

## **RELIABLE CONVEYOR BELT ENTERPRISE AGREEMENT 2016**

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## **PART 1 - PRELIMINARY**

### **1.1 Title**

This Agreement is titled the Reliable Conveyor Belt Enterprise Agreement 2016.

### **1.2 Definitions**

For the purpose of this Agreement, the following terms have these meanings:

"Act" means the Fair Work Act 2009 (Cth);

"FWC" means the Fair Work Commission;

"Company" means Reliable Conveyor Belt Pty Limited;

"Continuous Service" means the period during which an employee has served his/her employer in their present employment or with a related company as defined in Sections 46-50 of the Corporations Act, under an unbroken contract of employment, provided that the following breaks in service will count as continuous service for the purposes of this agreement:

- a) period(s) of industrial action;
- b) any period of stand down or termination due to slackness of trade provided the employee is re-employed within a period of six (6) months from the first day of stand-down or termination;
- c) any period of stand down or termination which is made by the employer for any other reason if the employee is re-employed within two (2) months;
- d) any period of casual employment which is contiguous with a period of permanent employment.

"Employees" means all Employees engaged by the Company at the Sites or Workshops in any of the classifications specified in this Agreement;

"Employee" means one of the Employees;

"Agreement Rate" means the rate of pay (refer to schedule 1) applicable to an employee of the Company when working in the workshop or in the field except where the Coal Mine Site Rate applies.

"Coal Mine Site Rate" means the rate of pay (refer to schedule 1) applicable to an employee of the Company working on a coal mine site, either on the surface or underground lease area. Additional sites nominated by the Company may also attract the mine site rate e.g. a mine processing plant, hard rock mine located on a mining lease or on a coal loading facility. Current sites are as listed below:

- a) Port Waratah Coal Services,
- b) Cadia Holdings Ltd - Cadia Mill and Ridgeway U/G mine,
- c) North Mining Ltd- North Parkes Mill and U/G mine,
- d) Barrick Australia Ltd - Cowal Gold Mine,
- e) Cobar Copper Mine,
- f) Endeavor Operations,
- g) Tritton Resources,
- h) Peak Gold Mine,
- i) Clarence Mine & CHPP
- j) Bulga Surface Operation
- k) Austar Coal Mine

- l) Bengalla Mine
- m) Ashton Coal
- n) Angus Place Colliery
- o) Springvale CHPP & Underground
- p) Ulan Coal Mine
- q) Ulan Surface Operation
- r) Moolarben Coal
- s) Myuna Colliery
- t) Bulga Underground Operations
- u) Airly Coal Mine
- v) Narrabri Underground Mine
- w) Narrabri CHPP
- x) Boggabri Coal
- y) Muswellbrook Coal

Any new Coal Mine Sites customers will be included as part of the above list.

"Union" means the "an Employee Organisation that has coverage of Employees covered by this Agreement".

"Workshops" means one or more of the Company's premises located at:

- *Head Office:* 73 Enterprise Drive, Beresfield, NSW, 2322,
- *Muswellbrook:* 7 Strathmore Road, Muswellbrook, NSW, 2333,
- *Mudgee:* 26 Industrial Avenue, Mudgee, NSW, 2850,
- *Lithgow:* Unit 5/6, Lot 42 Main Street, Wallerawang, NSW, 2845,
- *Parkes:* 2c Weston Street, Parkes, NSW, 2870, and
- Any other NSW work location where the Company is operating, except where that location is covered by another registered enterprise agreement applying to the Company's Employees (i.e. all sites where the Company is operating are covered by either this Agreement or another registered workplace agreement).

### **1.3 Parties**

The parties to this Agreement are:

- the Company; and
- the Employees whose classifications are listed in Schedule 1.

### **1.4 Area of Operation**

This Agreement applies to the operations of the Company at the Sites and Workshops as specified in this Agreement, and replaces all other agreements, awards and understandings pertaining to employment of the Employees by the Company. Provided that this Agreement does not apply at any Site where another registered enterprise agreement exists that applies to the Company's Employees.

### **1.5 Date and Term of Operation**

- (1) Date of Operation - this Agreement operates from the seventh day after the date of approval by the Fair Work Commission.

- (2) The nominal expiry date of this Agreement is the date 12 months after the day the Agreement commences operating.
- (3) The Company will commence negotiating for a replacement agreement no later than 3 months before the nominal expiry date of this Agreement.

## **1.6 Objectives**

- (1) to preserve agreed core award conditions of employment
- (2) to provide conditions and reward structures which are competitive in the market place
- (3) to operate within a cost structure which is sustainable in the market place
- (4) to reinforce our joint commitment to good work practices which promote Workplace Health and Safety and high standards of Quality Assurance.
- (5) to promote joint responsibility for skills and career development.

## **1.7 Variation**

This Agreement may only be varied in accordance with the Act.

## **1.8 Copy of Agreement**

A copy of this Agreement will be displayed in a conspicuous place so that it is available to and easily read by the Employees.

## **PART 2 - CATEGORIES OF EMPLOYMENT AND PERFORMANCE OF WORK**

### **2.1 Categories of Employment**

- (1) Employees will be engaged in one of the following categories:- (a) Permanent Full-Time:
  - (a) Permanent Part-Time;
  - (b) Flexible Part-Time; or
  - (c) Casual.
- (2) Each Employee will be advised in writing of his or her employment category and weekly/hourly rate (as applicable) at the commencement of their employment with the Company and thereafter of any changes to such category and/or weekly or hourly rate.

### **2.2 Probationary Period**

- (1) A new permanent Employee including a Flexible Part-Time employee will be engaged on a probationary period of six 6 months, during which time the Employee's performance and suitability for the position will be assessed by the Company.
- (2) At the satisfactory conclusion of the probationary period, the Employee's engagement will be confirmed by the Company.
- (3) During the probationary period, either the Employee or the Company may terminate the Employee's employment by giving one (1) weeks' notice. The Company may elect to pay the Employee one (1) week's wages in lieu of notice. In the event that the Employee fails to give the Company notice of termination, the Company may elect to deduct the equivalent of one (1) week's pay from any amount owing to the Employee.

### **2.3 Part Time Employees**

- (1) A part-time Employee means an Employee who is engaged on a permanent part time basis to work a number of hours each week, as agreed from time to time between the Company and the Employee concerned, being less than thirty eight (38) per week.

- (2) Except as otherwise provided by this Agreement all conditions of employment for full-time Employees apply to permanent part-time Employees on a pro-rata basis for hours actually worked (based on a thirty eight (38) hour week).

## 2.4 Flexible Part-Time Employees (FPT)

- (1) **Work Days** - The Employee may be engaged on any day of the week. The day or days of employment and the spread of hours worked may vary from week to week.
- (2) **Minimum Hours** - An FPT Employee is to be afforded a minimum of 24 hours' work per week or 28.5 hours in the case of a 9.5 hour ordinary work day. (The Company's pay week is Monday to Sunday). This minimum may include work outside of ordinary hours (i.e. including shiftwork), which are paid at the relevant overtime rates. Where a shift is cancelled and the Employee:

- receives less than one hours' notice, prior to the shift starting, of that shift being cancelled; or
- has attended work for the allocated shift and that shift is subsequently cancelled within 4 hours of the shift starting;

He/she is to be paid a minimum of 4 hours at the relevant rate of pay (i.e. ordinary time and shift loading where applicable, if the period of work is within ordinary hours or overtime if it is outside ordinary hours).

- (3) **Public Holidays** - An FPT Employee is paid eight hours (8) ordinary pay for a Public Holiday that falls on a weekday that he/she does not work. All time worked on Public Holidays is paid at an effective rate of double time and one half for all circumstances.
- (4) **Paid Leave** - An Employee engaged as an FPT Employee accrues annual leave, sick leave, and long service leave on a pro-rata basis. These entitlements accrue on the first 24 hours worked in the week including ordinary and overtime hours. Further, entitlements to a maximum of 38 hours per week accrue on ordinary hours and overtime hours worked in the week.
- (a) **Annual leave** accrues on the basis of 1 hour of annual leave for each 13 entitlement hours worked (i.e. up to 2.923 hours for each 38 hours worked or 4 weeks leave per year).
- (b) **Personal Leave** (Sick Leave and Carer's Leave,) accumulates at a maximum of 1 hour Personal Leave entitlement for each 26 hours of entitlement hours worked for the each year of service (i.e. up to 1.46 hours for each 38 hours worked or 76 hours per year). Personal Leave hours accumulate whilst ever continuously employed. Personal Leave is only available in respect to a rostered working day.
- (c) **Compassionate Leave** is available up to two days for each permissible occasion as set out in clause 5.6 of this Agreement.
- (d) **Long Service Leave** is covered by the Long Service Leave Act 1955 (NSW) (as varied or in force from time to time), or Fair Work Act 2009 or other legislation as applicable.

- (5) **Site Work** - An Employee engaged as an FPT may be required to work on-site.
- (6) **Shift Work** - The Company may require the FPT Employee to work shift work as needed. In this case there is no minimum period of notice required to be given for the Employee to move from day work to shift work or vice versa. The Company will endeavour to give as much notice as possible in the circumstances at the time.

## 2.5 Casual Employees

- (1) Employees may be engaged by the hour on a casual basis as determined by the Company.

- (2) Casual Employees receive a twenty five percent (25%) loading as part of the Employee's all purpose rate of pay.
- (3) The provisions of clauses 5.1, 5.2, 5.5, 5.6 (except 5.6(4)), 5.7, 5.8 and Parts 6 and 7 of this Agreement, do not apply to casual Employees.
- (4) Where a Casual Employee is engaged for less than 4 hours work, the Casual Employee will receive 4 hours in wages.

## **2.6 Performance of Work**

- (1) Employees must carry out their duties and use the tools and equipment as may be reasonably required by the Company, having regard to each Employee's level of skill, competence and training.
- (2) Each Employee must perform their work:
  - (a) with due care and to the best of his or her knowledge and expertise;
  - (b) in compliance with all safety regulations as determined by the Company and/or as prescribed by Government legislation and regulation;
  - (c) in compliance with all Company policies, procedures and instructions as implemented and amended from time to time (provided that such policies, procedures and instructions do not form part of this Agreement); and
  - (d) in the best interests of the Company.
- (3) No Employee can, either directly or indirectly, be involved or engaged in work for any other company, business or individual, whether paid or otherwise, which may in any way conflict with the interests of the Company.
- (4) The parties to this Agreement are committed to removing barriers to the utilization of the skills acquired in order to provide greater autonomy for Employee work teams and produce a multi skilled workforce. This enables Employees to be rotated in their normal work tasks providing greater operational flexibility and Job satisfaction. Accordingly, the Company may require an Employee from time to time to perform other duties that are within the Employee's skills and capabilities, including work that is incidental or peripheral to the Employee's main duties. The Company may also direct an Employee to use such tools and equipment as may be required, provided that the Employee has been properly trained in the use of such tools and equipment.
- (5) The Company may require Employees to perform routine and preventative maintenance tasks, and to assist others during these tasks, where trained and competent to do so. These could include, but are not limited to, servicing and lubricating equipment; changing or replacing consumables on equipment; and training/coaching other employees.
- (6) In the event that an Employee cannot be usefully employed because of any stoppage of work because of any strike, breakdown in machinery or for any cause for which the Company cannot reasonably be held responsible, the Company is entitled to stand down the Employee without pay. If the Employee so requests, the Company may elect to allow the Employee to take any accrued annual leave entitlements rather than standing down the Employee.
- (7) The Company may require any Employee to undertake a medical assessment at any time (including drug and/or alcohol testing) if the Company has concerns about the Employee's ability to perform the inherent requirements of their position, or if the Company has a reasonable suspicion that an Employee is under the influence of drugs or alcohol while at work. Where there is a site policy that provides random testing, the Company may also require Employees to participate in random testing for drugs and/or alcohol. A failure or refusal by an Employee to co-operate with the Company's reasonable request to undertake such testing may be considered serious misconduct that can lead to the summary termination of the Employee's employment.

## **PART 3 - CLASSIFICATIONS AND REMUNERATION**

### **3.1 Classifications**

- (1) Employees under this Agreement are to be employed under the classifications set out in Schedule 1, which are designed to best meet the needs of the business, enhance flexibility, eliminate work demarcations, promote skills acquisition and offer broader career opportunities to Employees.
- (2) An Employee can progress to a higher classification when:
  - (a) the Employee is capable of effectively performing the skills required of that higher level; and
  - (b) a position becomes available at the higher classification level; and
  - (c) the Employee is appointed to that position by the Company.
- (3) The Company uses a selection on merit for all internal and external recruitment for positions.
- (4) In the event of Employee disagreement about their wage rate, classification or where applicable an annual review result they may process their concerns by initiating Part 8 - Grievance Resolution and Dispute Avoidance Procedures at step 2.

### **3.2 Wages and Allowances**

- (1) The wage rates and allowances that apply during the term of this Agreement are set out in Schedule 1. The wage rates override the rates payable to Employees prior to the application of this Agreement (whether those rates were payable under contract or the previous agreement),
- (2) The wages paid to each Employee are inclusive of all allowances, loadings and penalties unless other expressly provided for in this Agreement.
- (3) **Allowances**

The wage rates in Schedule 1 of this Agreement are inclusive of Tool Allowance, First Aid, Working Underground, Leading Hand Allowance (up to 10 people), Meal Allowance and all other Allowances and Special Rates that may otherwise apply, except for the following:

- (a) **Additional Operational Qualifications** - after the signing of this agreement where an employee holds a total of three (3) or more of the qualifications below at the end of November they will receive in the following month an annual allowance of \$150 in the second pay period in December.
  - Confined space
  - Elevated work platform
  - Medium rigid truck licence.
  - Working at heights
  - Dogman

For those employees who are currently in receipt of an extra \$1 per hour in their rate of pay for acquiring and retaining a total of three (3) or more of the above qualifications they will retain the extra \$1 per hour which will count towards the calculation of overtime, annual, personal, long service leave etc. and will not receive the \$150 annual allowance.

- (b) **Coal Mine Site Allowance** - where the Company can recover the Mine Site Allowance and any related on-costs, e.g.: superannuation, worker's compensation, payroll tax, employees will receive \$85 per day.



- (c) **Leading Hands Allowance** - where an Employee (in a classification other than Site Supervisor) is appointed by the Company as a "Leading Hand" and they are engaged in supervising 11 or more Employees, he/she is to receive an additional 7% of their rate of pay under this Agreement. This is an all purpose allowance which goes into the calculation of the hourly rate of pay used for calculating overtime.
- (d) **Fares & Travel - Employees are required to travel to site in company vehicles.** In this case Employees are required to attend the relevant Reliable workshop prior to travelling together in the vehicle provided by the Company to the site where work is being undertaken on a daily basis. All time spent travelling to and from site, is paid as follows:
  - i. The rate of pay for travelling time Monday to Saturday shall be at single time. Travelling time shall be calculated on the basis of the time taken in travelling from the workshop/base to a site and return. The single time rate overrides the rate payable to Employees prior to the application of this Agreement (whether those rates were payable under contract or the previous agreement).
  - ii. Travelling time on a Sunday or Public Holiday shall be paid at the rate of time and a half.
- (e) **Overnight Travelling Allowance** - when an Employee is required to reside away from his/her normal place of residence the Company provides reasonable accommodation at the Company's expense and, in addition, pays an allowance of \$70.00 per day to cover meal expenses where meals are not provided by the Company and \$33.00 per day for sundry expenses if meals are provided by the Company. The Company will consider a reasonable increase to this allowance to reflect the higher expenses that may apply in remote or interstate locations, where warranted. Each situation will be considered on its merits and any increase granted in any particular situation shall not be used as a precedent for any other situation.
- (e) **Emergency Breakdown Call Out Allowance** - When an Employee is called out, outside of ordinary hours and after leaving the Site or Workshop, to an emergency or break down, a call out allowance of \$40.00 flat is paid plus travel time. This allowance is in addition to the minimum four hours pay; as provided in clause 4.5(4) - Emergency breakdown.

This applies to both Permanent and FPT employees.

### 3.3 Payment of Wages

- (1) An Employee is to receive payment of his or her wages on a weekly basis, and is to be paid by direct deposit into a bank account nominated by the Employee. The Company does not intend to change from the current arrangements of being paid weekly, however if the Company subsequently determines a need to move to an alternate payment cycle the Company is to consult with Employees on the reason, timing and impact of the change, and explore reasonable means of mitigating any adverse affects on Employees.
- (2) Upon notification to payroll administration at the applicable branch office of an error, corrections to payment of wages will be made as follows:
  - (a) in the following pay week: - if caused by the Employee's failure to submit clearly documented and approved time sheets, leave forms or related payroll processing records; or

- (b) before the next pay week: - if caused by the Company's failure to properly process the time sheets, leave forms or related payroll records submitted by an Employee. This may involve payment by direct deposit or other suitable means as arranged at the time.
- (3) Where a delay is caused by situations such as a failure of a banking institution to process direct deposits as instructed by the Company consistent with normal payroll processing timeframes; or a failure of electricity/telecommunications supply; or other reason beyond the Company's control; the Company will inform Employees accordingly and use its best endeavours to expedite payment and mitigate any adverse impact on Employees.
- (4) Where there is a potential for a weekly pay to be reduced due to a day being swapped from one week to another, where requested the Company will and introduce a system to move a suitable amount (e.g. 1 days' pay) from one week to another to reduce this impact.
- (5) Where an employee has a payroll enquiry; the employee will complete a Payroll Enquiry Form (REL980) or equivalent and the Company will reply in writing to that enquiry.

### **3.4 Superannuation**

- (1) In addition to other entitlements pursuant to this Agreement, the Company is to make superannuation contributions on behalf of eligible Employees in accordance with the Superannuation Guarantee legislation into the approved Superannuation Fund.
- (2) The approved superannuation funds for Employees covered by this Agreement are listed below:
  - (a) MLC MasterKey Business Superannuation Fund (SFN 281440944), which is the nominated default fund; or
  - (b) The AUSCOAL Superannuation Fund.
  - (c) Australians Super
- (3) Superannuation is payable on the "ordinary time earnings" for 38 hours of work for Permanent Full-Time Employees and 24 hours of work for Flexible Part-Time Employees or 28.5 hours in the case of a 9.5 hour working day, except where an Employee is absent without leave or where 38, 28.5 or 24 hours of work, respectively, is offered to be worked but is declined by an Employee in the pay week concerned. "Ordinary time earnings" is defined as including the applicable classification rate of pay under this Agreement, tool allowance, leading hand allowance and shift loadings. It excludes overtime penalty rates, including where the overtime hours are counted as part of the ordinary hours for the purpose of making up the minimum 38, 28.5 or 24 ordinary time hours in any given pay week.

### **3.5 Salary Sacrifice**

The Company may agree to make available to Employees the ability to enter into salary sacrifice arrangements, so long as there are no Fringe Benefits Tax liabilities or obligations imposed on the Company as a result of such an arrangement, and they are otherwise consistent with Australian Tax Office Requirements. This may reduce the effective rates of pay after salary sacrifice to less than that shown in schedule 1 of the Agreement.

## **PART 4 - HOURS OF WORK**

### **4.1 Application of 38 Hour Week to full time permanent employees**

- (1) The ordinary working hours per week are an average of 38 hours per week, which may involve day work or shift work or a combination of both In any pay week period.

- (2) The 38 hour week can be worked in varying arrangements within the parameters of this clause. Any arrangement of the ordinary hours may be varied by the Company, subject to a minimum of 24 hours' notice, during the life of this agreement to suit the operational requirements of the business and changing customer requirements.
- (3) The company at its discretion, and in discussion with employees, may implement or have in place a 4 day week to operate within the parameters this clause and consistent with Clause 4.2(3). This may involve a 9.5 hour ordinary time per day, with a half hour unpaid meal break, over 4 days of the week, typically but not always Monday to Thursday or Tuesday to Friday. If the 4 day week is arranged, by agreement as per 4.2(3), to include ordinary hours worked on Saturday or a Sunday penalty rates apply as per sub-clause 4.2(5) and 4.2(6). The Company will monitor and review the operation of the 4 day week in consultation with Employees. Where such a roster is implemented the minimum hours for a Flexible Part-time Employee (Clause 2.4) shall be 28.5 hours per week.
- (4) The company will, as far as is practicable, provide employees with at least 24 hours' notice of the shift pattern which will operate in the succeeding work week. However, employees accept that in exceptional circumstances from time to time customers make changes to their service requirements. In such circumstances, the employees will agree to accept a different work week pattern, without the payment of penalty loadings for time worked on the originally scheduled non-working day.

#### **4.2 Ordinary Working Hours - Day Work**

- (1) Ordinary Working Hours of each Employee are to be on the basis of one of the following rosters:
  - (a) 38 hours made up of 5 x 7.6 hour shifts within a 7 day work cycle or
  - (b) 76 hours made up of 10 x 7.6 hour shifts within a 14 day work cycle or
  - (c) 152 hours made up of 20 x 7.6 hour shifts within a 28 day work cycle or
  - (d) 38 hours made up of 4 x 9.5 hour shifts within a 7 day work cycle or
  - (e) 76 hours made up of 8 x 9.5 hour shifts within a 14 day work cycle or
  - (f) 152 hours made up of 16 x 9.5 hour shifts within a 28 day work cycle or
- (2) As otherwise agreed between the Company and the Employee or majority of affected Employees.
- (3) The spread of Ordinary Working Hours for Employees are between 6:00am and 6:00pm from Monday to Friday inclusive. The spread of hours (ie 6am to 6pm) may be altered by up to 1 hour at either end of the spread, by agreement between the Company an Employee or the majority of affected Employees. Further, the days on which ordinary hours are worked may include Saturday and Sunday by agreement between the Company and an Employee or the majority of affected Employees. Where the Company proposes a change to an Employee's regular roster or ordinary hours of work, the consultation requirements in clause 9.4(4) will apply. Ordinary Working Hours for Employees not appointed to Afternoon or Night Shift will exclude travelling time unless this is required to make up the usual number of ordinary working hours for the shift.
- (4) Employees may by agreement work up to a maximum of twelve (12) Ordinary Working Hours per day (12 hour day).
- (5) Where the Ordinary Working Hours are arranged to be on a Saturday as provided in subclause 4.2(3), the Employee(s) are to be paid at the rate of double time for each hour worked on a Saturday.

- (6) Where the Ordinary Working Hours are arranged to be on a Sunday as provided in subclause 4.2(3), the Employee(s) are to be paid at the rate of double time for each hour worked on a Sunday.
- (7) The Company is to fix the starting and finishing times for each Employee. The Company may vary these times on a temporary or permanent basis after consultation with the Employee(s) affected and with a minimum of 24 hours' notice or earlier if by mutual agreement.
- (8) **Required Notice for afternoon or night shift:** Employees working day work shall be given 24 hours' notice of the starting time of their afternoon or night shift or less if by mutual agreement. Consequences of failure to meet this requirement are:
  - (a) Employees being transferred to afternoon or night shift must be paid Stand By, at their standard rate of pay (single time) for any of the ordinary working hours of their rostered day work for which they were not required to work.
  - (b) **"Stand By"** is the payment at single time of ordinary working hours for a rest break prior to a revised shift as per a) above.

#### 4.3 Ordinary Working Hours - Shift Work

- (1) **"Rostered Shift"** means any afternoon or night shift where the Employee(s) concerned has had at least 24 hours' notice or less if by mutual agreement.
- (2) **"Afternoon Shift"** applies to any Employee engaged to work a shift commencing after 12.00 midday and at or before 6.00 pm.
- (3) **"Night Shift"** applies to any Employee engaged to work a shift commencing after 6.00 pm and at or before midnight
- (4) **"Broken or Short Shift"** (combining day work and shift work in a 7 day work period)  
"Broken or Short Shift" is an Afternoon or Night Shift which does not continue:
  - (a) for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift and the shift arrangement is in accordance with Clause 4.3(5) - Ordinary Working Hours — Shift Work e.g. 4 day week); or
  - (b) for at least five successive afternoon or night shifts where no more than eight ordinary hours are worked on each shift e.g. 5 day week
- (5) **"Continuous Shift"** is a roster which is designed to generally consist of the same or similar daily work hour's pattern of 38 ordinary working hours being worked for a minimum of 1 week worked as 4 x 9.5 hour shifts or 5 x 7.6 hour shifts. Employees allotted to this roster will be deemed to be on "Continuous Shift".  
Examples would include:
  - (a) 4 x 9.5 hour shifts (+ overtime if applicable) worked Thursday, Friday, Tuesday and Wednesday with Monday being a day fostered off
  - (b) 5 x 7.6 hour shifts (+ overtime if applicable) worked Tuesday, Wednesday, Thursday, Friday, Monday
- (6) **Commencement time**  
Only for purpose of the definitions above the commencement time of a shift is defined as the earliest of the commencement of travelling time, ordinary working hours or overtime hours, an example of this would include (a) and (b) above.
- (7) **"Continuous Shift" status is not negated by:**
  - (a) Leave taken by an employee on days that would have been worked as shift
  - (b) The payment of Stand By
  - (c) Any rearrangements made by agreement with the employees concerned

- (d) Public Holidays.
- (8) Ordinary Working Hours for Employees appointed to Afternoon or Night Shift will commence at the start of work
- (9) Ordinary Working Hours of each Employee on shift work are to be on the basis of one of the rosters shown in Clause 4.2 (1), and will integrate with that arrangement for situations of Daywork and Shiftwork being combined within one work cycle. Further, the days on which ordinary hours are worked by Afternoon Shift or Night Shift Employees may include Saturday or Sunday by agreement between the Company and an Employee or the majority of the affected Employees.
- (10) Employees on shift work may by agreement work up to a maximum of twelve (12) Ordinary Working Hours per shift.
- (11) Where the Ordinary Working Hours are arranged to be on a Saturday as provided in subclause 4.2(3), the Employee(s) are to be paid at the rate of double time for each hour worked on a Saturday.
- (12) Where the Ordinary Working Hours are arranged to be on a Sunday as provided in subclause 4.2(3), the Employee(s) are to be paid at the rate of double time for each hour worked on a Sunday.
- (13) The Company is to fix the starting and finishing times for each shift. The Company may vary these times on a temporary or permanent basis after consultation with the Employees affected (and in accordance with clause 9.4(4), if applicable) and with a minimum of 24 hours' notice, or earlier if by mutual agreement. Consequences of failure to meet this requirement are:
- (a) Employees remaining on shift work but having their start time altered, may in reasonable circumstances, advise their inability to make that change.
- (b) Employees being transferred from an ordinary working hour's afternoon or night shift to day work must be provided with one of the following:
- i. If an alternative shift is available within the Ordinary Working Hours work cycle (Refer clauses 4.1 (4), 4.2 (1), 4.2 (2), 4.5 (5) (g)) then this shift may be substituted for the shift not worked.
- or
- ii. Payment of "Stand Down" of the ordinary working hours that would have been worked, this payment being at single time.
- (14) Employees being transferred from an ordinary working hours afternoon or night shift to day work with the required notice and consultation must, If not provided with a substitute shift for the afternoon or night shift, be paid "Stand Down" for the ordinary working hours that would have been worked, this payment being at single time.
- (15) If there is disagreement about the change in times the matter shall be determined by use of Part 8 Grievance Resolution and Dispute Avoidance Procedures.
- (16) Rosters for shift work may be on a fixed or rotating basis, depending on the operational needs of the business.
- (17) An employee who works on shift work are paid the following shift allowances:
- (a) **Afternoon Shift (fixed or rotating shift pattern)** -15% of the Employee's ordinary rate of pay while performing afternoon shift only;
- (b) **Rotating Night Shift** - 15% of the Employee's ordinary rate of pay while performing night shift where the shift rotates or alternates with another shift so that at least one third of the time is spent off night shift in each shift cycle;
- (c) **Fixed Night Shift** - 50% of the Employee's ordinary rate of pay while performing nightshift only;

(18) **Broken or Short Shift** (combining day work and shift work in a 7 day work period)

An Employee who works a Broken or Short Shift; shall be paid a shift allowance as follows while performing ordinary hours of work after 6.00pm and before 6.00am Monday to Friday:

- i. for each shift 50% for the first three hours and 100% for the remaining hours, in addition to his or her ordinary rate;

#### 4.4 Rest / Meal Breaks - Ordinary Time

All Employees are entitled to receive a thirty (30) minute unpaid meal break after working at least four (4) hours of work, except where otherwise provided for in this Agreement (refer 4.5(5)). The rest/meal break is to be taken at times as determined by the Supervisor to suit the Company's operational requirements, and may be staggered within and/or across work teams. Employees may be directed to take their meal break after working not more than five (5) hours on any one shift without penalty or additional payment if so required as a result of the operational requirements of the Company.

A rest period of 10 minutes at the approved area shall be allowed to all employees in the first half of each day or shift at a time fixed by the employer; provided that the time of taking the rest period may vary, at the option of the employer, as between employees.

#### 4.5 Additional Hours

- (1) Employees agree to work reasonable Additional Hours to meet Company operational requirements.
- (2) All Additional Hours to be worked must be approved by an Employee's supervisor prior to the Additional Hours being performed.
- (3) Employees will receive payment for Additional Hours worked in accordance with the following:
  - (a) For each Additional Hour up to three (3) Additional Hours per shift - at a rate of time and a half; and
  - (b) For each Additional Hour per shift thereafter - double time.

These rates override the rates payable to Employees prior to the application of this Agreement (whether those rates were payable under contract or the previous agreement).

- (4) **Emergency Breakdown** - When an Employee is called out, outside of ordinary hours and after leaving the Site or Workshop, to an emergency or break down, the Employee is to be paid a minimum of four (4) hours pay for a call out at the relevant overtime penalty rate plus travel. The minimum time payable for a call out is 4 hours at the overtime penalty rate, plus an allowance, see clause 3.2(f).

This subclause does not apply in situations where it is customary for an Employee to return to the Site or Workshop to perform a specific job outside the Employee's ordinary hours or where the overtime is continuous (subject to meal break) with the start or finish of ordinary working hours.

- (5) **Rest / Meal Breaks - Overtime:**

- (a) An Employee working overtime must be allowed a rest break of 20 minutes without deduction of pay after each four hours of overtime worked if the Employee is to continue work after the rest break.
- (b) The Company and Employee or majority of affected Employees may agree to any variation of this sub-clause to meet the circumstances of the work in hand provided that the Company is not required to make any payment in excess of or less than what would otherwise be required under this subclause.
- (c) Rest Breaks - Follow-on Overtime

Where the overtime is more than two (2) hours, an Employee, before starting overtime after working ordinary hours, is allowed a rest break for 20 minutes without loss of pay, A subsequent rest break of 20 minutes without loss of pay applies after each four (4) hours of overtime worked, if the overtime continues after the break. See the following examples.

Example 1 - Follow-on overtime of up to 2 hours

Ordinary time	2 hrs follow-on Overtime No Rest Break applies
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Example 2 - Follow-on overtime of more than 2 but not more than 4 hours

Ordinary time	20 min Rest Break	>2 hrs up to 4 hrs follow-on Overtime
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Example 3 - Follow-on Overtime of more than 4 hours

Ordinary time	20 min Rest Break	4 hours follow-on Overtime	2 <sup>nd</sup> 20 min Rest Break.	Overtime continues cycle repeats
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(d) Breaks - Stand Alone Overtime

Where an Employee is required to work overtime that is not continuous with ordinary hours of work such as on a Saturday, Sunday or Public Holiday or on a rostered day off, he/she is allowed a rest break of 20 minutes without deduction of pay after each four (4) hours of overtime worked if the Employee continues work after such meal break.

Example

Stand Alone Overtime - 4 hours	20 min Rest Break	4 hours Overtime Continues	2 <sup>nd</sup> 20 min Rest Break	Overtime continues 4 hours O/T & 20 min Rest Break cycle repeats
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(e) Meal Allowance

The rate of pay at Schedule 1 includes the meal allowance that would otherwise apply under the Award. No other meal allowance provisions apply.

(f) An employee is entitled to break of at least ten (10) hours between shifts of work in any period of 24 hours.

(g) An employee (other than a casual employee) who works so much overtime between the termination of a shift of work on one day and the commencement of an ordinary shift on the next day, so that the employee has not had at least 10 consecutive hours off duty between those times, must be released after completion of overtime until they have had the requisite rest break without loss of ordinary pay for the next ordinary shift or part of (he shift).

- (h) Where an employee, at the instruction of the Company resumes work without having had a break as provided by (f), the employee shall be paid at double time (ordinary time plus 100%) rates until he/she is provided with the rest period.

#### 4.6 Public Holidays

- (1) Employees are entitled to:
  - (a) the following public holidays without loss of pay:
    - i. New Year's day
    - ii. Australia Day
    - iii. Good Friday
    - iv. Easter Saturday
    - v. Easter Sunday
    - vi. Easter Monday
    - vii. Anzac Day
    - viii. Queen's Birthday
    - ix. Labour day or 8 Hours day
    - x. Christmas Day
    - xi. Boxing day
    - xii. In addition to the public holidays listed above employees are entitled to one Additional Day, which for the purposes of this Agreement shall be treated as a public holiday. This Additional Day is to be taken on the Tuesday after Easter, except where a public holiday is gazetted for Newcastle Show Day, in which case the Additional Day is to be replaced by the gazetted Show Day, or the Company and the employees may reach agreement to observe the Show Day on Easter Tuesday. The effect of this clause is to provide an entitlement to either the Additional Day or Newcastle Show day but not both.
- (2) Where a public holiday falls on a weekend, the State Government may gazette the original day as the public holiday, or nominate a substitute day, or gazette an additional day. The public holidays which are to be observed will accordingly be those which are gazetted in any one year and may vary in number from year to year.
- (3) From time to time employees may be required to work on a public holiday to meet the operational requirements of the business. If an employee is required to work on a public holiday, then each affected employee can elect to either:
  - (a) be credited with a paid substitute day of leave in lieu of the public holiday (based on the employee's ordinary rate of pay); or
  - (b) be paid for the number of hours worked on the public holiday in accordance with the following:
    - i. for all employees other than continuous shift workers – receive payment at the rate of double time and a half for each hour worked on the public holiday, with a minimum of four hours' pay;
    - ii. for continuous shift workers - receive payment at the rate of double time for each hour worked on the public holiday, with a minimum of four hours" pay.



- (4) This clause does not apply to casual employees, except where they are required to work on a public holiday in which case the applicable penalty rates under this clause apply for the hours worked on the public holiday.
- (5) Where a public holiday falls on a Monday to Friday and a full time Employee is not scheduled to work on that day due to their ordinary hours being arranged in a 4 day week pattern the Employee may either:
  - (a) be paid 7.6 hours at the ordinary time rate in addition to their 38 hours 4 day week, or
  - (b) by agreement with their Supervisor take an alternate day in lieu of being paid the additional 7.6 hours at ordinary time rate.

## **PART 5 - LEAVE**

### **5.1 Annual Leave**

- (1) An Employee is entitled to four weeks paid annual leave, which is to be paid and taken in accordance with the National Employment Standard and any Company policy regarding annual leave (as reasonably amended from time to time).
- (2) During a period of annual leave, an Employee will receive an annual leave loading of 17.5% of the Employee's ordinary rate of pay.
- (3) The Company may require an annual close down of any of its operations. The Company must provide not less than four (4) weeks' notice of the close down to affected Employees. Employees with insufficient annual leave credits to take paid annual leave for all or part of the close down period may be required to take leave without pay. Such leave without pay does not break continuity of service with the Company for the purpose of calculating leave entitlements, provided that the period of unpaid absence does not count toward determining the leave entitlements.
- (4) In accordance with the requirements of the National Employment Standard Act, an Employee may request to any period of in excess of four weeks (152 hours) of their credited annual leave entitlement paid out in lieu of taking the leave. An application for annual leave to be paid in lieu must be made in writing by the Employee with each application being considered by the Company on its merit, prior to any approval in writing by the Company. Authorised applications for pay out of leave in lieu of taking it are paid at the base classification wage rate as specified in this Agreement. The written application and Company authorisation are to be held on the personnel file for the Employee and recorded with the time and wages records.

### **5.2 Personal Leave (other than casual Employees)**

- (1) For the purpose of this clause, "personal leave" is:
  - (a) paid leave taken by an Employee because of a personal injury or injury of the Employee (sick leave); or
  - (b) paid or unpaid leave taken by an Employee to provide care or support to a member of the Employee's immediate family, or a member of the Employee's household, who requires care or support because of a personal illness or injury, or because of an unexpected emergency affecting that person (carers leave).
- (2) For the purpose of this clause, a member of an Employee's immediate family includes:
  - (a) a spouse or de facto partner of the Employee, or
  - (b) a child, parent, grandparent, grandchild, or a sibling, of either the Employee or the Employee's spouse or de facto partner

- (3) An Employee is not entitled to paid personal leave for any period in respect of which the Employee is entitled to workers' compensation.
- (4) Employees are entitled to ten (10) days paid personal leave during each 12 month period of employment, subject to the submission of a Personal Leave application form and the following conditions:
  - (a) At the commencement of their normal working time or as soon as reasonably practicable, the Employee will inform the Company of the Employee's inability to attend for work for reason of sick leave or carers leave and, as far as practicable, state the estimated duration of the absence;
  - (b) Except as provided in sub-clause (c), if absent for more than one absence of two consecutive days or absent for more than three (3) single days in any twelve month period of employment for reason of personal illness or injury or carers leave, the Employee must produce a Medical Certificate or where not reasonably practicable to obtain one, a Statutory Declaration, stating that the Employee was either:
    - i. regarding sick leave, unable to attend for duty on account of personal illness or injury, in lieu of a certificate of a registered health practitioner; or
    - ii. regarding carers leave, unable to attend for duty on account of a personal illness or injury, or an unexpected emergency, affecting a member of the Employee's immediate family or of the Employee's household.
  - (c) If absent on the day before or after a public holiday the Employee must produce a Medical Certificate or where not reasonably practicable to obtain one, a Statutory Declaration, stating that the Employee was unable to attend for duty on account of personal illness or injury (for sick leave) or personal illness or injury or an unexpected emergency, affecting a member of the Employee's immediate family or of the Employee's household (for carers leave) in lieu of a certificate of a registered health practitioner
- (5) Personal Leave accumulates from year to year, whilst ever the Employee remains continuously employed with the Company,
- (6) An Employee is entitled to a period of up to two (2) days unpaid carers leave for each occasion when a member of the Employee's immediately family or the Employee's household requires care and support because of a personal illness, injury or unexpected emergency affecting the person, but only where the Employee's entitlement to paid personal/carers leave has been exhausted.

### **5.3 Personal Leave (casual Employees)**

- (1) For the purpose of this clause, "carers leave" means unpaid leave taken by an casual Employee to provide care or support to a member of the Employee's immediate family, or a member of the Employee's household, who requires care or support because of a personal illness or injury, or because of an unexpected emergency affecting that person.
- (2) A casual Employee is entitled to a period of up to two (2) days unpaid carers leave for each occasion when a member of the Employee's immediately family or the Employee's household requires care and support because of a personal illness, injury or unexpected emergency affecting the person.
- (3) At the commencement of their normal working time or as soon as reasonably practicable, the Employee will inform the Company of the Employee's inability to attend for work for reason of carers leave and, as far as practicable, state the estimated duration of the absence,

- (4) If absent for more than two consecutive days for reason of carers leave, or absent for more than two single days in any twelve month period of employment for reason of carers leave, the Employee must produce a Medical Certificate or where not reasonably practicable to obtain one, a Statutory Declaration, stating that the Employee was unable to attend for duty on account of a personal illness or injury, or an unexpected emergency, affecting a member of the Employee's immediate family or of the Employee's household.

#### **5.4 Long Service Leave**

Long service leave is covered by the Long Service Leave Act 1955 (NSW) (as varied or in force from time to time), or Fair Work Act 2009 or other legislation as applicable.

#### **5.5 Parental Leave**

Employees are entitled to parental leave in accordance with the Act.

#### **5.6 Compassionate Leave**

- (1) Employees are entitled to up to two (2) days paid compassionate leave (whether taken together or separately) for each occasion when a member of the Employee's immediate family or a member of the Employee's household:
  - (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
  - (b) sustains a personal injury that poses a serious threat to his or her life; or
  - (c) dies.
- (2) An Employee will only be granted compassionate leave if the Employee provides the Company with evidence that the Company reasonably requires of the illness, injury or death.
- (3) For the purpose of this clause, a member of an Employee's immediate family includes:
  - (a) a spouse or de facto partner of the Employee, or
  - (b) a child, parent, grandparent, grandchild, or a sibling, of either the Employee or the Employee's spouse or de facto partner.
- (4) Subject to the evidentiary and notice requirements in (2) above, casual employees are entitled to not be available to attend work for up to 48 hours, or to leave work, in the circumstances set out at 5.6(1) above. However, compassionate leave for casual Employees is unpaid.

#### **5.7 Natural Disaster Leave**

Employees are entitled to up to two (2) days paid natural disaster leave (whether taken together or separately) for each occasion where, by reason of floods, cyclonic disturbances, bushfires or earthquakes, are required to remain at home to:

- (a) ensure their own safety; and/or
- (b) protect his or her family or property; or
- (c) is unable to travel to work due to lack of transportation or access to the yard.

#### **5.8 Special Leave**

Special unpaid leave may be granted by the Company for a period of time that is mutually agreed between an Employee and the Company. Only Employees who have at least 12 months continuous service with the Company are entitled to apply for special leave. During the period of leave, the Employee's service with the Company will be considered to be continuous, however the Employee will not accumulate annual leave, personal leave or long service leave entitlements.

## 5.9 Absence from Duty

Unless an Employee is absent from work due to taking approved leave, an Employee will not be paid for the actual time that the Employee is absent from work.

## **PART 6 - TERMINATION OF EMPLOYMENT**

### 6.1 Termination by Company

- (1) Except in the case of serious misconduct, the Company may terminate an Employee's employment by giving the Employee notice in accordance with the following table (which is based on period of continuous service with the Company):

<u>Period of Continuous Service</u>	<u>Period of Notice</u>
Not more than one year	1 week
More than one year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

- (2) In addition to the notice in (1) above, an Employee over 45 years of age at the time of giving of notice and with not less than 2 years continuous service is entitled to an additional 1 weeks' notice.
- (3) The Company may make a payment in lieu of notice in respect of all or any part of the notice period.
- (4) In calculating any payment In lieu of notice, the payment will be based on the total of the amounts the Company would have been liable to pay the Employee as if the Employee's employment had continued until the end of the required notice period.

### 6.2 Termination by Employee

- (1) An Employee may terminate his or her employment by giving the Company notice in accordance with the following table (which is based on period of continuous service with the Company):

<u>Period of Continuous Service</u>	<u>Period of Notice</u>
Not more than one year	1 week
More than one year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

- (2) The Company and the Employee may agree to a shorter notice period than Stat provided for by (1) above.
- (3) Failure by the Employee to provide such notice as required by (1) above or as otherwise agreed with the Company will entitle the Company to deduct an amount equivalent to the outstanding period of notice from the Employee's final pay.

### 6.3 Summary Dismissal

- (1) The Company may terminate the Employee's employment at any time with immediate effect, and without providing the Employee with any notice of termination or payment in lieu of notice, if the Employee commits an act of serious misconduct.
- (2) Serious misconduct includes, but is not limited to:
- theft;
  - assault;
  - fraud;
  - the Employee being under the influence of alcohol or drugs at work;

- (e) conduct by the Employee that causes imminent and/or serious risk to a person's health or safety; or the reputation, viability or profitability of the Company's business;
- (f) the Employee refusing to carry out a lawful and reasonable instruction.

#### **6.4 Abandonment of Employment**

- (1) The Company may terminate an Employee's employment on the grounds of abandonment of employment in the following circumstances:
  - (a) the Employee is absent from work for a continuous period of two days or more and the Employee has not provided notice to the Company or obtained the Company's consent to be absent from work; and
  - (b) within a period of 14 days from the Employee's last attendance at work, the Employee has not provided an explanation for his or her absence to the satisfaction of the Company.
- (2) If the conditions in clause (1) above are met, the Company may terminate the Employee's employment at any time with immediate effect, and without providing the Employee with any notice of termination or payment in lieu of notice.

### **PART 7 - REDUNDANCY**

#### **7.1 Definition**

An Employee's position can be made redundant and the Employee's employment can be terminated by the Company in circumstances where:

- (a) a specific job is no longer required to be performed by the Employee undertaking such job; and/or
- (b) there is a reduction in the amount of work available to an Employee or Employees because of technological, operational and/or mechanical changes; and/or
- (c) there is a reduction in the work available because of economic or market conditions; and/or
- (d) there is a restructuring of the enterprise and/or reorganisation of work systems or staffing levels.

#### **7.2 Advice to Employees**

Refer to 9.4

#### **7.3 Suitable Alternative Employment**

The affected Employee(s) will not unreasonably refuse to accept suitable alternative employment with the Company if such employment is offered as an alternative to redundancy. If the affected Employee(s) do refuse suitable alternative employment, then clause 7.6 will not apply.

#### **7.4 Transfer to Lower Paid Duties**

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

#### **7.5 Notification**

The Company will formally notify an Employee in writing their position is redundant if after examining the options for suitable alternative employment, no such employment has been found.

## 7.6 Severance

- (1) If an Employee is formally notified that his or her position is redundant and their employment will terminate, then in addition to notice as provided for in clause 3.1, the affected Employee(s) will also receive severance pay in accordance with the following table (which is based on the Employee's period of continuous service with the Company):

<u>Period of Continuous Service</u>	<u>Severance Pay</u>
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 less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

- (2) For the purposes of severance pay, "weeks pay" will mean the Employee's ordinary weekly rate of pay but excluding any entitlement to superannuation or annual leave loading.
- (3) An employee whose employment is terminated due to redundancy up until the 31st March 2016, will have their severance pay calculated on the hourly Agreement rate as shown in Schedule 1 of the RCB Enterprise Agreement 2012 for the employee's current classification.

## 7.7 Certificate of Service

The Company will provide a Certificate of Service to each Employee whose position is redundant stating the period of service.

## 7.8 Employee Assistance

By arrangement with the Company, Employees under advice of impending redundancy will be allowed reasonable time off for confirmed employment interviews.

## 7.9 Transmission of Business

- (1) A Transmission of Business occurs where:
- the Company's business is transmitted from the Company to another employer (the "transmittee"); and
  - an Employee of the Company becomes an Employee of the transmittee, or an Employee of the Company refuses an offer of employment from the transmittee on terms and conditions no less favorable than their terms and conditions of employment with the Company.
- (2) Where there is a Transmission of Business, then:
- the continuity of the employment of the Employee is deemed not to have been broken by reason of such transmission; and
  - the period of employment which the Employee has had with the Company is deemed to be service of the Employee with the transmittee; and

- (c) the Employee will not be entitled to any notice or severance payments, as set out in clauses 6.1 and 7.6 above.

## **PART 8 - GRIEVANCE RESOLUTION AND DISPUTE AVOIDANCE PROCEDURES**

- (1) The object of this clause is to quickly identify and address grievances and avoid disputes arising from the operation of this Agreement, the National Employment Standards or the General Protections, by resolving the issues in an expeditious manner through discussion, and avoiding interruption to the performance of work and consequential loss of production and wages. Grievances over workplace issues should, where possible, be resolved with minimum formality.
- (2) An Employee may appoint another person to act on their behalf at any time to assist in the resolution of the dispute.
- (3) All issues must be identified and resolved in accordance with the following:

### **Step 1**

In the first instance, any issue is to be discussed between the immediate supervisor and the Employee(s) concerned.

### **Step 2**

If the issue is not resolved, it will be referred to the next level of management for further discussion with the Employee(s) concerned.

### **Step 3**

If the issue not resolved, it is to be referred to the General Manager or nominee for further discussion with the Employee(s) concerned.

### **Step 4**

If the issue not resolved, the matter may be referred by either party to FWC for assistance in resolving the dispute by mediation, and where mediation has been exhausted, by arbitration, Mediation may involve FWC:

- (a) convening a conference between the affected parties at a time, place and venue that is agreeable to the parties;
- (b) helping the parties to identify and define the issues in dispute;
- (c) helping the parties to develop a procedure or process which is aimed at achieving resolution of the dispute quickly, fairly and cost-effectively; and/or
- (d) assisting the parties to resolve their differences.
- (4) The outcome of any agreed mediation or arbitration process is to be binding on the affected parties, subject only to any appeal processes agreed to prior to entering into the mediation or arbitration. The outcome of any agreed mediation or arbitration process must be consistent with the requirements of the following (as varied or in force from time to time): *Building and Construction Industry (Fair and Lawful Building Sites) Code 2014*; *NSW Code of Practice for Procurement: Building and Construction*; *NSW Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction (July 2013)* and all applicable legislation.
- (5) Through the above steps, common sense, listening to and respect for the other person's point of view, actively working towards an acceptable solution to both parties should be maintained, and without prejudice to the affected parties. The affected parties must not be involved in stoppages of work, lockouts or any other bans or limitations on the performance of work while the procedures of this clause are followed, or at any other time, other than industrial action taken in accordance with and authorised under Part 3-3 of the *Fair Work Act 2009* (as varied or in force from time to time).

## **PART 9 - OTHER PROVISIONS**

### **9.1 Confidentiality**

- (1) Employees understand and acknowledge that they owe the Company a duty of fidelity and confidentiality. Each Employee therefore agrees and undertakes that both during and after employment they must not at any time knowingly use, copy or disclose any of the Company's Confidential Information that comes to their knowledge during the course of their employment.
- (2) "Confidential Information" includes, but is not limited to:
  - (a) trade secrets;
  - (b) information concerning the business, finances or customers of the Company such as prices, profits, sales, business ideas and strategies, customer lists and customer information; and
  - (c) any information that is marked, or an Employee is told, is confidential.

### **9.2 Return of Property**

Each Employee agrees and undertakes that, upon termination of employment for any reason, he or she will return to the Company all property in the Employee's possession, custody or control, which belongs to the Company. Such property includes, but is not limited to, documents, keys, phones, tools and safety equipment.

### **9.3 Training and Related Travel**

- (1) All Employees may be offered up to two lots of one week training per year at the Newcastle Head Office facility as per the RCB Training Program. When undertaking this training each Employee is to be paid 38 hours ordinary time at his/her classification rate, plus employees from other branches, who have been provided accommodation, will be paid \$30 per day to contribute to meals and sundry expenses if meals are not supplied. For the period of training, the Company will provide accommodation. To allow for travel within work hours, the training will commence in Newcastle at 11.00am on a Monday and finish at 11.30am on the following Thursday. The Company will provide transport for Travel to Newcastle and return. Any travel required for this training that is outside ordinary hours will be in the Employee's own time.
- (2) Where employees are required to undertake inductions or training on their RDO or in the case of a FPT (where they have already accrued 38 ordinary hours) they will be paid at single time for ordinary hours. Where a fulltime employee is required to undertake the above training/inductions sufficient notice will be provided to change their RDO.

### **9.4 Consultation**

- (1) Where the Company contemplates the introduction of:
  - i. major change or terminations for reasons of economic, technological, structural or similar nature: or
  - ii. A change in Employees' regular roster or ordinary hours of workThe Company will consult and communicate with the employees and their Representative(s), including any Union to which they may belong, prior to a decision to introduce such change or terminations. Employees may be represented for the purposes of this consultation, including by a union.
- (2) In relation to terminations the Company must:



- (a) provide the employees in good time with relevant information including the reasons for the terminations contemplated, the number and categories of workers likely to be affected, the resultant impact of work allocation on remaining employees and the period over which the terminations are intended to be carried out; and
  - (b) give the employees, as early as possible, an opportunity for consultation on measures to be taken to avoid or minimise the terminations and measures to mitigate the adverse effects of any terminations on the workers concerned, such as finding alternative employment.
- (3) In relation to introduction of major change, the Company will:
- (a) provide the employees In good time with relevant information about the nature of the intended major change, the expected effects on employees and measures to avert or mitigate the adverse effects of such change; and
  - (b) give the employees, as early as possible, an opportunity for consultation on the method and timing of the change as well as giving prompt (and when requested, written) consideration to matters raised by employees.
- (4) In relation to a change to Employees' regular roster or ordinary hours of work, the Company will:
- (a) provide information to the Employees about the change; and
  - (b) invite the employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and
  - (c) consider any views given by the Employees about the impact of the change.
- (5) For the purpose of this clause:
- (a) major change includes changes in production, organisation, work allocation, shift arrangements or technology that are likely to have significant effects on employees.
  - (b) significant effects includes termination of employment, major changes in the composition, operation or size of the workforce or skills level, change in job or promotion opportunities or job tenure, alteration of hours of work or income, needs for retraining, transfer or restructuring of jobs.
- (6) The Company will provide information in languages other than English for employees of non-English speaking backgrounds.
- (7) In the event that the Company wishes to implement policies regarding drug and alcohol, electronic surveillance or monitoring, genetic testing or the use of internet/email, after appropriate consultation with employees.

## **9.5 Individual Flexibility**

- (1) The Company and an employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- (a) the agreement deals with 1 or more of the following matters:
    - i. The arrangement of working hours,
  - (b) the arrangement meets the genuine needs of the Company and the employee in relation to 1 or more of the matters mentioned in paragraph (a); and
  - (c) the arrangement is genuinely agreed to by the Company and employee.
- (2) The Company must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the Fair Work Act 2009 (Cth); and

- (b) are not unlawful terms under section 194 of the Fair Work Act 2009 (Cth); and;
  - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) The Company must ensure that the individual flexibility arrangement:
- (a) is in writing; and
  - (b) includes the name of the Company and the employee; and
  - (c) is signed by the Company and the 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 enterprise 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 day on which the arrangement commences.
- (4) The Company must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) The Company or the employee may terminate the individual flexibility arrangement:
- (a) By giving no more than 28 days written notice to the other party to the arrangement; or
  - (b) if the Company and the employee agree in writing at any time.

## **9.6 Employee Representatives**

The Company recognises and respects the rights of Employees to elect representative/s, which may include a union delegate, for the purposes of this Agreement.

Where reasonably practicable the Employee Representative/s must seek to obtain permission from their respective managers if they wish to leave their normal duties. This will not be unreasonably withheld. This authorisation should be sought as soon as the Employee Representative/s becomes aware of an issue requiring their attention. The Employee Representative/s will advise their respective Managers of the expected duration of their involvement. Both parties are committed to communication and consultation in the workplace and recognise that the needs of the business are paramount.

The Company supports the responsible exercise of the role of the Employee Representative.

The company will consider giving the Employee Representative/s paid time to attend meetings as requested. The Employee Representative/s shall provide written notice in good time.

The Employee Representative/s shall, upon application and after approval by the Company, be permitted to a combined maximum of up to 5 days leave (non-cumulative) in each year to allow the person to attend courses structured to promote good industrial relations and fulfil his/her duties as an Employee Representative effectively.

If the delegate leaves or resigns and five (5) days training have been exhausted, the newly elected delegate/s will wait until the next year of the agreement to undertake training.

## **9.7 Payroll Deduction**

Where duly authorised by an employee, the Company will facilitate the deduction of union membership dues (as advised/increased by the Union from time to time) and will forward such dues to the Union every 2 months.

**SIGNATURES**

**Signed for and on behalf of the Company by its authorised representative:**

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Date:

**Signed for and on behalf of the Employees by their nominated Employee representatives:**

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Name (Print):

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Name (Print):

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Date:

**SCHEDULE 1 TABLE 1 - AGREEMENT RATES**

**TABLE 1 – AGREEMENT RATES**

	<b>Column 1</b>
	<b>FFPP After Approval</b>
<b>Classification</b>	<b>Hourly Rate</b>
<b>Entry</b>	
Training - Casual Rate incl 25% Idg	\$22.76
Level - Certificate 1	\$19.27
Level - Certificate 2	\$25.00
Level - Certificate 3	\$28.65
Engineering Tradesperson (Boilermaker/Fitter)	\$28.65
Supervisor	\$30.74

- (1) The wage rates in Table 1 apply to all Employees for the purpose of calculating any paid leave entitlement including, personal leave, annual leave and long service leave.
- (2) The wage rates apply from the first full pay period on or after the date the agreement is signed by both parties, subject to approval from FWC.

**TABLE 2 -COAL MINE - SITE RATES**

	<b>Column 1 FFPP After Approval</b>
<b>Classification</b>	<b>Hourly Rate</b>
<b>Entry</b>	
Training - Casual Rate incl 25% Idg	\$22.76
Level - Certificate 1	\$22.40
Level - Certificate 2	\$27.09
Level - Certificate 3	\$30.21
Engineering Tradesperson (Boilermaker/Fitter)	\$30.21
Supervisor	\$32.81