all leadership, management, and Employees on issues around diversity, inclusion, and cultural awareness.

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## 15. Safety and Wellbeing

### 15.1. Workplace Safety and Wellbeing

- 15.1.1 The Employer is committed to fostering a healthy and safe workplace that is free from physical and psychosocial risks, such as unlawful discrimination, harassment, bullying, excessive and unsafe hours, and work practices. As part of this duty, the Employer will adopt and implement appropriate health and safety policies and practices.
- 15.1.2 In promoting the safety and wellbeing of all Employees, the Employer commits to:
- (a) Complying with all applicable Work Health and Safety laws and regulations;
  - (b) Identifying and taking reasonable steps to eliminate or reduce identified workplace factors which may contribute to the development of work-related stress and ill health;
  - (c) Promoting communication and openness to mental health issues to reduce stigma or barriers on employees seeking support, and in consultation with employees will explore strategies to support wellbeing;
  - (d) Ensuring that all Employees are treated fairly and equitably and treat any reports of discrimination, harassment or bullying seriously in accordance with this Agreement and relevant policies;
  - (e) Maintaining a Health and Safety Committee as a consultative body to drive continuous improvement in safety and wellbeing across the organisation;
  - (f) Providing Employees with access to safety and wellbeing information, resources, training and available supports to minimise risk and build capacity, including access to an Employee Assistance Program;
  - (g) Continue to develop workplace health and/or wellbeing initiatives that are suited to the needs and resources of ECLC;
  - (h) Providing access to approved training to elected Occupational Health and Safety Representatives to a maximum of ten (10) days in any two-year period;
  - (i) Providing access to contact officer training and allowances for Positive Workplace Contact Officers;
  - (j) Providing access to first-aid training and allowances for first aid officers; and
  - (k) Providing workplace first-aid kits and aids.
- 15.1.3 Employees play a vital role in supporting their own and others' health, safety, and wellbeing, including:
- (a) Complying with all applicable Work Health and Safety laws and regulations, and applicable ECLC policies and procedures;
  - (b) Taking reasonable care of the safety of themselves as well as co-workers or any other persons working at the workplace;
  - (c) Adopting safe work practices (this includes the use of devices, safeguards and equipment that is provided in the interests of health and safety);
  - (d) Monitoring their own health and wellbeing and for raising any concerns with their manager;
  - (e) Co-operating in all activities aimed at the prevention of workplace accidents, injuries and illnesses;
  - (f) Immediately reporting to management any accidents, incidents or hazards arising in the course of employment; and
  - (g) Where an employee believes they have experienced discrimination, harassment, or bullying, to follow the dispute resolution procedure as outlined in clause 9 should be implemented.

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## 15.2. Workplace Injury

- 15.2.1 All Employees are required to report any injury and record the injury, in detail, via the Workplace Injury Reporting procedure.
- 15.2.2 The responsibility is then with the manager to report the injury to the Health and Safety Representative/s, HR, and WorkSafe Victoria if applicable, to ensure proper procedure is being followed. This may include ensuring that the employee has been seen by a health practitioner and ongoing support and assessment is in place.
- 15.2.3 The Employer agrees to provide relevant rehabilitation to Employees who have suffered an injury or illness that is work-related. The Employer shall investigate the possibility of providing alternative duties to assist in the rehabilitation process in consultation with the rehabilitation provider.
- 15.2.4 The Employer keeps a register of injuries.

## 16. Mutual Obligations

- 16.1 The Employer has the duty to:
- (a) provide a safe workplace and exercise a duty of care;
  - (b) provide appropriate work and professional development while the Employee is employed;
  - (c) provide fair and reasonable remuneration;
  - (d) ensure Employees have access to the facilities, policies and procedures necessary to perform their jobs;
  - (e) respect the rights and welfare of all Employees; and
  - (f) provide a working and learning environment that is free from harassment and unlawful discrimination, and a culture where all workers are treated with dignity, courtesy, and respect. Workplace bullying and other forms of harassment will not be tolerated.
- 16.2 Each Employee has the duty to:
- (a) familiarise themselves with, and abide by, statutes, regulations and policies relevant to their work area and comply with reasonable directions of the Employer;
  - (b) comply with all policies and procedures, and Codes of Conduct, which ECLC has in place from time to time, as varied (noting that ECLC's policies and procedures are not incorporated into the Employees' contract of employment or this Agreement);
  - (c) exercise due care, diligence and skill in the performance of their duties;
  - (d) devote the whole of their time and attention to their work, while at work;
  - (e) refrain from acting or giving the appearance of acting contrary to the interests of ECLC;
  - (f) work in a safe manner at all times recognising that the lack of safe work practices impacts on their own safety, that of other Employees, volunteers, workers, clients and the community;
  - (g) undertake their work in a manner which supports, enhances, and does not detract from ECLC's strategic goals and objectives; and
  - (h) respect the rights and welfare of all Employees, volunteers and other persons who use ECLC services.

## 17. Intellectual Property

- 17.1 All Intellectual Property created by an Employee during the course of performing their duties will become and remain the property of the Employer.
- 17.2 Any Intellectual Property created by an Employee in the Employee's own time (i.e., outside of the Employer's normal working hours) will:



- (a) if that Intellectual Property is subsequently utilised for the benefit of the Employer, or in the course of the Employee performing their duties, become the property of the Employer; or
- (b) if that Intellectual Property is never utilised for the benefit of the Employer, or in the course of the Employee performing their duties, remain the property of the Employee.

17.3 For the purposes of this clause, the term Intellectual Property includes but is not limited to:

- (a) patents, copyright (including all copyright in software), registered designs, trademarks, rights to have information kept confidential, processes, training materials, technological and other inventions, improvements, innovations, modifications and discoveries, whether or not capable of being secured, registered or protected by any means; and
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a) of this definition.

## Part 4 - Engagement of Employees

### 18. Terms of Employment

18.1 Prior to the commencement of employment, the Employer will provide to each Employee a letter of engagement outlining the terms of their appointment. This will include:

- (a) the start date (and finish date where relevant);
- (b) the employment type;
- (c) the classification level and rate of pay;
- (d) the length of any probationary period; and
- (e) an outline of the main duties of the Employee's position reflected in a current position description.

18.2 The Employer will amend a position description in consultation with the relevant Employee, where the duties and responsibilities of that Employee have changed.

### 19. Types of Employment

19.1 Employees under this Agreement will be employed in one of the following categories:

- (a) permanent full-time employment;
- (b) permanent part-time employment;
- (c) fixed-term employment; or
- (d) casual employment.

19.2 At the time of employment, the Employer will inform Employees of the terms of their employment and whether they are to be employed on a full-time, part-time, fixed-term or casual basis.

### 20. Full-Time Employment

20.1 An Employee is a full-time Employee if the Employee:

- (a) is engaged to work 37.5 hours per week (or in the case of an Employee engaged prior to the commencement of this Agreement, 38 hours per week); and
- (b) is not specifically engaged on a part-time or casual basis.

20.2 A full-time Employee's ordinary hours will be within the ordinary span of hours defined in clause 29 of this Agreement.

20.3 An Employee employed on a full-time basis will be entitled to the full benefits of the Agreement.

## 21. Part-Time Employment

21.1 An Employee is a part-time Employee if the Employee:

- (a) is engaged to work for less than an average of 37.5 ordinary hours per week; and
- (b) is engaged for not less than 3 hours per day except by agreement between the Employee and Employer; and
- (c) is not a casual Employee; and
- (d) has reasonably predictable hours of work.

21.2 The ordinary hours for part-time Employees will be within the ordinary span of hours defined in clause 29 of this Agreement.

21.3 The Employer and part-time Employee will agree in writing at the time of commencement of employment a regular pattern of work, including ordinary hours to be worked each week and the days of the week the Employee will work. The pattern of work may be varied by agreement in writing.

21.4 Employees working on a part-time basis are entitled to the benefits of the Agreement on a pro rata basis.

## 22. Fixed-Term Employment

22.1 A fixed-term Employee is an Employee engaged for a specific purpose or a fixed period on a full or part-time basis.

22.2 Employees employed under this clause shall, except where otherwise provided, be subject to the provisions of this Agreement.

22.3 The use of fixed-term employment will not undermine the job security or conditions of ongoing Employees. Therefore, the use of fixed-term employment is restricted to the following circumstances:

- (a) replacing staff on approved leave such as parental leave or long service leave.
- (b) meeting fluctuating client and staffing needs and unexpected increased workloads.
- (c) undertaking a specific, but finite task.
- (d) filling a vacancy resulting from a temporary assignment or secondment.
- (e) temporarily filling a vacancy where, following an appropriate selection process, a suitable ongoing Employee is not available.

22.4 Fixed-term employment will be restricted to a maximum of 12 months in the first instance with a further 12-month extension available where one or more of the circumstances outlined in clause 22.3 applies.

22.5 At the time of engagement, the Employer shall advise the Employee in writing that:

- (a) the employment is of a temporary nature;
- (b) the actual or expected duration of employment; and
- (c) employment beyond the period is not expected.

22.6 If a fixed-term Employee is subsequently appointed to a permanent position with the Employer, any period of the fixed-term contract completed immediately prior to the commencement of the permanent position shall be recognised as continuous service with the Employer for the purpose

of calculating leave entitlements, pursuant to clause 71 - Calculation of the Period of Continuous Service, provided that the Employee has not taken or received a redundancy payment.

## 23. Casual Employment

- 23.1 A casual Employee is an Employee engaged to perform work covered by this Agreement for the purpose of meeting the particular and short-term needs of the Employer.
- 23.2 A person is a casual Employee where:
- (a) there is no firm advance commitment to ongoing work; and
  - (b) they are entitled to casual loading as in clause 23.3.
- 23.3 A casual Employee shall receive an additional percentage of the appropriate ordinary hourly rate for each hour during which the casual is employed. The standard loading is 25%. The additional loading is in lieu of all paid leave (except Long Service Leave) and public holidays not worked and to compensate for the nature of casual employment.
- 23.4 An Employee specifically engaged on a casual basis shall be engaged for a minimum period of 3 hours on each occasion.
- 23.5 Casual employees will submit timesheets to record hours worked.

## 24. Casual Conversion

### 24.1. Making a notification

- 24.1.1 Subject to clause 24.2 below, a casual Employee may give the Employer written notification to become a permanent employee if:
- (a) the Employee has been employed for at least 6 months; and
  - (b) the Employee believes they no longer meet the requirements of the casual employee definition (as set out in clause 23.2).

### 24.2. When a request cannot be made

- 24.2.1 Despite clause 24.1, a casual Employee cannot give the Employer written notification to become a permanent employee if:
- (a) the Employee is engaged in an ongoing dispute with the Employer about changing to permanent employment under the employee choice pathway; or
  - (b) in the previous 6 months, the Employer has refused a previous notice or they've resolved a dispute with the Employer in relation to employee choice.

### 24.3. Responding to a notice

- 24.3.1 The Employer must consult with the casual Employee about the notification.
- 24.3.2 The Employer must give the casual Employee a written response to the notification within 21 days after the offer is given to the Employer, stating whether the Employer accepts or rejects the notification.
- 24.3.3 If the Employer accepts the notification, the Employer must give written notice to the Employee of the following:

- (a) whether the Employee is changing to full-time employment or part-time employment;
- (b) the hours of work after the change takes effect;
- (c) the day the Employee's change to full-time employment or part-time employment takes effect.

24.3.4 If the Employer declines the notification, the Employer must give reasons for the decision. The Employer may not accept the notification for the following grounds:

- (a) the Employee's current employment relationship with the Employer is still one of a casual nature;
- (b) there are fair and reasonable operational grounds for not accepting the notification such as:
  - i. substantial changes would be required to the way in which work in the Employer's business is organised;
  - ii. there would be significant impacts on the operation of the Employer's business;
  - iii. substantial changes to the Employee's terms and conditions would be reasonably necessary to ensure the Employer does not contravene a term of this Agreement that would apply to the Employee as a full-time or part-time Employee; or
- (c) accepting the notification would result in the employer not complying with a recruitment or selection process required by a Commonwealth or State law.

## 25. Probation

- 25.1 Upon commencement of employment, full-time and part-time Employees will initially be employed on a probationary period of three (3) months, extendable to a maximum of six (6) months, for the purpose of determining the Employee's suitability for ongoing employment. The continuation of an Employee's employment will be subject to the Employee successfully completing the probationary period.
- 25.2 During the probationary period, if either party does not wish to continue with the employment relationship, employment may be terminated by either party providing the other with two weeks' notice or pay in lieu of notice if dismissed during probation.
- 25.3 An Employee who is appointed to a different role within ECLC, whether by promotion, reclassification or through a recruitment process, shall not be required to serve a further probationary period in the new role.
- 25.4 No probation period applies to casual employees.

## 26. Temporary Vacancies

- 26.1 Where a position is temporarily vacant the relevant Manager or Director will assess the need to fill the vacancy and where it is deemed necessary will make a recommendation to the Director / CEO in respect to the filling of the position.
- 26.2 Where a vacant position has a significant impact on an Employee, discussion and consultation should be undertaken with the relevant Manager or Director to address concerns. Where concerns are not addressed, Dispute Resolution (clause 8) should be followed.

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## Part 5 – Hours and Place of Work

### 27. Hours and Place of Work Principles

- 27.1 ECLC's approach to the hours and place of work of its Employees is underpinned by the following principles:
- (a) ECLC is committed to ensuring the work health and safety of all Employees as well as assisting Employees to balance family and work commitments, health requirements and other responsibilities;
  - (b) work performed outside the span of hours should be adequately recognised; and
  - (c) decisions about hours and place of work, including the taking of flexitime and time off in lieu, should be reached where possible through a process of mutual agreement in which the personal circumstances of Employees are respected. However, ECLC reserves the right to make decisions on such matters based on its operational, community and service needs, and its obligations under relevant funding agreements.

### 28. Hours of Work

- 28.1 For full-time Employees employed following the commencement of this Agreement, the ordinary hours of work are 37.5 hours per week, which equates to a standard day of 7 hours 30 minutes, plus such additional hours as may be reasonably necessary to perform the Employee's duties.
- 28.2 The ordinary hours of work for a full-time Employee employed by ECLC prior to the commencement of this Agreement are 38 hours per week, equating to a standard day of 7 hours and 36 minutes, plus such additional hours as may be reasonably necessary to perform the Employee's duties.
- 28.3 Clause 28.2 does not prohibit an existing full-time Employee to elect to work 37.5 hours per week. A request should be made in writing by the Employee. Amended ordinary hours will be confirmed in writing as a variation to the Employee's existing hours of work.
- 28.4 Subject to operational requirements, and the Employee's family, social and other responsibilities, and in particular the need for work/life balance, an Employee may make a request to convert their full-time position to part-time, either permanently or for an agreed temporary period. An Employee may request to revert to full-time hours before the end of the agreed period. Any request shall not be unreasonably denied. Any request and variation shall be requested in writing.

### 29. Span of Hours

- 29.1 Ordinary hours of work are to be worked within the span of hours between 7.00am and 7.00pm, Monday to Friday. The span of hours may be formally varied by 1 hour either side of the span of hours by agreement between the employee and employer.
- 29.2 The customary hours of work are between 8.30am and 5.30pm. This does not impede an Employee and their manager coming to an alternative arrangement, on a temporary or permanent arrangement, to work ordinary hours of work within the span of hours as outlined in clause 29.1. An alternative arrangement will be based on:
- (a) An Employee's request to adjust the ordinary hours of work within the span of hours for personal reasons as part of ECLC's commitment to workplace flexibility, subject to operational requirements; and/or
  - (b) An identified organisational requirement for adjusted hours, with accompanying rationale

29.3 Travel on official business may count as time worked, in accordance with the Employer's Travel Policy. Travel to work from home or other accommodation, and return, is not counted as time worked.

## 30. Work Breaks

30.1 All Employees are entitled to up to 1-hour unpaid lunch break free from work and are required to take at least a half hour unpaid lunch break, provided that not more than 5 hours shall elapse after the commencement of work and the taking of such meal period.

30.2 Where work on any day continues for more than 2 hours beyond the period of normal working hours, a second meal break shall be taken of not less than twenty minutes. The Employer may stagger the time of taking a meal break to meet operational requirements.

## 31. Time off in Lieu (TOIL) and Overtime

### 31.1. Overtime

31.1.1 Overtime may only be worked if approved in advance by management.

31.1.2 Time off in Lieu of overtime is the standard form of recompense for overtime. Where payment for overtime is considered appropriate in the circumstances, or requested by an Employee, prior approval must be sought by a Director or the CEO.

31.1.3 Overtime occurs when work is undertaken:

(a) by a full-time Employee:

- i. outside the span of ordinary hours between 7am and 7pm, Monday to Friday; or
- ii. in excess of 10 hours per day; or
- iii. after completing more than an average of 37.5 hours per week, averaged over a four-week period;

(b) by a part-time Employee:

- i. in excess of 10 hours per day; or
- ii. in excess of 37.5 hours per week or 70 hours per fortnight

31.1.4 The Employer may request an employee to work reasonable overtime hours for purposes such as, but not limited to:

- (a) running community legal education at the weekends or on public holidays
- (b) night or weekend events, workshops or meetings
- (c) peak periods of work as agreed with the manager
- (d) attending approved professional development outside of normal working hours

31.1.5 The Employee retains discretion to refuse such a request on reasonable grounds.

### 31.2. Accruing and Managing Overtime and Time off in Lieu (TOIL)

31.2.1 Employees will use timesheets to record authorised overtime hours worked and accrued time off in lieu of overtime.

31.2.2 Time off in Lieu of overtime (TOIL) is the standard form of recompense for overtime. Where payment for overtime is considered appropriate in the circumstances, or requested by an Employee, prior approval must be sought by a Director or the CEO.

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- 31.2.3 Where overtime is due, recompense (whether through TOIL or payment) is calculated at the following rates:
- (a) Monday to Friday – First two (2) hours: Time and a half; Thereafter: Double time
  - (b) Saturday – Time and a half for hours worked
  - (c) Sunday – Double time for hours worked
  - (d) Public Holiday – Double time and a half for hours worked
- 31.2.4 Time off in lieu of overtime should be taken within four (4) weeks, or as soon as practicable after it is accrued in consultation with the Employee's manager.
- 31.2.5 A full-time Employee can accrue a maximum of 22.5 hours time off in lieu, pro rata for a part-time Employee.
- 31.2.6 When an Employee has accrued their maximum number of hours' time off in lieu, a Director or the CEO may, with two weeks' notice, direct an Employee to absent themselves on time off in lieu to reduce their accrued time off in lieu.
- 31.2.7 An Employee is expected to reduce their accrued time off in lieu to zero by the end of their employment. To assist this, management may direct an Employee to be absent on time off in lieu during the Employee's notice period. Any time off in lieu balance at the end of employment will be paid out.

## 32. Flexi-time

- 32.1 Flexi-time is used to manage any work voluntarily undertaken by Employees in excess of contracted hours.
- 32.2 Flexi-time is credited or debited as one hour worked/not worked for one-hour flexi-time credit/debit.
- 32.3 Flexi-time arrangements, including the accrual and taking of flexi-time, must be with the agreement of the Employee's supervisor/manager, taking into account the operational requirements of the organisation and the workload / flexibility needs of the Employee.
- 32.4 Employees may accrue flexi-time credit to a total of 22.5 hours, pro rata for part-time Employees, and a maximum flexi-time debit of 7.5 hours.
- 32.5 Flexi-time should be recorded on the Employee's Flexi-time Tracker. The Flexi-Time Tracker should be made available to the Employee's supervisor/manager or provided at least on a fortnightly basis.
- 32.6 Where an Employee exceeds the maximum flexi-time credit, the Employee and their supervisor/manager must agree to a strategy to reduce the excess hours as soon as reasonably practicable after it is accrued.
- 32.7 An Employee is expected to achieve a zero flexi-time balance by the end of their employment.
- 32.8 Where any flexi-time debits are outstanding at the end of employment, the Employer will recover these as part of the termination payment.

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## Part 6 – Classification and Remuneration

### 33. Classification

- 33.1 Employee positions will be classified in accordance with the Social and Community Services Employees classification structure contained in the Award.
- 33.2 Any disputed classifications will be managed in accordance with the dispute resolution procedure set out in the Agreement in clause **8**.

### 34. Remuneration Rate

- 34.1 Employees will be paid no less than the applicable hourly base rate of pay for their classification level as contained within the Award.

### 35. Remuneration Increases

#### 35.1. Annual Wage Review Pay Increase

- 35.1.1 The Award hourly base rates of pay are reviewed annually by the Fair Work Commission taking into account a number of factors including living standards, the performance of the economy, social inclusion through workforce participation and pay equity.
- 35.1.2 Following the Annual Wage Review decision, a percentage increase may apply to all Award rates of pay.
- 35.1.3 The Employer guarantees a safety net of 3% in relation to the Annual Wage Review decision. Where the Annual Wage Review decision exceeds this percentage rate, the Annual Wage Review increase will apply. Where the Annual Wage Review decision is lower than this percentage rate, the Employer will make up the difference between the Annual Wage Review decision and the safety net.

#### 35.2. Pay Point Performance Progression

- 35.2.1 Where an Employee has not reached the highest pay point within their classification level, the Employee will progress from one pay point to the next from the first full pay period in July each year where:
- the Employee has worked for a minimum period of 6 consecutive months (including paid leave); and
  - demonstrated competency and satisfactory performance over that period at their current or higher level, which has been recognised and documented in their annual performance review.

- 35.2.2 For Employees who have not completed 6 months' consecutive service at the time annual performance reviews are conducted, their pay point will be reviewed during the following year's annual performance review.

#### 35.3. Performance Increase

- 35.3.1 Employees who have reached the highest pay point and served a further full year within their classification level will receive 3% above the highest pay point level that applies to the Employee subject to demonstrating a minimum rating of 'Solid Performance' (or equivalent) as recognised and documented in the annual performance review.



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## 36. Salary on Transfer or Promotion

- 36.1 An Employee transferred or promoted to any position shall be paid a salary not less than that which such Employee was receiving immediately before such transfer or promotion provided that the salary payable is within a classification level or grade prescribed for the position to which the Employee is transferred or promoted.
- 36.2 Notwithstanding the provisions of this clause, the Employer may determine that an Employee may commence employment at any pay point within a classification level or grade if suitably qualified and/or experienced, or in cases of recruitment difficulty.
- 36.3 Progress between classifications will be by way of promotion or reclassification.

## 37. Payment of Salaries

- 37.1 All salaries shall be paid fortnightly into the Employee's nominated account/s with a financial institution.

## 38. Superannuation

### 38.1. Employer Contributions

- 38.1.1 Employer-contributed superannuation is payable to all Employees at a rate as specified in the Superannuation Guarantee (Administration) Act 1992.
- 38.1.2 Any legislated increase in the Superannuation Guarantee (SG) rate will be applied to an Employee's salary package.
- 38.1.3 Employees may request payment of superannuation contributions to any complying superannuation fund within 28 days of commencement. If an Employee does not exercise a choice of superannuation fund, the Employer will identify a "stapled fund" to make contributions to the Employee's existing superannuation fund. If there is no "stapled fund", the Employer will make contributions to the HESTA Super Fund.
- 38.1.4 The Employer will include the name of the fund into which contributions have been paid and the amount paid in its pay advice to Employees.

### 38.2. Voluntary Employee contributions

- 38.2.1 Subject to the governing rules of the relevant superannuation fund, an Employee may, in writing, authorise the Employer to pay on behalf of the Employee a specified amount from the pre-taxation wages of the Employee into the same superannuation fund as the Employer makes the superannuation contributions provided for in clause 38.1.3.
- 38.2.2 An Employee may adjust the amount the Employee has authorised the Employer to pay from the wages of the Employee from the first of the month following the giving of 3 months' written notice to their Employer.
- 38.2.3 The Employer must pay the amount authorised under clauses 38.2.1 or 38.2.2 no later than 28 days after the end of the month in which the deduction was authorised.

### 38.3. Absence from work

- 38.3.1 Subject to the governing rules of the relevant superannuation fund, the Employer must also make the superannuation contributions provided for in clause 38.1.1 and pay the amount authorised under clauses 38.2.1 or 38.2.2 on:
- (a) Paid leave - while the Employee is on any paid leave;
  - (b) Work-related injury or illness - for the period of absence from work (subject to a maximum of 52 weeks) of the Employee due to work-related injury or work-related illness provided that:
    - i. the Employee is receiving workers' compensation payments or is receiving regular payments directly from the Employer in accordance with the statutory requirements; and
    - ii. the Employee remains employed by the Employer.

### 39. Salary Packaging

- 39.1 Permanent Employees, and fixed term Employees of more than 12 months, will be entitled to salary sacrifice their salary up to the maximum ATO capping threshold applicable to Eastern Community Legal Centre as a Public Benevolent institution.
- 39.2 The rate of pay as set out in the Letter of Engagement shall be used as the basis for the agreed package. The terms and conditions of such a package shall not, when viewed objectively, be less favourable than the entitlements otherwise available under this Agreement.
- 39.3 Employees must cover all the costs associated with entering the salary packaging program, including administrative costs.
- 39.4 In the event that changes in legislation, determinations or rulings, particularly in respect of an Employer's Fringe Benefits Tax exempt status in the case of a Public Benevolent Institution, remove the Employer's capacity to maintain the salary packaging arrangements offered to Employees under this Agreement, the Employer shall be entitled to withdraw from the remuneration packaging arrangements by giving the maximum reasonable notice practicable to each affected Employee, and where possible at least 1 month prior to the withdrawal taking place.
- 39.5 Salary packaging will be provided in accordance with the ECLC Salary Packaging Policy.

### 40. Accident Pay

- 40.1 The Employer shall pay an Employee accident make-up payment where the Employee receives an injury for which weekly payment of compensation is payable by or on behalf of the Employer pursuant to the provisions of the appropriate Workers' Compensation Act or Ordinance as amended from time to time.
- 40.2 Accident make-up payment means a weekly payment of an amount being the difference between the weekly amount of compensation paid to the Employee pursuant to the appropriate Workers' Compensation Act or Ordinance and the Employee's rate of pay, or, where the incapacity is for a period less than one week, the difference between the amount of compensation and the rate of pay for that period.
- 40.3 The Employer shall pay, or cause to be paid, accident make-up payment during the incapacity of the Employee within the meaning of the said appropriate Act or Ordinance until such incapacity ceases or until the expiration of a period of 39 weeks from the date of injury, payment prescribed shall apply only in respect of an incapacity which results from an injury which is current during the first pay period commencing on or after or which occurs subsequent to that pay period.

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- 40.4 The liability of the Employer to pay make-up payment in accordance with this clause shall arise as at the date of the injury or accident in respect of which compensation is payable under the said appropriate Act or Ordinance.
- 40.5 The Employee may utilise accrued leave for absences beyond the period for which compensation is made. Leave without pay may be granted where entitlements to paid leave have ceased.
- 40.6 The Employee granted leave without pay under this clause does not accrue any right, benefit or entitlement under the Agreement and must not be granted annual or sick leave so long as he or she receives weekly compensation. In these instances, the Employee is obliged to:
- (a) Immediately notify the Employer in writing of any claim for civil damages.
  - (b) Refund the make-up pay received if a settlement is received in a civil claim that specifically compensates the Employee for make-up payments.

## 41. Repayment of Monies

- 41.1 Notwithstanding any other provisions of this Agreement, the Employer may recover from an Employee during the course of their employment or at the date of termination of employment, any outstanding debts, overpayments of salary or allowances, leave deficit or the monetary value of items of equipment issued and not returned by the Employee.
- 41.2 Prior to instigating the recovery of any monies, the Employer shall provide the Employee with written notice of the:
- (a) reason for the alleged overpayment;
  - (b) amount to be recovered;
  - (c) the prospective date for any deduction; and
  - (d) a calculation outlining the components of the outstanding debt.
- 41.3 The Employee shall have the right to review, comment or reply to the written notice.
- 41.4 Where the outstanding debt is significant, it should be repaid over a mutually agreeable timeframe, and as far as is practicable, within the period of the income tax year.

## Part 7 – Allowances and Expenses

### 42. Contact Officer Allowance

- 42.1 The Employer will pay a Positive Workplace Contact Officer Allowance to an Employee who is elected or appointed to the role and has successfully undertaken relevant training or obtained any required qualifications. An allowance of \$27.00 per fortnight will be paid (pro rata for part-time employees).

### 43. First Aid Allowance

- 43.1 An Employee who has been trained and appointed to render first aid and who holds the associated current first aid qualifications, will be paid a first aid allowance in accordance with the modern award that covers the Employee for all time worked where the Employee is the appointed First Aider.
- 43.2 The Allowance is paid on a pro rata basis for part-time Employees.

43.3 The amount of the first aid allowance will increase annually, effective from the first full pay period from 1 July each year, in accordance with the adjustments to the allowance in the relevant award.

43.4 The Employer will ensure a minimum of two (2) Employees will be elected as a First Aid Officer.

## 44. General Expense Reimbursement

44.1 The Employer will reimburse Employees for all fair and reasonable work-related expenses incurred during the course of, or arising out of, their employment, on production of tax receipts or other evidence of expenses incurred which is acceptable to the Employer.

## 45. Higher Duties and Additional Responsibilities Allowance

45.1 Where an Employee is required to perform all the duties of a higher classified position for a period of at least five (5) consecutive working days, they will be paid for the period for which duties are assumed at a rate not less than pay point 1 of the higher classification level.

45.2 Where an Employee is required to perform part of the duties of a higher classification for a period of at least five (5) consecutive working days, a Director or the CEO may approve payment of an Additional Responsibilities Allowance.

45.3 No higher duties assignments may be performed unless approved by a Director or the CEO.

45.4 Paid leave taken during a higher duties assignment will be paid at the higher duties rate or inclusive of the Additional Responsibilities Allowance, provided the Employee resumes the duties of the higher duties or additional responsibilities position on return from leave.

## 46. Language Allowance

46.1 An Employee who has the demonstrated capability to support communication with culturally and linguistically diverse (CALD) clients, Aboriginal and Torres Strait Islander clients and/or clients with disability (for example through Auslan) may apply to be included on ECLC's Community Languages Register.

46.2 An Employee who is called upon to use their community language capability, and who is available to provide that support, will be entitled to receive an allowance of \$40.00 per instance.

46.3 Eligibility for payment of the allowance does not apply where community language skills are a key requirement of the Employee's role. The holding of these skills or qualifications will be taken into consideration instead when allocating an appropriate classification level for the position.

46.4 It should be noted that it is the policy of ECLC to use professional external interpreters and translators for any client-related work, including all intake and direct services.

## 47. Legal Proceedings Expenses

47.1 If an Employee is required to attend a Coroner's Inquest, or any other Court of Law on matters that directly arise from the performance of their duties, the Employer will meet reasonable legal costs relating to appearance at or representation before such Courts.

47.2 Where legal proceedings are initiated against an Employee as a direct consequence of them legitimately and properly performing their duties, the Employer will not unreasonably withhold agreement to meet the Employee's reasonable legal costs relating to the defence of such proceedings.

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- 47.3 Where it is necessary to obtain an Intervention Order or similar remedy against a client, the Employer will not unreasonably withhold agreement to meet reasonable legal costs in obtaining the order or remedy.
  - 47.4 The Employer holds appropriate insurances, including Professional Indemnity Insurance, to protect ECLC and its Employees against claims for alleged negligence or breach of duty arising from an act, error or omission in the performance of professional services.
  - 47.5 The Employer will deal expeditiously with an Employee's application for legal costs.

## 48. Meal Allowance

- 48.1 Employees are entitled to meal allowances as provided for under the Award.
- 48.2 A meal allowance is not payable if the Employee is provided with a suitable meal (e.g. as part of a Conference).

## 49. Motor Vehicle Reimbursement

- 49.1 If an Employee is required by the Employer to use their own vehicle for work, they are entitled to be paid a vehicle allowance (upon completion of the relevant documentation) in accordance with the prescribed rates per kilometre under the Award.
- 49.2 To qualify for such reimbursement, travel must be in accordance with the Employee's role as listed in the position description.
- 49.3 The calculation of kilometres eligible for reimbursement will be from the Employee's nominated base office on the day of travel. If the Employee is working from home, the kilometres travelled will exclude normal commuting distance to the nominated base office.
- 49.4 Private vehicles must carry Third Party Property Insurance and the driver must be appropriately licensed.
- 49.5 If an Employee is required by the Employer to use their own vehicle for work and during that time has an accident, the Employer will cover the cost of any insurance excess or, where an Employee's own vehicle or a third party's vehicle is damaged in the accident and they do not have the relevant insurance coverage, the Employer will meet the total cost of repairs up to \$2,000.
- 49.6 Employees are responsible for payment of any fines for speeding, parking or other traffic offences incurred in the course of work-related travel in private vehicles.
- 49.7 If an Employee is required by the Employer to travel during work hours and for work related purposes and they do not have a vehicle and/or the use of public transport is not practical or suitable ECLC will offer to provide a work vehicle, taxi or hired vehicle.

## 50. Travel Reimbursement and Allowance

### 50.1. Travel Reimbursement

- 50.1.1 If an Employee is directed to work at a location other than their usual place of employment on a temporary basis, they will be reimbursed for reasonable travel expenses incurred by them as a result of such direction, including accommodation and meals, subject to the Employee providing evidence satisfactory to the Employer of these expenses.

50.1.2 Reimbursement of expenses under this clause is only available for travel that, in the Employer's opinion, is by the most reasonable mode of transport. Air travel must be via economy class and must be pre-approved by a Director or the CEO.

50.1.3 Taxis may be used if travel by public transport or private vehicle is not possible or practical.

## 50.2. Travel Allowance

Any Employee that is required to stay away overnight will have the option to choose either an allowance of \$90, or to take 3.75 hours' time-off-in-lieu.

# Part 8 – Leave and Public Holidays

## 51. Annual Leave

### 51.1. Annual Leave Entitlement

51.1.1 Employees (other than a casual Employee) shall be entitled to annual leave on full pay for a period equal to 4 working weeks for each continuous twelve months' service with the Employer, pro rata for part-time Employees. Annual leave shall accrue on a continuous basis according to the number of ordinary hours worked and accumulates from year to year.

51.1.2 The payment of wages during annual leave shall be in accordance with the usual pay cycle, provided that an Employee may request in writing that payment be made on the commencement of the leave.

51.1.3 No payment shall be made or accepted in lieu of annual leave, unless under clauses **51.6** - Cashing out accrued annual leave or **51.8** - Leave on Termination.

### 51.2. Taking Annual Leave

51.2.1 The specific time of taking annual leave will be determined by mutual agreement, subject to the operational requirements of the organisation and Employee preference. The Employer will have special regard to circumstances where an Employee seeks annual leave such as to coincide with family responsibilities and/or leave approved for the Employee's spouse/partner.

51.2.2 The Employer seeks to encourage all Employees to regularly take annual leave for health and wellbeing reasons.

51.2.3 Annual leave accruals will be monitored by the Employee's manager and discussed as required.

51.2.4 Except where prior approval from the Employer has been obtained, annual leave will not be approved unless all accrued Time in Lieu and Flexi Time have been taken or is scheduled to be taken in conjunction with annual leave.

51.2.5 Any public holiday during an Employee's annual leave will be counted and paid as such, and not as annual leave, if the Employee would otherwise have been entitled to that public holiday.

### 51.3. Direction to take Annual Leave

51.3.1 Employees should not accrue more than 6 weeks' annual leave without special permission. ECLC will not unreasonably refuse such special permission.

51.3.2 Where accrued annual leave is in excess of 6 weeks, the Employer will attempt to reach agreement on the Employee taking leave. If agreement cannot be reached, the Employer may, with at least 4 weeks' notice, direct the Employee to take sufficient leave to reduce the accrual to six weeks.

#### 51.4. Personal Leave during Annual Leave

51.4.1 Where an Employee would have been entitled to personal leave, but for being on annual leave, personal leave will be paid for the relevant period and the equivalent period of annual leave will be re-credited provided the Employee provides the Employer with acceptable documentary evidence, such as a medical certificate or statutory declaration.

#### 51.5. Annual Leave Loading

51.5.1 An Employee shall be entitled to a loading of 17.5% of remuneration for the period of accrued annual leave.

51.5.2 Leave loading on accrued annual leave is payable as a lump sum in the first pay period in December of each year.

#### 51.6. Cashing Out Annual Leave

51.6.1 An Employee with an accrued annual leave balance in excess of five (5) weeks or more, can request to cash out a portion of their accrued annual leave. The minimum period of leave to be cashed out is one week.

51.6.2 The request may be approved by the Employer having regard to fatigue management and work health and safety best practice. In particular, the Employer will not approve requests to cash out leave in accordance with this clause unless the Employee has taken at least 2 weeks' annual leave at the same time or has taken a block of 2 weeks' annual leave in the preceding 12 months.

51.6.3 Requests for cashing out annual leave by Employees must be the subject of a separate agreement and meet the following conditions:

- (a) The amount of leave to be cashed out and the payment to be made to the Employee for it;
- (b) The date on which the payment is to be made;
- (c) The annual leave is cashed out at a rate that is not less than what would have been payable to the Employee had the Employee taken the leave that the Employee has forgone;
- (d) The agreement must not result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks; and
- (e) The maximum amount of accrued annual leave that may be cashed out in any period of 12 months is two weeks.

#### 51.7. Annual Leave in Advance

51.7.1 Annual leave will not generally be approved to be taken in advance. Requests for advance annual leave will, however, be considered on a case-by-case basis to assist in exceptional circumstances.

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



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## 51.8. Annual Leave on Termination of Employment

- 51.8.1 Any Employee, upon retirement, resignation, dismissal or termination of service or employment, who has accrued annual leave must be paid in lieu of annual leave, such amount being the salary and allowances the Employee would have received if annual leave had been granted.
- 51.8.2 Employees will also be paid out their accrued Annual Leave Loading.

## 52. Purchased Leave

- 52.1 Purchased Leave enables Employees, by mutual agreement with their Employer, unpaid additional leave in a twelve-month period, with salary deductions for the nominated period(s) averaged over the whole year, rather than at the time the leave is taken.
- 52.2 Once within any 12-month period, an ongoing Employee may purchase 2 (50/52), 3 (49/52) or 4 (48/52) weeks of leave, subject to operational requirements and approval. Where an application for purchased leave is refused, the reasons for the refusal will be provided in writing to the Employee. Where approval has been granted, the arrangement may only be varied or cancelled in extraordinary circumstances.
- 52.3 An application for purchased leave must be made each 12-month period and purchased leave must be used in the twelve-month period in which it is purchased.
- 52.4 Purchased leave will count for service for all purposes.
- 52.5 The Employee's salary for superannuation purposes continues to be their salary as if they had not purchased leave.
- 52.6 An Employee who purchases annual leave cannot take annual leave at half pay in the same calendar year and must use a minimum of 50% of their normal annual leave entitlement during the purchased leave agreement period.
- 52.7 Unless otherwise agreed, ECLC will automatically reimburse as salary purchased leave not taken during the nominated 12-month period.
- 52.8 Where the Employee's employment terminates, deductions made for Purchased Leave not yet taken will be repaid. Where the Employee's employment terminates and there are outstanding deductions for Purchased Leave, the Employee may elect to have the amount treated as overpayment of salary or offset against annual leave credits.
- 52.9 Further information about purchased leave is in ECLC's Purchased Leave Scheme Policy.

## 53. Additional Paid Leave – 'Gift Days'

- 53.1 Employees will be entitled to Additional Paid Leave - Gift Days, for normal days of work that fall between Christmas Day and New Year's Day.
- 53.2 Where, due to operational reasons, an Employee may be reasonably required to work during the period when Gift days would be payable in accordance with clause 53.1, an Employee will be provided with time off in lieu equivalent to Saturday rates as per clause 31.2.3 - Accruing and Managing Overtime and Time off in Lieu.



## 54. Annual Closedown

- 54.1 ECLC will usually close its operations during the end of year period. The closing dates will normally be from the last working day before 25 December and resume on the first working day after New Year's Day. The actual dates of closure will be confirmed by 1 November each year and will be dependent upon operational needs and the dates upon which the various Public Holidays fall.
- 54.2 Employees are not required to take annual leave over the End of Year Closedown, instead all Employees (except casual employees and contractors) are provided with Additional Paid Leave ('Gift Days'), for normal days of work that fall within the Closedown period.
- 54.3 Where ECLC declares an extended Closedown period, either before the last working day before 25 December or after the first working day after New Year's Day, Employees will be required to take paid annual leave, accrued flexi-time or time off in lieu.
- 54.4 Where essential services are required to remain open during the Closedown period the office must be staffed at all times by a minimum of two Employees. Where this arrangement cannot be fulfilled, the office will remain closed. Where Employees are required to work to maintain essential services, any 'Gift Days' they would have been entitled to had they not worked will be provided as Time off in Lieu.

## 55. Personal Leave - Sick / Carer's / Mental Health

### 55.1. Paid Personal Leave Definition

55.1.1 Paid personal leave is available to an Employee where they are absent due to:

- (a) sickness, and not fit for work because of a personal illness or injury affecting them;
- (b) mental ill health, where a day of personal leave would improve an Employee's wellbeing.
- (c) caring responsibilities, of a:
  - i. member of an Employee's immediate family;
  - ii. member of an Employee's household; or
  - iii. person with whom an Employee has a close association;

who requires care and support because of:

- a. a personal illness or injury; or
- b. an unexpected emergency.

55.1.2 An Employee must give as much notice as is reasonably possible of their intention to take Paid Personal Leave and the estimated period of their absence (which may be a time after the leave has started).

### 55.2. Paid Personal Leave Entitlement

55.2.1 Employees are entitled to Paid Personal Leave as follows:

- (a) During the first year of service, 12 days;
- (b) During the second, third and fourth years of service, 14 days in each year of service; and
- (c) Thereafter, 21 days in each year of service.

55.2.2 Part-time Employees will accrue Personal Leave on a pro rata basis having regard to their ordinary hours of work.

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- 55.2.3 Casual Employees are not entitled to Paid Personal Leave, however, are entitled to Unpaid Carer's Leave as provided for in clause **55.5**.
- 55.2.4 Paid Personal Leave accrues progressively during a year of continuous service and accumulates from year to year.
- 55.2.5 Payment for Paid Personal Leave will be made on the Employee's hourly base of pay for their ordinary hours during the period of leave taken.
- 55.2.6 Paid Personal Leave is not paid out on termination of an Employee's employment.

### 55.3. Paid Personal Leave – Evidence Requirements

- 55.3.1 To be entitled to Paid Personal Leave, the Employer may require an Employee to produce a certificate from a qualified medical or other relevant practitioner, or statutory declaration immediately on return to work. Single days up to a maximum of 5 in any one calendar year may be taken without the production of a medical certificate or statutory declaration.

### 55.4. Unpaid Leave for Family Purposes

- 55.4.1 An Employee may elect, with the consent of the Employer, to take unpaid leave for the purpose of providing care to a family member who is ill. The Employer and Employee shall agree on the period. In the absence of agreement, the Employee is entitled to take up to 2 days (up to a maximum of 15 hours) per occasion.
- 55.4.2 Notwithstanding the provision of this clause, an Employee may elect, with the consent of the Employer, to take annual leave in single periods not exceeding 10 days in any calendar year at a time or times agreed between them.

### 55.5. Casual Employees Caring Responsibilities

- 55.5.1 Subject to the provision of appropriate supporting evidence, (e.g. medical certificate), a casual employee is entitled to not be available to attend work, or to leave work:
- (a) if they need to care for members of their immediate family or household who are sick and require care and support, or
  - (b) who require care due to an unexpected emergency, or the birth of a child; or
  - (c) upon the death of an immediate family or household member.
- 55.5.2 The Employer and the casual employee shall agree on the period for which the casual Employee will be entitled to not be available to attend work. In the absence of agreement, the casual Employee is entitled to not be available to attend work for up to 48 hours (i.e., 2 days) per occasion. The casual Employee is not entitled to any payment for the period of non-attendance.
- 55.5.3 The Employer must not fail to re-engage a casual employee because the casual employee accessed the entitlements provided for in this clause.

## 56. Compassionate Leave

### 56.1. Compassionate Leave Entitlement and Conditions

- 56.1.1 All Employees are entitled to three days' paid compassionate leave on each separate occasion when:
- (a) a member of their Immediate Family, Household, or a person with whom they have a close association:

- i. contracts or develops a life-threatening illness or injury; or
  - ii. dies;
- (b) a child is stillborn, where the child would have been a member of the Employee's Immediate Family or Household if the child had been born alive; or
- (c) the Employee, or the Employee's spouse or de facto partner has a miscarriage.

56.1.2 An Employees' compassionate leave entitlement may be split, e.g. to allow for attendance at a funeral at a later date or for taking of compassionate leave over part days.

56.1.3 Payment for Compassionate Leave will be made on the Employee's hourly base rate of pay for their ordinary hours during the period of leave taken.

## 56.2. Additional Compassionate Leave

56.2.1 At the discretion of the Employer, and upon request of an Employee, additional paid Compassionate Leave of up to 5 days may be granted where an Employee has significant responsibility for arrangements associated with the reasons for the leave (e.g. funeral).

56.2.2 As well as Additional Compassionate Leave, it may be possible for an Employee to access Special Leave, access accrued annual leave, take leave in advance or unpaid leave to help them through this period.

## 56.3. Notice and Evidence Requirements

56.3.1 Employees must give notice to the Employer of their intention to take Compassionate Leave (including Additional Compassionate Leave) and the estimated period of their absence as soon as practicable (which may be a time after the leave has started).

56.3.2 ECLC may require the Employee to provide evidence, that would satisfy a reasonable person, that the leave is taken for the purposes specified in clause 56.1.1 above. If an Employee does not provide evidence when required, they will not be entitled to take the leave.

## 57. Wellbeing Leave

57.1 ECLC believes in creating a workplace that supports the health and wellbeing of employees. To support this, Employees are entitled to up to three (3) days each year to focus on personal wellbeing. This entitlement is pro rata for part-time employees.

57.2 To assist with employees in taking short breaks from work throughout the year, wellbeing days must be taken within each of the following periods:

- (a) March - May: One (1) Wellbeing Day
- (b) June - August: One (1) Wellbeing Day
- (c) September - November: One (1) Wellbeing Day

57.3 The taking of wellbeing leave is by agreement in advance.

57.4 Wellbeing days do not accumulate from period to period or year to year and will not be paid out upon termination of employment.

57.5 Wellbeing leave does not attract leave loading.

## 58. Parental Leave

Parental leave is a general term encompassing paid and unpaid leave associated with the birth or adoption of a child.

### 58.1. Parental Leave - Eligibility and Entitlements

58.1.1 In addition to the entitlements to Parental Leave in accordance with the relevant provisions of the FW Act and the Government Paid Parental Leave Act 2010 (Cth), Employees with at least 12 months or more of continuous service before the expected date of birth or placement of a child (subject to clauses **58.5** - Employees with less than 12 months service and **58.6** - Parental Leave Casual Employees) are entitled to ECLC Paid Parental Leave in accordance with this clause and applicable policies and procedures.

58.1.2 Accrued annual leave or long service leave may be taken during the parental leave period, or in addition to it.

58.1.3 An Employee may request that their ECLC paid parental leave is paid at half pay over twice the period of the entitlement. This request is subject to the Employee agreeing that for that period of leave, the Employee's ordinary hours of work for the purposes of the FW Act are halved.

58.1.4 Parental leave definitions and entitlements include:

Table1: Parental Leave Definitions & Entitlements				
Leave Type	Definitions	ECLC Paid Component <sup>1</sup>	Government Paid Component <sup>2</sup>	Unpaid Component
<b>Primary Carer</b>	<p>Only one parent can receive Primary Carer parental leave entitlements in respect of the birth or adoption of a child.</p> <p>An Employee cannot receive Primary Carer parental leave entitlements if:</p> <ul style="list-style-type: none"> <li>i. their partner is, or will be, the Primary Caregiver at the time of the birth or adoption of their child;</li> <li>ii. their partner has received, or will receive, paid maternity leave, primary caregiver entitlements, or a similar entitlement, from their Employer; or</li> <li>iii. the Employee has received, or will receive, Secondary Carer parental leave entitlements in relation to their child.</li> </ul>			
- Parental Leave	<p>An eligible Employee is entitled to paid parental leave when it is associated with the birth of a child and the Employee is the primary carer.</p> <p>Only one parent can receive Primary Carer parental leave entitlements in respect of the birth of a child.</p>	12 weeks	18 weeks	Up to 22 weeks
- Pre-Natal Leave	<p>An Employee who is pregnant, is entitled to take prenatal leave over the course of the pregnancy, up to the commencement of parental leave (paid or unpaid), to attend appointments associated with the pregnancy.</p>	36 hours	-	-

**Table1: Parental Leave Definitions & Entitlements**

Leave Type	Definitions	ECLC Paid Component <sup>1</sup>	Government Paid Component <sup>2</sup>	Unpaid Component
- Additional Parental Leave	Where an Employee has taken 12 months of unpaid parental leave, they can request to extend their leave for an additional 12 months immediately following the end of the initial parental leave period.	-	-	Up to 52 weeks
- Adoption Leave	An eligible Employee is entitled to paid adoption leave when it is associated with the placement of a child with the Employee for adoption, where the child is under 16 years of age, and the Employee is the primary carer.	12 weeks	18 weeks	Up to 22 weeks
- Special Parental Leave	An Employee whose pregnancy having proceeded for a period of not less than 20 weeks terminates other than by the birth of a living child, or in the case of adoption leave, the child dies during the period that the Employee is on leave. If leave has already commenced, the Employee is entitled to the remainder of the leave entitlement.	12 weeks	18 weeks	Up to 22 weeks
- Permanent Care Leave	An Employee, other than a casual Employee, who is granted custody of a child under applicable legislation by the Children's Court or the Family Court, and the Employee is the primary care giver for the child. Leave can be taken at a time agreed between the Employee and Employer.	2 weeks	-	-
- Superannuation on Unpaid Parental Leave	A Primary Carer is entitled to 14 weeks of superannuation payments based on their normal average ordinary hours during their unpaid parental leave period, immediately following their ECLC Paid Parental Leave period.	14 weeks	-	-
<b>Partner Leave<sup>3</sup></b>				
- Partner Leave	For eligible Employees to support their partner where the leave is in connection with: the birth of a child for whom they have accepted responsibility; the placement of a child with the Employee for adoption where the child is under 16 years of age or in the event of a stillbirth or infant death. The leave can be taken either before and/or after the birth or adoption, or in the event of a stillbirth or infant death.	4 weeks	2 weeks	-
<sup>1</sup> 12 months continuous service required. <sup>2</sup> See clause 58.2 – Government Paid Parental Leave for further information. <sup>3</sup> Where the employee is not the primary care giver				

## 58.2. Government Paid Parental Leave

- 58.2.1 The Commonwealth Government provides financial support at a minimum wage rate to help eligible parents take time off work to care for a newborn or recently adopted child. The government currently provides 18 weeks paid leave for the “main” carer and 2 weeks paid “dad and partner” leave. This paid leave is to be taken as part of the total 52 weeks unpaid parental leave entitlement in accordance with the relevant provisions of the FW Act and the Paid Parental Leave Act 2010 (Cth).
- 58.2.2 The Commonwealth Government Paid Parental Leave Scheme is separate from this Agreement. The relevant government agency determines payment eligibility for the Paid Parental Leave Scheme.
- 58.2.3 ECLC will make payments and support other entitlements under the Australian Government Parental Leave Pay Scheme to eligible Employees as advised by Centrelink.

## 58.3. Extending Parental Leave

- 58.3.1 An Employee, who is on an initial period of parental leave of less than 52 weeks, may extend the period of their parental leave on one occasion up to the full 52-week entitlement.
- 58.3.2 The Employee must notify the Employer in writing at least four weeks prior to the end date of their initial parental leave period. The notice must specify the new end date of the parental leave.

## 58.4. Payment of ECLC Paid Parental Leave

- 58.4.1 Payment for parental leave will be at the Employee's ordinary rate of pay and will be subject to adjustments for salary increments or increases during the period of paid leave.
- 58.4.2 Where the Employee's ordinary hours have changed within 12 months immediately preceding the commencement of Parental Leave, the parental leave payment will be payable based on an Employee's average hours over the 12 months prior to taking Parental Leave.

## 58.5. Employees with Less than 12 months' Continuous Service

- 58.5.1 An Employee who has been employed for a continuous period of less than 12 months at the expected date of birth or adoption is entitled to 52 weeks' unpaid primary carer leave.
- 58.5.2 An Employee who does not meet the 12-month service requirement is not entitled to partner or adoption leave but may apply for leave without pay under the Employer's normal provisions for such leave.

## 58.6. Parental Leave - Casual Employees

- 58.6.1 Casual Employees who are eligible under section 67(2) of the FW Act are entitled to Parental Leave under this clause on an unpaid basis only.
- 58.6.2 Casual Employees who meet the eligibility requirements are entitled to 52 weeks of unpaid parental leave.
- 58.6.3 All casual Employees must comply with the requirements of clause 58.1.1 with respect to working before the expected birth and resuming employment afterwards.

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## 58.7. Parental Leave – Continuity of Service

- 58.7.1 Any period of unpaid parental leave must not be considered as a break in service for any purposes but does not count as service for the purposes of accruing entitlements (save for long service leave which accrues in accordance with applicable legislation).
- 58.7.2 Any period of paid parental leave does constitute service for the purpose of accruing entitlements.

## 58.8. Parental Leave – Procedural Requirements and General Conditions

58.8.1 An Employee will provide the following to the Employer:

- (a) At least 10 weeks prior to the expected date of commencement of parental leave, a certificate from a registered practitioner confirming the pregnancy and the expected date of the birth or documentation confirming the placement of a child for adoption with the Employee; and
  - (b) Notice of the date in writing of when the Employee proposes to commence parental leave, stating the period of leave to be taken. This notice will be provided to the Employer with not less than 4 weeks' notice from the date of commencement. An Employee will not be in breach of this clause if they fail to give the stipulated period of notice if it is a result of the birth of the child occurring earlier than expected or other medical reasons.
- 58.8.2 An Employee, whether a primary carer or partner, who wishes to access pre-natal leave, must be covered by a medical certificate for each absence.
- 58.8.3 Unless agreed otherwise between the Employee and the Employer, an Employee may commence parental leave at any time within 6 weeks immediately prior to the expected date of the birth. The period of parental leave must commence no later than the date of birth or adoption placement of the child.
- 58.8.4 A medical certificate of fitness for work from a registered medical practitioner or a certificated midwife must be provided if the Employee wishes to remain at work within the 6 weeks prior to the expected date of birth or recommence duties within the first 6 weeks after the birth.
- 58.8.5 Where an Employee has taken 12 months of unpaid parental leave, and request to extend their leave for (up to) an additional 12 months, the request must be in writing and given to the Employer at least 4 weeks before the end of the first leave period. The Employer shall consider the request having regard to the Employee's circumstances and, provided the request is based on the Employee's parental responsibilities, may only refuse the request on reasonable operational grounds. The Employer must give a written response to the request as soon as practicable, and no later than 21 days after the request is made. The response must include the details of the reasons for any refusal.
- 58.8.6 The total period of parental leave, including any extensions, must not extend beyond 24 months.

## 58.9. Keeping in Touch Days

- 58.10.1 During a period of parental leave an Employee may agree to perform work for the purpose of keeping in touch in order to facilitate a return to employment at the end of the period of leave.
- 58.10.2 Up to 10 Keeping in Touch days per annum can be agreed to allow the Employee absent on parental leave to participate in planning meetings, perform on the job training, or perform work to maintain familiarity with the workplace or the Employee's role before returning to work.
- 58.10.3 Keeping in Touch days must be agreed and be in accordance with section 79A of the FW Act 2009.

## 58.10. Return to Work after Parental Leave

- 58.11.1 An Employee must confirm their intention of returning to work following a period of parental leave by notice in writing to the Employer, giving not less than 4 weeks' notice prior to the expiration of the period of parental leave.
- 58.11.2 Upon the expiration of the period of leave, the Employee is entitled to resume work at the substantive classification and salary, with duties commensurate with their qualifications and experience and as far as practicable similar to those performed prior to the commencement of parental leave.
- 58.11.3 An Employee may negotiate part-time working arrangements on recommencement. If such part-time work is requested by the Employee, the Employer will not unreasonably withhold agreement and will make a decision based on the operational requirements of the organisation. Such a request and any agreement must be recorded in writing and specify the duration of the arrangement. This is additional to an Employee's right to request Flexible Working Arrangements under this Agreement and the FW Act.

## 58.11. Transfer to a Safe Job

- 58.12.1 Where an Employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the Employee make it inadvisable for the Employee to continue at their present work, the Employee will be transferred to a safe job at the same terms and conditions of their employment with the Employer and at the same rate of pay for the risk period.
- 58.12.2 If a transfer to a safe job is not practicable, the Employee is entitled to paid no safe job leave for the risk period.

## 59. Reproductive Health Leave

- 59.1 Employees shall be entitled to Reproductive Health Leave for the purposes of reproductive health and wellbeing in the event of an inability to perform work duties because of their reproductive health needs of up to five (5) paid days per annum (pro rata for part-time employees).
- 59.2 Reproductive health is defined as any needs relating to menstruation, perimenopause, menopause, poly-cystic ovarian syndrome and endometriosis, In Vitro Fertilisation (IVF) and other forms of assisted reproductive health services, vasectomy, hysterectomy and miscarriage and terminations of pregnancy.
- 59.3 The Employee must notify the Employer of their inability to attend work as early as practicable.
- 59.4 A medical certificate is not required for up to two consecutive days of leave.
- 59.5 Reproductive health leave entitlements do not accumulate from year to year.
- 59.6 Reproductive health leave entitlements operate in addition to other leave entitlements.
- 59.7 Employee's experiencing reproductive health symptoms that are generally able to work but where flexible work arrangements would improve or assist, are entitled to apply for flexible work arrangements as outlined in clause 11. In particular, this may include:
- (a) the possibility of working from home;
  - (b) the opportunity to structure the workday in a way that considers and encourages the comfort and wellbeing of the employee e.g. meeting scheduling;



- (c) the opportunity to stay in the workplace under circumstances which encourage the comfort of the employee e.g. resting in a quiet area, taking more regular rest breaks; or
- (d) the option for flexibility around reproductive health-related medical appointments during the workday;
- (e) the right to access reasonable unpaid leave.

## 60. Family Violence Leave

- 60.1 ECLC recognises that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, ECLC is committed to providing support to Employees in circumstances where they (or someone for whom they have carer responsibilities) are experiencing or have experienced family violence.
- 60.2 Family Violence is behaviour that involves physical, sexual, emotional, psychological, or economic (financial) abuse; or behaviour that is threatening, coercive, controlling or dominating.
- 60.3 An Employee experiencing family violence will have access to up to fifteen (15) days' paid leave in each 12-month period of employment for medical appointments, legal proceedings and other activities related to family violence. Access to the 15 days paid leave is available from the start of each 12-month period of a staff member's employment. The leave does not accumulate from year to year and is available pro rata to part-time and casual Employees. It is acknowledged that applications for leave under this clause may be made retrospectively and can be taken without prior approval.
- 60.4 Family Violence Leave can be taken in periods as part days, single or multiple days.
- 60.5 If an Employee exhausts their fifteen (15) days paid leave in any 12-month period and prior to the entitlement resetting on their employment anniversary, the Employee may apply to a Director or the CEO for approval of Special Leave (clause [61](#)) with or without pay.
- 60.6 Nothing in this clause prohibits an Employee from accessing other available forms of leave for the purpose of dealing with family violence, in addition to also considering requests to implement or change flexible working arrangements.
- 60.7 Proof of family violence may be required, and reasonable evidence may include a document issued by the Police Service, a Court, a Doctor, a Nurse or a Family Violence Support Service or Lawyer.
- 60.8 Notwithstanding clause 60.7, ECLC recognises that in some circumstances proof of evidence may not be able to be provided. ECLC will endeavour to provide understanding and sensitivity to the individual and their circumstances in requesting such evidence.
- 60.9 Where it is considered necessary to provide a safe work environment for an Employee and co-workers, the Employer will consider changes to the Employees working arrangements, including, but not limited to, a change to their work location, telephone number or email address to avoid harassing contact.
- 60.10 ECLC may have an obligation to share personal and/or sensitive information with relevant authorities (for example, the police) where an unacceptable risk to an Employee or children in their care is identified. Where required and/or relevant, any sharing of personal and/or sensitive information will be communicated to the Employee.
- 60.11 All personal information concerning family violence will be kept confidential in line with ECLC's Privacy Policy and Employee Privacy Policy, and relevant legislation.

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## 61. Special Leave

- 61.1 ECLC is committed to providing support to Employees experiencing exceptional or unexpected circumstances for a range of different reasons.
- 61.2 For Employees experiencing exceptional circumstances, either directly or as carers, up to fifteen (15) days of special paid leave per year (pro rata for part-time Employees) will be available.
- 61.3 Special leave is provided at the discretion of a Director or the CEO, and will be considered when other standard leave entitlements have either been exhausted or are not appropriate. Affected Employees may also have access to leave without pay.
- 61.4 Leave under this clause is a fixed entitlement and does not accumulate from year to year if unused.

## 62. Long Service Leave

### 62.1. Long Service Leave Entitlement

- 62.1.1 Employees are entitled to long service leave in accordance with the provisions of relevant state legislation, including the following, save where this clause provides for more favourable terms:
  - (a) Long Service Leave Act 2018 (Vic) (the LSL Act); and
  - (b) Long Service Benefits Portability Act 2018 (Vic) (the PLSL Act).
- 62.1.2 Employees eligible for long service leave include full-time, part-time, and certain casuals and fixed term Employees as defined under the LSL Act.
- 62.1.3 Employees are entitled take long service leave after 7 years' continuous service with the Employer. Long service leave accrues at the rate of 1.3 weeks' leave for each year of service.

### 62.2. Taking Long Service Leave

- 62.2.1 Long service leave will be taken at a time or times mutually agreed between the Employer and Employee. At least one months' notice is required of an Employee's intention to take long service leave except in exceptional circumstances.
- 62.2.2 Long service leave can be taken in one continuous period, or if the Employer and Employee agree, in separate periods.
- 62.2.3 Employees may take the whole or part of long service leave at half pay for a period equal to twice the whole or part of the period.
- 62.2.4 Any public holiday that occurs during the period of long service leave shall not be regarded as part of the leave.
- 62.2.5 If Long Service Leave has not been taken after 15 years' service, the Employer may require that it be taken with 3 months' notice, with the timing of the leave by mutual agreement wherever possible.

### 62.3. Payment

- 62.3.1 Long service leave shall be paid at the Employee's rate of pay at the time the leave is taken. Where the period of continuous service includes periods of less than full-time service, calculation and payment of long service leave shall be based on the Employee's average weekly hours of work over the course of their employment.

62.3.2 On request of the Employee and with the agreement of the Employer, payment of long service leave may be paid in a lump sum at the commencement of the leave.

62.3.3 Where an Employee would have been entitled to Paid Personal Leave but for being on Long Service Leave, personal leave will be paid for the relevant period and the equivalent period of Long Service Leave will be re-credited on the provision of acceptable documentary evidence.

## 62.4. Recognition of Prior Long Service

62.4.1 Prior service for the purposes of Long Service Leave only shall be recognised with an Employer identified at clause 62.4.2, provided that the following conditions are fulfilled:

- (a) the period of employment with the previous Employer is not covered by the Victorian Portable Long Service Leave Scheme;
- (b) the previous Employer transfers funds and details of the Employee's long service leave entitlement to the Employer; and
- (c) break in service between such service and commencing employment with the Employer does not exceed 12 months or in special circumstances up to 5 years.

62.4.2 The Employer will recognise prior service with:

- (a) Community Legal Centres;
- (b) Any statutory authority; or
- (c) Any other similar organisation as may be recognised from time to time by the Employer, provided that such service is only recognised if the body described above recognizes for long service leave purposes service with the Employer.

62.4.3 If the previous employer does not make any funds available to cover the Employee's pro rata accrued long service leave with that employer, then the Employer will still recognise the period of prior service but will only be responsible for paying the component of the service that was accrued with the current Employer.

## 63. Public Holidays

63.1 An Employee, other than a casual, shall be entitled to the following days without loss of pay:

- (a) New Year's Day
- (b) Australia Day
- (c) Labour Day
- (d) Good Friday
- (e) Easter Saturday
- (f) Easter Monday
- (g) Anzac Day
- (h) King's Birthday
- (i) Melbourne Cup Day
- (j) Christmas Day
- (k) Boxing Day

63.2 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

63.3 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

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- 63.4 When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.
- 63.5 When in a State or locality, Public Holidays are declared or prescribed on days other than those set out above; those days shall constitute additional holidays for the purpose of this Agreement.
- 63.6 An Employer and the majority of affected Employees may agree to substitute another day for any prescribed in this clause. Such an agreement shall be recorded in writing and be available to every affected Employee.
- 63.7 Where, outside the Melbourne metropolitan area, a Public Holiday is proclaimed in that Municipality for the observance of local events, that day will be observed as a Public Holiday in lieu of Melbourne Cup Day. Employees who have their principal employment in a municipality where Melbourne Cup Day is not observed as a Public Holiday, or in a Municipality where a Public Holiday is not proclaimed for the observance of local events, will be granted one day's leave in lieu of Melbourne Cup Day, to be taken on a day to be agreed between the Employees concerned and their manager.
- 63.8 Staff shall receive a substitute leave day for working on Public Holidays as outlined in clause 64.1 of this Agreement.

## 64. Public Holidays – Substitution

### 64.1. Substitute Leave for Public Holidays

- 64.1.1 An Employee who is rostered to perform ordinary duty on a Public Holiday but who is on paid leave on that day will be granted one day's leave in lieu of the Public Holiday.
- 64.1.2 An Employee whose rostered day off duty falls on a Public Holiday will be granted 1 day's leave in lieu.

### 64.2. Substitution of Australia Day and the Kings Birthday

- 64.2.1 An employee may substitute Australia Day ('Survival' Day) and the King's Birthday (or equivalent) gazetted Public Holidays on an hour for hour basis for an alternative date agreed between the Employee and Employer, subject to operational requirements.
- 64.2.2 Any agreement must be recorded in writing and must be requested at least three (3) weeks prior to the gazetted Public Holiday to allow for operational planning.

### 64.3. Substitution of religious public holidays

- 64.3.1 The Employer and Employee may agree, subject to operational requirements, to substitute another day for a day that would otherwise be a public holiday (except for public holidays which may fall within the Annual Closedown period, including Christmas Day, Boxing Day and New Year's Day), for religious and/or cultural reasons.
- 64.3.2 Any agreement must be recorded in writing and must be requested at least three (3) weeks prior to the gazetted Public Holiday to allow for operational planning.

## 65. Cultural and Ceremonial Leave

- 65.1 ECLC recognises and values the cultural diversity of all Employees and therefore will provide the opportunity for Employees who are required to observe days of cultural ceremonial and/or religious significance.

- 65.2 An Employee who is legitimately required by tradition and custom to be absent from work to observe days of cultural, ceremonial and/or religious significance will be entitled to up to ten working days' leave for each 12-month period, made up of five (5) days' paid leave and five (5) days' unpaid leave (pro rata for part-time Employees), on approval by a director or CEO. This approval must not be unreasonably withheld.
- 65.3 Cultural and ceremonial leave does not accrue for each year of service and is not paid out on termination of employment.

## 66. Gender Affirmation leave

- 66.1 ECLC values the diversity of its Employees and respects the contribution of all staff members irrespective of their gender identity or gender expression.
- 66.2 ECLC recognises that Employees progressing through gender affirmation (the process of exploring one's gender identity) may require additional periods of time away from work as part of the process of affirming (also known as transitioning and/or defining) their gender, including:
- (a) Social affirmation (the changing of one's name and/or pronouns);
  - (b) Medical affirmation (the undertaking of any medical or surgical procedures, illnesses from hormone therapy, medical or counselling appointments, and/or rest and recovery from any medical or surgical procedures); and
  - (c) Legal affirmation (legally changing one's name and/or gender marker on personal identification documents including a passport, birth certificate or driver's licence).
- 66.3 An Employee is entitled to ten (10) days (pro rata) paid gender affirmation leave per year. Leave can be taken in periods as part days, single or multiple days.
- 66.4 Gender affirmation leave does not accrue for each year of service and is not paid out on termination of employment.
- 66.5 ECLC acknowledges the personal and sensitive nature of gender affirmation and will keep this information confidential in accordance with ECLC's privacy policies and related legislation. Information regarding the staff member's gender affirmation will remain strictly private and confidential and will only be available to those who have a legitimate need to know (for example, for the purpose of granting an Employee's entitlements under this clause).

## 67. Blood Donation Leave

- 67.1 Leave may be granted to an Employee without loss of pay to visit the Red Cross Blood Bank as a donor once every three (3) months.

## 68. Community Service Leave

### 68.1. Jury Duty

- 68.1.1 An Employee required to appear and serve as a juror in any court shall be entitled to leave with pay for the period during which the attendance of the Employee at court is required.
- 68.1.2 The Employee shall not be required to pay the Employer the amount received as jury fees.
- 68.1.3 An Employee must notify the Employer as soon as possible after they receive notice that they are required to perform jury service and provide any documentation reasonably required as evidence of attendance.

## 68.2. Voluntary Emergency Management

- 68.2.1 An Employee who is a member of a voluntary emergency relief organisation including, but not limited to, the Country Fire Authority, Red Cross, State Emergency Service and St John's Ambulance, must be released from normal duty without loss of pay where an emergency situation arises that requires the attendance of the Employee.
- 68.2.2 An Employee who is required to attain qualifications or to requalify to perform activities in an emergency relief organisation must be granted leave with pay for the period of time required to fulfil the requirements of the training course pertaining to those qualifications, provided that such training can be undertaken without unduly affecting the operations of the Employer.
- 68.2.3 An Employee performing voluntary emergency relief or undertaking emergency relief training must provide as much notice as possible (which may be after the absence has commenced), specifying the expected length of the absence, and provide acceptable evidence in relation to the period of leave as soon as is reasonably practicable following such a request.

## 69. Military Service Sick Leave

- 69.1 Where the Employer is satisfied that an illness of an Employee with at least 6 months continuous paid service is directly attributable to, or is aggravated by, service recognised under the Veterans' Entitlements Act 1986, including:
- (a) Operational service;
  - (b) Peacekeeping service; and
  - (c) Hazardous service;
- the Employee will be credited with 114 hours special leave (pro rata for part-time Employees) with pay for each year of service with the Employer from the conclusion of the Employee's operational, peacekeeping or hazardous service.
- 69.2 Leave under this clause will be cumulative to a maximum of 760 hours.
- 69.3 This leave is in addition to Sick Leave under clause 55 – Personal Leave – Sick / Carer's / Mental Health.
- 69.4 The Employee may be required to provide, for each period of military service leave taken, evidence of the existence of the illness and its relationship to recognised service from a registered practitioner.

## 70. Leave without Pay

- 70.1 The Employer will consider any and all requests for leave without pay from permanent Employees.
- 70.2 Leave without pay requests will be granted at the discretion of a director or the CEO based on operational requirements.

## 71. Calculation of the Period of Continuous Service

- 71.1 In calculating continuous service for the purposes of this Agreement:
- (a) all periods of paid leave, including Public Holidays;
  - (b) periods of unpaid leave of less than twelve months for which compensation is payable under Act(s) of Parliament relating to accident compensation;
  - (c) recognised prior service; and

- (d) such other periods as the Employer may determine in a particular case;  
shall be counted as service.

## Part 9 – Performance and Development

### 72. Annual Performance Appraisal

- 72.1 Employees, excluding casuals and fixed term employees, will participate in a performance appraisal on an annual basis.
- 72.2 The performance appraisal will be conducted in accordance with the Employer's Performance Management Framework to ensure consistency and transparency across the organisation. Employees are entitled to a written record of their appraisal.
- 72.3 The performance appraisal must not be used to introduce issues requiring performance improvement and/or disciplinary matters, which should be dealt with by the Employer separately, and in accordance with clause 75 - Performance Improvement and clause 76 - Disciplinary Matters.

### 73. Learning and Development

- 73.1 ECLC recognises the importance of providing opportunities for Employees to build their skills and develop their careers which benefit the individual Employee as well as promote improved performance and outcomes for the organisation.
- 73.2 ECLC is committed to achieving this through:
- (a) a performance management framework that supports on-the-job/off-the-job learning and development;
  - (b) providing opportunities, such as secondments, for Employees to build skills and develop their careers;
  - (c) encouraging learning and professional development with equitable access to training.
- 73.3 Learning and professional development opportunities will be based on a range of factors including:
- (a) priorities identified in the regular performance, planning and appraisal process;
  - (b) the relevance of the activity to the needs of the Employer and the individual Employee;
  - (c) budgetary provisions;
  - (d) the impact of the learning and development activities on service delivery requirements; and
  - (e) equity of opportunities for Employees.
- 73.4 Employees are expected to take an active role in maintaining their professional knowledge, including ensuring CPD (Continuing Professional Development) requirements for a range of professions that work within ECLC are met, and are primarily responsible for their overall development, in identifying areas for training and pursuing opportunities for development, in consultation with their manager.

### 74. Study Leave

- 74.1 ECLC encourages Employees to undertake formal study, and assistance is available in the form of paid Study Leave for a course of study at a tertiary and higher education, or other vocational course that is directly relevant to the Employee's work and/or related to the work of the Employer.



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- 74.2 The granting of study leave is solely at the discretion of the Employer; however, no proposal for study leave will be unreasonably refused.
  - 74.3 Study Leave is available to Employees (other than casual Employees) with 12 months service.
  - 74.4 Employees who meet the requirements are entitled to up to 75 hours paid study leave per year; pro rata for part-time Employees.
  - 74.5 Study leave does not accumulate from year to year.
  - 74.6 Payment for study leave will be made at the Employee's Hourly Base Rate of Pay for their ordinary hours during the period of leave taken.

## 75. Performance Improvement

- 75.1 Where performance concerns are identified, they will be addressed by the supervisor/manager as soon as reasonably practicable.
- 75.2 Underperformance will be managed through the application of performance improvement counselling measures, where the employee will be provided with the opportunity to resolve the concerns, within an agreed timeframe, by processes including:
  - (a) Exploring reasons or causes;
  - (b) Identification of performance targets and objectives;
  - (c) Identifying any required supports (for example, skill development / training); and/or
  - (d) Regular feedback.
- 75.3 A Performance Improvement Plan may be utilised to support the performance improvement process.
- 75.4 Where the concerns are resolved to the satisfaction of management, for a sustained period, the matter will be considered closed, and the employee will be advised in writing.
- 75.5 Where concerns remain unresolved, or there has been a repeat of underperformance, and not remedied to the reasonable satisfaction of management, the employee's performance will be deemed to be Unsatisfactory Performance, and a formal disciplinary process may commence in accordance with clause 76 – Disciplinary Matters.

## 76. Disciplinary Matters

- 76.1 Disciplinary procedures are used to address:
  - (a) ongoing performance related issues that have not been resolved through regular supervision or the performance improvement process (clause 75); or
  - (b) alleged cases of misconduct/serious misconduct.
- 76.2 Any disciplinary action taken will be in accordance with the principles of natural justice and procedural fairness.
- 76.3 An Employee may be assisted by a Support Person or Representative at any stage throughout the disciplinary procedures if they so choose. A support person might be a friend, mentor, or colleague. ECLC may refuse the choice of support person if there is a potential conflict of interest.
- 76.4 Where a performance, misconduct, or serious misconduct matter (if any) has been resolved, all records of the matter on the employee's personnel file will be removed six (6) months after these procedures have been completed.



76.5 The Disciplinary Process is outlined at Schedule 1.

## Part 10 – Resignation, Termination and Redundancy

### 77. Termination

#### 77.1. Termination by the Employer

77.1.1 Termination of employment by the Employer will not be harsh, unjust, or unreasonable having regard to all circumstances, and will pay regard to the principles of natural justice.

77.1.2 An Employee will not be dismissed without regard to the Disciplinary Process as outlined in Schedule 1.

#### 77.2. Notice of Termination by the Employer

77.2.1 During the Employee's period of probation, the Employer may terminate the Employee's employment on two (2) week's written notice.

77.2.2 After the period of probation has been completed, the Employer may terminate the Employee's employment on four (4) weeks' written notice.

77.2.3 If the Employer terminates an Employee's employment and the Employee is over the age of 45 and has completed at least two (2) years of continuous service with the Employer, the Employer must give five (5) weeks' notice.

77.2.4 The Employer may pay an Employee in lieu of all or part of the notice period.

77.2.5 The period of notice in this clause does not apply:

- (a) in the case of dismissal for serious misconduct;
- (b) to apprentices;
- (c) to Employees engaged for a specific period of time or for a specific task or tasks;
- (d) trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or
- (e) to casual Employees.

#### 77.3. Notice of Termination by the Employee

77.2.6 An Employee may terminate their employment with the Employer at any time by providing:

- (a) Four (4) weeks' written notice; or
- (b) another notice period as mutually agreed.

77.2.7 If an Employee, without the express agreement of the Employer, fails to give the notice specified in clause 77.1.1, the Employer is not obliged to make payment in lieu of the balance of the notice period that was not worked. No deduction may be made from wages owing or accrued entitlements.

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## 78. Redundancy

### 78.1. General Conditions

78.1.1 Redundancy occurs where an Employer has made a definite decision, due to operational requirements, that the Employer no longer wishes the job of an Employee to be done by anyone and that decision leads to the termination of employment of the Employee, except where this is due to the ordinary and customary turnover of labour.

78.1.2 This clause does not apply to:

- (a) Employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
- (b) probationary Employees;
- (c) apprentices;
- (d) trainees;
- (e) Employees engaged for a specific period of time or for a specified task or tasks; as defined by the Fixed Term Clause contained within this Agreement; or
- (f) casual Employees.

### 78.2. Notification and Discussions

78.2.1 The Employer will notify affected Employees where it is proposed that the Employer no longer requires the job the Employee has been doing to be done by anyone including where that decision may lead to termination of employment.

78.2.2 An Employee should be notified of the proposed redundancy as soon as possible, but not less than 4 weeks prior to the redundancy becoming effective.

78.2.3 Prior to any final decision regarding redundancy, the Employer will consult with potentially affected Employees and their representatives in accordance with clause 7 - Consultation of this Agreement, including by providing relevant information such as:

- (a) the reasons for the proposed redundancy;
- (b) the number and categories of workers likely to be affected;
- (c) measures that could be taken to mitigate the adverse effects of any proposed redundancies, including redeployment opportunities for the Employee;
- (d) referral to an appropriate Career Transition and Outplacement provider; and
- (e) the period over which any proposed redundancies are intended to be carried out.

### 78.3. Job Vacancies

78.3.1 Any Employee made redundant within the past six (6) months may elect to be provided with position vacancies and will be considered internal staff for recruitment purposes for a period of up to 12 months following the termination of their employment.

### 78.4. Transfer to Lower Paid Duties

78.4.1 Where an Employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the Employee would have been entitled to if the employment had been terminated.

78.4.2 The Employer may, at the Employer’s option, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

## 78.5. Redundancy Payment

78.5.1 An Employee, whose employment is terminated by reason of redundancy, is entitled to the following amount of redundancy pay in respect of a period of continuous service:

Table 2: Redundancy Payment	
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	11 weeks’ pay
7 years and less than 8 years	13 weeks’ pay
8 years and less than 9 years	14 weeks’ pay
9 years and over	16 weeks’ pay

78.5.2 An Employee aged over 45 years is entitled to an additional one (1) week’s severance pay.

78.5.3 A week’s pay is calculated at the base rate of pay for the Employee's ordinary hours of work.

78.5.4 In addition to redundancy pay, Employees terminated by reason of redundancy will receive any leave entitlements owing (including any accrued annual leave and pro rata long service leave).

## 78.6. Employee Leaving during Notice Period

78.6.1 An Employee given notice of termination by reason of redundancy may terminate their employment during the period of notice set out in clause **77.2**.

78.6.2 The Employee will be entitled to receive the redundancy pay they would have received under clause 78.5 had they remained with the Employer until the expiry of the notice period.

## 78.7. Job Search Entitlement

78.7.1 During the period of notice of termination given by the Employer in accordance with clause **77.2**, an Employee shall be allowed up to 1 days’ time off without loss of pay during each week of notice for the purpose of seeking other employment.

78.7.2 If the Employee has been allowed paid leave for more than 1 day during the notice period for the purpose of seeking other employment, the Employee shall, at the request of the Employer, be required to produce proof of attendance at an interview or he or she shall not receive payment for the time absent. For this purpose, a statutory declaration will be sufficient.

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## 79. Outgoing Employees

- 79.1 All outgoing Employees are entitled to request an exit interview at the time of resignation or redundancy, with any or a combination of the following:
- (a) a Director; and/or
  - (b) the Chief Executive Officer.
- 79.2 The exit interview should be an informal process and focus on strengths and weaknesses with a view to improving the role, workplace, and services. The interview should be conducted at a mutually convenient time as near as possible to the Employee's end date.
- 79.3 All Employees who have been in the employ of the Employer for a minimum period of 3 months will be entitled to receive an accurate letter of reference written by their manager, director, or the CEO. All references must include the dates of the period of employment and the position title.

## 80. Transfer of Business

- 80.1 The provisions of clause 78.5 are not applicable where a transfer of business occurs, as defined by the FW Act, in any of the following circumstances:
- (a) Where the Employee accepts employment with the new employer which recognises the period of continuous service which the Employee had with ECLC to be continuous service of the Employee with the new employer for all purposes; or
  - (b) Where the Employee rejects an offer of employment with the new employer:
    - i. in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the Employee at the time of ceasing employment with ECLC; and
    - ii. which recognises the period of continuous service which the Employee had with ECLC to be continuous service of the Employee with the new employer for the purposes of redundancy pay.

## SCHEDULE 1: Disciplinary Process

### A. UNSATISFACTORY PERFORMANCE

An Employee's performance may be considered Unsatisfactory Performance, allowing the Disciplinary Procedures to commence, where their performance remains demonstrably below a level of performance consistent with the employee's role, position description and/or the relevant Award Classification.

A recommendation of Unsatisfactory Performance will normally follow the completion of a reasonable period of Performance Improvement (clause 75) to address underperformance.

A supervisor/manager will discuss the matter of Unsatisfactory Performance with the Director or the CEO prior to taking any further steps. The Director or CEO will decide to:

- Take no further action;
- Seek clarification and/or additional information from the supervisor/manager and/or employee;
- Refer the matter back to the supervisor/manager to address any concern regarding the employee's underperformance through further performance improvement measures; and/or
- Make a determination of Unsatisfactory Performance with a recommendation to initiate the Disciplinary process.

#### *A.1 Disciplinary Process for Unsatisfactory Performance*

Where a determination to initiate the Disciplinary process in response to Unsatisfactory Performance has been made, the supervisor/manager will prepare a report that clearly states the aspects of performance considered unsatisfactory and the record of attempts to remedy the problem/s.

The supervisor/manager will provide the employee with a copy of the report who will be invited to attend a disciplinary meeting.

No less than five (5) working days' notice will be provided to the employee to attend a disciplinary meeting following the provision of the report. The Employee will additionally be invited to provide a written submission in response to the Unsatisfactory Performance raised if they so wish.

The Employer will advise Employees of their right to seek support and/or representation at any time during the Disciplinary Process.

#### *A.2 Decision process*

Following the Unsatisfactory Performance disciplinary meeting, the Director or CEO will review all documentation, including any written submissions made by the employee.

In the event that the Director or CEO is of the view that Disciplinary Action is not warranted, or the appropriate feedback, counselling and opportunity to improve performance have not been given, the matter will be referred back to the supervisor/manager, who may or may not initiate further reasonable Performance Improvement measures.

Where the Director or CEO considers that Disciplinary Action is warranted, they will inform the employee, in writing, of the decision and reasons for the decision regarding Disciplinary action.

Types of Disciplinary Action are listed below. The Disciplinary Action taken will be proportionate, fair and reasonable having regard to the circumstances of the Unsatisfactory Performance.

The decision may include a plan for the ongoing monitoring of performance, if appropriate, or confirmation of a further meeting to agree an ongoing Performance Improvement Plan, where applicable.

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## B. MISCONDUCT AND SERIOUS MISCONDUCT

### B.1 Misconduct

Misconduct occurs when an Employee breaches their employment obligations. Examples of misconduct include but are not limited to:

- Significant breaches of policies, codes of conduct and other reasonable instructions;
- Unauthorised absence from duty; and
- Inappropriate use of ECLC property and facilities.

### B.2 Serious Misconduct

Serious misconduct means:

- a) Serious misbehaviour of a kind that constitutes a serious or repeated impediment to the Employee, or the Employee's colleagues, carrying out their duties; and/or
- b) Serious dereliction of the duties required of the Employee in their position; and/or
- c) Conviction by a court for an offence that constitutes a serious impediment of the kind referred to in clause a) above.

Examples of serious misconduct include but are not limited to:

- a) Threatened or actual assault of another Employee, worker or member of the public where it is in relation to employment;
- b) Serious conflict of interest;
- c) Acts of dishonesty in relation to ECLC property and facilities i.e., misappropriation or repeated damage or misuse of ECLC property or facilities;
- d) Serious or repeated bullying, abuse or sexual harassment of another Employee, worker or member of the public;
- e) Continuing or repeated instances of misconduct;
- f) Serious failure to observe occupational, health and safety policies, instructions, and requirements; and/or
- g) Refusal to carry out a lawful and reasonable instruction that is consistent with the Employee's role and responsibilities.

### B.3 Misconduct / Serious Misconduct Procedures

Allegations of Misconduct or Serious Misconduct are to be referred to a Director or the CEO.

Where a matter arises that includes conduct that could be the subject of allegations of misconduct and/or serious misconduct the Director or CEO may decide whether it is appropriate for the matter to be:

- a) discussed between the Employee and their supervisor/manager to determine whether it can be addressed through guidance, counselling, or other appropriate action in the first instance; or
- b) the subject of formal action in accordance with the below procedures.

### B.4 Suspension of Employment

Where an allegation of Serious Misconduct has been made against an Employee, the Employer may, at any stage during the procedures under this clause, suspend the Employee with pay and direct them not to attend work and not to undertake any of their work duties until the conclusion of the matter.

While the Employee is on paid suspension they must remain ready, willing and able to work and/or comply with the reasonable directions of the Employer.

While suspended, the Employee may be excluded from the Employer's worksites and IT systems, but will be permitted reasonable access to prepare their response if necessary and/or to collect personal property.

### *B.5 Formal Investigation*

In conducting a formal investigation, the Employer or an independent investigator shall:

- a) advise the Employee in writing as soon as reasonably practicable of the alleged Misconduct or Serious Misconduct;
- b) interview any person/s it thinks fit to establish the facts of the case;
- c) provide an opportunity for the employee to be interviewed;
- d) provide the employee with the right to respond to and challenge evidence;
- e) provide the employee with an opportunity to make any written submissions in relation to the allegations; and
- f) consider any such further material as it believes appropriate to the case.

If at any stage during the investigation the Employer finds that the details of the allegations should be amended or new details added, the Employee must be advised of this in writing and be given a further reasonable opportunity to provide a response prior to any further steps being taken by the Employer.

### *B.6 Decision Process*

Following completion of the investigation, the Director or CEO may:

- a) take no further action;
- b) require a further investigation to be undertaken in order to more fully establish the circumstances;  
or
- c) recommend Disciplinary Action.

The Director/CEO will advise the Employee in writing of their decision within ten (10) working days of completion of the investigation, including the reasons relied on in making the decision.

If the Director/CEO determines that no disciplinary action will be taken and the Employee has been suspended under these procedures, the Employee will be reinstated at no loss of salary or conditions.

Notwithstanding the provisions of this clause, the employment of any Employee may be terminated without notice by the Employer for serious misconduct.

## **C. DISCIPLINARY ACTION**

Disciplinary Action, including Termination of employment by the Employer, will have regard to the principles of natural justice, ensuring any action not be harsh, unjust, or unreasonable having regard to all circumstances.

Disciplinary Action may take the form of one or more of the following actions, dependent on the circumstances of the Unsatisfactory Performance or Misconduct/Serious Misconduct:

- Written warning
- Final Written Warning
- Withholding of salary increment
- Termination of employment

Where written warnings are a result of the disciplinary procedure, the Employee will be advised of the performance/conduct standards required, timeframes and the possible consequences if performance/conduct is not improved to the Employers reasonable requirements.



EASTERN COMMUNITY LEGAL CENTRE ENTERPRISE AGREEMENT 2024-2028

**Signed for and on behalf of Eastern Community Legal Centre Inc. (ABN 89 833 124 364):**

I, Michael Smith, Chief Executive Officer of Eastern Community Legal Centre Inc. am authorised to sign the Agreement on behalf of **Eastern Community Legal Centre Inc.:**



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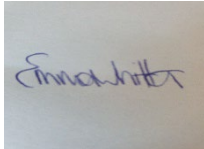
**MICHAEL SMITH**  
Suite 3, Town Hall Hub  
27 Bank Street, Box Hill, Victoria 3128  
Chief Executive Officer

28/11/2024

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DATE

In the presence of:



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**EMMA WHITTA**  
Suite 3, Town Hall Hub  
27 Bank Street, Box Hill, Victoria 3128  
Executive Assistant

28/11/2024

---

DATE

**Signed for and on behalf of employees of Eastern Community Legal Centre Inc.:**

I, Susan Learner, Shared Services Manager of Eastern Community Legal Centre am authorised to sign the Agreement on behalf of **the employees of Eastern Community Legal Centre Inc.:**

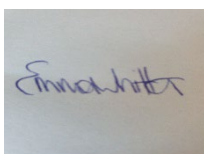


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**Susan Learner**  
Suite 3, Town Hall Hub  
27 Bank Street, Box Hill, Victoria 3128  
Shared Services Manager

28/11/2024

In the presence of:



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**EMMA WHITTA**  
Suite 3, Town Hall Hub  
27 Bank Street, Box Hill, Victoria 3128  
Executive Assistant

28/11/24

---

DATE