

**Apex Facades**  
**Operations Enterprise Agreement 2024**

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## **PART 1 – APPLICATION AND OPERATION**

### **1. TITLE**

This agreement shall be known as the *Apex Facades Operations Enterprise Agreement 2024 (Agreement)*.

### **2. APPLICATION AND COVERAGE**

This Agreement applies to Apex Facades NSW Operations Pty Ltd (ABN 87 667 673 976) (ACN 667 673 976) (**the Employer**) and all employees employed by the Employer in the classifications listed in **Schedule 1 – Classifications** performing work within the states and territories of Australia.

**2.1** This Agreement does not apply to employees in managerial positions.

**2.2** This Agreement does not apply to contract labour or to any individuals not directly employed by the Employer.

### **3. COMMENCEMENT AND PERIOD OF OPERATION**

**3.1** This Agreement will operate from 7 days after the date of approval by the Fair Work Commission (**FWC**).

**3.2** The Agreement shall have a nominal expiry date of 4 years from the date of the approval of the agreement by the FWC.

**3.3** The Agreement will continue in operation until it is terminated in accordance with the Act or replaced by a new enterprise agreement.

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

**4.1** This Agreement regulates and contains the minimum terms and conditions of the employment of all employees covered by the Agreement to the exclusion of all other industrial instruments whether an Award, agreement or otherwise (and any variations thereto) including but not limited to the *Joinery and Building Trades Award 2020*. It is the intention of the parties to this Agreement that it will exclude and replace all terms and conditions of all industrial instruments whether an Award, enterprise agreement or otherwise (and any variations thereto) including, but not limited to the *Joinery and Building Trades Award 2020* and any variations thereto.

### **5. DEFINITIONS**

In the Agreement, unless the contrary intention appears:

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

**Agreement** means the *Apex Facades Enterprise Operations Agreement 2024*.

**all purposes** means the payment will be included in the rate of pay of an employee who is entitled to the allowance, when calculating any penalties or loadings or payment while they are on annual leave.

**confidential information** has the meaning given in clause 40.

**continuous service** has the same meaning as contained in the Act.

**employee** means an employee of the Employer.

**Employer** means Apex Facades NSW Operations Pty Ltd (ABN 87 667 673 976) (ACN 667 673 976).

**Employer's usual place of business** means the Employer's head office in NSW that is, at the time of the making of this Agreement, Unit 8/10 Anderson Street Botany 2019 NSW or any future address of the head office if changed by the Employer.

**FWC** means Fair Work Commission.

**NES** means the National Employment Standards as contained in the Act.

**ordinary hourly rate** means the minimum hourly rate for an employee's classification specified in clause 16.1 plus any all-purpose allowance to which an employee is entitled.

**ordinary hours** means, unless otherwise stated herein, an employee's usual hours of work, not including overtime or paid meal break time.

**Related Bodies Corporate** has the meaning given in section 50 of the *Corporations Act 2001* (Cth).

**Schedule** means a schedule to this Agreement.

**Shift** means a period of time during which an employee is required to work consecutive hours with a start time and a finish time, in accordance with a roster prepared by the Employer.

## **6. THE NATIONAL EMPLOYMENT STANDARDS AND THE AGREEMENT**

**6.1** The National Employment Standards (**NES**) and the Agreement contain the minimum conditions of employment for employees covered by the Agreement.

**6.2** Where the Agreement refers to a condition of employment provided for in the NES, the NES definition applies.

## **7. EMPLOYEE ACCESS TO COPY OF THE AGREEMENT**

**7.1** Employees will be provided with a copy of the Agreement upon request to the Employer at any time during their employment. A copy of the Agreement will be kept at the premises of the Employer and a copy will be accessible on the FWC website once the Agreement is approved by the FWC.

## **PART 2 – TYPES OF EMPLOYMENT AND CLASSIFICATIONS**

### **8. TYPES OF EMPLOYMENT**

**8.1** Employees under the Agreement will be employed in one of the following categories:

- (a) full-time employment;
- (b) part-time employment; or
- (c) casual employment.

### **9. FULL-TIME EMPLOYEES**

**9.1** Any employee not specifically engaged as a part-time or casual employee is for all purposes of this Agreement a full-time employee engaged to work an average of 37.5 ordinary hours per week.

### **10. PART-TIME EMPLOYEES**

**10.1** An employee may be engaged to work on a part-time basis involving a regular pattern of hours which average less than 37.5 ordinary hours per week.

**10.2** A part-time employee must be engaged for a minimum of 3 consecutive hours on any day or shift.

- 10.3** Before commencing part-time employment, the employee and Employer must agree in writing on:
- (a) the hours to be worked by the employee;
  - (b) the days on which they will be worked;
  - (c) the starting and finishing times for the work; and
  - (d) the classification applying to the work to be performed in accordance with **Schedule 1 – Classifications**.
- 10.4** The terms of the agreement in clause 10.3 may be varied by consent in writing.
- 10.5** The agreement under clause 10.3 or any variation to it under clause 10.4 must be retained by the Employer and a copy of the agreement and any variation to it must be provided to the employee by the Employer.
- 10.6** Except as otherwise provided in the Agreement, a part-time employee must be paid for the hours agreed on in accordance with clauses 10.3 and 10.4.
- 10.7** The terms of the Agreement will apply pro rata to part-time employees on the basis that ordinary weekly hours for full-time employees are 37.5.
- 10.8** A part-time employee who is required by the Employer to work in excess of the hours agreed under clauses 10.3 and 10.4 will be paid at the ordinary hourly rate of pay for all hours worked up to 37.5 hours. If a part-time employee is required by the Employer to work in excess of the ordinary hours of work as prescribed by clause 14, the part-time employee will be paid overtime in accordance with clause 20.
- 10.9** Where the part-time employee's normal paid hours fall on a public holiday prescribed in the NES and work is not performed by the employee, such employee must not lose pay for the day. Where the part-time employee works on the public holiday, the part-time employee must be paid in accordance with clause 20.4.

## **11. CASUAL EMPLOYEES**

- 11.1** A casual employee is engaged and paid in accordance with the provisions of this clause.
- 11.2** A casual employee is engaged by the Employer with no firm advance commitment to continuing and indefinite work according to any agreed pattern of work. The Employer may offer a casual employee some or no work as required by the Employer and according to the Employer's needs. A casual employee may elect to accept, or decline offered work at their discretion.
- 11.3** When engaging a person for casual employment the Employer must inform the employee in writing that the employee is to be employed as a casual, and also state the job to be performed, the classification level, and the relevant rate of pay.
- 11.4** A casual employee is engaged by the hour with a minimum daily engagement of 4 hours.
- 11.5** A casual employee for working ordinary hours must be paid the ordinary hourly rate per hour prescribed in clause 16, for the employee's classification plus a casual loading of 25%.
- 11.6** A casual employee required by the Employer to work overtime or on a public holiday is entitled to the relevant penalty rates contained in the Agreement (in addition to the 25% casual loading) as follows:

Relevant penalty rate for full-time & part-time employees	Rate for casual employee (inclusive of 25% casual loading)
% of ordinary hourly rate	
150	175
200	225
250	275

**11.7** Termination of employment is by one hour’s notice or by the payment or forfeiture, as the case may be, of the remainder of the day’s wages or one hour’s pay, whichever amount is greater.

**12. CLASSIFICATIONS**

A description of the classifications under the Agreement is set out in **Schedule 1 – Classifications**.

**13. EMPLOYER AND EMPLOYEE DUTIES**

**13.1** An employee may be directed to carry out such duties, and use such tools as may be required, which are within the limits of the employee’s skill, competence and training including, but not limited by, duties which are incidental and peripheral to the employee’s main task or function.

**13.2** An employee may be directed to transfer to another job or location, or onto or off a building site at the discretion of the Employer.

**13.3** An instruction issued by the Employer under clauses 13.1 and 13.2 must be consistent with the Employer’s responsibility to provide a safe and healthy working environment.

**PART 3 – HOURS OF WORK**

**14. ORDINARY HOURS OF WORK**

**14.1** Except as provided elsewhere in the Agreement, the ordinary hours of work for an employee are 37.5 or an average of 37.5 hours per week.

**14.2** Except as provided elsewhere in the Agreement, the ordinary hours must be worked as 7.5 hours per day, between 6.00 am and 6.00 pm Monday to Friday, over a 20-day 4 week cycle.

**14.3** An employee who is required by the Employer to work overtime must be paid overtime in accordance with clause 20.

**14.4** An employee required by the Employer to work on a public holiday must be paid for a minimum of 4 hours’ work at the rate of 250% of the ordinary hourly rate.

**15. BREAKS**

**15.1 REST BREAKS AND MEAL BREAKS**

- (a) Employees shall be allowed a rest break of 10 minutes each day between the starting work and the normal meal break. The rest break will be paid as time worked.
- (b) Employees shall be allowed a meal break each day of 30 minutes. The meal breaks will be paid but do not count as ordinary hours of work.

- (c) Employees and the Employer are to all times apply a common sense approach to the taking of rest breaks and meal breaks. Rest breaks and meal breaks will be taken at times that suit the flow of work. Health and safety concerns shall prevail at all times. Employees acknowledge that the nature of the work is such that in some instances, such as when an employee is working at heights, the taking of breaks may have to be delayed slightly.
- (d) An employee shall not be compelled by the Employer to work for more than 5 hours without a break for a meal.

**PART 4 – WAGES AND ALLOWANCES**

**16. MINIMUM RATES**

**16.1** The Employer must pay employees the following minimum rates for ordinary hours worked by the employee:

<b>Employee classification</b>	<b>Minimum weekly rate (\$)</b>	<b>Minimum hourly rate (\$)</b>
Introductory	1050	28.00
Level 1 Rope Access Technician	1312.50	35.00
Level 2 Rope Access Technician	1575	42.00
Level 3 Rope Access Technician	1800	48.00

**16.2** For the purposes of clause 16.1, any entitlement to a minimum rate expressed to be by the week means any entitlement which an employee would receive for performing 37.5 hours of work.

**16.3** The Employer will increase the minimum rates for ordinary hours of pay outlined in clause 16.1 above by 1% annually for 3 years to coincide with the anniversary of commencement of this Agreement. To avoid doubt, the first incremental increase will occur on the 12-month anniversary of the Agreement commencement and then annually thereafter on the 24<sup>th</sup> month and 36<sup>th</sup> month anniversary of the Agreement commencement respectively.

**16.4** The Employer must pay employees for any paid meal breaks at 50% of the above applicable minimum hourly rate.

**16.5 Higher Duties**

- (a) An employee engaged for more than 2 hours during one day on duties carrying a higher minimum rate than the employee’s ordinary classification must be paid the higher minimum rate for such day.
- (b) If engaged on higher duties for 2 hours or less during one day, the employee must be paid the higher minimum rate for the time worked at the higher level.

**17. PAYMENT OF WAGES**

**17.1** The Employer will pay an employee’s wages on a weekly basis.



**17.2** The Employer will pay an employee’s wages by electronic funds transfer (EFT) into the bank accounted nominated by the employee. The Employer may change the pay period at clause 17.1 to fortnightly upon giving at least 4 weeks’ notice in writing of the change.

**17.3 PAYMENT ON TERMINATION OF EMPLOYMENT**

- (a) The Employer must pay an employee no later than 7 days after the day on which the employee’s employment terminates:
  - (i) the employee’s wages under the Agreement for any complete or incomplete pay period up to the end of the day of termination; and
  - (ii) all other amounts that are due to the employee under the Agreement and the NES.
- (b) The requirement to pay wages and other amounts under clause 17.4(a) is subject to further order of the Commission and the Employer making deductions authorised by the Agreement or the Act.

**18. ALLOWANCES**

**18.1** The Employer must pay to an employee the allowances the employee is entitled to under clause 18.

(a) **LEADING HAND ALLOWANCE**

An employee who, at the Employer’s discretion, is appointed as a Leading Hand will be entitled to receive an allowance of \$100 per week in addition to their minimum hourly rate of pay.

(b) **TRADE QUALIFICATION**

While it is not a requirement for an employee to hold a trade for any of the classifications covered by this Agreement, the Employer recognises that certain employees may hold trade qualifications. The following all-purpose allowance is payable to employees where they hold the relevant below trade qualification:

<b>Trade Qualification</b>	<b>\$ per hour</b>
Glazier	2.50
Carpenter	2.50
Electrician	2.50
Painter	2.00
Boilermaker	1.50
Roofer	1.50
All other trades	1.50

(c) **MEAL ALLOWANCE**

An employee required by the Employer to work overtime for at least one and a half hours after working ordinary hours must be paid by the Employer an amount of \$17.57 extra to meet the cost of a meal, except in circumstances where clause 18.1(d) applies. Further, if the employee is required by the Employer to work hours exceeding or equal to 12 hours in

total, then they will receive an additional amount of \$17.57 extra, except in circumstances where clause 18.1(d) applies.

**(d) LIVING AWAY FROM HOME FOR A DISTANT JOB**

- (i) For the purposes of this clause, a distant job is one where either the distance from the employee's usual place of residence or the travelling facilities available make it reasonably necessary for the employee to live and sleep away from their usual residence.
- (ii) Where an employee is directed by the Employer to proceed to a distant job and the employee complies with such direction, the Employer will:
  - (A) pay the employee an allowance of \$75 per day;
  - (B) provide the employee with accommodation.

**(e) EXCESSIVE TRAVELLING TIME**

- (i) Where the Employer directs an employee to commence work at the usual starting time at a worksite other than the Employer's usual place of business, the employee must be paid an allowance of \$50 per day which covers all time and any costs (except for any kilometre allowance if applicable) associated with travelling to and from the worksite.
- (ii) Where an employee resides in the geographical area in which the worksite is located, clause 18.1(e)(i) will have no application and there will be no entitlement to payment for excessive travelling time. For example, where an employee lives in the Gosford area in NSW, and the Employer directs an employee to commence work at the usual starting time at a worksite in the Gosford area, the Employee will not be paid for time spent travelling to the worksite given the worksite is in the same geographical area as where the employee resides.

**(f) TICKET HOLDER ALLOWANCE**

- (i) A ticket holder allowance of \$0.50 cents per hour is payable to employees where they hold a current and valid relevant ticket below. The Employer requires that the employee holds and maintains a current and valid ticket at all times during the hours worked in order to be entitled to payment of the allowance:
  - Dogging
  - Beginner Rigger
  - Intermediate Rigger
  - Advanced Rigger
  - EWP
  - Confined Space

**(g) KILOMETRE ALLOWANCE**

- (i) Where the Employer requests an employee to use their own motor vehicle in the performance of their work duties and the employee agrees to do so, in addition to payment above for excessive travelling time, an employee will be paid an amount of \$0.80 per kilometre travelled in excess of those

normally expended in travelling to and from their usual residence to the Employer's usual place of business in the relevant State or Territory.

## **19. SUPERANNUATION**

### **19.1 SUPERANNUATION LEGISLATION**

- (a) The subject of superannuation is dealt with extensively by legislation including the *Superannuation Act 1976* (Cth), the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth) and the *Superannuation Industry (Supervision) Act 1993* (Cth). The legislation, as varied from time to time, governs the superannuation rights and obligations of employees and the Employer.
- (b) All employees shall have the right to choose superannuation funds.
- (c) The rights and obligations in these clauses supplement those in superannuation legislation.

### **19.2 EMPLOYER CONTRIBUTIONS**

The Employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the Employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

### **19.3 VOLUNTARY EMPLOYEE CONTRIBUTIONS**

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their Employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the Employer makes the superannuation contributions provided for in clause 19.2.
- (b) An employee may adjust the amount the employee has authorised their Employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their Employer.
- (c) The Employer must pay the amount authorised under clauses 19.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 19.3(a) or (b) was made.

### **19.4 ABSENCE FROM WORK**

Subject to the governing rules of the relevant superannuation fund, the Employer must also make the superannuation contributions provided for in clause 19.2 and pay the amount authorised under clauses 19.3(a) or (b):

#### **(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 in total) 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 statutory requirements; and
- (ii) the employee remains employed by the Employer.

## **PART 5 – OVERTIME AND PENALTY RATES**

### **20. OVERTIME AND PENALTY RATES**

#### **20.1 REASONABLE OVERTIME**

- (a) The Employer may require an employee to work reasonable overtime hours at overtime rates.
- (b) An employee may refuse to work overtime hours if they are unreasonable.
- (c) In determining whether overtime hours are reasonable or unreasonable for the purpose of clause 20.1 the following must be taken into account:
  - (i) any risk to employee health and safety from working the additional hours;
  - (ii) the employee's personal circumstances, including family responsibilities;
  - (iii) the needs of the workplace or enterprise in which the employee is employed;
  - (iv) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
  - (v) any notice given by the Employer of any request or requirement to work the additional hours;
  - (vi) any notice given by the employee of his or her intention to refuse to work the additional hours;
  - (vii) the usual patterns of work in the industry, or the part of an industry, in which the employee works;
  - (viii) the nature of the employee's role, and the employee's level of responsibility; and
  - (ix) any other relevant matter.

#### **20.2 PAYMENT FOR WORKING OVERTIME**

- (a) Paid meal break time is not ordinary hours, nor is it work required to be done outside of ordinary hours and, as such, is not overtime.
- (b) Except as provided for in clauses 20.3 and 20.4, for all work required to be done outside of ordinary hours the overtime rate is:
  - (i) 150% of the ordinary hourly rate for the first 2 hours and 200% thereafter; and
  - (ii) for all work required to be done outside of ordinary hours by an employee performing shiftwork pursuant to clause 21, the overtime rate is 200% of the ordinary hourly rate.
- (c) A casual employee must be paid the overtime rates prescribed by clause 20.2 in accordance with clause 11.6.

#### **20.3 WEEKEND WORK**

##### **(a) SATURDAY**

- (i) Overtime worked by an employee on a Saturday must be paid for at 150% of the ordinary hourly rate for the first 2 hours and 200% after that.
- (ii) All overtime worked by an employee after 12 noon on a Saturday must be paid for at 200% of the ordinary hourly rate.

(b) **SUNDAY**

Overtime worked by an employee on a Sunday must be paid 200% of the ordinary hourly rate.

- (c) An employee required by the Employer to work overtime on a Saturday, or a Sunday must be given and paid for at least 3 hours' work on a Saturday or 4 hours' work on a Sunday at the appropriate rate.
- (d) An employee working overtime on a Saturday, or a Sunday must be allowed a paid 10-minute rest period.
- (e) An employee working overtime on a Saturday, or a Sunday must be allowed a paid 20 minute crib break after 4 hours' work and a paid 30 minute crib break after a further 4 hours' work, paid at the ordinary hourly rate.
- (f) A casual employee must be paid the overtime rates prescribed by clause 20.3 in accordance with clause 11.6.

**20.4 PUBLIC HOLIDAY WORK**

- (a) An employee required to work overtime on a public holiday must be paid for a minimum of 4 hours' work at 250% of the ordinary hourly rate.
- (b) A casual employee must be paid the overtime rate prescribed by clause 20.4(a) in accordance with clause 11.6.

**20.5 CALL BACK**

- (a) An employee recalled to work overtime after leaving the Employer's business premises (whether notified before or after leaving the premises) must be paid for a minimum of 3 hours' work at the appropriate rates for each time the employee is so recalled. Except in the case of unforeseen circumstances, the employee must not be required to work the full 3 hours if the job they were recalled to perform is completed within a shorter period.
- (b) Clause 20.5(a) does not apply where it is customary for an employee to return to the Employer's premises to perform a specific job outside the employee's ordinary hours or where the overtime is continuous, subject to a reasonable meal break, with the completion or commencement of ordinary hours.

**20.6 REST PERIOD AFTER OVERTIME**

- (a) When overtime work is necessary it must, wherever reasonably practicable, be arranged so that an employee has at least 10 consecutive hours off duty between the work of successive working days.
- (b) An employee, other than a casual employee, who works so much overtime between the termination of their ordinary hours on one day and the commencement of their ordinary hours on the next day that the employee has not had at least 10 consecutive hours off duty between those times must, subject to the other provisions of clause 20.6, be released after completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during such absence.
- (c) If on the instructions of the Employer an employee resumes or continues work without having had the 10 consecutive hours off duty the employee must be paid of 200% of the ordinary hourly rate until the employee is released from duty for the period. The employee is then entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during the absence.

- (d) The provisions of clause 20.6 apply in the case of an employee performing shiftwork pursuant to clause 21 as if 8 hours were substituted for 10 hours.
- (e) An employee who has worked continuously, except for meal or crib breaks, for 20 hours must not be required to continue at or recommence work for at least 12 hours.

## **20.7 TRANSPORT OF EMPLOYEES**

An employee who, after having worked overtime and/or a shift for which they have not been regularly rostered, finishes work at a time when reasonable means of transport are not available must be provided by the Employer with transport to, or the cost of transport to, the employee's usual residence.

## **20.8 TIME OFF INSTEAD OF PAYMENT FOR OVERTIME**

- (a) Clause 20.8 does not apply to casual employees.
- (b) An employee and Employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.
- (c) Any amount of overtime that has been worked by an employee in a particular pay period and that is to be taken as time off instead of the employee being paid for it must be the subject of a separate agreement under clause 20.8.
- (d) An agreement must state each of the following:
  - (i) the number of overtime hours to which it applies and when those hours were worked;
  - (ii) that the Employer and employee agree that the employee may take time off instead of being paid for the overtime;
  - (iii) that, if the employee requests at any time, the Employer must pay the employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;
  - (iv) that any payment mentioned in clause 20.8(d)(iii) must be made in the next pay period following the request.
- (e) The period of time off that an employee is entitled to take is the same as the number of overtime hours worked.
- (f) Time off must be taken:
  - (i) within the period of 6 months after the overtime is worked; and
  - (ii) at a time or times within that period of 6 months agreed by the employee and Employer.
- (g) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 20.8 but not taken as time off, the Employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (h) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in clause 20.8(f), the Employer must pay the employee for the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.
- (i) The Employer must keep a copy of any agreement under clause 20.8 as an employee record.

- (j) The Employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.
- (k) An employee may, under section 65 of the Act, request to take time off, at a time or times specified in the request or to be subsequently agreed by the Employer and the employee, instead of being paid for overtime worked by the employee. If the Employer agrees to the request then clause 20.8 will apply, including the requirement for separate written agreements under clause 20.8(c) for overtime that has been worked.
- (l) If, on the termination of the employee's employment, time off for overtime worked by the employee to which clause 20.8 applies has not been taken, the Employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

## **21. SHIFTWORK**

### **21.1 SHIFT NOTICE**

- (a) From time to time, the Employer may require employees to work shiftwork.
- (b) An employee must be given at least 48 hours' notice of a requirement to work shiftwork.

### **21.2 DEFINITIONS**

For the purposes of clause 21:

- (a) Afternoon shift means a shift finishing at or after 9.00 pm and at or before 11.00 pm.
- (b) Night shift means a shift finishing after 11.00 pm and at or before 7.00 am.

### **21.3 SHIFT RATES**

- (a) Other than for work on a Saturday, Sunday or public holiday, the rate of pay for afternoon and night shift is 150% of the ordinary hourly rate, provided that the employee is employed continuously for 5 shifts Monday to Friday in any week.
- (b) An employee who is employed for less than 5 consecutive shifts Monday to Friday must be paid for each day the employee works on shiftwork at 150% of the ordinary hourly rate for the first 2 hours and 200% thereafter.

## **22. ALTERNATIVE WORKING ARRANGEMENT**

**22.1** By written agreement between the Employer and the employees, the ordinary hours of work may be altered from those allowed under clauses 14, 15, and 20 to suit the needs of the Employer or employees, provided that:

- (a) where employees request that the Employer consult with their representatives on the proposed alteration, that consultation takes place at least 5 days prior to the introduction of the proposed alteration;
- (b) the agreement must be made by the majority of employees affected by the alteration; and
- (c) no employee experiences a loss of ordinary time pay or status as a result of the alteration.

## **23. PENALTY RATES NOT CUMULATIVE**

**23.1** The penalty rates in this Agreement are not cumulative. Only one penalty rate is payable for hours worked at a particular time. Where an Employee works hours covered by more than one penalty rate at a particular time, only the higher applicable penalty rate is payable, and no other applicable penalty rate is payable.

## **PART 6 – LEAVE AND PUBLIC HOLIDAYS**

### **24. ANNUAL LEAVE**

#### **24.1 GENERAL**

- (a) Full-time Employees are entitled to 4 weeks annual leave for each 12 months continuous service with the Employer.
- (b) Part-time Employees are entitled to annual leave for each 12 months continuous service with the Employer, calculated on a pro-rata basis and paid at the ordinary hourly rates of pay.
- (c) Casual employees will not accrue or be entitled to annual leave.
- (d) Annual leave will accrue progressively throughout the year on a time worked basis for full-time employees and part-time employees from the date of commencement of permanent employment. Accrued pro-rata annual leave may be taken by such employees with the Employer's approval.
- (e) Employees are required to give 2 weeks' notice to their manager of their intention to take annual leave.

#### **24.2 PAYMENT FOR PERIOD OF ANNUAL LEAVE**

- (a) An employee must be paid the wages they would have received in respect of the ordinary hours the employee would have worked had the employee not been on leave during the relevant period.
- (b) Subject to clause 24.2(c), the wages to be paid must be worked out on the basis of what the employee would have been paid for working ordinary hours during the period of annual leave, including applicable allowances, loadings and penalties paid for all purposes of the Agreement, and any other wages payable under the employee's contract of employment including payment in excess of the minimum rates in the Agreement.
- (c) The employee is not entitled to payments in respect of overtime, shift rates, special rates or any other payment which might have been payable to the employee as a reimbursement for expenses incurred.
- (d) Despite anything else in clause 24, an employee paid by electronic funds transfer (EFT) may be paid in accordance with their usual pay cycle while on paid annual leave.

#### **24.3 COMMENCEMENT OF ANNUAL LEAVE FOR DISTANT JOBS**

If an employee is still engaged on a distant job when annual leave is granted and the employee returns by the first reasonable means of transport to the place of engagement (or, if employed prior to going to the distant job, to the place regarded as the headquarters), the employee's annual leave commences on the first full working day following the employee's return to such place of engagement or headquarters as the case may be.

#### **24.4 EXCESSIVE LEAVE ACCRUALS: GENERAL PROVISION**

- (a) An employee has an excessive leave accrual if the employee has accrued more than 6 weeks' paid annual leave.
- (b) If an employee has an excessive leave accrual, the Employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 24.5 sets out how the Employer may direct an employee who has an excessive leave accrual to take paid annual leave.



- (d) Clause 24.6 sets out how an employee who has an excessive leave accrual may require the Employer to grant paid annual leave requested by the employee.

**24.5 EXCESSIVE LEAVE ACCRUALS: DIRECTION BY EMPLOYER THAT LEAVE BE TAKEN**

- (a) If the Employer has genuinely tried to reach agreement with an employee under clause 24.4(b) but agreement is not reached (including because the employee refuses to confer), the Employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the Employer under clause 24.5(a):
  - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 24.4, 23.5 or 23.6 or otherwise agreed by the Employer and employee) are taken into account; and
  - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
  - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
  - (iv) must not be inconsistent with any leave arrangement agreed by the Employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under clause 24.5(a) that is in effect.
- (d) An employee to whom a direction has been given under clause 24.5(a) may request to take a period of paid annual leave as if the direction had not been given.

**24.6 EXCESSIVE LEAVE ACCRUALS: REQUEST BY EMPLOYEE FOR LEAVE**

- (a) If an employee has genuinely tried to reach agreement with the Employer under clause 24.4(b) but agreement is not reached (including because the Employer refuses to confer), the employee may give a written notice to the Employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the Employer under clause 24.6(a) if:
  - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
  - (ii) the employee has not been given a direction under clause 24.5(a) that, when any other paid annual leave arrangements (whether made under clause 24.4, 24.5 or 24.6 or otherwise agreed by the Employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under clause 24.6(a) must not:
  - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 24.4, 24.5 or 24.6 or otherwise agreed by the Employer and employee) are taken into account; or
  - (ii) provide for the employee to take any period of paid annual leave of less than one week; or

- (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
  - (iv) be inconsistent with any leave arrangement agreed by the Employer and employee.
- (d) An employee is not entitled to request by a notice under clause 24.6(a) more than 4 weeks' paid annual leave in any period of 12 months.
- (e) The Employer must grant paid annual leave requested by a notice under clause 24.6(a).

#### **24.7 ANNUAL LEAVE IN ADVANCE**

- (a) The Employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b) An agreement must:
- (i) state the amount of leave to be taken in advance and the date on which leave is to commence; and
  - (ii) be signed by the Employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (c) The Employer must keep a copy of any agreement under clause 24.7 as an employee record.
- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 24.7, the Employer 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.

#### **24.8 ANNUAL CLOSE-DOWN**

The Employer may close down its business or part of it during the Christmas–New Year period or over the Easter period for the purpose of giving the whole of the annual leave owing to all or the majority of the employees in the enterprise or part concerned, provided that:

- (a) the Employer gives not less than 6 weeks' notice of intention to do so;
- (b) an employee who has accrued sufficient leave to cover the period of the close-down is allowed leave and also paid for that leave at the appropriate rate in accordance with clause 24.2;
- (c) an employee who has not accrued sufficient leave to cover part or all of the close-down is allowed paid leave for the period for which they have accrued sufficient leave and given unpaid leave for the remainder of the close-down; and
- (d) any leave taken by an employee as a result of a close-down pursuant to clause 24.8 also counts as service by the employee with the Employer.

#### **24.9 PROPORTIONATE LEAVE ON TERMINATION**

On termination of employment, an employee must be paid for annual leave accrued that has not been taken at the appropriate rate calculated in accordance with clause 24.2.

**24.10 CASHING OUT OF ANNUAL LEAVE**

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 24.10.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 24.10.
- (c) The Employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 24.10 must state:
  - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and
  - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 24.10 must be signed by the Employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The Employer must keep a copy of any agreement under clause 24.10 as an employee record.

**25. PERSONAL/CARER'S LEAVE**

- 25.1** Personal/carer's leave and compassionate leave are provided for in the NES.
- 25.2** Employees, other than casual employees, are entitled to paid personal/carer's leave.
- 25.3** Full-time employees are entitled to 10 days personal/carer's leave for each 12 months continuous service with the Employer, to be paid at the ordinary hourly rates of pay.
- 25.4** Part-time employees are entitled to personal/carer's leave for each 12 months continuous service with the Employer, calculated on a pro-rata basis and paid at the ordinary hourly rates of pay.
- 25.5** Personal/carer's leave will accrue progressively throughout the year on a time worked basis for full-time employees and part-time employees from the date of commencement of permanent employment.
- 25.6** Unused personal/carer's leave will accrue from year to year.
- 25.7** Personal/carer's leave can be accessed:
- (a) by an employee who is sick and unable to work; and
  - (b) by an employee to care for or support a member of the employee's immediate family or household who is sick or infirm and needs that care or support. The employee must be considered to be the primary and sole care giver for the sick or infirm person and must provide a medical certificate if requested.
- 25.8** Employees must provide a reasonable form of evidence for each instance personal/carer's leave. A medical certificate is the preferred form of evidence.

**25.9** Unused and entitled personal/carer's leave will not be paid out upon termination.

**25.10** If an employee is terminated by the Employer and is re-engaged by the Employer within a period of 6 months then the employee's unclaimed balance of paid personal/carer's leave continues from the date of re-engagement.

## **26. COMPASSIONATE LEAVE**

**26.1** An employee, other than a casual employee, is entitled to 2 days paid compassionate leave when a member of the employee's immediate family or household:

- (a) contracts, develops or sustains a personal illness or injury that poses a serious threat to the family member's life; or
- (b) dies.

**26.2** Compassionate leave may be extended under special circumstances, including where domestic or international travel is required. Each case will be assessed individually and will be at the discretion of the Employer.

**26.3** Casual employees are entitled to unpaid compassionate leave in accordance with the National Employment Standards.

## **27. LONG SERVICE LEAVE**

Employee entitlements to long service leave are governed by the relevant provisions of the long service leave legislation in the relevant state.

## **28. PARENTAL LEAVE AND RELATED ENTITLEMENTS**

Parental leave and related entitlements are provided for in the NES and the *Paid Parental Leave Act 2010* (Cth). A summary of these entitlements can be made available to employees by the Employer on request.

## **29. COMMUNITY SERVICE LEAVE**

Community service leave is provided for in the NES.

### **29.1 REIMBURSEMENT FOR JURY SERVICE**

A full-time employee required to attend for jury service during their ordinary hours of work must be reimbursed by the Employer an amount equal to the difference between the amount paid to the employee in respect of the employee's attendance for such jury service and the wages the employee would have received in respect of the ordinary hours the employee would have worked had the employee not been on jury service.

## **30. FAMILY AND DOMESTIC VIOLENCE LEAVE**

Family and domestic violence leave is provided for in the NES.

## **31. PUBLIC HOLIDAYS**

**31.1** Public holiday entitlements are provided for in the NES.

### **31.2 SUBSTITUTION OF CERTAIN PUBLIC HOLIDAYS BY AGREEMENT AT THE ENTERPRISE**

- (a) The Employer and employee may agree to substitute another day for a day that would otherwise be a public holiday under the NES.
- (b) The Employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the NES.

## **PART 7 – CONSULTATION AND DISPUTE RESOLUTION**

### **32. CONSULTATION ABOUT MAJOR WORKPLACE CHANGE**

**32.1** If the Employer makes a definite decision to make major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the Employer must:

- (a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and
- (b) discuss with affected employees and their representatives (if any):
  - (i) the introduction of the changes; and
  - (ii) their likely effect on employees; and
  - (iii) measures to avoid or reduce the adverse effects of the changes on employees; and
- (c) commence discussions as soon as practicable after a definite decision has been made.

**32.2** For the purposes of the discussion under clause 32.1(b), the Employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

- (a) their nature; and
- (b) their expected effect on employees; and
- (c) any other matters likely to affect employees.

**32.3** Clause 32.2 does not require the Employer to disclose any confidential information if its disclosure would be contrary to the Employer's interests.

**32.4** The Employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 32.1(b).

**32.5** In clause 32 significant effects, on employees, includes any of the following:

- (a) termination of employment; or
- (b) major changes in the composition, operation or size of the Employer's workforce or in the skills required; or
- (c) loss of, or reduction in, job or promotion opportunities; or
- (d) loss of, or reduction in, job tenure; or
- (e) alteration of hours of work; or
- (f) the need for employees to be retrained or transferred to other work or locations; or
- (g) job restructuring.

**32.6** Where the Agreement makes provision for alteration of any of the matters defined at clause 32.5, such alteration is taken not to have significant effect.

### **33. CONSULTATION ABOUT CHANGES TO ROSTERS OR HOURS OF WORK**

**33.1** Clause 33 applies if the Employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.

**33.2** The Employer must consult with any employees affected by the proposed change and their representatives (if any).

- 33.3** For the purpose of the consultation, the Employer must:
- (a) provide to the employees and representatives mentioned in clause 33.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and
  - (b) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

**33.4** The Employer must consider any views given under clause 33.3(b).

**33.5** Clause 33 is to be read in conjunction with any other provisions of the Agreement concerning the scheduling of work or the giving of notice.

## **34. DISPUTE RESOLUTION**

**34.1** Clause 34 sets out the procedures to be followed if a dispute arises about a matter under the Agreement or in relation to the NES.

**34.2** The parties to the dispute must first try to resolve the dispute at the workplace through discussion between the employee or employees concerned and the relevant supervisor.

**34.3** If the dispute is not resolved through discussion as mentioned in clause 34.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.

**34.4** If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 34.2 and 34.3, a party to the dispute may refer it to the FWC.

**34.5** The parties may agree on the process to be followed by the FWC in dealing with the dispute, including mediation, conciliation and consent arbitration.

**34.6** If the dispute remains unresolved, the FWC may use any method of dispute resolution that it is permitted by the Act to use and that it considers appropriate for resolving the dispute.

**34.7** A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 34.

**34.8** While procedures are being followed under clause 34 in relation to a dispute:

- (a) work must continue in accordance with the Agreement and the Act; and
- (b) an employee must not unreasonably fail to comply with any direction given by the Employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

**34.9** Clause 34.8 is subject to any applicable work health and safety legislation.

## **PART 8 – TERMINATION OF EMPLOYMENT AND REDUNDANCY**

### **35. TERMINATION OF EMPLOYMENT**

**35.1** An employee's employment may be terminated by either the employee or the Employer giving the other Party the following amount of notice, or a payment equivalent to the employee's Base Wage for the relevant period in lieu of notice:

<b>Employee’s period of continuous service with the Employer at the end of the day the notice is given</b>	<b>Period of notice</b>
Less than 1 year	1 week
At least 1 year but less than 3 years	2 weeks
At least 3 years but less than 5 years	3 weeks
At least 5 years	4 weeks

**35.2** Entitlement to notice or pay in lieu of notice will be increased by one week if the employee is over 45 years of age and has been employed by the Employer for a continuous period of at least 2 years.

**35.3** Despite anything in this clause 35, the Employer may terminate an employee’s employment without notice (or payments in lieu of notice) for conduct justifying summary dismissal including:

- (a) misconduct or neglect;
- (b) theft;
- (c) fraud;
- (d) assault;
- (e) sexual harassment;
- (f) harassment of a fellow workplace participant;
- (g) unacceptable, abusive, unsafe or offensive behaviour;
- (h) refusal to work as directed, unless unsafe;
- (i) failure to follow a lawful and reasonable direction of the Employer that is consistent with the employee’s contract of employment;
- (j) engaging in conduct that causes or may cause serious and imminent risk to the health or safety of a person or the reputation, viability or profitability of the Employer’s business;
- (k) bringing the business of customers and clients into disrepute;
- (l) breaches of customer/client confidentiality;
- (m) the trafficking, possession of, or being under the influence of, illegal drugs at work; and
- (n) the consumption of or being under the influence of alcohol at work.

**35.4** Despite anything in this clause 35, employment of casual employees may be terminated by either the employee or the Employer with immediate effect.

**36. REDUNDANCY**

**36.1 ENTITLEMENT TO REDUNDANCY PAY**

An employee is entitled to be paid a redundancy pay by the Employer if the employee’s employment is terminated:

- (a) at the Employer's initiative because the Employer no longer requires the job done by the Employee to be done by anyone, except where this is due to the ordinary and customary turnover of labour; or
- (b) because of the insolvency or bankruptcy of the Employer.

**36.2 EXCLUSIONS FROM OBLIGATION TO PAY REDUNDANCY PAY**

The Employer is excluded from the obligation to pay redundancy pay if one of the following applies:

- (a) immediately before the time of the termination, or at the time when the employee was given notice of termination, the employee’s period of service with the Employer is less than 12 months;
- (b) the employee is a casual employee;
- (c) the employee is engaged on a temporary basis or is on probation;
- (d) the employee is leaving employment due to retirement;
- (e) the employee is terminated for any reason other than redundancy;
- (f) the employee is engaged for a specific period of time or task (including a fixed term employee or employee engaged until the completion of a defined project);
- (g) the employee is employed after the date of the announcement that redundancy is to occur;
- (h) situations where the business or part of the business of the Employer is sold or transmitted, and a new employer offers the employee terms and conditions which are similar or no less favourable than those in the Agreement irrespective of whether or not the employee accepts the offer.

**36.3 NOTICE**

- (a) The notice periods set out in clause 35.1 apply in circumstances where the Employer terminates an employee’s employment on grounds of redundancy.
- (b) The notice may be worked out or paid out in lieu.

**36.4 SEVERANCE PAYMENT**

- (a) In addition to the period of notice prescribed by this Agreement, where an employee’s employment is terminated on the grounds of redundancy, the employee will be entitled to severance pay in accordance with the following table depending on the length of that employee’s continuous service with the Employer:

<b>Employee’s period of continuous service with the Employer on termination</b>	<b>Redundancy pay period</b>
Less than 1 year	Nil
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks



Employee's period of continuous service with the Employer on termination	Redundancy pay period
At least 10 years	12 weeks

**36.5 VARIATION OF REDUNDANCY PAY**

If an Employee is entitled to be paid an amount of redundancy pay by the Employer and the Employer

- (a) Obtains other acceptable employment for the Employee; or
- (b) Cannot pay;

The Employer may apply to the FWC for a determination that the amount of redundancy pay is reduced to a specified amount that FWC considers appropriate.

**36.6 EMPLOYEE LEAVING DURING REDUNDANCY NOTICE PERIOD**

- (a) An employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by clause 35.
- (b) The employee is entitled to receive the benefits and payments they would have received under clause 36 had they remained in employment until the expiry of the notice.
- (c) However, the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

**36.7 JOB SEARCH ENTITLEMENT**

- (a) Where the Employer has given notice of termination to an employee in circumstances of redundancy, the employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice prescribed by clause 35 for the purpose of seeking other employment.
- (b) If an employee is allowed time off without loss of pay of more than one day under clause 36.7(a), the employee must, at the request of the Employer, produce proof of attendance at an interview.
- (c) A statutory declaration is sufficient for the purpose of clause 36.7(b).
- (d) An employee who fails to produce proof when required under clause 36.7(b) is not entitled to be paid for the time off.

**PART 9 – MISCELLANEOUS**

**37. STAND DOWN**

**37.1 STAND DOWN WITHOUT PAY**

The Employer may stand down an employee without pay for a temporary period due to circumstances beyond their control (i.e. cyclonic or flood conditions preventing access to work, a pandemic that requires for any reason a reduction in employees or a forced closure of all or part of the Employer's operations, a mechanical breakdown or other failure such as the cessation of water, electrical or gas supply that shuts down all or part of the Employer's operations) that prevents the employee from being usefully employed.

**37.2 ACCESS TO ANNUAL LEAVE OR UNPAID LEAVE**

An employee may, with the Employer's consent, take paid annual leave during all or part of a period during which the Employee would otherwise be stood down under this provision.

**38. INDIVIDUAL FLEXIBILITY ARRANGEMENTS**

- 38.1** Despite anything else in the Agreement, the Employer and an individual employee may agree to vary the application of the terms of the Agreement relating to any of the following in order to meet the genuine needs of both the employee and the Employer:
- (a) arrangements for when work is performed; or
  - (b) overtime rates; or
  - (c) penalty rates; or
  - (d) allowances.
- 38.2** An individual flexibility agreement (**IFA**) must be one that is genuinely made by the Employer and the individual employee without coercion or duress.
- 38.3** An IFA may only be made after the individual employee has commenced employment with the Employer.
- 38.4** To initiate the making of an IFA, the Employer must:
- (a) give the employee a written proposal; and
  - (b) if the Employer is aware that the employee has, or reasonably should be aware that the employee may have, limited understanding of written English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.
- 38.5** An IFA must result in the employee being better off overall at the time the IFA is made than if the IFA had not been made.
- 38.6** An IFA must do all of the following:
- (a) state the names of the Employer and the employee; and
  - (b) identify the Agreement term, or Agreement terms, the application of which is to be varied; and
  - (c) set out how the application of the Agreement term, or each Agreement term, is varied; and
  - (d) set out how the IFA results in the employee being better off overall at the time the IFA is made than if the IFA had not been made; and
  - (e) state the date the IFA is to start.
- 38.7** An IFA must be:
- (a) in writing; and
  - (b) signed by the Employer and the employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- 38.8** Except as provided in clause 38.7(b), an IFA must not require the approval or consent of a person other than the Employer and the employee.
- 38.9** The Employer must keep the IFA as a time and wages record and give a copy to the employee.
- 38.10** The Employer and the employee must genuinely agree, without duress or coercion to any variation of the Agreement provided for by an IFA.
- 38.11** An IFA may be terminated:
- (a) at any time, by written agreement between the Employer and the employee; or

- (b) by the Employer or employee giving 28 days written notice to the other party.

**38.12** An IFA terminated as mentioned in clause 38.11(b) ceases to have effect at the end of the period of notice required under that clause.

**38.13** The right to make an IFA under clause 38 is additional to, and does not affect, any other term of the Agreement that provides for an agreement between the Employer and an individual employee.

## **39. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS**

### **39.1 EMPLOYEE MAY REQUEST CHANGE IN WORKING ARRANGEMENTS**

Clause 39 applies where an employee has made a request for a change in working arrangements under section 65 of the Act. The provisions of the Act will apply if any inconsistencies.

### **39.2 RESPONDING TO THE REQUEST**

Before responding to a request, the Employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to:

- (a) the needs of the employee arising from their circumstances;
- (b) the consequences for the employee if changes in working arrangements are not made; and
- (c) any reasonable business grounds for refusing the request.

**39.3** The Employer must give the employee a written response to an employee's section 65 request within 21 days, stating whether the Employer grants or refuses the request.

**39.4** If the Employer refuses the request, then the written response must include details of the reasons for the refusal.

### **39.5 WHAT THE WRITTEN RESPONSE MUST INCLUDE IF THE EMPLOYER REFUSES THE REQUEST**

- (a) Clause 39.7 applies if the Employer refuses the request and has not reached an agreement with the employee under clauses 39.2.
- (b) The written response must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
- (c) If the Employer and employee could not agree on a change in working arrangements under clause 39.2, then the written response must:
  - (i) state whether or not there are any changes in working arrangements that the Employer can offer the employee so as to better accommodate the employee's circumstances; and
  - (ii) if the Employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

### **39.6 WHAT THE WRITTEN RESPONSE MUST INCLUDE IF A DIFFERENT CHANGE IN WORKING ARRANGEMENTS IS AGREED**

If the Employer and the employee reached an agreement under clauses 39.2 on a change in working arrangements that differs from that initially requested by the employee, then the Employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

**39.7 DISPUTE RESOLUTION**

Disputes about whether the Employer has discussed the request with the employee and responded to the request in the way required by clause 39, can be dealt with under clause 34.

**40. CONFIDENTIAL INFORMATION**

- (a) Employees may become aware of information relating to the business or affairs of the Employer or its Related Bodies Corporate, including their client lists and information, supplier lists and information, sales and marketing information, and financial information between the Employer and any Related Bodies Corporate or clients.
- (b) The confidential information remains the sole property of the Employer or its Related Bodies Corporate.
- (c) Employees must not, either during (except in the proper course of their duties) or after the termination of their employment, without the prior written consent of the Employer, directly or indirectly, divulge, use or otherwise disclose to any person, any confidential information, either for an employee's own or for another's benefit.
- (d) Details about an employee's remuneration, or any terms and conditions of an employee's employment that are reasonably necessary to determine an employee's remuneration or remuneration outcomes are not considered confidential information.

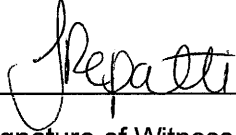
**41. NO FURTHER CLAIMS COMMITMENT**

**41.1** The parties undertake that during the period of operation of the Agreement no party will seek:

- (a) any changes to the terms and conditions of employment in this Agreement; or
- (b) any further remuneration or employee benefits not contained in this Agreement.

**Apex Facades Operations Enterprise Agreement 2024**

**Signed** for and on behalf of Apex Facades  
NSW Operations Pty Ltd (ABN 87 667 673  
976) (ACN 667 673 976) **by** their authorised  
persons prescribed by the *Corporations Act  
2001* (Cth):



\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Terri Patti

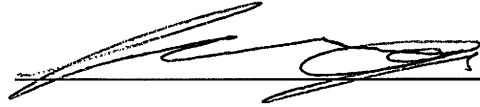
\_\_\_\_\_  
Name of Witness (print)

\_\_\_\_\_  
19 Leis Road West, Kallangur, 4503 QLD

\_\_\_\_\_  
Address

\_\_\_\_\_  
01/05/2024

\_\_\_\_\_  
Date



\_\_\_\_\_  
Signature of Director/Authorised Person

\_\_\_\_\_  
Andrew David Gennings

\_\_\_\_\_  
Name of Director/Authorised Person

\_\_\_\_\_  
918 Pine Mountain Road Pine Mountain 4306 QLD

\_\_\_\_\_  
Address

\_\_\_\_\_  
01/05/2024

\_\_\_\_\_  
Date

**Signed** for and on behalf of the employees of Apex Facades NSW Operations Pty Ltd (ABN 87 667 673 976) (ACN 667 673 976) covered by the *Apex Facades Operations Enterprise Agreement 2023*:



Signature of Witness

Craig Downing

Name of Witness (print)

22 Boomerang St,  
Maroubra, 2035

Address

01/05/2024

Date



Signature of Employee Representative

Jake Wheeler

Name of Employee Representative

2 Daintree PI, Dural, NSW, 2158

Address

01/05/2024

Date

## **SCHEDULE 1 – CLASSIFICATIONS**

**A.1** For the purposes of the Agreement, the classification definitions are as follows:

### **A.1.1 Introductory**

- (a)** An employee at this level performs routine duties essentially of a manual nature and to the level of their training:
  - (i)** performs work as directed;
  - (ii)** performs routine duties essentially of a manual and repetitive nature;
  - (iii)** is responsible for the quality of their own work subject to direct supervision;
  - (iv)** works in a safe manner so as not to injure themselves or other employees;
  - (v)** is able to solve basic problems associated with their work;
  - (vi)** while undertaking structured training performs work within the scope of that training subject to safety and training requirements.
- (b)** Indicative of the tasks which an employee at this level may perform are the following:
  - (i)** general labouring and cleaning duties from written or verbal instructions;
  - (ii)** assistance to other employees at this or other skill levels within their level of skill and training;
  - (iii)** other tasks as directed in accordance with their level of skill and training.
- (c)** Level 1 includes (but is not limited to) the following positions and roles:
  - (i)** Labourer; and
  - (ii)** Spotter.

### **A.1.2 Level 1 Rope Access Technician**

- (a)** A Level 1 Rope Access Technician may have varying levels of experience, including those employees who have recently completed their Industrial Rope Access Trade Association (**IRATA**) certification.
- (b)** An employee to be classified at this level will have completed the required training or will have equivalent skills gained through work experience in accordance with the prescribed standards for this level. In all cases the employee will have completed their IRATA certification and will be required to satisfactorily complete a competency assessment to enable the employee to perform work within the scope of this level.
- (c)** An employee at this level performs work above and beyond the skills of an Introductory employee and to the level of their skill and training:
  - (i)** performs work as directed;
  - (ii)** exercises limited discretion and utilises basic fault finding skills in the course of their work;
  - (iii)** works in a safe manner so as not to injure themselves or other employees;
  - (iv)** understands and undertakes basic quality control/assurance procedures subject to supervision;
  - (v)** while undertaking structured training, performs work within the scope of that training subject to safety and training requirements.

- (d) Indicative of the tasks which an employee at this level may perform are the following:
- (i) completing general onsite works under supervision of a Level 2 Rope Access Technician;
  - (ii) limited rescue capabilities (legally only being able to complete simple rescues);
  - (iii) other tasks as directed in accordance with their level of skill and training;

#### **A.1.3 Level 2 Rope Access Technician**

- (a) An employee to be classified at this level will have completed the required training or will have equivalent skills gained through work experience in accordance with the prescribed standards for this level. In all cases the employee will be required to satisfactorily complete a competency assessment to enable the employee to perform work within the scope of this level.
- (b) An employee at this level performs work above and beyond the skills of an employee at Level 1 Rope Access Technician and to the level of their skill and training:
- (i) performs work as directed;
  - (ii) exercises some discretion and utilises basic fault-finding skills in the course of their work;
  - (iii) works in a safe manner so as not to injure themselves or other employees;
  - (iv) understands and undertakes basic quality control/assurance procedures subject to supervision;
  - (v) works from more complex standards and procedures than a Level 1 Rope Access Technician;
  - (vi) performs routine duties which may involve the use of machinery or tools; and
  - (vii) while undertaking structured training performs work within the scope of that training subject to safety and training requirements.
- (c) Indicative of the tasks which an employee at this level may perform are the following:
- (i) completing general onsite works under supervision of a Level 3 Rope Access Technician;
  - (ii) an ability to assist in developing safe systems of work;
  - (iii) completing advanced rescues in emergency situations;
  - (iv) assisting and providing supervision for Level 1 Rope Access Technicians;
  - (v) selection of suitable methods for completing tasks and planning the order in which to complete them;
  - (vi) problem solving skills; and
  - (vii) other tasks as directed in accordance with their level of skill and training.

#### **A.1.4 Level 3 Rope Access Technician**

- (a) An employee to be classified at this level will have completed the required training or will have equivalent skills gained through work experience in accordance with the prescribed standards for this level. In all cases the employee will be required to satisfactorily complete



a competency assessment to enable the employee to perform work within the scope of this level.

- (b)** An employee at this level performs work above and beyond the skills of an employee at Level 2 Rope Access Technician and to the level of their skill and training:
  - (i)** performs work under general supervision either individually or in a team environment, and is able to examine, evaluate and develop solutions to problems within the scope of this level;
  - (ii)** understands and implements quality control techniques and is responsible for the quality of their work and is able to identify faults in the work of others at this or lower levels;
  - (iii)** exercises discretion and utilises fault finding skills in the course of their work;
  - (iv)** works in a safe manner so as not to injure themselves or other employees and is able to identify hazards and unsafe work practices which may affect others in the team environment;
  - (v)** exercises good interpersonal skills;
  - (vi)** provides guidance and assistance as part of a work team;
  - (vii)** while undertaking structured training, performs work within the scope of that training subject to safety and training requirements.
- (c)** Indicative of the tasks which an employee at this level may perform are the following:
  - (i)** complete onsite works under direction of supervisors and management;
  - (ii)** develop safe systems of work;
  - (iii)** develop rescue plans;
  - (iv)** an ability to complete very complex rescues in an emergency;
  - (v)** conduct prestart inspections, especially with respect to approval of work methods and signing off on rigging;
  - (vi)** assess jobs under direction of supervisors and management; and
  - (vii)** other tasks as directed in accordance with their level of skill and training.
- (d)** Employees with extensive experience as Level 3 Rope Access Technician may, at the Employer's discretion, be appointed as a Leading Hand.